

Adopted	Rejected
---------	----------

COMMITTEE REPORT

YES:	11
NO:	1

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:*

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

1 filing of a certificate of candidate selection under IC 3-13-1-15
 2 or IC 3-13-2-8; or
 3 (B) have at least one (1) year of experience as a justice of the
 4 peace before January 1, 1976, and have served as a justice of
 5 the peace on December 31, 1975.

6 SECTION 2. IC 33-11.6-1-3 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. ~~Creation~~. There
 8 ~~is are~~ hereby created and established a **township** small claims ~~court~~
 9 **courts** in each county containing a consolidated city of the first class.
 10 The name of ~~the each~~ court shall be the " _____ **County Township**
 11 **of Marion County Small Claims Court**" (insert the name of the ~~county~~
 12 **township** in the blank). ~~Such court shall become operational on~~
 13 ~~January 1, 1976.~~

14 SECTION 3. IC 33-11.6-1-7 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 7. ~~Circuit Court~~
 16 ~~Judge~~. The judge of the circuit court shall extend aid and assistance to
 17 the judges in the conduct of ~~their divisions~~ of the **township** small
 18 claims ~~court~~. **courts**.

19 SECTION 4. IC 33-11.6-3-5 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 5. ~~Hours of~~
 21 ~~Service~~. The circuit court judge may establish a regular hourly schedule
 22 for the performance of duties by full-time or part-time ~~divisions~~ of
 23 **township** small claims courts, and each small claims court judge shall
 24 maintain that schedule. If the circuit court judge does not establish a
 25 regular hourly schedule, each small claims court judge shall perform
 26 ~~his the judge's~~ duties at regular, reasonable hours. Whether or not a
 27 regular hourly schedule has been established by the circuit court judge,
 28 a small claims court judge shall hold sessions in addition to ~~his the~~
 29 **judge's** regular schedule whenever the business of ~~his division the~~
 30 **judge's court** requires such sessions.

31 SECTION 5. IC 33-11.6-3-14 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 14. ~~Seal~~. Each
 33 judge shall procure a seal that will stamp upon paper a distinct
 34 impression of words and letters. The seal shall contain the words
 35 " _____ **County Township of Marion County Small Claims**
 36 **Court**" _____ **Division**" (insert the name of the ~~county and the~~
 37 ~~name of the~~ township in the ~~appropriate blanks~~): **blank**). Deeds,
 38 mortgages, powers of attorney, state warrants and all other instruments

1 of writing pertaining to his official duty, duly attested by the seal and
 2 signature of the judge, shall be presumptive evidence of the official
 3 character of said court or judge in all courts in the state without further
 4 authentication.

5 SECTION 6. IC 33-11.6-4-1 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1. ~~County-wide.~~
 7 **The (a) Except for a claim between landlord and tenant, any case**
 8 **within the jurisdiction of the any small claims court and each of its**
 9 **divisions, shall extend throughout the county. may be venued,**
 10 **commenced, and decided in any township small claims court within**
 11 **the county. However, upon a motion for change of venue filed by**
 12 **the defendant within ten (10) days of service of the summons, the**
 13 **township small claims court shall determine in accordance with**
 14 **subsection (b) whether required venue lies with the court or with**
 15 **another small claims court in the county in which the small claims**
 16 **court in which the action was filed sits.**

17 (b) The venue determination to be made under subsection (a)
 18 must be made in the following order:

19 (1) In an action upon a debt or account, venue is in the
 20 township where any defendant has consented to venue in a
 21 writing signed by the defendant.

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

24 (3) Venue is in the township (in a county of the small claims
 25 court) where the greater percentage of individual defendants
 26 included in the complaint resides, or, if there is no such
 27 greater percentage, the place where any individual defendant
 28 so named resides, owns real estate, or rents an apartment or
 29 real estate or where the principal office or place of business of
 30 any defendant is located.

31 (4) Venue is in the township where the claim was filed if there
 32 is no other township in the county in which the small claims
 33 court sits in which required venue lies.

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

36 (d) If a written motion challenging venue is received by the
 37 township small claims court, the court shall rule whether required
 38 venue lies in the township of filing.

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

6 SECTION 8. THE FOLLOWING ARE REPEALED [EFFECTIVE
7 JANUARY 1, 2001]: IC 33-11.6-1-5; IC 33-11.6-2-1.

(Reference is to HB 1440 as introduced.)

and when so amended that said bill do pass.

Representative Dvorak