

Senate Bill 361

Sponsored by Senator GEORGE; Senators FERRIOLI, GIROD, KRUSE, NELSON, STARR, WINTERS, Representatives GILLIAM, THATCHER, WINGARD (at the request of Freedom Works)

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 class action may be maintained only for members of class who are residents of this state.

Provides that order certifying class, or order denying certification of class, is appealable. Requires stay of proceedings in action until final appellate judgment has been entered on appeal.

A BILL FOR AN ACT

Relating to class actions; creating new provisions; and amending ORCP 32 A, C and G.

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

SECTION 1. ORCP 32 A is amended to read:

A Requirement for class action.

A(1) One or more members of a class may sue or be sued as representative parties on behalf of all only if:

A(1)(a) The class is so numerous that joinder of all members is impracticable;

[A(2)] **A(1)(b)** There are questions of law or fact common to the class;

[A(3)] **A(1)(c)** The claims or defenses of the representative parties are typical of the claims or defenses of the class;

[A(4)] **A(1)(d)** The representative parties will fairly and adequately protect the interests of the class; and

[A(5)] **A(1)(e)** In an action for damages, the representative parties have complied with the pre-litigation notice provisions of section H of this rule.

A(2) A class action may be maintained only for those members of a class who are residents of this state.

SECTION 2. ORCP 32 C is amended to read:

C Determination by order whether class action to be maintained.

C(1) As soon as practicable after the commencement of an action brought as a class action, the court shall determine by order whether and with respect to what claims or issues it is to be so maintained and shall find the facts specially and state separately its conclusions thereon. An order under this section may be conditional, and may be [*altered or*] amended before the decision on the merits.

C(2) Where a party has relied upon a statute or law which another party seeks to have declared invalid, or where a party has in good faith relied upon any legislative, judicial, or administrative interpretation or regulation which would necessarily have to be voided or held inapplicable if another party is to prevail in the class action, the court may postpone a determination under subsection (1) of this section until the court has made a determination as to the validity or applicability of the statute, law, interpretation, or regulation.

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 **C(3) An order entered under this section, and any amendment to the order, is appealable**
2 **by any party to the action. If any party appeals an order under this section, or appeals any**
3 **amendment to the order, the court shall stay all proceedings in the action until a final ap-**
4 **pellate judgment has been entered on the appeal.**

5 **SECTION 3.** ORCP 32 G is amended to read:

6 G Commencement or maintenance of class actions regarding particular issues; subclasses. When
7 appropriate an action may be brought or ordered maintained as a class action with respect to par-
8 ticular claims or issues or by or against multiple classes or subclasses. Each subclass must sepa-
9 rately satisfy all requirements of this rule except for [*subsection*] **paragraph A(1)(a).**

10 **SECTION 4.** **The amendments to ORCP 32 A, C and G by sections 1 to 3 of this 2009 Act**
11 **apply only to actions commenced as described in ORS 12.020 on or after the effective date**
12 **of this 2009 Act.**

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