

Legislative Analysis



SMALL CLAIMS COURT: INCREASE RECOVERY AMOUNT

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Senate Bill 269 (Substitute H-1)
Sponsor: Sen. Tonya Schuitmaker
House Committee: Judiciary
Senate Committee: Judiciary

Complete to 5-1-12

A SUMMARY OF SENATE BILL 269 AS REPORTED BY HOUSE COMMITTEE

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 to increase that amount incrementally over a period of twelve years. Beginning September 1, 2012, the cap would be raised to \$5,000, and then would increase by \$500 every three years. Beginning January 1, 2015, the cap would increase to \$5,500; beginning January 1, 2021, to \$6,500, and beginning January 1, 2024, increase to \$7,000. The bill carries an effective date of September 1, 2012.

MCL 600.8401

FISCAL IMPACT:

By increasing the jurisdictional monetary ceiling, the bill would shift cases currently processed in civil court into small claims court. According to the State Court Administrative Office's Judicial Workload Assessment, small claims proceedings take about as much time for judges and judicial officers per case as other general civil cases. However, additional staff is typically required for small claims proceedings, including staff to explain details to those unfamiliar with the court system and handle cases where procedures are not properly followed. As such, this jurisdictional shift may lead to an increase in costs for local courts. Overall caseloads may increase as well, as many who would not pursue a case in civil court may be willing to file their cases in a small claims court, which is less resource-intensive for plaintiffs. As the exact number of new case filings in small claims court is not known, the bill would have an indeterminate, but potentially negative, fiscal impact on local courts.

BACKGROUND INFORMATION:

Generally speaking, the small claims process allows one party to inexpensively sue another for the recovery of small debts due to the absence of lawyers or the right to appeal an adverse decision. 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; the latest increase took effect at the beginning of 2000. Meanwhile, a number of other states have

recently increased the jurisdictional limit of their small claims courts, with the highest being Tennessee at \$25,000, though most have limits of \$6,000 or less.

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 by other means to collect on debts that are small but over the small claims court limit. In today's tough economic climate, businesses are being 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. House Bill 4160 of 2006, as passed by the House, would have raised the limit to \$6,000, down from \$7,500 as introduced. Senate Bill 786 of 2008, which would have raised the cap to \$5,000 by incremental increases over a period of six years, passed both chambers but was pocket vetoed.

Opponents of the proposal to raise the jurisdictional limit for small claims court say that raising the cap runs contrary to the historical nature of the small claims process. Consumers trade some due process rights (e.g., 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 means more businesses would sue in small claims court to collect on outstanding debts. Businesses that frequently use the small claims process would gain, as the State Bar of Michigan has argued in past attempts, "a sophistication by regular appearances . . . that works to the disadvantage of consumers, who arrive in court completely unfamiliar with the process." Some also worry about increased security issues, as small claims cases tend to be more heated. As one testifier put it, shows like "Judge Judy" give the impression that throwing objects, swearing, and trying to attack the other party is normal court behavior.

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. Court staffers say that small claims cases are more difficult and time consuming to process than general civil cases because they spend more time explaining terms, procedures, and collection options. Thus, the 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. Comparisons to the limits set by other states can be misleading, as most states with higher limits either allow representation by attorneys or have an appeal process, or both. Some, like the State Bar of Michigan, have indicated support for periodic increases in line with inflationary increases.

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 House committee substitute addresses the issue by proposing several incremental increases of \$500 over a period of 12 years. Some feel that this approach is more in line with inflationary changes since the original cap of \$300 was placed in statute in 1968. However, it has been pointed out that had the original cap been adjusted for inflation according to the U.S. Consumer Price Index, the limit today would be \$1,910 - over a third lower than the current level and far lower than what is proposed by the bill.

POSITIONS:

The Michigan Credit Union League supports the bill. (4-19-12)

The Small Business Association of Michigan supports the bill. (4-19-12)

Bay Winds Federal Credit Union supports the bill. (3-22-12)

Christian Financial Credit Union supports the bills. (3-22-12)

The Michigan Bankers Association supports the bill. (3-22-12)

The Community Bankers of Michigan supports the bill. (3-22-12)

Rental Property Owners Association of Michigan supports the bill. (3-22-12)

Michigan Manufactured Housing, RV & Campground Association supports the bill. (3-22-12)

Associated Food & Petroleum Dealers supports the bill. (3-22-12)

Michigan Chamber of Commerce supports the bill. (3-22-12)

Detroit Regional Chamber supports the bill. (3-22-12)

National Federation of Independent Business-Michigan supports the bill. (3-22-12)

Michigan Association of Home Builders supports the bills. (3-22-12)

Michigan State University Federal Credit Union supports the bill. (3-22-12)

HALT (Help Abolish Legal Tyranny) supports the bill. (2-23-12)

Dow Chemical Employees' Credit Union supports the bill. (3-15-12)

The Michigan District Judges Association is neutral on the bill. (5-1-12)

The ACLU of Michigan is neutral on the bill. (4-19-12)

The Michigan Court Administration Association (MCAA) opposes the bill. (4-19-12)

The Southeast Michigan Court Administration Association (SEMCAA) opposes the bill. (4-19-12)

The Michigan Creditors Bar Association opposes the bill. (3-20-12)

The Michigan District Judges Association is neutral on the bill. (4-1-12)

The State Bar of Michigan has taken a position of supporting "a modest increase to the jurisdictional limit in small claims court based on inflation and to schedule increases every three years based on inflation."

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.