

## CHAPTER 3.

## RELATING TO THE DEFENSE OF THE TREASURER OF STATE AND THE PAYMENT OF JUDGMENTS RENDERED AGAINST HIM.

S. F. 163.

AN ACT relating to the defense of the treasurer of state in certain cases in suits brought to recover taxes or fees unlawfully collected, and providing for the payment and satisfaction of judgments rendered against him in such cases. [Additional to chapter four (4), of title two (II) of the code, relating to the treasurer of state.]

*Be it enacted by the General Assembly of the State of Iowa:*

**SECTION 1. Defense—appeal.** Whenever any taxes or fees have been collected by the treasurer of state of this state, acting under the authority of the code, or any act of the General Assembly, and covered into the state treasury, and any suit or action is brought against said treasurer, either as such, or as an individual, to recover back such taxes or fees so collected and covered into the treasury of the state, whether the term of office of such treasurer has expired or not, it shall be the duty of the attorney-general, upon the request of the defendant, to appear and make defense to such action. If, upon final hearing of such suit or action, it shall be determined that such taxes or fees were wrongfully collected and covered into the state treasury, it shall be the duty of the attorney-general to appeal said suit or action to the supreme court, unless in his opinion such appeal would be useless, in which case he shall render his opinion, with a copy of the proceedings had in court, to the executive council, who may either order the appeal to be taken, and that the attorney-general shall proceed therewith, or accept the decision, and their order shall be final. If appeal be taken by the defendant it shall supersede execution, without bond.

**SEC. 2. Satisfaction of judgment.** In case the executive council shall decide that no appeal shall be taken, or in case an appeal shall be taken and result in an affirmance, then the attorney-general shall prepare and present before the executive council a transcript of the judgment with costs, under the seal of the court in which the same is rendered, and the said council shall cause the same to be entered of record, and shall, by order duly entered of record, direct the auditor of state to draw his warrant on the treasurer of state for a sum sufficient to satisfy the said judgment, which said warrant shall, by the treasurer of state, be paid to the attorney-general, who shall therewith satisfy said judgment, taking duplicate receipts from the clerk of the court in which the final judgment is had, and he shall file one of said receipts with the executive council and one with the treasurer of state.

**SEC. 3. Rights of plaintiff.** Nothing herein contained shall be construed to give the plaintiff in such action any other or greater rights than he might have if this act were not in existence.

**SEC. 4. Suits against ex-treasurers.** This act is hereby made to apply to suits brought or that may be brought, as defined in section one hereof, against any treasurer of state whose term of office has expired prior to the enactment hereof.

**SEC. 5. Appropriation.** There is hereby appropriated out of any funds not otherwise appropriated sufficient to pay all such judgments as may come within the provisions of this act.

**SEC. 6. In effect.** This act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Iowa State Register and the Daily Capital, newspapers published in the City of Des Moines, Iowa.

Approved April 2, 1902.

I hereby certify that the foregoing Act was published in the Iowa State Register and the Daily Capital, April 3, 1902.

W. B. MARTIN,  
*Secretary of State.*