

Senator Stephen H. Urquhart proposes the following substitute bill:

**CIVIL FEES IN SMALL CLAIMS COURTS**

**AMENDMENTS**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jon J. Greiner**

House Sponsor: Brad L. Dee

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**LONG TITLE**

**General Description:**

This bill increases the small claims court's jurisdictional amounts and filing fees.

**Highlighted Provisions:**

This bill:

- ▶ increases the jurisdictional amount for small claims court to \$12,500;
- ▶ increases the filing fee for a small claims affidavit from \$45 to \$90 if the claim, exclusive of court costs, interest, and attorney fees is \$2,000 or less;
- ▶ increases the filing fee for a small claims affidavit from \$70 to \$140 if the claim, exclusive of court costs, interest, and attorney fees is between \$2,000 and \$7,500;
- ▶ establishes the filing fee for a small claims affidavit at \$185 if the claim is between \$7,500 and \$10,000;
- ▶ establishes the filing fee for a small claims affidavit at \$300 if the claim is between \$10,000 and \$12,500;
- ▶ increases the filling fee for a small claims counter affidavit from \$35 to \$70 if the claim, exclusive of court costs, interest, and attorney fees is \$2,000 or less;
- ▶ increases the filing fee for a small claims counter affidavit from \$50 to \$100 if the claim, exclusive of court costs, interest, and attorney fees is between \$2,000 and



26 \$7,500;

27 ▶ establishes the filing fee for a small claims counter affidavit at \$150 if the claim,  
28 exclusive of court costs, interest, and attorney fees is between \$7,500 and \$10,000;

29 and

30 ▶ establishes the filing fee for a small claims counter affidavit at \$250 if the claim,  
31 exclusive of court costs, interest, and attorney fees is between \$10,000 and \$12,500.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **78A-2-301**, as renumbered and amended by Laws of Utah 2008, Chapter 3

39 **78A-8-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3



41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **78A-2-301** is amended to read:

43 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

44 (1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a  
45 court of record not governed by another subsection is \$155.

46 (b) The fee for filing a complaint or petition is:

47 (i) \$50 if the claim for damages or amount in interpleader exclusive of court costs,  
48 interest, and attorney fees is \$2,000 or less;

49 (ii) \$95 if the claim for damages or amount in interpleader exclusive of court costs,  
50 interest, and attorney fees is greater than \$2,000 and less than \$10,000;

51 (iii) \$155 if the claim for damages or amount in interpleader is \$10,000 or more;

52 (iv) \$155 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter  
53 4, Separate Maintenance; and

54 (v) \$25 for a motion for temporary separation order filed under Section 30-3-4.5.

55 (c) The fee for filing a small claims affidavit is:

56 (i) [~~\$45~~] \$55 if the claim for damages or amount in interpleader exclusive of court

57 costs, interest, and attorney fees is \$2,000 or less; ~~and~~

58 (ii) ~~[\$70]~~ \$90 if the claim for damages or amount in interpleader exclusive of court  
59 costs, interest, and attorney fees is greater than \$2,000~~[-]~~, but less than \$7,500;

60 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,  
61 interest, and attorney fees is \$7,500 or more but less than \$10,000; and

62 (iv) \$300 if the claim for damages or amount in interpleader exclusive of court costs,  
63 interest, and attorney fees is \$10,000 or more but less than \$12,501.

64 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third party  
65 complaint, or other claim for relief against an existing or joined party other than the original  
66 complaint or petition is:

67 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is  
68 \$2,000 or less;

69 (ii) \$75 if the claim for relief exclusive of court costs, interest, and attorney fees is  
70 greater than \$2,000 and less than \$10,000;

71 (iii) \$105 if the original petition is filed under Subsection (1)(a), the claim for relief is  
72 \$10,000 or more, or the party seeks relief other than monetary damages; and

73 (iv) \$85 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30,  
74 Chapter 4, Separate Maintenance.

75 (e) The fee for filing a small claims counter affidavit is:

76 (i) ~~[\$35]~~ \$45 if the claim for relief exclusive of court costs, interest, and attorney fees  
77 is \$2,000 or less; ~~and~~

78 (ii) ~~[\$50]~~ \$70 if the claim for relief exclusive of court costs, interest, and attorney fees  
79 is greater than \$2,000~~[-]~~, but less than \$7,500;

80 (iii) \$150 if the claim for relief exclusive of court costs, interest, and attorney fees is  
81 \$7,500 or more but less than \$10,000; and

82 (iv) \$250 if the claim for relief exclusive of court costs, interest, and attorney fees is  
83 \$10,000 or more but less than \$12,501.

84 (f) The fee for depositing funds under Section 57-1-29 when not associated with an  
85 action already before the court is determined under Subsection (1)(b) based on the amount  
86 deposited.

87 (g) The fee for filing a petition is:

88 (i) \$75 for trial de novo of an adjudication of the justice court or of the small claims  
89 department; and

90 (ii) \$55 for an appeal of a municipal administrative determination in accordance with  
91 Section 10-3-703.7.

92 (h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or  
93 petition for writ of certiorari is \$205.

94 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a  
95 petition for expungement is \$65.

96 (ii) There is no fee for a petition filed under Subsection 77-18-10(2).

97 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be  
98 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'  
99 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'  
100 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement  
101 Act.

102 (ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be  
103 allocated by the state treasurer to be deposited in the restricted account, Children's Legal  
104 Defense Account, as provided in Section 51-9-408.

105 (iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g),  
106 and (1)(r) shall be allocated to and deposited with the Dispute Resolution Fund as provided in  
107 Section 78B-6-209.

108 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),  
109 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be  
110 deposited in the restricted account, Court Security Account, as provided in Section 78A-2-602.

111 (v) Five dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and  
112 (1)(g)(i) shall be allocated by the state treasurer to be deposited in the restricted account, Court  
113 Security Account, as provided in Section 78A-2-602.

114 (k) The fee for filing a judgment, order, or decree of a court of another state or of the  
115 United States is \$25.

116 (l) The fee for filing probate or child custody documents from another state is \$25.

117 (m) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the  
118 Utah State Tax Commission is \$30.

119 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this state  
120 or a judgment, order, or decree of an administrative agency, commission, board, council, or  
121 hearing officer of this state or of its political subdivisions other than the Utah State Tax  
122 Commission, is \$40.

123 (n) The fee for filing a judgment by confession without action under Section  
124 78B-5-205 is \$25.

125 (o) The fee for filing an award of arbitration for confirmation, modification, or  
126 vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an  
127 action before the court is \$25.

128 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is \$40.

129 (q) The fee for filing any accounting required by law is:

130 (i) \$10 for an estate valued at \$50,000 or less;

131 (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;

132 (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;

133 (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and

134 (v) \$150 for an estate valued at more than \$168,000.

135 (r) The fee for filing a demand for a civil jury is \$75.

136 (s) The fee for filing a notice of deposition in this state concerning an action pending in  
137 another state under Utah Rule of Civil Procedure 26 is \$25.

138 (t) The fee for filing documents that require judicial approval but are not part of an  
139 action before the court is \$25.

140 (u) The fee for a petition to open a sealed record is \$25.

141 (v) The fee for a writ of replevin, attachment, execution, or garnishment is \$35 in  
142 addition to any fee for a complaint or petition.

143 (w) (i) The fee for a petition for authorization for a minor to marry required by Section  
144 30-1-9 is \$5.

145 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter 6,  
146 Part 8, Emancipation, is \$50.

147 (x) The fee for a certificate issued under Section 26-2-25 is \$2.

148 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per  
149 page.

150 (z) The fee for an exemplified copy of a document is \$6 per document plus 50 cents  
151 per page.

152 (aa) The Judicial Council shall by rule establish a schedule of fees for copies of  
153 documents and forms and for the search and retrieval of records under Title 63G, Chapter 2,  
154 Government Records Access and Management Act. Fees under this Subsection (1)(aa) shall be  
155 credited to the court as a reimbursement of expenditures.

156 (bb) There is no fee for services or the filing of documents not listed in this section or  
157 otherwise provided by law.

158 (cc) Except as provided in this section, all fees collected under this section are paid to  
159 the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk  
160 accepts the pleading for filing or performs the requested service.

161 (dd) The filing fees under this section may not be charged to the state, its agencies, or  
162 political subdivisions filing or defending any action. In judgments awarded in favor of the  
163 state, its agencies, or political subdivisions, except the Office of Recovery Services, the court  
164 shall order the filing fees and collection costs to be paid by the judgment debtor. The sums  
165 collected under this Subsection (1)(dd) shall be applied to the fees after credit to the judgment,  
166 order, fine, tax, lien, or other penalty and costs permitted by law.

167 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts  
168 shall transfer all revenues representing the difference between the fees in effect after May 2,  
169 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of  
170 Facilities Construction and Management Capital Projects Fund.

171 (ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities  
172 Construction and Management shall use up to \$3,750,000 of the revenue deposited in the  
173 Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to  
174 initiate the development of a courts complex in Salt Lake City.

175 (B) If the Legislature approves funding for construction of a courts complex in Salt  
176 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and  
177 Management shall use the revenue deposited in the Capital Projects Fund under this Subsection  
178 (2)(a)(ii) to construct a courts complex in Salt Lake City.

179 (C) After the courts complex is completed and all bills connected with its construction  
180 have been paid, the Division of Facilities Construction and Management shall use any monies

181 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal  
182 District Court building.

183 (iii) The Division of Facilities Construction and Management may enter into  
184 agreements and make expenditures related to this project before the receipt of revenues  
185 provided for under this Subsection (2)(a)(iii).

186 (iv) The Division of Facilities Construction and Management shall:

187 (A) make those expenditures from unexpended and unencumbered building funds  
188 already appropriated to the Capital Projects Fund; and

189 (B) reimburse the Capital Projects Fund upon receipt of the revenues provided for  
190 under this Subsection (2).

191 (b) After June 30, 1998, the administrator of the courts shall ensure that all revenues  
192 representing the difference between the fees in effect after May 2, 1994, and the fees in effect  
193 before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted  
194 account.

195 (c) The Division of Finance shall deposit all revenues received from the court  
196 administrator into the restricted account created by this section.

197 (d) (i) From May 1, 1995 until June 30, 1998, the administrator of the courts shall  
198 transfer \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor  
199 Vehicles, in a court of record to the Division of Facilities Construction and Management  
200 Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be  
201 calculated on the balance of the fine or bail forfeiture paid.

202 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer  
203 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in  
204 a court of record to the Division of Finance for deposit in the restricted account created by this  
205 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the  
206 balance of the fine or bail forfeiture paid.

207 (3) (a) There is created within the General Fund a restricted account known as the State  
208 Courts Complex Account.

209 (b) The Legislature may appropriate monies from the restricted account to the  
210 administrator of the courts for the following purposes only:

211 (i) to repay costs associated with the construction of the court complex that were

212 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and  
213 (ii) to cover operations and maintenance costs on the court complex.

214 Section 2. Section **78A-8-102** is amended to read:

215 **78A-8-102. Small claims -- Defined -- Counsel not necessary -- Deferring multiple**  
216 **claims of one plaintiff -- Supreme Court to govern procedures.**

217 (1) A small claims action is a civil action:

218 (a) for the recovery of money where:

219 (i) the amount claimed does not exceed [~~\$7,500~~] \$12,500 including attorney fees but  
220 exclusive of court costs and interest; and

221 (ii) the defendant resides or the action of indebtedness was incurred within the  
222 jurisdiction of the court in which the action is to be maintained; or

223 (b) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in  
224 which the amount claimed does not exceed [~~\$7,500~~] \$12,500 including attorney fees but  
225 exclusive of court costs and interest.

226 (2) The judgment in a small claims action may not exceed [~~\$7,500~~] \$12,500 including  
227 attorney fees but exclusive of court costs and interest.

228 (3) Counter claims may be maintained in small claims actions if the counter claim  
229 arises out of the transaction or occurrence which is the subject matter of the plaintiff's claim. A  
230 counter claim may not be raised for the first time in the trial de novo of the small claims action.

231 (4) (a) With or without counsel, persons or corporations may litigate actions on behalf  
232 of themselves:

233 (i) in person; or

234 (ii) through authorized employees.

235 (b) A person or corporation may be represented in an action by an individual who is  
236 not an employee of the person or corporation and is not licensed to practice law only in  
237 accordance with the Utah rules of small claims procedure as promulgated by the Supreme  
238 Court.

239 (5) If a person or corporation other than a municipality or a political subdivision of the  
240 state files multiple small claims in any one court, the clerk or judge of the court may remove all  
241 but the initial claim from the court's calendar in order to dispose of all other small claims  
242 matters. Claims so removed shall be rescheduled as permitted by the court's calendar.

243           (6) Small claims matters shall be managed in accordance with simplified rules of  
244 procedure and evidence promulgated by the Supreme Court.

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**S.B. 176 2nd Sub. (Salmon) - Civil Fees in Small Claims Courts Amendments**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations. In FY 2009, this bill will generate \$106,000 in one-time General Fund revenues. If enacted, this bill will increase ongoing General Fund revenues by approximately \$850,000 beginning FY 2010.

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	\$0	\$0	\$0	\$850,000	\$850,000	\$850,000
General Fund, One-Time	\$0	\$0	\$0	(\$744,000)	\$0	\$0
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$106,000</b>	<b>\$850,000</b>	<b>\$850,000</b>

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**Individual, Business and/or Local Impact**

Enactment of this bill will increase small claims fees to individuals and businesses. In FY 2009, this bill will generate revenue of approximately \$106,000. Ongoing revenues to local governments through Justice Courts will increase by \$850,000 beginning in FY 2010.

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