

HOUSE BILL No. 5109

October 1, 2003, Introduced by Rep. Condino and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 5757, 8306, and 8420 (MCL 600.5757,
600.8306, and 600.8420), sections 5757 and 8306 as amended by
1993 PA 189 and section 8420 as amended by 2003 PA 138.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5757. A fee of ~~-\$15.00-~~ **\$20.00** shall be charged for
2 each writ of restitution, garnishment, attachment, or execution
3 and for each judgment debtor discovery subpoena issued.

4 Sec. 8306. (1) Subject to ~~the~~ **applicable** limitations of
5 jurisdictional amount and venue, ~~otherwise applicable in the~~
6 ~~particular court,~~ the district court and municipal courts
7 ~~shall~~ have the same power with respect to attachment and
8 garnishment as the circuit court.

9 (2) The conditions upon which relief is available under this

1 section ~~shall be~~ **are** the same as are applicable to actions in
2 the circuit court under section 4001 with respect to attachment
3 and under sections 4011 and 4012 with respect to garnishment.

4 (3) The district court and municipal courts may exercise the
5 jurisdiction granted by this section only if action is taken in
6 accordance with rules adopted by the supreme court to protect the
7 parties.

8 (4) In the district court, except where service of a writ of
9 garnishment is a prerequisite to the exercise of jurisdiction
10 under the conditions prescribed in section 4011(3), all
11 garnishment proceedings shall be treated as auxiliary actions to
12 the principal action. The party commencing ~~such~~ a **garnishment**
13 proceeding in the district court shall not be required to pay an
14 additional filing fee or jury fee with respect to that
15 garnishment proceeding. The clerk shall charge and collect a
16 ~~\$15.00 service~~ **\$20.00** fee for each writ of garnishment,
17 attachment, or execution or for each judgment debtor discovery
18 subpoena issued.

19 (5) Fees shall not be required with respect to attachment and
20 garnishment except as otherwise provided by law.

21 Sec. 8420. (1) A fee of the following amount, as
22 applicable, shall be charged and collected for ~~the filing of the~~
23 ~~affidavit for the commencement of any action~~ **filing an affidavit**
24 **to commence an action in the small claims division:**

25 (a) \$25.00, if the amount in controversy does not exceed
26 \$600.00. Beginning October 1, 2005, the fee required under this
27 subdivision is \$20.00.

1 (b) \$45.00, if the amount in controversy exceeds \$600.00 but
2 does not exceed \$1,750.00. Beginning October 1, 2005, the fee
3 required under this subdivision is \$40.00.

4 (c) \$65.00, if the amount in controversy exceeds \$1,750.00.
5 Beginning October 1, 2005, the fee required under this
6 subdivision is \$60.00.

7 (2) A fee in an amount equal to the prevailing postal rate
8 for the service provided shall be charged and collected for each
9 defendant to whom a copy of the affidavit is mailed by the
10 clerk. A fee of ~~\$15.00~~ **\$20.00** shall be charged and collected
11 for the issuance of a writ of execution, attachment, or
12 garnishment and for the issuance of a judgment debtor discovery
13 subpoena. Except as otherwise provided in this chapter, a fee or
14 charge shall not be collected by an officer for any service
15 rendered under this chapter or for the taking of affidavits for
16 use in connection with any action commenced under this chapter.

17 (3) Of each filing fee under subsection (1)(a) collected
18 within the month, at the end of each month, the clerk shall
19 transmit \$11.00 to the treasurer of the district funding unit in
20 which the action was commenced, of which not less than \$5.00
21 shall be used by the district funding unit to fund the operation
22 of the district court; and the balance to the state treasurer for
23 deposit in the civil filing fee fund created in section 171.
24 Beginning October 1, 2005, the amount of each fee **under**
25 **subsection (1)(a)** that the clerk shall transmit to the treasurer
26 of the district funding unit is reduced to \$6.00.

27 (4) Of each filing fee under subsection (1)(b) collected

1 within the month, at the end of each month, the clerk shall
2 transmit \$17.00 to the treasurer of the district funding unit in
3 which the action was commenced, of which not less than \$5.00
4 shall be used by the district funding unit to fund the operation
5 of the district court; and the balance to the state treasurer for
6 deposit in the civil filing fee fund created in section 171.

7 Beginning October 1, 2005, the amount of each fee **under**
8 **subsection (1)(b)** that the clerk shall transmit to the treasurer
9 of the district funding unit is reduced to \$12.00.

10 (5) Of each filing fee under subsection (1)(c) collected
11 within the month, at the end of each month, the clerk shall
12 transmit \$23.00 to the treasurer of the district funding unit in
13 which the action was commenced, of which not less than \$5.00
14 shall be used by the district funding unit to fund the operation
15 of the district court; and the balance to the state treasurer for
16 deposit in the civil filing fee fund created in section 171.

17 Beginning October 1, 2005, the amount of each fee **under**
18 **subsection (1)(c)** that the clerk shall transmit to the treasurer
19 of the district funding unit is reduced to \$18.00.

20 (6) If ~~the~~ **an** affidavit and notice to appear and answer **in**
21 **the small claims division** are served by personal service, the
22 person serving the process is entitled to the same fee and
23 mileage as for the service of a summons and complaint out of the
24 district court.