

**Sunsets 1/1/2016**

**48-2c-1706 Security and costs.**

- (1) In any action instituted in the right of any company or foreign company, unless the fair market value of the plaintiff's interest in the company as a member exceeds the greater of \$25,000 or 5% of the fair market value of the company, the company in whose right the action is brought shall be entitled, at any time before final judgment, to require the plaintiff to give security for the costs and reasonable expenses which may be directly attributable to and incurred by it in the defense of the action or may be incurred by other parties named as defendant for which the company may become legally liable, but not including attorney's fees.
- (2) Fair market value shall be determined as of the date that the plaintiff institutes the action, or, in the case of an intervener as of the date that he becomes a party to the action.
- (3) The amount and nature of the security shall be determined by the court, and the amount of the security may from time to time be increased or decreased by the court, upon showing that the security provided has or may become inadequate or is excessive.
- (4) The company shall have recourse to the security in the amount as the court having jurisdiction shall determine upon the termination of the action if the court finds the action was brought without reasonable cause.