

### **Part 3 Place of Trial -- Venue**

#### **78B-3-301 Actions involving real property.**

- (1) Actions for the following causes involving real property shall be tried in the county in which the subject of the action, or some part, is situated:
  - (a) for the recovery of real property, or of an estate or interest in the property;
  - (b) for the determination, in any form, of the right or interest in the property;
  - (c) for injuries to real property;
  - (d) for the partition of real property; and
  - (e) for the foreclosure of all liens and mortgages on real property.
- (2) If the real property is situated partly in one county and partly in another, the plaintiff may select either of the counties, and the county selected is the proper county for the trial of the action.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78B-3-302 Actions to recover fines or penalties -- Against public officers.**

- (1) Actions to recover fines or penalties shall be tried in the county where the cause, or some part of the cause, arose.
- (2) If a fine, penalty, or forfeiture imposed by statute is imposed for an offense committed on a lake, river, or other stream of water situated in two or more counties, the action may be brought in any county bordering on the lake, river, or stream opposite to the place where the offense was committed.
- (3) Except as otherwise provided by law, an action against a public officer or the public officer's designee shall be tried in the county where the cause arose.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78B-3-303 Actions against a county.**

- (1) An action against a county may be commenced and tried in the county.
- (2) If the action is brought by another county, the action may be commenced and tried in any county not a party to the action.

Renumbered and Amended by Chapter 3, 2008 General Session

#### **78B-3-304 Actions on written contracts.**

An action on a contract signed in this state to perform an obligation may be commenced and tried in the following venues:

- (1) If the action is to enforce an interest in real property securing a consumer's obligation, the action may be brought only in the county where the real property is located or where the defendant resides.
- (2) An action to enforce an interest other than under Subsection (1) may be brought in the county where the obligation is to be performed, the contract was signed, or in which the defendant resides.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-3-305 Transitory actions -- Residence of corporations.**

- (1) All transitory causes of action arising outside the state, except those mentioned in Section 78B-3-306, shall, if action is brought in this state, be brought and tried in the county where any defendant resides.
- (2) If any such defendant is a corporation, the action may be brought and tried in any county in which the corporation has an office or place of business.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-3-306 Arising without this state in favor of resident.**

All transitory causes of action arising outside the state in favor of residents of this state shall be brought and tried in the county where the plaintiff resides, or in the county where the principal defendant resides. If the principal defendant is a corporation, the action shall be brought in the county where the plaintiff resides or in the county where the corporation has an office or place of business.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-3-307 All other actions.**

- (1) In all other cases an action shall be tried in the county in which:
  - (a) the cause of action arises; or
  - (b) any defendant resides at the commencement of the action.
- (2) If the defendant is a corporation, any county in which the corporation has its principal office or a place of business shall be considered the county in which the corporation resides.
- (3) If none of the defendants resides in this state, the action may be commenced and tried in any county designated by the plaintiff in the complaint.
- (4) If the defendant is about to depart from the state, the action may be tried in any county where any of the parties resides or service is had.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-3-308 Change of venue -- Conditions precedent.**

If the county in which the action is commenced is not the proper county for the trial, the action may nevertheless be tried in the county in which it is filed, unless the defendant, at the time the answer is filed or an appearance is made, files a written motion requesting the trial be moved to the proper county.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-3-309 Grounds.**

The court may, on motion, change the place of trial in the following cases:

- (1) when the county designated in the complaint is not the proper county;
- (2) when there is reason to believe that an impartial trial cannot be had in the county, city, or precinct designated in the complaint;
- (3) when the convenience of witnesses and the ends of justice would be promoted by the change;
- (4) when all the parties to an action, by stipulation or by consent in open court entered in the minutes, agree that the place of trial may be changed to another county.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-3-310 Court to which transfer is to be made.**

An action or proceeding which is transferred by order of the court shall be transferred to a court agreed upon by the parties. If the parties do not agree, the action shall be transferred to the nearest court where the objection or reason for transfer does not exist.

Renumbered and Amended by Chapter 3, 2008 General Session

**78B-3-311 Duty of clerk -- Fees and costs -- Effect on jurisdiction.**

- (1) When an order is made transferring an action or proceeding for trial, the court shall transmit all pleadings and papers regarding the transferred action to the court to which it is transferred.
- (2) All costs and fees for the transfer and filing the papers anew shall be paid by the party at whose instance the order was made.
- (3) Notwithstanding Subsection (2), if the order is made because the action was commenced in the wrong county, the costs of transfer and filing the papers anew shall be paid by the plaintiff in the action within 10 days after the issuance of the order, or the action shall be dismissed for lack of jurisdiction.
- (4) The court to which an action or proceeding is transferred shall have and exercise the same jurisdiction as if the action had been originally commenced there.

Renumbered and Amended by Chapter 3, 2008 General Session