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HOUSE BILL 2907

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State of Washington                      55th Legislature                      1998 Regular Session

By Representatives Sheahan, Robertson, Dunshee, Mason and Lantz

Read first time 01/22/98. Referred to Committee on Law & Justice.

1            AN ACT Relating to small claims courts; and amending RCW 12.36.020,  
2 12.36.030, 12.36.050, 12.36.080, 12.40.105, and 12.40.110.

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

4            **Sec. 1.** RCW 12.36.020 and 1997 c 352 s 8 are each amended to read  
5 as follows:

6            (1) To appeal a judgment or decision in a small claims action, an  
7 appellant shall file a notice of appeal in the district court, pay the  
8 statutory superior court filing fee, post the required bond or  
9 undertaking, and serve a copy of the notice of appeal on all parties of  
10 record within thirty days after the judgment is rendered or decision  
11 made.

12            (2) No appeal may be allowed, nor proceedings on the judgment or  
13 decision stayed, unless a bond or undertaking shall be executed on the  
14 part of the appellant and filed with and approved by the district  
15 court. The bond or undertaking shall be executed with two or more  
16 personal sureties, or a surety company as surety, to be approved by the  
17 district court, in a sum equal to twice the amount of the judgment and  
18 costs, or twice the amount in controversy, whichever is greater,  
19 conditioned that the appellant will pay any judgment, including costs,

1 as may be rendered on appeal. No bond is required if the appellant is  
2 a county, city, town, or school district.

3 (3) When an appellant has filed a notice of appeal, paid the  
4 statutory superior court filing fee and the costs of preparation of the  
5 complete record as set forth in RCW 3.62.060(7), and posted the bond or  
6 undertaking as required, the clerk of the district court shall  
7 immediately file a copy of the notice of appeal, the filing fee, and  
8 the bond or undertaking with the superior court.

9 **Sec. 2.** RCW 12.36.030 and 1997 c 352 s 9 are each amended to read  
10 as follows:

11 When an appeal and any necessary bond or undertaking are properly  
12 filed (~~((in the district court, and the appeal filed))~~) in superior court  
13 pursuant to RCW (~~(12.36.010)~~) 12.36.020(3), the appellant may move in  
14 superior court to stay all further proceedings in the district court.  
15 If the stay is granted, (~~((the district court shall order that))~~) all  
16 further proceedings in district court on the judgment shall be  
17 suspended. If proceedings have commenced on motion of the appellant  
18 the (~~((district))~~) court may order the proceedings halted and such  
19 process recalled.

20 If any property is held pursuant to such proceedings at the time  
21 the stay is granted and the process recalled, such property shall be  
22 returned immediately to the party entitled to such property.

23 If the requested stay is denied, or no stay is requested, the  
24 judgment will be enforced in superior court in the same manner as any  
25 other judgment rendered in that court.

26 **Sec. 3.** RCW 12.36.050 and 1997 c 352 s 10 are each amended to read  
27 as follows:

28 (1) Within fourteen days after a small claims appeal has been filed  
29 in superior court by the clerk of the district court pursuant to RCW  
30 12.36.020(3), the (~~((appellant shall file with the clerk of the district~~  
31 ~~court, and serve on all parties, a designation of that portion of the~~  
32 ~~complete record which the appellant wishes to have transmitted to~~  
33 ~~superior court. The designation may be supplemented by any party~~  
34 ~~within fourteen days of such filing))~~) complete record as defined in  
35 subsection (2) of this section shall be made and certified by the clerk  
36 of the district court to be correct. The clerk shall then immediately  
37 transmit the complete record to superior court. The superior court

1 shall then become possessed of the cause. All further proceedings  
2 shall be in the superior court, including enforcement of any judgment  
3 rendered. Any mandatory superior court procedures such as arbitration  
4 or other dispute resolution will apply as if the cause was originally  
5 filed in superior court. The statute governing the trial de novo shall  
6 only apply to those cases set for trial after compliance with superior  
7 court procedures.

8 (2) The complete record shall consist of a transcript of all  
9 entries made in the district court docket relating to the case,  
10 together with all the process and other papers relating to the case  
11 filed with the district court and any contemporaneous recording made of  
12 the proceeding.

13 ~~((3) The record as designated shall be made and certified by the~~  
14 ~~clerk of the district court to be correct. The clerk shall notify all~~  
15 ~~parties designating portions of the record that the designated record~~  
16 ~~is complete, and the amount to be paid for preparation of that portion~~  
17 ~~of the record requested by each party. Payment of such costs by each~~  
18 ~~party for preparation of that portion of the record they designate must~~  
19 ~~be made within ten days of such notice from the clerk. Upon payment of~~  
20 ~~such costs, the designated record shall be transmitted to the superior~~  
21 ~~court. By such transmittal the superior court shall become possessed~~  
22 ~~of the cause.))~~

23 **Sec. 4.** RCW 12.36.080 and 1997 c 352 s 12 are each amended to read  
24 as follows:

25 No appeal under this chapter shall be dismissed on account of any  
26 defect in the bond on appeal, if, within ten days of notice to  
27 appellant of such defect, the appellant executes and files in the  
28 ~~((district))~~ court currently possessed of the cause such bond as should  
29 have been executed at the time of taking the appeal, and pay all costs  
30 that may have accrued by reason of such defect.

31 **Sec. 5.** RCW 12.40.105 and 1995 c 292 s 5 are each amended to read  
32 as follows:

33 If the losing party fails to pay the judgment within ~~((twenty))~~  
34 thirty days or within the period otherwise ordered by the court, the  
35 judgment shall be increased by: (1) An amount sufficient to cover  
36 costs of certification of the judgment under RCW 12.40.110; and (2) the

1 amount specified in RCW 36.18.012(2), without regard to the  
2 jurisdictional limits on the small claims department.

3 **Sec. 6.** RCW 12.40.110 and 1995 c 292 s 6 are each amended to read  
4 as follows:

5 (1) If the losing party fails to pay the judgment according to the  
6 terms and conditions thereof within (~~twenty~~) thirty days or is in  
7 arrears on any payment plan, and the prevailing party so notifies the  
8 court, the (~~judge before whom such hearing was had~~) court shall  
9 certify the judgment in substantially the following form:

Washington.

10  
11 In the District Court of . . . . . County.

12 . . . . . Plaintiff,

13 vs.

14 . . . . . Defendant.

15 In the Small Claims Department.

16 This is to certify that: (1) In a certain action (~~before me, the~~  
17 ~~undersigned, had~~) on (~~this~~) the . . . . . day of . . . . . 19. . . . ,  
18 wherein . . . . . was plaintiff and . . . . .  
19 defendant, jurisdiction of said defendant having been had by personal  
20 service (or otherwise) as provided by law, (~~I then and there entered~~)  
21 judgment was entered against . . . . . in the sum of . . . . .  
22 Dollars; (2) the judgment has not been paid within twenty days or the  
23 period otherwise ordered by the court; and (3) pursuant to RCW  
24 12.40.105, the amount of the judgment is hereby increased by any costs  
25 of certification under this section and the amount specified in RCW  
26 36.18.012(2).

27 Witness my hand this . . . . . day of . . . . . , 19. . . .

28  
29 (~~District Judge sitting in the~~)

30 Clerk of the Small Claims Department.

31 (2) The (~~judge~~) clerk shall forthwith enter the judgment  
32 transcript on the judgment docket of the district court; and thereafter  
33 garnishment, execution, and other process on execution provided by law  
34 may issue thereon, as in other judgments of district courts.

1       (3) Transcripts of such judgments may be filed and entered in  
2 judgment lien dockets in superior courts with like effect as in other  
3 cases.

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