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# SENATE BILL No. 414

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 33-11.6-4.

**Synopsis:** Marion County small claims courts. Grants Marion County small claims courts equity jurisdiction. Specifies that the court need not rule on an untimely motion for change of venue. Allows an appeal from judgments of the court to be taken to the Marion circuit or superior court. Requires an appellant who files a request for an appeal to: (1) post a surety bond or cash deposit payable to the appellee in an amount sufficient to secure certain costs and penalties; and (2) pay all applicable filing fees; not more than ten days after the date that the appellant files the request for an appeal. Specifies that, in an appeal from a judgment of a small claims court, the circuit court or superior court: (1) must presume the judgment of the small claims court is correct; and (2) may reverse the judgment of the small claims court only if the appellant shows by clear and convincing evidence that the judgment is in error.

**Effective:** July 1, 2001.

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January 18, 2001, read first time and referred to Committee on Judiciary.

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First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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# SENATE BILL No. 414



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 33-11.6-4-1, AS AMENDED BY P.L.95-1999,  
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2001]: Sec. 1. (a) Except for a claim between landlord and  
4 tenant, any case within the jurisdiction of any small claims court may  
5 be venued, commenced, and decided in any township small claims  
6 court within the county. However, upon a motion for change of venue  
7 filed by the defendant within ten (10) days of service of the summons,  
8 the township small claims court shall determine in accordance with  
9 subsection (b) whether required venue lies with the court or with  
10 another small claims court in the county in which the small claims  
11 court in which the action was filed sits.

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

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

17 (2) Venue is in the township where a transaction or occurrence



1 giving rise to any part of the claim took place.

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

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

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

14 (d) If a written motion challenging venue is **timely** received by the  
15 township small claims court **within ten (10) days after service of the**  
16 **summons**, the court shall rule whether required venue lies in the  
17 township of filing. **If a motion for change of venue is not timely**  
18 **filed, the court need not rule on the motion for change of venue,**  
19 **which shall be treated as denied by operation of law.**

20 SECTION 2. IC 33-11.6-4-2 IS AMENDED TO READ AS  
21 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. **Except as otherwise**  
22 **provided in section 4 of this chapter**, the court shall have original  
23 and concurrent jurisdiction with the circuit and superior courts in all  
24 civil cases founded on **equity**, contract, or tort in which the debt or  
25 damage claimed does not exceed six thousand dollars (\$6,000), not  
26 including interest or attorney fees.

27 SECTION 3. IC 33-11.6-4-14 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) All appeals  
29 from judgments of the small claims court shall be taken to the **circuit**  
30 **court or** superior court of the county. **and tried de novo.** Rules of  
31 procedure for appeals shall be in accordance with the rules established  
32 by the superior court. The appellant shall pay all costs necessary for the  
33 filing of the case in the superior court, as if the appeal were a case that  
34 had been filed initially in that court. **An appeal is timely only if it is**  
35 **commenced not more than thirty (30) days after the date a**  
36 **judgment is rendered.**

37 (b) A party commences an appeal by filing a request for an  
38 appeal with the small claims court. The request must specify  
39 whether the appellant intends to appeal to the circuit court or to  
40 the superior court. In a request for an appeal under this section,  
41 the appellant must specifically and succinctly set forth the factual  
42 and legal reasons why the appellant believes the judgment of the

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1 small claims court is in error.

2 (c) An appellant who files a request for an appeal under this  
3 section must:

4 (1) post with the clerk of the small claims court a surety bond  
5 or cash deposit payable to the appellee in an amount sufficient  
6 to secure:

7 (A) the appellee's:

8 (i) claims, interest, and court costs; and

9 (ii) costs of undertaking the litigation of the appeal to a  
10 final judgment; and

11 (B) the payment of any judgment entered against the  
12 appellant; and

13 (2) pay all applicable filing fees;

14 not more than ten (10) days after the date the appellant files the  
15 request for an appeal. If an appellant fails to post a surety bond or  
16 cash deposit or pay applicable fees as required under this  
17 subsection not more than ten (10) days after the date the appellant  
18 files the request for an appeal, the appellant shall be considered to  
19 have withdrawn the appellant's request for an appeal.

20 (d) Except as set forth in subsection (e), an appeal from a  
21 judgment of a small claims court:

22 (1) shall be tried by the circuit court or superior court under  
23 the Indiana Rules of Civil Procedure; and

24 (2) is not subject to the small claims court jurisdictional  
25 limitations established under this article.

26 (e) In an appeal from a judgment of a small claims court, the  
27 circuit court or superior court:

28 (1) shall presume the judgment of the small claims court is  
29 correct; and

30 (2) may reverse the judgment of the small claims court only if  
31 the appellant shows by clear and convincing evidence that the  
32 judgment is in error.

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