
SENATE BILL 5395

State of Washington 56th Legislature 1999 Regular Session

By Senators Costa and Heavey

Read first time 01/21/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to court filing fees; and amending RCW 36.18.012,
2 36.18.016, 40.14.027, 41.50.136, 46.87.370, 50.20.190, 50.24.115,
3 51.24.060, 51.32.240, 51.48.140, 82.32.210, 82.36.047, and 82.38.235.

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

5 **Sec. 1.** RCW 36.18.012 and 1996 c 211 s 1 are each amended to read
6 as follows:

7 (1) Revenue collected under this section is subject to division
8 with the state for deposit in the public safety and education account
9 under RCW 36.18.025.

10 (2) The party filing a transcript or abstract of judgment or
11 verdict from a United States court held in this state, or from the
12 superior court of another county or from a district court in the county
13 of issuance, shall pay at the time of filing a fee of fifteen dollars.

14 (3) ~~((For the filing of a tax warrant by the department of revenue
15 of the state of Washington, a fee of five dollars must be paid.~~

16 ~~(4))~~) The clerk shall collect a fee of twenty dollars for: Filing
17 a paper not related to or a part of a proceeding, civil or criminal, or
18 a probate matter, required or permitted to be filed in the clerk's
19 office for which no other charge is provided by law.

1 (~~(5)~~) (4) If the defendant serves or files an answer to an
2 unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the
3 plaintiff shall pay before proceeding with the unlawful detainer action
4 eighty dollars.

5 (~~(6)~~) (5) For a restrictive covenant for filing a petition to
6 strike discriminatory provisions in real estate under RCW 49.60.227 a
7 fee of twenty dollars must be charged.

8 (~~(7)~~) (6) A fee of twenty dollars must be charged for filing a
9 will only, when no probate of the will is contemplated.

10 (~~(8)~~) (7) A fee of two dollars must be charged for filing a
11 petition, written agreement, or written memorandum in a nonjudicial
12 probate dispute under RCW 11.96.170.

13 (~~(9)~~) (8) A fee of thirty-five dollars must be charged for filing
14 a petition regarding a common law lien under RCW 60.70.060.

15 (~~(10)~~) (9) For certification of delinquent taxes by a county
16 treasurer under RCW 84.64.190, a fee of five dollars must be charged.

17 **Sec. 2.** RCW 36.18.016 and 1996 c 56 s 5 are each amended to read
18 as follows:

19 (1) Revenue collected under this section is not subject to division
20 under RCW 36.18.025 or 27.24.070.

21 (2) For the filing of a petition for modification of a decree of
22 dissolution or paternity, within the same case as the original action,
23 a fee of twenty dollars must be paid.

24 (3) The party making a demand for a jury of six in a civil action
25 shall pay, at the time, a fee of fifty dollars; if the demand is for a
26 jury of twelve, a fee of one hundred dollars. If, after the party
27 demands a jury of six and pays the required fee, any other party to the
28 action requests a jury of twelve, an additional fifty-dollar fee will
29 be required of the party demanding the increased number of jurors.
30 Upon conviction in criminal cases a jury demand charge may be imposed
31 as costs under RCW 10.46.190.

32 (4) For preparing, transcribing, or certifying an instrument on
33 file or of record in the clerk's office, with or without seal, for the
34 first page or portion of the first page, a fee of two dollars, and for
35 each additional page or portion of a page, a fee of one dollar must be
36 charged. For authenticating or exemplifying an instrument, a fee of
37 one dollar for each additional seal affixed must be charged.

- 1 (5) For executing a certificate, with or without a seal, a fee of
2 two dollars must be charged.
- 3 (6) For a garnishee defendant named in an affidavit for garnishment
4 and for a writ of attachment, a fee of twenty dollars must be charged.
- 5 (7) For approving a bond, including justification on the bond, in
6 other than civil actions and probate proceedings, a fee of two dollars
7 must be charged.
- 8 (8) For the issuance of a certificate of qualification and a
9 certified copy of letters of administration, letters testamentary, or
10 letters of guardianship, there must be a fee of two dollars.
- 11 (9) For the preparation of a passport application, the clerk may
12 collect an execution fee as authorized by the federal government.
- 13 (10) For clerk's (~~special~~) services such as processing ex parte
14 orders (~~by mail~~), performing historical searches, compiling
15 statistical reports, and conducting exceptional record searches, the
16 clerk may collect a fee not to exceed twenty dollars per hour or
17 portion of an hour.
- 18 (11) For duplicated recordings of court's proceedings there must be
19 a fee of ten dollars for each audio tape and twenty-five dollars for
20 each video tape.
- 21 (12) For the filing of oaths and affirmations under chapter 5.28
22 RCW, a fee of twenty dollars must be charged.
- 23 (13) For filing a disclaimer of interest under RCW 11.86.031(4), a
24 fee of (~~two~~) twenty dollars must be charged.
- 25 (14) For registration of land titles, Torrens Act, under RCW
26 65.12.780, a fee of five dollars must be charged.
- 27 (15) For the issuance of extension of judgment under RCW 6.17.020
28 and chapter 9.94A RCW, a fee of one hundred ten dollars must be
29 charged.
- 30 (16) A facilitator surcharge of ten dollars must be charged as
31 authorized under RCW 26.12.240.
- 32 (17) For filing a water rights statement under RCW 90.03.180, a fee
33 of twenty-five dollars must be charged.
- 34 (18) For filing a warrant for overpayment of state retirement
35 systems benefits under chapter 41.50 RCW, a fee of five dollars shall
36 be charged pursuant to RCW 41.50.136; for such warrants filed after
37 July 1, 2001, a fee of twenty dollars shall be paid.
- 38 (19) A service fee of three dollars for the first page and one
39 dollar for each additional page must be charged for receiving faxed

1 documents, pursuant to Washington state rules of court, general rule
2 17.

3 (20) For preparation of clerk's papers under RAP 9.7, a fee of
4 fifty cents per page must be charged.

5 (21) For copies and reports produced at the local level as
6 permitted by RCW 2.68.020 and supreme court policy, a variable fee must
7 be charged.

8 (22) Investment service charge and earnings under RCW 36.48.090
9 must be charged.

10 (23) Costs for nonstatutory services rendered by clerk by authority
11 of local ordinance or policy must be charged.

12 (24) For the filing of a tax warrant for unpaid taxes or
13 overpayment of benefits by any agency of the state of Washington, a fee
14 of five dollars on or after July 1, 1999; for the filing of such a tax
15 warrant on or after July 1, 2001, a fee of twenty dollars.

16 **Sec. 3.** RCW 40.14.027 and 1996 c 245 s 4 are each amended to read
17 as follows:

18 State agencies shall collect a surcharge of twenty dollars from the
19 judgment debtor upon the satisfaction of a warrant filed in superior
20 court for unpaid taxes or liabilities. The surcharge is imposed on the
21 judgment debtor in the form of a penalty in addition to the filing fee
22 provided in RCW (~~(36.18.012(3))~~) 36.18.016(24). The surcharge revenue
23 shall be transmitted to the state treasurer for deposit in the archives
24 and records management account.

25 Surcharge revenue deposited in the archives and records management
26 account shall be expended by the secretary of state exclusively for
27 disaster recovery, essential records protection services, and records
28 management training for local government agencies by the division of
29 archives and records management. The secretary of state shall, with
30 local government representatives, establish a committee to advise the
31 state archivist on the local government archives and records management
32 program.

33 **Sec. 4.** RCW 41.50.136 and 1996 c 56 s 2 are each amended to read
34 as follows:

35 Whenever a notice of determination of liability becomes conclusive
36 and final under RCW 41.50.135, the director, upon giving at least
37 twenty days notice by certified mail return receipt requested to the

1 individual's last known address of the intended action, may file with
2 the superior court clerk of any county within the state a warrant in
3 the amount of the notice of determination of liability plus a filing
4 fee (~~(of five dollars payable)~~) under RCW 36.18.016. The clerk of the
5 county where the warrant is filed shall immediately designate a
6 superior court cause number for the warrant, and the clerk shall cause
7 to be entered in the judgment docket under the superior court cause
8 number assigned to the warrant, the name of the person mentioned in the
9 warrant, the amount of the notice of determination of liability, and
10 the date when the warrant was filed. The amount of the warrant as
11 docketed shall become a lien upon the title to, and any interest in,
12 all real and personal property of the person against whom the warrant
13 is issued, the same as a judgment in a civil case duly docketed in the
14 office of such clerk. A copy of the warrant shall be mailed to the
15 person mentioned in the warrant by certified mail to the person's last
16 known address within five days of its filing with the clerk.

17 **Sec. 5.** RCW 46.87.370 and 1987 c 244 s 50 are each amended to read
18 as follows:

19 Whenever any assessment has become final in accordance with this
20 chapter, the department may file with the clerk of any county within
21 this state a warrant in the amount of fees, taxes, penalties, interest,
22 and a filing fee (~~(of five dollars)~~) under RCW 36.18.016. The clerk of
23 the county in which the warrant is filed shall immediately designate a
24 superior court cause number for the warrant, and the clerk shall cause
25 to be entered in the judgment docket under the superior court cause
26 number assigned to the warrant the name of the delinquent owner of
27 proportionally registered vehicles mentioned in the warrant, the amount
28 of the fees, taxes, penalties, interest, and filing fee, and the date
29 when the warrant was filed. The aggregate amount of the warrant as
30 docketed constitutes a lien upon the title to, and interest in, all
31 real and personal property of the named person against whom the warrant
32 is issued, the same as a judgment in a civil case duly docketed in the
33 office of the clerk. A warrant so docketed is sufficient to support
34 the issuance of writs of execution and writs of garnishment in favor of
35 the state in the manner provided by law in the case of civil judgment
36 wholly or partially unsatisfied. The clerk of the court is entitled to
37 a filing fee (~~(of five dollars)~~) under RCW 36.18.016, which shall be
38 added to the amount of the warrant.

1 **Sec. 6.** RCW 50.20.190 and 1995 c 90 s 1 are each amended to read
2 as follows:

3 (1) An individual who is paid any amount as benefits under this
4 title to which he or she is not entitled shall, unless otherwise
5 relieved pursuant to this section, be liable for repayment of the
6 amount overpaid. The department shall issue an overpayment assessment
7 setting forth the reasons for and the amount of the overpayment. The
8 amount assessed, to the extent not collected, may be deducted from any
9 future benefits payable to the individual: PROVIDED, That in the
10 absence of a back pay award, a settlement affecting the allowance of
11 benefits, fraud, misrepresentation, or willful nondisclosure, every
12 determination of liability shall be mailed or personally served not
13 later than two years after the close of or final payment made on the
14 individual's applicable benefit year for which the purported
15 overpayment was made, whichever is later, unless the merits of the
16 claim are subjected to administrative or judicial review in which event
17 the period for serving the determination of liability shall be extended
18 to allow service of the determination of liability during the six-month
19 period following the final decision affecting the claim.

20 (2) The commissioner may waive an overpayment if the commissioner
21 finds that (~~said~~) the overpayment was not the result of fraud,
22 misrepresentation, willful nondisclosure, or fault attributable to the
23 individual and that the recovery thereof would be against equity and
24 good conscience: PROVIDED, HOWEVER, That the overpayment so waived
25 shall be charged against the individual's applicable entitlement for
26 the eligibility period containing the weeks to which the overpayment
27 was attributed as though such benefits had been properly paid.

28 (3) Any assessment herein provided shall constitute a determination
29 of liability from which an appeal may be had in the same manner and to
30 the same extent as provided for appeals relating to determinations in
31 respect to claims for benefits: PROVIDED, That an appeal from any
32 determination covering overpayment only shall be deemed to be an appeal
33 from the determination which was the basis for establishing the
34 overpayment unless the merits involved in the issue set forth in such
35 determination have already been heard and passed upon by the appeal
36 tribunal. If no such appeal is taken to the appeal tribunal by the
37 individual within thirty days of the delivery of the notice of
38 determination of liability, or within thirty days of the mailing of the
39 notice of determination, whichever is the earlier, (~~said~~) the

1 determination of liability shall be deemed conclusive and final.
2 Whenever any such notice of determination of liability becomes
3 conclusive and final, the commissioner, upon giving at least twenty
4 days notice by certified mail return receipt requested to the
5 individual's last known address of the intended action, may file with
6 the superior court clerk of any county within the state a warrant in
7 the amount of the notice of determination of liability plus a filing
8 fee (~~of five dollars~~) under RCW 36.18.016. The clerk of the county
9 where the warrant is filed shall immediately designate a superior court
10 cause number for the warrant, and the clerk shall cause to be entered
11 in the judgment docket under the superior court cause number assigned
12 to the warrant, the name of the person(s) mentioned in the warrant, the
13 amount of the notice of determination of liability, and the date when
14 the warrant was filed. The amount of the warrant as docketed shall
15 become a lien upon the title to, and any interest in, all real and
16 personal property of the person(s) against whom the warrant is issued,
17 the same as a judgment in a civil case duly docketed in the office of
18 such clerk. A warrant so docketed shall be sufficient to support the
19 issuance of writs of execution and writs of garnishment in favor of the
20 state in the manner provided by law for a civil judgment. A copy of
21 the warrant shall be mailed to the person(s) mentioned in the warrant
22 by certified mail to the person's last known address within five days
23 of its filing with the clerk.

24 (4) On request of any agency which administers an employment
25 security law of another state, the United States, or a foreign
26 government and which has found in accordance with the provisions of
27 such law that a claimant is liable to repay benefits received under
28 such law, the commissioner may collect the amount of such benefits from
29 the claimant to be refunded to the agency. In any case in which under
30 this section a claimant is liable to repay any amount to the agency of
31 another state, the United States, or a foreign government, such amounts
32 may be collected without interest by civil action in the name of the
33 commissioner acting as agent for such agency if the other state, the
34 United States, or the foreign government extends such collection rights
35 to the employment security department of the state of Washington, and
36 provided that the court costs be paid by the governmental agency
37 benefiting from such collection.

38 (5) Any employer who is a party to a back pay award or settlement
39 due to loss of wages shall, within thirty days of the award or

1 settlement, report to the department the amount of the award or
2 settlement, the name and social security number of the recipient of the
3 award or settlement, and the period for which it is awarded. When an
4 individual has been awarded or receives back pay, for benefit purposes
5 the amount of the back pay shall constitute wages paid in the period
6 for which it was awarded. For contribution purposes, the back pay
7 award or settlement shall constitute wages paid in the period in which
8 it was actually paid. The following requirements shall also apply:

9 (a) The employer shall reduce the amount of the back pay award or
10 settlement by an amount determined by the department based upon the
11 amount of unemployment benefits received by the recipient of the award
12 or settlement during the period for which the back pay award or
13 settlement was awarded;

14 (b) The employer shall pay to the unemployment compensation fund,
15 in a manner specified by the commissioner, an amount equal to the
16 amount of such reduction;

17 (c) The employer shall also pay to the department any taxes due for
18 unemployment insurance purposes on the entire amount of the back pay
19 award or settlement notwithstanding any reduction made pursuant to (a)
20 of this subsection;

21 (d) If the employer fails to reduce the amount of the back pay
22 award or settlement as required in (a) of this subsection, the
23 department shall issue an overpayment assessment against the recipient
24 of the award or settlement in the amount that the back pay award or
25 settlement should have been reduced; and

26 (e) If the employer fails to pay to the department an amount equal
27 to the reduction as required in (b) of this subsection, the department
28 shall issue an assessment of liability against the employer which shall
29 be collected pursuant to the procedures for collection of assessments
30 provided herein and in RCW 50.24.110.

31 (6) When an individual fails to repay an overpayment assessment
32 that is due and fails to arrange for satisfactory repayment terms, the
33 commissioner shall impose an interest penalty of one percent per month
34 of the outstanding balance. Interest shall accrue immediately on
35 overpayments assessed pursuant to RCW 50.20.070 and shall be imposed
36 when the assessment becomes final. For any other overpayment, interest
37 shall accrue when the individual has missed two or more of their
38 monthly payments either partially or in full. The interest penalty

1 shall be used to fund detection and recovery of overpayment and
2 collection activities.

3 **Sec. 7.** RCW 50.24.115 and 1983 1st ex.s. c 23 s 16 are each
4 amended to read as follows:

5 Whenever any order and notice of assessment or jeopardy assessment
6 shall have become final in accordance with the provisions of this title
7 the commissioner may file with the clerk of any county within the state
8 a warrant in the amount of the notice of assessment plus interest,
9 penalties, and a filing fee (~~(of five dollars)~~) under RCW 36.18.016.
10 The clerk of the county wherein the warrant is filed shall immediately
11 designate a superior court cause number for such warrant, and the clerk
12 shall cause to be entered in the judgment docket under the superior
13 court cause number assigned to the warrant, the name of the employer
14 mentioned in the warrant, the amount of the tax, interest, penalties,
15 and filing fee and the date when such warrant was filed. The aggregate
16 amount of such warrant as docketed shall become a lien upon the title
17 to, and interest in all real and personal property of the employer
18 against whom the warrant is issued, the same as a judgment in a civil
19 case duly docketed in the office of such clerk. Such warrant so
20 docketed shall be sufficient to support the issuance of writs of
21 execution and writs of garnishment in favor of the state in the manner
22 provided by law in the case of civil judgment, wholly or partially
23 unsatisfied. The clerk of the court shall be entitled to a filing fee
24 (~~(of five dollars)~~) under RCW 36.18.016, which shall be added to the
25 amount of the warrant, and charged by the commissioner to the employer
26 or employing unit. A copy of the warrant shall be mailed to the
27 employer or employing unit by certified mail to his last known address
28 within five days of filing with the clerk.

29 **Sec. 8.** RCW 51.24.060 and 1995 c 199 s 4 are each amended to read
30 as follows:

31 (1) If the injured worker or beneficiary elects to seek damages
32 from the third person, any recovery made shall be distributed as
33 follows:

34 (a) The costs and reasonable attorneys' fees shall be paid
35 proportionately by the injured worker or beneficiary and the department
36 and/or self-insurer: PROVIDED, That the department and/or self-insurer
37 may require court approval of costs and attorneys' fees or may petition

1 a court for determination of the reasonableness of costs and attorneys'
2 fees;

3 (b) The injured worker or beneficiary shall be paid twenty-five
4 percent of the balance of the award: PROVIDED, That in the event of a
5 compromise and settlement by the parties, the injured worker or
6 beneficiary may agree to a sum less than twenty-five percent;

7 (c) The department and/or self-insurer shall be paid the balance of
8 the recovery made, but only to the extent necessary to reimburse the
9 department and/or self-insurer for benefits paid;

10 (i) The department and/or self-insurer shall bear its proportionate
11 share of the costs and reasonable attorneys' fees incurred by the
12 worker or beneficiary to the extent of the benefits paid under this
13 title: PROVIDED, That the department's and/or self-insurer's
14 proportionate share shall not exceed one hundred percent of the costs
15 and reasonable attorneys' fees;

16 (ii) The department's and/or self-insurer's proportionate share of
17 the costs and reasonable attorneys' fees shall be determined by
18 dividing the gross recovery amount into the benefits paid amount and
19 multiplying this percentage times the costs and reasonable attorneys'
20 fees incurred by the worker or beneficiary;

21 (iii) The department's and/or self-insurer's reimbursement share
22 shall be determined by subtracting their proportionate share of the
23 costs and reasonable attorneys' fees from the benefits paid amount;

24 (d) Any remaining balance shall be paid to the injured worker or
25 beneficiary; and

26 (e) Thereafter no payment shall be made to or on behalf of a worker
27 or beneficiary by the department and/or self-insurer for such injury
28 until the amount of any further compensation and benefits shall equal
29 any such remaining balance minus the department's and/or self-insurer's
30 proportionate share of the costs and reasonable attorneys' fees in
31 regards to the remaining balance. This proportionate share shall be
32 determined by dividing the gross recovery amount into the remaining
33 balance amount and multiplying this percentage times the costs and
34 reasonable attorneys' fees incurred by the worker or beneficiary.
35 Thereafter, such benefits shall be paid by the department and/or self-
36 insurer to or on behalf of the worker or beneficiary as though no
37 recovery had been made from a third person.

38 (2) The recovery made shall be subject to a lien by the department
39 and/or self-insurer for its share under this section.

1 (3) The department or self-insurer has sole discretion to
2 compromise the amount of its lien. In deciding whether or to what
3 extent to compromise its lien, the department or self-insurer shall
4 consider at least the following:

5 (a) The likelihood of collection of the award or settlement as may
6 be affected by insurance coverage, solvency, or other factors relating
7 to the third person;

8 (b) Factual and legal issues of liability as between the injured
9 worker or beneficiary and the third person. Such issues include but
10 are not limited to possible contributory negligence and novel theories
11 of liability; and

12 (c) Problems of proof faced in obtaining the award or settlement.

13 (4) In an action under this section, the self-insurer may act on
14 behalf and for the benefit of the department to the extent of any
15 compensation and benefits paid or payable from state funds.

16 (5) It shall be the duty of the person to whom any recovery is paid
17 before distribution under this section to advise the department or
18 self-insurer of the fact and amount of such recovery, the costs and
19 reasonable attorneys' fees associated with the recovery, and to
20 distribute the recovery in compliance with this section.

21 (6) The distribution of any recovery made by award or settlement of
22 the third party action shall be confirmed by department order, served
23 by registered or certified mail, and shall be subject to chapter 51.52
24 RCW. In the event the order of distribution becomes final under
25 chapter 51.52 RCW, the director or the director's designee may file
26 with the clerk of any county within the state a warrant in the amount
27 of the sum representing the unpaid lien plus interest accruing from the
28 date the order became final. The clerk of the county in which the
29 warrant is filed shall immediately designate a superior court cause
30 number for such warrant and the clerk shall cause to be entered in the
31 judgment docket under the superior court cause number assigned to the
32 warrant, the name of such worker or beneficiary mentioned in the
33 warrant, the amount of the unpaid lien plus interest accrued and the
34 date when the warrant was filed. The amount of such warrant as
35 docketed shall become a lien upon the title to and interest in all real
36 and personal property of the injured worker or beneficiary against whom
37 the warrant is issued, the same as a judgment in a civil case docketed
38 in the office of such clerk. The sheriff shall then proceed in the
39 same manner and with like effect as prescribed by law with respect to

1 execution or other process issued against rights or property upon
2 judgment in the superior court. Such warrant so docketed shall be
3 sufficient to support the issuance of writs of garnishment in favor of
4 the department in the manner provided by law in the case of judgment,
5 wholly or partially unsatisfied. The clerk of the court shall be
6 entitled to a filing fee (~~(of five dollars)~~) under RCW 36.18.016, which
7 shall be added to the amount of the warrant. A copy of such warrant
8 shall be mailed to the injured worker or beneficiary within three days
9 of filing with the clerk.

10 (7) The director, or the director's designee, may issue to any
11 person, firm, corporation, municipal corporation, political subdivision
12 of the state, public corporation, or agency of the state, a notice and
13 order to withhold and deliver property of any kind if he or she has
14 reason to believe that there is in the possession of such person, firm,
15 corporation, municipal corporation, political subdivision of the state,
16 public corporation, or agency of the state, property which is due,
17 owing, or belonging to any worker or beneficiary upon whom a warrant
18 has been served by the department for payments due to the state fund.
19 The notice and order to withhold and deliver shall be served by the
20 sheriff of the county or by the sheriff's deputy; by certified mail,
21 return receipt requested; or by any authorized representatives of the
22 director. Any person, firm, corporation, municipal corporation,
23 political subdivision of the state, public corporation, or agency of
24 the state upon whom service has been made shall answer the notice
25 within twenty days exclusive of the day of service, under oath and in
26 writing, and shall make true answers to the matters inquired of in the
27 notice and order to withhold and deliver. In the event there is in the
28 possession of the party named and served with such notice and order,
29 any property which may be subject to the claim of the department, such
30 property shall be delivered forthwith to the director or the director's
31 authorized representative upon demand. If the party served and named
32 in the notice and order fails to answer the notice and order within the
33 time prescribed in this section, the court may, after the time to
34 answer such order has expired, render judgment by default against the
35 party named in the notice for the full amount claimed by the director
36 in the notice together with costs. In the event that a notice to
37 withhold and deliver is served upon an employer and the property found
38 to be subject thereto is wages, the employer may assert in the answer

1 to all exemptions provided for by chapter 6.27 RCW to which the wage
2 earner may be entitled.

3 **Sec. 9.** RCW 51.32.240 and 1991 c 88 s 1 are each amended to read
4 as follows:

5 (1) Whenever any payment of benefits under this title is made
6 because of clerical error, mistake of identity, innocent
7 misrepresentation by or on behalf of the recipient thereof mistakenly
8 acted upon, or any other circumstance of a similar nature, all not
9 induced by fraud, the recipient thereof shall repay it and recoupment
10 may be made from any future payments due to the recipient on any claim
11 with the state fund or self-insurer, as the case may be. The
12 department or self-insurer, as the case may be, must make claim for
13 such repayment or recoupment within one year of the making of any such
14 payment or it will be deemed any claim therefor has been waived. The
15 director, pursuant to rules adopted in accordance with the procedures
16 provided in the administrative procedure act, chapter 34.05 RCW, may
17 exercise his discretion to waive, in whole or in part, the amount of
18 any such timely claim where the recovery would be against equity and
19 good conscience.

20 (2) Whenever the department issues an order rejecting a claim for
21 benefits paid pursuant to RCW 51.32.190 or 51.32.210, after payment for
22 temporary disability benefits has been paid by a self-insurer pursuant
23 to RCW 51.32.190(3) or by the department pursuant to RCW 51.32.210, the
24 recipient thereof shall repay such benefits and recoupment may be made
25 from any future payments due to the recipient on any claim with the
26 state fund or self-insurer, as the case may be. The director, under
27 rules adopted in accordance with the procedures provided in the
28 administrative procedure act, chapter 34.05 RCW, may exercise
29 discretion to waive, in whole or in part, the amount of any such
30 payments where the recovery would be against equity and good
31 conscience.

32 (3) Whenever any payment of benefits under this title has been made
33 pursuant to an adjudication by the department or by order of the board
34 or any court and timely appeal therefrom has been made where the final
35 decision is that any such payment was made pursuant to an erroneous
36 adjudication, the recipient thereof shall repay it and recoupment may
37 be made from any future payments due to the recipient on any claim with
38 the state fund or self-insurer, as the case may be. The director,

1 pursuant to rules adopted in accordance with the procedures provided in
2 the administrative procedure act, chapter 34.05 RCW, may exercise his
3 discretion to waive, in whole or in part, the amount of any such
4 payments where the recovery would be against equity and good
5 conscience.

6 (4) Whenever any payment of benefits under this title has been
7 induced by fraud the recipient thereof shall repay any such payment
8 together with a penalty of fifty percent of the total of any such
9 payments and the amount of such total sum may be recouped from any
10 future payments due to the recipient on any claim with the state fund
11 or self-insurer against whom the fraud was committed, as the case may
12 be, and the amount of such penalty shall be placed in the supplemental
13 pension fund. Such repayment or recoupment must be demanded or ordered
14 within one year of the discovery of the fraud.

15 (5) The worker, beneficiary, or other person affected thereby shall
16 have the right to contest an order assessing an overpayment pursuant to
17 this section in the same manner and to the same extent as provided
18 under RCW 51.52.050 and 51.52.060. In the event such an order becomes
19 final under chapter 51.52 RCW and notwithstanding the provisions of
20 subsections (1) through (4) of this section, the director, director's
21 designee, or self-insurer may file with the clerk in any county within
22 the state a warrant in the amount of the sum representing the unpaid
23 overpayment and/or penalty plus interest accruing from the date the
24 order became final. The clerk of the county in which the warrant is
25 filed shall immediately designate a superior court cause number for
26 such warrant and the clerk shall cause to be entered in the judgment
27 docket under the superior court cause number assigned to the warrant,
28 the name of the worker, beneficiary, or other person mentioned in the
29 warrant, the amount of the unpaid overpayment and/or penalty plus
30 interest accrued, and the date the warrant was filed. The amount of
31 the warrant as docketed shall become a lien upon the title to and
32 interest in all real and personal property of the worker, beneficiary,
33 or other person against whom the warrant is issued, the same as a
34 judgment in a civil case docketed in the office of such clerk. The
35 sheriff shall then proceed in the same manner and with like effect as
36 prescribed by law with respect to execution or other process issued
37 against rights or property upon judgment in the superior court. Such
38 warrant so docketed shall be sufficient to support the issuance of
39 writs of garnishment in favor of the department or self-insurer in the

1 manner provided by law in the case of judgment, wholly or partially
2 unsatisfied. The clerk of the court shall be entitled to a filing fee
3 (~~of five dollars~~) under RCW 36.18.016, which shall be added to the
4 amount of the warrant. A copy of such warrant shall be mailed to the
5 worker, beneficiary, or other person within three days of filing with
6 the clerk.

7 The director, director's designee, or self-insurer may issue to any
8 person, firm, corporation, municipal corporation, political subdivision
9 of the state, public corporation, or agency of the state, a notice to
10 withhold and deliver property of any kind if there is reason to believe
11 that there is in the possession of such person, firm, corporation,
12 municipal corporation, political subdivision of the state, public
13 corporation, or agency of the state, property that is due, owing, or
14 belonging to any worker, beneficiary, or other person upon whom a
15 warrant has been served for payments due the department or self-
16 insurer. The notice and order to withhold and deliver shall be served
17 by certified mail accompanied by an affidavit of service by mailing or
18 served by the sheriff of the county, or by the sheriff's deputy, or by
19 any authorized representative of the director, director's designee, or
20 self-insurer. Any person, firm, corporation, municipal corporation,
21 political subdivision of the state, public corporation, or agency of
22 the state upon whom service has been made shall answer the notice
23 within twenty days exclusive of the day of service, under oath and in
24 writing, and shall make true answers to the matters inquired or in the
25 notice and order to withhold and deliver. In the event there is in the
26 possession of the party named and served with such notice and order,
27 any property that may be subject to the claim of the department or
28 self-insurer, such property shall be delivered forthwith to the
29 director, the director's authorized representative, or self-insurer
30 upon demand. If the party served and named in the notice and order
31 fails to answer the notice and order within the time prescribed in this
32 section, the court may, after the time to answer such order has
33 expired, render judgment by default against the party named in the
34 notice for the full amount, plus costs, claimed by the director,
35 director's designee, or self-insurer in the notice. In the event that
36 a notice to withhold and deliver is served upon an employer and the
37 property found to be subject thereto is wages, the employer may assert
38 in the answer all exemptions provided for by chapter 6.27 RCW to which
39 the wage earner may be entitled.

1 This subsection shall only apply to orders assessing an overpayment
2 which are issued on or after July 28, 1991: PROVIDED, That this
3 subsection shall apply retroactively to all orders assessing an
4 overpayment resulting from fraud, civil or criminal.

5 (6) Orders assessing an overpayment which are issued on or after
6 July 28, 1991, shall include a conspicuous notice of the collection
7 methods available to the department or self-insurer.

8 **Sec. 10.** RCW 51.48.140 and 1989 c 175 s 121 are each amended to
9 read as follows:

10 If a notice of appeal is not served on the director and the board
11 of industrial insurance appeals pursuant to RCW 51.48.131 within thirty
12 days from the date of service of the notice of assessment, or if a
13 final decision and order of the board of industrial insurance appeals
14 in favor of the department is not appealed to superior court in the
15 manner specified in RCW 34.05.510 through 34.05.598, or if a final
16 decision of any court in favor of the department is not appealed within
17 the time allowed by law, then the amount of the unappealed assessment,
18 or such amount of the assessment as is found due by the final decision
19 and order of the board of industrial insurance appeals or final
20 decision of the court shall be deemed final and the director or the
21 director's designee may file with the clerk of any county within the
22 state a warrant in the amount of the notice of assessment. The clerk
23 of the county wherein the warrant is filed shall immediately designate
24 a superior court cause number for such warrant, and the clerk shall
25 cause to be entered in the judgment docket under the superior court
26 cause number assigned to the warrant, the name of such employer
27 mentioned in the warrant, the amount of the taxes and penalties due
28 thereon, and the date when such warrant was filed. The aggregate
29 amount of such warrant as docketed shall become a lien upon the title
30 to, and interest in all real and personal property of the employer
31 against whom the warrant is issued, the same as a judgment in a civil
32 case duly docketed in the office of such clerk. The sheriff shall
33 thereupon proceed upon the same in all respects and with like effect as
34 prescribed by law with respect to execution or other process issued
35 against rights or property upon judgment in the superior court. Such
36 warrant so docketed shall be sufficient to support the issuance of
37 writs of garnishment in favor of the state in a manner provided by law
38 in case of judgment, wholly or partially unsatisfied. The clerk of the

1 court shall be entitled to a filing fee (~~of five dollars~~) under RCW
2 36.18.016, which shall be added to the amount of the warrant. A copy
3 of such warrant shall be mailed to the employer within three days of
4 filing with the clerk.

5 **Sec. 11.** RCW 82.32.210 and 1998 c 311 s 8 are each amended to read
6 as follows:

7 (1) If any fee, tax, increase, or penalty or any portion thereof is
8 not paid within fifteen days after it becomes due, the department of
9 revenue may issue a warrant in the amount of such unpaid sums, together
10 with interest thereon from the date the warrant is issued until the
11 date of payment. If, however, the department of revenue believes that
12 a taxpayer is about to cease business, leave the state, or remove or
13 dissipate the assets out of which fees, taxes or penalties might be
14 satisfied and that any tax or penalty will not be paid when due, it may
15 declare the fee, tax or penalty to be immediately due and payable and
16 may issue a warrant immediately.

17 (a) Interest imposed before January 1, 1999, shall be computed at
18 the rate of one percent of the amount of the warrant for each thirty
19 days or portion thereof.

20 (b) Interest imposed after December 31, 1998, shall be computed on
21 a daily basis on the amount of outstanding tax or fee at the rate as
22 computed under RCW 82.32.050(2). The rate so computed shall be
23 adjusted on the first day of January of each year for use in computing
24 interest for that calendar year. As used in this subsection, "fee"
25 does not include an administrative filing fee such as a court filing
26 fee and warrant fee.

27 (2) The department shall file a copy of the warrant with the clerk
28 of the superior court of any county of the state in which real and/or
29 personal property of the taxpayer may be found. The clerk is entitled
30 to a filing fee under RCW 36.18.016. Upon filing, the clerk shall
31 enter in the judgment docket, the name of the taxpayer mentioned in the
32 warrant and in appropriate columns the amount of the fee, tax or
33 portion thereof and any increases and penalties for which the warrant
34 is issued and the date when the copy is filed, and thereupon the amount
35 of the warrant so docketed shall become a specific lien upon all goods,
36 wares, merchandise, fixtures, equipment, or other personal property
37 used in the conduct of the business of the taxpayer against whom the
38 warrant is issued, including property owned by third persons who have

1 a beneficial interest, direct or indirect, in the operation of the
2 business, and no sale or transfer of the personal property in any way
3 affects the lien.

4 (3) The lien shall not be superior, however, to bona fide interests
5 of third persons which had vested prior to the filing of the warrant
6 when the third persons do not have a beneficial interest, direct or
7 indirect, in the operation of the business, other than the securing of
8 the payment of a debt or the receiving of a regular rental on
9 equipment. The phrase "bona fide interests of third persons" does not
10 include any mortgage of real or personal property or any other credit
11 transaction that results in the mortgagee or the holder of the security
12 acting as trustee for unsecured creditors of the taxpayer mentioned in
13 the warrant who executed the chattel or real property mortgage or the
14 document evidencing the credit transaction.

15 (4) The amount of the warrant so docketed shall thereupon also
16 become a lien upon the title to and interest in all other real and
17 personal property of the taxpayer against whom it is issued the same as
18 a judgment in a civil case duly docketed in the office of the clerk.
19 The warrant so docketed shall be sufficient to support the issuance of
20 writs of garnishment in favor of the state in the manner provided by
21 law in the case of judgments wholly or partially unsatisfied.

22 **Sec. 12.** RCW 82.36.047 and 1998 c 176 s 17 are each amended to
23 read as follows:

24 When an assessment becomes final in accordance with this chapter,
25 the department may file with the clerk of any county within the state
26 a warrant in the amount of the assessment of taxes, penalties,
27 interest, and a filing fee (~~of five dollars~~) under RCW 36.18.016.
28 The clerk of the county in which the warrant is filed shall immediately
29 designate a superior court cause number for the warrant, and the clerk
30 shall cause to be entered in the judgment docket under the superior
31 court cause number assigned to the warrant the name of the licensee or
32 person mentioned in the warrant, the amount of the tax, penalties,
33 interest, and filing fee, and the date when the warrant was filed. The
34 aggregate amount of the warrant as docketed becomes a lien upon the
35 title to and interest in all real and personal property of the named
36 person against whom the warrant is issued, the same as a judgment in a
37 civil case duly docketed in the office of the clerk. The warrant so
38 docketed is sufficient to support the issuance of writs of execution

1 and writs of garnishment in favor of the state in the manner provided
2 by law in the case of a civil judgment, wholly or partially
3 unsatisfied. The clerk of the court is entitled to a filing fee ((~~of~~
4 ~~five dollars~~)) under RCW 36.18.016.

5 **Sec. 13.** RCW 82.38.235 and 1998 c 176 s 78 are each amended to
6 read as follows:

7 Whenever any assessment shall have become final in accordance with
8 the provisions of this chapter, the department may file with the clerk
9 of any county within the state a warrant in the amount of the
10 assessment of taxes, penalties plus interest and a filing fee ((~~of five~~
11 ~~dollars~~)) under RCW 36.18.016. The clerk of the county wherein the
12 warrant is filed shall immediately designate a superior court cause
13 number for such warrant, and the clerk shall cause to be entered in the
14 judgment docket under the superior court cause number assigned to the
15 warrant, the name of the licensee mentioned in the warrant, the amount
16 of the tax, penalties, interest and filing fee and the date when such
17 warrant was filed. The aggregate amount of such warrant as docketed
18 shall become a lien upon the title to, and interest in all real and
19 personal property of named person against whom the warrant is issued,
20 the same as a judgment in a civil case duly docketed in the office of
21 such clerk. Such warrant so docketed shall be sufficient to support
22 the issuance of writs of execution and writs of garnishment in favor of
23 the state in the manner provided by law in the case of civil judgment,
24 wholly or partially unsatisfied. The clerk of the court shall be
25 entitled to a filing fee ((~~of five dollars~~)) under RCW 36.18.016, which
26 shall be added to the amount of the warrant.

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