

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 5449

Chapter 185, Laws of 1994

53rd Legislature
1994 Regular Session

COURT JUDGMENTS--PROVISIONS REVISED

EFFECTIVE DATE: 6/9/94

Passed by the Senate March 9, 1994
YEAS 45 NAYS 0

JOEL PRITCHARD

President of the Senate

Passed by the House March 9, 1994
YEAS 97 NAYS 0

BRIAN EBERSOLE

**Speaker of the
House of Representatives**

Approved March 30, 1994

MIKE LOWRY

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 5449** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

Secretary

FILED

March 30, 1994 - 1:35 p.m.

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 5449

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 1994 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Senator Hargrove

Read first time 01/29/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to judgments; amending RCW 4.56.100, 4.64.030,
2 6.21.110, 36.48.090, 7.40.080, 6.36.025, 6.36.035, and 6.36.045; and
3 adding a new section to chapter 36.18 RCW.

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

5 **Sec. 1.** RCW 4.56.100 and 1983 c 28 s 1 are each amended to read as
6 follows:

7 (1) When any judgment for the payment of money only shall have been
8 paid or satisfied, the clerk of the court in which such judgment was
9 rendered shall note upon the record in the execution docket
10 satisfaction thereof giving the date of such satisfaction upon either
11 the payment to such clerk of the amount of such judgment, costs and
12 interest and any accrued costs by reason of the issuance of any
13 execution, or the filing with such clerk of a satisfaction entitled in
14 such action and identifying the same executed by the judgment creditor
15 or his attorney of record in such action or his assignee acknowledged
16 as deeds are acknowledged. Every satisfaction of judgment and every
17 partial satisfaction of judgment which provides for the payment of
18 money shall clearly designate the judgment creditor and his or her
19 attorney if any, the judgment debtor, the amount or type of

1 satisfaction, whether the satisfaction is full or partial, the cause
2 number, and the date of entry of the judgment. A certificate by such
3 clerk of the entry of such satisfaction by him may be filed in the
4 office of the clerk of any county in which an abstract of such judgment
5 has been filed. When so satisfied by the clerk or the filing of such
6 certificate the lien of such judgment shall be discharged.

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

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

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

16 The clerk shall enter all judgments in the execution docket,
17 subject to the direction of the court and shall specify clearly the
18 amount to be recovered, the relief granted, or other determination of
19 the action.

20 On the first page of each judgment which provides for the payment
21 of money, the following shall be succinctly summarized: The judgment
22 creditor and the name of his or her attorney, the judgment debtor, the
23 amount of the judgment, the interest owed to the date of the judgment,
24 and the total of the taxable costs and attorney fees, if known at the
25 time of the entry of the judgment. If the attorney fees and costs are
26 not included in the judgment, they shall be summarized in the cost bill
27 when filed. This information is included in the judgment to assist the
28 county clerk in his or her record-keeping function. The clerk may not
29 sign or file a judgment, and a judgment does not take effect, until the
30 judgment has a summary in compliance with this section. The clerk is
31 not liable for an incorrect summary.

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

34 (1) Upon the return of any sale of real estate, the clerk: (a)
35 Shall enter the cause, on which the execution or order of sale issued,
36 by its title, on the motion docket, and mark opposite the same: "Sale
37 of land for confirmation"; (b) shall mail notice of the filing of the

1 return of sale to all parties who have entered a written notice of
2 appearance in the action and who have not had an order of default
3 entered against them; (c) shall file proof of such mailing in the
4 action; (d) shall apply the proceeds of the sale returned by the
5 sheriff, or so much thereof as may be necessary, to satisfaction of the
6 judgment, including interest as provided in the judgment, and shall pay
7 any excess proceeds as provided in subsection (5) of this section by
8 direction of court order; and (e) upon confirmation of the sale, shall
9 deliver the original certificate of sale to the purchaser.

10 (2) The judgment creditor or successful purchaser at the sheriff's
11 sale is entitled to an order confirming the sale at any time after
12 twenty days have elapsed from the mailing of the notice of the filing
13 of the sheriff's return, on motion with notice given to all parties who
14 have entered a written notice of appearance in the action and who have
15 not had an order of default entered against them, unless the judgment
16 debtor, or in case of the judgment debtor's death, the representative,
17 or any nondefaulting party to whom notice was sent shall file
18 objections to confirmation with the clerk within twenty days after the
19 mailing of the notice of the filing of such return.

20 (3) If objections to confirmation are filed, the court shall
21 nevertheless allow the order confirming the sale, unless on the hearing
22 of the motion, it shall satisfactorily appear that there were
23 substantial irregularities in the proceedings concerning the sale, to
24 the probable loss or injury of the party objecting. In the latter
25 case, the court shall disallow the motion and direct that the property
26 be resold, in whole or in part, as the case may be, as upon an
27 execution received as of that date.

28 (4) Upon a resale, the bid of the purchaser at the former sale
29 shall be deemed to be renewed and continue in force, and no bid shall
30 be taken, except for a greater amount. If on resale the property sells
31 for a greater amount to any person other than the former purchaser, the
32 clerk shall first repay to the former purchaser out of the proceeds of
33 the resale the amount of the former purchaser's bid together with
34 interest as is provided in the judgment.

35 (5) If, after the satisfaction of the judgment, there be any
36 proceeds of the sale remaining, the clerk shall pay such proceeds to
37 the judgment debtor, or the judgment debtor's representative, as the
38 case may be, before the order is made upon the motion to confirm the
39 sale only if the party files with the clerk a waiver of all objections

1 made or to be made to the proceedings concerning the sale; otherwise
2 the excess proceeds shall remain in the custody of the clerk until the
3 sale of the property has been disposed of; but if the sale be
4 confirmed, such excess proceeds shall be paid to the judgment debtor or
5 representative as a matter of course.

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

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

11 Whenever the clerk of the superior court has funds held in trust
12 for any litigant or for any purpose, they shall be deposited in a
13 separate fund designated "clerk's trust fund," and shall not be
14 commingled with any public funds. However, in the case of child
15 support payments, the clerk may send the checks or drafts directly to
16 the recipient or endorse the instrument to the recipient and the clerk
17 is not required to deposit such funds. In processing child support
18 payments, the clerk shall comply with RCW 26.09.120. The clerk may
19 invest the funds in any of the investments authorized by RCW 36.29.020.
20 The clerk shall place the income from such investments in the county
21 current expense fund to be used by the county for general county
22 purposes unless: (1) The funds being held in trust in a particular
23 matter are two thousand dollars or more, and (2) a litigant in the
24 matter has filed a written request that such investment be made of the
25 funds being held in trust (~~and the income be paid to the~~
26 ~~beneficiary~~). Interest income accrued from the date of filing of the
27 written request for investment shall be paid to the beneficiary. In
28 such an event, any income from such investment shall be paid to the
29 beneficiary of such trust upon the termination thereof: PROVIDED, That
30 five percent of the income shall be deducted by the clerk as an
31 investment service fee and placed in the county current expense fund to
32 be used by the county for general county purposes.

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

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

3 No injunction or restraining order shall be granted until the party
4 asking it shall enter into a bond, in such a sum as shall be fixed by
5 the court or judge granting the order, with surety to the satisfaction
6 of the clerk of the superior court, to the adverse party affected
7 thereby, conditioned to pay all damages and costs which may accrue by
8 reason of the injunction or restraining order. The sureties shall, if
9 required by the clerk, justify as provided by law, and until they so
10 justify, the clerk shall be responsible for their sufficiency. The
11 court in its sound discretion may waive the required bond in situations
12 in which a person's health or life would be jeopardized.

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

15 (1) A copy of any foreign judgment authenticated in accordance with
16 the act of congress or the statutes of this state may be filed in the
17 office of the clerk of any superior court of any county of this state.
18 The clerk shall treat the foreign judgment in the same manner as a
19 judgment of the superior court of this state. A judgment so filed has
20 the same effect and is subject to the same procedures, defenses, set-
21 offs, counterclaims, cross-complaints, and proceedings for reopening,
22 vacating, or staying as a judgment of a superior court of this state
23 and may be enforced or satisfied in like manner.

24 (2) Alternatively, a copy of any foreign judgment (a) authenticated
25 in accordance with the act of congress or the statutes of this state,
26 and (b) within the civil jurisdiction and venue of the district court
27 as provided in RCW 3.66.020, 3.66.030, and 3.66.040, may be filed in
28 the office of the clerk of any district court of this state. The clerk
29 shall treat the foreign judgment in the same manner as a judgment of
30 the district court of this state. A judgment so filed has the same
31 effect and is subject to the same procedures, defenses, set-offs,
32 counterclaims, cross-complaints, and proceedings for reopening,
33 vacating, or staying as a judgment of a district court of this state,
34 and may be enforced or satisfied in like manner.

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

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

5 (2) Promptly upon the filing of the foreign judgment and the
6 affidavit, the clerk shall mail notice of the filing of the foreign
7 judgment to the judgment debtor at the address given and shall make a
8 note of the mailing in the docket. The notice shall include the name
9 and post office address of the judgment creditor and the judgment
10 creditor's lawyer if any in this state. In addition, the judgment
11 creditor may mail a notice of the filing of the judgment to the
12 judgment debtor and may file proof of mailing with the clerk. Lack of
13 notice of filing by the clerk shall not affect the enforcement
14 proceedings if proof of mailing by the judgment creditor has been
15 filed.

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

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

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

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

36 ((+2+)) (b) If the judgment debtor shows the superior court of any
37 county any ground upon which enforcement of a judgment of a superior
38 court of any county of this state would be stayed, the court shall stay

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

4 (2)(a) If the judgment debtor shows the district court that an
5 appeal from the foreign judgment is pending or will be taken, or that
6 a stay of execution has been granted, the court shall stay enforcement
7 of the foreign judgment until the appeal is concluded, the time for
8 appeal expires, or the stay of execution expires or is vacated, upon
9 proof that the judgment debtor has furnished the security for the
10 satisfaction of the judgment required by the state in which it was
11 rendered.

12 (b) If the judgment debtor shows the district court any ground upon
13 which enforcement of a judgment of a district court of this state would
14 be stayed, the court shall stay enforcement of the foreign judgment for
15 an appropriate period, upon requiring the same security for
16 satisfaction of the judgment which is required in this state.

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

19 Superior court clerks may contract with collection agencies or may
20 use county collection services for the collection of unpaid court
21 obligations. The costs for the agencies or county services shall be
22 paid by the debtor. Collection may not be initiated with respect to a
23 criminal offender who is under the supervision of the department of
24 corrections without the prior agreement of the department.

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

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

Passed the Senate March 9, 1994.

Passed the House March 9, 1994.

Approved by the Governor March 30, 1994.

Filed in Office of Secretary of State March 30, 1994.