

tiff with reference to the property involved in the action, that the name and residence of such person is unknown to the plaintiff, and that he has sought diligently to learn the same. The notice thereof shall contain the name of the plaintiff, a description of the property, the claim of the plaintiff thereto, the relief demanded, the name of the court, and the term in which appearance must be made. Such notice must be entitled in the name of the plaintiff against the unknown claimants of the property and shall be signed by the plaintiff or his attorney.

Sec. 6. Method of publication. The publication must be of the original notice required for the commencement of actions, once each week for four (4) consecutive weeks, before or after the filing of the petition, in some newspaper of general circulation published in the county where the petition is or will be filed, selected by the plaintiff or his attorney.

Sec. 7. When complete - proof. When the foregoing provisions have been complied with, the defendant so notified shall be required to appear as if personally served on the day of the last publication, within the county in which the petition is filed, proof thereof being made by the affidavit of the publisher or his foreman, and filed before default is taken.

That section seven thousand one hundred eighty-nine (7189) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 8. Lis pendens. When any part of real property, the subject of an action, is situated in any other county than the one in which the action is brought, or when the action is brought in the superior court, the plaintiff must, in order to affect third persons with constructive notice of the pendency thereof, file with the clerk of the district court of such county a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the property in that county affected thereby, who shall at once index and enter a memorandum thereof in the incumbrance book, and, from the time of such indexing, the pendency of the action shall be a constructive notice to subsequent purchasers or incumbrancers thereof, who shall be bound by all the proceedings taken after the filing of such notice, to the same extent as if parties to the action. Within two (2) months after the determination of the action, there shall also be filed with such clerk a certified copy of the final order, judgment or decree, who shall enter and index the same as though rendered in that county, or such notice of pendency shall cease to be constructive notice.

Approved March 5, 1924.

CHAPTER 148

PLEADINGS

S. F. 229

AN ACT to amend, revise, and codify sections seven thousand two hundred three (7203), seven thousand two hundred eight (7208), seven thousand two hundred nine (7209), seven thousand two hundred twelve (7212), seven thousand two hundred eighteen (7218), and seven thousand two hundred twenty-two (7222) of the compiled code of Iowa, relating to pleadings.

Be It Enacted by the General Assembly of the State of Iowa:

That section seven thousand two hundred three (7203) of the compiled Code of

Iowa is amended, revised, and codified to read as follows:

Section 1. Pleadings in equitable actions attacked by motion. In actions triable in equity, every defense in point of law arising upon the face of the petition cross petition, petition of intervention, answer, counterclaim, or reply, as the case may be, for misjoinder of parties, or which in an action triable at law may be made by demurrer, shall be made by motion to dismiss or in the answer to reply.

Sec. 2. Motion disposed of before final hearing. Every point of law going to the whole or any material part of the cause or causes of action stated in the petition, counterclaim, cross petition, petition of intervention, or defense stated in the answer to reply, shall, on order of court or on motion of either party, be presented to the court and disposed of before final hearing.

Sec. 3. Plea in bar or abatement in answer or reply - hearing. In such actions, every defense presented by plea in bar or in abatement, or to the jurisdiction under general appearance, made in the answer or reply, shall on motion of either party or on order of court be separately heard and disposed of before the trial of the principal case.

Sec. 4. Five days' notice for hearing. The motion to dismiss may be set down for hearing by either party upon five (5) days' written notice to the adverse party or his attorney. Such notice with proof of service shall be filed with the original papers.

Sec. 5. Motion denied - time of answer or reply. If the motion be denied, the mover shall answer or reply within five (5) days thereafter unless the parties agree to a longer time or the court, before or after the expiration of said time, shall extend the same.

Sec. 6. Motions and demurrers. All demurrers and motions assailing a pleading shall be in writing, and filed before answer or reply has been filed to the pleading assailed, except as provided in this chapter, and specify and number the causes on which they are founded, and none other shall be argued or considered. Only one (1) motion of the same kind and one (1) demurrer assailing such pleading shall be filed, unless such pleading is amended after the filing of a motion or demurrer thereto.

That sections seven thousand two hundred eight (7208), seven thousand two hundred nine (7209), seven thousand two hundred eighteen (7218), and seven thousand two hundred twenty-two (7222) of the compiled Code of Iowa are amended, revised, and codified to read as follows:

Sec. 7. Demurrer - causes of - actions at law. In actions triable at law, any party may demur to any pleading filed by any adverse party upon one (1) or more of the following grounds appearing on its face:

1. That the court has no jurisdiction of the person of the defendant or the subject of the action.
2. That the adverse party has not legal capacity to sue.
3. That there is another action pending between the same parties for the same cause.
4. That there is a defect of parties, plaintiffs or defendants.
5. That the facts stated in the pleading attacked do not entitle the adverse party to the relief demanded.
6. That the pleading attacked shows that the cause of action or defense is barred by the statute of limitations; or fails to show it to be in writing where it should be so evidenced; or, if founded on an account or writing as evidence of indebtedness, that neither such writing or account or copy thereof is incorporated into or attached to the pleading, or a sufficient reason stated for not doing so.

It shall not be sufficient to state the grounds of demurrer in the foregoing terms.

That section seven thousand two hundred twelve (7212) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 8. When any ground of demurrer or of motion to dismiss, as the case may be, does not appear on the face of the petition, cross petition, or counterclaim the issue may be raised by answer or reply.

Sec. 9. Objection raised by answer - arrest of judgment. When any petition, cross petition, or counterclaim fails to state a cause of action, or any answer or reply a defense, advantage may be taken thereof by a motion in arrest of judgment, numbering and specifying the grounds thereof.

Approved January 25, 1924.

CHAPTER 149

EVIDENCE IN CIVIL ACTIONS

H. F. 230

AN ACT to amend, revise, and codify sections seventy-three hundred sixty-two (7362), seventy-three hundred ninety-two (7392) and seventy-three hundred ninety-eight (7398) of the compiled code of Iowa, relating to evidence.

Be It Enacted by the General Assembly of the State of Iowa:

That section seventy-three hundred sixty-two (7362) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Section 1. Production of books and papers. The petition for that purpose shall be verified, and must state the facts expected to be proved by such books or papers, and that, as the petitioner believes, such books and papers are under the control of the party against whom the rule is sought, and must show wherein they are material. The rule shall thereupon be granted to produce the books and papers, or show cause to the contrary, if the court deems such rule expedient and proper.

That section seventy-three hundred ninety-two (7392) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 2. Depositions - when taken and by whom. After the commencement of a civil action or other proceeding, if the witness is, or is about to go, beyond the reach of a subpoena, or is for any other cause expected to be unable to attend court at the time of trial, the party wishing his testimony may take his deposition in writing before any person having authority to administer oaths; and if the action is triable by equitable proceedings, then without any other reason therefor either party may so take the deposition of any witness.

That section seventy-three hundred ninety-eight (7398) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 6. Who may act as commissioner. Such commission may issue to any of the following named officers who may be designated in the notice and in the commission, either by the name of office of such officer or by his individual name and official style, to wit: