

A BILL

FOR AN ACT REGULATING CONTRACTS PROVIDING FOR THE PAYMENT, BY A PARTY IN DEFAULT, OF COLLECTION OR ATTORNEY FEES TO THE OPPOSING PARTY; AND PROVIDING FOR THE AMOUNT OF LIABILITY THEREUNDER; AND PROVIDING FOR THE RECOVERY OF ATTORNEY FEES BY THE PARTY SUCCESSFULLY RESISTING SUCH CONTRACTS.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That contracts, providing for the payment to the creditor by the debtor in default of performance of his obligations under such contract, of compensation as collection or attorney fees for the enforcement of such contract, is hereby prohibited, unless such contract is in writing and signed by the party to be charged thereby.

SEC. 2. Upon such contracts there shall be no allowance made, or recovery had, of such compensation, except in the event that suit is commenced for the enforcement of such contract, and then only in sums as is herein provided, anything in the said contract to the contrary notwithstanding.

First—In cases wherein the claim is satisfied before judgment, or wherein judgment is rendered on default or by consent of obligee, an amount to be fixed by the court, not less than five nor more than twenty-five dollars, for filing the pleadings, and a percentage on the amount so paid or recovered, of three per cent on the first one thousand dollars, two per cent on the next four thousand dollars or part thereof, and one per cent on the amount exceeding five thousand dollars.

Second—In case of a defense or counter-claim being set up by the debtor, against such contract or creditor, and such debtor is unsuccessful in establishing same, then such creditor shall recover, in addition to the compensation allowed in paragraph one hereof, a reasonable fee for contesting same, to be fixed by the court; and if such defense or counter-claim is partially established, such creditor shall recover a pro rata part of a reasonable fee for such services as the amount of such counter-claim less the amount thereof so established is to the whole amount of such claim, and for contesting such defense or counter-claim no other compensation shall be allowed.

19 *Third*—In no event shall the compensation as hereinbefore provided exceed the amount
 20 of compensation as provided for in such contract; nor shall same exceed the amount
 21 for which said creditor's attorney may have contracted to receive as compensation for his
 22 services, and such creditor and his attorney or attorneys may, on application of the debtor,
 23 be required to answer under oath as to such compensation or contract therefor; nor shall a
 24 recovery of any such compensation be had in any court of record in cases wherein the
 25 amount of the recovery does not exceed fifty dollars; nor shall such creditor recover any
 26 compensation in justices' court in excess of five per cent on the amount recovered, and the
 27 sum of five dollars for contesting an unsuccessful defense or counter-claim thereto.

28 *Fourth*—In suits upon such contract instituted by any other than the obligee named in such
 29 contract, there shall be no allowance of such compensation, unless there is specified in such
 30 contract the place of performance of same, or unless the party seeking to enforce such con-
 31 tract shall establish the knowledge of such debtor as to where, and in whose possession, such
 32 contract was at maturity.

SEC. 3. The debtor making a successful defense, either in whole or in part, to such con-
 2 tract, or being successful, by establishing a counter-claim against the creditor under such
 3 contract, in reducing the amount of such creditors' claim, shall recover of such creditor an
 4 amount as compensation for such attorney fees as herein prescribed.

5 1. If the defense or counter-claim defeats the creditor's claim under such contract, the
 6 amount of the recovery shall be the same as the creditor would have recovered had he estab-
 7 lished his claim in full; if the amount of the claim on such contract be reduced by reason of
 8 such defense or counter-claim, the amount of the recovery shall be the same as the creditor
 9 would have been entitled to in the event the amount of his recovery on the contract had
 10 been equal to the amount his claim on such contract was reduced by such defense on counter-
 11 claim.

SEC. 4. This act shall not affect contracts made prior to the date same takes effect.

SEC. 5. This act being deemed of immediate importance, shall take effect and be in force
 2 from and after its publication in the *Daily State Register*, published at Des Moines, and the
 3 Dubuque *Daily Times*, published at Dubuque, Iowa.