

## CHAPTER 625

### COSTS

Referred to in [§602.8102\(99\)](#)

Deferral of costs in civil and criminal proceedings; see [chapter 610](#)

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#### **625.1 Recoverable by successful party.**

Costs shall be recovered by the successful against the losing party.

[C51, §1811; R60, §3449; C73, §2933; C97, §3853; S13, §3853; C24, 27, 31, 35, 39, §11622; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.1]

#### **625.2 Witness fees — limitation.**

The losing party, however, shall not be assessed with the cost of mileage of any witness for a distance of more than one hundred miles from the place of trial, unless otherwise ordered by the court at the time of entering judgment.

[S13, §3853; C24, 27, 31, 35, 39, §11623; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.2]

#### **625.3 Apportionment generally.**

Where the party is successful as to a part of the party's demand, and fails as to part, unless the case is otherwise provided for, the court on rendering judgment may make an equitable apportionment of costs.

[C51, §1811; R60, §3449; C73, §2933; C97, §3853; S13, §3853; C24, 27, 31, 35, 39, §11624; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.3]

#### **625.4 Apportionment among numerous parties.**

In actions where there are several plaintiffs or several defendants, the costs shall be apportioned according to the several judgments rendered; and where there are several causes of action embraced in the same petition, or several issues, the plaintiff shall recover costs upon the issues determined in the plaintiff's favor, and the defendant upon those determined in the defendant's favor.

[R60, §3451; C73, §2934; C97, §3854; C24, 27, 31, 35, 39, §11625; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.4]

Apportionment between heirs and devisees, [§633.476](#)

#### **625.5 Liability of successful party.**

All costs accrued at the instance of the successful party, which cannot be collected of the other party, may be recovered on motion by the person entitled to them against the successful party.

[R60, §3452; C73, §2935; C97, §3855; C24, 27, 31, 35, 39, §11626; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.5]

**625.6 Cost of procuring testimony.**

The necessary fees paid by the successful party in procuring copies of deeds, bonds, wills, or other records filed as a part of the testimony shall be taxed in the bill of costs.

[R60, §3453; C73, §2936; C97, §3856; C24, 27, 31, 35, 39, §11627; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.6]

**625.7 Postage.**

Postage paid by the officers of the court, or by the parties, in sending process, depositions, and other papers being part of the record, by mail, shall be taxed in the bill of costs.

[R60, §3454; C73, §2937; C97, §3857; C24, 27, 31, 35, 39, §11628; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.7]

**625.8 Jury and reporter fees.**

1. The clerk of the district court shall tax as a court cost a jury fee of one hundred dollars in every action tried to a jury.

2. The clerk of the district court shall tax as a court cost a fee of forty dollars per day for the services of a court reporter.

3. Revenue from the fees required by [this section](#) shall be deposited in the account established under [section 602.8108](#).

[C73, §3812; C97, §3872; C24, 27, 31, 35, 39, §11629; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.8]

[83 Acts, ch 186, §10114, 10201; 94 Acts, ch 1074, §8; 2002 Acts, ch 1126, §2; 2009 Acts, ch 179, §62, 72](#)

**625.9 Transcripts — retaxation.**

The fees of shorthand reporters for making transcripts of the notes in any case or any portion thereof, as directed by any party thereto, shall be taxed as costs, as shall also the fees of the clerk for making any transcripts of the record required on appeal, but such taxation may be revised by an appellate court on motion on the appeal, without any motion in the lower court for the retaxation of costs.

[C97, §3875; C24, 27, 31, 35, 39, §11631; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.9]

**625.10 Defense arising after action brought.**

When a pleading contains as a defense matter which arose after the commencement of the action, whether such matter of defense is pleaded alone or with other matter of defense which arose before the action, the party affected by such matter may confess the same, and shall be entitled to the costs of the action to the time of such pleading.

[R60, §3455; C73, §2938; C97, §3858; C24, 27, 31, 35, 39, §11632; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.10]

**625.11 Dismissal of action or abatement.**

When a plaintiff dismisses the action or any part thereof, or suffers it to abate by the death of the defendant or other cause, or where the action abates by the death of the plaintiff, and the plaintiff's representatives fail to revive the same, judgment for costs may be rendered against such plaintiff or representative, and, if against a representative, shall be paid as other claims against the estate.

[R60, §3456; C73, §2939; C97, §3859; C24, 27, 31, 35, 39, §11633; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.11]

**625.12 Between coparties.**

Coparties against whom judgment has been recovered are entitled, as between themselves, to a taxation of the costs of witnesses whose testimony was obtained at the instance of one of the coparties and inured exclusively to a coparty's benefits.

[R60, §3457; C73, §2940; C97, §3860; C24, 27, 31, 35, 39, §11634; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.12]

**625.13 Dismissal for want of jurisdiction.**

Where an action is dismissed from any court for want of jurisdiction the costs shall be adjudged against the party attempting to institute or bring up the same.

[R60, §3458; C73, §2941; C97, §3861; C24, 27, 31, 35, 39, §11635; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.13]

**625.14 Costs taxable.**

The clerk shall tax in favor of the party recovering costs the allowance of the party's witnesses, the fees of officers, the compensation of referees, the necessary expenses of taking depositions by commission or otherwise, and any further sum for any other matter which the court may have awarded as costs in the progress of the action, or may allow.

[R60, §3459; C73, §2942; C97, §3862; C24, 27, 31, 35, 39, §11636; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.14]

**625.15 Liability of nonparty.**

In actions in which the cause of action shall, by assignment after the commencement thereof, or in any other manner, become the property of a person not a party to the action, such party shall be liable for the costs in the same manner as if the person were a party.

[R60, §3460; C73, §2943; C97, §3863; C24, 27, 31, 35, 39, §11637; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.15]

**625.16 Retaxation.**

Any person aggrieved by the taxation of a bill of costs may, upon application, have the same retaxed by the court, or by a referee appointed by the court in which the application or proceeding was had, and in such retaxation all errors shall be corrected.

[C51, §1813; R60, §3461; C73, §2944; C97, §3864; C24, 27, 31, 35, 39, §11638; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.16]

**625.17 Liability of clerk.**

If the party aggrieved shall have paid any unlawful charge by reason of the first taxation, the clerk shall pay the costs of retaxation, and also to the party aggrieved the amount which the party may have paid by reason of the allowing of such unlawful charges.

[C51, §1813; R60, §3461; C73, §2944; C97, §3864; C24, 27, 31, 35, 39, §11639; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.17]

**625.18 Bill of costs on appeal.**

In cases of appeals from a trial court, the supreme court clerk, if judgment is rendered in the supreme court or court of appeals or both, shall make a complete bill of costs in that court which shall be filed in the office of the clerk of the trial court and taxed with the costs in the action therein.

[R60, §3462; C73, §2945; C97, §3865; C24, 27, 31, 35, 39, §11640; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.18]

**625.19 Costs in appellate courts.**

When the costs accrued in the appellate courts and the trial court are paid to the clerk of the trial court, the clerk shall pay them to the persons entitled thereto.

[R60, §3463; C73, §2946; C97, §3866; C24, 27, 31, 35, 39, §11641; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.19]

**625.20** Repealed by 75 Acts, ch 249, §2.

**625.21 Interest.**

Except for an action brought pursuant to [chapter 668](#), when the judgment is for the recovery of money, interest from the time of the verdict or report until judgment is finally entered shall be added to the costs of the party entitled to the costs.

[R60, §3466; C73, §2948; C97, §3868; C24, 27, 31, 35, 39, §11643; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.21]

[87 Acts, ch 157, §4](#); [91 Acts, ch 116, §17](#)

Interest on judgments, §535.3

**625.22 Attorney fees — costs.**

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

[C97, §3869; C24, 27, 31, 35, 39, §11644; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.22]

[84 Acts, ch 1217, §2](#); [87 Acts, ch 137, §2](#)

Referred to in [§554.3513](#), [625.24](#), [631.17](#)

**625.23 Limitations.**

If action is commenced and the claim paid off before return day, the amount shall be one-half of the sum above provided, and if it is paid after the return day but before judgment, three-fourths of said sum; but no fee shall be allowed in any case if an action has not been commenced, or expense incurred, nor shall any greater sum be allowed, any agreement in the contract to the contrary notwithstanding.

[C97, §3869; C24, 27, 31, 35, 39, §11645; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.23]

Referred to in [§625.24](#)

**625.24 Affidavit required.**

The attorney fee allowed in [sections 625.22](#) and [625.23](#) shall not be taxed in any case unless it appears by affidavit of the attorney that there is not and has not been an agreement between the attorney and the attorney's client or any other person, express or implied, for any division or sharing of the fee to be taxed. This limitation does not apply to a practicing attorney engaged with the attorney as an attorney in the cause. The affidavit shall be filed prior to any attorney fees being taxed. When fees are taxed, they shall be only in favor of a regular attorney and as compensation for services actually rendered in the action.

[C97, §3870; C24, 27, 31, 35, 39, §11646; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.24]

[85 Acts, ch 72, §1](#)

**625.25 Opportunity to pay.**

No such attorney fee shall be taxed if the defendant is a resident of the county and the action is not aided by an attachment, unless it shall be made to appear that such defendant had information of and a reasonable opportunity to pay the debt before action was brought. This

provision, however, shall not apply to contracts made payable by their terms at a particular place, the maker of which has not tendered the sum due at the place named in the contract.

[C97, §3871; C24, 27, 31, 35, 39, §11647; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §625.25]

Referred to in §654.4B

**625.26 and 625.27** Reserved.

### **625.28 Definitions.**

As used in [section 625.29](#), unless the context otherwise requires:

1. “*Fees and other expenses*” include the reasonable attorney fees and reasonable expenses of expert witnesses plus court costs, but they do not include any portion of an attorney’s fees or salary paid by a unit of local, state, or federal government for the attorney’s services in the case.

2. “*State*” includes the state of Iowa, an agency of the state, or any official of the state acting in an official capacity.

[83 Acts, ch 107, §1, 3](#)

Referred to in §23A.4

### **625.29 Fees — expenses.**

1. Unless otherwise provided by law, and if the prevailing party meets the eligibility requirements of [subsection 2](#), the court in a civil action brought by the state or an action for judicial review brought against the state pursuant to [chapter 17A](#) other than for a rulemaking decision, shall award fees and other expenses to the prevailing party unless the prevailing party is the state. However, the court shall not make an award under [this section](#) if it finds one of the following:

- a. The position of the state was supported by substantial evidence.
- b. The state’s role in the case was primarily adjudicative.
- c. Special circumstances exist which would make the award unjust.
- d. The action arose from a proceeding in which the role of the state was to determine the eligibility or entitlement of an individual to a monetary benefit or its equivalent or to adjudicate a dispute or issue between private parties or to establish or fix a rate.
- e. The proceeding was brought by the state pursuant to [Title XVI](#).\*
- f. The proceeding involved eminent domain, foreclosure, collection of judgment debts, or was a proceeding in which the state was a nominal party.
- g. The proceeding involved the department of administrative services under [chapter 8A, subchapter IV](#).
- h. The proceeding is a tort claim.

2. To be eligible for an award of fees and other expenses under [this section](#), the prevailing party shall be one of the following:

- a. A natural person.
- b. A sole proprietorship, partnership, corporation, association, or public or private organization, any of which meets the following criteria:
  - (1) Its average daily employment was twenty persons or less for the twelve months preceding the filing of the action.
  - (2) Its gross receipts for the twelve-month period preceding the filing of the action were one million dollars or less, or its average gross receipts for the three twelve-month periods preceding the filing of the action were two million dollars or less.

3. A party seeking an award for fees and other expenses under [this section](#) must file a claim for relief as a part of the civil action or as a part of the action for judicial review brought against the state pursuant to [chapter 17A](#). If the amount sought includes an attorney’s fees or fees for an expert, the application shall include an itemized statement for these fees indicating the actual time expended in representing the party and the rate at which the fees were computed. The party seeking relief must establish that the state’s case was not supported by substantial evidence.

4. The court, in its discretion, may reduce the amount to be awarded pursuant to [this](#)

[section](#), or deny an award, to the extent that the prevailing party, during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

5. An award pursuant to [this section](#) shall not personally obligate any officer or employee of this state for payment.

6. Fees and other expenses awarded under [this section](#) may be ordered in addition to any compensation awarded in a judgment. When awarding fees and other expenses against the state under [this section](#), the court shall order the auditor of state to issue a warrant drawn on the state general fund for the amount of the award. The treasurer of state shall pay the warrant. However, if the court finds that an agency of state government, against which fees and other expenses are awarded for an action for judicial review of an agency proceeding under [chapter 17A](#), has acted in bad faith in initiating an action deemed frivolous or without merit, then the agency shall make the payment ordered from the moneys appropriated to that agency.

7. Each agency that pays fees or other expenses for an action for judicial review of an agency proceeding under [chapter 17A](#) shall report annually to the chairs and ranking members of the appropriate appropriations subcommittees of the general assembly the amount of fees or other expenses paid during the preceding fiscal year by that agency. In its report the agency shall describe the number, nature, and amount of the awards, the claims involved in the action, and other relevant information which might aid the general assembly in evaluating the scope and impact of these awards.

[83 Acts, ch 107, §2, 3; 88 Acts, ch 1134, §110; 2003 Acts, ch 145, §275](#)

Referred to in [§625.28](#)

\*This provision does not include [chapters 709A, 718A, 822, 904, 913, and 914](#), which were moved into Title XVI by the Code editor. [Chapters 709A, 718A, 822, 904, 913, and 914](#) contain the applicable provisions pertaining to those chapters.