

SENATE BILL REPORT

ESHB 1196

As of February 5, 2018

Title: An act relating to modifying the process for prevailing parties to recover judgments in small claims court.

Brief Description: Modifying the process for prevailing parties to recover judgments in small claims court.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Goodman, Rodne, Jinkins, Kilduff, McBride and Barkis).

Brief History: Passed House: 3/06/17, 96-2; 1/18/18, 96-0.

Committee Activity: Law & Justice: 2/01/18.

Brief Summary of Engrossed First Substitute Bill

- Increases fees for small claims court actions from \$14 to \$34.
- Requires sworn statements in small claims actions.
- Changes the process for a small claims judgment to be certified as a district court judgment.
- Requires the prevailing party to file a satisfaction of judgment with the court on payment of the judgment.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Tim Ford (786-7423)

Background: In every district court, there is a small claims department with jurisdiction in cases for the recovery of money only for an amount up to \$5,000. Attorneys and paralegals are excluded from appearing or participating in a small claims suit unless the judge grants permission.

When the claim is filed, a filing fee of \$14 must be paid. Any party filing a counterclaim, cross-claim, or third-party claim in the action must also pay a \$14 filing fee. If the county legislative authority has imposed a surcharge for dispute resolution centers, there may be an additional surcharge of up to \$15 on each filing fee.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A claim filed in small claims court must contain:

- the name and address of the plaintiff;
- a statement, in brief and concise form, of the nature and amount of the claim and when the claim accrued; and
- the name and residence of the defendant, if known to the plaintiff, for the purpose of service.

Upon filing of the claim, the court sets a time for hearing and issues a notice of claim. A notice of claim must be served promptly and at least ten days prior to the first hearing. Service may be either as provided for the service of summons or complaint and notice in civil actions or by registered or certified mail if a return receipt with the signature of the party being served is filed with the court.

A trial need not be held on the first appearance of the defendant if dispute resolution services are offered instead of trial, or local practice rules provide that trials will be held on different days.

If a money judgment is entered, and the judgment is not paid within 30 days or the time set by the court on any payment plan, the prevailing party must take certain steps before commencing collection efforts. The prevailing party must first request the clerk to certify the judgment and have a transcript of the judgment entered onto the district court civil docket. The fee for this is \$20, and the certification form is specified in statute. The judgment is increased by an amount sufficient to cover the costs of certification, and any other costs incurred by the prevailing party to enforce the judgment, without regard to the jurisdictional limits on the small claims court.

Once entered on the district court docket, the prevailing party may proceed with a method of collection such as garnishment of wages and bank accounts, or execution on cars, boats, or other personal property of the judgment debtor. The prevailing party could also take and file the judgment transcript in the superior court. This would allow collection efforts against real property that the judgment debtor might own, in addition to the debtor's personal property. In such case, the judgment would be increased by the cost of this filing.

Summary of Bill: The filing fee for claims, counterclaims, cross-claims, and third-party claims is raised from \$14 to \$34.

Small court claims must include sworn statements.

The provision of existing law setting forth the procedure certifying the judgment in district court upon non-payment is repealed. A new procedure is set forth for certification of judgment in district court. Upon entry of a judgment in a small claims action, the judgment is automatically certified as a district court civil judgment and entered on the district court judgment docket. Once the judgment is entered on the district court's docket, the prevailing party may seek garnishment and other process such as liens on real estate of the judgment debtor. The judgment is increased by any post judgment interest, as well as any filing fee associated with filing in superior court. A certified copy of the district court judgment must be provided to the prevailing party for no additional fee.

A prevailing party must file a satisfaction of judgment with the court after receiving payment of the judgment, or the party paying the judgement may file a notice of satisfaction of judgment.

Other technical changes include the following:

- the reference to first appearance is replaced with first hearing—the trial need not be held at the first hearing if local practice rules provide for a pretrial hearing;
- specific citation to the statute regarding methods of service is included;
- the requirement that service be accomplished at least ten days before the hearing refers to calendar days; and
- an expired provision related to a temporary surcharge on small claims filing fees is stricken, as is a reference to this provision.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill will streamline the small claims process. People using small claims court are without an attorney. The process is complicated. You pay a filing fee, and when a judgment is entered in your favor you have to wait 30 days before you can start collecting. Then you have to file the judgment in district or superior court to make it a certified civil judgment. That filing costs an extra \$20. The bill does not increase fees, but rather it combines the filing fees and a separate fee to obtain a certified copy of the judgment. It will make the process easier. You will no longer have to wait 30 days. The small claims judgment automatically becomes a certified civil judgment at no extra cost to the prevailing party. The fee has not been raised since 2005. The only change in the bill is that any satisfaction of judgment must be filed in every court where the judgment was filed.

Persons Testifying: PRO: Representative Roger Goodman, Prime Sponsor; Janet Garrow, District and Municipal Court Judges.

Persons Signed In To Testify But Not Testifying: No one.