CHAPTER 556

USURPATION OF OFFICE AND CORPORATION; LETTERS PATENT

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556.01 USURPATION OF OFFICE, ILLEGAL ACT.

When the attorney general has reason to believe that a cause of action can be proved, the attorney general may bring an action in the name of the state, upon the complaint of a private person, or upon other information, against the person offending, in the following cases:

(1) when any person usurps, intrudes into, or unlawfully holds or exercises any public office or any franchise, or any office in a corporation created by authority of the state;

(2) when any public officer does or suffers an act which by law causes a forfeiture of office; or

(3) when an association or number of persons acts as a corporation without being duly incorporated.

History: *(9711) RL s 4545; 1986 c 444*

556.02 USURPING OFFICE; COMPLAINT; JUDGMENT.

When such action is brought against a person for usurping an office, the attorney general, in addition to the statement of the cause of action, may also set forth in the complaint the name of the person rightfully entitled to the office, and by what right; and in every such case judgment may be rendered upon the right of the defendant, and also upon that of the person so alleged to be entitled, if justice shall require.

History: *(9714) RL s 4548; 1986 c 444*

556.03 CLAIMANT TO HAVE OFFICE.

If judgment be rendered in favor of the person so alleged to be entitled, that person may assume the office, and, by order of the court, may be put in possession thereof, and of the books and papers belonging thereto, and may recover, by action, any damages sustained by reason of such usurpation.

History: *(9715) RL s 4549; 1986 c 444*

556.04 CLAIMANTS MAY BE JOINED.

When there are several claimants to the same office or franchise, one action may be brought against all to determine their respective rights.

History: *(9716) RL s 4550*

556.05 JUDGMENT FOR USURPATION; FINE.

When a person or corporation is adjudged guilty of usurping, intruding into, or unlawfully holding or exercising any office, franchise, or privilege, the court shall render judgment excluding the defendant from the office, franchise, or privilege and may also impose a fine of not more than $3,000.

History: *(9717) RL s 4551; 1984 c 628 art 3 s 11*

556.06 ACT OF INCORPORATION, ANNULMENT.

The attorney general may bring an action in the name of the state against a corporation to annul the act of incorporation, or of renewal thereof, on the ground that such act was procured upon some fraudulent suggestion, or concealment of a material fact, by some or all of the incorporators, or with their knowledge and consent.

History: *(9709) RL s 4543*

556.07 CORPORATE CHARTER, VACATION.

An action may be brought by the attorney general in the name of the state to vacate the charter or annul the existence of a corporation, other than municipal, whenever such corporation:

(1) offends against any act creating, altering, or renewing it;

(2) violates any provision of law whereby it forfeits its charter by abuse of its powers;

(3) forfeits its privileges or franchises by failure to exercise its powers;

(4) does or omits any act amounting to a surrender of its corporate rights, privileges, and franchises; or

(5) exercises a franchise or privilege not conferred upon it by law.

The attorney general shall bring action in every case of public interest, whenever the attorney general has reason to believe that any of these acts or omissions can be proved, and in every other case in which satisfactory security shall be given to indemnify the state against costs and expenses.

History: *(9710) RL s 4544; 1986 c 444*

556.08 CORPORATION, WHEN DISSOLVED.

If the court shall determine that a corporation, by neglect, abuse, or surrender, has forfeited its corporate rights, privileges, and franchises, it shall adjudge that it be excluded therefrom and be dissolved.

History: *(9718) RL s 4552*

556.09 COSTS.

If judgment be rendered in such action against a corporation, or against persons claiming to be such, the court may cause the costs therein to be collected by execution against such persons, or by process against the directors or other officers of such corporation.

History: *(9719) RL s 4553*

556.10 JUDGMENT AGAINST CORPORATION; RECEIVER.

When such judgment is rendered against a corporation, the court may restrain it, appoint a receiver of its property, and make distribution thereof among its creditors, for which purpose the attorney general shall forthwith institute proceedings.

History: *(9720) RL s 4554*

556.11 LETTERS PATENT, VACATION.

The attorney general may bring an action in the name of the state to vacate or annul letters patent granted by the state, whenever the attorney general has reason to believe:

(1) that such letters were obtained by means of some fraudulent suggestion or concealment of a material fact, made by or with the consent or knowledge of the person to whom they were issued;

(2) that such letters were issued through mistake, or in ignorance of a material fact; or

(3) that the patentee, or those claiming under the patentee, have done or omitted an act in violation of the terms and conditions on which the letters were granted, or have by any other means forfeited the interest acquired thereunder.

History: *(9712) RL s 4546; 1986 c 444*

556.12 JUDGMENT ROLL; COPY FILED.

Upon rendition of such judgment against a corporation, or for the vacating or annulling of letters patent, the attorney general shall forthwith cause a copy of the judgment roll to be filed with the secretary of state.

History: *(9721) RL s 4555*

556.13 RELATER TO BE JOINED.

When an action is brought by virtue of this chapter on the complaint or information of any person having an interest therein, the name of such person shall be joined with the state as plaintiff.

History: *(9713) RL s 4547*