

Sec. 21. Attorney fees. The court may tax, as costs, a reasonable attorney fee in favor of any claimant for labor or materials who has, in whole or in part, established his claim.

Sec. 22. Unpaid claimants - judgment on bond. If, after the said retained percentage has been applied to the payment of duly filed and established claims, there remain any such claims unpaid in whole or in part, judgment shall be entered for the amount thereof against the principal and sureties on the bond. In case the said percentage has been paid over as herein provided, judgment shall be entered against the principal and sureties on all such claims.

Sec. 23. Abandonment of public work - effect. When a contractor abandons the work on a public improvement or is legally excluded therefrom, the improvement shall be deemed completed for the purpose of filing claims as herein provided, from the date of the official cancellation of the contract. The only fund available for the payment of the claims of persons for labor performed or material furnished shall be the amount then due the contractor, if any, and if said amount be insufficient to satisfy said claims, the claimants shall have a right of action on the bond given for the performance of the contract.

Sec. 24. Retention of funds in case of highway improvement. If payment for such improvement is to be made in whole or in part from the primary road fund, the county auditor shall immediately notify the state highway commission of the filing of all claims.

Sec. 25. Filing of claim - effect. The filing of any claim shall not work the withholding of any funds from the contractor except the retained percentage, as provided in this chapter.

Sec. 26. Public corporation - action on bond. Nothing in this chapter shall be construed as limiting in any manner the right of the public corporation to pursue any remedy on the bond given for the performance of the contract.

Approved April 9, 1924.

CHAPTER 162

APPOINTMENTS AND BONDS OF GUARDIANS

H. F. 256

AN ACT to amend, revise, and codify sections sixty-six hundred forty-five (6645) and sixty-six hundred seventy-one (6671) of the compiled code of Iowa, and sections sixty-six hundred fifty-two (6652), sixty-six hundred seventy (6670), seventy-eight hundred forty-eight (7848), and seventy-eight hundred forty-eight-a one (7848-a1) of the supplement to said code, relating to the appointment and bonds of guardians, and to the sale or mortgage of the property of persons under guardianship, and of persons deceased.

Be It Enacted by the General Assembly of the State of Iowa:

That section sixty-six hundred forty-five (6645) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Section 1. Bond and oath of guardian of property. Guardians of the property of a minor shall give bond, with surety to be approved by the court or

clerk, in a penalty double the value of the personal estate and of the rents and profits of the real estate of the minor, conditioned for the faithful discharge of their duties as such guardians according to law, and must take an oath of the same tenor as the condition of the bond.

Sec. 2. Surety company bond. Where an approved surety company bond is furnished, said bond may be fixed in a lesser amount than is provided in the preceding section, but in no case less than the actual value of the personal estate and the rents and profits of the real estate, with twenty-five per cent (25%) added thereto.

Sec. 3. Bond and oath of guardian of person. The court or judge may require a bond to be given by the guardian of the person of minors, with like conditions as when the bond is given by a guardian of the property.

That section sixty-six hundred fifty-two (6652) of the supplement to the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 4. Petition. The petition for that purpose must state the ground thereof and be verified.

Sec. 5. Return day - notice. The plaintiff may fix the time and place of hearing before the court and in such case, a notice thereof, together with a copy of the petition, must be served, unless otherwise provided, on the ward in the same manner, and for the same time, before the day of hearing as would be required if the day of hearing was the first day of a term of court, and the notice was a notice of the commencement of an ordinary civil action, except that when service is made by publication the copy of the petition need not be published.

Sec. 6. Time, manner and place of hearing. The court or judge may, on application therefor, fix, by proper order, the time and place of hearing before the court or judge, and the time of service and the manner thereof.

That section sixty-six hundred seventy (6670) of the supplement to the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 6-a1. Petition - appointment. When a petition, verified by affidavit, is presented to the district court that any inhabitant of the county is:

1. An idiot, lunatic or person of unsound mind; or
2. An habitual drunkard, incapable of managing his affairs; or
3. A spendthrift who is squandering his property;

And the allegations of the petition are satisfactorily proved upon the trial, the court may appoint a guardian of the property of such person.

Sec. 6-a2. Ex-officio guardian. The guardian appointed under the preceding section shall be the guardian of the minor children of his ward, unless the court otherwise orders.

Sec. 6-a3. Guardian of drunkard. If a person is an habitual drunkard the court may appoint a guardian of his person, whether he has any estate or not.

Sec. 6-a4. Party may apply for a guardianship. Any person, other than an idiot or lunatic, may, upon his own application, by verified petition, have a guardian appointed for his person or property or both, if in the opinion of the district court or judge to whom the petition is presented, said appointment would inure to the best interest of said applicant.

Sec. 6-a5. Notice not required. Upon application under the last preceding section no notice of the hearing shall be required.

That section sixty-six hundred seventy-one (6671) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 7. Petition - trial. Such petition shall set forth, as particularly as may be, the facts upon which the application is based, and shall be answered as in other ordinary actions, all the rules of which shall govern so far as applicable and not otherwise provided in this chapter. The applicant shall be plaintiff and the other party defendant.

Sec. 7-a1. Temporary guardian. A temporary guardian may be appointed but only after a hearing on such notice to the defendant and on such service of said notice as the court or judge shall prescribe.

Sec. 7-a2. Trial. An issue arising on a prayer for the appointment of a temporary guardian shall be tried by the court, or by a judge in vacation. An issue arising on the prayer for the appointment of a permanent guardian shall be tried by the court unless a jury be demanded by either party.

Sec. 7-a3. Effect of appointment. If a permanent guardian be appointed, all contracts or business transactions of the defendant after the filing of the petition shall be presumed to be a fraud against the rights and interests of the defendant.

That sections seventy-eight hundred forty-eight (7848) and seventy-eight hundred forty-eight-a one (7848-a1) of the supplement to the compiled Code of Iowa are amended, revised, and codified to read as follows:

Sec. 8. Return day - notice and service. The applicant for the order to sell or mortgage may fix the time and place of hearing before the court, and, in such case, a notice thereof must be served, unless otherwise provided, on all resident and nonresident persons interested in said real estate, including claimants, if any, whose names are unknown, in the same manner, and for the same time before the day of hearing, as would be required if the day of hearing was the first day of a term of court, and the notice was a notice of the commencement of an ordinary civil action.

Sec. 9. Time and place of hearing and service. The court or judge may, on application therefor, fix, by proper order, the time and place of hearing before the court or judge, and the time of service and the manner thereof.

Sec. 10. Order conditional on service. No order for the sale or mortgage of such real estate shall be granted until proof of service as above provided is made.

Approved March 14, 1924.

CHAPTER 163

CIGARETTES AND TOBACCO

S. F. 257

AN ACT to amend, revise, and codify chapter seven-a (7-a) and chapter seven-b (7-b) of title five (5) of the supplement to the compiled code of Iowa, re-