



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2236

Introduced 2/20/2009, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

735 ILCS 5/2-301

from Ch. 110, par. 2-301

Amends the Code of Civil Procedure. Provides that within 90 days after filing an appearance (instead of prior to filing any other pleading other than a motion for an extension of time within which to plead), a party may object to the court exercising personal jurisdiction over the party. Provides that participating in the litigation does not waive the jurisdictional argument (and deletes a provision that if a party files a responsive pleading other than a motion for an extension of time prior to filing a motion to dismiss or to quash service of process, the party waives all objections to the court's jurisdiction over the party's person). Deletes a provision that states that error in ruling against an objecting party is waived by that party taking part in further proceedings in the case unless the objection is on the basis of the party not being amenable to service by an Illinois court. The changes made apply to actions filed after the effective date. Effective immediately.

LRB096 07693 AJO 17794 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 Section 2-301 as follows:

6 (735 ILCS 5/2-301) (from Ch. 110, par. 2-301)

7 Sec. 2-301. Objections to jurisdiction over the person.

8 (a) Within 90 days after filing an appearance ~~Prior to the~~
9 ~~filing of any other pleading or motion other than a motion for~~
10 ~~an extension of time to answer or otherwise appear,~~ a party may
11 object to the court's jurisdiction over the party's person,
12 either on the ground that the party is not amenable to process
13 of a court of this State or on the ground of insufficiency of
14 process or insufficiency of service of process, by filing a
15 motion to dismiss the entire proceeding or any cause of action
16 involved in the proceeding or by filing a motion to quash
17 service of process. Such a motion may be made singly or
18 included with others in a combined motion, but the parts of a
19 combined motion must be identified in the manner described in
20 Section 2-619.1. Unless the facts that constitute the basis for
21 the objection are apparent from papers already on file in the
22 case, the motion must be supported by an affidavit setting
23 forth those facts.

1 (a-5) (Blank). ~~If the objecting party files a responsive~~
2 ~~pleading or a motion (other than a motion for an extension of~~
3 ~~time to answer or otherwise appear) prior to the filing of a~~
4 ~~motion in compliance with subsection (a), that party waives all~~
5 ~~objections to the court's jurisdiction over the party's person.~~

6 (a-7) Participating in the litigation shall not be deemed a
7 waiver of the jurisdictional argument.

8 (b) In disposing of a motion objecting to the court's
9 jurisdiction over the person of the objecting party, the court
10 shall consider all matters apparent from the papers on file in
11 the case, affidavits submitted by any party, and any evidence
12 adduced upon contested issues of fact. The court shall enter an
13 appropriate order sustaining or overruling the objection. No
14 determination of any issue of fact in connection with the
15 objection is a determination of the merits of the case or any
16 aspect thereof. A decision adverse to the objector does not
17 preclude the objector from making any motion or defense which
18 he or she might otherwise have made.

19 (c) (Blank). ~~Error in ruling against the objecting party on~~
20 ~~the objection is waived by the party's taking part in further~~
21 ~~proceedings unless the objection is on the ground that the~~
22 ~~party is not amenable to process issued by a court of this~~
23 ~~State.~~

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

1 Assembly.

2 (Source: P.A. 91-145, eff. 1-1-00.)

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