



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 786 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Wayne Kuipers
Committee: Judiciary

Date Completed: 3-27-07

RATIONALE

The Small Claims Division of District Court (small claims court) has jurisdiction of cases for the recovery of monetary amounts that do not exceed \$3,000. The small claims court offers a forum for people to resolve relatively minor disputes without incurring legal fees or following the formal procedures of higher courts. Parties to a small claims action waive the right to an attorney, to trial by jury, and, generally, to an appeal. The jurisdictional ceiling of the small claims court was raised from \$1,750 to the present \$3,000 by Public Act 27 of 1999, which took effect on January 1, 2000. Some people believe that the amount should be raised again.

CONTENT

The bill would amend the Revised Judicature Act to increase the size of claims over which the Small Claims Division of District Court has jurisdiction from \$3,000 to \$5,000.

The bill would take effect 90 days after its enactment.

MCL 600.8401

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Increasing the jurisdictional ceiling of the small claims court to \$5,000 would make it possible for additional cases to be litigated with the speed, efficiency, and lower costs that go along with the small claims process. More parties would have a forum where they

could resolve their disputes without paying attorneys' fees. At the same time, if more cases were filed in the small claims court, instead of in the general civil division--where the jurisdictional limit is \$25,000--the district court docket would be freed-up for larger claims and more complex cases.

The increased cap on small claims cases could benefit a number of parties, including credit unions. These financial institutions frequently must resort to the legal system to recover debts that result from loans, overdrawn accounts, or fraud. According to testimony on behalf of one Detroit-based credit union, it often is faced with the dilemma of whether to take a debt to small claims court even though the amount owed exceeds the court's \$3,000 limit. If a debt is \$5,000, for example, and attorneys' fees range from \$200 to \$300 per hour, the credit union often will choose to forfeit the amount over \$3,000 because it would be eaten up quickly by legal fees. Raising the court's limit to \$5,000 would enable credit unions to improve the services they provide to members, by saving on legal costs while recovering amounts owed.

According to information provided by the Michigan Credit Union League, the national average limit on filing in small claims court is \$5,600, and the average for the midwestern states is just below \$6,000. Only Michigan and six other states have a \$3,000 limit, and only six states have a lower limit.

Opposing Argument

Increasing the size of claims that may be brought in the small claims court to \$5,000 would be excessive. In 1999, it made sense

to raise the limit from \$1,750 to \$3,000 because the district court's jurisdictional ceiling had been increased from \$10,000 to \$25,000 a year earlier. That factor is not present now. Nevertheless, it would be appropriate to adjust the jurisdiction of the small claims court based on inflation, since the current limit has been in place for nearly eight years. An inflation-based adjustment would bring the limit to approximately \$3,600. Also, providing for an annual inflationary adjustment would enable the court's jurisdiction to keep pace with cost increases.

Response: An annual adjustment would create an administrative burden on the court, requiring changes in forms, brochures, and the court's website. An adjustment every three or five years would be more workable.

Opposing Argument

Increasing the jurisdictional limit of the small claims court by two-thirds would undermine its role as the "people's court". This division of the district court was designed for average citizens to resolve relatively small monetary disputes in a streamlined manner. Allowing claims of up to \$5,000 would make the court more of a forum for businesses to collect debts. Even though the small claims process is comparatively informal, many individuals are unfamiliar with the court system and would benefit from legal representation, particularly when defending an action to recover a rather sizeable debt. Although an attorney may not file an action in the small claims court (except on his or her own behalf) or appear for either party during the hearing, corporate litigants are more likely than the typical consumer to have access to pretrial legal advice and the resources to pay for it. Businesses also are likely to be represented in the small claims court by full-time, experienced officers or employees, who may be as familiar with court proceedings as attorneys are. The bill would exacerbate what already is an inequitable situation.

Response: If a party to a small claims action believes that he or she needs to be represented in court by an attorney, the person may have the case removed to the general civil division of the district court before trial.

Opposing Argument

The bill would significantly increase the workload of small claims court personnel. Due to the nature of the court, many parties have no prior experience with the judicial system and require considerable assistance from staff in filling out forms, figuring out the process, and understanding the waiver of rights to counsel, trial by jury, and an appeal. In addition, when cases are filed in the small claims division, the court is responsible for delivering to the defendant, in person or by certified mail (or an alternative means if permitted by the court), the plaintiff's affidavit and a notice to appear. (When cases are filed in the general civil division, on the other hand, the parties usually handle their own service of process.) Thus, court clerks also must explain the delivery options to plaintiffs, and the court must devote resources to effectuating delivery.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. The bill could shift cases not currently in small claims court to that division, and also could lead to the filing of a greater number of these cases. Any increase in the overall number of cases filed would strain existing court resources; however, small claims cases tend to cost less and be processed more quickly than other civil cases, so any increase in cases could be offset by greater efficiencies in processing.

Fiscal Analyst: Stephanie Yu

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.