

public instruction and one to the governor who shall transmit it to the next succeeding legislature.

Passed the House February 24, 1953.

Passed the Senate March 9, 1953.

Approved by the Governor March 17, 1953.

CHAPTER 102.

[H. B. 538.]

CIVIL PROCEDURE—SERVICE OF SUMMONS BY PUBLICATION.

AN ACT relating to civil procedure; providing for service by publication; repealing section 9, chapter 127, Laws of 1893, and section 1, chapter 81, Laws of 1929, and amending section 4.28.100, RCW.

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

Repealing and amendment clause.

SECTION 1. Section 9, chapter 127, Laws of 1893, and section 1, chapter 81, Laws of 1929, amendatory thereof, are each repealed, and section 4.28.100, RCW, presently derived therefrom and henceforth derived from this act, is amended to read as follows:

Service of summons by publication; when authorized.

When the defendant cannot be found within the state (of which the return of the sheriff of the county in which the action is brought, that the defendant cannot be found in the county, is prima facie evidence), and upon the filing of an affidavit of the plaintiff, his agent, or attorney, with the clerk of the court, stating that he believes that the defendant is not a resident of the state, or cannot be found therein, and that he has deposited a copy of the summons (substantially in the form prescribed in RCW 4.28.110) and complaint in the post office, directed to the defendant at his place of residence, unless it is stated in the affidavit that such residence is not known to the affiant, and stating the existence of one of the cases hereinafter specified, the service

may be made by publication of the summons, by the plaintiff or his attorney in any of the following cases:

- (1) When the defendant is a foreign corporation, and has property within the state; Foreign corporation.
- (2) When the defendant, being a resident of this state, has departed therefrom with intent to defraud his creditors, or to avoid the service of a summons, or keeps himself concealed therein with like intent; Defendant departs or conceals himself.
- (3) When the defendant is not a resident of the state, but has property therein and the court has jurisdiction of the subject of the action; Nonresident defendant has property in state.
- (4) When the action is for divorce in the cases prescribed by law; Divorce actions.
- (5) When the subject of the action is real or personal property in this state, and the defendant has or claims a lien or interest, actual or contingent, therein, or the relief demanded consists wholly, or partly, in excluding the defendant from any interest or lien therein; Action involving real or personal property.
- (6) When the action is to foreclose, satisfy, or redeem from a mortgage, or to enforce a lien of any kind on real estate in the county where the action is brought, or satisfy or redeem from the same; Foreclose mortgage or lien.
- (7) When the action is against any corporation, whether private or municipal, organized under the laws of the state, and the proper officers on whom to make service do not exist or cannot be found; Officers of corporation cannot be found.
- (8) When the action is brought under RCW 4.08.160 and 4.08.170 to determine conflicting claims to property in this state. Action brought to determine conflicting claims to property.

Passed the House March 1, 1953.

Passed the Senate March 10, 1953.

Approved by the Governor March 17, 1953.