HOUSE BILL NO. 649

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....

INTRODUCED BY KOEHNKE

IN THE HOUSE

FEBRUARY	11,	1989	INTRODUCED AND REFERRED TO COMMITTEE ON LOCAL GOVERNMENT.
FEBRUARY	13,	1989	FIRST READING.
FEBRUARY	17,	1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY	18,	1989	PRINTING REPORT.
FEBRUARY	20,	1989	SECOND READING, DO PASS.
FEBRUARY	21,	1989	ENGROSSING REPORT.
			THIRD READING, PASSED. AYES, 90; NOES, 9.
			TRANSMITTED TO SENATE.
		IN	THE SENATE
FEBRUARY	28,	1989	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
			FIRST READING.
MARCH 20	, 19	89	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 21	, 19	89	SECOND READING, CONCURRED IN.
MARCH 23	, 19	89	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

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MARCH 23, 1989

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RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

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1 Heres E BILL NO. 649 2 INTRODUCED BY Kelinke 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE FROM \$1,500 5 TO \$2,500 THE MAXIMUM AMOUNT OF A CLAIM THAT CAN BE HEARD IN 6 SMALL CLAIMS COURT; TO INCREASE FROM \$1,500 TO \$2,500 THE

6 SMALL CLAIMS COURT; TO INCREASE FROM \$1,500 TO \$2,500 THE 7 MAXIMUM AMOUNT OF A COUNTERCLAIM THAT CAN BE DETERMINED IN 8 SMALL CLAIMS COURT; AND AMENDING SECTIONS 3-12-106, 9 25-34-102, 25-34-103, 25-34-207, 25-35-502, 25-35-503, AND 10 25-35-606, MCA."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-12-106, MCA, is amended to read:
"3-12-106. Jurisdiction -- removal from district court.
(1) The small claims court has original jurisdiction in all
actions for the recovery of money or specific personal
property when:

18 (a) such action arises out of a contract, express or 19 implied;

(b) the amount of the claim, exclusive of costs, does
not exceed \$17500 \$2,500; and

(c) the defendant can be served within the county or
counties for which the small claims court has been created.
(2) More than one claim may be joined if all claims
joined would separately meet the requirements for

jurisdiction in the small claims court and the total value
 of money claimed or property sought does not exceed \$1,500
 \$2,500.

4 (3) A district court judge may require any action filed
5 in district court to be removed to the small claims court if
6 the amount in controversy does not exceed \$1,790 \$2,500.
7 The small claims court shall hear any action so removed from
8 the district court."

9 Section 2. Section 25-34-102, MCA, is amended to read: "25-34-102. Jurisdiction -- joinder -- interpleader. 10 11 (1) The small claims court has original jurisdiction in all 12 actions for the recovery of money or specific personal property when such action arises out of a contract, express 13 14 or implied, the amount of the claim, exclusive of costs, does not exceed \$17500 \$2,500, and the defendant can be 15 served within the county or counties for which the small 16 17 claims court has been created.

18 (2) More than one claim may be joined if all claims 19 joined would separately meet the requirements for 20 jurisdiction in the small claims court and the total value 21 of money claimed or property sought does not exceed \$1,500 22 \$2,500.

23 (3) The small claims court has jurisdiction over an
24 interpleader under 25-34-106 in which the amount claimed
25 does not exceed \$17500 \$2,500."

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Section 3. Section 25-34-103, MCA, is amended to read: "25-34-103. Removal from district court. A district court judge may require any action filed in district court to be removed to the small claims court if the amount in controversy does not exceed \$17500 \$2,500. The small claims court shall hear any action so removed from the district court."

Section 4. Section 25-34-207, MCA, is amended to read: 8 "25-34-207. Defendant's counterclaim. (1) If the 9 10 defendant wishes to assert a counterclaim against the 11 plaintiff, he shall file a written answer setting forth his counterclaim against the plaintiff and shall cause the 12 13 answer to be served upon the plaintiff not less than 72 hours before the date set for the hearing. Service shall be 14 15 made in the same manner in which service is made upon the 16 defendant.

17 (2) A counterclaim or setoff may not exceed \$17500 18 \$2,500. If a counterclaim or setoff is asserted in excess of 19 \$17508 \$2,500, the jurisdiction of the small claims court 20 over the plaintiff's claim is not defeated, but the court shall limit its determination of the counterclaim or setoff 21 22 to the question of whether plaintiff's claim is discharged 23 thereby, leaving defendant to prosecute the balance of his 24 claim in appropriate district court action."

25 Section 5. Section 25-35-502, MCA, is amended to read:

1 "25-35-502. Jurisdiction. The small claims court has 2 jurisdiction over all actions for the recovery of money or 3 specific personal property when the amount claimed does not 4 exceed \$17500 \$2,500, exclusive of costs, and the defendant 5 can be served within the county where the action is 6 commenced."

7 Section 6. Section 25-35-503, MCA, is amended to read: 8 "25-35-503. Removal from district court. A district 9 court judge may require any action filed in district court 10 to be removed to the small claims court if the amount in 11 controversy does not exceed \$17500 \$2,500. The small claims 12 court shall hear any action so removed from the district 13 court."

Section 7. Section 25-35-606, MCA, is amended to read: 14 "25-35-606. Defendant's counterclaim. (1) The defendant 15 16 may assert a counterclaim against the plaintiff arising out 17 of the same transaction or occurrence that is the subject 18 matter of the plaintiff's claim by appearing before the 19 justice of the peace and executing a sworn small claims 20 counterclaim in substantially the same form as set forth in subsection (3). The defendant shall cause the counterclaim 21 22 to be served on the plaintiff not less than 72 hours before 23 the date set for the hearing. Service shall be made in the same manner in which service of the order of court/notice to 24 25 defendant is made on the defendant. A defendant may not

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assert as a counterclaim any claim not arising out of the
 transaction or occurrence that is the subject matter of the
 plaintiff's claim.

4 (2) A counterclaim or setoff may not exceed \$17500 5 \$2,500. If a counterclaim or setoff is asserted in excess of 6 \$1,500 \$2,500, the jurisdiction of the small claims court over the plaintiff's claim is not defeated, but the court 7 shall limit its determination of the counterclaim or setoff 8 9 to the question of whether the plaintiff's claim is 10 discharged thereby, leaving the defendant to prosecute the balance of his claim in an appropriate justice or district 11 12 court action.

(3) The counterclaim shall be made 13 on a blank substantially in the following form: 14 15 IN THE SMALL CLAIMS DIVISION OF THE JUSTICE'S COURT OF COUNTY, MONTANA 16 BEFORE JUSTICE OF THE PEACE 17 18 19 20 Plaintiff 21 vs. Counterclaim 22 Case No. ... 23 24 Defendant(s) 25

1 Comes now the defendant, being first duly sworn, upon 2 oath, and alleges that defendant is entitled to counterclaim 3 against the plaintiff in the plaintiff's pending action in 4 the sum of \$...., for 5 6 7 which sum is now due, together with defendant's costs herein 8 expended. 9 10 Defendant 11 12 13 Defendant's address 14 Subscribed and sworn to before me this day of 15 16 17 Justice of the peace 18 By:..... 19 Clerk, small claims division" -End-

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APPROVED BY COMM. ON LOCAL GOVERNMENT

HOUSE BILL NO. 649 1 INTRODUCED BY KOEHNKE 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE FROM \$1,500 4 5 TO \$2,500 THE MAXIMUM AMOUNT OF A CLAIM THAT CAN BE HEARD IN SMALL CLAIMS COURT; TO INCREASE FROM \$1,500 TO \$2,500 THE 6 MAXIMUM AMOUNT OF A COUNTERCLAIM THAT CAN BE DETERMINED IN 7 8 SMALL CLAIMS COURT: AND AMENDING SECTIONS 3-10-1004, 3-12-106, 25-34-102, 25-34-103, 25-34-207, 25-35-502, 9 25-35-503, AND 25-35-606, MCA." 10 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 12 SECTION 1. SECTION 3-10-1004, MCA, IS AMENDED TO READ: 13 14 "3-10-1004. Jurisdiction -- removal from district court. (1) The small claims court has jurisdiction over all 15 actions for the recovery of money or specific personal 16 property when the amount claimed does not exceed \$17500 17

18 $\frac{52,500}{10}$, exclusive of costs, and the defendant can be served 19 within the county where the action is commenced.

20 (2) A district court judge may require any action
21 filed in district court to be removed to the small claims
22 court if the amount in controversy does not exceed \$17500
23 \$2,500. The small claims court shall hear any action so
24 removed from the district court."

25 Section 2. Section 3-12-106, MCA, is amended to read:

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"3-12-106. Jurisdiction -- removal from district
 court. (1) The small claims court has original jurisdiction
 in all actions for the recovery of money or specific
 personal property when:

5 (a) such action arises out of a contract, express or6 implied;

7 (b) the amount of the claim, exclusive of costs, does
8 not exceed \$1,500 \$2,500; and

9 (c) the defendant can be served within the county or 10 counties for which the small claims court has been created. 11 (2) More than one claim may be joined if all claims 12 joined would separately meet the requirements for 13 jurisdiction in the small claims court and the total value 14 of money claimed or property sought does not exceed \$17500 15 \$22,500.

16 (3) A district court judge may require any action
17 filed in district court to be removed to the small claims
18 court if the amount in controversy does not exceed \$1,7500
19 \$2,500. The small claims court shall hear any action so
20 removed from the district court,"

21 Section 3. Section 25-34-102, MCA, is amended to read:

"25-34-102. Jurisdiction -- joinder -- interpleader.

22

23 (1) The small claims court has original jurisdiction in all
24 actions for the recovery of money or specific personal
25 property when such action arises out of a contract, express

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SECOND READING

or implied, the amount of the claim, exclusive of costs,
 does not exceed \$17500 \$2,500, and the defendant can be
 served within the county or counties for which the small
 claims court has been created.

5 (2) More than one claim may be joined if all claims 6 joined would separately meet the requirements for 7 jurisdiction in the small claims court and the total value 8 of money claimed or property sought does not exceed \$17500 9 \$2,500.

10 (3) The small claims court has jurisdiction over an 11 interpleader under 25-34-106 in which the amount claimed 12 does not exceed \$17500 \$2,500."

13 Section 4. Section 25-34-103, MCA, is amended to read: 14 "25-34-103. Removal from district court. A district 15 court judge may require any action filed in district court 16 to be removed to the small claims court if the amount in 17 controversy does not exceed \$17500 \$2,500. The small claims 18 court shall hear any action so removed from the district 19 court."

20 Section 5. Section 25-34-207, MCA, is amended to read: 21 "25-34-207. Defendant's counterclaim. (1) If the 22 defendant wishes to assert a counterclaim against the 23 plaintiff, he shall file a written answer setting forth his 24 counterclaim against the plaintiff and shall cause the 25 answer to be served upon the plaintiff not less than 72 hours before the date set for the hearing. Service shall be
 made in the same manner in which service is made upon the
 defendant.

(2) A counterclaim or setoff may not exceed \$17500 4 \$2,500. If a counterclaim or setoff is asserted in excess of 5 \$1,500 \$2,500, the jurisdiction of the small claims court 6 over the plaintiff's claim is not defeated, but the court 7 shall limit its determination of the counterclaim or setoff 8 9 to the question of whether plaintiff's claim is discharged thereby, leaving defendant to prosecute the balance of his 10 claim in appropriate district court action." 11

Section 6. Section 25-35-502, MCA, is amended to read: "25-35-502. Jurisdiction. The small claims court has jurisdiction over all actions for the recovery of money or specific personal property when the amount claimed does not exceed \$\partial_7500 \$2,500, exclusive of costs, and the defendant can be served within the county where the action is commenced."

19 Section 7. Section 25-35-503, MCA, is amended to read: 20 "25-35-503. Removal from district court. A district 21 court judge may require any action filed in district court 22 to be removed to the small claims court if the amount in 23 controversy does not exceed $\frac{51}{7500}$ $\frac{52,500}{7500}$. The small claims 24 court shall hear any action so removed from the district 25 court."

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Section 8. Section 25-35-606, MCA, is amended to read: 1 "25-35-606. Defendant's 2 counterclaim. (1)The 3 defendant may assert a counterclaim against the plaintiff arising out of the same transaction or occurrence that is 4 the subject matter of the plaintiff's claim by appearing 5 before the justice of the peace and executing a sworn small 6 7 claims counterclaim in substantially the same form as set forth in subsection (3). The defendant shall cause the 8 9 counterclaim to be served on the plaintiff not less than 72 10 hours before the date set for the hearing, Service shall be made in the same manner in which service of the order of 11 court/notice to defendant is made on the defendant. A 12 13 defendant may not assert as a counterclaim any claim not 14 arising out of the transaction or occurrence that is the 15 subject matter of the plaintiff's claim.

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16 (2) A counterclaim or setoff may not exceed \$1,500 \$2,500. If a counterclaim or setoff is asserted in excess of 17 18 \$17500 \$2,500, the jurisdiction of the small claims court 19 over the plaintiff's claim is not defeated, but the court 20 shall limit its determination of the counterclaim or setoff 21 to the question of whether the plaintiff's claim is 22 discharged thereby, leaving the defendant to prosecute the 23 balance of his claim in an appropriate justice or district 24 court action.

25 (3) The counterclaim shall be made on a blank

1	substantially in the following form:					
2	IN THE SMALL CLAIMS DIVISION OF THE JUSTICE'S COURT OF					
3	COUNTY, MONTANA					
4	BEFORE JUSTICE OF THE PEACE					
5						
6						
7	Plaintiff					
8	vs. Counterclaim					
9	Case No					
10						
11	Defendant(s)					
12						
13	Comes now the defendant, being first duly sworn, upon					
14	oath, and alleges that defendant is entitled to counterclaim					
15	against the plaintiff in the plaintiff's pending action in					
16	the sum of \$, for					
17						
18						
19	which sum is now due, together with defendant's costs herein					
20	expended.					
21	Dated this day of 19					
22						
23	. Defendant					
24						
25	Defendant's address					
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1	Subscribed and sworn to before me this day of		
2	19		
3			
4	Justice of the peace		
5	By:		
6	Clerk, small claims division"		
-End-			

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A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE FROM \$1,500 4 TO \$2,500 THE MAXIMUM AMOUNT OF A CLAIM THAT CAN BE HEARD IN 5 SMALL CLAIMS COURT; TO INCREASE FROM \$1,500 TO \$2,500 THE б MAXIMUM AMOUNT OF A COUNTERCLAIM THAT CAN BE DETERMINED IN 7 SMALL CLAIMS COURT; AND AMENDING SECTIONS 3-10-1004, 8 3-12-106, 25-34-102, 25-34-103, 25-34-207, 25-35-502, 9 25-35-503, AND 25-35-606, MCA." 10

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 SECTION 1. SECTION 3-10-1004, MCA, IS AMENDED TO READ: 14 "3-10-1004. Jurisdiction -- removal from district 15 court. (1) The small claims court has jurisdiction over all 16 actions for the recovery of money or specific personal 17 property when the amount claimed does not exceed \$1,590 18 \$2,500, exclusive of costs, and the defendant can be served 19 within the county where the action is commenced.

20 (2) A district court judge may require any action 21 filed in district court to be removed to the small claims 22 court if the amount in controversy does not exceed 91_7500 23 <u>\$2,500</u>. The small claims court shall hear any action so 24 removed from the district court."

25

Section 2. Section 3-12-106, MCA, is amended to read:

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"3-12-106. Jurisdiction -- removal from district
 court. (1) The small claims court has original jurisdiction
 in all actions for the recovery of money or specific
 personal property when:

5 (a) such action arises out of a contract, express or6 implied;

7 (b) the amount of the claim, exclusive of costs, does
8 not exceed \$17500 \$2,500; and

9 (c) the defendant can be served within the county or 10 counties for which the small claims court has been created. 11 (2) More than one claim may be joined if all claims 12 joined would separately meet the requirements for 13 jurisdiction in the small claims court and the total value 14 of money claimed or property sought does not exceed \$17500 15 \$2,500.

16 (3) A district court judge may require any action
17 filed in district court to be removed to the small claims
18 court if the amount in controversy does not exceed \$17500
19 \$2,500. The small claims court shall hear any action so
20 removed from the district court."

Section 3. Section 25-34-102, MCA, is amended to read:
 *25-34-102. Jurisdiction -- joinder -- interpleader.
 (1) The small claims court has original jurisdiction in all
 actions for the recovery of money or specific personal
 property when such action arises out of a contract, express

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or implied, the amount of the claim, exclusive of costs,
 does not exceed \$17500 \$2,500, and the defendant can be
 served within the county or counties for which the small
 claims court has been created.

5 (2) More than one claim may be joined if all claims 6 joined would separately meet the requirements for 7 jurisdiction in the small claims court and the total value 8 of money claimed or property sought does not exceed \$17500 9 \$2,500.

10 (3) The small claims court has jurisdiction over an
11 interpleader under 25-34-106 in which the amount claimed
12 does not exceed \$17500 \$2,500."

13 Section 4. Section 25-34-103, MCA, is amended to read: 14 "25-34-103. Removal from district court. A district 15 court judge may require any action filed in district court 16 to be removed to the small claims court if the amount in 17 controversy does not exceed \$17500 \$2,500. The small claims 18 court shall hear any action so removed from the district 19 court."

20 Section 5. Section 25-34-207, MCA, is amended to read: 21 "25-34-207. Defendant's counterclaim. (1) If the 22 defendant wishes to assert a counterclaim against the 23 plaintiff, he shall file a written answer setting forth his 24 counterclaim against the plaintiff and shall cause the 25 answer to be served upon the plaintiff not less than 72 hours before the date set for the hearing. Service shall be
 made in the same manner in which service is made upon the
 defendant.

4 (2) A counterclaim or setoff may not exceed \$17500 5 \$2,500. If a counterclaim or setoff is asserted in excess of \$1,500 \$2,500, the jurisdiction of the small claims court 6 7 over the plaintiff's claim is not defeated, but the court 8 shall limit its determination of the counterclaim or setoff to the question of whether plaintiff's claim is discharged 9 thereby, leaving defendant to prosecute the balance of his 10 11 claim in appropriate district court action."

Section 6. Section 25-35-502, MCA, is amended to read: "25-35-502. Jurisdiction. The small claims court has jurisdiction over all actions for the recovery of money or specific personal property when the amount claimed does not exceed 917500 §2,500, exclusive of costs, and the defendant can be served within the county where the action is commenced."

19 Section 7. Section 25-35-503, MCA, is amended to read:
20 "25-35-503. Removal from district court. A district
21 court judge may require any action filed in district court
22 to be removed to the small claims court if the amount in
23 controversy does not exceed \$17500 \$2,500. The small claims
24 court shall hear any action so removed from the district
25 court."

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1 Section 8. Section 25-35-606, MCA, is amended to read: 2 "25-35-606. Defendant's counterclaim. (1)The defendant may assert a counterclaim against the plaintiff 3 4 arising out of the same transaction or occurrence that is 5 the subject matter of the plaintiff's claim by appearing before the justice of the peace and executing a sworn small 6 claims counterclaim in substantially the same form as set 7 8 forth in subsection (3). The defendant shall cause the 9 counterclaim to be served on the plaintiff not less than 72 10 hours before the date set for the hearing. Service shall be made in the same manner in which service of the order of 11 12 court/notice to defendant is made on the defendant. A 13 defendant may not assert as a counterclaim any claim not arising out of the transaction or occurrence that is the 14 15 subject matter of the plaintiff's claim.

16 (2) A counterclaim or setoff may not exceed \$17500 \$2,500. If a counterclaim or setoff is asserted in excess of 17 18 \$17500 \$2,500, the jurisdiction of the small claims court 19 over the plaintiff's claim is not defeated, but the court 20 shall limit its determination of the counterclaim or setoff 21 to the question of whether the plaintiff's claim is 22 discharged thereby, leaving the defendant to prosecute the balance of his claim in an appropriate justice or district 23 24 court action.

25 (3) The counterclaim shall be made on a blank

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2 IN THE SMALL CLAIMS DIVISION OF THE JUSTICE'S COURT OF 3 COUNTY, MONTANA BEFORE JUSTICE OF THE PEACE 4 5 б 7 Plaintiff vs. Counterclaim B Case No. ... 9 10 11 Defendant(s) 12 13 Comes now the defendant, being first duly sworn, upon 14 oath, and alleges that defendant is entitled to counterclaim against the plaintiff in the plaintiff's pending action in 15 the sum of \$...., for 16 17 18 which sum is now due, together with defendant's costs herein 19 20 expended. Dated this day of 19.... 21 22 Defendant 23 24 Defendant's address 25

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substantially in the following form:

1	Subscribed and sworn to before me this day of
2	
3	
4	Justice of the peace
5	Ву:
6	Clerk, small claims division"
	-End-

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1	HOUSE BILL NO. 649	1	"3-12-106. Jurisdiction removal from district
2	INTRODUCED BY KOEHNKE	2	court. (1) The small claims court has original jurisdiction
3		3	in all actions for the recovery of money or specific
4	A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE FROM \$1,500	4	personal property when:
5	TO \$2,500 THE MAXIMUM AMOUNT OF A CLAIM THAT CAN BE HEARD IN	5	(a) such action arises out of a contract, express or
6	SMALL CLAIMS COURT; TO INCREASE FROM \$1,500 TO \$2,500 THE	6	<pre>implied;</pre>
7	MAXIMUM AMOUNT OF A COUNTERCLAIM THAT CAN BE DETERMINED IN	7	(b) the amount of the claim, exclusive of costs, does
8	SMALL CLAIMS COURT; AND AMENDING SECTIONS 3-10-1004,	8	not exceed \$1,500 <u>\$2,500</u> ; and
9	3-12-106, 25-34-102, 25-34-103, 25-34-207, 25-35-502,	9	(c) the defendant can be served within the county or
10	25-35-503, AND 25-35-606, MCA."	10	counties for which the small claims court has been created.
11		11	(2) More than one claim may be joined if all claims
12	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:	12	joined would separately meet the requirements for
13	SECTION 1. SECTION 3-10-1004, MCA, IS AMENDED TO READ:	13	jurisdiction in the small claims court and the total value
14	"3-10-1004. Jurisdiction ~- removal from district	14	of money claimed or property sought does not exceed \$17500
15	court. (1) The small claims court has jurisdiction over all	15	<u>\$2,500</u> .
16	actions for the recovery of money or specific personal	16	(3) A district court judge may require any action
17	property when the amount claimed does not exceed \$17500	17	filed in district court to be removed to the small claims
18	\$2,500, exclusive of costs, and the defendant can be served	18	court if the amount in controversy does not exceed $\frac{1}{27500}$
19	within the county where the action is commenced.	19	\$2,500. The small claims court shall hear any action so
20	(2) A district court judge may require any action	20	removed from the district court."
21	filed in district court to be removed to the small claims	21	Section 3. Section 25-34-102, MCA, is amended to read:
22	court if the amount in controversy does not exceed 17500	22	"25-34-102. Jurisdiction joinder interpleader.
23	$\frac{2,500}{2,500}$. The small claims court shall hear any action so	23	(1) The small claims court has original jurisdiction in all
24	removed from the district court."	24	actions for the recovery of money or specific personal
25	Section 2. Section 3-12-106, MCA, is amended to read:	25	property when such action arises out of a contract, express



REFERENCE BILL

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or implied, the amount of the claim, exclusive of costs,
 does not exceed \$17500 \$2,500, and the defendant can be
 served within the county or counties for which the small
 claims court has been created.

5 (2) More than one claim may be joined if all claims 6 joined would separately meet the requirements for 7 jurisdiction in the small claims court and the total value 8 of money claimed or property sought does not exceed \$17500 9 \$2,500.

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 11 interpleader under 25-34-106 in which the amount claimed
 12 does not exceed \$17500 \$2,500."

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20 Section 5. Section 25-34-207, MCA, is amended to read: 21 "25-34-207. Defendant's counterclaim. (1) If the 22 defendant wishes to assert a counterclaim against the 23 plaintiff, he shall file a written answer setting forth his 24 counterclaim against the plaintiff and shall cause the 25 answer to be served upon the plaintiff not less than 72 hours before the date set for the hearing. Service shall be
 made in the same manner in which service is made upon the
 defendant.

4 (2) A counterclaim or setoff may not exceed \$17509 \$2,500. If a counterclaim or setoff is asserted in excess of 5 \$1,500 \$2,500, the jurisdiction of the small claims court 6 over the plaintiff's claim is not defeated, but the court 7 shall limit its determination of the counterclaim or setoff R 9 to the question of whether plaintiff's claim is discharged thereby, leaving defendant to prosecute the balance of his 10 claim in appropriate district court action." 11

12 Section 6. Section 25-35-502, MCA, is amended to read:

13 "25-35-502. Jurisdiction. The small claims court has 14 jurisdiction over all actions for the recovery of money or 15 specific personal property when the amount claimed does not 16 exceed \$17500 \$2,500, exclusive of costs, and the defendant 17 can be served within the county where the action is 18 commenced."

19 Section 7. Section 25-35-503, MCA, is amended to read: 20 "25-35-503. Removal from district court. A district 21 court judge may require any action filed in district court 22 to be removed to the small claims court if the amount in 23 controversy does not exceed \$17500 \$2,500. The small claims 24 court shall hear any action so removed from the district 25 court."

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Section 8. Section 25-35-606, MCA, is amended to read: 1 2 *25-35-606. Defendant's counterclaim. (1)The 3 defendant may assert a counterclaim against the plaintiff 4 arising out of the same transaction or occurrence that is the subject matter of the plaintiff's claim by appearing 5 6 before the justice of the peace and executing a sworn small 7 claims counterclaim in substantially the same form as set 8 forth in subsection (3). The defendant shall cause the 9 counterclaim to be served on the plaintiff not less than 72 10 hours before the date set for the hearing. Service shall be 11 made in the same manner in which service of the order of 12 court/notice to defendant is made on the defendant. A 13 defendant may not assert as a counterclaim any claim not arising out of the transaction or occurrence that is the 14 15 subject matter of the plaintiff's claim.

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16 (2) A counterclaim or setoff may not exceed 917500 \$2,500. If a counterclaim or setoff is asserted in excess of 17 \$17500 \$2,500, the jurisdiction of the small claims court 18 19 over the plaintiff's claim is not defeated, but the court shall limit its determination of the counterclaim or setoff 20 21 to the question of whether the plaintiff's claim is 22 discharged thereby, leaving the defendant to prosecute the 23 balance of his claim in an appropriate justice or district 24 court action.

25 (3) The counterclaim shall be made on a blank

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1 substantially in the following form: 2 IN THE SMALL CLAIMS DIVISION OF THE JUSTICE'S COURT OF 3 COUNTY, MONTANA 4 BEFORE JUSTICE OF THE PEACE 5 6 7 Plaintiff Counterclaim 8 VS. Case No. ... 9 10 11 Defendant(s) 12 13 Comes now the defendant, being first duly sworn, upon 14 oath, and alleges that defendant is entitled to counterclaim against the plaintiff in the plaintiff's pending action in 15 the sum of S....., for 16 17 18 which sum is now due, together with defendant's costs herein 19 20 expended. Dated this day of 19.... 21 22 Defendant 23 24 Defendant's address 25 -6-HB 649

and and an international states and balance and balance as a formation of the second states of the

1	Subscribed and sworn to before me this day of
2	
3	
4	Justice of the peace
5	By:
6	Clerk, small claims division"
	-End-

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