

Reprinted 4/87

MAR 26 1987

Place On Calendar

HOUSE FILE 655
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(Formerly House File 305)-

Passed House, Date 4-1-87 (y. 1636) Passed Senate, Date _____
Vote: Ayes 27 Nays 3 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to civil actions by removing the one hundred mile
2 limit on subpoenas to witnesses in civil cases, by limiting
3 the award of attorney's fees in small claims actions, by
4 requiring actions to be brought in small claims court in a
5 court having actual jurisdiction, and by providing a cause of
6 action against a person filing certain false claims on real
7 property.

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

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HF 655

1 Section 1. Section 622.66, Code 1987, is amended to read
2 as follows:

3 622.66 HOW FAR COMPELLED TO ATTEND.

4 Witnesses in civil cases cannot be compelled to attend the
5 district or superior appellate court out of the state where
6 they are served, ~~nor at a distance of more than one hundred~~
7 ~~miles from the place of their residence, or from that where~~
8 ~~they are served with a subpoena, unless within the same~~
9 county.

10 Sec. 2. Section 625.22, Code 1987, is amended to read as
11 follows:

12 625.22 ATTORNEY'S FEES -- COSTS.

13 When judgment is recovered upon a written contract
14 containing an agreement to pay an attorney's fee, the court
15 shall allow and tax as a part of the costs a reasonable
16 attorney's fee to be determined by the court.

17 In an action against the maker to recover payment on a
18 dishonored check or draft, as defined in section 554.3104, the
19 plaintiff, if successful, may recover, in addition to all
20 other costs or surcharges provided by law, all court costs
21 incurred, including a reasonable attorney's fee, or an
22 individual's cost of processing a small claims recovery such
23 ~~as lost time and transportation costs from the maker of the~~
24 ~~check or draft. However, attorney's fees shall not be awarded~~
25 under section 631.14 to a person who in the regular course of
26 business takes assignments of instruments or accounts pursuant
27 to chapter 539. Only actual out-of-pocket expenses incurred
28 in obtaining the small claim recovery shall be awarded to the
29 assignee. Any such additional charges shall be determined by
30 the court. If the defendant is successful in the action and
31 the court determines the action was frivolous, the court may
32 award the defendant reasonable attorney's fees.

33 Sec. 3. Section 631.14, Code 1987, is amended to read as
34 follows:

35 631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS.

1 Actions constituting small claims may be brought or
2 defended by an individual, partnership, association,
3 corporation, or other entity. In actions in which a person
4 other than an individual is a party, that person may be
5 represented by an officer or an employee. A person who in the
6 regular course of business takes assignments of instruments or
7 accounts pursuant to chapter 539, which assignments constitute
8 small claims, may bring an action on an assigned instrument or
9 account in the person's own name and need not be represented
10 by an attorney, provided that the action is brought pursuant
11 to chapter 616, regardless of whether challenge is made to
12 venue by the defendant. Any person, however, may be
13 represented in a small claims action by an attorney.

14 Sec. 4. NEW SECTION. 649.9 SLANDERING TITLE TO REAL
15 PROPERTY.

16 A person shall not use the privilege of bringing an action
17 to determine and quiet the title of real property under this
18 chapter for the purpose of slandering the title to real
19 property. If the court finds that a person has brought an
20 action under this chapter for the purpose of slandering title
21 to real property, the court shall award the defendant all
22 costs of the action, including attorney fees to be fixed and
23 allowed to the defendant by the court, and all damages
24 sustained by the defendant as a result of the action.

25 EXPLANATION

26 This bill makes changes to the Code regarding certain civil
27 actions.

28 Presently the Code contains a one hundred mile limitation
29 on the distance that an Iowa witness to a civil case may be
30 compelled under subpoena to attend court. This bill removes
31 that restriction.

32 This bill provides that a person bringing an action in
33 small claims court as an assignee of a claim under chapter 539
34 shall not be awarded attorney's fees. An action brought
35 pursuant to chapter 539 must be brought in a court having

1 actual jurisdiction in the matter even though the defendant
2 fails to complain about where the action is brought.

3 This bill provides that if the court determines that a
4 person has brought an action to determine and quiet title to
5 real property for the purpose of slandering title to the real
6 property, the person will be liable to the person defending
7 the action for all the defendant's costs, including attorney
8 fees to be fixed by the court, and all damages sustained by
9 the defendant as a result of the action.

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HOUSE FILE 655

H-3558

1 Amend amendment H-3520 to House File 655 as
2 follows:
3 1. Page 1, by inserting after line 13 the
4 following:
5 "Sec. ____ . Section 537.7102, subsection 1, Code
6 1987, is amended to read as follows:
7 1. "Debt" means an actual or alleged obligation
8 arising out of a consumer credit transaction, or a
9 transaction which would have been a consumer credit
10 transaction either if a finance charge was made, if
11 the obligation was not payable in installments, if a
12 lease was for a term of four months or less, or if a
13 lease was of an interest in land. A debt includes
14 a check as defined in section 554.3104 given in a
15 transaction which was a consumer credit sale or in
16 a transaction which would have been a consumer credit
17 sale if credit was granted and if a finance charge
18 was made."

BY HUMMEL of Benton
SWARTZ of Marshall

H-3558 FILED APRIL 1, 1987
ADOPTED (g 1034)

HOUSE FILE 655

H-3476

- 1 Amend House File 655 as follows:
2 1. Page 1, line 16, by inserting after the word
3 "court" the following: "which is not in excess of one-
4 third of the judgment".

H-3476 FILED MARCH 30, 1987 BY MILLER of Cherokee
7/17 4/1 (p. 1035)

HOUSE FILE 655

H-3520

- 1 Amend House File 655 as follows:
2 1. Page 1, by inserting after line 32 the
3 following:
4 "Sec. 3. Section 537.7103, subsection 5, paragraph
5 c, Code 1987, is amended to read as follows:
6 c. The collection of or the attempt to collect
7 from the debtor a part or all of the debt collector's
8 fee for services rendered, unless the both of the
9 following are applicable:
10 (1) The fee is reasonably related to the actions
11 taken by the debt collector.
12 (2) The debt collector is legally entitled to
13 collect the fee from the debtor."
14 2. By renumbering as necessary.

H-3520 FILED MARCH 31, 1987 BY HUMMEL of Benton
*Adopted as amended by 3553 4/1/87
(p. 1034)*

HOUSE FILE 655

H-3553

- 1 Amend amendment, H-3520, to House File 655 as
2 follows:
3 1. Page 1, by inserting after line 1 the
4 following:
5 "___ . Page 1, by striking lines 22 through 24 and
6 inserting the following: "individual's cost of
7 processing a small claims recovery such as lost time
8 and transportation costs from the maker of the check
9 or draft. However, lost time and transportation costs
10 of an assignee shall not be awarded".
11 ___ . Page 1, line 28, by striking the word
12 "shall" and inserting the word "may"."
13 2. Page 1, by inserting after line 13 the
14 following:
15 "___ . Page 2, by striking lines 10 through 12 and
16 inserting the following: "by an attorney, provided
17 that in an action brought to recover payment on a
18 dishonored check or draft, as defined in section
19 554.3104, the action is brought in the county of
20 residence of the maker of the check or draft or in the
21 county where the draft or check was first presented.
22 Any person, however, may be"."

H-3553 FILED APRIL 1, 1987 BY SWARTZ of Marshall
ADOPTED (p. 1034)

Sen. Judiciary 4/6/87 To Pass 4/9/87 (p 1200)

HOUSE FILE 655
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(As Amended and Passed by the House April 1, 1987)

Passed House, Date 4/28/87 (p. 1698) Passed Senate, Date 4-15-87 (p 1343)
Vote: Ayes 88 Nays 1 Vote: Ayes 46 Nays 0
Approved May 20, 1987

A BILL FOR

1 An Act relating to civil actions by removing the one hundred mile
2 limit on subpoenas to witnesses in civil cases, by limiting
3 the award of attorney's fees in small claims actions, by
4 requiring actions to be brought in small claims court in a
5 court having actual jurisdiction, and by providing a cause of
6 action against a person filing certain false claims on real
7 property.

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

SENATE AMENDMENT TO HOUSE FILE 655

H-3871

1 Amend House File 555 as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 3, by striking lines 3 through 13.
4 2. Title page, by striking line 3 and inserting
5 the following: "the award of lost time and
6 transportation costs in small claims actions, and by".
7 3. Title page, by striking lines 5 through 7 and
8 inserting the following: "court having actual
9 jurisdiction."

H-3871 FILED APRIL 20, 1987 RECEIVED FROM THE SENATE

House concurred 4/28/87 (p 1698)

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1 Section 1. Section 622.66, Code 1987, is amended to read
2 as follows:

3 622.66 HOW FAR COMPELLED TO ATTEND.

4 Witnesses in civil cases cannot be compelled to attend the
5 district or superior appellate court out of the state where
6 they are served, ~~nor at a distance of more than one hundred~~
7 ~~miles from the place of their residence, or from that where~~
8 ~~they are served with a subpoena, unless within the same~~
9 county.

10 Sec. 2. Section 625.22, Code 1987, is amended to read as
11 follows:

12 625.22 ATTORNEY'S FEES -- COSTS.

13 When judgment is recovered upon a written contract
14 containing an agreement to pay an attorney's fee, the court
15 shall allow and tax as a part of the costs a reasonable
16 attorney's fee to be determined by the court.

17 In an action against the maker to recover payment on a
18 dishonored check or draft, as defined in section 554.3104, the
19 plaintiff, if successful, may recover, in addition to all
20 other costs or surcharges provided by law, all court costs
21 incurred, including a reasonable attorney's fee, or an
22 individual's cost of processing a small claims recovery such
23 as lost time and transportation costs from the maker of the
24 check or draft. However, lost time and transportation costs
25 of an assignee shall not be awarded under section 631.14 to a
26 person who in the regular course of business takes assignments
27 of instruments or accounts pursuant to chapter 539. Only
28 actual out-of-pocket expenses incurred in obtaining the small
29 claim recovery may be awarded to the assignee. Any such
30 additional charges shall be determined by the court. If the
31 defendant is successful in the action and the court determines
32 the action was frivolous, the court may award the defendant
33 reasonable attorney's fees.

34 Sec. 3. Section 537.7102, subsection 1, Code 1987, is
35 amended to read as follows:

1 1. "Debt" means an actual or alleged obligation arising
2 out of a consumer credit transaction, or a transaction which
3 would have been a consumer credit transaction either if a
4 finance charge was made, if the obligation was not payable in
5 installments, if a lease was for a term of four months or
6 less, or if a lease was of an interest in land. A debt
7 includes a check as defined in section 554.3104 given in a
8 transaction which was a consumer credit sale or in a
9 transaction which would have been a consumer credit sale if
10 credit was granted and if a finance charge was made.

11 Sec. 4. Section 537.7103, subsection 5, paragraph c, Code
12 1987, is amended to read as follows:

13 c. The collection of or the attempt to collect from the
14 debtor a part or all of the debt collector's fee for services
15 rendered, unless the both of the following are applicable:

16 (1) the fee is reasonably related to the actions taken by
17 the debt collector.

18 (2) The debt collector is legally entitled to collect the
19 fee from the debtor.

20 Sec. 5. Section 631.14, Code 1987, is amended to read as
21 follows:

22 631.14 REPRESENTATION IN SMALL CLAIMS ACTIONS.

23 Actions constituting small claims may be brought or
24 defended by an individual, partnership, association,
25 corporation, or other entity. In actions in which a person
26 other than an individual is a party, that person may be
27 represented by an officer or an employee. A person who in the
28 regular course of business takes assignments of instruments or
29 accounts pursuant to chapter 539, which assignments constitute
30 small claims, may bring an action on an assigned instrument or
31 account in the person's own name and need not be represented
32 by an attorney, provided that in an action brought to recover
33 payment on a dishonored check or draft, as defined in section
34 554.3104, the action is brought in the county of residence of
35 the maker of the check or draft or in the county where the

1 draft or check was first presented. Any person, however, may
2 be represented in a small claims action by an attorney.

3 Sec. 6. NEW SECTION. 649.9 SLANDERING TITLE TO REAL
4 PROPERTY.

5 A person shall not use the privilege of bringing an action
6 to determine and quiet the title of real property under this
7 chapter for the purpose of slandering the title to real
8 property. If the court finds that a person has brought an
9 action under this chapter for the purpose of slandering title
10 to real property, the court shall award the defendant all
11 costs of the action, including attorney fees to be fixed and
12 allowed to the defendant by the court, and all damages
13 sustained by the defendant as a result of the action.

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HOUSE FILE 655

-3538

1 Amend House File 655 as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 3, by striking lines 3 through 13.
4 2. Title page, by striking line 3 and inserting
5 the following: "the award of lost time and
6 transportation costs in small claims actions, and by".
7 3. Title page, by striking lines 5 through 7 and
8 inserting the following: "court having actual
9 jurisdictions."

S-3538

Filed April 14, 1987

Adopted 4/15/87 (p 1322)

BY RICHARD VARN
TOM MANN, JR.

HOUSE FILE 655

S-3563

1 Amend House File 655 as amended, passed, and
2 reprinted by the House as follows:
3 1. Page 3, by striking lines 3 through 13.
4 2. Title page, by striking line 3 and inserting
5 the following: "the award of lost time and
6 transportation costs in small claims actions, and by".
7 3. Title page, by striking lines 5 through 7 and
8 inserting the following: "court having actual
9 jurisdictions."

S-3563

Filed April 14, 1987

Adopted 4/15 (p 1322)

BY RICHARD VARN
TOM MANN, JR.

HOUSE FILE 655

AN ACT

RELATING TO CIVIL ACTIONS BY REMOVING THE ONE HUNDRED MILE LIMIT ON SUBPOENAS TO WITNESSES IN CIVIL CASES, BY LIMITING THE AWARD OF LOST TIME AND TRANSPORTATION COSTS IN SMALL CLAIMS ACTIONS, AND BY REQUIRING ACTIONS TO BE BROUGHT IN SMALL CLAIMS COURT IN A COURT HAVING ACTUAL JURISDICTION.

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

Section 1. Section 622.66, Code 1987, is amended to read as follows:

622.66 HOW FAR COMPELLED TO ATTEND.

Witnesses in civil cases cannot be compelled to attend the district or superior appellate court out of the state where they are served ~~nor at a distance of more than one hundred miles from the place of their residency or from that where they are served with a subpoena, unless within the same county.~~

Sec. 2. Section 625.22, Code 1987, is amended to read as follows:

625.22 ATTORNEY'S FEES -- COSTS.

When judgment is recovered upon a written contract containing an agreement to pay an attorney's fee, the court shall allow and tax as a part of the costs a reasonable attorney's fee to be determined by the court.

In an action against the maker to recover payment on a dishonored check or draft, as defined in section 554.3104, the plaintiff, if successful, may recover, in addition to all other costs or surcharges provided by law, all court costs incurred, including a reasonable attorney's fee, or an individual's cost of processing a small claims recovery such as lost time and transportation costs from the maker of the check or draft. However, lost time and transportation costs of an assignee shall not be awarded under section 631.14 to a

person who in the regular course of business takes assignments of instruments or accounts pursuant to chapter 539. Only actual out-of-pocket expenses incurred in obtaining the small claim recovery may be awarded to the assignee. Any such additional charges shall be determined by the court. If the defendant is successful in the action and the court determines the action was frivolous, the court may award the defendant reasonable attorney's fees.

Sec. 3. Section 537.7102, subsection 1, Code 1987, is amended to read as follows:

1. "Debt" means an actual or alleged obligation arising out of a consumer credit transaction, or a transaction which would have been a consumer credit transaction either if a finance charge was made, if the obligation was not payable in installments, if a lease was for a term of four months or less, or if a lease was of an interest in land. A debt includes a check as defined in section 554.3104 given in a transaction which was a consumer credit sale or in a transaction which would have been a consumer credit sale if credit was granted and if a finance charge was made.

Sec. 4. Section 537.7103, subsection 5, paragraph c, Code 1987, is amended to read as follows:

c. The collection of or the attempt to collect from the debtor a part or all of the debt collector's fee for services rendered, unless the both of the following are applicable:

(1) The fee is reasonably related to the actions taken by the debt collector.

(2) The debt collector is legally entitled to collect the fee from the debtor.

Sec. 5. Section 631.14, Code 1987, 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, provided that in an action brought to recover payment on a dishonored check or draft, as defined in section 554.3104, the action is brought in the county of residence of the maker of the check or draft or in the county where the draft or check was first presented. Any person, however, may be represented in a small claims action by an attorney.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 655, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 20, 1987

TERRY E. BRANSTAD
Governor