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**Civil Rights & Judiciary Committee**

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**HB 1048**

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

**Sponsors:** Representatives Goodman, Stokesbary, Jinkins and Macri.

**Brief Summary of Bill**

- Changes certain fees associated with small claims court, raising the filing fee from \$14 to \$34 while removing another fee by requiring that a small claims judgment be certified and entered on the district court judgment docket, and a copy provided to the prevailing party, without any additional fee.
- Modifies other provisions relating to small claims actions, and associated collection efforts predicated on a small claims judgment.

**Hearing Date:** 1/15/19

**Staff:** Cece Clynch (786-7195).

**Background:**

In every district court, there is a small claims department with jurisdiction in cases for the recovery of money only if the amount claimed does not exceed \$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.

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*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 10 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 including 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 his or her personal property. In that 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. There is no longer an additional fee to obtain a certified copy of a judgment; a certified copy of the judgment must be provided to the prevailing party at no additional cost.

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. The filing of a duly certified district court judgment, or a duly certified transcript of the docket of the district court, in superior court commences the lien 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.

If the prevailing party receives payment of the judgment, that party must file a satisfaction of judgment with the district court. If the prevailing party fails to file proof of satisfaction of judgment, the party paying the judgment may do so.

The section which specified the exact form of the certification is repealed. Other provisions of that repealed statute are moved elsewhere.

Amendments are made to other sections regarding the first hearing, method of service, and what the claim must include, as follows:

- 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 10 days before the hearing refers to calendar days.
- A plaintiff's statement regarding the claim must be sworn.
- 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:** Requested on January 9, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.