

CHAPTER 142.

[Substitute Senate Bill No. 19.]

GARNISHMENT IN SUPERIOR COURT.

AN ACT relating to garnishment; amending section 3, chapter 56, Laws of 1893, as last amended by section 4, chapter 304, Laws of 1961, and RCW 7.32.030; amending section 4, chapter 56, Laws of 1893 and RCW 7.32.040; amending section 3, chapter 15, Laws of 1933 and RCW 7.32.080; amending section 4, chapter 15, Laws of 1933 and RCW 7.32.090; amending section 6, chapter 56, Laws of 1893 and RCW 7.32.100; amending section 7, chapter 56, Laws of 1893 as amended by section 1, chapter 68, Laws of 1903 and RCW 7.32.110; amending section 8, chapter 56, Laws of 1893, as last amended by section 1, chapter 267, Laws of 1959, and RCW 7.32.120; amending section 9, chapter 56, Laws of 1893 as amended by section 2, chapter 44, Laws of 1933 extraordinary session, and RCW 7.32.130; amending section 10, chapter 56, Laws of 1893 and RCW 7.32.150; amending section 11, chapter 56, Laws of 1893 and RCW 7.32.160; amending section 13, chapter 56, Laws of 1893 and RCW 7.32.180; amending section 15, chapter 56, Laws of 1893 and RCW 7.32.200; amending section 17, chapter 56, Laws of 1893 and RCW 7.32.220; amending section 19, chapter 56, Laws of 1893 and RCW 7.32.240; amending section 25, chapter 56, Laws of 1893 and RCW 7.32.300; amending section 26, chapter 56, Laws of 1893 and RCW 7.32.310; adding a new section to chapter 56, Laws of 1893 and to chapter 7.32 RCW; and repealing section 5, chapter 56, Laws of 1893 and RCW 7.32.050; and providing penalties.

Be it enacted by the Legislature of the State of Washington:

RCW 7.32.030
amended.

Section 1. Section 3, chapter 56, Laws of 1893, as last amended by section 4, chapter 304, Laws of 1961, and RCW 7.32.030 are each amended to read as follows:

Garnishment
—Superior
court. Appli-
cation for writ.

Before the issuance of the writ of garnishment the plaintiff or someone in his behalf shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, including the amount alleged to be due, and that the plaintiff has reason to believe, and does believe, that the garnishee, stating his name and residence, is indebted

to the defendant, or that he has in his possession, or under his control, personal property or effects belonging to the defendant, or that the garnishee is a corporation and that the defendant is the owner of shares in such corporation or has an interest therein, and shall pay to the clerk of the court a fee as provided by law.

Sec. 2. Section 4, chapter 56, Laws of 1893 and RCW 7.32.040 are each amended to read as follows:

When the foregoing requisites have been complied with the clerk shall docket the case in the name of the plaintiff as plaintiff and of the garnishee as defendant, and shall immediately issue a writ of garnishment, in such form as provided in section 6 of this 1967 amendatory act, directed to the garnishee, commanding him to answer said writ on forms served with the writ and complying with section 10 of this 1967 amendatory act within twenty days after the service of the writ upon him.

RCW 7.32.040 amended.

Issuance of writ—
Contents.

Sec. 3. Section 26, chapter 56, Laws of 1893 and RCW 7.32.310 are each amended to read as follows:

The provisions of RCW 7.32.010 through 7.32.050, 7.32.100 through 7.32.270, and 7.32.290 through 7.32.310 shall not apply to actions and proceedings before justices of the peace, but garnishments shall be made in such actions and proceedings as otherwise provided by law.

RCW 7.32.310 amended.

Provisions not applicable to justice court proceedings.

Sec. 4. Section 3, chapter 15, Laws of 1933 and RCW 7.32.080 are each amended to read as follows:

The venue of such garnishment proceeding shall be the same as the original action. The writ shall be issued by the court having jurisdiction of such original action and shall require such garnishee defendant to answer such writ in like manner and with the same effect as other writs of garnishment issued by such court after judgment.

RCW 7.32.080 amended.

State and public corporations subject to garnishment.

RCW 7.32.090 amended.

Sec. 5. Section 4, chapter 15, Laws of 1933 and RCW 7.32.090 are each amended to read as follows:

Garnishment, superior court - Service of writ on state or public corporation.

The writ of garnishment shall be served in the same manner and upon the same officer as is required and provided by law for service of summons upon the commencement of a civil action against the state, county, city, town, school district, or other municipal corporation, as the case may be; and forms and envelopes shall be served with the writ as provided in section 8 of this 1967 amendatory act.

RCW 7.32.100 amended.

Sec. 6. Section 6, chapter 56, Laws of 1893 and RCW 7.32.100 are each amended to read as follows:

Form of writ.

Said writ shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF.....

.....,

Plaintiff

vs.

.....,

Defendant

No.

.....,

Garnishee

WRIT OF GARNISHMENT

THE STATE OF WASHINGTON TO:.....,
Garnishee

AND TO:
Defendant.

The above-named plaintiff claims that the above-named defendant is indebted to plaintiff in the amount of \$....., besides interest of \$....., and estimated costs of suit of \$..... (which may be more) and has applied for a writ of garnishment against you.

You are hereby commanded to answer this writ by filling in the attached form according to the instructions thereon; and you must mail or deliver the original of such answer to the court, one copy to the

plaintiff or his attorney, and one copy to the defendant within twenty days after the service of the writ upon you.

Unless directed by the court, do not pay any debt, including wages or any other debt, owed the defendant when this writ was served, or deliver, sell or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant, including certificates of corporate shares, in your possession or control when this writ was served; any such payment, delivery, sale or transfer is void as to so much of the debt, property or shares as are necessary to satisfy plaintiff's claim and costs for this writ with interest.

WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT, YOUR FAILURE TO ANSWER AS REQUIRED MAY MAKE YOU LIABLE FOR DEFENDANT'S CLAIMED DEBT TO PLAINTIFF.

NOTICE TO DEFENDANT: IF THE GARNISHEE IS A CORPORATION, AND IF YOU ARE THE OWNER OF ANY SHARES IN SUCH CORPORATION, YOU ARE HEREBY ORDERED NOT TO SELL, ASSIGN, TRANSFER, SECRETE, PLEDGE OR ENCUMBER SUCH SHARES UNLESS ALLOWED BY THE COURT. IF YOU FAIL TO COMPLY WITH THIS ORDER YOU MAY BE PUNISHED FOR CONTEMPT.

Witness, the Honorable....., Judge of the Superior Court, and the seal thereof, this day of, 19....

[Seal]

.....
Attorney for Plaintiff
(or Plaintiff, if no attorney) Clerk of Superior Court
neey)

.....
Address By

RCW 7.32.110
amended.

Sec. 7. Section 7, chapter 56, Laws of 1893 as amended by section 1, chapter 68, Laws of 1903 and RCW 7.32.110 are each amended to read as follows:

Garnishment,
superior court
—Application
for writ—
Dating—
Attestation.

The writ of garnishment shall be dated and attested as in the form prescribed in section 6 of this 1967 amendatory act and the name and office address of the plaintiff's attorney shall be indorsed thereon or in case the plaintiff has no attorney, then the name and address of the plaintiff shall be indorsed thereon and delivered by the clerk who issues it to the plaintiff or his attorney.

RCW 7.32.120
amended.

Sec. 8. Section 8, chapter 56, Laws of 1893 as last amended by section 1, chapter 267, Laws of 1959, and RCW 7.32.120 are each amended to read as follows:

Service of writ
generally—
Forms—
Return.

Service of the writ of garnishment is invalid unless there is served therewith four answer forms as provided in section 10 of this 1967 amendatory act together with stamped envelopes addressed respectively to the clerk of the court issuing the writ, the attorney for the plaintiff (or to the plaintiff if he has no attorney), and the defendant. The writ of garnishment may be served by the sheriff of the county in which the garnishee lives or it may be served by any citizen of the state of Washington over the age of twenty-one years and not a party to the action in which it is issued in the same manner as a summons in an action is served: *Provided, however,* That where the writ is directed to a bank or savings and loan association maintaining branch offices, as garnishee, the writ must be directed to and service thereof must be made by leaving a copy of the writ with the manager or any other officer or cashier or assistant cashier of such bank or association at the office or branch thereof at which the account evidencing such indebtedness of the defendant is carried or at the office or branch which has in its possession or under its control credits or other

personal property belonging to the defendant. In every case where a writ of garnishment is served by an officer, such officer shall make his return thereon showing the time, place and manner of service and that the writ was accompanied by four answer forms and addressed envelopes as required by this section, and noting thereon his fees for making such service and shall sign his name to such return. In case such service is made by any person other than an officer, such person shall attach to the original writ his affidavit showing his qualifications to make such service, and that the writ was accompanied by four answer forms and addressed envelopes as required by this section, and the time, place and manner of making service, and shall endorse thereon the legal fees therefor.

Sec. 9. Section 9, chapter 56, Laws of 1893 as amended by section 2, chapter 44, Laws of 1933 extraordinary session, and RCW 7.32.130 are each amended to read as follows:

RCW 7.32.130
amended.

From and after the service of such writ of garnishment, it shall not be lawful, except as directed by the court, for the garnishee to pay any debt owing to the defendant at the time of such service, or to deliver, sell or transfer, or recognize any sale or transfer of, any personal property or effects belonging to the defendant, including certificates of corporate shares, in the garnishee's possession or under his control at the time of such service; and any such payment, delivery, sale or transfer shall be void and of no effect as to so much of said debt, personal property or effects, shares, or interest as may be necessary to satisfy the plaintiff's demand: *Provided, however,* That in case the garnishee is a banking association maintaining branch offices service must be made as provided for in RCW 7.32.120, and shall only be effective to attach the accounts, credits, or other personal property of the defendant

Effect of service
of writ.

in that particular branch upon which service is made and to which the writ is directed.

RCW 7.32.150 amended.

Sec. 10. Section 10, chapter 56, Laws of 1893 and RCW 7.32.150 are each amended to read as follows:

Garnishment, superior court—Answer of garnishee—Contents—Forms.

The answer of the garnishee shall be signed by him, under penalty of perjury, and the original delivered, either personally or by mail, to the clerk of the superior court, one copy to the plaintiff or his attorney, and one copy to the defendant. The answer shall be made on forms, served on the garnishee with the writ, as follows:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF.....

.....,

Plaintiff

vs.

No.

.....

Defendant

ANSWER TO

WRIT OF

.....

GARNISHMENT

Garnishee

At the time of service of the writ of garnishment on the garnishee there was due and owing from the garnishee to the above-named defendant \$. The sum of \$. is a reasonable amount to be allowed garnishee as attorney's fee for making this answer. On the reverse side of this answer form, or on a schedule attached hereto, give the following information: (1) An explanation of the dollar amount stated, or reasons why there is uncertainty about your answer, if deemed necessary; (2) list all of the personal property or effects of defendant in the garnishee's possession or control when the writ was served; (3) if the garnishee is a corporation in which the defendant is the owner of shares, list the number of shares owned by the defendant and the number of such shares in the gar-

nishee's possession when the writ was served. An attorney may answer for the garnishee.

Under penalties of perjury, I affirm that I have examined this answer, including accompanying schedules, and to the best of my knowledge and belief it is true, correct, and complete.

Signature of garnishee	Date
Signature of person answering for garnishee	Connection with garnishee

Sec. 11. There is added to chapter 56, Laws of 1893 and to chapter 7.32 RCW a new section to read as follows:

New section.

The signature of the garnishee, or of a person answering for the garnishee, on the form as provided in section 10 of this 1967 amendatory act shall constitute a mode authorized by this section of attesting the truth of the statement preceding the signature.

Attestation of answer.

Sec. 12. Section 11, chapter 56, Laws of 1893 and RCW 7.32.160 are each amended to read as follows:

RCW 7.32.160 amended.

Should it appear from the answer of the garnishee that he was not indebted to the defendant when the writ of garnishment was served on him, and that he had not in his possession or under his control any personal property or effects of the defendant, including certificates of corporate shares when the writ was served, and should the answer of the garnishee not be controverted as hereinafter provided, and within the time hereinafter provided, the court shall enter judgment discharging the garnishee.

Discharge of garnishee.

Sec. 13. Section 13, chapter 56, Laws of 1893 and RCW 7.32.180 are each amended to read as follows:

RCW 7.32.180 amended.

Should it appear from the answer of the garnishee or should it be otherwise made to appear, as

Garnishment,
superior court
—Judgment
against
garnishee.

hereinafter provided, that the garnishee was indebted to the defendant in any amount when the writ of garnishment was served, the court shall render judgment for the plaintiff against such garnishee for the amount so admitted or found to be due to the defendant from the garnishee, unless such amount shall exceed the amount of plaintiff's claim or demand against the defendant with interest and costs, in which case it shall be for the amount of such claim or demand, interest and costs: *Provided, however,* If it shall appear from the answer of the garnishee and the same is not controverted, or if it shall appear from the trial hereinafter provided for, that the garnishee is indebted to the principal defendant in any sum, but that such indebtedness is not matured and is not due and payable, the court shall make an order requiring the garnishee to pay such sum into court when the same becomes due, the date when such payment is to be made to be specified in said order, and in default thereof that judgment shall be entered against the garnishee for the amount of such indebtedness so admitted or found due. In case the garnishee shall pay said sum at the time specified in said order, said payment shall operate as a discharge, otherwise judgment shall be entered against him for the amount of such indebtedness, which judgment shall have the same force and effect, and be enforced in like manner as other judgments provided for in RCW 7.32.010 through 7.32.050 and 7.32.100 through 7.32.310: *Provided further,* That if judgment shall be rendered in favor of the principal defendant, or if any judgment rendered against him be satisfied prior to the date of payment specified in said order, the garnishee shall not be required to make the payment hereinbefore provided for, nor shall any judgment in such case be entered against him.

Sec. 14. Section 15, chapter 56, Laws of 1893 and RCW 7.32.200 are each amended to read as follows:

Should it appear from the garnishee's answer or otherwise that the garnishee had in his possession or under his control when the writ was served any personal property or effects of the defendant liable to execution, the court shall render a decree requiring the garnishee to deliver up to the sheriff on demand such personal property or effects or so much of them as may be necessary to satisfy the plaintiff's claim. In cases where a judgment has been rendered in favor of the plaintiff against the defendant, such personal property or effects may be sold in like manner as any other property is sold upon an execution issued on said judgment. In cases where judgment has not been rendered in the principal action, the sheriff shall retain said personal property or effects in his possession until the rendition of judgment therein, and in case judgment is rendered in said principal action in favor of the plaintiff, said goods or effects, or sufficient of them to satisfy such judgment, may be sold in like manner as other property is sold on execution, by virtue of an execution issuing on said judgment. In case judgment shall be rendered in said action against the plaintiff and in favor of the defendant, such effects and personal property shall be by the sheriff returned to the defendant: *Provided, however,* That in cases where such effects or personal property are of a perishable nature, or the interests of the parties will be subserved by making a sale thereof before judgment, the court may order a sale thereof by the sheriff in like manner as sales upon execution are made, and the proceeds of such sale shall be paid to the clerk of the superior court, and like disposition shall be made of such proceeds at the termination of the action as would have been made of such per-

RCW 7.32.200
amended.

Decree to
deliver up
effects—
Disposition.

sonal property or effects under the provisions of this section, in case such sale had not been made.

RCW 7.32.220 amended.

Garnishment, superior court—Shares of corporate garnishee—Sale—Discovery procedure—Disposition of shares.

Sec. 15. Section 17, chapter 56, Laws of 1893 and RCW 7.32.220 are each amended to read as follows:

Where the garnishee is a corporation, and it appears by the answer or otherwise that the defendant was, when the writ of garnishment was served, in control or possession of certificates of corporate shares owned by the defendant in such corporation the court shall render a decree ordering the sale under execution in favor of the plaintiff, against the defendant, of such shares or interest of the defendant corporation, or so much thereof as may be necessary to satisfy such execution.

The plaintiff, in addition to any other remedies or discovery procedures available to him, may serve on the defendant written interrogatories to be answered in writing and under oath within ten days of service. The interrogatories allowed by this section may relate only to the interest of the defendant in the garnishee corporation at the time a copy of the writ of garnishment was served on him including the location of certificates or other evidence of ownership of corporate shares in the garnishee corporation, and whether or not such shares are pledged or encumbered. When it appears that the defendant was in possession or control of certificates or other evidence of ownership of shares of the garnishee the court shall render a decree requiring the defendant to deliver up to the sheriff on demand such evidence of ownership. In cases where a judgment has been rendered in the principal action in favor of the plaintiff such certificates or other evidence of ownership of corporate shares of the garnishee may be sold or transferred in like manner as shares in possession or control of the garnishee are sold or transferred upon a sale under execution. In cases where judgment has not been rendered in the principal

action, the sheriff shall retain such certificates or other evidence of ownership in the garnishee in his possession until judgment is rendered therein, and in case judgment is entered in such principal action in favor of the plaintiff, said shares may be sold or transferred in like manner as shares in possession or control of the garnishee are sold or transferred upon a sale under execution.

Sec. 16. Section 19, chapter 56, Laws of 1893 and RCW 7.32.240 are each amended to read as follows:

Such sale shall be valid and effectual to pass to the purchaser all the right, title and interest which the defendant had in such shares of stock, or in such corporation, and the proper officers of such corporation shall enter such sale and transfer on the books of the corporation in the same manner as if the sale had been made by the defendant himself.

RCW 7.32.240
amended.

Effect of sale—
Transfer on
corporate
books.

Sec. 17. Section 25, chapter 56, Laws of 1893 and RCW 7.32.300 are each amended to read as follows:

It shall be a sufficient answer to any claim of the defendant against the garnishee founded on any indebtedness of such garnishee or on the possession by him of any personal property or effects, or where the garnishee is a corporation in which the defendant was the owner of shares of stock or other interest therein, for the garnishee to show that such indebtedness was paid or such effects delivered, or such shares of stock or other interest in such corporation were sold under the judgment of the court in accordance with the provisions of RCW 7.32.010 through 7.32.050 and 7.32.100 through 7.32.310.

RCW 7.32.300
amended.

Garnishee pro-
tected against
claim of
defendant.

Sec. 18. If a writ of garnishment has been served, and if the garnishee is a corporation, and if the defendant has been served with a copy of the writ of garnishment, in the same manner in which a summons in an action is served, and after such serv-

Garnishment—
Violations of
defendant as
to shares of
corporate
garnishee—
Contempt.

ice the defendant sells, assigns, transfers, secretes, pledges or encumbers any shares he might own in the garnishee corporation, unless allowed by the court, or if the defendant fails or refuses to deliver to the sheriff such shares after having been ordered to do so by the court, or if he fails or refuses to answer interrogatories propounded to him as provided in this chapter, he may be adjudged in contempt and punished accordingly.

Repeal.

Sec. 19. Section 5, chapter 56, Laws of 1893 and RCW 7.32.050 are each repealed.

Severability.

Sec. 20. If any provision of this 1967 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1967 amendatory act, or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 9, 1967.

Passed the House March 9, 1967.

Approved by the Governor March 21, 1967.