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State of	Washington	52nd Legislature	1992	Regular	Session

By Representative Appelwick

Read first time 01/16/92. Referred to Committee on Judiciary.

- 1 AN ACT Relating to transfer of litigation; and adding a new chapter
- 2 to Title 4 RCW.
- 3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- 4 PART I
- 5 TRANSFER
- 6 NEW SECTION. Sec. 101. POWER TO TRANSFER. A court of record of
- 7 this state may transfer an action or any part of an action to a court
- 8 of record not of this state pursuant to sections 102 through 110 of
- 9 this act.
- 10 <u>NEW SECTION.</u> **Sec. 102.** TRANSFER BY COURT HAVING JURISDICTION. A
- 11 court of record of this state that has jurisdiction of the subject
- 12 matter of an action and the parties may transfer all or any part of the

- 1 action to a court not of this state that consents to the transfer and
- 2 can exercise jurisdiction over the matters transferred.
- 3 NEW SECTION. Sec. 103. TRANSFER BY COURT LACKING JURISDICTION.
- 4 A court of record of this state that lacks jurisdiction of the subject
- 5 matter of an action or part of an action or that lacks jurisdiction
- 6 over a party may transfer all or any part of the action to a court not
- 7 of this state that consents to the transfer and can exercise
- 8 jurisdiction over the matters and parties transferred.
- 9 <u>NEW SECTION.</u> **Sec. 104.** REASONS FOR TRANSFER. A transfer may be
- 10 ordered to serve the fair, effective, and efficient administration of
- 11 justice and the convenience of the parties and witnesses. The court
- 12 shall consider all relevant factors, including the interest of each
- 13 plaintiff in selecting a forum and the public interest in securing a
- 14 single litigation and disposition of related matters.
- 15 NEW SECTION. Sec. 105. TRANSFERRING COURT'S ORDER. A court may
- 16 order transfer on motion by a party or on its own initiative after
- 17 notice and opportunity to be heard. A transfer order must state the
- 18 reasons for transfer. If part of an action is transferred, the order
- 19 must state the part as a term of transfer; the order may state other
- 20 terms of transfer. The court shall give notice of the transfer order
- 21 to the parties. A party or the court may file the transfer order in
- 22 the receiving court.
- 23 NEW SECTION. Sec. 106. WHEN TRANSFER EFFECTIVE. A transfer takes
- 24 effect when an order accepting transfer is filed in the transferring
- 25 court.

- 1 NEW SECTION. Sec. 107. TRANSMITTING RECORD. After notice of an
- 2 order accepting a transfer is filed in the transferring court, the
- 3 court shall send relevant portions of the record to the receiving
- 4 court.
- 5 <u>NEW SECTION.</u> **Sec. 108.** PENDING PROCEDURES. A procedure pending
- 6 at the time of transfer must be completed according to the rules of the
- 7 transferring court, measuring applicable time limits as if the
- 8 procedure had been initiated ten days after the day the transfer took
- 9 effect, unless otherwise ordered by the transferring court or by the
- 10 receiving court.
- 11 <u>NEW SECTION.</u> **Sec. 109.** RETURN. The transferring court shall
- 12 accept the return of any matter ordered returned by the receiving court
- 13 pursuant to the terms of the transfer order or for lack of jurisdiction
- 14 in the receiving court. A return takes effect when a return order is
- 15 filed in the transferring court.
- 16 <u>NEW SECTION.</u> **Sec. 110.** APPELLATE REVIEW. An order granting or
- 17 refusing transfer is reviewable only by extraordinary writ or
- 18 permissive interlocutory appeal at the time the order is entered. A
- 19 ruling not reviewed before a transfer takes effect is not reviewable in
- 20 this state except as to matters returned or transferred back.
- 21 PART II
- 22 RECEIPT
- NEW SECTION. Sec. 201. RECEIPT. A court of this state may accept
- 24 transfer of an action or any part of an action pursuant to sections 202
- 25 through 219 of this act.

- 1 <u>NEW SECTION.</u> **Sec. 202.** RECEIPT BY COURT HAVING JURISDICTION. A
- 2 court that can exercise jurisdiction over the subject matter and
- 3 parties may accept a transfer whether or not the transferring court had
- 4 jurisdiction of the subject matter or parties.
- 5 <u>NEW SECTION.</u> **Sec. 203.** RECEIPT BY COURT LACKING PERSONAL
- 6 JURISDICTION. A receiving court that can exercise jurisdiction over
- 7 the subject matter may assert jurisdiction over a party that is within
- 8 the personal and subject matter jurisdiction of the transferring court.
- 9 <u>NEW SECTION.</u> **Sec. 204.** RECEIPT REFUSED. A receiving court may
- 10 refuse to accept transfer for any reason, but shall state the reasons
- 11 for the refusal.
- 12 <u>NEW SECTION.</u> **Sec. 205.** RECEIPT ORDER. A party may move for an
- 13 order accepting or refusing a transfer. The receiving court shall
- 14 enter an order accepting the transfer unless within thirty days after
- 15 the motion was made the court enters an order refusing the transfer or
- 16 directing further proceedings to determine whether to accept the
- 17 transfer.
- 18 <u>NEW SECTION.</u> **Sec. 206.** NOTICE OF RECEIPT. The receiving court
- 19 shall give all parties notice of the order accepting or refusing
- 20 transfer. A party or the court may file the order in the transferring
- 21 court. The transfer takes effect when an order accepting transfer is
- 22 filed in the transferring court.
- NEW SECTION. Sec. 207. REQUEST FOR RECORD. The receiving court
- 24 may request the transferring court to send relevant portions of the

- 1 record to aid in deciding whether to accept transfer or to supplement
- 2 the record sent by the transferring court.
- 3 NEW SECTION. Sec. 208. TERMS OF TRANSFER. The receiving court
- 4 for good cause may depart from the terms specified in the transfer
- 5 order.
- 6 NEW SECTION. Sec. 209. STATUTE OF LIMITATIONS. If the
- 7 transferring court had jurisdiction of the subject matter and parties,
- 8 the receiving court may not dismiss because of a statute of limitations
- 9 a claim that would not be dismissed on that ground by the transferring
- 10 court.
- 11 <u>NEW SECTION.</u> **Sec. 210.** DATE OF FILING. The receiving court shall
- 12 treat the matters transferred as if they were initially filed on the
- 13 date of filing in the transferring court.
- 14 NEW SECTION. Sec. 211. TRANSFERRING COURT PROCEDURES. A
- 15 procedure completed in the transferring court before transfer has the
- 16 same effect in the receiving court as in the transferring court unless
- 17 the receiving court orders otherwise. A procedure pending at the time
- 18 of transfer must be completed according to the rules of the
- 19 transferring court, measuring applicable time limits as if the
- 20 procedure had been initiated ten days after the transfer took effect,
- 21 unless otherwise ordered by the transferring or receiving court.
- 22 <u>NEW SECTION.</u> **Sec. 212.** OUTSTANDING ORDERS. An injunction or
- 23 other order in effect at the time of transfer remains in effect after
- 24 transfer according to its terms until dissolved or modified by the
- 25 receiving court.

- 1 NEW SECTION. Sec. 213. PAST ORDERS. The receiving court may
- 2 vacate or amend an order made by the transferring court as if it had
- 3 entered the order.
- 4 NEW SECTION. Sec. 214. APPEARANCE OF COUNSEL. Ordinarily the
- 5 receiving court shall permit counsel of record in the transferring
- 6 court to appear. The receiving court may require local counsel to
- 7 appear only if necessary to ensure orderly disposition of the
- 8 transferred matters. The law that would be applied by the transferring
- 9 court governs contracts between clients and counsel who appeared in the
- 10 transferring court and any ground advanced to disqualify counsel who
- 11 appeared in the transferring court.
- 12 <u>NEW SECTION.</u> **Sec. 215.** RETURN FOR LACK OF JURISDICTION. If the
- 13 receiving court determines after accepting transfer that it lacks
- 14 jurisdiction of all or a part of the matters transferred by a court
- 15 that had jurisdiction, it may return that matter and any additional
- 16 matters to the transferring court.
- 17 <u>NEW SECTION.</u> Sec. 216. RETURN PURSUANT TO TRANSFER ORDER. The
- 18 receiving court may return any transferred matter to the transferring
- 19 court pursuant to the terms of the transfer order.
- 20 <u>NEW SECTION.</u> **Sec. 217.** NOTICE AND EFFECTIVE DATE OF RETURN. A
- 21 receiving court shall give all parties notice of a return order. A
- 22 party or the receiving court may file the return order in the
- 23 transferring court. A return takes effect when a return order is filed
- 24 in the transferring court.

- 1 <u>NEW SECTION.</u> **Sec. 218.** FURTHER TRANSFER. The receiving court may
- 2 transfer a transferred matter to the transferring court or to another
- 3 court pursuant to sections 101 through 110 of this act.
- 4 <u>NEW SECTION.</u> **Sec. 219.** APPEALS. An order granting transfer is
- 5 not reviewable in the receiving state by appeal or otherwise. An order
- 6 accepting or refusing to accept transfer, or granting or refusing to
- 7 grant return, is reviewable in the receiving state only by
- 8 extraordinary writ or permissive interlocutory appeal at the time the
- 9 order is entered. Review may be had in the receiving state of all
- 10 other rulings made by the receiving court and of all rulings other than
- 11 the order granting transfer made by the transferring court not reviewed
- 12 before the transfer took effect.
- 13 PART III
- 14 GENERAL
- 15 <u>NEW SECTION.</u> **Sec. 301.** UNIFORMITY OF APPLICATION AND
- 16 CONSTRUCTION. This act must be applied and construed to effectuate its
- 17 general purpose to make uniform the law with respect to the subject of
- 18 the act among states enacting it.
- 19 <u>NEW SECTION.</u> **Sec. 302.** SHORT TITLE. This act may be cited as the
- 20 uniform transfer of litigation act.
- 21 <u>NEW SECTION.</u> **Sec. 303.** SEVERABILITY. If any provision of this
- 22 act or its application to any person or circumstance is held invalid,
- 23 the remainder of the act or the application of the provision to other
- 24 persons or circumstances is not affected.

- 1 NEW SECTION. Sec. 304. Sections 101 through 110, 201 through 219,
- 2 and 301 through 303 of this act shall constitute a new chapter in Title
- 3 4 RCW.