

Judiciary
Kudart, Chairperson
Small
Lura

Staff
Passed from 8151
3/24 (p 497)

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(Formerly Study Bill 260)

~~1981~~

Back On Calendar

Passed House, Date 4-6-81 (p 1064) Passed Senate, Date 4-15-82 (p 1621)

Vote: Ayes 91 Nays 0 Vote: Ayes 38 Nays 7

Approved May 12 1982

Referred House as amended by Senate
4-21-82 (p 1621)

95-3

A BILL FOR

- 1 An Act relating to assignments of instruments and accounts.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3

SENATE AMENDMENT TO HOUSE FILE 777

H-5879

- 1 Amend House File 777 as follows:
- 2 1. Page 1, by striking line 34 through page 2
- 3 line 3 and inserting in lieu thereof the following:
- 4 "constituting small claims may be brought or defended
- 5 by an individual, partnership, association,
- 6 corporation, or other entity. In actions in which
- 7 a person other than an individual is a party, that
- 8 person may be represented by an officer or an employee.
- 9 A person who in the".

H-5879 FILED APRIL 19, 1982

RECEIVED FROM THE SENATE

House concurred 4/21 (p 1621)

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5527, 5528, 5529

1 Section 1. Section 539.1, Code 1981, is amended to read
2 as follows:

3 539.1 ASSIGNMENT OF NONNEGOTIABLE INSTRUMENTS. Bonds,
4 due bills, and all instruments by which the maker promises
5 to pay another, without words of negotiability, a sum of
6 money, or by which ~~he~~ the maker promises to pay a sum of money
7 in property or labor, or to pay or deliver any property or
8 labor, or acknowledges any money, labor, or property to be
9 due, are assignable by endorsement ~~thereon~~ on the instrument,
10 or by other writing~~7-and-the.~~ The assignee shall have,
11 including a person who takes assignment for collection in
12 the regular course of business, has a right of action thereon
13 on them in his the assignee's own name, subject to any defense
14 or counterclaim which the maker or debtor had against any
15 an assignor thereof of the instrument before notice of ~~such~~
16 the assignment. In case of conflict between this section
17 and Uniform Commercial Code, sections 554.3805, 554.5116 or
18 554.9318, those sections control.

19 Sec. 2. Section 539.3, Code 1981, is amended to read as
20 follows:

21 539.3 ASSIGNMENT OF OPEN ACCOUNT. An open account of
22 sums of money due on contract may be assigned~~7-and-the.~~ The
23 assignee will have, including a person who takes assignment
24 for collection in the regular course of business, has a right
25 of action ~~thereon~~ on the account in his the assignee's own
26 name, subject to ~~such~~ the defenses and counterclaims as ~~are~~
27 allowed against the instruments mentioned in section 539.2,
28 before notice of ~~such~~ the assignment is given to the debtor
29 in writing by the assignee. In case of conflict Uniform
30 Commercial Code, section 554.9318, controls.

31 Sec. 3. Section 631.14, Code 1981, is amended to read
32 as follows:

5530, 5531

33 631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS. Actions
34 constituting small claims may be brought or defended by ~~an~~
35 ~~individual7-partnership7-association7-corporation7-or-other~~

1 ~~entity any person. In-actions-in-which-a-person-other-than~~
 2 ~~an-individual-is-a-party,-that~~ A person may be represented
 3 by an agent, officer, or an employee. A person who in the
 4 regular course of business takes assignments of instruments
 5 or accounts pursuant to chapter 539 which assignments consti-
 6 tute small claims may bring an action on an assigned instrument
 7 or account in the person's own name and need not be represented
 8 by an attorney. Any person, however, may be represented in
 9 small claims action by an attorney.

10 EXPLANATION

11 This bill provides that persons who take assignments of
 12 instruments or accounts for collection in the regular course
 13 of business have the same rights as other assignees. It also
 14 provides that the persons may bring an action in small claims
 15 court without being represented by an attorney. This bill
 16 takes effect July 1 following its enactment.

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HOUSE FILE 777

-5928

1 Amend the House amendment, H-5879, to House File
2 777 as follows:

3 1. Page 1, by inserting before line 2 the
4 following:

5 "1. Page 1, by inserting before line 1 the
6 following:

7 Section 1. Chapter 539, Code 1981, is amended
8 by adding the following new sections:

9 NEW SECTION. REGISTRATION OF COLLECTION AGENCIES.

10 1. A person shall not engage in the business of
11 taking assignments of any type of debt referred to
12 in this chapter for purposes of collection unless
13 the person is registered with the secretary of state
14 under this section.

15 2. A registration under this section shall be
16 on forms provided by the secretary of state, and shall
17 be in effect from the date the registration is filed
18 in the office of the secretary of state and until
19 July 1 next following that date. The secretary of
20 state shall collect a registration fee of twenty-five
21 dollars from each registrant.

22 3. The form for registration under this section
23 shall include the following:

24 a. The name and address of residence of the
25 individual submitting the registration form.

26 b. The name of the person taking assignments under
27 this chapter. If a person takes assignments under
28 more than one name, the person must register under
29 this section for each business name under which
30 assignments are taken.

31 c. The name and address of residence of each of
32 the principal officers of the business that is being
33 registered.

34 d. Every other name under which the person takes
35 assignments of debt for collection purposes.

36 e. The street addresses of each location at which
37 the registrant will engage in the business of taking
38 assignments of debt for collection purposes.

39 f. The names and addresses of residence of all
40 individuals who will appear in court on behalf of
41 the registrant in connection with the collection of
42 debts taken under assignment. This paragraph does
43 not apply to attorneys who are admitted to the practice
44 of law in this state.

45 4. At any time the information required under
46 subsection 3 becomes inaccurate or incomplete, the
47 registrant shall file an amended registration
48 containing accurate and complete information. The
49 secretary of state shall collect a fee of five dollars
50 for each amended registration. An amended registration

1 expires as of the date the original registration would
2 have expired.

3 5. A person who is in violation of subsection
4 1 shall not maintain an action in any court of this
5 state as an assignee of a debt referred to in this
6 chapter. An action commenced in violation of this
7 subsection, and any judgment rendered in favor of
8 the violator in such an action, is voidable upon
9 motion of the defendant or the court. The violator
10 shall be liable for all costs incurred in connection
11 with the action.

12 6. A person who is not listed with the secretary
13 of state under subsection 3, paragraph f, shall not
14 appear on behalf of a registrant or any other person
15 in an action to enforce a debt that has been assigned
16 under this chapter, and in the event of a violation
17 the actions shall be dismissed upon the motion of
18 any party or the court and costs awarded in favor
19 of the defendant. This subsection does not apply
20 to a person who is admitted to the practice of law
21 in this state.

22 NEW SECTION. NOTICE OF ASSIGNMENT. At least ten
23 days before an assignor grants assignment of a
24 nonnegotiable instrument or an open account to an
25 assignee for collection in the regular course of
26 business pursuant to section 539.1 or 539.3 of this
27 Act, the assignor shall give the maker of the
28 nonnegotiable instrument or open account notice of
29 the assignment. The notice of assignment shall inform
30 the maker of possible adverse consequences of an
31 assignment for collection including but not limited
32 to the possibility of civil suit and the potential
33 poorer credit rating which may result from an
34 assignment for collection.

35 2. Page 1, line 11, by striking the word "person"
36 and inserting in lieu thereof the words "bona fide
37 purchaser for value".

38 3. Page 1, line 23, by striking the word "person"
39 and inserting in lieu thereof the words "bona fide
40 purchaser for value".

41 2. Page 1, line 2, by striking the numeral "1."
42 and inserting in lieu thereof the numeral "4."

43 3. Page 1, by inserting after line 9 the following:

44 "5. Page 2, line 6, by inserting after the word
45 "claims" the words ", who is a bona fide purchaser
46 for value of those instruments or accounts, and who
47 is registered with the secretary of state under section
48 1 of this Act,".

49 6. Page 2, line 8, by inserting after the word
50 "attorney" the words ", provided that the person shall
1 pay to the clerk of the district court at the time
2 each small claim action is commenced a fee equal to
3 one and one-half times the amount specified as the
4 docket fee in section 631.6, subsection 1. The fee
5 required by this section is in addition to the docket
6 fee and other fees required by this chapter, and shall
7 be distributed in the same manner as the docket fee
8 assessed under section 631.6, subsection 1, but is
9 not recoverable as a cost of the action or otherwise".

10 7. Renumber as necessary."

S-5327

1 Amend House File 777 as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Chapter 539, Code 1981, is amended
6 by adding the following new section:

7 NEW SECTION. REGISTRATION OF COLLECTION AGENCIES.

8 1. A person shall not engage in the business of
9 taking assignments of any type of debt referred to
10 in this chapter for purposes of collection unless
11 the person is registered with the secretary of state
12 under this section.

13 2. A registration under this section shall be
14 on forms provided by the secretary of state, and shall
15 be in effect from the date the registration is filed
16 in the office of the secretary of state and until
17 July 1 next following that date. The secretary of
18 state shall collect a registration fee of twenty-five
19 dollars from each registrant.

20 3. The form for registration under this section
21 shall include the following:

22 a. The name and address of residence of the
23 individual submitting the registration form.

24 b. The name of the person taking assignments under
25 this chapter. If a person takes assignments under
26 more than one name, the person must register under
27 this section for each business name under which
28 assignments are taken.

29 c. The name and address of residence of each of
30 the principal officers of the business that is being
31 registered.

32 d. Every other name under which the person takes
33 assignments of debt for collection purposes.

34 e. The street addresses of each location at which
35 the registrant will engage in the business of taking
36 assignments of debt for collection purposes.

37 f. The names and addresses of residence of all
38 individuals who will appear in court on behalf of
39 the registrant in connection with the collection of
40 debts taken under assignment. This paragraph does
41 not apply to attorneys who are admitted to the practice
42 of law in this state.

43 4. At any time the information required under
44 subsection 3 becomes inaccurate or incomplete, the
45 registrant shall file an amended registration
46 containing accurate and complete information. The
47 secretary of state shall collect a fee of five dollars
48 for each amended registration. An amended registration
49 expires as of the date the original registration would
50 have expired.

MARCH 23, 1982

S-5327

Page 2

1 5. A person who is in violation of subsection
 2 1 shall not maintain an action in any court of this
 3 state as an assignee of a debt referred to in this
 4 chapter. An action commenced in violation of this
 5 subsection, and any judgment rendered in favor of
 6 the violator in such an action, is voidable upon
 7 motion of the defendant or the court. The violator
 8 shall be liable for all costs incurred in connection
 9 with the action.

10 6. A person who is not listed with the secretary
 11 of state under subsection 3, paragraph f, shall not
 12 appear on behalf of a registrant or any other person
 13 in an action to enforce a debt that has been assigned
 14 under this chapter, and in the event of a violation
 15 the actions shall be dismissed upon the motion of
 16 any party or the court and costs awarded in favor
 17 of the defendant. This subsection does not apply
 18 to a person who is admitted to the practice of law
 19 in this state."

20 2. Page 2, line 6, by inserting after the word
 21 "claims" the words "and who is registered with the
 22 secretary of state under section 1 of this Act,".

23 3. By renumbering sections.

S-5327 FILED

MARCH 22, 1982

Revised not germane 4/15 (p. 1220)

BY TED ANDERSON

BOB CARR

JAMES GALLAGHER

HOUSE FILE 777

S-5323

1 Amend House File 777 as passed by the House as
 2 follows:

3 1. Page 2, line 8, by inserting after the word
 4 "attorney" the words ", provided that the person shall
 5 pay to the clerk of the district court at the time
 6 each small claim action is commenced a fee equal to
 7 one and one-half times the amount specified as the
 8 docket fee in section 631.6, subsection 1. The fee
 9 required by this section is in addition to the docket
 10 fee and other fees required by this chapter, and shall
 11 be distributed in the same manner as the docket fee
 12 assessed under section 631.6, subsection 1, but is
 13 not recoverable as a cost of the action or otherwise".

S-5323 FILED

MARCH 22, 1982

Revised not germane 4/15 (p. 1221)

BY BOB CARR

CHARLES P. MILLER

JAMES V. GALLAGHER

WILLIAM D. PALMER

TED ANDERSON

BILL HUTCHINS

HOUSE FILE 777

S-5151

1 Amend House File 777 as follows:
2 1. Page 1, by striking line 34 through page 2
3 line 3 and inserting in lieu thereof the following:
4 "constituting small claims may be brought or defended
5 by an individual, partnership, association,
6 corporation, or other entity. In actions in which
7 a person other than an individual is a party, that
8 person may be represented by an officer or an employee.
9 A person who in the".

S-5151 FILED
FEBRUARY 24, 1982
Adopted 4/15 (p. 1220)

BY COMMITTEE ON JUDICIARY
LUCAS J. DeKOSTER, CHAIR

HOUSE FILE 777

S-5186

1 Amend House File 777 as passed by the House, as
2 follows:
3 1. Page 1, by inserting before line 1 the
4 following:
5 "Section 1. Chapter 539, Code 1981, is amended
6 by adding the following new section:
7 NEW SECTION. NOTICE OF ASSIGNMENT. At least ten
8 days before an assignor grants assignment of a
9 nonnegotiable instrument or an open account to an
10 assignee for collection in the regular course of
11 business pursuant to section 539.1 or 539.3 of this
12 Act, the assignor shall give the maker of the
13 nonnegotiable instrument or open account notice of
14 the assignment. The notice of assignment shall inform
15 the maker of possible adverse consequences of an
16 assignment for collection including but not limited
17 to the possibility of civil suit and the potential
18 poorer credit rating which may result from an
19 assignment for collection."
20 2. Renumber as necessary.

S-5186 FILED
MARCH 3, 1982
Adopted 4/15 (p. 1220)

BY ROBERT M. CARR

HOUSE FILE 777

S-5316

1 Amend House File 777 as passed by the House, as
2 follows:
3 1. Page 1, line 11, by striking the word "person"
4 and inserting in lieu thereof the words "bona fide
5 purchaser for value".
6 2. Page 1, line 23, by striking the word "person"
7 and inserting in lieu thereof the words "bona fide
8 purchaser for value".
9 3. Page 2, line 6, by inserting after the word
10 "claims" the words ", and who is a bona fide purchaser
11 for value of those instruments or accounts,".

S-5316 FILED
MARCH 19, 1982
Adopted 4/15 (p. 1220)

BY ROBERT M. CARR

HOUSE FILE 777

AN ACT

RELATING TO ASSIGNMENTS OF INSTRUMENTS AND ACCOUNTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 539.1, Code 1981, is amended to read as follows:

539.1 ASSIGNMENT OF NONNEGOTIABLE INSTRUMENTS. Bonds, due bills, and all instruments by which the maker promises to pay another, without words of negotiability, a sum of money, or by which ~~he~~ the maker promises to pay a sum of money in property or labor, or to pay or deliver any property or labor, or acknowledges any money, labor, or property to be due, are assignable by endorsement ~~thereon on the instrument,~~ or by other writing, ~~and the~~ The assignee shall have, including a person who takes assignment for collection in the regular course of business, has a right of action thereon on them in his the assignee's own name, subject to any defense or counterclaim which the maker or debtor had against any an assignor thereof of the instrument before notice of such the assignment. In case of conflict between this section and Uniform Commercial Code, sections 554.3805, 554.5116 or 554.9318, those sections control.

Sec. 2. Section 539.3, Code 1981, is amended to read as follows:

539.3 ASSIGNMENT OF OPEN ACCOUNT. An open account of sums of money due on contract may be assigned, ~~and the~~ The assignee will have, including a person who takes assignment for collection in the regular course of business, has a right of action thereon on the account in his the assignee's own name, subject to such the defenses and counterclaims as are allowed against the instruments mentioned in section 539.2, before notice of such the assignment is given to the debtor in writing by the assignee. In case of conflict Uniform Commercial Code, section 554.9318, controls.

Sec. 3. Section 631.14, Code 1981, is amended to read as follows:

631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS. Actions constituting small claims may be brought or defended by an individual, partnership, association, corporation, or other entity. In actions in which a person other than an individual is a party, that person may be represented by an officer or an employee. A person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539 which assignments constitute small claims may bring an action on an assigned instrument or account in the person's own name and need not be represented by an attorney. Any person, however, may be represented in small claims action by an attorney.

DELWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 777, Sixty-ninth General Assembly.

ELIZABETH A. ISAACSON
Chief Clerk of the House

Approved 5/12, 1982

ROBERT D. RAY
Governor

H.F. 777