

SENATE BILL NO. 291—SENATOR CARE
(BY REQUEST)

MARCH 15, 2007

Referred to Committee on Judiciary

SUMMARY—Revises certain provisions governing civil practice in actions in which plaintiff is a nonresident or foreign corporation. (BDR 2-1309)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to undertakings in civil actions; making mandatory a grant of increased undertaking in civil actions in which plaintiffs are nonresident or foreign corporations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides that, upon a defendant's request, a plaintiff who is not a
2 Nevada resident must post up to \$500 security for the costs which the defendant
3 may incur during litigation and which may be awarded to a defendant in the event
4 that the plaintiff does not prevail. (NRS 18.130) Existing law also provides that the
5 defendant may request increased security later in the litigation if it becomes
6 apparent that the security posted is or will become insufficient. (NRS 18.130)
7 This bill increases to \$1,000 the maximum security which a court may initially
8 impose. This bill also sets forth the showing which a defendant must make in
9 requesting an increase in posted security and makes mandatory a grant of such
10 increase once the required showing is made by a defendant.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 18.130 is hereby amended to read as follows:
2 18.130 1. When a plaintiff in an action resides out of the
3 State, or is a foreign corporation, security for the costs and charges
4 which may be awarded against such plaintiff may be required by the
5 defendant, by the filing and service on plaintiff of a written demand



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1 therefor within the time limited for answering the complaint. When
2 so required, all proceedings in the action ~~{shall}~~ **must** be stayed until
3 an undertaking, executed by two or more persons, ~~{be}~~ **is** filed with
4 the clerk, to the effect that they will pay such costs and charges as
5 may be awarded against the plaintiff by judgment, or in the progress
6 of the action, not exceeding the sum of ~~{\\$500;}~~ **\\$1,000**, or in lieu of
7 such undertaking, the plaintiff may deposit ~~{\\$500;}~~ **\\$1,000**, lawful
8 money, with the clerk of the court, subject to the same conditions as
9 required for the undertaking. The plaintiff, upon filing the
10 undertaking or depositing the security, shall notify the defendant of
11 such filing or deposit, and the defendant, after receipt of such notice,
12 shall have 10 days or the period allowed under N.R.C.P. 12(a),
13 whichever is longer, in which to answer or otherwise plead to the
14 complaint.

15 2. A new or an additional undertaking ~~{may}~~ **must** be ordered
16 by the court or judge upon proof that the original undertaking is
17 insufficient security . ~~{, and proceedings}~~ **To prove security is**
18 **insufficient, the defendant must show that reasonable costs in**
19 **excess of the previously posted security amount actually were**
20 **incurred or must provide estimates of costs, including, without**
21 **limitation, expert costs, that may be incurred during the remainder**
22 **of the litigation. Proceedings** in the action **may be** stayed until such
23 new or additional undertaking ~~{be}~~ **is** executed and filed.

24 3. Each of the sureties on the undertaking mentioned in
25 subsection 1 shall annex to the same an affidavit that he is a resident
26 and householder, or freeholder, within the county and is worth
27 double the amount specified in the undertaking, over and above all
28 his just debts and liabilities, exclusive of property exempt from
29 execution.

30 4. After the lapse of 30 days from the service of notice that
31 security is required, or of an order for new or additional security,
32 upon proof thereof, and that no undertaking as required has been
33 filed, the court or judge may order the action to be dismissed.

