

House Study Bill 276

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON SWAIM)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to offers of settlement in a civil case after a
2 lawsuit has been filed.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2644HC 83
5 rh/rj/8

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1 1 Section 1. Section 677.4, Code 2009, is amended to read as
1 2 follows:
1 3 677.4 OFFER TO CONFESS JUDGMENT AFTER ACTION BROUGHT.
1 4 After an action for the recovery of money is brought, the
1 5 defendant or the plaintiff may offer in court to confess
1 6 judgment for part of the amount claimed, or part of the causes
1 7 involved in the action.

1 8 Sec. 2. Section 677.5, Code 2009, is amended to read as
1 9 follows:

1 10 677.5 NONACCEPTANCE == COSTS.

1 11 1. If the plaintiff, being present, refuses to accept
1 12 judgment for such sum in full of the plaintiff's demands in
1 13 the action, or, having had three days' notice that the offer
1 14 would be made, of its amount, and of the time of making it,
1 15 fails to attend, and on the trial does not recover more than
1 16 was offered to be confessed, the plaintiff shall pay the costs
1 17 of the defendant incurred after the offer.

1 18 2. If the defendant, being present, refuses to accept
1 19 judgment for such sum in full of the defendant's demands in
1 20 the action, or, having had three days' notice that the offer
1 21 would be made, of its amount, and of the time of making it,
1 22 fails to attend, and on the trial does not recover more than
1 23 was offered to be confessed, the defendant shall pay the costs
1 24 of the plaintiff incurred after the offer.

1 25 Sec. 3. Section 677.6, Code 2009, is amended to read as
1 26 follows:

1 27 677.6 EFFECT OF NONACCEPTED OFFER.

1 28 The offer shall not be treated as an admission of the cause
1 29 of action or amount to which the plaintiff or the defendant
1 30 was entitled nor be given in evidence upon the trial.

1 31 Sec. 4. Section 677.7, Code 2009, is amended to read as
1 32 follows:

1 33 677.7 OFFER TO CONFESS AFTER ACTION BROUGHT.

1 34 1. The defendant in an action for the recovery of money
1 35 only may, at any time after service of notice and before the
2 1 trial, serve upon the plaintiff or the plaintiff's attorney an
2 2 offer in writing to allow judgment to be taken against the
2 3 defendant for a specified sum with costs.

2 4 2. The plaintiff in an action for the recovery of money
2 5 only may, at any time after service of notice and before the
2 6 trial, serve upon the defendant or the defendant's attorney an
2 7 offer in writing to allow judgment to be taken against the
2 8 plaintiff for a specified sum with costs.

2 9 Sec. 5. Section 677.8, Code 2009, is amended to read as
2 10 follows:

2 11 677.8 ACCEPTANCE == JUDGMENT.

2 12 1. If the plaintiff accepts the offer, and gives notice
2 13 thereof to the defendant or the defendant's attorney within
2 14 five days after the offer is made, the offer, and an affidavit
2 15 that the notice of acceptance was delivered in the time
2 16 limited, may be filed by the plaintiff, or the defendant may
2 17 file the acceptance with a copy of the offer, verified by
2 18 affidavit; and in either case a minute of the offer and

2 19 acceptance shall be entered upon the judge's calendar, and
2 20 judgment shall be rendered by the court accordingly.
2 21 2. If the defendant accepts the offer, and gives notice
2 22 thereof to the plaintiff or the plaintiff's attorney within
2 23 five days after the offer is made, the offer, and an affidavit
2 24 that the notice of acceptance was delivered in the time
2 25 limited, may be filed by the defendant, or the plaintiff may
2 26 file the acceptance with a copy of the offer, verified by
2 27 affidavit; and in either case a minute of the offer and
2 28 acceptance shall be entered upon the judge's calendar, and
2 29 judgment shall be rendered by the court accordingly.

2 30 Sec. 6. Section 677.10, Code 2009, is amended to read as
2 31 follows:

2 32 677.10 COSTS.

2 33 1. If the plaintiff fails to obtain judgment for more than
2 34 was offered by the defendant, the plaintiff cannot recover
2 35 costs, but shall pay the defendant's costs from the time of
3 1 the offer.

3 2 2. If the defendant fails to obtain judgment for more than
3 3 was offered by the plaintiff, the defendant cannot recover
3 4 costs, but shall pay the plaintiff's costs from the time of
3 5 the offer.

3 6 Sec. 7. Section 677.11, Code 2009, is amended to read as
3 7 follows:

3 8 677.11 CONDITIONAL OFFER.

3 9 1. In an action for the recovery of money only, the
3 10 defendant, having answered, may serve upon the plaintiff or
3 11 the plaintiff's attorney an offer in writing that, if the
3 12 defendant fails in the defendant's defense, the amount of
3 13 recovery shall be assessed at a specified sum.

3 14 2. In an action for the recovery of money only, the
3 15 plaintiff, having answered, may serve upon the defendant or
3 16 the defendant's attorney an offer in writing that, if the
3 17 plaintiff fails in the plaintiff's defense, the amount of
3 18 recovery shall be assessed at a specified sum.

3 19 Sec. 8. Section 677.12, Code 2009, is amended to read as
3 20 follows:

3 21 677.12 ACCEPTANCE == EFFECT.

3 22 1. If the plaintiff accepts the offer, and gives notice
3 23 thereof to the defendant or the defendant's attorney within
3 24 five days after it was served, or within three days if served
3 25 in term time, and the defendant fails in the defendant's
3 26 defense, the judgment shall be for the amount so agreed upon.

3 27 2. If the defendant accepts the offer, and gives notice
3 28 thereof to the plaintiff or the plaintiff's attorney within
3 29 five days after it was served, or within three days if served
3 30 in term time, and the plaintiff fails in the plaintiff's
3 31 defense, the judgment shall be for the amount so agreed upon.

3 32 Sec. 9. Section 677.13, Code 2009, is amended to read as
3 33 follows:

3 34 677.13 NONACCEPTANCE == EFFECT.

3 35 1. If the plaintiff does not accept the offer, the
4 1 plaintiff shall prove the amount to be recovered as if the
4 2 offer had not been made, and the offer shall not be given in
4 3 evidence or mentioned on the trial, and if the amount
4 4 recovered by the plaintiff does not exceed the sum mentioned
4 5 in the offer, the defendant shall recover the defendant's
4 6 costs incurred in the defense.

4 7 2. If the defendant does not accept the offer, the
4 8 defendant shall prove the amount to be recovered as if the
4 9 offer had not been made, and the offer shall not be given in
4 10 evidence or mentioned on the trial, and if the amount
4 11 recovered by the defendant does not exceed the sum mentioned
4 12 in the offer, the plaintiff shall recover the plaintiff's
4 13 costs incurred in the defense.

4 14 EXPLANATION

4 15 Current law provides that a defendant may offer in court to
4 16 settle a lawsuit after the lawsuit is filed for part of the
4 17 amount claimed, or part of the causes involved in the lawsuit,
4 18 and contains provisions relating to the legal and financial
4 19 consequences of acceptance or nonacceptance.

4 20 This bill establishes reciprocal provisions for a plaintiff
4 21 relating to an offer to confess judgment after a lawsuit has
4 22 been filed.

4 23 LSB 2644HC 83

4 24 rh/rj/8