

CHAPTER 32-35 WRIT OF PROHIBITION

32-35-01. Definition of writ of prohibition.

The writ of prohibition is the counterpart of the writ of mandamus. It arrests the proceedings of any tribunal, corporation, board, or person, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board, or person.

32-35-02. By whom and when issued.

The writ of prohibition may be issued by the supreme and district courts to an inferior tribunal, or to a corporation, board, or person in any case, if there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon affidavit on the application of the person beneficially interested.

32-35-03. Alternative or peremptory.

The writ must be alternative or peremptory. The alternative writ must state generally the allegation against the party to whom it is directed, and must command such party to desist or refrain from further proceedings in the action or matter specified therein until the further order of the court from which it is issued, and to show cause before such court at a specified time and place why such party should not be restrained absolutely from any further proceedings in such action or matter. The peremptory writ must be in a similar form, except that the words requiring the party to show cause why the party should not be restrained absolutely must be omitted and a return day inserted.

32-35-04. Other laws applicable.

The provisions of sections 32-34-04 through 32-34-13 for the proceeding under the writ of mandamus apply to this proceeding.