

CHAPTER 621

SECURITY FOR COSTS

[P]

Deferral of costs in civil and criminal proceedings; see chapter 610

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621.1 Bond for costs.

If a defendant, at any time before answering shall make and file an affidavit stating that the defendant has a good defense in whole or in part, the plaintiff, or party bringing the action or proceeding, if the plaintiff or party is a nonresident of this state, or a private or foreign corporation, before any other proceedings in the action, must file in the clerk's office a bond with sureties to be approved by the clerk, in an amount to be fixed by the court, for the payment of all costs which may legally be adjudged against plaintiff.

[R60, §3442; C73, §2927; C97, §3847; S13, §3847; C24, 27, 31, 35, 39, §11245; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.1]

Referred to in §602.8102(96), 621.4, 621.5

621.2 Nonresident intervenor — action in probate.

A nonresident intervenor or party bringing an action in probate shall be required in like manner to give bond on motion of any party required to answer or defend.

[S13, §3847; C24, 27, 31, 35, 39, §11246; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.2]

Referred to in §621.4, 621.5

621.3 Procedure.

The application for such security shall be by motion, filed with the case, and the facts supporting it must be shown by affidavits annexed thereto, which may be responded to by counter affidavits on or before the hearing of the motion, and each party shall file all the affidavits at once, and none thereafter.

[R60, §3448; C73, §2927; C97, §3847; S13, §3847; C24, 27, 31, 35, 39, §11247; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.3]

Referred to in §621.4, 621.5

621.4 Dismissal for failure to furnish.

An action in which a bond for costs is required by sections 621.1 to 621.3, inclusive, shall be dismissed, if a bond is not given in such time as the court allows.

[R60, §3443; C73, §2928; C97, §3848; C24, 27, 31, 35, 39, §11248; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.4]

Referred to in §621.5

621.5 Becoming nonresident.

If the plaintiff or any intervenor in an action, after its institution and at any time before its final determination, becomes a nonresident of this state, the plaintiff or intervenor may be required to give security for costs in the manner provided in sections 621.1 to 621.4, inclusive.

[R60, §3444; C73, §2929; C97, §3849; S13, §3849; C24, 27, 31, 35, 39, §11249; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.5]

621.6 Additional security.

In an action in which a bond for costs has been given, the defendant may, at any time before trial, make a motion for additional security, and if on such motion the court is satisfied that the surety in the plaintiff's bond has removed from the state, or it is not sufficient for the

amount thereof, it may dismiss the action unless, in a reasonable time to be fixed by the court, sufficient security is given by the plaintiff.

[R60, §3445; C73, §2930; C97, §3850; C24, 27, 31, 35, 39, §11250; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.6]

621.7 Prohibited sureties.

No attorney or other officer of the court shall be received as security in any proceeding in court.

[R60, §3446; C73, §2931; C97, §3851; C24, 27, 31, 35, 39, §11251; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.7]

[P] Similar provision, §636.5

621.8 Judgment on bond.

After final judgment has been rendered in an action in which security for costs has been given as above required, the court may, on motion of the defendant or any other person having the right to such costs or any part thereof, render judgment summarily, in the name of the defendant or the defendant's legal representatives, against the sureties for costs, for the amount of costs adjudged against the plaintiff, or so much thereof as may remain unpaid.

[R60, §3447; C73, §2932; C97, §3852; C24, 27, 31, 35, 39, §11252; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.8]

621.9 Cash in lieu of bond.

In all cases in which a bond for security for costs is required, the party required to give such security may deposit in cash the amount fixed in said bond with the clerk of the district court in lieu of said bond.

[S13, §3852-a; C24, 27, 31, 35, 39, §11253; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §621.9]