

ASSEMBLY BILL NO. 11—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to actions for small claims. (BDR 6-388)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to justice courts; decreasing the monetary limit on the claims that may be adjudicated under the procedure for small claims; revising, removing and repealing certain provisions relating to small claims; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under the Nevada Constitution, justice courts are courts of limited original jurisdiction that must be prescribed by statute. (Nev. Const. Art. 6, § 8) Existing law vests the justice courts with jurisdiction over: (1) certain civil actions and proceedings; and (2) actions for small claims for the recovery of money only where the amount claimed does not exceed \$10,000. (NRS 4.370, 73.010)

Section 1 of this bill prohibits a person from filing more than 15 actions for small claims in any calendar year. **Section 2** of this bill decreases the monetary threshold for the jurisdiction of the justice courts over actions for small claims from \$10,000 to \$7,500 and limits such actions for the recovery of money only to actions: (1) arising on contract; (2) for personal injury; (3) for taking, detaining or injuring personal property; (4) arising in certain circumstances between a landlord and tenant; (5) for certain fines and penalties; and (6) for the collection of taxes.

Section 2 also removes actions for exemplary or punitive damages or damages for pain and suffering from the jurisdiction of the justice court for small claims.

Section 4 of this bill makes a conforming change to reflect the decrease in the monetary threshold for jurisdiction.

Existing law provides that an affidavit to be used before any court, judge or officer of this State may be taken before any justice, judge or clerk of any court, or any justice of the peace or notary public in this State, as well as before certain other persons when taken in another state or a foreign country, and that certain unsworn declarations may be used in lieu of an affidavit. (NRS 53.010-53.045) Existing law also provides that any affidavit required or authorized in an action for small claims



may be certified by a justice of the peace before whom the matter is to be filed or is pending or by a notary public in this State. (NRS 73.015) **Section 5** of this bill eliminates those specific provisions governing affidavits in actions for small claims, thereby making such affidavits subject to the general rules for affidavits.

Section 3 of this bill eliminates the requirement in existing law that the prevailing party in an action for small claims deposit the amount ascertained and assessed as costs with the justice of the peace before final judgment is entered by the justice. (NRS 73.030)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 73 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person shall not file more than 15 actions pursuant to this chapter in any calendar year.

2. Each person who files an action pursuant to this chapter shall, at the time of filing the action, file an affidavit with the justice court stating that the action will not exceed the number of actions allowed pursuant to subsection 1.

3. If a person files an action that exceeds the number of actions allowed pursuant to subsection 1, the court shall dismiss the action without prejudice at the cost of the plaintiff.

Sec. 2. NRS 73.010 is hereby amended to read as follows:

73.010 1. ~~1A~~ **Except as otherwise provided in subsection 2, a justice of the peace has jurisdiction and may proceed as provided in this chapter and by rules of court in ~~all cases arising in the justice court~~ actions:**

(a) Arising on contract for the recovery of money only, where the amount claimed does not exceed ~~10,000~~ **\$7,500.**

(b) For injury to the person, or for taking, detaining or injuring personal property for the recovery of money only, where the amount claimed does not exceed \$7,500.

(c) Arising pursuant to chapter 118A of NRS between a landlord and tenant for the recovery of money only, where the amount claimed does not exceed \$7,500.

(d) For a fine or penalty not exceeding \$7,500, given by statute or the ordinance of a county, city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll or municipal fine.

(e) For the collection of taxes, where the amount of the tax sued for does not exceed \$7,500.

2. An action may not be brought pursuant to this chapter where exemplary or punitive damages or damages for pain and suffering are claimed.



3. An action brought pursuant to this chapter must be filed in one of the following townships as the proper venue for the action:

(a) The township in which the defendant named is a resident, does business or is employed at the time the cause of action arose or at the time the complaint is filed; or

(b) In addition to any township described in paragraph (a):

(1) In a case involving injury to the person or property, the township where the injury was committed.

(2) In a case involving a person who has contracted to perform an obligation at, or relating to, a particular place, the township in which the obligation is or was to be performed. For the purposes of this subparagraph, the township in which the obligation is incurred shall be deemed to be the township in which the obligation is or was to be performed, unless there is a special contract to the contrary.

Sec. 3. NRS 73.030 is hereby amended to read as follows:

73.030 ~~1.1~~ The justice of the peace shall forthwith ascertain and charge as costs against the losing party and in favor of the prevailing party, without the filing of a cost bill, the costs of the proceeding as in other cases arising in justice court . ~~1, which sum when received by the justice of the peace shall be delivered to the county treasurer in the same manner as other fees are delivered by the justice of the peace.~~

~~2. The prevailing party shall deposit the amount ascertained and assessed as costs with the justice of the peace before final judgment is entered by the justice.~~

Sec. 4. NRS 4.060 is hereby amended to read as follows:

4.060 1. Except as otherwise provided in this section and NRS 33.017 to 33.100, inclusive, each justice of the peace shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the justice court, other than in actions commenced pursuant to chapter 73 of NRS, to be paid by the party commencing the action:

If the sum claimed does not exceed \$2,500.....	\$50.00
If the sum claimed exceeds \$2,500 but does not exceed \$5,000.....	100.00
If the sum claimed exceeds \$5,000 but does not exceed \$10,000.....	175.00
If the sum claimed exceeds \$10,000 but does not exceed \$15,000.....	250.00
In a civil action for unlawful detainer pursuant to NRS 40.290 to 40.420, inclusive, in which a notice to surrender has been served pursuant to NRS 40.255.....	225.00



1 In all other civil actions \$50.00

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3 (b) For the preparation and filing of an affidavit and order in an
4 action commenced pursuant to chapter 73 of NRS:

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6 If the sum claimed does not exceed \$1,000..... \$45.00

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8 If the sum claimed exceeds \$1,000 but does not
9 exceed \$2,500..... 65.00

9

10 If the sum claimed exceeds \$2,500 but does not
11 exceed \$5,000..... 85.00

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12 If the sum claimed exceeds \$5,000 but does not
13 exceed \$7,500..... 125.00

13

14 ~~If the sum claimed exceeds \$7,500 but does not~~
~~exceed \$10,000..... 175.00~~

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16 (c) On the appearance of any defendant, or any number of
17 defendants answering jointly, to be paid by the defendant or
18 defendants on filing the first paper in the action, or at the time of
19 appearance:

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21 In all civil actions \$50.00

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23 For every additional defendant, appearing
24 separately..... 25.00

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25 (d) No fee may be charged where a defendant or defendants
26 appear in response to an affidavit and order issued pursuant to the
27 provisions of chapter 73 of NRS.

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29 (e) For the filing of any paper in intervention \$25.00

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31 (f) For the issuance of any writ of attachment, writ of
32 garnishment, writ of execution or any other writ
33 designed to enforce any judgment of the court, other
34 than a writ of restitution..... \$25.00

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34 (g) For the issuance of any writ of restitution..... \$75.00

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36 (h) For filing a notice of appeal, and appeal bonds \$25.00

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36 One charge only may be made if both papers are
37 filed at the same time.

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38 (i) For issuing supersedeas to a writ designed to
39 enforce a judgment or order of the court \$25.00

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40 (j) For preparation and transmittal of transcript and
41 papers on appeal \$25.00

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42 (k) For celebrating a marriage and returning the
43 certificate to the county recorder or county clerk \$75.00

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44 (l) For entering judgment by confession..... \$50.00

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45 (m) For preparing any copy of any record, proceeding
or paper, for each page..... \$50



- (n) For each certificate of the clerk, under the seal of the court \$3.00
(o) For searching records or files in his or her office, for each year \$1.00
(p) For filing and acting upon each bail or property bond \$50.00

2. A justice of the peace shall not charge or collect any of the fees set forth in subsection 1 for any service rendered by the justice of the peace to the county in which his or her township is located.

3. A justice of the peace shall not charge or collect the fee pursuant to paragraph (k) of subsection 1 if the justice of the peace performs a marriage ceremony in a commissioner township.

4. Except as otherwise provided by an ordinance adopted pursuant to the provisions of NRS 244.207, the justice of the peace shall, on or before the fifth day of each month, account for and pay to the county treasurer all fees collected pursuant to subsection 1 during the preceding month, except for the fees the justice of the peace may retain as compensation and the fees the justice of the peace is required to pay to the State Controller pursuant to subsection 5.

5. The justice of the peace shall, on or before the fifth day of each month, pay to the State Controller:

(a) An amount equal to \$5 of each fee collected pursuant to paragraph (k) of subsection 1 during the preceding month. The State Controller shall deposit the money in the Account for Aid for Victims of Domestic Violence in the State General Fund.

(b) One-half of the fees collected pursuant to paragraph (p) of subsection 1 during the preceding month. The State Controller shall deposit the money in the Fund for the Compensation of Victims of Crime.

6. Except as otherwise provided in subsection 7, the county treasurer shall deposit 25 percent of the fees received pursuant to subsection 4 into a special account administered by the county and maintained for the benefit of each justice court within the county. The money in that account must be used only to:

(a) Acquire land on which to construct additional facilities or a portion of a facility for a justice court or a multi-use facility that includes a justice court;

(b) Construct or acquire additional facilities or a portion of a facility for a justice court or a multi-use facility that includes a justice court;

(c) Renovate, remodel or expand existing facilities or a portion of an existing facility for a justice court or a multi-use facility that includes a justice court;



(d) Acquire furniture, fixtures and equipment necessitated by the construction or acquisition of additional facilities or a portion of a facility or the renovation, remodeling or expansion of an existing facility or a portion of an existing facility for a justice court or a multi-use facility that includes a justice court;

(e) Acquire advanced technology for the use of a justice court;

(f) Acquire equipment or additional staff to enhance the security of the facilities used by a justice court, justices of the peace, staff of a justice court and residents of this State who access the justice courts;

(g) Pay for the training of staff or the hiring of additional staff to support the operation of a justice court;

(h) Pay debt service on any bonds issued pursuant to subsection 3 of NRS 350.020 for the acquisition of land or facilities or for the construction, renovation, remodeling or expansion of facilities for a justice court or a multi-use facility that includes a justice court; and

(i) Pay for one-time projects for the improvement of a justice court.

↪ Any money remaining in the account at the end of a fiscal year must be carried forward to the next fiscal year.

7. The county treasurer shall, if necessary, reduce on an annual basis the amount deposited into the special account pursuant to subsection 6 to ensure that the total amount of fees collected by a justice court pursuant to this section and paid by the justice of the peace to the county treasurer pursuant to subsection 4 is, for any fiscal year, not less than the total amount of fees collected by that justice court and paid by the justice of the peace to the county treasurer for the fiscal year beginning July 1, 2012, and ending June 30, 2013.

8. Each justice court that collects fees pursuant to this section shall submit to the board of county commissioners of the county in which the justice court is located an annual report that contains:

(a) An estimate of the amount of money that the county treasurer will deposit into the special account pursuant to subsection 6 from fees collected by the justice court for the following fiscal year; and

(b) A proposal for any expenditures by the justice court from the special account for the following fiscal year.

Sec. 5. NRS 73.015 is hereby repealed.



TEXT OF REPEALED SECTION

73.015 Acknowledgment of affidavits used in actions for small claims. In all cases for the recovery of money under the provisions of this chapter any affidavit which is required or authorized by rules of court or the general provisions of law applicable to such proceedings may be acknowledged before and certified by:

1. Any justice of the peace with or before whom the matter is to be filed or is pending; or
2. Any notary public who has been appointed by the Secretary of State and whose appointment has not expired or been revoked.

