

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 a plaintiff is a nonresident or a 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; increasing the amount of undertaking and making mandatory a grant of increased undertaking in civil actions in which plaintiffs are nonresidents or foreign corporations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that, upon a defendant's request, a plaintiff who is not a Nevada resident must post up to \$500 security for the costs which the defendant may incur during litigation and which may be awarded to a defendant in the event that the plaintiff does not prevail. (NRS 18.130) Existing law also provides that the defendant may request increased security later in the litigation if it becomes apparent that the security posted is or will become insufficient. (NRS 18.130)

This bill increases to \$1,000 the maximum security which a court may initially impose. This bill also makes mandatory a grant of an increase in security once a defendant proves that the original undertaking is insufficient security.

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

Section 1. NRS 18.130 is hereby amended to read as follows:

18.130 1. When a plaintiff in an action resides out of the State, or is a foreign corporation, security for the costs and charges which may be awarded against such plaintiff may be required by the defendant, by the filing and service on plaintiff of a written demand therefor within the time limited for answering the complaint. When



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

14 2. A new or an additional undertaking ~~{may}~~ **must** be ordered
15 by the court or judge upon proof that the original undertaking is
16 insufficient security . ~~{-and-proceedings}~~ **Proceedings** in the action
17 **may be** stayed until such new or additional undertaking ~~{be}~~ **is**
18 executed and filed.

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

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

