



Reprinted
April 6, 1999

ENGROSSED HOUSE BILL No. 1440

DIGEST OF HB 1440 (Updated April 5, 1999 4:49 pm - DI 51)

Citations Affected: IC 3-8; IC 33-5; IC 33-11.6; noncode.

Synopsis: Small claims. Increases the jurisdictional limitation for claims on the small claims docket in the Allen superior courts from \$3,000 to \$6,000. Makes various changes to convert Marion small claims courts to township small claims courts. Exempts judges serving on December 31, 2000, from the requirements that small claims court judges: (1) reside in the township where they serve; and (2) be attorneys.

Effective: July 1, 1999; January 1, 2001.

Crawford, Mahern, Young M
(SENATE SPONSORS — CLARK, HOWARD)

January 19, 1999, read first time and referred to Committee on Courts and Criminal Code.
February 10, 1999, amended, reported — Do Pass.
February 15, 1999, read second time, amended, ordered engrossed.
February 16, 1999, engrossed. Read third time, passed. Yeas 89, nays 6.

SENATE ACTION

February 22, 1999, read first time and referred to Committee on Judiciary.
March 18, 1999, reported favorably — Do Pass.
April 5, 1999, read second time, amended, ordered engrossed.

EH 1440—LS 7728/DI 51+



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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1440

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 3-8-1-30 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2001]: Sec. 30. A candidate for the office
3 of judge of a small claims court must:
4 (1) be a United States citizen upon taking office;
5 (2) **either:**
6 (A) have resided in the ~~county~~ **township from which the**
7 **candidate is elected** for at least one (1) year upon taking
8 office; **or**
9 (B) **have been elected as a small claims court judge in the**
10 **township before 1999;**
11 (3) be of high moral character and reputation; and
12 (4) **either:**
13 (A) be admitted to the practice of law in Indiana upon filing a
14 declaration of candidacy or petition of nomination or upon the
15 filing of a certificate of candidate selection under IC 3-13-1-15
16 or IC 3-13-2-8.~~or~~
17 (B) **have at least one (1) year of experience as a justice of the**

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1 peace before January 1, 1976, and have served as a justice of
2 the peace on December 31, 1975.

3 SECTION 2. IC 33-5-2-4 IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) **Except as provided in**
5 **subsection (b)**, the small claims docket has jurisdiction over the
6 following:

7 (1) Civil actions in which the amount sought or value of the
8 property sought to be recovered is not more than three thousand
9 dollars (\$3,000). The plaintiff in a statement of claim or the
10 defendant in a counterclaim may waive the excess of any claim
11 that exceeds three thousand dollars (\$3,000) in order to bring it
12 within the jurisdiction of the small claims docket.

13 (2) Possessory actions between landlord and tenant in which the
14 rent due at the time the action is filed does not exceed three
15 thousand dollars (\$3,000).

16 (b) **This subsection applies to a county having a population of**
17 **more than three hundred thousand (300,000) but less than four**
18 **hundred thousand (400,000). The small claims docket has**
19 **jurisdiction over the following:**

20 (1) **Civil actions in which the amount sought or value of the**
21 **property sought to be recovered is not more than six thousand**
22 **dollars (\$6,000). The plaintiff in a statement of claim or the**
23 **defendant in a counterclaim may waive the excess of any**
24 **claim that exceeds six thousand dollars (\$6,000) in order to**
25 **bring it within the jurisdiction of the small claims docket.**

26 (2) **Possessory actions between landlord and tenant in which**
27 **the rent due at the time the action is filed does not exceed six**
28 **thousand dollars (\$6,000).**

29 SECTION 3. IC 33-11.6-1-3 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. ~~Creation:~~ There
31 ~~is are~~ hereby created and established a **township** small claims ~~court~~
32 **courts** in each county containing a consolidated city of the first class.
33 The name of ~~the each~~ court shall be the " _____ **County Township**
34 **of Marion County Small Claims Court**" (insert the name of the ~~county~~
35 **township** in the blank). ~~Such court shall become operational on~~
36 ~~January 1, 1976.~~

37 SECTION 4. IC 33-11.6-1-7 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. ~~Circuit Court~~
39 ~~Judge:~~ The judge of the circuit court shall extend aid and assistance to
40 the judges in the conduct of ~~their divisions of the township~~ small
41 claims ~~court:~~ **courts.**

42 SECTION 5. IC 33-11.6-3-5 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. ~~Hours of~~
 2 ~~Service~~. The circuit court judge may establish a regular hourly schedule
 3 for the performance of duties by full-time or part-time ~~divisions of~~
 4 **township** small claims courts, and each small claims court judge shall
 5 maintain that schedule. If the circuit court judge does not establish a
 6 regular hourly schedule, each small claims court judge shall perform
 7 ~~his the judge's~~ duties at regular, reasonable hours. Whether or not a
 8 regular hourly schedule has been established by the circuit court judge,
 9 a small claims court judge shall hold sessions in addition to ~~his the~~
 10 **judge's** regular schedule whenever the business of ~~his division the~~
 11 **judge's court** requires such sessions.

12 SECTION 6. IC 33-11.6-3-14 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 14. ~~Seal~~. Each
 14 judge shall procure a seal that will stamp upon paper a distinct
 15 impression of words and letters. The seal shall contain the words
 16 " **County Township of Marion County** Small Claims
 17 Court" **Division**" (insert the name of the ~~county and the~~
 18 **name of the** township in the ~~appropriate blanks~~: **blank**). Deeds,
 19 mortgages, powers of attorney, state warrants and all other instruments
 20 of writing pertaining to his official duty, duly attested by the seal and
 21 signature of the judge, shall be presumptive evidence of the official
 22 character of said court or judge in all courts in the state without further
 23 authentication.

24 SECTION 7. IC 33-11.6-4-1 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. ~~County-wide~~.
 26 ~~The~~ **(a) Except for a claim between landlord and tenant, any case**
 27 **within the jurisdiction of the any** small claims court ~~and each of its~~
 28 ~~divisions, shall extend throughout the county:~~ **may be venued,**
 29 **commenced, and decided in any township small claims court within**
 30 **the county. However, upon a motion for change of venue filed by**
 31 **the defendant within ten (10) days of service of the summons, the**
 32 **township small claims court shall determine in accordance with**
 33 **subsection (b) whether required venue lies with the court or with**
 34 **another small claims court in the county in which the small claims**
 35 **court in which the action was filed sits.**

36 **(b) The venue determination to be made under subsection (a)**
 37 **must be made in the following order:**

38 **(1) In an action upon a debt or account, venue is in the**
 39 **township where any defendant has consented to venue in a**
 40 **writing signed by the defendant.**

41 **(2) Venue is in the township where a transaction or**
 42 **occurrence giving rise to any part of the claim took place.**



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1 **(3) Venue is in the township (in a county of the small claims**
 2 **court) where the greater percentage of individual defendants**
 3 **included in the complaint resides, or, if there is no such**
 4 **greater percentage, the place where any individual defendant**
 5 **so named resides, owns real estate, or rents an apartment or**
 6 **real estate or where the principal office or place of business of**
 7 **any defendant is located.**

8 **(4) Venue is in the township where the claim was filed if there**
 9 **is no other township in the county in which the small claims**
 10 **court sits in which required venue lies.**

11 **(c) Venue of any claim between landlord and tenant shall be in**
 12 **the township where the real estate is located.**

13 **(d) If a written motion challenging venue is received by the**
 14 **township small claims court, the court shall rule whether required**
 15 **venue lies in the township of filing.**

16 SECTION 8. IC 33-11.6-7-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. ~~Transfer of~~
 18 ~~Cases between Divisions.~~ The circuit court judge may transfer cases
 19 from one (1) ~~division~~ **township small claims court** to another as the
 20 needs of the small claims court may require.

21 SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE
 22 JANUARY 1, 2001] : IC 33-11.6-1-5; IC 33-11.6-2-1.

23 SECTION 10. [EFFECTIVE JULY 1, 1999] **A judge of a small**
 24 **claims court serving July 1, 1999, who is not an attorney may**
 25 **continue in office until the judge's term expires. However, each**
 26 **candidate for judge of a small claims court in an election held after**
 27 **June 30, 1999, must be admitted to the practice of law in Indiana**
 28 **upon filing a declaration of candidacy or petition of nomination or**
 29 **upon the filing of a certificate of candidate selection under**
 30 **IC 3-13-1-15 or IC 3-13-2-8.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1440, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1440 as introduced.)

DVORAK, Chair

Committee Vote: yeas 11, nays 1.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1440 be amended to read as follows:

Page 1, line 12, strike "either:".

Page 1, line 13, strike "(A)".

Page 1, line 16, delete "; or" and insert ".or"

Page 1, strike line 17.

Page 2, strike lines 1 through 2.

Page 3, after line 38, begin a new paragraph and insert:

"SECTION 9. [EFFECTIVE JULY 1, 1999] A judge of a small claims court serving July 1, 1999, who is not an attorney may continue in office until the judge's term expires. However, each candidate for judge of a small claims court in an election held after June 30, 1999, must be admitted to the practice of law in Indiana upon filing a declaration of candidacy or petition of nomination or upon the filing of a certificate of candidate selection under IC 3-13-1-15 or IC 3-13-2-8."

(Reference is to HB 1440 as printed February 11, 1999.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 1440, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1440 as reprinted February 16, 1999.)

BRAY, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1440 be amended to read as follows:

Page 2, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 2. IC 33-5-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. **(a) Except as provided in subsection (b),** the small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than three thousand dollars (\$3,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds three thousand dollars (\$3,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed three thousand dollars (\$3,000).

(b) This subsection applies to a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000). The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000)."

Re-number all SECTIONS consecutively.

(Reference is to EHB 1440 as printed March 19, 1999.)

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