

CHAPTER 86

DECLARATORY JUDGMENTS

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86.011 Jurisdiction of trial court.—The circuit and county courts have jurisdiction within their respective jurisdictional amounts to declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed. No action or procedure is open to objection on the ground that a declaratory judgment is demanded. The court's declaration may be either affirmative or negative in form and effect and such declaration has the force and effect of a final judgment. The court may render declaratory judgments on the existence, or nonexistence:

- (1) Of any immunity, power, privilege, or right; or
- (2) Of any fact upon which the existence or nonexistence of such immunity, power, privilege, or right does or may depend, whether such immunity, power, privilege, or right now exists or will arise in the future. Any person seeking a declaratory judgment may also demand additional, alternative, coercive, subsequent, or supplemental relief in the same action.

History.—s. 1, ch. 21820, 1943; s. 2, ch. 29737, 1955; s. 38, ch. 67-254; s. 3, ch. 90-269.

Note.—Former s. 87.01.

86.021 Power to construe.—Any person claiming to be interested or who may be in doubt about his or her rights under a deed, will, contract, or other article, memorandum, or instrument in writing or whose rights, status, or other equitable or legal relations are affected by a statute, or any regulation made under statutory authority, or by municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing may have determined any question of construction or validity arising under such statute, regulation, municipal ordinance, contract, deed, will, franchise, or other article, memorandum, or instrument in writing, or any part thereof, and obtain a declaration of rights, status, or other equitable or legal relations thereunder.

History.—s. 2, ch. 21820, 1943; s. 38, ch. 67-254; s. 458, ch. 95-147.

Note.—Former s. 87.02.

86.031 Before breach.—A contract may be construed either before or after there has been a breach of it.

History.—s. 3, ch. 21820, 1943; s. 38, ch. 67-254.

Note.—Former s. 87.03.

86.041 Actions by executors, administrators, trustees, etc.—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, a guardianship, or of the estate of a decedent, an infant, a mental incompetent, or insolvent may have a declaration of rights or equitable or legal relations in respect thereto:

- (1) To ascertain any class of creditors, devisees, legatees, heirs, next of kin, or others; or
- (2) To direct the executor, administrator, or trustee to refrain from doing any particular act in his or her fiduciary capacity; or
- (3) To determine any question arising in the administration of the guardianship, estate, or trust, including questions of construction of wills and other writings.

For the purpose of this section, a "mental incompetent" is one who, because of mental illness, mental retardation, senility, excessive use of drugs or alcohol, or other mental incapacity, is incapable of either managing his or her property or caring for himself or herself, or both.

History.—s. 4, ch. 21820, 1943; s. 38, ch. 67-254; s. 1, ch. 88-33; s. 459, ch. 95-147.

Note.—Former s. 87.04.

86.051 Enumeration not exclusive.—The enumeration in ss. 86.021, 86.031 and 86.041 does not limit or restrict the exercise of the general powers conferred in s. 86.011 in any action where declaratory relief is sought. Any declaratory judgment rendered pursuant to this chapter may be rendered by way of anticipation with respect to any act not yet done or any event which has not yet happened, and in such case the judgment shall have the same binding effect with respect to that future act or event, and the rights or liability to arise therefrom, as if that act or event had already been done or had already happened before the judgment was rendered.

History.—s. 5, ch. 21820, 1943; s. 38, ch. 67-254.

Note.—Former s. 87.05.

86.061 Supplemental relief.—Further relief based on a declaratory judgment may be granted when necessary or proper. The application therefor shall be by motion to the court having jurisdiction to grant relief. If the application is sufficient, the court shall require any adverse party whose rights have been adjudicated by the declaratory judgment to show cause on reasonable notice, why further relief should not be granted forthwith.

History.—s. 7, ch. 21820, 1943; s. 38, ch. 67-254.

Note.—Former s. 87.07.

86.071 Jury trials.—When an action under this chapter concerns the determination of an issue of fact, the issue may be tried as issues of fact are tried in other civil actions in the court in which the proceeding is pending. To settle questions of fact necessary to be determined before judgment can be rendered, the court may direct their submission to a jury. When a declaration of right or the granting of further relief based thereon concerns the determination of issues of fact triable by a jury, the issues may be submitted to a jury in the form of interrogatories, with proper instructions by the court, whether a general verdict is required or not. Neither this

section nor any other section of this chapter shall be construed as requiring a jury to determine issues of fact in chancery actions.

History.—s. 8, ch. 21820, 1943; s. 38, ch. 67-254.

Note.—Former s. 87.08.

86.081 Costs.—The court may award costs as are equitable.

History.—s. 9, ch. 21820, 1943; s. 38, ch. 67-254.

Note.—Former s. 87.09.

86.091 Parties.—When declaratory relief is sought, all persons may be made parties who have or claim any interest which would be affected by the declaration. No declaration shall prejudice the rights of persons not parties to the proceedings. In any proceeding concerning the validity of a county or municipal charter, ordinance, or franchise, such county or municipality shall be made a party and shall be entitled to be heard. If the statute, charter, ordinance, or franchise is alleged to be unconstitutional, the Attorney General or the state attorney of the judicial circuit in which the action is pending shall be

served with a copy of the complaint and be entitled to be heard.

History.—s. 10, ch. 21820, 1943; s. 1, ch. 59-440; s. 38, ch. 67-254.

Note.—Former s. 87.10.

86.101 Construction of law.—This chapter is declared to be substantive and remedial. Its purpose is to settle and to afford relief from insecurity and uncertainty with respect to rights, status, and other equitable or legal relations and is to be liberally administered and construed.

History.—s. 11, ch. 21820, 1943; s. 38, ch. 67-254.

Note.—Former s. 87.11.

86.111 Existence of another adequate remedy; effect.—The existence of another adequate remedy does not preclude a judgment for declaratory relief. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar. The court has power to give as full and complete equitable relief as it would have had if such proceeding had been instituted as an action in chancery.

History.—s. 12, ch. 21820, 1943; s. 2, ch. 29737, 1955; s. 38, ch. 67-254.

Note.—Former s. 87.12.