

CHAPTER 89.

[H. B. 26.]

JUDGMENTS OF NON-SUIT AND CHALLENGES TO LEGAL SUFFICIENCY OF EVIDENCE.

AN ACT relating to judgments of non-suit and upon challenge to the legal sufficiency of the evidence, and repealing certain acts relating thereto.

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

SECTION 1. An action in the superior court may be dismissed by the court and a judgment of non-suit rendered in the following cases:

Dismissal and judgment of non-suit.

Motion of plaintiff.

1. Upon the motion of the plaintiff, (a) when the case is to be or is being tried before a jury, at any time before the court announces its decision in favor of the defendant upon a challenge to the legal sufficiency of the evidence, or before the jury retire to consider their verdict, (b) when the action, whether for legal or equitable relief, is to be or is being tried before the court without a jury, at any time before the court has announced its decision: *Provided*, That no action shall be dismissed upon the motion of the plaintiff, if the defendant has interposed a set-off as a defense, or seeks affirmative relief growing out of the same transaction, or sets up a counter claim, either legal or equitable, to the specific property or thing which is the subject matter of the action.

Motion of either party.

2. Upon the motion of either party, upon the written consent of the other.

Defendant's motion.

3. When the plaintiff fails to appear at the time of trial and the defendant appears and asks for a dismissal.

Court's motion, abandoned by plaintiff.

4. Upon its own motion, when, upon the trial and before the final submission of the case, the plaintiff abandons it.

5. Upon its own motion, on the refusal or neglect of the plaintiff to make the necessary parties defendants, after having been ordered so to do by the court.

Courts motion, for failure to make necessary parties.

6. Upon the motion of some of the defendants, when there are others whom the plaintiff fails to prosecute with diligence.

Defendant's motion.

7. Upon its own motion, for disobedience of the plaintiff to an order of the court concerning the proceedings in the action.

Court's motion.

8. Upon the motion of the defendant, when, upon the trial, the plaintiff fails to prove some material fact or facts necessary to sustain his action, as alleged in his complaint. When judgment of nonsuit is given, the action is dismissed, but such judgment shall not have the effect to bar another action for the same cause. In every case, other than those mentioned in this section, the judgment shall be rendered upon the merits and shall bar another action for the same cause.

Defendant's motion for failure of proof.

Dismissal not bar to another action.

SEC. 2. In all cases tried in the superior court with a jury, the defendant, at the close of the plaintiff's evidence, or either party, at the close of all the evidence, may challenge the legal sufficiency of the evidence to warrant a verdict in favor of the adverse party, and if the court shall decide as a matter of law the evidence does not warrant a verdict, it shall thereupon discharge the jury from further consideration of the case and enter a judgment in accordance with its decision, which judgment if it be in favor of the defendant shall be a bar to another action by the plaintiff for the same cause: *Provided*, That in case the defendant challenge the legal sufficiency of the evidence at the close of plaintiff's case, and the court shall decide that it is insufficient merely for failure of proof of some material fact, or facts, and that there is reasonable ground to believe that such proof can be supplied in a sub-

Challenge to legal sufficiency of evidence to warrant verdict.

If dismissal is for failure of proof which may be supplied court may enter nonsuit.

sequent action, the court may discharge the jury and enter a judgment of non-suit as provided in the preceding section: *And provided, further,* That nothing in this section shall be construed to authorize the court to discharge the jury and determine disputed questions of fact.

Statutes
repealed.

SEC. 3. That sections 286, 287 and 288 of the Code of Washington Territory of 1881, and chapter XL (40) of the Laws of 1895, page 64 (sections 340, 408, 409 and 410 of Remington's Compiled Statutes; sections 8122, 8123, 8124 and 8505 of Pierce's Code) are hereby repealed.

Passed the House February 28, 1929.

Passed the Senate February 27, 1929.

Approved by the Governor March 9, 1929.

CHAPTER 90.

[H. B. 93.]

COLLECTION AGENCIES.

AN ACT relating to collection agencies and providing for a bond for the operation thereof.

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

Unlawful to
conduct or
advertise to
conduct
without
bond.

SECTION 1. No person, firm, association or corporation shall conduct a collection agency, collection bureau or collection office in this state, or engage in this state in the business of collecting or receiving payment for others of any account, bill or other indebtedness, or engage in this state in the business of soliciting the right to collect or receive payment for another of any account, bill or other indebtedness, or advertise for or solicit in print the right to collect or receive payment for another of any account, bill or other indebtedness, unless, at the time of conducting such collection agency, collection