

# Legislative Analysis

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## **SMALL CLAIMS COURT: INCREASE RECOVERY AMOUNT**

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**Senate Bill 786 (Substitute H-1)**  
**Sponsor: Sen. Wayne Kuipers**  
**House Committee: Judiciary**  
**Senate Committee: Judiciary**

**Complete to 12-17-08**

## **A SUMMARY OF SENATE BILL 786 AS REPORTED BY THE HOUSE JUDICIARY COMMITTEE 12-10-08**

The small claims division of district court hears cases in which the claim for damages sought to be recovered is \$3,000 or less. The bill would amend the Revised Judicature Act (MCL 600.8401) to increase that amount incrementally over a period of six years. Beginning July 1, 2008, the cap would be raised to \$4,000, and then would increase by \$500 beginning July 1, 2011 to \$4,500 and by another \$500 beginning July 1, 2014 to \$5,000. The bill carries an effective date of July 1, 2008.

### **FISCAL IMPACT:**

The bill would have an indeterminate, but likely positive, fiscal impact on state and local government. By increasing the jurisdictional monetary ceiling, more cases will fall under the small claims court's jurisdiction, thereby disposing of cases that would have fallen under the district court's jurisdiction at lower costs and with greater speed and efficiency.

### **BACKGROUND INFORMATION:**

Generally speaking, the small claims process allows one party to inexpensively sue another for the recovery of small debts. By avoiding legal representation, the court costs are low so as not to negate any recovery. Currently, only cases involving \$3,000 or less can be filed in small claims court. This amount has not been increased in many years. According to proponents of increasing the limit, business owners and financial institutions seeking to collect on unpaid debts from loans, overdrawn accounts, unpaid debts, or fraud must either write off amounts over the \$3,000 limit in order to file in small claims court or weigh the cost of recovery to collect on debts that are small but over the small claims court limit. In today's tough economic climate, businesses are more impacted by the cumulative effect of writing off these small debts than in past years. Moreover, some believe that if this cap were raised, many more people could benefit from the speed, efficiency, and lower costs inherent with the small claims process. In addition, cases often move more quickly in small claims court compared to cases filed in district court. District courts could then concentrate on the complex civil matters, potentially realizing greater efficiency in the process.

Several attempts to increase the limit have been proposed in recent years. Last session, House Bill 4160, as passed by the House, would have raised the limit to \$6,000, down from \$7,500 as introduced. Opponents of the proposal felt that raising the cap to either of those amounts would have run contrary to the historical nature of the small claims process. Consumers trade some due process rights (i.e., no professional counsel, no appeals process, no discovery in some matters) for the low cost and efficiency of the small claims process. Raising the cap to \$7,500, or even \$6,000, could have meant more businesses would sue in small claims court to collect on outstanding debts. Businesses that frequently used the small claims process would gain, as the State Bar of Michigan put it at the time, "a sophistication by regular appearances . . . that works to the disadvantage of consumers, who arrive in court completely unfamiliar with the process." Furthermore, increases in the number of cases that would be moved to small claims courts, along with increased numbers of unrepresented consumers unfamiliar with the legal process, would greatly burden court resources and staff. Efficiencies currently enjoyed in the small claims process could be lost if the cap were raised too high and small claims court dockets become just as backlogged as in district courts.

If the cap were raised, the amount would need to be high enough to give some relief to businesses and residents who currently cannot avail themselves of filing in small claims court, but not be so high as to trigger the concerns voiced above. The committee substitute addresses the issue by proposing several incremental increases of \$500 over a period of years. Some feel that this approach (or a proposed Floor amendment that would increase the cap in \$400 increments over a longer period of time) is more in line with inflationary changes since the original cap of \$300 was placed in statute in 1968.

## **POSITIONS:**

The Michigan Credit Union League supports the H-1 version reported by the House Judiciary Committee. (12-17-08)

The National Federation of Independent Businesses supports the Senate-passed version of the bill and is neutral on other proposed limits. (12-15-08)

The Michigan District Judges Association opposes the Senate-passed and H-1 versions of the bill, but would support the proposed Floor amendment (which would increase the cap in \$400 increments over a longer period of time) as it is more in line with inflationary changes. (12-15-08)

The Michigan Court Administrators Association would also support the proposed Floor amendment for the reasons given above. (12-15-08)

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