

SB

272

SENATE BILL NO. 272
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY SENATORS TORGERSON, Taylor

Introduced: 2/9/96

Referred: JUD

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to small claims actions; relating to actions that may be heard
2 by a magistrate; relating to representation by an attorney in civil actions in
3 which a corporation is a party and to representation by an attorney in certain
4 civil claims asserted by assignment; amending Rules 11(a)(4), 15(c), and 17(b),
5 Alaska District Court Rules of Civil Procedure; and providing for an effective
6 date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 22.15.040(a) is amended to read:

9 (a) When a claim for relief does not exceed \$10,000 [~~\$5,000~~] exclusive of
10 costs, interest, and attorney fees, and request is so made, the district judge or
11 magistrate shall hear the action as a small claim unless important or unusual points of
12 law are involved or the state is a defendant. A small claims judgment may be
13 enforced as provided under the Alaska Rules of Civil Procedure. The supreme

1 court shall prescribe the procedural rules and standard forms to assure simplicity and
2 the expeditious handling of small claims.

3 * Sec. 2. AS 22.15.120(a) is amended to read:

4 (a) A magistrate shall preside only in cases and proceedings under
5 AS 22.15.040, 22.15.100, and 22.15.110, and as follows:

6 (1) for the recovery of money or damages only when the amount
7 claimed, exclusive of costs, interest, and attorney fees, does not exceed \$10,000
8 [~~\$5,000~~];

9 (2) for the recovery of specific personal property when the value of the
10 property claimed and the damages for the detention do not exceed \$10,000 [~~\$5,000~~];

11 (3) for the recovery of a penalty or forfeiture, whether given by statute
12 or arising out of contract, not exceeding \$10,000 [~~\$5,000~~];

13 (4) to give judgment without action upon the confession of the
14 defendant for any of the cases specified in this section, except for a penalty or
15 forfeiture imposed by statute;

16 (5) to give judgment of conviction upon a plea of guilty or no contest
17 by the defendant in a criminal proceeding within the jurisdiction of the district court;

18 (6) to hear, try, and enter judgments in all cases involving
19 misdemeanors that are not minor offenses if the defendant consents in writing that the
20 magistrate may try the case;

21 (7) to hear, try, and enter judgments in all cases involving minor
22 offenses and violations of ordinances of political subdivisions;

23 (8) for the extradition of fugitives as authorized under AS 12.70;

24 (9) to provide post-conviction relief under the Alaska Rules of Criminal
25 Procedure for any of the cases specified in (5), (6), or (7) of this section if the
26 conviction occurred in the district court;

27 (10) for establishing the fact of death of any person in the manner
28 prescribed in AS 09.55.020 - 09.55.060.

29 * Sec. 3. AS 22.20.040(a) is amended to read:

30 (a) An action or proceeding may be prosecuted or defended by a party in
31 person or by attorney. However,

- 1 (1) the United States shall appear by an attorney in all cases; and
2 (2) a corporation, either public or private, shall appear by an attorney
3 in all cases unless the amount in controversy, exclusive of costs, interest, or
4 attorney fees, is \$10,000 or less or an exception to the corporation's appearance by
5 an attorney has been explicitly made by law.

Delete

6 * Sec. 4. Rule 15(c), Alaska District Court Civil Rules, is amended to read:

7 (c) Any party, except an attorney at law, asserting a claim that is greater than
8 \$10,000 as an assignee thereof, whether for collection, fee, or value, shall be
9 represented at all stages of an action upon the claim by an attorney at law, or a legal
10 intern. On application of a party or on its own motion, the court shall dismiss without
11 prejudice any action filed or proceeded with in violation of this rule.

12 * Sec. 5. Rule 17(b), Alaska District Court Civil Rules, is amended to read:

13 (b) Judgment on the pleadings and summary judgment [PLEADING] may
14 be entered after motion by a party and as otherwise allowed under [PURSUANT
15 TO] Rules 13(b) and 10(d).

Delete

16 * Sec. 6. Rule 11(a)(4), Alaska District Court Civil Rules, is repealed.

17 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

\$7,500 instead of \$10,000

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 272

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to small claims ...relating to actions that BRU: Civil Division
may be heard by a magistrate..." Component: General Legal Services
 Sponsor: Senator Torgerson
 Requester: (S) JUD COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 22 to increase the amount of relief that may be sought under the relaxed rules of small claims court (generally not requiring the representation of legal counsel) from \$5,000 to \$10,000. The bill will not have a fiscal impact for the Department of Law.

Prepared by: Richard I. Peques, Director Phone: 465 3572
 Division: Administrative Services Division Date: 3/26/96
 Approved by Commissioner: Bruce M. Bateman, Attorney General Date: 3/26/96
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SB 272

Revision Date: _____
Title: An Act relating to small claims actions

Dept. Affected: Alaska Court System
BRU: Trial Courts
Component: _____

Sponsor: Sens. Torgerson & Taylor
Requestor: _____

COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	35.5	35.5	35.5	35.5	35.5	35.5
TRAVEL	30.1	19.6	19.6	19.5	19.6	19.9
CCNTRACTUAL	0.8					
SUPPLIES	1.5					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	67.9	55.1	55.1	55.1	55.1	55.1

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (
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Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	67.9	55.1	55.1	55.1	55.1	55.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	67.9	55.1	55.1	55.1	55.1	55.1

Estimate of any current year (FY 96) cost: None

Positions

Full-Time	1.0	1.0	1.0	1.0	1.0	1.0
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel
Agency: Alaska Court System

Phone: 264-8228
Date: 03/27/96

Approved by: Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Date: 03/27/96

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Alaska Court System
Fiscal Analysis
SB 272

SB 272 makes substantial changes to the statutes and court rules governing small claims jurisdiction.

Currently, small claims procedures can be elected in cases claiming \$5,000 or less; this limit was enacted in 1986. Sections 1 and 2 of SB 272 reflect an increase in this limit to \$10,000. According to federal figures, the consumer price index has increased only 32.86 percent since 1986; when adjusted to 1996 dollars, the \$5,000 limit should thus be approximately \$6,650.

The primary effect of the remainder of SB 272 is to make it easier and cheaper for collection agencies to use small claims procedures to litigate commercial claims assigned to them by the real party in interest. The bill does this by removing the requirement that assignees be represented by an attorney in small claims proceedings (section 4), by allowing small claims judgments to be entered without a hearing after a summary judgment motion has been filed (section 5), and by allowing service of small claims process on out-of-state defendants in all cases, not just cases involving landlord-tenant disputes or motor vehicles (section 6).

Contrary to popular belief, cases proceeding under small claims rules are more expensive for the court system to handle than are small cases subject to formal rules. Small claims procedures exist to lessen the burden on private citizens, not to lessen the burden on the courts. Small claims cases require a substantially larger per-case commitment of clerical resources, because court clerks are required to provide procedural assistance to litigants who are proceeding without the benefit of an attorney. A large percentage of small claims cases result in a trial, however brief; very few cases under \$10,000 proceeding under formal rules would result in a trial. Moreover, unlike small claims litigants, most litigants subject to formal rules will consult an attorney before filing a case, and thus the court system never sees many cases which are settled or otherwise disposed of by the lawyer prior to filing.

At court locations where there is a superior court or district court judge, the caseload shift (of claims in the \$5,000 to \$10,000 range, from district court to small claims court) will not have a severe impact. However, at court locations served only by a magistrate, there will be a substantial increase in cases filed and trials resulting from the new \$10,000 limit. This will necessitate additional clerical resources at those locations.

More than half the magistrates employed by the court system are not attorneys. The dramatic increase in jurisdictional limit, the use of summary judgment motions for disposition prior to trial, and the use of confusing long arm jurisdiction rules for out-of-state defendants will substantially increase the complexity of the caseload. This fiscal note reflects increased costs for magistrate training, as well as revision of the forms and informational literature provided to small claims litigants.

Alaska Court System
Fiscal Analysis
SB 272

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk II, range 10A, PFT, 12 months, Anchorage/Statewide	\$24,012	\$11,475	\$35,487

Travel

Committee Meetings - (one-time cost) 10,570

This legislation will require revision of existing small claims rules of procedure, forms, informational literature for the litigants and the clerk's manual. The court system will convene special meetings in Anchorage of the Civil Rules Committee, the standing Forms Committee and Clerk's Manual Committee to revise rules, forms, clerks instructional materials and informational literature. The travel costs are for committee members stationed outside Anchorage.

Regional Training Conferences - 19,550

Conferences will be held in Anchorage, Fairbanks, Kotzebue, Bethel and Juneau. The conferences will be attended by all magistrates and by administrative office training staff.

Contractual (one-time cost)

Postage for mailing forms, manuals and informational literature. 750

Supplies (one-time cost)

Paper, dividers and notebooks training materials for the regional conferences 1,500
Printing of forms, manuals and informational literature.

Estimated Total Cost

\$67,857

Alaska State Legislature

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Senator John Torgerson

SPONSOR STATEMENT

SB 272 - Small Claims Court Jurisdiction & Procedure

The purpose of this legislation is to: (1) allow creditors to appear without legal representation in relatively small claim cases in both regular District Court and its subset, Small Claims Court; (2) increase the maximum amount of a claim from \$5,000 to \$10,000; (3) allow motion practice in Small Claims Court; and (4) allow service for small claims cases on defendants outside Alaska.

District Court Rule 15(c) requires that any person asserting a claim as an assignee shall be represented at all stages of an action by an attorney or a legal intern, regardless of the amount of the claim. When claims are relatively small, it is cost-prohibitive to employ an attorney to collect those accounts. The debtor then escapes his or her debts since they are too small to collect economically. This bill amends Court Rule 15(c) by inserting new language so that claims which are \$10,000 or less do not require representation by an attorney or a legal intern.

This legislation amends existing statutes by increasing the amount of a maximum claim from \$5,000 to \$10,000. The last time this amount was increased was in 1986, when it was increased from \$2,000 to \$5,000.

Small Claims Court does not allow motion practice, which is usually the most economical way to decide a case. In a Small Claims trial, all parties and witnesses are required to appear, even where the matter is clear cut and could be decided upon by affidavits, the usual practice in formal rules of District Court proceedings. Assignees and creditors should be allowed to directly participate in such proceedings without the cost of an attorney. Providing this process should help avoid the cost and delay of trials for individuals and also reduce the burden upon the Court System.

This legislation amends existing statutes so that a corporation can appear without an attorney if the amount in controversy is \$10,000 or less.

Finally, Small Claims Court practice currently allows service on defendants outside Alaska only in accordance with the Landlord-Tenant Act and AS 09.05.020, Service of Process on Nonresident Owner or Operator of Motor Vehicle. This legislation repeals Court Rule 11(a)(4) in its entirety.

01 maj SB 272 3/23/99

SPONSOR STATEMENT

