



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5793

Introduced 2/10/2010, by Rep. Jil Tracy

#### SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-101	from Ch. 110, par. 2-101
735 ILCS 5/2-102	from Ch. 110, par. 2-102
735 ILCS 5/2-103	from Ch. 110, par. 2-103
735 ILCS 5/2-104	from Ch. 110, par. 2-104

Amends the Code of Civil Procedure. Deletes language providing that an action may be commenced in any county if all defendants are nonresidents of the State, and replaces it with language providing that if no defendants that are joined in good faith and with probable cause for the purpose of obtaining a judgment against them are residents of the State, an action may be commenced only in the county in which the transaction or some part thereof occurred out of which the cause of action arose. Makes various changes in provisions defining the residence of certain corporations, voluntary unincorporated associations, and partnerships. Deletes language providing that actions against an insurance company incorporated under the laws of this State or doing business in this State may be brought in any county in which the plaintiff or one of the plaintiffs resides. Provides that if no defendants are residents of this State, and the transaction, or some part thereof, out of which the cause of action arose did not occur in this State, the action must be dismissed for lack of proper venue. Makes changes in relation to motions claiming improper venue. Provides that the changes made by the amendatory Act apply to actions filed on or after its effective date. Effective immediately.

LRB096 17152 AJO 32483 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Code of Civil Procedure is amended by  
5 changing Sections 2-101, 2-102, 2-103, and 2-104 as follows:

6 (735 ILCS 5/2-101) (from Ch. 110, par. 2-101)

7 Sec. 2-101. Generally. Except as otherwise provided in this  
8 Act, every action must be commenced (1) in the county of  
9 residence of any defendant who is joined in good faith and with  
10 probable cause for the purpose of obtaining a judgment against  
11 him or her and not solely for the purpose of fixing venue in  
12 that county, or (2) in the county in which the transaction or  
13 some part thereof occurred out of which the cause of action  
14 arose.

15 If a check, draft, money order, or other instrument for the  
16 payment of child support payable to or delivered to the State  
17 Disbursement Unit established under Section 10-26 of the  
18 Illinois Public Aid Code is returned by the bank or depository  
19 for any reason, venue for the enforcement of any criminal  
20 proceedings or civil cause of action for recovery and attorney  
21 fees shall be in the county where the principal office of the  
22 State Disbursement Unit is located.

23 If no all defendants that are joined in good faith and with

1 probable cause for the purpose of obtaining a judgment against  
2 them are residents ~~nonresidents~~ of the State, an action may be  
3 commenced only in the county in which the transaction or some  
4 part thereof occurred out of which the cause of action arose  
5 ~~any county.~~

6 If the corporate limits of a city, village or town extend  
7 into more than one county, then the venue of an action or  
8 proceeding instituted by that municipality to enforce any fine,  
9 imprisonment, penalty or forfeiture for violation of any  
10 ordinance of that municipality, regardless of the county in  
11 which the violation was committed or occurred, may be in the  
12 appropriate court (i) in the county wherein the office of the  
13 clerk of the municipality is located or (ii) in any county in  
14 which at least 35% of the territory within the municipality's  
15 corporate limits is located.

16 The changes made by this amendatory Act of the 96th General  
17 Assembly apply to actions filed on or after its effective date.

18 (Source: P.A. 91-212, eff. 7-20-99.)

19 (735 ILCS 5/2-102) (from Ch. 110, par. 2-102)

20 Sec. 2-102. Residence of corporations, voluntary  
21 unincorporated associations and partnerships defined. For  
22 purposes of venue, the following definitions apply:

23 (a) Any private corporation or railroad or bridge company,  
24 organized under the laws of this State, and any foreign  
25 corporation authorized to transact business in this State is a

1 resident of any county in which it has its registered office or  
2 other office ~~or is doing business~~. A foreign corporation not  
3 authorized to transact business in this State is a nonresident  
4 of this State.

5 (b) A partnership sued in its firm name is a resident of  
6 any county ~~in which any partner resides or~~ in which the  
7 partnership has an office ~~or is doing business~~. A partnership  
8 sued in its firm name, of which all partners are nonresidents  
9 of this State and which does not have an office or do business  
10 in this State, is a nonresident of this State.

11 (c) A voluntary unincorporated association sued in its own  
12 name is a resident of any county in which the association has  
13 an office ~~or, if on due inquiry no office can be found, in~~  
14 ~~which any officer of the association resides~~. A voluntary  
15 unincorporated association sued in its own name, of which all  
16 its members are nonresidents of this State and which does not  
17 have an office or do business in this State, is a nonresident  
18 of this State.

19 (d) The changes made by this amendatory Act of the 96th  
20 General Assembly apply to actions filed on or after its  
21 effective date.

22 (Source: P.A. 83-901.)

23 (735 ILCS 5/2-103) (from Ch. 110, par. 2-103)

24 Sec. 2-103. Public corporations - Local actions - Libel -  
25 ~~Insurance companies.~~

1           (a) Actions must be brought against a public, municipal,  
2 governmental or quasi-municipal corporation in the county in  
3 which its principal office is located or in the county in which  
4 the transaction or some part thereof occurred out of which the  
5 cause of action arose. Except as otherwise provided in Section  
6 7-102 of this Code, if the cause of action is related to an  
7 airport owned by a unit of local government or the property or  
8 aircraft operations thereof, however, including an action  
9 challenging the constitutionality of this amendatory Act of the  
10 93rd General Assembly, the action must be brought in the county  
11 in which the unit of local government's principal office is  
12 located. Actions to recover damage to real estate which may be  
13 overflowed or otherwise damaged by reason of any act of the  
14 corporation may be brought in the county where the real estate  
15 or some part of it is situated, or in the county where the  
16 corporation is located, at the option of the party claiming to  
17 be injured. Except as otherwise provided in Section 7-102 of  
18 this Code, any cause of action that is related to an airport  
19 owned by a unit of local government, and that is pending on or  
20 after the effective date of this amendatory Act of the 93rd  
21 General Assembly in a county other than the county in which the  
22 unit of local government's principal office is located, shall  
23 be transferred, upon motion of any party under Section 2-106 of  
24 this Code, to the county in which the unit of local  
25 government's principal office is located.

26           (b) Any action to quiet title to real estate, or to

1 partition or recover possession thereof or to foreclose a  
2 mortgage or other lien thereon, must be brought in the county  
3 in which the real estate or some part of it is situated.

4 (c) Any action which is made local by any statute must be  
5 brought in the county designated in the statute.

6 (d) Every action against any owner, publisher, editor,  
7 author or printer of a newspaper or magazine of general  
8 circulation for libel contained in that newspaper or magazine  
9 may be commenced only in the county in which the defendant  
10 resides or has his, her or its principal office or in which the  
11 article was composed or printed, except when the defendant  
12 resides or the article was printed without this State, in  
13 either of which cases the action may be commenced in any county  
14 in which the libel was circulated or published.

15 (e) The changes made by this amendatory Act of the 96th  
16 General Assembly apply to actions filed on or after its  
17 effective date. ~~Actions against any insurance company~~  
18 ~~incorporated under the law of this State or doing business in~~  
19 ~~this State may also be brought in any county in which the~~  
20 ~~plaintiff or one of the plaintiffs may reside.~~

21 (Source: P.A. 93-450, eff. 8-6-03.)

22 (735 ILCS 5/2-104) (from Ch. 110, par. 2-104)

23 Sec. 2-104. Wrong venue - Waiver - Motion to transfer. (a)  
24 No order or judgment is void because rendered in the wrong  
25 venue, except in case of judgment by confession as provided in

1 subsection (c) of Section 2-1301 of this Act. No action shall  
2 abate or be dismissed because commenced in the wrong venue if  
3 there is a proper venue to which the cause may be transferred.  
4 If no defendants are residents of this State, and the  
5 transaction, or some part thereof, out of which the cause of  
6 action arose did not occur in this State, the action must be  
7 dismissed for lack of proper venue.

8 (b) All objections of improper venue are waived by a  
9 defendant unless a motion to transfer to a proper venue or a  
10 motion to dismiss for lack of proper venue is made by the  
11 defendant on or before the date upon which he or she is  
12 required to appear or within any further time that may be  
13 granted him or her to answer or move with respect to the  
14 complaint, except that if a defendant upon whose residence  
15 venue depends is dismissed upon motion of plaintiff, a  
16 remaining defendant may promptly move for transfer as though  
17 the dismissed defendant had not been a party.

18 (c) Motions to dismiss or for transfer to a proper venue  
19 may be supported and opposed by affidavit. In determining  
20 issues of fact raised by affidavits, any competent evidence  
21 adduced by the parties shall also be considered. The  
22 determination of any issue of fact in connection with a motion  
23 to transfer does not constitute a determination of the merits  
24 of the case or any aspect thereof.

25 (d) The changes made by this amendatory Act of the 96th  
26 General Assembly apply to actions filed on or after its

1 effective date.

2 (Source: P.A. 83-707.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.