



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4246

by Rep. Jim Durkin

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 5/2-110 new	
735 ILCS 5/2-1107.1	from Ch. 110, par. 2-1107.1
735 ILCS 5/2-1117	from Ch. 110, par. 2-1117
735 ILCS 5/2-1205.2 new	

Amends the Code of Civil Procedure. Deletes a provision authorizing an action to be commenced in any county when all defendants are nonresidents of this State. Limits venue for actions against corporations, partnerships, and insurance companies. Provides that in actions in which no party is a resident of this State and over which another forum has jurisdiction, the court shall, upon motion, dismiss the action subject to specified conditions. Provides that joint and several liability attaches when a defendant is found to be 50%, rather than 25%, at fault. Limits amounts recovered for medical care, treatment, or services and caretaking expenses to the amounts actually paid for those expenses regardless of the amounts initially billed.

LRB099 13048 HEP 36927 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, 2-1107.1, and 2-1117 and
6 by adding Sections 2-110 and 2-1205.2 as follows:

7 (735 ILCS 5/2-101) (from Ch. 110, par. 2-101)

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

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

1 ~~If all defendants are nonresidents of the State, an action~~
2 ~~may be commenced in any county.~~

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

13 The changes to this Section made by this amendatory Act of
14 the 99th General Assembly apply to actions filed on or after
15 its effective date.

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

17 (735 ILCS 5/2-102) (from Ch. 110, par. 2-102)

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

21 (a) Any private corporation or railroad or bridge company,
22 organized under the laws of this State, and any foreign
23 corporation authorized to transact business in this State is a
24 resident of any county in which it has its registered office or
25 other office or, if on due inquiry no office can be found in

1 this State, any county in which it is doing business. A foreign
2 corporation not authorized to transact business in this State
3 is a nonresident of this State.

4 (b) A partnership sued in its firm name is a resident of
5 any county ~~in which any partner resides or~~ in which the
6 partnership has an office or, if on due inquiry no office can
7 be found in this State, any county in which it is doing
8 business. A partnership sued in its firm name, of which all
9 partners are nonresidents of this State and which does not have
10 an office or do business in this State, is a nonresident of
11 this State.

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

20 The changes to this Section made by this amendatory Act of
21 the 99th General Assembly apply to actions filed on or after
22 its effective date.

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

24 (735 ILCS 5/2-103) (from Ch. 110, par. 2-103)

25 Sec. 2-103. Public corporations - Local actions - Libel

1 ~~Libel—Insurance companies.~~

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

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

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

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

16 (e) (Blank). ~~Actions against any insurance company~~
17 ~~incorporated under the law of this State or doing business in~~
18 ~~this State may also be brought in any county in which the~~
19 ~~plaintiff or one of the plaintiffs may reside.~~

20 (f) The changes to this Section made by this amendatory Act
21 of the 99th General Assembly apply to actions filed on or after
22 its effective date.

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

24 (735 ILCS 5/2-110 new)

25 Sec. 2-110. Motion to dismiss for inconvenient venue.

1 (a) In any action in which none of the parties is a
2 resident of this State and over which another forum has
3 jurisdiction, the court shall on motion dismiss the action on
4 the conditions set forth in subsection (b) unless the cause of
5 action primarily arose in this State or the interests of
6 justice require that the action proceed in this State. The
7 court in its discretion may award costs and reasonable
8 attorney's fees in connection with the dismissal.

9 (b) Dismissal of the action shall be on condition that: (i)
10 if the plaintiff elects to file the action in another forum
11 within 6 months after the dismissal order, the defendant shall
12 accept service of process from that court; and (ii) if the
13 statute of limitations has run in the other forum, the
14 defendant shall waive that defense. If the defendant refuses to
15 abide by these conditions, the action shall be reinstated for
16 further proceedings in the court in which the dismissal was
17 granted. If the court in the other forum refuses to accept
18 jurisdiction, the plaintiff may, within 30 days after the final
19 order refusing jurisdiction, reinstate the action in the court
20 in which the dismissal was granted.

21 (c) This Section applies to actions filed on or after the
22 effective date of this amendatory Act of the 99th General
23 Assembly. Motions authorized by this Section are in addition
24 to, and not in place of, a motion otherwise available to a
25 party or the court or under any other statute or rule or the
26 common law.

1 (735 ILCS 5/2-1107.1) (from Ch. 110, par. 2-1107.1)

2 (Text of Section WITHOUT the changes made by P.A. 89-7,
3 which has been held unconstitutional)

4 Sec. 2-1107.1. Jury instruction in tort actions. In all
5 actions on account of bodily injury or death or physical damage
6 to property based on negligence, or product liability based on
7 strict tort liability, the court shall instruct the jury in
8 writing that (a) the defendant shall be found not liable if the
9 jury finds that the contributory fault of the plaintiff is more
10 than 50% of the proximate cause of the injury or damage for
11 which recovery is sought and (b) if the defendant is found
12 liable, (i) the defendant is jointly and severally liable for
13 the plaintiff's past and future medical and medically related
14 expenses regardless of the fault attributed to the defendant
15 and (ii) the defendant is jointly and severally liable for the
16 plaintiff's other damages if the jury finds that the fault of
17 the defendant is 50% or more of the proximate cause.

18 The changes to this Section made by this amendatory Act of
19 the 99th General Assembly apply to actions filed on or after
20 its effective date.

21 (Source: P.A. 84-1431.)

22 (735 ILCS 5/2-1117) (from Ch. 110, par. 2-1117)

23 Sec. 2-1117. Joint liability. Except as provided in Section
24 2-1118, in actions on account of bodily injury or death or

1 physical damage to property, based on negligence, or product
2 liability based on strict tort liability, all defendants found
3 liable are jointly and severally liable for plaintiff's past
4 and future medical and medically related expenses. Any
5 defendant whose fault, as determined by the trier of fact, is
6 less than 50% ~~25%~~ of the total fault of all tortfeasors,
7 including but not limited to the plaintiff's employer,
8 nonparties, entities that have settled, or any other person
9 that the trier of fact finds was at fault and a proximate cause
10 of the injury or damage for which recovery is sought by
11 ~~attributable to the plaintiff, the defendants sued by the~~
12 ~~plaintiff, and any third party defendant except the plaintiff's~~
13 ~~employer, shall be severally liable for all other damages. Any~~
14 ~~defendant whose fault, as determined by the trier of fact, is~~
15 ~~50% 25% or greater of the total fault of all tortfeasors,~~
16 ~~including but not limited to plaintiff's employer, nonparties,~~
17 ~~entities that have settled, or any other person that the trier~~
18 ~~of fact finds was at fault and a proximate cause of the injury~~
19 ~~or damage for which recovery is sought by the plaintiff~~
20 ~~attributable to the plaintiff, the defendants sued by the~~
21 ~~plaintiff, and any third party defendants except the~~
22 ~~plaintiff's employer, shall be jointly and severally liable for~~
23 all other damages.

24 The changes to this Section made by this amendatory Act of
25 the 99th General Assembly apply to actions filed on or after
26 its effective date.

1 (Source: P.A. 93-10, eff. 6-4-03; 93-12, eff. 6-4-03.)

2 (735 ILCS 5/2-1205.2 new)

3 Sec. 2-1205.2. Actions on account of bodily injury or death
4 in which recovery is sought for the reasonable expense of
5 necessary medical care, treatment, or services. In actions on
6 account of bodily injury or death in which recovery is sought
7 for the reasonable expense of necessary medical care,
8 treatment, or services, including but not limited to medical,
9 hospital, nursing, or caretaking expenses, the amount
10 recovered shall be not more than the amount actually paid or
11 the amount expected to be actually paid for such expenses,
12 regardless of the amount initially billed for such expenses.
13 The court may hear evidence of the amount actually paid or the
14 amount expected to be paid for such services. This Section
15 applies to actions filed on or after the effective date of this
16 amendatory Act of the 99th General Assembly.