CHAPTER 625A

APPELLATE COURT PROCEDURE

See Rules of Appellate Procedure in the publication "Iowa Court Rules"

625A.1 Mistake of clerk below.
625A.2 Motion for new trial.
625A.3 Time for appealing in re constitutional test.
625A.4 Coparties not joining.
625A.5 Appeal from part of judgment or order — effect.
625A.6 Filing in re action to test constitutionality.
625A.7 Transmission. Repealed by 2013 Acts, ch 6, §2.
625A.8 Return of original papers.
625A.9 Execution on unstayed part of judgment — supersedeas bond waived.
625A.10 Execution recalled.
625A.11 Surrender of property.
625A.12 Bond for costs.
625A.13 Arguments in re constitutional test.
625A.14 Remand — process.
625A.15 Restitution of property.
625A.16 Title not affected.
625A.17 Death of party — continuance.
625A.18 Executions.

625A.1 Mistake of clerk below.

A mistake of the clerk shall not be ground for an appeal until the same has been presented to and acted upon by the court below.

[R60, §3498; C73, §3167; C97, §4104; C24, 27, 31, 35, 39, §**12826;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.1]

C93, §625A.1

625A.2 Motion for new trial.

An appellate court on appeal may review and reverse any judgment or order of the district court, although no motion for a new trial was made in such court.

[C73, §3169; C97, §4106; C24, 27, 31, 35, 39, §**12828;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.2]

C93, §625A.2

625A.3 Time for appealing in re constitutional test.

If the action challenges the legality, validity or constitutionality of a proposed constitutional amendment, notice of appeal may be taken within three days from and after the entry of the decree in district court, and not afterwards.

[C31, 35, §12832-d1; C39, §**12832.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.3]

C93, §625A.3

625A.4 Coparties not joining.

Coparties, refusing to join in an appeal, cannot afterward appeal, or derive any benefit therefrom, unless from the necessity of the case, but they shall be held to have joined, and be liable for their proportion of the costs, unless they appear and object thereto.

[C51, §1980, 1981; R60, §3518, 3519; C73, §3175, 3176; C97, §4112; C24, 27, 31, 35, 39, §**12835;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.4]

C93, §625A.4

625A.5 Appeal from part of judgment or order — effect.

An appeal from part of an order, or from one of the judgments of a final adjudication, or from part of a judgment, shall not disturb, delay, or affect the rights of any party to any judgment or order, or part of a judgment or order, not appealed from.

[R60, §3510; C73, §3177; C97, §4113; C24, 27, 31, 35, 39, §**12836;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.5]

C93, §625A.5

625A.6 Filing in re action to test constitutionality.

If the action challenges the legality, validity or constitutionality of a proposed constitutional amendment, an abstract of record shall be filed within five days after the service of notice of appeal, unless additional time, not to exceed three days, be granted by the chief justice.

[C31, 35, §12847-d1; C39, §**12847.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.6]
C93, §625A.6

625A.7 Transmission. Repealed by 2013 Acts, ch 6, §2.

625A.8 Return of original papers.

If a new trial is granted by an appellate court, the clerk, as soon as the cause is at an end therein, shall transmit to the clerk of the court below all original papers or exhibits certified up from said court, and may at any time return any such papers when no new trial is awarded.

[C97, §4126; C24, 27, 31, 35, 39, §**12856;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.8]
C93, §625A.8

625A.9 Execution on unstayed part of judgment — supersedeas bond waived.

1. The taking of the appeal from part of a judgment or order, and the filing of a bond, does not stay execution as to that part of the judgment or order not appealed from.

2. *a.* (1) Except as provided in paragraph *"b"*, if the judgment or order appealed from is for money, such bond shall not exceed one hundred ten percent of the amount of the money judgment.

(2) The court may set a bond in an amount in excess of one hundred ten percent of the amount of the money judgment upon making specific findings justifying such an amount, and in doing so, shall consider, but shall not be limited to consideration of, the following criteria:

(a) The availability and cost of the bond or other form of adequate security.

(b) The assets of the judgment debtor and of the judgment debtor's insurer or indemnitor, if any.

(c) The potential adverse effects of the bond on the judgment debtor, including, but not limited to, the potential adverse effects on the judgment debtor's employees, financial stability, and business operations.

(d) The potential adverse effects of the bond on the judgment creditor and third parties, including public entities.

(e) In a class action suit, the adequacy of the bond to compensate all members of the class.

b. Notwithstanding paragraph *"a"*, in no case shall a bond exceed one hundred million dollars, regardless of the value of the money judgment. This limitation shall not apply in cases where the court finds that the defendant intentionally dissipated the defendant's assets outside the ordinary course of business for the purpose of evading payment of the judgment.

3. Upon motion and for good cause shown, the district court may stay all proceedings under the order or judgment being appealed and permit the state or any of its political subdivisions to appeal a judgment or order to the supreme court without the filing of a supersedeas bond.

[C51, §1985; R60, §3532; C73, §3191; C97, §4129; C24, 27, 31, 35, 39, §**12862;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.9]
C93, §625A.9
2003 Acts, 1st Ex, ch 1, §115, 133
[2003 Acts, 1st Ex, ch 1, §115, 133, amendments to this section stricken pursuant to *Rants v. Vilsack*, 684 N.W.2d 193]
2004 Acts, 1st Ex, ch 1001, §5, 6, 8; 2013 Acts, ch 30, §187

625A.10 Execution recalled.

If execution has issued prior to the filing of the bond, the clerk shall countermand the same.

[C51, §1987; R60, §3533; C73, §3192; C97, §4130; C24, 27, 31, 35, 39, §**12863;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.10]
C93, §625A.10

625A.11 Surrender of property.

Property levied upon and not sold at the time such countermand is received by the sheriff shall be at once delivered to the judgment debtor.

[C51, §1988; R60, §3534; C73, §3193; C97, §4131; C24, 27, 31, 35, 39, §**12864;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.11]

C93, §625A.11

625A.12 Bond for costs.

The appellant may be required to give security for costs under the same circumstances and upon the same showing as plaintiffs in civil actions in the inferior court may be.

[R60, §3526; C73, §3210; C97, §4135; C24, 27, 31, 35, 39, §**12868;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.12]

C93, §625A.12

Security for costs, chapter 621

625A.13 Arguments in re constitutional test.

If the action challenges the legality, validity or constitutionality of a proposed constitutional amendment, the appellant shall file a written argument with the supreme court within ten days after the filing of the abstract and appellee shall file an argument within ten days thereafter, and appellant shall then file a reply within three days. The cause shall then be submitted to the supreme court in regular or special en banc session as soon thereafter as the chief justice may order.

[C31, 35, §1287-d1; C39, §**12871.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.13]

C93, §625A.13

625A.14 Remand — process.

If an appellate court affirms the judgment or order of an inferior court, it may send the cause to the appropriate court below to have the same carried into effect, or may issue the necessary process for this purpose, directed to the sheriff of the proper county, as the party may require.

[C51, §1991; R60, §3539; C73, §3197; C97, §4143; C24, 27, 31, 35, 39, §**12875;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.14]

C93, §625A.14

Referred to in §331.653

625A.15 Restitution of property.

If, by the decision of an appellate court, the appellant becomes entitled to a restoration of any part of the money or property that was taken from the appellant by means of a judgment or order, either the appellate court or the court below may direct execution or writ of restitution to issue for the purpose of restoring to the appellant such property or its value.

[C51, §1992; R60, §3540; C73, §3198; C97, §4145; C24, 27, 31, 35, 39, §**12877;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.15]

C93, §625A.15

625A.16 Title not affected.

Property acquired by a purchaser in good faith under a judgment subsequently reversed shall not be affected thereby.

[C51, §1993; R60, §3541; C73, §3199; C97, §4146; C24, 27, 31, 35, 39, §**12878;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.16]

C93, §625A.16

625A.17 Death of party — continuance.

The death of one or all of the parties shall not cause the proceedings to abate, but the names of the proper persons shall be substituted, as is provided in such cases in the district court,

and the case may proceed. The court may also, in such case, grant a continuance when such a course will be calculated to promote the ends of justice.

[R60, §3520; C73, §3211; C97, §4150; C24, 27, 31, 35, 39, §**12884;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.17]

C93, §625A.17

625A.18 Executions.

Executions issued from the appellate courts shall be like those from the district court, attended with the same consequences, and returnable in the same time.

[R60, §3552; C73, §3215; C97, §4153; C24, 27, 31, 35, 39, §**12888;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §686.18]

C93, §625A.18

Execution generally, chapter 626