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INCREASE SMALL CLAIMS AMOUNT

House Bill 4103 with committee amendment First Analysis (2-17-99)

Sponsor: Rep. Andrew Raczkowski
Committee: Family and Civil Law

THE APPARENT PROBLEM:

Small claims court offers a way for people to legally settle relatively minor financial disputes without the expense of hiring an attorney or the difficulty of dealing with formal legal procedures. At present, the small claims court limit--that is, the maximum amount for which an action can be brought in small claims court--is \$1,750. The amount, raised from \$1,500 on July 1, 1992, is considered by many to be too low: if small claims court is to be a forum for disputes not worth the expense of hiring an attorney, then litigants might be better served by raising the limit, given the effect of inflation since the last time the amount was increased.

THE CONTENT OF THE BILL:

The small claims court hears and decides cases where the dispute involves a limited dollar amount. Currently, the jurisdiction of small claims courts is limited to cases where the recovery sought is for no more than \$1,750. House Bill 4103 would amend the Revised Judicature Act to increase the maximum amount of money that could be involved in a case before a small claims court to \$2,500.

The bill would take effect January 1, 2000.

MCL 600.8401

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no state fiscal impact, but would have an indeterminate impact on local costs and local revenues. (1-28-99)

ARGUMENTS:

For:

The bill provides a needed expansion of small claims court jurisdiction. The last increase of the dollar

amount was in 1992. In the interim, the increases in the cost of living alone warrant an increase in the jurisdictional amount. As costs increase, the likelihood decreases that an attorney would be willing to accept a case involving less than \$2,500. Attorneys are less and less likely to accept such cases and as a result an expansion of the small claims courts' jurisdiction is needed to give people involved in disputes over smaller amounts an opportunity to have the dispute resolved by a court rather than leaving them to attempt to resolve the dispute on their own.

Against:

The bill doesn't increase the amount enough. The bill could raise the amount to \$5,000 without negatively impacting any attorneys' client lists. Not only are attorneys unwilling to take on cases involving \$2,500 or less, they don't tend to accept clients who have claims for \$5,000 or less either. Further, a person involved in such a dispute is not significantly more likely to hire an attorney for \$100 an hour for a \$2,000 case than he or she is for a \$5,000 case.

Furthermore, many nearby states have significantly higher jurisdictional amounts for their small claims courts. For example, Wisconsin's small claims court maximum is \$4,000, Minnesota's is \$7,500, and Indiana and Iowa have maximums of \$3,000.

Response:

Raising the small claims court limit too high could significantly increase the use of the small claims court. A significantly higher jurisdictional amount may encourage people to file claims that they might not otherwise have pursued -- while the prospect of receiving \$1,750 may not have been sufficient to cause a person to file a claim in certain instances, \$5,000 might encourage some to pursue an action they might otherwise have ignored. Increasing the jurisdictional amount also increases what a party to such a case stands to lose, and since small claims court allows no opportunity for appeal the potential loss is even greater.

In addition, too high an amount could encourage a significant increase in the use of the court by businesses to collect debts, rather than resolution of disputes between citizens. A higher limit could encourage businesses to bring more and larger collection cases in small claims court. Since collection of small claims judgments has been simplified and more streamlined many businesses might find an advantage in bringing their debt claims before the small claims court, particularly if the limit is significantly increased. Such an increase could monopolize or interfere with the court's ability to deal with resolving disputes between citizens.

Rebuttal:

There is nothing inherently wrong with the court being used by business enterprises to collect on past-due bills. As for the potential threat of court dockets being monopolized, some restrictions already exist to prevent this. For example, a person cannot initiate more than five small claims actions per week within a given court district. Further, if it appeared that the court's resources were being monopolized by businesses, additional restrictions could be developed as necessary.

POSITIONS:

The Michigan Lumber and Building Materials Association supports the bill. (2-16-99)

The National Federation of Independent Business supports the bill. (2-16-99)

The Michigan Bankers Association supports the bill. (2-16-99)

The Michigan Creditors Bar Association supports the bill. (2-16-99)

The Michigan Trial Lawyers Association does not oppose an increase of up to \$2,500. (2-16-99)

The Michigan District Court Judges Association does not oppose an increase of up to \$2,500. (2-16-99)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.