

*Amend 3/19 Amend to 5508,
Do Pass 3/30 (p. 1194)*

HOUSE FILE 2459

Judiciary
March 1984
Referred
S-5508

HOUSE FILE 2459

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

MAR 6 1984

Place On Calendar

(Formerly House File 327)

Passed House, Date 3-16-84 (p. 1092) Passed Senate, Date 3-30-84 (p. 1194)

Vote: Ayes 92 Nays 0 Vote: Ayes 43 Nays 3

Approved May 4, 1984

*Referred House 4-16-84 (p. 2011)
92-1*

A BILL FOR

- 1 An Act allowing a vendor to charge for reasonable attorneys
- 2 fees in the forfeiture of a real estate contract.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2459

S-5508

- 1 Amend House File 2459 as passed by the House as
- 2 follows:
- 3 1. Page 1, line 6, by striking the words "one
- 4 hundred" and inserting in lieu thereof the word
- 5 "fifty".

S-5508 FILED
MARCH 26, 1984

BY COMMITTEE ON JUDICIARY
DONALD V. DOYLE, CHAIR

Adopted 3/30 (p. 1194)

SENATE AMENDMENT TO HOUSE FILE 2459

H-6031

- 1 Amend House File 2459 as passed by the House as
- 2 follows:
- 3 1. Page 1, line 6, by striking the words "one
- 4 hundred" and inserting in lieu thereof the word
- 5 "fifty".

H-6031 FILED APRIL 2, 1984

RECEIVED FROM THE SENATE

House concurred 4/15 (p. 2011)

1 Section 1. NEW SECTION. 656.7 ATTORNEYS FEES.

2 1. The vendee is liable to the vendor for reasonable
3 attorney fees actually incurred by the vendor necessary for
4 the forfeiture of a contract governed by this chapter. The
5 demand for attorney fees must be stated in the notice served.
6 The maximum liability under this section is one hundred
7 dollars. "Attorney fees", as used in this chapter, is limited
8 to reasonable fees for services requiring a lawyer. "Attorney
9 fees" does not include clerical services even if the services
10 are performed in a lawyer's office.

11 2. A vendor seeking payment of attorney fees, when the
12 vendee fails or refuses to pay them, may file a small claims
13 action for enforcement.

14 Sec. 2. Section 656.2, Code 1983, is amended by striking
15 the section and inserting in lieu thereof the following:

16 656.2 NOTICE.

17 1. The forfeiture shall be initiated by the vendor by
18 serving on the vendee a written notice which shall:

19 a. Reasonably identify the contract and accurately describe
20 the real estate covered.

21 b. Specify the terms of the contract with which the vendee
22 has not complied.

23 c. State that unless, within thirty days after the
24 completed service of the notice, the vendee performs the terms
25 in default and pays the reasonable costs of serving the notice,
26 the contract will be forfeited.

27 d. Specify the amount of attorney fees claimed by the
28 vendee pursuant to section 656.7 and state that payment of
29 the attorney fees is not required to comply with the notice
30 and prevent forfeiture.

31 2. The vendor shall also serve a copy of the notice
32 required in subsection 1 on the person in possession of the
33 real estate, if different than the vendee, and on all
34 mortgagees of record.

35 3. As used in this section, the terms "vendor" and "vendee"

1 include a successor in interest.

2 Sec. 3. Section 656.4, Code 1983, is amended by striking
3 the section and inserting in lieu thereof the following:

4 656.4 COMPLIANCE WITH NOTICE. If the vendee or a mortgagee
5 of the real estate performs, within thirty days of completed
6 service of notice, the breached terms specified in the notice
7 and pays the vender the reasonable cost of serving the notice,
8 then the right to forfeit for the breach is terminated. The
9 payment of attorney fees pursuant to section 656.7 is not
10 necessary to comply with the notice and prevent forfeiture.

11 EXPLANATION

12 This bill allows a person seeking the forfeiture of a real
13 estate contract to recover reasonable attorney fees from the
14 defaulting buyer. The maximum fee is \$100. Fees must be
15 specified in the forfeiture notice. Fees are only for services
16 requiring a lawyer and not for clerical services. The failure
17 to pay the attorney fees shall not prevent compliance with
18 the notice. Enforcement of a claim for attorney fees is by
19 filing a small claim action.

20 A new section 656.7 is created and referred to in the bill.

21 This bill becomes effective July 1 following enactment.

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HOUSE FILE 2459

AN ACT

ALLOWING A VENDOR TO CHARGE FOR REASONABLE ATTORNEYS FEES IN THE FORFEITURE OF A REAL ESTATE CONTRACT.

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

Section 1. NEW SECTION. 656.7 ATTORNEYS FEES.

1. The vendee is liable to the vendor for reasonable attorney fees actually incurred by the vendor necessary for the forfeiture of a contract governed by this chapter. The demand for attorney fees must be stated in the notice served. The maximum liability under this section is fifty dollars. "Attorney fees", as used in this chapter, is limited to reasonable fees for services requiring a lawyer. "Attorney

fees" does not include clerical services even if the services are performed in a lawyer's office.

2. A vendor seeking payment of attorney fees, when the vendee fails or refuses to pay them, may file a small claims action for enforcement.

Sec. 2. Section 656.2, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

656.2 NOTICE.

1. The forfeiture shall be initiated by the vendor by serving on the vendee a written notice which shall:

a. Reasonably identify the contract and accurately describe the real estate covered.

b. Specify the terms of the contract with which the vendee has not complied.

c. State that unless, within thirty days after the completed service of the notice, the vendee performs the terms in default and pays the reasonable costs of serving the notice, the contract will be forfeited.

d. Specify the amount of attorney fees claimed by the vendee pursuant to section 656.7 and state that payment of the attorney fees is not required to comply with the notice and prevent forfeiture.

2. The vendor shall also serve a copy of the notice required in subsection 1 on the person in possession of the real estate, if different than the vendee, and on all mortgagees of record.

3. As used in this section, the terms "vendor" and "vendee" include a successor in interest.

Sec. 3. Section 656.4, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

656.4 COMPLIANCE WITH NOTICE. If the vendee or a mortgagee of the real estate performs, within thirty days of completed service of notice, the breached terms specified in the notice and pays the vendor the reasonable cost of serving the notice, then the right to forfeit for the breach is terminated. The

payment of attorney fees pursuant to section 656.7 is not necessary to comply with the notice and prevent forfeiture.

DONALD D. AVENSON
Speaker of the House

CHARLES P. MILLER
President Pro Tempore of the
Senate

I hereby certify that this bill originated in the House and is known as House File 2459, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 4, 1984

TERRY E. BRANSTAD
Governor