



State of Wisconsin
2005 - 2006 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 4,
TO 2005 ASSEMBLY BILL 680**

March 7, 2006 - Offered by Representative STONE.

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) (a), 814.85 (1) (b), 814.85 (1) (c),
3 814.85 (2), 885.38 (3) (a) (intro.) and 885.38 (8) (a) (intro.); and *to create* 799.01
4 (1) (e), 814.62 (3) (a) 2. and 814.85 (1) (bg) of the statutes; **relating to:** the
5 jurisdictional amount in small claims actions, the court support services
6 surcharge, interpreter fees, guardian ad litem costs, and circuit court filing
7 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~~ \$7,500.

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~~ \$7,500 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 \$7,500 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

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

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

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

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

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

1 fund and shall retain the balance for the use of the county. The secretary of
2 administration shall credit \$15 of the \$45 to the appropriation under s. 20.680 (2) (j).

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

4 814.85 (1) (a) Except for an action for a first violation of s. 23.33 (4c) (a) 2.,
5 30.681 (1) (b) 1., 346.63 (1) (b), or 350.101 (1) (b), if the person who committed the
6 violation had a blood alcohol concentration of 0.08 or more but less than 0.1 at the
7 time of the violation, or for a safety belt use violation under s. 347.48 (2m), the clerk
8 of circuit court shall charge and collect a ~~\$68~~ \$77 court support services surcharge
9 from any person, including any governmental unit as defined in s. 108.02 (17), paying
10 a fee under s. 814.61 (1) (a), (3), or (8) (am) or 814.63 (1), except that the circuit court
11 shall charge and collect a \$68 court support services surcharge from any person
12 bringing an action under s. 767.02.

13 **SECTION 9.** 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~~ \$190 court support services surcharge from any person, including
16 any governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1)
17 (a) or (3) or 814.62 (1) or (2), if the party paying the fee seeks the recovery of money
18 and the amount claimed exceeds the amount under s. 799.01 (1) (d) or, if the claim
19 is based on negligence, s. 799.01 (1) (e).

20 **SECTION 10.** 814.85 (1) (bg) of the statutes is created to read:

21 814.85 (1) (bg) Notwithstanding par. (a), the clerk of circuit court shall charge
22 and collect a \$190 court support services surcharge from any person, including any
23 governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.61 (1) (a)
24 or (3) or 814.62 (1) or (2), if the party paying the fee seeks the recovery of money and

1 the amount claimed exceeds \$5,000 but is less than or equal to the amount under s.
2 799.01 (1) (d).

3 **SECTION 11.** 814.85 (1) (c) of the statutes is amended to read:

4 814.85 (1) (c) Notwithstanding par. (a), the clerk of circuit court shall charge
5 and collect a ~~\$51~~ \$58 court support services surcharge from any person, including
6 any governmental unit, as defined in s. 108.02 (17), paying a fee under s. 814.62 (3)
7 (a) or (b), or paying a fee under s. 814.61 (1) (a) or (3) or 814.62 (1) or (2) if the party
8 paying the fee seeks the recovery of money and the amount claimed is equal to or less
9 than ~~the amount under s. 799.01 (1) (d)~~ \$5,000.

10 **SECTION 12.** 814.85 (2) of the statutes is amended to read:

11 814.85 (2) The clerk shall pay the moneys collected under sub. (1) to the county
12 treasurer under s. 59.40 (2) (m). The county treasurer shall pay ~~those~~ the moneys
13 collected under sub. (1) (a), (b), and (c) to the secretary of administration under s.
14 59.25 (3) (p) and shall retain 50 percent of the money collected under sub. (1) (bg) for
15 actions commenced after the effective date of this subsection ... [revisor inserts date],
16 and before July 1, 2007; 75 percent of the money collected for actions commenced
17 after June 30, 2007, and before July 1, 2008; and 100 percent of the money collected
18 for actions commenced after June 30, 2008, for the use of the county, and pay any
19 balance of the money collected under sub. (1) (bg) to the secretary of administration
20 under s. 59.25 (3) (p).

21 **SECTION 13.** 885.38 (3) (a) (intro.) of the statutes is amended to read:

22 885.38 (3) (a) (intro.) In all civil and criminal proceedings ~~and in proceedings~~
23 ~~under ch. 48, 51, 55, or 938~~, if the court determines that the person has limited
24 English proficiency and that an interpreter is necessary, the court shall advise the
25 person that he or she has the right to a qualified interpreter and that, if the person

1 cannot afford one, an interpreter will be provided at the public's expense if the person
2 is one of the following:

3 **SECTION 14.** 885.38 (8) (a) (intro.) of the statutes is amended to read:

4 885.38 (8) (a) (intro.) Except as provided in par. (b), the necessary expenses of
5 providing qualified interpreters to indigent persons with limited English proficiency
6 under this section shall be paid as follows:

7 **SECTION 15. Appropriation changes.**

8 (1) GUARDIAN AD LITEM COSTS. In the schedule under section 20.005 (3) of the
9 statutes for the appropriation to the director of state courts under section 20.625 (1)
10 (e) of the statutes, as affected by the acts of 2005, the dollar amount is increased by
11 \$4,869,900 for fiscal year 2006–07 for the purpose for which the appropriation is
12 made.

13 (2) COURT INTERPRETER FEES. In the schedule under section 20.005 (3) of the
14 statutes for the appropriation to the director of state courts under section 20.625 (1)
15 (c) of the statutes, as affected by the acts of 2005, the dollar amount is increased by
16 \$465,600 for fiscal year 2006–07 for the purpose for which the appropriation is
17 made.”.

18 **SECTION 16. Initial applicability.**

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

21 **SECTION 17. Effective date.**

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

24 (END)