

LEGISLATIVE BILL 710

Approved by the Governor February 28, 2018

Introduced by Baker, 30.

A BILL FOR AN ACT relating to civil lawsuits; to amend section 25-1801, Reissue Revised Statutes of Nebraska; to change provisions relating to costs, interest, and attorney's fees; to define a term; to provide an exception; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 25-1801, Reissue Revised Statutes of Nebraska, is amended to read:

25-1801 ~~(1) On any lawsuit of Any person, partnership, limited liability company, association, or corporation in this state having a claim which amounts to four thousand dollars or less, regardless of whether the claims are liquidated or assigned, the plaintiff may recover costs, interest, and attorney's fees in connection with each claim as provided in this section against any person, partnership, limited liability company, association, or corporation doing business in this state for (1) services rendered, (2) labor done, (3) material furnished, (4) overcharges made and collected, (5) lost or damaged personal property, (6) damage resulting from delay in transmission or transportation, (7) livestock killed or injured in transit, or (8) charges covering articles and service affecting the life and well-being of the debtor which are adjudged by the court to be necessities of life may present the same to such person, partnership, limited liability company, association, or corporation, or to any agent thereof, for payment in any county where suit may be instituted for the collection of the same. If, at the expiration of ninety days after each the presentation of such claim accrued, the claim or claims have same has not been paid or satisfied, the plaintiff he, she, or it may institute suit file a lawsuit for payment of the claim or claims thereon in the proper court. If full payment of each claim is made to the plaintiff by or on behalf of the defendant after the filing of the suit lawsuit, but before judgment is taken, except as otherwise agreed in writing by the plaintiff, the plaintiff shall be entitled to receive the costs of suit the lawsuit whether by voluntary payment or judgment. If the plaintiff he, she, or it establishes the claim and secures a judgment thereon, the plaintiff he, she, or it shall be entitled to recover:~~

~~(a) The the full amount of such judgment and all costs of the lawsuit suit thereon;~~

~~(b) Interest , and, in addition thereto, interest on the amount of the claim at the rate of six percent per annum. Such interest shall apply to the amount of the total claim beginning thirty days after from the date each claim accrued, regardless of assignment, until paid in full; of presentation thereof, and~~

~~(c) If the plaintiff , if he, she, or it has an attorney retained, employed, or otherwise working in connection with the case, an amount for attorney's fees as provided in this section.~~

~~(2) If the cause is taken to an appellate court and the plaintiff recovers a shall recover judgment thereon, the appellate court shall tax as costs in the action, to be paid to the plaintiff, an additional amount for attorney's fees in such appellate court as provided in this section, except that if the party in interest plaintiff fails to recover a judgment in excess of the amount that may have been tendered by the defendant any person, partnership, limited liability company, association, or corporation liable under this section, then the plaintiff such party in interest shall not recover the attorney's fees provided by this section.~~

~~(3) Attorney's fees shall be assessed by the court in a reasonable amount, but shall in no event be less than ten dollars when the judgment is fifty dollars or less, and when the judgment is over fifty dollars up to four thousand dollars, the attorney's fee shall be ten dollars plus ten percent of the judgment in excess of fifty dollars.~~

~~(4) For purposes of this section, the date that each claim accrued means the date the services, goods, materials, labor, or money were provided, or the date the charges were incurred by the debtor, unless some different time period is expressly set forth in a written agreement between the parties.~~

~~(5) This section shall apply to original creditors as well as their assignees and successors.~~

~~(6) This section does not apply to a cause of action alleging personal injury, regardless of the legal theory asserted.~~

Sec. 2. Original section 25-1801, Reissue Revised Statutes of Nebraska, is repealed.