

Stephen Joncus:

What is a petition quo warranto?



A petition for quo warranto is a legal proceeding used to challenge the authority by which an individual or entity claims or exercises a public office, franchise, or privilege. Historically, it was a common-law writ used to inquire into the authority by which a public office is held or a franchise is claimed. In modern practice, it has evolved into statutory or equitable remedies in many jurisdictions, often referred to as "information in the nature of quo warranto" or "petitions in equity in the nature of quo warranto" State ex rel. Webb v. Cianci, 591 A.2d 1193, Felkner v. Chariho Reg'l Sch. Comm., 968 A.2d 865, Hussey v. Say, 139 Haw. 181.

The primary purpose of a quo warranto petition is to test the legality of a claim to a public office or franchise and, if the claim is found to be unlawful, to oust the individual or entity from its exercise. For example, in Rhode Island, a petition in equity in the nature of quo warranto not only seeks to remove the respondent from office but also declares the petitioner as the rightful holder of the office in dispute State ex rel. Webb v. Cianci, 591 A.2d 1193, Felkner v. Chariho Reg'l Sch. Comm., 968 A.2d 865, § 945 Definition. Similarly, in Florida, quo warranto is used to determine whether a state officer or agency has improperly exercised a power or right derived from the state Whiley v. Scott, 79 So. 3d 702, 12.58 Quo Warranto May Be Used to Test Exercise of Some Aspect of Public Office or Franchise.

The process and requirements for filing a petition for quo warranto vary by jurisdiction. Generally, the petitioner must demonstrate sufficient grounds to challenge the respondent's authority, and in some cases, the Attorney General or another public official must initiate or approve the action. For instance, in Illinois, private parties may bring a quo warranto action only with leave of court, and the decision to grant or deny such leave lies within the court's discretion People ex rel. Graf v. Vill. of Lake Bluff, 206 Ill. 2d 541, People ex rel. Hansen v. Phelan, 158 Ill. 2d 445. In contrast, in Hawaii, private individuals can file a sworn petition with the circuit court, setting out facts sufficient to show entitlement to the writ In re Ferguson, 74 Haw. 394, Hussey v. Say, 133 Haw. 229.

Quo warranto is considered an extraordinary remedy and is typically used only when no other adequate legal or equitable remedies are available. Courts exercise discretion in granting or denying such petitions, taking into account factors such as the necessity of the remedy, the motives of the petitioner, and the public interest People ex rel. Hansen v. Phelan, 158 Ill. 2d 445, Floridians Protecting Freedom, Inc. v. Passidomo, 392 So. 3d 777, State ex rel. Flanagan v. Lucas, 139 Ohio St. 3d 559.

Content supporting AI-generated response:

State ex rel. Webb v. Cianci, 591 A.2d 1193 | RI Supreme Court Cases from 1828 | Cases | Rhode Island | May 23, 1991

Felkner v. Chariho Reg'l Sch. Comm., 968 A.2d 865 | RI Supreme Court Cases from 1828 | Cases | Rhode Island | Apr 7, 2009

Hussey v. Say, 139 Haw. 181 | HI Supreme Court Cases from 1847 | Cases | Hawaii | Nov 17, 2016