

House Study Bill 531 - Introduced

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

A BILL FOR

1 An Act relating to forcible entry and detainer actions,
2 including granting concurrent jurisdiction to small claims
3 courts over preliminary hearings for certain forcible entry
4 and detainer actions.

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

1 Section 1. Section 631.1, subsection 2, Code 2016, is
2 amended to read as follows:

3 2. The district court sitting in small claims shall have
4 concurrent jurisdiction of an action for forcible entry and
5 detainer which is based on those grounds set forth in section
6 648.1, subsections 1, 2, 3, and 5, and 7. When commenced
7 under this chapter, the action shall be a small claim for the
8 purposes of this chapter.

9 Sec. 2. Section 631.1, Code 2016, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 10. The district court sitting in small
12 claims has concurrent jurisdiction of preliminary hearings
13 under section 648.5, subsection 6, for claims brought in small
14 claims court under subsection 2, and shall enter a judgment of
15 removal if the defendant fails to appear or otherwise defaults,
16 or if the defendant fails to raise a material issue of fact as
17 provided in section 648.5, subsection 6. At such preliminary
18 hearing, the district court sitting in small claims shall
19 examine all occupants of the property present at the hearing
20 to determine whether there are any genuine issues of material
21 fact which constitute a prima facie defense to eviction, on the
22 basis of title or otherwise, and shall file a written record of
23 the examination and the courts' findings. In accordance with
24 section 648.15, if the defendant resists the plaintiff's action
25 by putting title in issue, the court shall transfer the case
26 from the small claims docket to be tried by regular equitable
27 proceedings.

28 Sec. 3. Section 648.1, Code 2016, is amended by adding the
29 following new subsection:

30 NEW SUBSECTION. 7. Where the vendee has failed to vacate
31 after the forfeiture of a real estate contract under chapter
32 656.

33 Sec. 4. Section 648.22, Code 2016, is amended to read as
34 follows:

35 **648.22 Judgment — execution — costs.**

1 If the ~~defendant is found guilty~~ plaintiff establishes the
2 plaintiff's claim to possession by a preponderance of the
3 evidence, judgment shall be entered that the defendant and all
4 persons holding possession under the defendant be removed from
5 the premises, and that the plaintiff be put in possession of
6 the premises, ~~and an~~. An execution for the defendant's removal
7 within three days from the judgment shall issue accordingly, to
8 which shall be added a clause commanding the officer to collect
9 the costs as in ordinary cases.

10 Sec. 5. NEW SECTION. 656.10 **Remedy if vendee fails to**
11 **vacate.**

12 If, following forfeiture of a real estate contract under
13 this chapter, the vendee fails to vacate the real estate
14 covered by the contract, the vendor may bring an action for
15 forcible entry and detainer under chapter 648.

16 EXPLANATION

17 The inclusion of this explanation does not constitute agreement with
18 the explanation's substance by the members of the general assembly.

19 This bill creates an action for forcible entry and detainer
20 following the forfeiture of a real estate contract and grants
21 concurrent jurisdiction to the district court sitting in small
22 claim over preliminary hearings for certain forcible entry and
23 detainer actions.

24 The bill provides that an action for forcible entry and
25 detainer is allowed where the vendee of a real estate contract
26 fails to vacate after a valid forfeiture of the contract under
27 Code chapter 656.

28 The bill further provides that the district court sitting
29 in small claims has concurrent jurisdiction of an action for
30 forcible entry and detainer that is based on a vendee failing
31 to vacate after forfeiture of a real estate contract.

32 Under current law, a preliminary hearing is held by the
33 district court for forcible entry and detainer actions to
34 determine if a genuine issue of material fact exists. The
35 bill provides that for forcible entry and detainer actions

1 where the plaintiff alleges either that the defendant has by
2 force, intimidation, fraud, or stealth entered upon the prior
3 actual possession of another in real property and detained the
4 property, that a lessee has held over after the termination
5 of the lease, holds contrary to the terms of a lease, or has
6 not paid rent that is due, or that a vendee has failed to
7 vacate after a valid forfeiture of a real estate contract,
8 the district court sitting in small claims has concurrent
9 jurisdiction over such preliminary hearings. If the defendant
10 fails to appear, otherwise defaults, or fails to raise a
11 material issue of fact, the court is required to enter a
12 judgment of removal. If the defendant resists the plaintiff's
13 action by putting title in issue, the court is required to
14 transfer the case from the small claims docket to be tried by
15 regular equitable proceedings.

16 The bill provides that if the plaintiff in an action for
17 forcible entry and detainer establishes the plaintiff's claim
18 to possession by a preponderance of the evidence, the court
19 shall enter judgment that removes not only the defendant but
20 all persons holding possession under the defendant from the
21 premises and puts the plaintiff in possession of the premises.