

Chapter 4.72 RCW
VACATION AND MODIFICATION OF JUDGMENTS

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RCW 4.72.010 Causes for enumerated. The superior court in which a judgment or final order has been rendered, or made, shall have power to vacate or modify such judgment or order:

(1) By granting a new trial for the cause, within the time and in the manner, and for any of the causes prescribed by the rules of court relating to new trials.

(2) By a new trial granted in proceedings against defendant served by publication only as prescribed in RCW 4.28.200.

(3) For mistakes, neglect or omission of the clerk, or irregularity in obtaining a judgment or order.

(4) For fraud practiced by the successful party in obtaining the judgment or order.

(5) For erroneous proceedings against a minor or person of unsound mind, when the condition of such defendant does not appear in the record, nor the error in the proceedings.

(6) For the death of one of the parties before the judgment in the action.

(7) For unavoidable casualty, or misfortune preventing the party from prosecuting or defending.

(8) For error in a judgment shown by a minor, within twelve months after arriving at full age. [1957 c 9 s 4; Code 1881 s 436; 1877 p 96 s 438; 1875 p 20 s 1; RRS s 464.]

Rules of court: Cf. CR 52(d), CR 60(b).

Judgment to recover realty, vacation: RCW 7.28.260.

RCW 4.72.020 Motion to vacate—Time limitation. The proceedings to vacate or modify a judgment or order for mistakes or omissions of the clerk, or irregularity in obtaining the judgment or order, shall be by motion served on the adverse party or on his or her attorney in the action, and within one year. [2011 c 336 s 119; 1891 c 27 s 1; Code 1881 s 438; 1877 p 97 s 440; 1875 p 21 s 3; RRS s 466.]

Rules of court: Cf. CR 60(b).

RCW 4.72.030 Petition to vacate for certain causes—Time limitation. RCW 4.72.010 (2), (3), (4), (5), (6), and (7) shall be by petition verified by affidavit, setting forth the judgment or order,

the facts or errors constituting a cause to vacate or modify it, and if the party is a defendant, the facts constituting a defense to the action; and such proceedings must be commenced within one year after the judgment or order was made, unless the party entitled thereto be a minor or person of unsound mind, and then within one year from the removal of such disability. [1891 c 27 s 2; Code 1881 s 439; 1877 p 97 s 441; 1875 p 21 s 4; RRS s 467.]

Rules of court: *Cf.* CR 60(b).

RCW 4.72.050 Conditions precedent to vacation. The judgment shall not be vacated on motion or petition until it is adjudged that there is a valid defense to the action in which the judgment is rendered; or, if the plaintiff seeks its vacation, that there is a valid cause of action; and when judgment is modified, all liens and securities obtained under it shall be preserved to the modified judgment. [Code 1881 s 441; 1877 p 97 s 443; 1875 p 22 s 6; RRS s 469.]

RCW 4.72.060 Grounds for vacation may first be tried. The court may first try and decide upon the grounds to vacate or modify a judgment or order, before trying or deciding upon the validity of the defense or cause of action. [Code 1881 s 442; 1877 p 97 s 440; 1875 p 22 s 7; RRS s 470.]

RCW 4.72.070 Injunction to suspend proceedings. The party seeking to vacate or modify a judgment or order may obtain an injunction suspending proceedings on the whole or part thereof, which injunction may be granted by the court or the judge upon its being rendered probable, by affidavit or petition sworn to, or by exhibition of the record, that the party is entitled to have such judgment or order vacated or modified. [Code 1881 s 443; 1877 p 97 s 445; 1875 p 22 s 8; RRS s 471.]

Rules of court: *Cf.* CR 62.

RCW 4.72.080 Construction of chapter—Time limitations when fraud, misrepresentation concerned. The provisions of this chapter shall not be so construed as to affect the power of the court to vacate or modify judgments or orders as elsewhere in this code provided; nor shall the time limitations set forth in this chapter within which proceedings to vacate or modify a judgment must be started apply to a judgment heretofore or hereafter entered by consent or stipulation where the grounds to vacate or modify such judgment are based on fraud or misrepresentation, or when after the entry of the judgment either party fails to fulfill the terms and conditions on which the consent judgment or stipulation was entered; nor shall any judgment of acquittal in a criminal action be vacated under the provisions of this chapter. [1961 c 88 s 1; 1891 c 27 s 4; RRS s 472.]

Reviser's note: The words "this code" appeared in 1891 c 27 s 4.

RCW 4.72.090 Judgment upon denial of application. In all cases in which an application under this chapter to vacate or modify a judgment or order for the recovery of money is denied, if proceedings on the judgment or order shall have been suspended, judgment shall be rendered against the plaintiff [applicant] for the amount of the former judgment or order, interest and costs, together with damages at the discretion of the court, not exceeding ten percent on the amount of the judgment or order. [1891 c 27 s 5; Code 1881 s 444; 1877 p 97 s 446; 1875 p 22 s 9; RRS s 473.]