

# 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)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that after filing of notice of appeal trial court retains jurisdiction for purpose of deciding motion for judgment notwithstanding the verdict, motion for new trial or motion for relief from judgment.

## A BILL FOR AN ACT

1  
2 Relating to appeals; creating new provisions; and amending ORS 19.270.

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

4 **SECTION 1.** ORS 19.270 is amended to read:

5 19.270. (1) The Supreme Court or the Court of Appeals has jurisdiction of the cause when the  
6 notice of appeal has been served and filed as provided in ORS 19.240, 19.250 and 19.255. The trial  
7 court may exercise those powers in connection with the appeal as are conferred by law, and retains  
8 jurisdiction in the matter for the following purposes:

9 (a) Deciding requests for attorney fees, costs and disbursements or expenses pursuant to ORCP  
10 68 or other provision of law.

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

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

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

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

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

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

21 (b) Filing of the original of the notice of appeal with the Court of Appeals as provided in ORS  
22 19.240 (3), within the time limits prescribed by ORS 19.255.

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

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

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

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

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

7 (a) To enter an order or supplemental judgment under ORCP 71 or ORS 19.275, 107.105 (4) or  
8 107.452; and

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

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

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

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

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

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

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

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

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