

House Bill 2520

Sponsored by Representative THOMPSON (Pre-session filed.)

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**.

Allows party defending claim to move for order that claimant is vexatious litigant. Provides that court may order vexatious litigant to deposit surety bond in amount of defending party's attorney fees and costs.

Allows court to enter order prohibiting vexatious litigant from filing action without consent of judge.

A BILL FOR AN ACT

1
2 Relating to vexatious litigants.

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

4 **SECTION 1. As used in sections 2 to 4 of this 2013 Act, "vexatious litigant" means a**
5 **person who:**

6 (1) **In the preceding seven years, has commenced or maintained without appearance by**
7 **attorney five or more civil proceedings, excluding proceedings in a small claims department,**
8 **that have been determined adversely to the person;**

9 (2) **Repeatedly relitigates or attempts to relitigate, without appearance by attorney, is-**
10 **sues or claims that have already been determined adversely to the person in a proceeding**
11 **involving the same parties; or**

12 (3) **In any litigation while acting without appearance by attorney, repeatedly files un-**
13 **meritorious motions, pleadings or other papers, conducts unnecessary discovery, or engages**
14 **in other tactics that are frivolous or solely intended to cause unnecessary delay.**

15 **SECTION 2. (1) In a civil proceeding, a party defending a claim may move the court for**
16 **an order that the claimant is a vexatious litigant. If the court finds that the claimant is a**
17 **vexatious litigant and that there is no reasonable probability that the claimant will prevail**
18 **on the claim, the court shall require the claimant to deposit a surety bond in an amount**
19 **determined by the court to be sufficient to compensate the defending party for the party's**
20 **attorney fees and costs in defending the claim. The surety bond must be conditioned that the**
21 **claimant pays all attorney fees and costs that are awarded to the defending party in the**
22 **proceeding.**

23 (2) **If a claimant fails to deposit a surety bond as required by an order issued under**
24 **subsection (1) of this section within 60 days after the order is issued, the court shall dismiss**
25 **the claimant's claims.**

26 **SECTION 3. (1) A court may, on its own motion or the motion of any party, enter a**
27 **prefiling order prohibiting a vexatious litigant from filing an action without appearance by**
28 **attorney unless the vexatious litigant obtains the consent of the presiding justice or presid-**
29 **ing judge of the court where the action is proposed to be filed.**

30 (2) **If a court has issued an order under subsection (1) of this section, the presiding jus-**

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 tice or presiding judge may permit the vexatious litigant to file an action only if it appears
2 that the litigation has merit and has not been filed for the purposes of harassment or delay.
3 The presiding justice or presiding judge may condition the filing of an action upon the deposit
4 of a surety bond, as provided in section 2 of this 2013 Act, in an amount determined by the
5 court to be sufficient to compensate the defending party for the party's attorney fees and
6 costs in defending the claim.

7 (3) The clerk of the court shall provide the Judicial Department with a copy of an order
8 issued under this section. The Judicial Department shall maintain a record of vexatious
9 litigants subject to orders issued under this section and shall regularly disseminate a list of
10 those persons to the courts of this state.

11 **SECTION 4.** (1) A vexatious litigant subject to a prefiling order issued under section 3
12 of this 2013 Act may file an application to vacate the order and remove the vexatious
13 litigant's name from the Judicial Department's list of vexatious litigants. The application
14 must be filed in the court that entered the order. The court may vacate the order and order
15 removal of a vexatious litigant's name from the Judicial Department's list of vexatious
16 litigants upon a showing of a material change in the facts upon which the order was granted
17 and that the ends of justice would be served by vacating the order.

18 (2) A vexatious litigant whose application under subsection (1) of this section is denied
19 may not file another application until 12 months after the date of the denial of the previous
20 application.

21 **SECTION 5.** Section 2 of this 2013 Act applies only to actions commenced on and after
22 the effective date of this 2013 Act.
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