

action in lieu of the assignee-plaintiff. Since the assignee clause deals with the bona fide assignee, there has been much litigation to determine the assignments which should or should not be within the purview of the clause. Thus the courts have thought it advisable to limit the term "chose in action" and exclude from its scope (1) an implied in law duty or promise, and (2) a transfer of a property interest; and to exclude an assignment by operation of law from the coverage of the clause. Intermediate assignments and reassignment also give difficulty.

§ 1360. State civil jurisdiction in actions to which Indians are parties

(a) Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State:

State of	Indian country affected
Alaska	All Indian country within the State.
California	All Indian country within the State.
Minnesota	All Indian country within the State, except the Red Lake Reservation.
Nebraska	All Indian country within the State.
Oregon	All Indian country within the State, except the Warm Springs Reservation.
Wisconsin	All Indian country within the State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section.

(Added Aug. 15, 1953, ch. 505, § 4, 67 Stat. 589; amended Aug. 24, 1954, ch. 910, § 2, 68 Stat. 795; Pub. L. 85-615, § 2, Aug. 8, 1958, 72 Stat. 545; Pub. L. 95-598, title II, § 239, Nov. 6, 1978, 92 Stat. 2668; Pub. L. 98-353, title I, § 110, July 10, 1984, 98 Stat. 342.)

Editorial Notes

AMENDMENTS

1984—Subsec. (a). Pub. L. 98-353 struck out "or Territories" after "Each of the States", struck out "or Territory" after "State" in 5 places, and substituted "within the State" for "within the Territory" in item relating to Alaska.

1978—Subsec. (a). Pub. L. 95-598 directed the amendment of subsec. (a) by substituting in the item relating to Alaska "within the State" for "within the Territory", which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

1958—Subsec. (a). Pub. L. 85-615 gave Alaska jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in all Indian country within the Territory of Alaska.

1954—Subsec. (a). Act Aug. 24, 1954, brought the Menominee Tribe within the provisions of this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective July 10, 1984, see section 122(a) of Pub. L. 98-353, set out as an Effective Date note under section 151 of this title.

AMENDMENT OF STATE CONSTITUTIONS TO REMOVE LEGAL IMPEDIMENT; EFFECTIVE DATE

Act Aug. 15, 1953, ch. 505, § 6, 67 Stat. 590, provided that: "Notwithstanding the provisions of any Enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil and criminal jurisdiction in accordance with the provisions of this Act [adding this section and section 1162 of Title 18, Crimes and Criminal Procedure]: *Provided*, That the provisions of this Act shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes as the case may be."

CONSENT OF UNITED STATES TO OTHER STATES TO ASSUME JURISDICTION

Act Aug. 15, 1953, ch. 505, § 7, 67 Stat. 590, which gave consent of the United States to any other State not having jurisdiction with respect to criminal offenses or civil causes of action, or with respect to both, as provided for in this section and section 1162 of Title 18, Crimes and Criminal Procedure, to assume jurisdiction at such time and in such manner as the people of the State shall, by legislative action, obligate and bind the State to assumption thereof, was repealed by section 403(b) of Pub. L. 90-284, title IV, Apr. 11, 1968, 82 Stat. 79, such repeal not to affect any cession of jurisdiction made pursuant to such section prior to its repeal.

Retrocession of jurisdiction by State acquired by State pursuant to section 7 of Act Aug. 15, 1953, prior to its repeal, see section 1323 of Title 25, Indians.

Executive Documents

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 1361. Action to compel an officer of the United States to perform his duty

The district courts shall have original jurisdiction of any action in the nature of mandamus

to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.

(Added Pub. L. 87-748, §1(a), Oct. 5, 1962, 76 Stat. 744.)

§ 1362. Indian tribes

The district courts shall have original jurisdiction of all civil actions, brought by any Indian tribe or band with a governing body duly recognized by the Secretary of the Interior, wherein the matter in controversy arises under the Constitution, laws, or treaties of the United States.

(Added Pub. L. 89-635, §1, Oct. 10, 1966, 80 Stat. 880.)

§ 1363. Jurors' employment rights

The district courts shall have original jurisdiction of any civil action brought for the protection of jurors' employment under section 1875 of this title.

(Added Pub. L. 95-572, §6(b)(1), Nov. 2, 1978, 92 Stat. 2457.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1363 was renumbered section 1366 of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 95-572, §7, Nov. 2, 1978, 92 Stat. 2457, provided that:

“(a) Except as provided in subsection (b) of this section, the amendments made by this Act [enacting this section and section 1875, renumbering section 1363, relating to construction of references to laws of the United States or Acts of Congress, as section 1364, and amending sections 1863, 1865, 1866, 1869, and 1871 of this title] shall apply with respect to any grand or petit juror summoned for service or actually serving on or after the date of enactment of this Act [Nov. 2, 1978].

“(b) The amendment made by section 5 of this Act [amending section 1871 of this title] shall apply with respect to any grand or petit juror serving on or after the sixtieth day following the date of enactment of this Act [Nov. 2, 1978].”

§ 1364. Direct actions against insurers of members of diplomatic missions and their families

(a) The district courts shall have original and exclusive jurisdiction, without regard to the amount in controversy, of any civil action commenced by any person against an insurer who by contract has insured an individual, who is, or was at the time of the tortious act or omission, a member of a mission (within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))) or a member of the family of such a member of a mission, or an individual described in section 19 of the Convention on Privileges and Immunities of the United Nations of February 13, 1946, against liability for personal injury, death, or damage to property.

(b) Any direct action brought against an insurer under subsection (a) shall be tried without a jury, but shall not be subject to the defense

that the insured is immune from suit, that the insured is an indispensable party, or in the absence of fraud or collusion, that the insured has violated a term of the contract, unless the contract was cancelled before the claim arose.

(Added Pub. L. 95-393, §7(a), Sept. 30, 1978, 92 Stat. 809; amended Pub. L. 97-241, title II, §203(b)(4), Aug. 24, 1982, 96 Stat. 291; Pub. L. 100-204, title I, §138(a), Dec. 22, 1987, 101 Stat. 1347.)

Editorial Notes

CODIFICATION

Two other sections 1364 were renumbered sections 1365 and 1366 of this title.

AMENDMENTS

1987—Subsec. (a). Pub. L. 100-204 inserted “, or was at the time of the tortious act or omission,” after “who is”.

1982—Subsec. (a). Pub. L. 97-241 substituted “within the meaning of section 2(3) of the Diplomatic Relations Act (22 U.S.C. 254a(3))” for “as defined in the Vienna Convention on Diplomatic Relations”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-204, title I, §138(b), Dec. 22, 1987, 101 Stat. 1347, provided that: “The amendment made by subsection (a) [amending this section] shall apply to the first tortious act or omission occurring after the date of enactment of this Act [Dec. 22, 1987].”

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-241 effective Oct. 1, 1982, see section 204 of Pub. L. 97-241, set out as an Effective Date note under section 4301 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section effective at end of ninety-day period beginning on Sept. 30, 1978, see section 9 of Pub. L. 95-393, set out as a note under section 254a of Title 22, Foreign Relations and Intercourse.

§ 1365. Senate actions

(a) The United States District Court for the District of Columbia shall have original jurisdiction, without regard to the amount in controversy, over any civil action brought by the Senate or any authorized committee or subcommittee of the Senate to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal or failure to comply with, any subpoena or order issued by the Senate or committee or subcommittee of the Senate to any entity acting or purporting to act under color or authority of State law or to any natural person to secure the production of documents or other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof. This section shall not apply to an action to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal to comply with, any subpoena or order issued to an officer or employee of the executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal