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BILL ANALYSIS



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Senate Bill 269 (Substitute S-1 as reported)
Sponsor: Senator Tonya Schuitmaker
Committee: Judiciary

(as passed by the Senate)

Date Completed: 10-14-11

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.

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.

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 \$8,000.

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 Kalamazoo-area credit union, it pursued over \$250,000 in claims through the small claims court over the past two years. In the same period, however, it spent more than \$55,500 in legal fees pursuing claims in district court for amounts over \$3,000 but under \$10,000, and waived almost \$5,000 of outstanding balances owed the credit union in favor of adjudicating the issue in small claims court. As not-for-profit operations and member-owned cooperatives, credit unions' goals of promoting thrift and providing access to affordable credit are directly and adversely affected by those kinds of fees and losses. Raising the court's limit to \$8,000 would enable credit unions to improve the services they provide to members, by saving on legal costs while recovering amounts owed.

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 \$8,000 would make it possible for additional cases to be litigated with the speed, efficiency, and lower costs that go along with the small

According to information provided by the Michigan Credit Union League and other business organizations, the national average for limits on filing in small claims courts is more than double Michigan's current jurisdictional ceiling, and nine states have limits of \$10,000 or more. Often, Michigan's low small claims jurisdictional ceiling effectively limits a business to filing in the district court's general civil division or not pursuing a debt at all. Businesses find themselves in a dilemma of whether they should take a debt over \$3,000 to small claims court because they may essentially forfeit any amount over \$3,000 in expensive collection agency and legal fees if the debt is brought to the district court's general civil division. Raising the jurisdictional limit for small claims court would provide many businesses with an increased opportunity to pursue claims at low cost.

Supporting Argument

Increasing the small claims court jurisdictional limit would be an important step toward increased access to the civil justice system for all residents of Michigan. According to HALT, a national nonprofit consumer advocacy group promoting reforms in the legal system, each year tens of millions of low- and moderate-income households nationwide that need legal help are denied access to the civil justice system simply because they cannot afford to hire a lawyer. Open and accessible small claims courts offer one way to address the gap in access to justice that exists between those in upper-income brackets and those with average or lower incomes. According to written testimony provided to the Senate Judiciary Committee, Michigan ranked 44th with a letter grade of "D" in HALT's 2011 Small Claims Report Card, which graded small claims courts in all 50 states and the District of Columbia. This State's extremely low monetary limit for small claims courts was among the factors resulting in Michigan's low ranking. At \$3,000, Michigan evidently has one of the lowest small claims court jurisdictional limits in the country. The current limit leaves too many residents without access to courts because their routine legal problems have a dollar value above that

ceiling and they cannot afford to hire an attorney.

Opposing Argument

Increasing the size of claims that may be brought in the small claims court to \$8,000 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 12 years. An inflation-based adjustment would bring the limit to approximately \$3,800. 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 on a continual basis. A periodic adjustment every three to five years would be more workable.

Opposing Argument

A large increase in the jurisdictional limit of the small claims court would undermine its role as the "people's court". This division of the district court was designed for average individuals to resolve relatively small monetary disputes in a streamlined manner. Allowing claims of up to \$8,000 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.

Response: According to HALT's written testimony, a 2003 study it conducted used data from small claims courts across the nation over an 18-year period to debunk the claim raised in several states that higher dollar limits would produce too many new cases and put a great strain on the small claims system ("The Sky Will Not Fall: The Effect of Raising Jurisdictional Limits on Small Claims Court Caseloads"). The study found "that there is only a slight and erratic correlation between an increase in the jurisdictional limit of a small claims court and an increase in the court's caseload, and that any such increase diminishes quickly".

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Matthew Grabowski

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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.