



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 680**

January 11, 2006 – Offered by Representative BALLWEG.

1 **AN ACT** *to renumber and amend* 814.62 (3) (a); *to amend* 799.01 (1) (c), 799.01
2 (1) (d) (intro.), 799.01 (2), 802.04 (1), 814.85 (1) (b), 814.85 (1) (c) and 814.85 (2);
3 and *to create* 799.01 (1) (e), 814.62 (3) (a) 2. and 814.85 (1) (bg) of the statutes;
4 **relating to:** the jurisdictional amount in small claims actions, the court
5 support services surcharge, and circuit court filing fees.

Analysis by the Legislative Reference Bureau

This bill increases the jurisdictional limit for small claims actions from \$5,000 to \$10,000, except that if the action arises out of a claim based on negligence, the limit remains \$5,000.

Currently, the filing fee for small claims actions is \$22, while the filing fee for large claims actions is generally \$75. This bill would retain the \$22 filing fee for small claims actions where the amount of the claim is \$5,000 or less, but raise it to \$75 for claims that exceed \$5,000.

Currently, the clerk of circuit court collects a \$169 court support services surcharge for large claims actions and a \$51 court support services surcharge for small claims actions, garnishment actions, and wage earner claims. This bill increases the amount of that surcharge to \$169 for small claims actions, garnishment actions, and wage earner claims where the amount of the claim exceeds \$5,000 but is less than \$10,000.

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.** 799.01 (1) (c) of the statutes is amended to read:

2 799.01 (1) (c) *Replevins.* Actions for replevin under ss. 810.01 to 810.13 where
3 the value of the property claimed does not exceed ~~\$5,000~~ \$10,000.

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

5 799.01 (1) (d) *Other civil actions.* (intro.) Other civil actions where the amount
6 claimed is ~~\$5,000~~ \$10,000 or less, if the actions or proceedings are:

7 **SECTION 3.** 799.01 (1) (e) of the statutes is created to read:

8 799.01 (1) (e) *Negligence claims.* Notwithstanding par. (d), civil actions arising
9 out of a claim based on negligence where the amount claimed is \$5,000 or less.

10 **SECTION 4.** 799.01 (2) of the statutes is amended to read:

11 799.01 (2) **PERMISSIVE USE OF SMALL CLAIMS PROCEDURE.** A taxing authority may
12 use the procedure in this chapter in an action to recover a tax from a person liable
13 for that tax where the amount claimed, including interest and penalties, is ~~\$5,000~~
14 \$10,000 or less. This chapter is not the exclusive procedure for those actions.

15 **SECTION 5.** 802.04 (1) of the statutes is amended to read:

16 802.04 (1) **CAPTION.** Every pleading shall contain a caption setting forth the
17 name of the court, the venue, the title of the action, the file number, and a designation
18 as in s. 802.01 (1). If a pleading contains motions, or an answer or reply contains
19 cross-claims or counterclaims, the designation in the caption shall state their
20 existence. In the complaint the caption of the action shall include the standardized
21 description of the case classification type and associated code number as approved

1 by the director of state courts, and the title of the action shall include the names and
2 addresses of all the parties, indicating the representative capacity, if any, in which
3 they sue or are sued and, in actions by or against a corporation, the corporate
4 existence and its domestic or foreign status shall be indicated. In pleadings other
5 than the complaint, it is sufficient to state the name of the first party on each side
6 with an appropriate indication of other parties. Every pleading commencing an
7 action under s. 814.61 (1) (a) or 814.62 (1) or (2) and every complaint filed under s.
8 814.61 (3) shall contain in the caption, if the action includes a claim for a money
9 judgment, a statement of whether the amount claimed is greater than the amount
10 under s. 799.01 (1) (d) or, if the claim is based on negligence, s. 799.01 (1) (e).

11 **SECTION 6.** 814.62 (3) (a) of the statutes is renumbered 814.62 (3) (a) 1. and
12 amended to read:

13 814.62 (3) (a) 1. In a small claims action under ch. 799 where the amount of the
14 claim is \$5,000 or less, at the time of issuance of a summons or other process in a
15 proceeding not commenced by a summons, the plaintiff shall pay to the clerk of court
16 a fee of \$22.

17 **SECTION 7.** 814.62 (3) (a) 2. of the statutes is created to read:

18 814.62 (3) (a) 2. In a small claims action under ch. 799 where the amount of the
19 claim is more than \$5,000, at the time of issuance of a summons or other process in
20 a proceeding not commenced by a summons, the plaintiff shall pay to the clerk of
21 court a fee of \$75. Of the fees received by the clerk under this subdivision, the county
22 treasurer shall pay \$45 to the secretary of administration for deposit in the general
23 fund and shall retain the balance for the use of the county. The secretary of
24 administration shall credit \$15 of the \$45 to the appropriation under s. 20.680 (2) (j).

25 **SECTION 8.** 814.85 (1) (b) of the statutes is amended to read:

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

7 **SECTION 9.** 814.85 (1) (bg) of the statutes is created to read:

8 814.85 (1) (bg) Notwithstanding par. (a), the clerk of circuit court shall charge
9 and collect a \$169 court support services surcharge from any person, including any
10 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a)
11 or (3) or 814.62 (1) or (2), if the party paying the fee seeks the recovery of money and
12 the amount claimed exceeds \$5,000 but is less than or equal to the amount under s.
13 799.01 (1) (d).

14 **SECTION 10.** 814.85 (1) (c) of the statutes is amended to read:

15 814.85 (1) (c) Notwithstanding par. (a), the clerk of circuit court shall charge
16 and collect a \$51 court support services surcharge from any person, including any
17 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.62 (3) (a)
18 or (b), or paying a fee under s. 814.61 (1) (a) or (3) or 814.62 (1) or (2) if the party
19 paying the fee seeks the recovery of money and the amount claimed is equal to or less
20 than ~~the amount under s. 799.01 (1) (d)~~ \$5,000.

21 **SECTION 11.** 814.85 (2) of the statutes is amended to read:

22 814.85 (2) The clerk shall pay the moneys collected under sub. (1) to the county
23 treasurer under s. 59.40 (2) (m). The county treasurer shall pay ~~those~~ the moneys
24 collected under sub. (1) (a), (b), and (c) to the secretary of administration under s.
25 59.25 (3) (p) and shall pay 50 percent of the money collected under sub. (1) (bg) to the

1 secretary of administration under s. 59.25 (3) (p), and retain the balance for the use
2 of the county.

3 **SECTION 12. Initial applicability.**

4 (1) This act first applies to actions commenced or claims made on the effective
5 date of this subsection.

6 **SECTION 13. Effective date.**

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

9 (END)