LC 0072
2027 Regular Session
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D R A F T

SUMMARY

Digest: The Act changes what justice courts can become courts of record and also changes the rules for some civil appeals in justice courts. (Flesch Readability Score: 65.7).

Allows justice courts located within 50 miles of the county circuit court to become courts of record.

Modifies the procedures for filing undertakings in civil appeals in justice courts. Directs the State Court Administrator to create model forms for undertakings.

A BILL FOR AN ACT

Relating to local courts; creating new provisions; and amending ORS 51.025 and 55.305.

Be It Enacted by the People of the State of Oregon:

JUSTICE COURTS OF RECORD

SECTION 1. ORS 51.025 is amended to read:

51.025. (1) [*Except as provided in subsection (7) of this section, any*] **A** justice court may become a court of record by:

(a) The passage of an ordinance by the governing body of the county in which the court is located; and

(b) The entry of an order by the Supreme Court acknowledging the filing of the declaration required under subsection (2) of this section.

(2) Before a justice court may become a court of record, the governing body of the county in which the court is located must file a declaration with the Supreme Court that includes:

(a) A statement that the justice court satisfies the requirements of this section for becoming a court of record;

(b) The address and telephone number of the clerk of the justice court; and

(c) The date on which the justice court will commence operations as a court of record.

(3) The Supreme Court may not charge a fee for filing a declaration under subsection (2) of this section. Not later than 30 days after a declaration is filed under subsection (2) of this section, the Supreme Court shall enter an order acknowledging the filing of the declaration and give notice of the order of acknowledgment to the county and the public.

(4) The county shall provide a court reporter or an audio recording device for each justice court made a court of record under this section.

(5) The appeal from a judgment entered in a justice court that becomes a court of record under this section shall be as provided in ORS chapters 19 and 138 for appeals from judgments of circuit courts.

(6) As a qualification for the office, the justice of the peace for any justice court that becomes a court of record must be a licensee of the Oregon State Bar.

[*(7) A justice court may not become a court of record under the provisions of this section if the court is located within 50 driving miles of the circuit court for the county in which the justice court is located, measured by the shortest distance by public roads between the justice court and the circuit court.*]

UNDERTAKINGS IN CIVIL APPEALS

SECTION 2. ORS 55.305 is amended to read:

55.305. (1)[*(a)*] As used in ORS 55.160 to 55.335[*,*]**:**

(a) "Security" means a deposit of money with the justice court, a bond or one or more sureties.

(b) "Surety" means a person with the qualifications established by ORCP 82.

(c) "Supersedeas undertaking" means a promise to satisfy the judgment of the justice court for the purpose of staying enforcement of the judgment pending an appeal.

(d) [*"undertaking"*] **"Undertaking"** means a written promise signed by an appellant to take an action, in connection with an appeal from the justice court to the circuit court, that is supported by [*a bond, one or more sureties or a deposit of money with the justice court*]

security.

(e) "Undertaking for costs" means a promise to pay all costs and disbursements that may be awarded against the appellant on appeal.

[*(b) A surety for an undertaking on appeal must have the qualifications established by ORCP 82.*]

(2)**(a)** The appellant shall file an undertaking [*stating that the appellant will pay all costs and disbursements that may be awarded against the appellant on appeal*] **for costs in the amount of $400**.

(b) The appellant shall file the undertaking **for costs** with the justice court within five days after filing the notice of appeal. The justice court or the circuit court for good cause may extend the time to file the undertaking.

[*(3) In order to stay the enforcement of a money judgment on appeal, the appellant shall include in the undertaking a promise to pay the justice court judgment to the extent that the circuit court affirms the judgment.*]

(3)(a) In order to stay enforcement of a money judgment on appeal, the appellant shall file a supersedeas undertaking with the justice court.

(b) In order to stay enforcement of a judgment for the recovery of real property, the appellant's supersedeas undertaking must meet the requirements of subsection (6) of this section.

(4)(a) The respondent may object to the sufficiency of an undertaking for costs[*and disbursements*], or to stay enforcement of the judgment, including the amount of the undertaking, the security for the undertaking or the qualifications of a surety.

(b) The objection to the sufficiency of an undertaking must be filed as provided in ORCP 82. Notwithstanding ORCP 82 F, the respondent must file the objection within [*14*] **five** days after the date on which a copy of the undertaking is served on the respondent. The justice court for good cause may extend the time to file the objection. The justice court shall decide the sufficiency of the undertaking in the manner provided by ORCP 82.

(5) The justice court may waive, reduce or limit an undertaking for costs under subsection (2) of this section, or a supersedeas undertaking other than one described in subsection (3)(b) of this section, upon a showing of good cause, including indigence, and on such terms as are just and equitable. The appellant must file a motion

to waive, reduce or limit the undertaking within five days after filing the notice of appeal. The respondent shall have five days after the filing of the motion to file a response to the motion. The justice court, for good cause, may extend the time to file a motion or response under this subsection. The justice court must decide the matter within five days after expiration of respondent's opportunity to file a response, or as soon as practicable thereafter.

[*(5)(a)*] **(6)(a) A supersedeas undertaking on appeal of a judgment for possession of real property shall be the fair market rental value of the real property during the period of the appeal.** If a tenant on appeal of a judgment for possession of real property files [*an undertaking to stay enforcement of the judgment during the appeal*] **a supersedeas undertaking**, absent [*a bond or sufficient surety*] **sufficient security**, the tenant shall support the undertaking by promising to deposit with the justice court by a date certain each month the fair market rental value of the real property**, and by promising not to commit waste or allow waste to be committed of the property during the period of possession**.

(b) The justice court may determine the fair market rental value of the real property based on the written or oral rental agreement between the parties or other evidence of the monthly rent amount due or in effect at the time the court's determination is made.

[*(b)*] **(c)** The tenant must deposit the fair market **rental** value of the **real** property with the justice court each month by the date specified in the undertaking or as ordered by the justice court. If the tenant fails to timely deposit the monthly amount **or commits or allows waste of the property**, the landlord shall be entitled to enforce the justice court judgment notwithstanding the pendency of the appeal to the circuit court. Upon motion by the landlord, the justice court may order issuance of a notice of restitution in accordance with ORS 105.153 or a writ of execution of judgment of restitution in accordance with ORS 105.156. For purposes of ORS 105.159 (3), any period during which the justice court judgment is stayed shall not be considered as part of the 60-day time period.

[*(c)*] **(d)** On receipt of the circuit court's judgment disposing of the appeal, the justice court shall disburse the money deposited by the tenant in accordance with the circuit court's judgment. **If the circuit court judgment does not sufficiently address entitlement to the money, the justice court shall determine entitlement consistent with the circuit**

court judgment and the purpose of the undertaking.

(e) As used in this subsection, "waste" includes, but is not necessarily limited to, action or neglect that damages or destroys real property or that alters the character of the real property in a way that reduces its value.

[*(6)*] **(7)** When judgment is given in the circuit court against the appellant, either with or without the trial of the action, it must also be given against [*the sureties in*] **any surety of** the **appellant's** undertaking [*of the appellant, according to its nature and effect*] **consistent with its purpose**.

SECTION 3. Section 4 of this 2027 Act is added to and made a part of ORS 55.160 to 55.335.

SECTION 4. (1) The State Court Administrator shall create model forms for an undertaking for costs under ORS 55.305 (2) and for supersedeas undertakings under ORS 55.305 (3) and (6).

(2) The clerk of the justice court shall provide a party, at the party's request, with a copy of an undertaking form created under subsection (1) of this section.

SECTION 5. (1) Section 4 of this 2027 Act becomes operative on July 1, 2028.

(2) The Judicial Department may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department by section 4 of this 2027 Act.

CAPTIONS

SECTION 6. The unit captions used in this 2027 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2027 Act.