

CHAPTER 32-12

ACTIONS BY AND AGAINST STATE

32-12-01. Action to annul patent - Duty of attorney general. The state may bring an action to vacate or annul letters patent for lands granted by this state in any of the following cases:

1. When they were obtained by means of a fraudulent suggestion or concealment of a material fact made by or with the knowledge or consent of the person to whom they were issued.
2. When they were issued in ignorance of a material fact or through mistake.
3. When the patentee, or those claiming under the patentee, have done or omitted an act in violation of the terms and conditions upon which the letters patent were granted, or by any other means have forfeited the interest acquired under the same.

Whenever the attorney general has good reason to believe that any act or omission specified in this section can be proved and that the person to be made defendant has no sufficient legal defense, the attorney general must commence such an action. Upon the rendition of a judgment vacating or annulling letters patent, the attorney general shall cause a copy of the judgment roll to be filed in the office of the secretary of state.

32-12-02. Action against state - When authorized - Where brought - Undertaking for costs. An action respecting the title to property, or arising upon contract, may be brought in the district court against the state the same as against a private person. Such actions shall be brought in the county in which the property is situated, or the county in which the plaintiff resides. The plaintiff at the time of commencing such action shall file an undertaking with sufficient surety to be approved by the clerk of court to the effect that the plaintiff will pay any judgment for costs that may be rendered against the plaintiff.

32-12-03. Claim presented and refused before action brought. No action upon a claim arising upon contract for the recovery of money only can be maintained against the state until the claim has been presented to the department, institution, agency, board, or commission to which claim relates for allowance and allowance thereof refused. The neglect or refusal of the office to act on such claim for a period of ten days after its presentation for allowance must be deemed a refusal to allow the claim.

32-12-04. How judgment collected. No execution may issue against the state on any judgment, but whenever a final judgment against the state has been obtained in any action other than an action under chapter 32-12.2, the clerk shall make and furnish to the office of the budget a duly certified copy of the judgment. After approval, and if funds have been appropriated therefor, the office of the budget, in due course, shall prepare and issue a warrant for the amount of such judgment and deliver the same to the person entitled thereto.

32-12-05. Claims resulting from year 2000 date change computer failures prohibited. The state is not liable for a claim arising upon contract which is the result of the failure of any computer hardware or software, telecommunications network, or device containing a computer processor to interpret, produce, calculate, generate, or account for a date that is compatible with the year 2000 date change if the state has made a good-faith effort to make the computer hardware or software, telecommunications network, or device containing a computer processor compliant with the year 2000 date change. For the purposes of this section, the state is presumed to have made a good-faith effort to make the computer hardware or software, telecommunications network, or device containing a computer processor compliant with the year 2000 date change if the results of testing establish that the computer hardware or software, telecommunications network, or device containing a computer processor meets the compliance requirements of this section, or if the state has sought and received an assurance of compliance from the manufacturer or supplier, or if the state has sought an assurance of compliance from the

manufacturer, supplier, government or other reliable source when testing or receiving an assurance from the manufacturer or supplier of the computer hardware or software, telecommunications network, or device containing a computer processor is not practicable. For the purposes of this section computer hardware or software, a telecommunications network, or device containing a computer processor is compliant with the year 2000 date change if:

1. All stored dates or programs contain century recognition, including dates stored in data bases and hardware or internal system dates in devices;
2. The program logic accommodates same century and multicentury formulas and date values; and
3. The year 2000 or any other leap year is correctly treated as a leap year within all program logic.