
Civil Rights & Judiciary Committee

HB 1007

Brief Description: Concerning requisites of notice in small claims actions.

Sponsors: Representatives Low, Taylor, Walen, Eslick and Goodman.

Brief Summary of Bill

- Requires a notice of claim for small claims to state that failure to appear may, rather than will, result in default judgment against the defendant.

Hearing Date: 1/17/25

Staff: Matt Sterling (786-7289).

Background:

Small Claims.

Within each district court is a small claims department which has nonexclusive jurisdiction over cases for the recovery of money only if the amount claimed does not exceed \$10,000 in cases brought by a natural person or \$5,000 in all other cases. In small claims cases, formal pleadings are not required, and hearings and dispositions are conducted informally. When the claim is filed, a filing fee of \$35 must be paid. Any party filing a counterclaim, cross-claim, or third-party claim in the action must also pay a \$35 filing fee. Each party in a small claims case is usually self-represented, and attorneys are not allowed to participate unless the judge grants permission.

Generally, any individual, business, partnership, or corporation may bring a small claims suit against any other individual, business, partnership, or corporation. Small claims usually must be filed in the district court of the county in which the defendant resides. Appeals may be taken to the superior court, but no party may appeal a judgment where the amount claimed is less than

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\$250, and the party who filed the claim may not appeal unless the amount claimed exceeds \$1,000.

Notice of Claim.

Upon filing of the claim, the court sets a time for a hearing and issues a notice of claim. The notice of claim may be served either by the process of service of summons or complaint and notice for 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. The notice of claim directed to the defendant must contain:

- the name and address of the plaintiff;
- a brief and concise statement of the nature and amount of the claim;
- a statement directing the defendant to appear in the small claims department at a specified time, not less than 10 days from the date of service of the notice; and
- a statement advising the defendant that if the defendant fails to appear, judgment will be given against defendant for the amount of the claim.

No other legal document or process is to be served with the notice of claim. Information from the court regarding the small claims department, local small claims procedure, dispute resolution services, or other matters related to litigation in the small claims department may be included with the notice of claim when served.

Default Judgment.

When a defendant fails to appear and plead at the time specified in the notice, judgment is given as follows:

- when the defendant has been served with a true copy of the complaint, judgment is given without further evidence for the sum specified;
- in other cases, the evidence of the plaintiff is heard and judgment is rendered for the sum supported by the evidence, but not to exceed the amount specified in the complaint.

The court has full power at any time after a judgment has been given by default for failure of the defendant to appear and plead at the proper time, to vacate and set aside such judgment for any good cause.

Summary of Bill:

The notice of claim directed to the defendant must contain a statement advising the defendant that in case of the defendant's failure to appear, judgment may be given against the defendant for the amount of the claim, rather than will be given.

Appropriation: None.

Fiscal Note: Not requested.

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

passed.