

CHAPTER 58.

[S. B. 12.]

APPEALS FROM JUSTICE COURTS.

AN ACT relating to appeals from justices of the peace in civil actions and proceedings, and repealing certain acts relating thereto.

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

SECTION 1. Any person considering himself aggrieved by the judgment or decision of a justice of the peace in a civil action may, in person or by his agent or attorney, appeal therefrom to the superior court of the county where the judgment was rendered or decision made: *Provided*, There shall be no appeal allowed unless the amount in controversy, exclusive of costs, shall exceed the sum of twenty dollars.

Appeals to superior court permitted.

No appeal unless amount involved exceeds \$20.

Serving and filing notice of appeal.

Bond required.

Amount of bond.

Stay of proceedings.

SEC. 2. Such appeal shall be taken by serving a copy of notice of appeal on the adverse party or his attorney, and filing such notice of appeal with the justice, and, unless such appeal be by a county, city, town or school district, filing a bond or undertaking, as herein provided, within twenty days after the judgment is rendered or decision made. No appeal, except when such appeal is by a county, city, town or school district, shall be allowed in any case unless a bond or undertaking shall be executed on the part of the appellant and filed with and approved by the justice, with one or more sureties, in the sum of one hundred dollars, conditioned that the appellant will pay all costs that may be awarded against him on appeal; or if a stay of proceedings before the justice be claimed, except by a county, city, town or school district, a bond or undertaking, with two or more personal sureties, or a surety company as surety, to be approved by the justice, in a sum equal

to twice the amount of the judgment and costs, conditioned that the appellant will pay such judgment, including costs, as may be rendered against him on appeal, be so executed and filed.

SEC. 3. Upon an appeal being taken and a bond filed to stay all proceedings, the justice shall allow the same and make an entry of such allowance in his docket, and all further proceedings on the judgment before the justice shall thereupon be suspended; and if in the meantime execution shall have been issued, the justice shall give the appellant a certificate that such appeal has been allowed.

Proceedings
before
justice
suspended.

SEC. 4. On such certificate being presented to the officer holding the execution, he shall forthwith release the property of the judgment debtor that may have been taken on execution.

Release of
property
held on
execution.

SEC. 5. Within ten days after the appeal has been taken in a civil action or proceeding, the appellant shall file with the clerk of the superior court a transcript of all entries made in the justice's docket relating to the case, together with all the process and other papers relating to the case filed with the justice which shall be made and certified by such justice to be correct upon the payment of the fees allowed by law therefor, and upon the filing of such transcript, the superior court shall become possessed of the cause, and shall proceed in the same manner, as near as may be, as in actions originally commenced in that court, except as in this act otherwise provided. The issue before the justice shall be tried in the superior court without other or new pleadings, unless otherwise directed by the court.

Filing of
transcript on
appeal.

Superior
court
proceedings.

SEC. 6. If upon an appeal being taken, the justice shall fail, neglect or refuse, upon the tender or payment of the fees allowed by law, to make and certify the transcript, the appellant may make application, supported by affidavit, to the superior

Superior
court may
compel pre-
paration and
certification
of transcript.

court and the court shall issue an order directing the justice to make and certify such transcript upon the payment of such fees, and whenever it shall appear to the satisfaction of the superior court that the return of the justice to such order is substantially erroneous or defective it may order him to amend the same. If the justice shall fail, neglect or refuse to comply with any order issued under the provisions of this section he may be cited and punished as for contempt of court.

Appeal not to be dismissed because of defective bond.

SEC. 7. No appeal allowed by a justice of the peace shall be dismissed on account of any defect in the bond on appeal, if the appellant, before the motion is determined, shall execute and file in the superior court such bond as he should have executed at the time of taking the appeal, and pay all costs that may have accrued by reason of such defect.

Judgment in Superior Court.

SEC. 8. In all cases of appeal to the superior court, if on the trial anew in such court, the judgment be against the appellant, in whole or in part, such judgment shall be rendered against him and his sureties on the bond on appeal.

Statutes repealed.

SEC. 9. That chapter CXXVI (126), sections 1858 to 1867 of the Code of Washington Territory of 1881; chapter II (2) of the Laws of 1887/8, pages 2 and 3; sections 1, 2, 3, 4 and 5 of chapter XXIX (29) of the Laws of 1891, pages 66 and 67, and chapter 20 of the Laws of 1905, page 41, (sections 1910-1918 of Remington's Compiled Statutes; sections 9401-9409 of Pierce's Code) are hereby repealed: *Provided*, That such repeal shall not affect the validity of any act done, or proceedings pending under said acts repealed, or either of them, but this act shall be construed as a continuation of said acts repealed.

Passed the Senate January 24, 1929.

Passed the House February 6, 1929.

Approved by the Governor February 21, 1929.