

CERTIFICATION OF ENROLLMENT

SENATE BILL 5491

Chapter 156, Laws of 2001

57th Legislature
2001 Regular Session

SMALL CLAIMS APPEALS

EFFECTIVE DATE: 7/22/01

Passed by the Senate March 12, 2001
YEAS 46 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 9, 2001
YEAS 96 NAYS 0

FRANK CHOPP
**Speaker of the
House of Representatives**

CLYDE BALLARD
**Speaker of the
House of Representatives**

Approved May 2, 2001

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5491** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 2, 2001 - 10:48 a.m.

**Secretary of State
State of Washington**

SENATE BILL 5491

Passed Legislature - 2001 Regular Session

State of Washington 57th Legislature 2001 Regular Session

By Senators Kline and Long; by request of Administrator for the Courts
Read first time 01/24/2001. Referred to Committee on Judiciary.

1 AN ACT Relating to small claims appeals; and amending RCW 12.36.050
2 and 12.36.055.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 12.36.050 and 1998 c 52 s 3 are each amended to read
5 as follows:

6 (1) Within fourteen days after a small claims appeal has been filed
7 in superior court by the clerk of the district court pursuant to RCW
8 12.36.020(3), the complete record as defined in subsection (2) of this
9 section shall be made and certified by the clerk of the district court
10 to be correct. The clerk shall then immediately transmit the complete
11 record to superior court. The superior court shall then become
12 possessed of the cause. All further proceedings shall be in the
13 superior court, including enforcement of any judgment rendered. Any
14 ~~((mandatory))~~ superior court procedures such as arbitration or other
15 methods of dispute resolution ~~((will apply as if the cause was~~
16 originally filed in)) may be utilized by the superior court in its
17 discretion. ~~((The statute governing the trial de novo shall only apply~~
18 ~~to those cases set for trial after compliance with superior court~~
19 ~~procedures.))~~

1 (2) The complete record shall consist of a transcript of all
2 entries made in the district court docket relating to the case,
3 together with all the process and other papers relating to the case
4 filed with the district court and ~~((any))~~ a contemporaneous recording
5 made of the proceeding.

6 **Sec. 2.** RCW 12.36.055 and 1997 c 352 s 11 are each amended to read
7 as follows:

8 (1) **The appeal from a small claims judgment or decision shall be**
9 ~~((a trial))~~ **de novo** ~~((in superior court. A trial de novo pursuant to~~
10 ~~this chapter shall be tried as nearly as possible in the manner of the~~
11 ~~original small claims trial. No jury may be allowed, or attorney or~~
12 ~~legal paraprofessional involved, without written order of the superior~~
13 ~~court, unless allowed in the original trial. No new pleadings other~~
14 ~~than the notice of appeal may be allowed without written permission of~~
15 ~~the superior court. Each party shall be allowed equal time, but no~~
16 ~~more than thirty minutes each without permission of the superior court.~~
17 ~~No new or other evidence, nor new or other testimony may be presented~~
18 ~~other than at the trial in small claims court, without permission of~~
19 ~~the superior))~~ **upon the record of the case, as entered by the district**
20 **court.**

21 (2) Any cases heard in superior court pursuant to this section may
22 be heard by a duly appointed commissioner. As used in this chapter
23 "judge" includes any duly appointed commissioner.

Passed the Senate March 12, 2001.

Passed the House April 9, 2001.

Approved by the Governor May 2, 2001.

Filed in Office of Secretary of State May 2, 2001.

SENATE BILL REPORT

SB 5491

As Passed Senate, March 12, 2001

Title: An act relating to small claims appeals.

Brief Description: Revising small claims proceedings.

Sponsors: Senators Kline and Long; by request of Administrator for the Courts.

Brief History:

Committee Activity: Judiciary: 2/8/01, 2/20/01 [DP].

Passed Senate: 3/12/01, 46-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Kastama, McCaslin and Thibaudeau.

Staff: Dick Armstrong (786-7460)

Background: Small claims court is a department of the district court. The small claims department has jurisdiction over cases for the recovery of money where the amount claimed does not exceed \$2,500. An action is commenced in the small claims department by filing a claim that contains specified information and paying a filing fee.

An action originally filed in district court may be transferred to the small claims department if the claim does not exceed the jurisdictional limit of the small claims department. Generally, a party may not be represented by an attorney in the small claims department. However, if the action was originally filed in district court and the plaintiff was represented by an attorney at that time, the attorney may represent the plaintiff in the small claims department.

The proceedings in the small claims department are informal. The parties may offer evidence and bring witnesses. The judge may consult witnesses and investigate the controversy between the parties, and the judge may give judgment or make orders that the judge finds equitable.

A party may not appeal the judgment from the small claims department where the amount claimed was less than \$250. A party requesting the exercise of jurisdiction by the small claims department may not appeal a judgment if the amount claimed by that party was less than \$1,000. Although appeals to the superior court are de novo, no new evidence is allowed without the permission of the court.

Summary of Bill: The process to appeal a decision of a small claims court to the superior court is modified. Appeals of small claims lawsuits to superior court are to be based on the record of the case in district court and are not to be de novo.

References to the application of mandatory arbitration in the small claims court appeal process are deleted. In its discretion, a superior court may utilize any method of dispute resolution.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Small claims should be quick and inexpensive and the appeal process should continue to give litigants a cheap way to appeal the case. This will eliminate the need to do a whole new trial in superior court.

Testimony Against: None.

Testified: Judge James Murphy, Superior Court Judges Association; Justice Alexander, Board for Judicial Administration.

HOUSE BILL REPORT

SB 5491

As Passed House:

April 9, 2001

Title: An act relating to small claims appeals.

Brief Description: Revising small claims proceedings.

Sponsors: By Senators Kline and Long; by request of Administrator for the Courts.

Brief History:

Committee Activity:

Judiciary: 3/27/01, 3/30/01 [DP].

Floor Activity:

Passed House: 4/9/01, 96-0.

Brief Summary of Bill

- Changes appeals of small claims judgments from trial de novo to an appeal de novo on the record.
- Makes other changes to the procedures applicable to small claims appeals.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Carrell, Republican Co-Chair; Lantz, Democratic Co-Chair; Hurst, Democratic Vice Chair; Lambert, Republican Vice Chair; Boldt, Casada, Dickerson, Esser, Lovick and McDermott.

Staff: Trudes Hutcheson (786-7384).

Background:

Small claims court is a department of the district court. The small claims department has jurisdiction over cases for the recovery of money where the amount claimed does not exceed \$2,500.

Proceedings in the small claims department are informal. Generally, a party may not be represented by an attorney in the small claims department. The parties may offer

evidence and bring witnesses. The judge may consult witnesses and investigate the controversy between the parties, and the judge may give judgment or make orders that the judge finds equitable.

A party may not appeal the judgment from the small claims department if the amount in controversy is less than \$250. A party requesting the exercise of jurisdiction by the small claims department may not appeal a judgment if the amount claimed by that party was less than \$1,000.

To appeal a small claims judgment, the appellant must file a notice of appeal in the district court, pay the statutory superior court filing fee, post a bond, and serve a copy of the notice of appeal to all parties within 30 days after the judgment is rendered. The bond must be in a sum equal to twice the amount of the judgment and costs or twice the amount in controversy, whichever is greater.

Within 14 days after a small claims appeal has been filed, the clerk of the district court must transmit the complete record of the case to superior court. The record must consist of a transcript of all entries made in the district court docket relating to the case and all process and other papers relating to the case that were filed in the district court.

Once the small claims appeal is in superior court, any mandatory superior court procedures will apply as if the case was originally filed in superior court.

Prior law,
deleted by
this Bill.

The appeal from a small claims judgment is trial de novo in superior court and shall be tried as nearly as possible in the manner of the original small claims trial. No attorney or jury is allowed unless permitted by the superior court. No new pleadings or new evidence may be presented without permission of the superior court. Each party is allowed equal time, but not more than 30 minutes each unless otherwise permitted by the court.

A review that is de novo on the record requires the reviewing court to determine its own findings of facts and conclusions of law based upon the record made before the lower court.

Summary of Bill:

The procedures regarding small claims appeals to superior court are changed. Appeals from a small claims judgment to superior court are to be based de novo on the record, as opposed to trial de novo.

References to the application of mandatory superior court procedures, such as arbitration and other dispute resolution methods, are removed. Instead, the superior court may, in its discretion, utilize any method of dispute resolution.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is endorsed by the Board for Judicial Administration. It will allow superior courts to have settlement conferences at the court's discretion. Both the superior and district courts feel this bill would be helpful by speeding up reviews of small claims appeals. Superior court judges can conduct them during the down time, and they will not be required to schedule time for witnesses to appear.

Testimony Against: None.

Testified: Senator Kline, prime sponsor; and Judge Peter Lukevich, District and Municipal Court Judges Association.