

2 **ESB 5449** - CONF REPT  
3 By Conference Committee

4 ADOPTED 3/9/94

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 4.56.100 and 1983 c 28 s 1 are each amended to read  
8 as follows:

9 (1) When any judgment for the payment of money only shall have been  
10 paid or satisfied, the clerk of the court in which such judgment was  
11 rendered shall note upon the record in the execution docket  
12 satisfaction thereof giving the date of such satisfaction upon either  
13 the payment to such clerk of the amount of such judgment, costs and  
14 interest and any accrued costs by reason of the issuance of any  
15 execution, or the filing with such clerk of a satisfaction entitled in  
16 such action and identifying the same executed by the judgment creditor  
17 or his attorney of record in such action or his assignee acknowledged  
18 as deeds are acknowledged. Every satisfaction of judgment and every  
19 partial satisfaction of judgment which provides for the payment of  
20 money shall clearly designate the judgment creditor and his or her  
21 attorney if any, the judgment debtor, the amount or type of  
22 satisfaction, whether the satisfaction is full or partial, the cause  
23 number, and the date of entry of the judgment. A certificate by such  
24 clerk of the entry of such satisfaction by him may be filed in the  
25 office of the clerk of any county in which an abstract of such judgment  
26 has been filed. When so satisfied by the clerk or the filing of such  
27 certificate the lien of such judgment shall be discharged.

28 (2) The department of social and health services shall file a  
29 satisfaction of judgment for welfare fraud conviction if a person does  
30 not pay money through the clerk as required under subsection (1) of  
31 this section.

32 (3) The department of corrections shall file a satisfaction of  
33 judgment if a person does not pay money through the clerk's office as  
34 required under subsection (1) of this section.

1       **Sec. 2.** RCW 4.64.030 and 1987 c 442 s 1107 are each amended to  
2 read as follows:

3       The clerk shall enter all judgments in the execution docket,  
4 subject to the direction of the court and shall specify clearly the  
5 amount to be recovered, the relief granted, or other determination of  
6 the action.

7       On the first page of each judgment which provides for the payment  
8 of money, the following shall be succinctly summarized: The judgment  
9 creditor and the name of his or her attorney, the judgment debtor, the  
10 amount of the judgment, the interest owed to the date of the judgment,  
11 and the total of the taxable costs and attorney fees, if known at the  
12 time of the entry of the judgment. If the attorney fees and costs are  
13 not included in the judgment, they shall be summarized in the cost bill  
14 when filed. This information is included in the judgment to assist the  
15 county clerk in his or her record-keeping function. The clerk may not  
16 sign or file a judgment, and a judgment does not take effect, until the  
17 judgment has a summary in compliance with this section. The clerk is  
18 not liable for an incorrect summary.

19       **Sec. 3.** RCW 6.21.110 and 1987 c 442 s 611 are each amended to read  
20 as follows:

21       (1) Upon the return of any sale of real estate, the clerk: (a)  
22 shall enter the cause, on which the execution or order of sale issued,  
23 by its title, on the motion docket, and mark opposite the same: "Sale  
24 of land for confirmation"; (b) shall mail notice of the filing of the  
25 return of sale to all parties who have entered a written notice of  
26 appearance in the action and who have not had an order of default  
27 entered against them; (c) shall file proof of such mailing in the  
28 action; (d) shall apply the proceeds of the sale returned by the  
29 sheriff, or so much thereof as may be necessary, to satisfaction of the  
30 judgment, including interest as provided in the judgment, and shall pay  
31 any excess proceeds as provided in subsection (5) of this section by  
32 direction of court order; and (e) upon confirmation of the sale, shall  
33 deliver the original certificate of sale to the purchaser.

34       (2) The judgment creditor or successful purchaser at the sheriff's  
35 sale is entitled to an order confirming the sale at any time after  
36 twenty days have elapsed from the mailing of the notice of the filing  
37 of the sheriff's return, on motion with notice given to all parties who  
38 have entered a written notice of appearance in the action and who have

1 not had an order of default entered against them, unless the judgment  
2 debtor, or in case of the judgment debtor's death, the representative,  
3 or any nondefaulting party to whom notice was sent shall file  
4 objections to confirmation with the clerk within twenty days after the  
5 mailing of the notice of the filing of such return.

6 (3) If objections to confirmation are filed, the court shall  
7 nevertheless allow the order confirming the sale, unless on the hearing  
8 of the motion, it shall satisfactorily appear that there were  
9 substantial irregularities in the proceedings concerning the sale, to  
10 the probable loss or injury of the party objecting. In the latter  
11 case, the court shall disallow the motion and direct that the property  
12 be resold, in whole or in part, as the case may be, as upon an  
13 execution received as of that date.

14 (4) Upon a resale, the bid of the purchaser at the former sale  
15 shall be deemed to be renewed and continue in force, and no bid shall  
16 be taken, except for a greater amount. If on resale the property sells  
17 for a greater amount to any person other than the former purchaser, the  
18 clerk shall first repay to the former purchaser out of the proceeds of  
19 the resale the amount of the former purchaser's bid together with  
20 interest as is provided in the judgment.

21 (5) If, after the satisfaction of the judgment, there be any  
22 proceeds of the sale remaining, the clerk shall pay such proceeds to  
23 the judgment debtor, or the judgment debtor's representative, as the  
24 case may be, before the order is made upon the motion to confirm the  
25 sale only if the party files with the clerk a waiver of all objections  
26 made or to be made to the proceedings concerning the sale; otherwise  
27 the excess proceeds shall remain in the custody of the clerk until the  
28 sale of the property has been disposed of; but if the sale be  
29 confirmed, such excess proceeds shall be paid to the judgment debtor or  
30 representative as a matter of course.

31 (6) The purchaser shall file the original certificate of sale for  
32 record with the recording officer in the county in which the property  
33 is located.

34 **Sec. 4.** RCW 36.48.090 and 1987 c 363 s 4 are each amended to read  
35 as follows:

36 Whenever the clerk of the superior court has funds held in trust  
37 for any litigant or for any purpose, they shall be deposited in a  
38 separate fund designated "clerk's trust fund," and shall not be

1 commingled with any public funds. However, in the case of child  
2 support payments, the clerk may send the checks or drafts directly to  
3 the recipient or endorse the instrument to the recipient and the clerk  
4 is not required to deposit such funds. In processing child support  
5 payments, the clerk shall comply with RCW 26.09.120. The clerk may  
6 invest the funds in any of the investments authorized by RCW 36.29.020.  
7 The clerk shall place the income from such investments in the county  
8 current expense fund to be used by the county for general county  
9 purposes unless: (1) The funds being held in trust in a particular  
10 matter are two thousand dollars or more, and (2) a litigant in the  
11 matter has filed a written request that such investment be made of the  
12 funds being held in trust (~~and the income be paid to the~~  
13 ~~beneficiary~~). Interest income accrued from the date of filing of the  
14 written request for investment shall be paid to the beneficiary. In  
15 such an event, any income from such investment shall be paid to the  
16 beneficiary of such trust upon the termination thereof: PROVIDED, That  
17 five percent of the income shall be deducted by the clerk as an  
18 investment service fee and placed in the county current expense fund to  
19 be used by the county for general county purposes.

20 In any matter where funds are held in the clerk's trust fund, any  
21 litigant who is not represented by an attorney and who has appeared in  
22 matters where the funds held are two thousand dollars or more shall  
23 receive written notice of the provisions of this section from the  
24 clerk.

25 **Sec. 5.** RCW 7.40.080 and 1957 c 51 s 9 are each amended to read as  
26 follows:

27 No injunction or restraining order shall be granted until the party  
28 asking it shall enter into a bond, in such a sum as shall be fixed by  
29 the court or judge granting the order, with surety to the satisfaction  
30 of the clerk of the superior court, to the adverse party affected  
31 thereby, conditioned to pay all damages and costs which may accrue by  
32 reason of the injunction or restraining order. The sureties shall, if  
33 required by the clerk, justify as provided by law, and until they so  
34 justify, the clerk shall be responsible for their sufficiency. The  
35 court in its sound discretion may waive the required bond in situations  
36 in which a person's health or life would be jeopardized.

1       **Sec. 6.** RCW 6.36.025 and 1977 ex.s. c 45 s 1 are each amended to  
2 read as follows:

3       (1) A copy of any foreign judgment authenticated in accordance with  
4 the act of congress or the statutes of this state may be filed in the  
5 office of the clerk of any superior court of any county of this state.  
6 The clerk shall treat the foreign judgment in the same manner as a  
7 judgment of the superior court of this state. A judgment so filed has  
8 the same effect and is subject to the same procedures, defenses, set-  
9 offs, counterclaims, cross-complaints, and proceedings for reopening,  
10 vacating, or staying as a judgment of a superior court of this state  
11 and may be enforced or satisfied in like manner.

12       (2) Alternatively, a copy of any foreign judgment (a) authenticated  
13 in accordance with the act of congress or the statutes of this state,  
14 and (b) within the civil jurisdiction and venue of the district court  
15 as provided in RCW 3.66.020, 3.66.030, and 3.66.040, may be filed in  
16 the office of the clerk of any district court of this state. The clerk  
17 shall treat the foreign judgment in the same manner as a judgment of  
18 the district court of this state. A judgment so filed has the same  
19 effect and is subject to the same procedures, defenses, set-offs,  
20 counterclaims, cross-complaints, and proceedings for reopening,  
21 vacating, or staying as a judgment of a district court of this state,  
22 and may be enforced or satisfied in like manner.

23       **Sec. 7.** RCW 6.36.035 and 1979 c 97 s 1 are each amended to read as  
24 follows:

25       (1) At the time of the filing of the foreign judgment, the judgment  
26 creditor or the judgment creditor's lawyer shall make and file with the  
27 clerk of court an affidavit setting forth the name and last known post  
28 office address of the judgment debtor, and the judgment creditor.

29       (2) Promptly upon the filing of the foreign judgment and the  
30 affidavit, the clerk shall mail notice of the filing of the foreign  
31 judgment to the judgment debtor at the address given and shall make a  
32 note of the mailing in the docket. The notice shall include the name  
33 and post office address of the judgment creditor and the judgment  
34 creditor's lawyer if any in this state. In addition, the judgment  
35 creditor may mail a notice of the filing of the judgment to the  
36 judgment debtor and may file proof of mailing with the clerk. Lack of  
37 notice of filing by the clerk shall not affect the enforcement

1 proceedings if proof of mailing by the judgment creditor has been  
2 filed.

3 (3)(a) No execution or other process for enforcement of a foreign  
4 judgment filed (~~hereunder~~) in the office of the clerk of a superior  
5 court shall issue until ten days after the date the judgment is filed,  
6 or until ten days after mailing the notice of filing, whether mailed by  
7 the clerk or judgment creditor, whichever is later.

8 (b) No execution or other process for enforcement of a foreign  
9 judgment filed in the office of the clerk of a district court shall  
10 issue until fourteen days after the date the judgment is filed, or  
11 until fourteen days after mailing the notice of filing, whether mailed  
12 by the clerk or judgment creditor, whichever is later.

13 **Sec. 8.** RCW 6.36.045 and 1977 ex.s. c 45 s 3 are each amended to  
14 read as follows:

15 (1)(a) If the judgment debtor shows the superior court of any  
16 county that an appeal from the foreign judgment is pending or will be  
17 taken, or that a stay of execution has been granted, the court shall  
18 stay enforcement of the foreign judgment until the appeal is concluded,  
19 the time for appeal expires, or the stay of execution expires or is  
20 vacated, upon proof that the judgment debtor has furnished the security  
21 for the satisfaction of the judgment required by the state in which it  
22 was rendered.

23 (~~(2)~~) (b) If the judgment debtor shows the superior court of any  
24 county any ground upon which enforcement of a judgment of a superior  
25 court of any county of this state would be stayed, the court shall stay  
26 enforcement of the foreign judgment for an appropriate period, upon  
27 requiring the same security for satisfaction of the judgment which is  
28 required in this state.

29 (2)(a) If the judgment debtor shows the district court that an  
30 appeal from the foreign judgment is pending or will be taken, or that  
31 a stay of execution has been granted, the court shall stay enforcement  
32 of the foreign judgment until the appeal is concluded, the time for  
33 appeal expires, or the stay of execution expires or is vacated, upon  
34 proof that the judgment debtor has furnished the security for the  
35 satisfaction of the judgment required by the state in which it was  
36 rendered.

37 (b) If the judgment debtor shows the district court any ground upon  
38 which enforcement of a judgment of a district court of this state would

1 be stayed, the court shall stay enforcement of the foreign judgment for  
2 an appropriate period, upon requiring the same security for  
3 satisfaction of the judgment which is required in this state.

4 NEW SECTION. Sec. 9. A new section is added to chapter 36.18 RCW  
5 to read as follows:

6 Superior court clerks may contract with collection agencies or may  
7 use county collection services for the collection of unpaid court  
8 obligations. The costs for the agencies or county services shall be  
9 paid by the debtor. Collection may not be initiated with respect to a  
10 criminal offender who is under the supervision of the department of  
11 corrections without the prior agreement of the department.

12 Any contract with a collection agency shall be awarded only after  
13 competitive bidding. Factors that a court clerk shall consider in  
14 awarding a collection contract include but are not limited to: (1) A  
15 collection agency's history and reputation in the community; and (2)  
16 the agency's access to a local data base that may increase the  
17 efficiency of its collections.

18 The servicing of an unpaid court obligation does not constitute  
19 assignment of a debt, and no contract with a collection agency may  
20 remove the court's control over unpaid obligations owed to the court."

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24 On page 1, line 1 of the title, after "judgments;" strike the  
25 remainder of the title and insert "amending RCW 4.56.100, 4.64.030,  
26 6.21.110, 36.48.090, 7.40.080, 6.36.025, 6.36.035, and 6.36.045; and  
27 adding a new section to chapter 36.18 RCW."

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