

## **Part 4 Declaratory Judgments**

### **78B-6-401 Power to issue declaratory judgment -- Form -- Effect.**

- (1)
  - (a) A court with jurisdiction under Title 78A, Judiciary and Judicial Administration, has the power to issue declaratory judgments determining rights, status, and other legal relations within its respective jurisdiction.
  - (b) An action or proceeding may not be open to objection on the ground that a declaratory judgment or decree is prayed for.
- (2) The declaration may be either affirmative or negative in form and effect and shall have the force and effect of a final judgment or decree.

Amended by Chapter 158, 2024 General Session

### **78B-6-402 Court's general powers.**

The provisions of Sections 78B-6-408, 78B-6-409, and 78B-6-410 do not limit or restrict the exercise of the general powers conferred in Section 78B-6-401 in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

Renumbered and Amended by Chapter 3, 2008 General Session

### **78B-6-403 Parties.**

- (1) When declaratory relief is sought all persons shall be made parties who have or claim any interest which would be affected by the declaration, and a declaration may not prejudice the rights of persons not parties to the proceeding.
- (2) In any proceeding which involves the validity of a municipal or county ordinance or franchise, the municipality or county shall be made a party, and shall be entitled to be heard.
- (3) If a statute or state franchise or permit is alleged to be invalid, the attorney general shall be served with a copy of the proceeding and be entitled to be heard.

Renumbered and Amended by Chapter 3, 2008 General Session

### **78B-6-404 Discretion to deny declaratory relief.**

The court may refuse to render or enter a declaratory judgment or decree where a judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

Renumbered and Amended by Chapter 3, 2008 General Session

### **78B-6-405 Appeals and reviews.**

All orders, judgments, and decrees under this part may be reviewed in the same manner as other orders, judgments, and decrees.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-6-406 Supplemental relief.**

Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application for further relief shall be by petition to a court having jurisdiction to grant the relief. If the application is considered sufficient, the court shall, on reasonable notice, require any adverse party, whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be immediately granted.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-6-407 Trial of issues of fact.**

When a proceeding under this chapter involves the determination of an issue of fact, the issue may be tried in the court in which the proceeding is pending and determined in the same manner as issues of fact are tried and determined in other civil actions in the court.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-6-408 Rights, status, legal relations under instruments, or statutes may be determined.**

A person with an interest in a deed, will, or written contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract, or franchise, may request the court to determine any question of construction or validity arising under the instrument, statute, ordinance, contract, or franchise and obtain a declaration of rights, status, or other legal relations.

Amended by Chapter 158, 2024 General Session

**78B-6-409 Contracts.**

A contract may be construed before or after there has been a breach.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-6-410 Suit by fiduciary or representative.**

Any person interested as or through an executor, administrator, trustee, guardian, or other fiduciary, creditor, devisee, legatee, heir, next of kin, or cestui que trust, in the administration of a trust, or of the estate of a decedent, an infant, lunatic, or insolvent, may petition the court for a declaratory judgment:

- (1) to ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others;
- (2) to direct the executors, administrators, or trustees to do or abstain from doing any particular act in their fiduciary capacity; or
- (3) to determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-6-411 Costs.**

In any proceeding under this part the court may make an award of costs it considers equitable and just.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-6-412 Chapter to be liberally construed.**

This chapter is to be remedial. Its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations; and is to be liberally construed and administered.

Renumbered and Amended by Chapter 3, 2008 General Session