

2009 DRAFTING REQUEST

Bill

Received: **06/10/2009**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Gary Hebl (608) 266-7678**

By/Representing: **Kate**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - civil procedure**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hebl@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Small claims variable jurisdictional amount

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2 06/18/2009			_____			S&L
/P1	rnelson2 06/23/2009 phurley 08/13/2009	bkraft 06/26/2009 bkraft 08/27/2009	mduchek 06/30/2009	_____	cduerst 06/30/2009		S&L
/P2			rschluet 08/27/2009	_____	cduerst 08/27/2009		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rnelson2 09/04/2009	bkraft 09/04/2009	phenry 09/04/2009	_____	cduerst 09/04/2009		S&L
/2	rnelson2 09/08/2009	bkraft 09/08/2009	phenry 09/10/2009	_____	lparisi 09/10/2009	mbarman 09/29/2009	

FE Sent For: *at intro*
10/28

<END>

2009 DRAFTING REQUEST

Bill

Received: **06/10/2009**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Gary Hebl (608) 266-7678**

By/Representing: **Kate**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - civil procedure**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hebl@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Small claims variable jurisdictional amount

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2 06/18/2009			_____			S&L
/P1	rnelson2 06/23/2009 phurley 08/13/2009	bkraft 06/26/2009 bkraft 08/27/2009	mduchek 06/30/2009	_____	cduerst 06/30/2009		S&L
/P2			rschluet 08/27/2009	_____	cduerst 08/27/2009		S&L

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rnelson2 09/04/2009	bkraft 09/04/2009	phenry 09/04/2009	_____	cduerst 09/04/2009		S&L
/2	rnelson2 09/08/2009	bkraft 09/08/2009	phenry 09/10/2009	_____	lparisi 09/10/2009		

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: 06/10/2009

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Gary Hebl (608) 266-7678

By/Representing: Kate

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Courts - civil procedure

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hebl@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Small claims variable jurisdictional amount

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2 06/18/2009			_____			S&L
/P1	rnelson2 06/23/2009 phurley 08/13/2009	bkraft 06/26/2009 bkraft 08/27/2009	mduchek 06/30/2009	_____	cduerst 06/30/2009		S&L
/P2			rschluet 08/27/2009	_____	cduerst 08/27/2009		S&L

9/9
9/9pt
RBJ

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

/1 rnelson2 bkraft phenry _____ cduerst
 09/04/2009 09/04/2009 09/04/2009 _____ 09/04/2009

FE Sent For:

12 bjk 9/8 pk
 ala ~~to/pw~~
 a a
 <END>

2009 DRAFTING REQUEST

Bill

Received: **06/10/2009**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Gary Hebl (608) 266-7678**

By/Representing: **Kate**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - civil procedure**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hebl@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Small claims variable jurisdictional amount

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2 06/18/2009			_____			S&L
/P1	rnelson2 06/23/2009 phurley 08/13/2009	bkraft 06/26/2009 bkraft 08/27/2009	mduchek 06/30/2009	_____	cduerst 06/30/2009		S&L
/P2			rschlue 08/27/2009	9/1/09 _____	cduerst 08/27/2009		

[Handwritten signatures and initials over the Drafting History table]

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: **06/10/2009**

Received By: **rnelson2**

Wanted: **As time permits**

Identical to LRB:

For: **Gary Hebl (608) 266-7678**

By/Representing: **Kate**

This file may be shown to any legislator: **NO**

Drafter: **rnelson2**

May Contact:

Addl. Drafters:

Subject: **Courts - civil procedure**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Hebl@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Small claims variable jurisdictional amount

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rnelson2 06/18/2009			_____			S&L
/P1	rnelson2 06/23/2009	bkraft 06/26/2009	mduchek 06/30/2009	_____	cduerst 06/30/2009		

FE Sent For:

/P2 bjk 8/12



<END>

2009 DRAFTING REQUEST

Bill

Received: 06/10/2009

Received By: rnelson2

Wanted: As time permits

Identical to LRB:

For: Gary Hebl (608) 266-7678

By/Representing: Kate

This file may be shown to any legislator: NO

Drafter: rnelson2

May Contact:

Addl. Drafters:

Subject: Courts - civil procedure

Extra Copies:

Submit via email: YES

Requester's email: Rep.Hebl@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Small claims variable jurisdictional amount

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1/?	rnelson2 06/18/2009 rnelson2	/PI bjk 6/24	MD	PH JK			

FE Sent For:

<END>

Nelson, Robert P.

From: Battiato, Kate
Sent: Friday, June 05, 2009 4:49 PM
To: Nelson, Robert P.
Subject: Small Claims Drafting Request

Hi Bob,

Rep. Hebl would like to draft a bill that does the following:

The jurisdictional amount and filing fees in small claims court would be based on the number of claims a person has filed in the past 12 months as follows:

Up to 5 claims: Limit = \$10,000, fee = current fee

6 to 20 claims: Limit = \$5,000, fee= 150% of current fee

20 or more claims: Limit = \$4,000, fee= 200% of current fee

In order to keep track of the number of claims filed by each person, Rep. Hebl would like the bill to specify that the person filing the small claim would have to sign a declaration or an affidavit stating the number of small claims cases the person has brought in the past 12 months. If the person bringing the case misrepresents the number of cases filed on the form, the case shall be dismissed with prejudice.

Also Rep. Hebl would like to specify that the increased revenues created by the increases in the filing fees be retained by the counties and not sent to the state.

Kate Battiato
Office of State Representative Gary Hebl
46th Assembly District
Phone: 266-7678



Lbjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

LPS - Please proof with folio.

SA
X-ref

Inserts

1 AN ACT ^{gen.} relating to: the jurisdictional amount and court fees in certain small
2 claims actions

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
For further information see the **state and local** fiscal estimate, which will be
printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 16.007 (6) (a) of the statutes is amended to read:

4 16.007 (6) (a) Except as provided in par. (b), whenever the claims board by
5 unanimous vote finds that payment to a claimant of not more than the amount
6 specified in s. 799.01 (1) (d) ⁵ ~~2~~ b. is justified, it may order the amount that it finds
7 justified to be paid on its own motion without submission of the claim in bill form to
8 the legislature. The claim shall be paid on a voucher upon the certification of the
9 chairperson and secretary of the board, and shall be charged as provided in sub. (6m).

1 ⁽⁴⁾ SECTION 2. 799.01 (1) (d) (intro.) of the statutes is renumbered 799.01 (1) (d)
2 ⁽²⁾ (intro.) and amended to read:

3 ⁽³⁾ 799.01 (1) ⁽⁴⁾ (d) ⁽⁴⁾ *Other civil actions.* (intro.) Other civil actions where the
4 ⁽⁴⁾ amount claimed is \$5,000 ⁽⁵⁾ or less ⁽⁵⁾ than the amounts specified under subd. ⁽⁵⁾ 2, if the
5 actions or proceedings are:

Insert
2-5

History: Sup. Ct. Order, 67 Wis. 2d 585, 776 (1975); 1975 c. 325, 365, 422; 1977 c. 449 s. 497; 1979 c. 32 ss. 66, 92 (16); 1979 c. 175 s. 53; Stats. 1979 s. 799.01; 1983 a. 228; 1987 a. 208, 378, 403; 1989 a. 31, 359; 1991 a. 163; 1993 a. 80, 181; 1995 a. 27.

6 ⁽⁶⁾ SECTION 3. 799.01 (1) (d) ⁽⁵⁾ 2 of the statutes is created to read:

7 ⁽⁷⁾ 799.01 (1) (d) ⁽⁵⁾ 2 a. If the plaintiff has commenced no more than 5 actions under
8 ⁽⁸⁾ subd. ⁽⁴⁾ 1 within the previous 365 days, the amount claimed may not exceed \$10,000.

9 ⁽⁹⁾ b. If the plaintiff has commenced more than 5 and fewer than 20 actions under
10 ⁽¹⁰⁾ subd. ⁽⁴⁾ 1 within the previous 365 days, the amount claimed may not exceed \$5,000.

11 ⁽¹¹⁾ c. If the plaintiff has commenced 20 or more actions under subd. ⁽⁴⁾ 1 within the
12 previous 365 days, the amount claimed may not exceed \$4,000.

13 SECTION 4. 799.08 of the statutes is created to read:

14 **799.08 Affidavit of actions commenced.** At the time of commencing an
15 ⁽¹⁵⁾ action under s. 799.01 (1) (d) ⁽⁴⁾ 2, the plaintiff shall submit a signed affidavit to the clerk
16 of circuit court stating the number of actions that the plaintiff has commenced under
17 ⁽¹⁷⁾ s. 799.01 (1) (d) ⁽⁹⁾ within the previous 365 days. If the court determines that the
18 plaintiff has intentionally misrepresented the number of actions that the plaintiff
19 ⁽¹⁹⁾ has commenced under s. 799.01 (1) (d) ⁽⁴⁾ within the previous 365 days in the affidavit,
20 the court shall dismiss the action with prejudice.

21 SECTION 5. 799.25 (1) of the statutes is amended to read:

22 799.25 (1) FILING FEE. The fee prescribed in s. 814.62 (3) (a) or ⁽⁵⁾ (5), if paid.

History: 1971 c. 32; Sup. Ct. Order, 67 Wis. 2d 585, 773 (1975); 1977 c. 187, 449; 1979 c. 32 ss. 66, 92 (16); 1979 c. 176; Stats. 1979 s. 799.25; 1981 c. 317 ss. 85sn to 85sz, 2202; 1981 c. 365, 391; 1987 a. 208; 1989 a. 359; 1993 a. 490.

23 SECTION 6. 812.04 (1) of the statutes is amended to read:

1 812.04 (1) Upon payment to the clerk of court of the fee prescribed in s. 814.62
2 (1) or (5), the clerk shall issue a garnishee summons together with sufficient copies
3 to the plaintiff or his or her attorney; the summons form may be in blank, but must
4 carry the court seal.

History: Sup. Ct. Order, 67 Wis. 2d 585, 759, 778 (1975); Stats. 1975 s. 812.04; 1977 c. 80; 1979 c. 32 s. 92 (16); 1979 c. 228, 355; 1981 c. 317; 1983 a. 92, 257, 538; 1985 a. 135; 1987 a. 221; 1993 a. 80; 1997 a. 250.

5 **SECTION 7.** 812.35 (2) of the statutes is amended to read:

6 812.35 (2) Upon receipt of the notice under sub. (1) and payment of the fee
7 under s. 814.62 (1) or (5), the clerk of courts shall issue 2 earnings garnishment forms
8 under s. 812.44 (3) for each garnishee. Blank earnings garnishment forms may be
9 issued, but they shall carry the court seal. A circuit court may permit, by rule, the
10 clerk to issue earnings garnishment forms after payment of the fee but before the
11 filing of the notice under sub. (1). That circuit court rule shall require the notice to
12 be filed with the court at a later time, but no later than 5 business days after the date
13 the garnishee is served under sub. (3).

History: 1993 a. 80.

14 **SECTION 8.** 814.62 (1) of the statutes is amended to read:

15 814.62 (1) GARNISHMENT ACTIONS. ^{plain} ~~The~~ ~~Except as provided in sub. (5)~~ ^g the fee for
16 commencing a garnishment action under ch. 812, including actions under s. 799.01
17 (1) (d) ²⁰ is \$20. ~~Of the fees received by the clerk under this subsection, the county~~
18 ~~treasurer shall pay \$12.50 to the secretary of administration for deposit in the~~
19 ~~general fund and shall retain the balance for the use of the county. The secretary of~~
20 ~~administration shall credit \$5 of the \$12.50 to the appropriation under s. 20.680 (2)~~
21 (j).

History: 1981 c. 317; 1983 a. 27; 1985 a. 29; 1987 a. 208, 399; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1995 a. 27; Sup. Ct. Order No. 95-10, 195 Wis. 2d xv (1996); 2003 a. 33.

SECTION 9. 814.62 (3) (a) of the statutes is amended to read:

Insert
3-21
22

1 814.62 (3) (a) In a small claims action under ch. 799, at the time of issuance of
2 a summons or other process in a proceeding not commenced by a summons, the
3 plaintiff shall pay to the clerk of court a fee of \$22, except as provided in sub. (5).

History: 1981 c. 317; 1983 a. 27; 1985 a. 29; 1987 a. 208, 399; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1995 a. 27; Sup. Ct. Order No. 95-10, 195 Wis. 2d xv (1996); 2003 a. 33.

4 SECTION 10. 814.62 (3) (b) of the statutes is amended to read:

5 814.62 (3) (b) If a counterclaim or cross complaint is filed under s. 799.02 (1),
6 the person filing the same shall pay a fee equal to the difference between the fee
7 paid by the plaintiff under this section and the fee under par. (a) or sub. (5).

History: 1981 c. 317; 1983 a. 27; 1985 a. 29; 1987 a. 208, 399; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1995 a. 27; Sup. Ct. Order No. 95-10, 195 Wis. 2d xv (1996); 2003 a. 33.

8 SECTION 11. 814.62 (3) (d) 2. of the statutes is amended to read:

9 814.62 (3) (d) 2. Of the fees received by the clerk under par. (a) and sub (5), the county
10 treasurer shall pay \$11.80 to the secretary of administration for deposit in the
11 general fund and shall retain the balance for the use of the county. The secretary of
12 administration shall credit the \$11.80 to the appropriation under s. 20.680 (2) (j).

History: 1981 c. 317; 1983 a. 27; 1985 a. 29; 1987 a. 208, 399; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1995 a. 27; Sup. Ct. Order No. 95-10, 195 Wis. 2d xv (1996); 2003 a. 33.

13 SECTION 12. 814.62 (3) (e) of the statutes is amended to read:

14 814.62 (3) (e) If any party files a demand for a jury trial in any action under
15 ch. 799, the party demanding the jury trial shall pay a fee equal to the difference
16 paid by the plaintiff and this section between the fee under s. 814.61 (1) (a) and the fee under par. (a) or (5), in addition
17 to the fee under s. 814.61 (4).

History: 1981 c. 317; 1983 a. 27; 1985 a. 29; 1987 a. 208, 399; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1995 a. 27; Sup. Ct. Order No. 95-10, 195 Wis. 2d xv (1996); 2003 a. 33.

18 SECTION 13. 814.62 (5) of the statutes is created to read:

19 814.62 (5) FEES FOR CERTAIN SMALL CLAIMS ACTIONS. (a) If the plaintiff has
20 commenced no more than 5 actions under s. 799.01 (1) (d) 40 within the previous 365
21 days, the fee under sub. (1) or (3) (a) for commencing an action under s. 799.01 (1) (d) 40
22 is equal to the fee specified in sub. (1) or (3) (a).

dollar amount

40

1 (b) If the plaintiff has commenced more than 5 and fewer than 20 actions under
 2 s. 799.01 (1) (d) ⁴⁰ within the previous 365 days, the fee ³ under sub. (1) or (3) (a) for
 3 commencing an action under s. 799.01 (1) (d) shall be equal to 150 percent of the ⁴⁰ fee
 4 dollar amount specified under sub. (1) or (3) (a).

5 (c) If the plaintiff has commenced 20 or more actions under s. 799.01 (1) (d) ⁷⁰ with
 6 the previous 365 days, the fee ² under sub. (1) or (3) (a) for commencing an action under
 7 s. 799.01 (1) (d) shall be equal to 200 percent of the ⁴⁰ fee dollar amount specified under sub. (1) or (3)
 8 (a).

9 (d) Of the fees received by the clerk under this subsection, the county treasurer
 10 shall pay \$12.50 to the secretary of administration for deposit in the general fund and
 11 shall retain the balance for the use of the county. The secretary of administration
 12 shall credit \$5 of the \$12.50 to the appropriation under s. 20.680 (2) (j).

13 **SECTION 14.** 814.85 (1) (b) of the statutes is amended to read:

14 814.85 (1) (b) Notwithstanding par. (a), the clerk of circuit court shall charge
 15 and collect a \$169 court support services surcharge from any person, including any
 16 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a)
 17 or (3) or 814.62 (1) or (2), or (5) if the party paying the fee seeks the recovery of money
 18 and the amount claimed exceeds the maximum amount under s. 799.01 (1) (d).

19 History: 1993 a. 16; 1995 a. 27, 201, 417; 2001 a. 100; 2003 a. 30, 33; 2003 a. 139 ss. 197 to 200; Stats. 2003 s. 814.85; 2003 a. 326 ss. 123 to 125; 2005 a. 455.

20 **SECTION 15.** 814.85 (1) (c) of the statutes is amended to read:

21 814.85 (1) (c) Notwithstanding par. (a), the clerk of circuit court shall charge
 22 and collect a \$51 court support services surcharge from any person, including any
 23 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.62 (3) (a)
 or (b) ^{or (5)} or paying a fee under s. 814.61 (1) (a) or (3) or 814.62 (1) ^{plain} or (2) ^{or (5)} if the party

within

1 paying the fee seeks the recovery of money and the amount claimed is equal to or less
2 than the ~~maximum~~ amount under s. 799.01 (1) (d).

History: 1993 a. 16; 1995 a. 27, 201, 417; 2001 a. 109; 2003 a. 30, 33; 2003 a. 139 ss. 197 to 200; Stats. 2003 s. 814.85; 2003 a. 326 ss. 123 to 125; 2005 a. 455.

3 **SECTION 16.** 814.86 (1) of the statutes is amended to read:

4 814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681
5 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
6 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
7 violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under
8 s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$12 justice
9 information system surcharge from any person, including any governmental unit, as
10 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62
11 (1), (2), ~~or (3) (a) or (b),~~ or (5), or 814.63 (1). The justice information system surcharge
12 is in addition to the surcharge listed in sub. (1m).

History: 1987 a. 27; 1989 a. 22; 1991 a. 26, 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999 a. 9; 2003 a. 30, 33; 2003 a. 139 s. 201; Stats. 2003 s. 814.86; 2003 a. 326; 2005 a. 25, 455.

13 **SECTION 17. Nonstatutory provisions.**

14 (1) For the purpose of counting the number of actions commenced under section
15 799.01 (1) (d) of the statutes to meet the requirements under sections 799.01 (1) (e),
16 799.08, and 814.62 (5) of the statutes, as ~~created~~ by this act, actions commenced
17 before the effective date of this subsection do not count.

18 **SECTION 18. Initial applicability.**

19 (1). This act first applies to actions commenced on the effective date of this
20 subsection.

21 **SECTION 19. Effective date.**

22 (1) This act takes effect on the first day of the 4th month beginning after
23 publication.

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2999/P1bkins
RPN:bjk:...

1 Insert 2-5

2 **SECTION 1.** 799.01 (1) (d) 1., 2. and 3. of the statutes are renumbered 799.01 (1)

3 (d) 4. a., b. and c.

insert
3-21

Section #. 814.62 (1) of the statutes is amended to read:

814.62 (1) GARNISHMENT ACTIONS. The fee for commencing a garnishment action under ch. 812, including actions under s. 799.01 (1) (d) ~~is~~^{is} ~~\$20~~^{\$60}. Of the fees received by the clerk under this subsection, the county treasurer shall pay \$12.50 to the secretary of administration for deposit in the general fund and shall retain the balance for the use of the county. The secretary of administration shall credit \$5 of the \$12.50 to the appropriation under s. 20.680 (2) (j).

History: 1981 c. 317; 1983 a. 27; 1985 a. 29; 1987 a. 208, 399; 1989 a. 31, 359; 1991 a. 39; 1993 a. 16; 1995 a. 27; Sup. Ct. Order No. 95-10, 195 Wis. 2d xv (1996); 2003 a. 33.

Hurley, Peggy

From: Hurley, Peggy
Sent: Thursday, July 23, 2009 2:06 PM
To: Hurley, Peggy
Subject: FW: redraft of LRB 2999/P1 and LRB 3038/P1
Attachments: 09-3038P1.pdf; 09-2999P1.pdf

Hi Peggy,
I forgot to request that the fee for \$10,000 dollar claims be raised to \$33 dollars instead of \$22. So the fees and limits structure should be like this:

Up to 20 claims: Limit = \$10,000, fee = \$33
More than 20 claims: Limit = \$5,000, fee= \$44

From: Battiato, Kate
Sent: Thursday, July 23, 2009 12:27 PM
To: Hurley, Peggy
Cc: Laundrie, Julie; Nelson, Robert P.
Subject: redraft of LRB 2999/P1 and LRB 3038/P1

Hi Peggy,
Rep. Hebl and Sen. Erpenbach would like you to redraft LRB 2999/P1 and LRB 3038/P1 to make new companion bills for both of them. They would like the bill to do the following:

The jurisdictional amount and filing fees in small claims court would be based on the number of claims a person has filed in the past 12 months as follows:

9-2001 fewer
Up to 20 claims: Limit = \$10,000, fee = current fee
20 or more claims: Limit = \$5,000, fee= 200% of current fee *\$14 fee*

In order to keep track of the number of claims filed by each person, they would like the bill to specify that the person filing the small claim would have to sign a declaration or an affidavit stating the number of small claims cases the person has brought in the past 12 months (perhaps in the complaint?). If the person bringing the case misrepresents the number of cases filed on the form, the case shall be dismissed with prejudice. *It does already*

Also, they would like to allow a private right of action enabling an individual to enforce the limits based on the number of claims a person has filed. Please specify that an individual who brings a private right of action because another individual misrepresented the number of cases filed in the past 12 months can be awarded damages of \$250 and reasonable attorney's fees. *anyone can? Or just the def in a particular case?*

Also, please specify that the complaint or summons should contain information alerting the defendant that a misrepresentation of the number of cases brought in a year entitles the defendant to damages of \$250 plus reasonable attorney's fees and the case is dismissed and cannot be brought back to court.

Also they would like the bill to specify that the increased revenues created by the increases in the filing fees be retained by the counties and not sent to the state. *It does already*

Also, I had a question on section 5 of LRB 2999/P1: Is it necessary to include the word "intentionally" to describe the act of misrepresenting the number of actions filed in the past 12 months? I know from working on a different issue that often, violators can give the defense that their action was not intentional and it is difficult for the plaintiff to prove intent.

Thank you for your assistance in this matter, Peggy. We really appreciate your help.
Kate

Kate Battiato
Office of State Representative Gary Hebl
46th Assembly District
Phone: 266-7678

t/c to kate

8-12: should the 3038 still go into 2999, w/ changes made to 2999 re # of claims? Also, # of all claims, including evictions, etc?

08/03/2009

t/c to Kate on 8-12-09

~~get~~ ignore 3038. Use
2999 as the base

2 pers, not 3

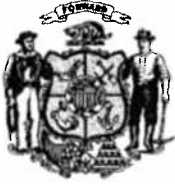
20+

below 20

keep s. I but make sure the cross-ref
is correct.

Re: private rt of action - open to
anyone, not just the def.

~~then~~ so doesn't really go to the
def unless the def is the one
who files private rt of action.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2999-01

RPN:bjk:md

Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

8-13-09

SAV
X-ref

-regen.

1 AN ACT *to renumber* 799.01 (1) (d) 1., 2. and 3.; *to renumber and amend* 799.01
 2 (1) (d) (intro.); *to amend* 16.007 (6) (a), 799.25 (1), 812.04 (1), 812.35 (2), 814.62
 3 (1), 814.62 (3) (a), 814.62 (3) (b), 814.62 (3) (d) 2., 814.62 (3) (e), 814.85 (1) (c) and
 4 814.86 (1); and *to create* 799.01 (1) (d) 5., 799.08 and 814.62 (5) of the statutes;
 5 **relating to:** the jurisdictional amount and court fees in certain small claims
 6 actions.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
For further information see the ***state and local*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 SECTION 1. 16.007 (6) (a) of the statutes is amended to read:
 8 16.007 (6) (a) Except as provided in par. (b), whenever the claims board by
 9 unanimous vote finds that payment to a claimant of not more than the amount

1 specified in s. 799.01 (1) (d) 5. b. is justified, it may order the amount that it finds
2 justified to be paid on its own motion without submission of the claim in bill form to
3 the legislature. The claim shall be paid on a voucher upon the certification of the
4 chairperson and secretary of the board, and shall be charged as provided in sub. (6m).

5 SECTION 2. 799.01 (1) (d) (intro.) of the statutes is renumbered 799.01 (1) (d)
6 4. (intro.) and amended to read:

7 799.01 (1) (d) 4. *Other civil actions.* (intro.) Other civil actions where the
8 amount claimed is ~~\$5,000 or less~~ than the amounts specified under subd. 5., if the
9 actions or proceedings are:

10 SECTION 3. 799.01 (1) (d) 1., 2. and 3. of the statutes are renumbered 799.01 (1)
11 (d) 4. a., b. and c.

12 SECTION 4. 799.01 (1) (d) 5. of the statutes is created to read:

13 799.01 (1) (d) 5. a. If the plaintiff has commenced no more than 5 actions under
14 subd. 4. within the previous 365 days, the amount claimed may not exceed \$10,000.

15 b. If the plaintiff has commenced more than 5 and fewer than 20 actions under
16 subd. 4. within the previous 365 days, the amount claimed may not exceed \$5,000.

17 If the plaintiff has commenced 20 or more actions under subd. 4. within the
18 previous 365 days, the amount claimed may not exceed \$4,000.

19 SECTION 5. 799.08 of the statutes is created to read:

20 **799.08 Affidavit of actions commenced.** At the time of commencing an
21 action under s. 799.01 (1) (d) 4., the plaintiff shall submit a signed affidavit to the
22 clerk of circuit court stating the number of actions that the plaintiff has commenced
23 under s. 799.01 (1) (d) 4. within the previous 365 days. If the court determines that
24 the plaintiff has intentionally misrepresented the number of actions that the

20 or fewer

no more than 5

more than 5 and fewer than 20

20 or more

\$5000

Insert 2.18

1 plaintiff has commenced under s. 799.01 (1) (d) 4. within the previous 365 days in the
2 affidavit, the court shall dismiss the action with prejudice.

3 **SECTION 6.** 799.25 (1) of the statutes is amended to read:

4 799.25 (1) FILING FEE. The fee prescribed in s. 814.62 (3) (a) or (5), if paid.

5 **SECTION 7.** 812.04 (1) of the statutes is amended to read:

6 812.04 (1) Upon payment to the clerk of court of the fee prescribed in s. 814.62
7 (1) or (5), the clerk shall issue a garnishee summons together with sufficient copies
8 to the plaintiff or his or her attorney; the summons form may be in blank, but must
9 carry the court seal.

10 **SECTION 8.** 812.35 (2) of the statutes is amended to read:

11 812.35 (2) Upon receipt of the notice under sub. (1) and payment of the fee
12 under s. 814.62 (1) or (5), the clerk of courts shall issue 2 earnings garnishment forms
13 under s. 812.44 (3) for each garnishee. Blank earnings garnishment forms may be
14 issued, but they shall carry the court seal. A circuit court may permit, by rule, the
15 clerk to issue earnings garnishment forms after payment of the fee but before the
16 filing of the notice under sub. (1). That circuit court rule shall require the notice to
17 be filed with the court at a later time, but no later than 5 business days after the date
18 the garnishee is served under sub. (3).

19 **SECTION 9.** 814.62 (1) of the statutes is amended to read:

20 814.62 (1) GARNISHMENT ACTIONS. The fee for commencing a garnishment action
21 under ch. 812, including actions under s. 799.01 (1) (d) ~~2.~~ 4. b., is \$20. Of the fees
22 received by the clerk under this subsection, the county treasurer shall pay \$12.50 to
23 the secretary of administration for deposit in the general fund and shall retain the
24 balance for the use of the county. The secretary of administration shall credit \$5 of
25 the \$12.50 to the appropriation under s. 20.680 (2) (j).

1 **SECTION 10.** 814.62 (3) (a) of the statutes is amended to read:

2 814.62 (3) (a) In a small claims action under ch. 799, at the time of issuance of
3 a summons or other process in a proceeding not commenced by a summons, the
4 plaintiff shall pay to the clerk of court a fee of \$22, except as provided in sub. (5).

5 **SECTION 11.** 814.62 (3) (b) of the statutes is amended to read:

6 814.62 (3) (b) If a counterclaim or cross complaint is filed under s. 799.02 (1),
7 the person filing the same shall pay a fee equal to the difference between the fee
8 under s. 814.61 (1) (a) and the fee paid by the plaintiff under par. (a) this section.

9 **SECTION 12.** 814.62 (3) (d) 2. of the statutes is amended to read:

10 814.62 (3) (d) 2. Of the fees received by the clerk under par. (a) and sub. (5), the
11 county treasurer shall pay \$11.80 to the secretary of administration for deposit in the
12 general fund and shall retain the balance for the use of the county. The secretary of
13 administration shall credit the \$11.80 to the appropriation under s. 20.680 (2) (j).

14 **SECTION 13.** 814.62 (3) (e) of the statutes is amended to read:

15 814.62 (3) (e) If any party files a demand for a jury trial in any action under
16 ch. 799, the party demanding the jury trial shall pay a fee equal to the difference
17 between the fee under s. 814.61 (1) (a) and the fee paid by the plaintiff under par. (a)
18 this section, in addition to the fee under s. 814.61 (4).

19 **SECTION 14.** 814.62 (5) of the statutes is created to read:

20

814.62 (5) FEES FOR CERTAIN SMALL CLAIMS ACTIONS. (a) If the plaintiff has

21

commenced no more than 5 actions under s. 799.01 (1) (d) 4. within the previous 365

22

days, the fee for commencing an action under s. 799.01 (1) (d) 4. is ~~equal to the dollar~~

23

amount specified in sub. (3) (a).

24

(b) If the plaintiff has commenced more than 5 and fewer than 20 actions under

25

s. 799.01 (1) (d) 4. within the previous 365 days, the fee for commencing an action

20
21
22
23
24
25
(a)

or fewer

1 under s. 799.01 (1) (d) 4. shall be equal to 150 percent of the dollar amount specified
2 under sub. (3) (a).

3 (b) (c) If the plaintiff has commenced 20 or more actions under s. 799.01 (1) (d) 4.
4 within the previous 365 days, the fee for commencing an action under s. 799.01 (1)
5 (d) 4. shall be equal to 200 percent of the dollar amount specified under sub. (3) (a).

6 SECTION 15. 814.85 (1) (c) of the statutes is amended to read:

7 814.85 (1) (c) Notwithstanding par. (a), the clerk of circuit court shall charge
8 and collect a \$51 court support services surcharge from any person, including any
9 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.62 (3) (a)
10 or (b) or (5), or paying a fee under s. 814.61 (1) (a) or (3) or 814.62 (1) or (2) if the party
11 paying the fee seeks the recovery of money and the amount claimed is equal to or less
12 than the maximum amount under s. 799.01 (1) (d) 5.

13 SECTION 16. 814.86 (1) of the statutes is amended to read:

14 814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681
15 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
16 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
17 violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under
18 s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$12 justice
19 information system surcharge from any person, including any governmental unit, as
20 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62
21 (1), (2), or (3) (a) or (b), or (5), or 814.63 (1). The justice information system surcharge
22 is in addition to the surcharge listed in sub. (1m).

23 SECTION 17. Nonstatutory provisions.

Insert 522

was affected by Section 3240 of 2009 Wisconsin Act on section 3240

\$265

1 (1) For the purpose of counting the number of actions commenced under section
2 799.01 (1) (d) 4. of the statutes, as affected by this act, actions commenced before the
3 effective date of this subsection do not count.

4 ~~SECTION 18.~~ **Initial applicability.**

5 (1). This act first applies to actions commenced on the effective date of this
6 subsection.

7 ~~SECTION 19.~~ **Effective date.** date date date

8 ~~(1)~~ This act takes effect on the first day of the 4th month beginning after
9 publication except as follows:

LPS
Please →
change
Component to
effdate

(END) A (1) Δ The treatment of
section 814.086(1) (by
A.R. SECTION 17) of the
statutes takes effect
on June 4, 2010

10

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2999/P/ins
RPN:bjk:md

INSERT 5.22:

check font size

A.R. on p. 6 of draft SECTION 17. 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act *JH*

(this act), is amended to read:

814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, for a financial responsibility violation under s. 344.62 (2), or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice information system surcharge from any person, including any governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), (3) (a) or (b), or (5), or 814.63 (1). The justice information system surcharge is in addition to the surcharge listed in sub. (1m).

NOTE: NOTE: Sub. (1) is shown as amended eff. 6-1-10 by 2009 Wis. Act 28. Prior to 6-1-10 it reads:NOTE:

(1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice information system surcharge from any person, including any governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), or (3) (a) or (b), or 814.63 (1). The justice information system surcharge is in addition to the surcharge listed in sub. (1m).

History: 1987 a. 27; 1989 a. 22; 1991 a. 26, 39; 1993 a. 16; 1995 a. 27, 201; 1997 a. 27; 1999 a. 9; 2003 a. 30, 33; 2003 a. 139 s. 201; Stats. 2003 s. 814.86; 2003 a. 326; 2005 a. 25, 455; 2009 a. 28.

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2999/Pins
RPN:bjk:md


INSERT 2.18:

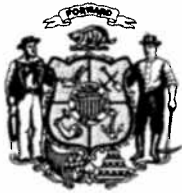
SECTION 1. 799.06 (4) of the statutes is created to read:

799.06 (4) The complaint in an action under s. 799.01 (1) (d) 4. shall contain a statement to the defendant that specifies the number of actions the plaintiff has commenced under s. 799.01 (1) (d) 4. within the previous 365 days and that states that if that number is not correct, the action against the defendant shall be dismissed with prejudice and the defendant may be entitled to recovery under s. 895.058.

INSERT 5.22:

SECTION 2. 895.058 of the statutes is created to read:

895.058 Misrepresentation of small claims actions commenced. (1) A person who proves by the preponderance of credible evidence that a plaintiff who commenced an action under s. 799.01 (1) (d) 4. misrepresented the number of actions he or she commenced in an affidavit submitted pursuant to s. 799.08 or a statement made pursuant to s. 799.06 (4) shall be entitled to damages in the amount of \$250 > and reasonable attorney fees, as determined by the court. 



9/4
State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2999/02

RPN:bjk:rs

(5000)

stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

2009 Bill

SA

repen.

1 AN ACT *to renumber* 799.01 (1) (d) 1., 2. and 3.; *to renumber and amend* 799.01
2 (1) (d) (intro.); *to amend* 16.007 (6) (a), 799.25 (1), 812.04 (1), 812.35 (2), 814.62
3 (1), 814.62 (3) (a), 814.62 (3) (b), 814.62 (3) (d) 2., 814.62 (3) (e), 814.85 (1) (c),
4 814.86 (1) and 814.86 (1); and *to create* 799.01 (1) (d) 5., 799.06 (4), 799.08,
5 814.62 (5) and 895.058 of the statutes; **relating to:** the jurisdictional amount
6 and court fees in certain small claims actions.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.
For further information see the ***state and local*** fiscal estimate, which will be
printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 SECTION 1. 16.007 (6) (a) of the statutes is amended to read:
8 16.007 (6) (a) Except as provided in par. (b), whenever the claims board by
9 unanimous vote finds that payment to a claimant of not more than the amount

ins
and

1 specified in s. 799.01 (1) (d) 5. b. is justified, it may order the amount that it finds
2 justified to be paid on its own motion without submission of the claim in bill form to
3 the legislature. The claim shall be paid on a voucher upon the certification of the
4 chairperson and secretary of the board, and shall be charged as provided in sub. (6m).

5 **SECTION 2.** 799.01 (1) (d) (intro.) of the statutes is renumbered 799.01 (1) (d)
6 4. (intro.) and amended to read:

7 799.01 (1) (d) 4. *Other civil actions.* (intro.) Other civil actions where the
8 amount claimed is ~~\$5,000 or less~~ than the amounts specified under subd. 5., if the
9 actions or proceedings are:

10 **SECTION 3.** 799.01 (1) (d) 1., 2. and 3. of the statutes are renumbered 799.01 (1)
11 (d) 4. a., b. and c.

12 **SECTION 4.** 799.01 (1) (d) 5. of the statutes is created to read:

13 799.01 (1) (d) 5. a. If the plaintiff has commenced 20 or fewer actions under
14 subd. 4. within the previous 365 days, the amount claimed may not exceed \$10,000.

15 b. If the plaintiff has commenced 21 or more actions under subd. 4. within the
16 previous 365 days, the amount claimed may not exceed \$5,000.

17 **SECTION 5.** 799.06 (4) of the statutes is created to read:

18 799.06 (4) The complaint in an action under s. 799.01 (1) (d) 4. shall contain
19 a statement to the defendant that specifies the number of actions the plaintiff has
20 commenced under s. 799.01 (1) (d) 4. within the previous 365 days and that states
21 that if that number is not correct, the action against the defendant shall be dismissed
22 with prejudice and the defendant may be entitled to recovery under s. 895.058.

23 **SECTION 6.** 799.08 of the statutes is created to read:

24 **799.08 Affidavit of actions commenced.** At the time of commencing an
25 action under s. 799.01 (1) (d) 4., the plaintiff shall submit a signed affidavit to the

1 clerk of circuit court stating the number of actions that the plaintiff has commenced
2 under s. 799.01 (1) (d) 4. within the previous 365 days. If the court determines that
3 the plaintiff has misrepresented the number of actions that the plaintiff has
4 commenced under s. 799.01 (1) (d) 4. within the previous 365 days in the affidavit,
5 the court shall dismiss the action with prejudice.

6 **SECTION 7.** 799.25 (1) of the statutes is amended to read:

7 799.25 (1) FILING FEE. The fee prescribed in s. 814.62 (3) (a) or (5), if paid.

8 **SECTION 8.** 812.04 (1) of the statutes is amended to read:

9 812.04 (1) Upon payment to the clerk of court of the fee prescribed in s. 814.62
10 (1) or (5), the clerk shall issue a garnishee summons together with sufficient copies
11 to the plaintiff or his or her attorney; the summons form may be in blank, but must
12 carry the court seal.

13 **SECTION 9.** 812.35 (2) of the statutes is amended to read:

14 812.35 (2) Upon receipt of the notice under sub. (1) and payment of the fee
15 under s. 814.62 (1) or (5), the clerk of courts shall issue 2 earnings garnishment forms
16 under s. 812.44 (3) for each garnishee. Blank earnings garnishment forms may be
17 issued, but they shall carry the court seal. A circuit court may permit, by rule, the
18 clerk to issue earnings garnishment forms after payment of the fee but before the
19 filing of the notice under sub. (1). That circuit court rule shall require the notice to
20 be filed with the court at a later time, but no later than 5 business days after the date
21 the garnishee is served under sub. (3).

22 **SECTION 10.** 814.62 (1) of the statutes is amended to read:

23 814.62 (1) GARNISHMENT ACTIONS. The fee for commencing a garnishment action
24 under ch. 812, including actions under s. 799.01 (1) (d) ~~2.~~ 4. b., is \$20. Of the fees
25 received by the clerk under this subsection, the county treasurer shall pay \$12.50 to

1 the secretary of administration for deposit in the general fund and shall retain the
2 balance for the use of the county. The secretary of administration shall credit \$5 of
3 the \$12.50 to the appropriation under s. 20.680 (2) (j).

4 **SECTION 11.** 814.62 (3) (a) of the statutes is amended to read:

5 814.62 (3) (a) In a small claims action under ch. 799, at the time of issuance of
6 a summons or other process in a proceeding not commenced by a summons, the
7 plaintiff shall pay to the clerk of court a fee of \$22, except as provided in sub. (5).

8 **SECTION 12.** 814.62 (3) (b) of the statutes is amended to read:

9 814.62 (3) (b) If a counterclaim or cross complaint is filed under s. 799.02 (1),
10 the person filing the same shall pay a fee equal to the difference between the fee
11 under s. 814.61 (1) (a) and the fee paid by the plaintiff under ~~par. (a)~~ this section.

12 **SECTION 13.** 814.62 (3) (d) 2. of the statutes is amended to read:

13 814.62 (3) (d) 2. Of the fees received by the clerk under par. (a) and sub. (5), the
14 county treasurer shall pay \$11.80 to the secretary of administration for deposit in the
15 general fund and shall retain the balance for the use of the county. The secretary of
16 administration shall credit the \$11.80 to the appropriation under s. 20.680 (2) (j).

17 **SECTION 14.** 814.62 (3) (e) of the statutes is amended to read:

18 814.62 (3) (e) If any party files a demand for a jury trial in any action under
19 ch. 799, the party demanding the jury trial shall pay a fee equal to the difference
20 between the fee under s. 814.61 (1) (a) and the fee paid by the plaintiff under ~~par. (a)~~
21 this section, in addition to the fee under s. 814.61 (4).

22 **SECTION 15.** 814.62 (5) of the statutes is created to read:

23 814.62 (5) FEES FOR CERTAIN SMALL CLAIMS ACTIONS. (a) If the plaintiff has
24 commenced 20 or fewer actions under s. 799.01 (1) (d) 4. within the previous 365 days,

1 the fee for commencing an action under s. 799.01 (1) (d) 4. shall be equal to 150
2 percent of the dollar amount specified under sub. (3) (a).

3 (b) If the plaintiff has commenced 21 or more actions under s. 799.01 (1) (d) 4.
4 within the previous 365 days, the fee for commencing an action under s. 799.01 (1)
5 (d) 4. shall be equal to 200 percent of the dollar amount specified under sub. (3) (a).

6 **SECTION 16.** 814.85 (1) (c) of the statutes is amended to read:

7 814.85 (1) (c) Notwithstanding par. (a), the clerk of circuit court shall charge
8 and collect a \$51 court support services surcharge from any person, including any
9 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.62 (3) (a)
10 or (b) or (5), or paying a fee under s. 814.61 (1) (a) or (3) or 814.62 (1) or (2) if the party
11 paying the fee seeks the recovery of money and the amount claimed is equal to or less
12 than the maximum amount under s. 799.01 (1) (d) 5.

13 **SECTION 17.** 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
14 section 3240, is amended to read:

15 814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681
16 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
17 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
18 violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under
19 s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice
20 information system surcharge from any person, including any governmental unit, as
21 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62
22 (1), (2), ~~or (3) (a) or (b)~~, or (5), or 814.63 (1). The justice information system surcharge
23 is in addition to the surcharge listed in sub. (1m).

24 **SECTION 18.** 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act
25 (this act), is amended to read:

1 814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681
 2 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
 3 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
 4 violation, for a financial responsibility violation under s. 344.62 (2), or for a violation
 5 under s. 343.51 (1m) (b) or a safety belt use violation under s. 347.48 (2m), the clerk
 6 of circuit court shall charge and collect a \$21.50 justice information system surcharge
 7 from any person, including any governmental unit, as defined in s. 108.02 (17),
 8 paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), (3) (a) or (b), or (5),
 9 or 814.63 (1). The justice information system surcharge is in addition to the
 10 surcharge listed in sub. (1m).

11 **SECTION 19.** 895.058 of the statutes is created to read:

12 **895.058 Misrepresentation of small claims actions commenced.** ^A
 13 ^{If a party} person who proves by the preponderance of credible evidence that a plaintiff who
 14 commenced an action under s. 799.01 (1) (d) 4. misrepresented the number of actions
 15 he or she commenced in an affidavit submitted pursuant to s. 799.08 or ⁽ⁱⁿ⁾ a statement
 16 made pursuant to s. 799.06 (4) ~~shall be entitled to damages in the amount of \$250~~ ^{the court shall order the plaintiff to pay the party}
 17 and reasonable attorney fees, ^{as determined by the court}

18 **SECTION 20. Nonstatutory provisions.**

19 (1) For the purpose of counting the number of actions commenced under section
 20 799.01 (1) (d) 4. of the statutes, as affected by this act, actions commenced before the
 21 effective date of this subsection do not count.

22 **SECTION 21. Initial applicability.**

23 (1). This act first applies to actions commenced on the effective date of this
 24 subsection.

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2999/lins
RPN:bjk:rs

ins. anl:

Under current law, a person may bring ^{a small claims} an action in ~~the~~ ^a small claims branch of the circuit court for a money judgment, attachment, garnishment, or to enforce a lien, only if the amount claimed is not more than \$5,000. Under this bill, if the person bringing the action has commenced 20 or fewer actions in ~~the~~ ^a small claims branch for a money judgment, attachment, garnishment, or to enforce a lien, within the previous 365 days, the amount claimed may not exceed \$10,000. If the person bringing the action has commenced more than 20 such actions in ~~the~~ ^a small claims branch, within the previous 365 days, the bill limits the amount claimed to not more than \$5,000.

including

Currently, the fee for filing ^{a small claims} an action in ~~the~~ ^a small claims branch of the circuit court is \$22, with some exceptions, for garnishment actions ^{or} if a counterclaim or cross complaint is filed, or if a demand for a trial is made. Under this bill, if the person bringing the action has commenced 20 or fewer actions in ~~the~~ ^a small claims branch for a money judgment, attachment, or to enforce a lien, within the previous 365 days, the person must pay a filing fee equal to 150 percent of the regular fee; \$33. If the person bringing the action has commenced 21 or more actions in ~~the~~ ^a small claims branch for a money judgment, attachment, or to enforce a lien, within the previous 365 days, the person must pay a filing fee equal to 200 percent of the regular fee; \$44.

a small claim

Under the bill, if a party proves that a person commencing ^a an action in ~~the~~ ^a small claims branch of the circuit court for a money judgment, attachment, garnishment, or to enforce a lien misrepresented the number of such actions the person commenced, the court is required to award the party damages of \$250 and reasonable attorney fees.

Nelson, Robert P.

From: Battiato, Kate
Sent: Tuesday, September 08, 2009 11:17 AM
To: Nelson, Robert P.
Cc: Laundrie, Julie
Subject: LRB 2999/1

Hi Bob,

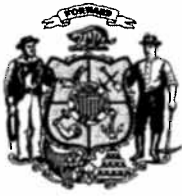
In sections 5 and 6 of the draft, it states that the plaintiff must specify the number of actions commenced in the previous 365 days. We think it would be more feasible and pertinent to the system set up by this bill to have the plaintiff specify whether they have commenced more or fewer than 20 actions in the previous 365 days, instead of a specific number of actions commenced. Please redraft LRB 2999/1 to reflect this intent.

Also, can you provide information about what sections 17 and 18 do?

Thank you,
Kate Battiato

Kate Battiato
Office of State Representative Gary Hebl
46th Assembly District
Phone: 266-7678

09/08/2009



2009 BILL

SA
X-ref

→ D - Note the changes suggested
and I made a few others to clean up
some drafting errors
RPN

Legen.

1 AN ACT to renumber 799.01 (1) (d) 1., 2. and 3.; to renumber and amend 799.01
2 (1) (d) (intro.); to amend 16.007 (6) (a), 799.25 (1), 812.04 (1), 812.35 (2), 814.62
3 (1), 814.62 (3) (a), 814.62 (3) (b), 814.62 (3) (d) 2., 814.62 (3) (e), 814.85 (1) (c),
4 814.86 (1) and 814.86 (1); and to create 799.01 (1) (d) 5., 799.06 (4), 799.08,
5 814.62 (5) and 895.058 of the statutes; relating to: the jurisdictional amount
6 and court fees in certain small claims actions.

Analysis by the Legislative Reference Bureau

Under current law, a person may bring a small claims action in the circuit court for a money judgment, attachment, garnishment, or to enforce a lien, only if the amount claimed is not more than \$5,000. Under this bill, if the person bringing the action has commenced 20 or fewer actions in small claims for a money judgment, attachment, garnishment, or to enforced a lien, within the previous 365 days, the amount claimed may not exceed \$10,000. If the person bringing the action has commenced more than 20 such actions in small claims within the previous 365 days, the bill limits the amount claimed to not more than \$5,000.

Currently, the fee for filing a small claims action in the circuit court is \$22, with some exceptions, including for garnishment actions, if a counterclaim or cross complaint is filed, or if a demand for a trial is made. Under this bill, if the person bringing the action has commenced 20 or fewer actions in small claims for a money judgment, attachment, or to enforce a lien, within the previous 365 days, the person

BILL

must pay a filing fee equal to 150 percent of the regular fee; \$33. If the person bringing the action has commenced 21 or more actions in small claims for a money judgment, attachment, or to enforce a lien, within the previous 365 days, the person must pay a filing fee equal to 200 percent of the regular fee; \$44.

Under the bill, if a party proves that a person commencing a small claims action in the circuit court for a money judgment, attachment, garnishment, or to enforce a lien misrepresented the number of such actions the person commenced, the court is required to award the party damages of \$250 and reasonable attorney fees.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 16.007 (6) (a) of the statutes is amended to read:

2 16.007 (6) (a) Except as provided in par. (b), whenever the claims board by
3 unanimous vote finds that payment to a claimant of not more than the amount
4 specified in s. 799.01 (1) (d) 5 (b) is justified, it may order the amount that it finds
5 justified to be paid on its own motion without submission of the claim in bill form to
6 the legislature. The claim shall be paid on a voucher upon the certification of the
7 chairperson and secretary of the board, and shall be charged as provided in sub. (6m).

8 SECTION 2. 799.01 (1) (d) (intro.) of the statutes is renumbered 799.01 (1) (d)
9 4. (intro.) and amended to read:

10 799.01 (1) (d) 4. *Other civil actions.* (intro.) Other civil actions where the
11 amount claimed is \$5,000 or less than the amounts specified under subd. 5, if the
12 actions or proceedings are:

13 SECTION 3. 799.01 (1) (d) 1., 2. and 3. of the statutes are renumbered 799.01 (1)
14 (d) 4. a., b. and c.

15 SECTION 4. 799.01 (1) (d) 5 of the statutes is created to read:

16 799.01 (1) (d) 5. a. If the plaintiff has commenced 20 or fewer actions under
17 subd. 4, within the previous 365 days, the amount claimed may not exceed \$10,000.

fix component

(1m) (6)

in subd. (1m)

(m) (a) (b) (c) (d)

BILL

subd. (1)(d)

1 *h* If the plaintiff has commenced 21 or more actions under subd. 4 within the
2 previous 365 days, the amount claimed may not exceed \$5,000.

3 **SECTION 5.** 799.06 (4) of the statutes is created to read:

4 799.06 (4) The complaint in an action under s. 799.01 (1) (d) shall contain

5 *x2* a statement to the defendant that specifies *that* the number of actions the plaintiff has
6 *20 or fewer actions or more than 20 actions* commenced under s. 799.01 (1) (d) within the previous 365 days and that states
7 that if that number is not correct, *statement court will dismiss the* the action against the defendant shall be dismissed
8 with prejudice and the defendant *to true* may be entitled to recovery under s. *09823* 895.058.

9 **SECTION 6.** 799.08 of the statutes is created to read:

10 **799.08 Affidavit of actions commenced.** At the time of commencing an

11 action under s. 799.01 (1) (d) the plaintiff shall submit a signed affidavit to the
12 clerk of circuit court stating the number of actions *specifying* that the plaintiff has commenced

13 under s. 799.01 (1) (d) within the previous 365 days. If the court determines that

14 the plaintiff has misrepresented the number of actions that the plaintiff has
15 commenced under s. 799.01 (1) (d) 4. within the previous 365 days in the affidavit,

16 the court shall dismiss the action with prejudice.

Insert from PR 6 and 7

17 **SECTION 7.** 799.25 (1) of the statutes is amended to read:

18 799.25 (1) FILING FEE. The fee prescribed in s. 814.62 (3) (a) or (5), if paid.

19 **SECTION 8.** 812.04 (1) of the statutes is amended to read:

20 812.04 (1) Upon payment to the clerk of court of the fee prescribed in s. 814.62

21 (1) or (5), the clerk shall issue a garnishee summons together with sufficient copies

22 to the plaintiff or his or her attorney; the summons form may be in blank, but must

23 carry the court seal.

24 **SECTION 9.** 812.35 (2) of the statutes is amended to read:

BILL

1 812.35 (2) Upon receipt of the notice under sub. (1) and payment of the fee
2 under s. 814.62 (1) or (5), the clerk of courts shall issue 2 earnings garnishment forms
3 under s. 812.44 (3) for each garnishee. Blank earnings garnishment forms may be
4 issued, but they shall carry the court seal. A circuit court may permit, by rule, the
5 clerk to issue earnings garnishment forms after payment of the fee but before the
6 filing of the notice under sub. (1). That circuit court rule shall require the notice to
7 be filed with the court at a later time, but no later than 5 business days after the date
8 the garnishee is served under sub. (3).

9 **SECTION 10.** 814.62 (1) of the statutes is amended to read:

10 814.62 (1) GARNISHMENT ACTIONS. The fee for commencing a garnishment action
11 under ch. 812, including actions under s. 799.01 (1) (d) ^{51st} ~~(2)~~ 4. b., is \$20. Of the fees
12 received by the clerk under this subsection, the county treasurer shall pay \$12.50 to
13 the secretary of administration for deposit in the general fund and shall retain the
14 balance for the use of the county. The secretary of administration shall credit \$5 of
15 the ~~\$12.50~~ to the appropriation under s. 20.680 (2) (j).

16 **SECTION 11.** 814.62 (3) (a) of the statutes is amended to read:

17 814.62 (3) (a) In a small claims action under ch. 799, at the time of issuance of
18 a summons or other process in a proceeding not commenced by a summons, the
19 plaintiff shall pay to the clerk of court a fee of \$22, except as provided in sub. (5).

20 **SECTION 12.** 814.62 (3) (b) of the statutes is amended to read:

21 814.62 (3) (b) If a counterclaim or cross complaint is filed under s. 799.02 (1),
22 the person filing the same shall pay a fee equal to the difference between the fee
23 under s. 814.61 (1) (a) and the fee paid by the plaintiff under ~~par. (a)~~ this section.

24 **SECTION 13.** 814.62 (3) (d) 2. of the statutes is amended to read:

BILL

1 814.62 (3) (d) 2. Of the fees received by the clerk under par. (a) and sub. (5), the
2 county treasurer shall pay \$11.80 to the secretary of administration for deposit in the
3 general fund and shall retain the balance for the use of the county. The secretary of
4 administration shall credit the \$11.80 to the appropriation under s. 20.680 (2) (j).

5 **SECTION 14.** 814.62 (3) (e) of the statutes is amended to read:

6 814.62 (3) (e) If any party files a demand for a jury trial in any action under
7 ch. 799, the party demanding the jury trial shall pay a fee equal to the difference
8 between the fee under s. 814.61 (1) (a) and the fee paid by the plaintiff under ~~par. (a)~~
9 this section, in addition to the fee under s. 814.61 (4).

10 **SECTION 15.** 814.62 (5) of the statutes is created to read:

11 814.62 (5) FEES FOR CERTAIN SMALL CLAIMS ACTIONS. (a) If the plaintiff has
12 commenced 20 or fewer actions under s. 799.01 (1) (d) 4 within the previous 365 days,
13 the fee for commencing an action under s. 799.01 (1) (d) 4 shall be equal to 150
14 percent of the dollar amount specified under sub. (3) (a).

15 (b) If the plaintiff has commenced 21 or more actions under s. 799.01 (1) (d) 4
16 within the previous 365 days, the fee for commencing an action under s. 799.01 (1)
17 (d) 4 shall be equal to 200 percent of the dollar amount specified under sub. (3) (a).

18 **SECTION 16.** 814.85 (1) (c) of the statutes is amended to read:

19 814.85 (1) (c) Notwithstanding par. (a), the clerk of circuit court shall charge
20 and collect a \$51 court support services surcharge from any person, including any
21 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.62 (3) (a)
22 or (b) or (5), or paying a fee under s. 814.61 (1) (a) or (3) or 814.62 (1) or (2) if the party
23 paying the fee seeks the recovery of money and the amount claimed is equal to or less
24 than the maximum amount under s. 799.01 (1) (d) 5 (1m)

BILL

1 **SECTION 17.** 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act 28,
2 section 3240, is amended to read:

3 814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681
4 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
5 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
6 violation, or for a violation under s. 343.51 (1m) (b) or a safety belt use violation under
7 s. 347.48 (2m), the clerk of circuit court shall charge and collect a \$21.50 justice
8 information system surcharge from any person, including any governmental unit, as
9 defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62
10 (1), (2), ~~or (3) (a) or (b), or (5),~~ or 814.63 (1). The justice information system surcharge
11 is in addition to the surcharge listed in sub. (1m).

12 **SECTION 18.** 814.86 (1) of the statutes, as affected by 2009 Wisconsin Act ...
13 (this act), is amended to read:

14 814.86 (1) Except for an action for a first violation of s. 23.33 (4c) (a) 2., 30.681
15 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the violation
16 had a blood alcohol concentration of 0.08 or more but less than 0.1 at the time of the
17 violation, for a financial responsibility violation under s. 344.62 (2), or for a violation
18 under s. 343.51 (1m) (b) or a safety belt use violation under s. 347.48 (2m), the clerk
19 of circuit court shall charge and collect a \$21.50 justice information system surcharge
20 from any person, including any governmental unit, as defined in s. 108.02 (17),
21 paying a fee under s. 814.61 (1) (a), (3), or (8) (am), 814.62 (1), (2), (3) (a) or (b), or (5),
22 or 814.63 (1). The justice information system surcharge is in addition to the
23 surcharge listed in sub. (1m).

24 **SECTION 19.** ⁷⁹⁹⁰²³ ~~895.052~~ of the statutes is created to read:

move to p 3, after L 16

BILL

move
to
p3
line 16
↑

9
799.23

10
dismissal and
damage

1 **895.058** Misrepresentation of small claims actions commenced. If a
 2 party proves by the preponderance of credible evidence that ~~the~~ plaintiff who
 3 commenced an action under s. 799.01 (1) (d) 4. misrepresented the number of actions
 4 he or she commenced in an affidavit submitted pursuant to s. 799.08, or ~~in a~~
 5 statement made pursuant to s. 799.06 (4) the court shall order the plaintiff to pay
 6 the party damages in the amount of \$250 and reasonable attorney fees.

7 **SECTION 20. Nonstatutory provisions.**

8 (1) For the purpose of counting the number of actions commenced under section
 9 799.01 ~~(1) (d) 4~~ ^(1m) of the statutes, as affected by this act, actions commenced before the
 10 effective date of this subsection do not count.

11 **SECTION 21. Initial applicability.**

12 (1). This act first applies to actions commenced on the effective date of this
13 subsection.

14 **SECTION 22. Effective dates.** This act takes effect on the first day of the 4th
15 month beginning after publication, except as follows:

16 (1) The treatment of section 814.86 (1) (by SECTION 18) of the statutes takes
17 effect on June 1, 2010.

18 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2999/2dn
RPN:bjk:ph

September 10, 2009

I made the changes suggested and a few others to clean up some drafting errors.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511
E-mail: robert.nelson@legis.wisconsin.gov

Barman, Mike

From: Battiato, Kate

Sent: Tuesday, September 29, 2009 2:09 PM

To: LRB.Legal

Subject: Draft Review: LRB 09-2999/2 Topic: Small claims variable jurisdictional amount

Please Jacket LRB 09-2999/2 for the ASSEMBLY.

09/29/2009