Chapter 28

Declaratory Judgments

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CROSS REFERENCES

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Determination of heirship, 117.510

28.010 Power of courts; form of declaration. Courts of record within their respective jurisdictions shall have power to declare rights, status, and other legal relations, whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment or decree.

28.020 Declarations as to writings and laws. Any person interested under a deed, will, written contract or other writing constituting a contract, or whose rights, status or other legal relations are affected by a constitution, statute, municipal charter, ordinance, contract or franchise may have determined any question of construction or validity arising under any such instrument, constitution, statute, municipal charter, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

28.030 Construction of contract before or after breach. A contract may be construed either before or after there has been a breach thereof.

28.040 Declarations as to trusts or estates. 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 have a declaration of rights or legal relations in respect thereto:

(a) To ascertain any class of creditors, devisees, legatees, heirs, next of kin or other; or

(b) To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

(c) To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

28.050 Enumeration not exclusive. The enumeration in ORS 28.010 to 28.040 does not limit or restrict the exercise of the general powers conferred in ORS 28.010, in any proceedings where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

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

28.070 Appeal or review. All orders, judgments and decrees under this chapter may be appealed from or reviewed as other orders, judgments and decrees.

28.080 Supplemental relief. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application thereof shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed 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 granted forthwith.

28.090 Trial of issues of fact. When a proceeding under this chapter involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other actions at law or suits in equity in the court in which the proceeding is pending.

28.100 Costs. In any proceeding under this chapter the court may make such award of costs as may seem equitable and just.

28.110 Parties; service on Attorney General when constitutional question involved. 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 no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal charter, ordinance or franchise, the municipality affected shall be made a party, and shall be entitled to be heard, and if the constitution, statute, charter, ordinance or franchise is alleged to be unconstitutional, the Attorney General of the state shall also be served with a copy of the proceeding and be entitled to be heard.

28.120 Construction and administration. This chapter is declared 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.

28.130 Person defined. The word "person," wherever used in this chapter, shall be

construed to mean any person, partnership, joint stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

28.140 Provisions severable. The several sections and provisions of this chapter, except ORS 28.010 and 28.020, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof shall not affect or render the remainder of the chapter invalid or inoperative.

28.150 Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees.

28.160 Short title. This chapter may be cited as the "Uniform Declaratory Judgments Act."