

1 **CIVIL FEES IN SMALL CLAIMS COURTS**

2 **AMENDMENTS**

3 2009 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jon J. Greiner**

6 House Sponsor: Brad L. Dee

7

8 **LONG TITLE**

9 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ increases the jurisdictional amount for small claims court to \$10,000;
- 14 ▶ increases the filing fee for a small claims affidavit from \$45 to \$60 if the claim,
15 exclusive of court costs, interest, and attorney fees is \$2,000 or less;
- 16 ▶ increases the filing fee for a small claims affidavit from \$70 to \$100 if the claim,
17 exclusive of court costs, interest, and attorney fees is between \$2,000 and \$7,500;
- 18 ▶ establishes the filing fee for a small claims affidavit at \$185 if the claim is between
19 \$7,500 and \$10,000;
- 20 ▶ increases the filing fee for a small claims counter affidavit from \$35 to \$50 if the
21 claim, exclusive of court costs, interest, and attorney fees is \$2,000 or less;
- 22 ▶ increases the filing fee for a small claims counter affidavit from \$50 to \$70 if the
23 claim, exclusive of court costs, interest, and attorney fees is between \$2,000 and
24 \$7,500; and
- 25 ▶ establishes the filing fee for a small claims counter affidavit at \$120 if the claim,
26 exclusive of court costs, interest, and attorney fees is between \$7,500 and \$10,000.

27 **Monies Appropriated in this Bill:**

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **78A-2-301**, as renumbered and amended by Laws of Utah 2008, Chapter 3

34 **78A-8-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

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

38 **78A-2-301. Civil fees of the courts of record -- Courts complex design.**

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

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

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

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

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

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

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

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

51 (i) [~~\$45~~] \$60 if the claim for damages or amount in interpleader exclusive of court
52 costs, interest, and attorney fees is \$2,000 or less; [~~and~~]

53 (ii) [~~\$70~~] \$100 if the claim for damages or amount in interpleader exclusive of court
54 costs, interest, and attorney fees is greater than \$2,000[-], but less than \$7,500; and

55 (iii) \$185 if the claim for damages or amount in interpleader exclusive of court costs,
56 interest, and attorney fees is \$7,500 or more.

57 (d) The fee for filing a counter claim, cross claim, complaint in intervention, third

58 party complaint, or other claim for relief against an existing or joined party other than the
59 original complaint or petition is:

60 (i) \$45 if the claim for relief exclusive of court costs, interest, and attorney fees is
61 \$2,000 or less;

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

64 (iii) \$105 if the original petition is filed under Subsection (1)(a), the claim for relief is
65 \$10,000 or more, or the party seeks relief other than monetary damages; and

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

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

69 (i) ~~[\$35]~~ \$50 if the claim for relief exclusive of court costs, interest, and attorney fees
70 is \$2,000 or less; ~~[and]~~

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

73 (iii) \$120 if the claim for relief exclusive of court costs, interest, and attorney fees is
74 \$7,500 or more.

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

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

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

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

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

85 (i) (i) Except for a petition filed under Subsection 77-18-10(2), the fee for filing a

86 petition for expungement is \$65.

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

88 (j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be
89 allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges'
90 Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges'
91 Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement
92 Act.

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

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

99 (iv) Fifteen dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv),
100 (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be
101 deposited in the restricted account, Court Security Account, as provided in Section
102 78A-2-602.

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

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

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

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

111 (ii) The fee for filing an abstract or transcript of judgment of a court of law of this
112 state or a judgment, order, or decree of an administrative agency, commission, board, council,
113 or hearing officer of this state or of its political subdivisions other than the Utah State Tax

114 Commission, is \$40.

115 (n) The fee for filing a judgment by confession without action under Section
116 78B-5-205 is \$25.

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

120 (p) The fee for filing a petition or counter-petition to modify a decree of divorce is
121 \$40.

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

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

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

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

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

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

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

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

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

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

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

136 (w) (i) The fee for a petition for authorization for a minor to marry required by Section
137 30-1-9 is \$5.

138 (ii) The fee for a petition for emancipation of a minor provided in Title 78A, Chapter
139 6, Part 8, Emancipation, is \$50.

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

141 (y) The fee for a certified copy of a document is \$4 per document plus 50 cents per

142 page.

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

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

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

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

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

160 (2) (a) (i) From March 17, 1994 until June 30, 1998, the administrator of the courts
161 shall transfer all revenues representing the difference between the fees in effect after May 2,
162 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of
163 Facilities Construction and Management Capital Projects Fund.

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

168 (B) If the Legislature approves funding for construction of a courts complex in Salt
169 Lake City in the 1995 Annual General Session, the Division of Facilities Construction and

170 Management shall use the revenue deposited in the Capital Projects Fund under this
171 Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

172 (C) After the courts complex is completed and all bills connected with its construction
173 have been paid, the Division of Facilities Construction and Management shall use any monies
174 remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal
175 District Court building.

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

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

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

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

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

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

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

195 (ii) After June 30, 1998, the administrator of the courts or a municipality shall transfer
196 \$7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in
197 a court of record to the Division of Finance for deposit in the restricted account created by this

198 section. The division of money pursuant to Section 78A-5-110 shall be calculated on the
199 balance of the fine or bail forfeiture paid.

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

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

204 (i) to repay costs associated with the construction of the court complex that were
205 funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

206 (ii) to cover operations and maintenance costs on the court complex.

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

208 **78A-8-102. Small claims -- Defined -- Counsel not necessary -- Deferring**
209 **multiple claims of one plaintiff -- Supreme Court to govern procedures.**

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

211 (a) for the recovery of money where:

212 (i) the amount claimed does not exceed [~~\$7,500~~] \$10,000 including attorney fees but
213 exclusive of court costs and interest; and

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

216 (b) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in
217 which the amount claimed does not exceed [~~\$7,500~~] \$10,000 including attorney fees but
218 exclusive of court costs and interest.

219 (2) The judgment in a small claims action may not exceed [~~\$7,500~~] \$10,000 including
220 attorney fees but exclusive of court costs and interest.

221 (3) Counter claims may be maintained in small claims actions if the counter claim
222 arises out of the transaction or occurrence which is the subject matter of the plaintiff's claim.

223 A counter claim may not be raised for the first time in the trial de novo of the small claims
224 action.

225 (4) (a) With or without counsel, persons or corporations may litigate actions on behalf

226 of themselves:

227 (i) in person; or

228 (ii) through authorized employees.

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

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

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