

Enrolled House Bill 2368

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary for Oregon State Bar Procedure and Practice Committee)

CHAPTER

AN ACT

Relating to appeals; creating new provisions; and amending ORS 19.270.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 19.270 is amended to read:

19.270. (1) The Supreme Court or the Court of Appeals has jurisdiction of the cause when the notice of appeal has been served and filed as provided in ORS 19.240, 19.250 and 19.255. The trial court may exercise those powers in connection with the appeal as are conferred by law, and retains jurisdiction in the matter for the following purposes:

(a) Deciding requests for attorney fees, costs and disbursements or expenses pursuant to ORCP 68 or other provision of law.

(b) Enforcing the judgment, subject to any stay of the judgment.

(c) Deciding a motion for judgment notwithstanding the verdict under ORCP 63.

(d) Deciding a motion for new trial under ORCP 64.

(e) Deciding a motion for relief from judgment under ORCP 71 B.

(2) The following requirements of ORS 19.240, 19.250 and 19.255 are jurisdictional and may not be waived or extended:

(a) Service of the notice of appeal on all parties identified in the notice of appeal as adverse parties or, if the notice of appeal does not identify adverse parties, on all parties who have appeared in the action, suit or proceeding, as provided in ORS 19.240 (2)(a), within the time limits prescribed by ORS 19.255.

(b) Filing of the original of the notice of appeal with the Court of Appeals as provided in ORS 19.240 (3), within the time limits prescribed by ORS 19.255.

(3) After the Supreme Court or the Court of Appeals has acquired jurisdiction of the cause, the omission of a party to perform any of the acts required in connection with an appeal, or to perform such acts within the time required, shall be cause for dismissal of the appeal. In the event of such omission, the court, on motion of a party or on its own motion may dismiss the appeal. An appeal dismissed on a party's motion or on the court's own motion may be reinstated upon showing of good cause.

(4) Notwithstanding the filing of a notice of appeal, the trial court has jurisdiction, with leave of the appellate court, to enter an appealable judgment if the appellate court determines that:

(a) At the time of the filing of the notice of appeal the trial court intended to enter an appealable judgment; and

(b) The judgment from which the appeal is taken is defective in form or was entered at a time when the trial court did not have jurisdiction of the cause under subsection (1) of this section, or the trial court had not yet entered an appealable judgment.

(5) Notwithstanding the filing of a notice of appeal, the trial court has jurisdiction:

(a) To enter an order or supplemental judgment under ORCP 71 or ORS 19.275, 107.105 (4) or 107.452; and

(b) To enter an order or supplemental judgment for the purpose of implementing a settlement as allowed by ORS 19.410 (3).

(6) Jurisdiction of the appellate court over a cause ends when a copy of the appellate judgment is mailed by the State Court Administrator to the court from which the appeal was taken pursuant to ORS 19.450, except that the appellate court may:

(a) Recall the appellate judgment as justice may require;

(b) Stay enforcement of the appellate judgment to allow the filing of a petition for writ of certiorari to the Supreme Court of the United States; and

(c) Stay enforcement of the appellate judgment pending disposition of the matter by the Supreme Court of the United States or for such other time as the Oregon appellate court may deem appropriate.

(7) If a limited or supplemental judgment is appealed, the jurisdiction of the appellate court is limited to the matters decided by the limited or supplemental judgment, and the trial court retains jurisdiction over all other matters in the proceeding.

(8) After jurisdiction of the appellate court ends, all orders which may be necessary to carry the appellate judgment into effect shall be made by the court from which the appeal was taken.

SECTION 2. The amendments to ORS 19.270 by section 1 of this 2007 Act apply only to causes for which a notice of appeal is filed on or after the effective date of this 2007 Act.

Passed by House February 20, 2007

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate March 26, 2007

.....
President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

.....
Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

.....
Secretary of State