

November 9, 1933.

Senate File No. 2.
By BENNETT AND VALENTINE.

Prepared and recommended by
special corporation committee.

A BILL FOR

AN ACT to Revise and Modernize the Corporation Laws of this State relating to Certain Foreign Corporations, to Provide for the Registration, Regulation, Licensing, Cancellation and Withdrawal of, and Service of Process on Certain Foreign Corporations, to Prescribe Penalties for the Violation of Certain Sections hereof, to Extend the Provisions of this Act to Certain Foreign Corporations Licensed to do Business in this State, to Provide for a Franchise Tax and the Payment of Certain Fees, Charges and Penalties, to Require Certain Reports to be filed and to Repeal Chapter Three Hundred Eighty-six (386) of the Code, 1931, Relating to Permits to Foreign Corporations, and Chapter Three Hundred Eighty-seven (387) of the Code, 1931, Relating to Foreign Public Utility Corporations.

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

- 1 Section 1. General Definitions. When used in this act,
- 2 the following words or phrases shall have the following meanings:
- 3 "Foreign Corporation" shall mean a corporation not formed
- 4 under or by virtue of the laws of this state.
- 5 "Domestic Corporation" shall mean a corporation formed
- 6 under and by virtue of the laws of this state.
- 7 "Articles" shall mean the articles, certificate or
- 8 memorandum of incorporation and any amendments thereof filed
- 9 on behalf of the corporation with the secretary of state or
- 10 proper official of the state under the laws of which it is
- 11 formed. A special statute creating a corporation shall be
- 12 considered "articles" within the meaning of this definition.
- 13 "Stated Capital" means, at any particular time, the

14 sum of (1) the par value of all shares then issued having a
15 par value and (2) the consideration received by the corporation
16 for all shares then issued without par value, except such part
17 thereof as may have been allocated otherwise than to stated
18 capital in a manner permitted by law, and (3) such amounts not
19 included in clauses (1) and (2) of this paragraph as may have
20 been transferred to the stated capital account of the corporation
21 whether upon the issue of shares as a share dividend or otherwise,
22 minus such formal reductions from said sum as may have been
23 affected in a manner permitted by law.

24 “Paid-in Surplus” means all that part of the consideration
25 received by the corporation for, or an account of, all shares
26 issued which does not constitute stated capital.

27 “Process” shall mean all legal notices, demands and process
28 of any kind whatsoever.

29 “State” shall mean the United States and any state,
30 territory, insular possession, or other political subdivision
31 of the United States, including the District of Columbia, and any
32 foreign country or nation, and any province, territory or other
33 political subdivision of such foreign country or nation.

34 “Resident agent” shall mean the person residing in this
35 state appointed or designated by a corporation as its agent
36 upon whom process against such corporation may be served within
37 this state.

1 Sec. 2. Corporations Subject to This Act. All foreign
2 corporations organized for profit doing business in this state,

3 except those corporations formed to transact a business of
4 banking, insurance, suretyship, or a business of the character
5 of a building and loan corporation and those corporations formed
6 under or by virtue of the laws of the United States which under
7 the Constitution or laws of the United States, are exempt from
8 regulation and service of process by the several states, shall
9 be subject to the provision of this act.

1 . Sec. 3. Corporations Not Required to Obtain Certificate.

2 A foreign corporation shall not be required to obtain a certificate
3 of authority to do business in this state or otherwise comply with
4 Sections 7 to 12 inclusive, of this act, if its business operations
5 within this state are wholly within the protection of the Commerce
6 Clause of the Federal Constitution.

1 Sec. 4. Corporation to Hold Unrevoked and Unsurrendered
2 Certificate. No foreign corporation subject to the provisions of
3 this act shall do business in this state unless it shall then hold
4 an unsurrendered and unrevoked certificate of authority so to do
5 issued as provided in Sections 7 to 12 inclusive, of this act,
6 unless such foreign corporation is, by the provisions of this act,
7 exempted from the necessity of holding such certificate.

1 Sec. 5. Business prohibited. No foreign corporation shall
2 do any kind of business in this state, the transaction of which
3 by a similarly organized domestic corporation is not permitted
4 by the laws thereof.

1 Sec. 6. Name of Foreign Corporation.

2 I. The name of any foreign corporation seeking to do

3 business in this state shall not be the same as, nor deceptively
4 similar to, the name of any domestic corporation or of any foreign
5 corporation authorized to do business in this state or
6 a name, the exclusive right to which is, at the time, reserved
7 as provided in V of this section, unless such other domestic
8 or foreign corporation is about to change its name, or cease to
9 do business in this state, or is being wound up, or such foreign
10 corporation is about to withdraw from doing business in this
11 state, and the written consent of such other domestic or foreign
12 corporation to the adoption of the same name, or a deceptively
13 similar name, has been given and is filed with the certified
14 copy of the articles.

15 II. The name of a foreign corporation seeking to do
16 business in this state shall not be the same as nor deceptively
17 similar to the trade name of any person or group of persons
18 doing business under such trade name in this state or elsewhere,
19 if such person or group of persons has signified an intention to
20 form a corporation in this state under such name by filing a notice
21 of such intention with the secretary of state as provided in V
22 of this section unless written consent to the adoption of such
23 name or a deceptively similar name, has been given by such person
24 or group of persons and is filed with the certified copy of the
25 articles.

26 III. The name of a foreign corporation seeking to do
27 business in this state shall not be the same as, nor deceptively
28 similar to the name of any other foreign corporation doing business.

29 elsewhere than in this state if such other foreign corporation
30 has signified an intention to form a corporation under the laws
31 of this state under such name or to secure a certificate of
32 authority to do business as a foreign corporation in this state
33 under such name by filing notice of such intention with the
34 secretary of state as provided in V of this section unless written
35 consent to the adoption of the same name, or a deceptively similar
36 name, has been given by such foreign corporation and is filed
37 with the certified copy of the articles.

38 IV. The name of a foreign corporation seeking to do
39 business in this state shall not be the same as, nor deceptively
40 similar to the trade name of any person or group of persons doing
41 business under such trade name in this state or elsewhere, if
42 such person or group of persons has signified an intention to
43 form a corporation in some state other than this state and secure
44 a certificate of authority to do business in this state as a foreign
45 corporation under such name by filing notice of such intention
46 with the secretary of state as provided in V of this section,
47 unless written consent to the adoption of such name, or a deceptively
48 similar name, has been given by such person or group of persons and
49 is filed with the certified copy of the articles.

50 V. Any foreign corporation not authorized to do business
51 in this state and any person or group of persons doing business
52 under a trade name in this state or elsewhere may file with the
53 secretary of state a notice of its, his or their intention

54 (a) to form a corporation in this state under such name

55 or a similar name; or

56 (b) to secure a certificate of authority to do business
57 in this state as a foreign corporation under such name; or

58 (c) to form a corporation in some state other than this
59 state and secure a certificate of authority to do business as a
60 foreign corporation in this state under such name.

61 The secretary of state shall receive and accept all
62 notices provided for herein and shall maintain and keep an
63 accurate record of all such notices so filed.

64 No foreign corporation, person or group of persons shall
65 gain any rights by the filing of the notice in this subdivision
66 provided for unless the intention expressed in such notice so filed
67 is carried out within sixty days of the filing of such
68 notice; provided, however, that any foreign corporation, person
69 or group of persons may carry out the intention expressed in such
70 notice so filed even after thirty days from the date such notice
71 is filed if, in the meantime, no domestic corporation has been
72 formed under such name, or deceptively similar name, and no
73 foreign corporation has secured a certificate of authority to do
74 business in this state under such name, or a deceptively similar
75 name.

76 VI. The name of a foreign corporation seeking to do
77 business in this state may be in any language but the same must
78 be in English letters or characters.

79 VII. In the event a foreign corporation does business in
80 this state under a name prohibited by this section, the courts

81 of this state having equity jurisdiction may, upon application
82 of the attorney general, or of any person or corporation interested
83 or affected, enjoin such foreign corporation from doing business
84 under such name whether or not a certificate of authority shall
85 have been issued to such foreign corporation authorizing it to do
86 business in this state under such name, and if such a certificate
87 shall have been issued, the secretary of state shall, so soon as
88 the same may be brought to his attention, cancel such certificate
89 of authority forthwith.

90 VIII. Nothing in this section provided shall abrogate or
91 limit the law as to unfair competition or unfair practice in the
92 use of trade names, nor derogate from the common law, the
93 principles of equity, or the statutes of this state or of the
94 United States with respect to the right to acquire and protect
95 trade names.

1 Sec. 7. Application for Certificate of Authority. A
2 foreign corporation, in order to procure a certificate of authority
3 to do business in this state, shall file with the secretary of state.
4 1. A complete copy of its articles, as defined in Section
5 1 of this act, certified to by the secretary of state or other
6 proper official of the state under the laws of which the said
7 corporation is formed with whom said articles are filed, and, if
8 said articles or a part thereof be in a foreign language, so much
9 thereof as is in such foreign language shall be accompanied by an
10 English translation thereof, duly sworn to by the translator thereof.
11 2. An application in such form as the secretary of state

12 shall prescribe, signed and sworn to by an executive officer of
13 such corporation, setting forth:

14 (a) The name of the corporation;

15 (b) The name of the state under the laws of which it is
16 formed;

17 (c) The address, including street and number, if any, of
18 its principal office;

19 (d) The proposed location of its principal office in
20 this state;

21 (e) The nature of the business it proposes to do within
22 this state;

23 (f) The names and respective addresses, including street
24 and number, if any, of its directors and officers.

25 (g) A statement of the aggregate number of shares which
26 it has authority to issue, itemized by classes, par value of
27 shares, shares without par value, and series, if any, within a
28 class.

29 (h) A statement of the aggregate number of its issued
30 shares itemized by classes, par value of shares, shares without
31 par value, and series, if any, within a class.

32 (i) A statement of the amount of stated capital and the
33 amount of paid-in surplus of the corporation, as defined in
34 this act.

35 (j) Such further and additional information as the
36 secretary of state may, from time to time, require.

37 3. Designation of a resident agent, who must actually

38 be a resident of this state, upon whom process against the
39 corporation may be served and his complete residence and business
40 address.

41 4. The irrevocable consent of such corporation to service
42 of process on such agent or on such other agent as may be
43 substituted by the corporation under the provisions of this act,
44 and to service of process upon the secretary of state under the
45 provisions of this act or any other act or acts amendatory hereof.

1 Sec. 8. Issuance of Certificate of Authority. Upon the
2 filing of the documents provided for in Section 7 of this act
3 the secretary of state, after having satisfied himself that the
4 provisions of this act have been complied with and that the
5 applicant corporation is entitled to a certificate to do business
6 in this state, shall issue a certificate of authority to such
7 foreign corporation authorizing it to do business in this state.
8 Such certificate shall be valid until revoked or surrendered in
9 accordance with the provisions of this act. Such foreign corporation
10 shall, by the acceptance of such certificate, be deemed to have
11 consented to the revocation of such certificate in accordance with
12 the provisions of this act or any amendments or additions thereto.

13 Provided that if it shall appear that the applicant
14 corporation has been doing business in this state without having
15 a certificate so to do, the secretary of state shall not issue
16 such certificate unless and until such applicant corporation has
17 paid all taxes, fees and charges which would have been due by
18 it and filed all reports which should have been filed by it had

19 it procured a certificate at the proper time, and unless and until
20 such application corporation has also paid such penalty as may be
21 fixed by the secretary of state not exceeding the maximum penalties
22 provided in Section 22 of this act.

1 Sec. 9. Withdrawal of Foreign Corporation. A foreign
2 corporation authorized to transact business in this state may
3 surrender its certificate of authority by filing with the secretary
4 of state an application for withdrawal, signed and verified by the
5 president or vice president and attested by the secretary or an
6 assistant secretary thereof, or if the corporation is in the
7 hands of a receiver or trustee the same shall be executed on behalf
8 of the corporation by such receiver or trustee and verified by him.

9 The application for withdrawal shall be made on forms
10 prescribed and furnished by the secretary of state and shall set
11 forth:

12 1. The name of the corporation and the state under the
13 laws of which it is formed.

14 2. The address, including street and number, if any, of
15 its principal office in the state under the laws of which it is
16 formed.

17 3. That it surrenders its certificate of authority to
18 transact business in this state.

19 4. That it revokes the authority of its resident agent in
20 this state to accept service of process, and consents that
21 service of process upon any cause of action arising out of any
22 liability or obligation incurred, or business done in this state

23 during the time the corporation was authorized to transact
24 business in this state may thereafter be made on such corporation
25 by service thereof on the secretary of state.

26 5. The post office address to which the secretary of state
27 may mail any process against such corporation that may be served
28 upon him, and any other notices, certificates, or statements.

29 Upon the filing of such application for withdrawal and
30 the surrender of the certificate of authority theretofore issued
31 to such corporation, and after having satisfied himself that all
32 taxes, fees and charges due from such corporation have been paid,
33 the secretary of state shall cancel the certificate of authority
34 of such corporation and shall make a notation thereof upon his
35 records and shall issue to the corporation a certificate of withdrawal.
36 Upon the issuance of such certificate of withdrawal, the authority
37 of the corporation to transact business in this state shall cease.

38 The cancellation of its certificate of authority shall not
39 affect any pending action by or against the corporation, nor any
40 cause of action upon any liability or obligation of such corporation
41 incurred within this state, or arising out of any business done in
42 this state by such corporation prior to the issuance of such
43 certificate of withdrawal.

1 Sec. 10. Revocation of Certificate of Authority. The
2 certificate of authority of a foreign corporation to transact
3 business in this state may be revoked by the secretary of state
4 if the corporation:

5 (a) Is engaged in this state in an illegal business or

6 enterprise; or

7 (b) Is doing in this state a business which a similarly
8 organized domestic corporation could not do; or

9 (c) Is doing business in this state in violation of
10 Section 6 of this act; or

11 (d) Within thirty days after the death or removal from
12 this state of its regularly designated resident agent has failed
13 to designate another resident agent; or

14 (e) Has failed for thirty days to keep on file in the
15 office of the secretary of state a duly certified copy of each
16 amendment to its articles of incorporation; or

17 (f) Has failed to file within the time limited any reports
18 required by law; or

19 (g) Has failed to pay any fees, franchise taxes, or
20 charges prescribed by this act; or

21 (h) Has misrepresented any material matter in any
22 application, report, affidavit, or other document filed by such
23 foreign corporation pursuant to this act; or

24 (i) Is violating any of the other provisions of this
25 act or any amendments thereto, or any of the other laws of this
26 state.

27 Then, and in any of such events, the secretary of state
28 shall give notice by registered mail to such corporation that
29 such default exists and that its certificate of authority will
30 be revoked unless such default shall be cured within thirty days
31 after the mailing of such notice. If such default shall not be

32 cured within such period of thirty days the secretary of state
33 shall revoke the certificate of authority of such foreign
34 corporation to do business in this state and shall enter a
35 notation thereof upon his records and notify such corporation
36 of his action so taken.

37 Within ten days after such certificate of authority
38 shall have been revoked in accordance with the provisions of
39 this section the secretary of state shall forward to the attorney
40 general a notice that such certificate of authority has been
41 revoked. Upon receipt of such notice, in the event such foreign
42 corporation has not, in the meantime, ceased doing business in
43 this state, or had its certificate of authority reinstated, the
44 attorney general shall forthwith proceed against such foreign
45 corporation as against any other foreign corporation unlawfully
46 doing business in this state.

1 Sec. 11. Reinstatement of Certificate of Authority.

2 Any foreign corporation whose certificate of authority to do
3 business in this state shall have been surrendered or revoked
4 in accordance with the provisions of this act may file with the
5 secretary of state an application for reinstatement. Such
6 application shall be made on forms prescribed and furnished by
7 the secretary of state and shall contain:

8 1. The name of the corporation and of the state under
9 the laws of which it is formed.

10 2. The address, including street and number, if any, of
11 its principal office in the state under the laws of which it is

12 organized.

13 3. The proposed location of its principal office within
14 this state.

15 4. The nature of the business it proposes to do in
16 this state.

17 5. The date of its previous certificate of authority.

18 6. A statement whether the previous certificate of
19 authority was revoked or surrendered with the reason therefor
20 and the date of such action.

21 7. Such other information as may be required by the
22 secretary of state.

23 Upon the filing of such application and after having
24 satisfied himself that the provisions of this act have been
25 complied with and that the applicant corporation is entitled
26 to a reinstatement of its certificate of authority, the
27 secretary of state shall reinstate the certificate of authority
28 of such applicant corporation and shall issue to said
29 corporation a certificate of reinstatement, provided, however,
30 that in the event the original certificate of authority shall
31 have been revoked in accordance with the provisions of this act,
32 then no reinstatement of the certificate of authority shall be
33 granted unless the default for which such original certificate
34 of authority may have been revoked shall first have been cured.

35 Provided further that if it shall appear that said foreign
36 corporation has theretofore been doing business in this state
37 without having a certificate of authority so to do, then no

38 certificate of reinstatement shall be issued unless and until such
39 foreign corporation has paid all fees, taxes and charges which
40 would have been due by it and filed all reports which should have
41 been filed by it had it secured a certificate of authority at the
42 proper time, and unless and until such foreign corporation has
43 paid such penalty as may be filed by the secretary of state not
44 exceeding the maximum penalty prescribed in Section 22 of this act.

1 Sec. 12. Change of Principal Office, Agent or Address.

2 If a foreign corporation shall change the location of its principal
3 office within this state, or without this state, it shall forthwith
4 file with the secretary of state a certificate signed by two officers
5 of the corporation setting forth such new location.

6 A foreign corporation may revoke the authority of its resident
7 agent by filing with the secretary of state a certificate signed by
8 two of its officers setting forth such revocation, together with
9 the name and complete address of a newly designated resident agent.

10 If a resident agent dies or changes his address the corporation
11 shall forthwith file with the secretary of state a certificate signed
12 by two of its officers setting forth the name and complete address
13 of a newly designated resident agent or the complete new address of
14 the same resident agent as the case may be.

1 Sec. 13. Amendment to Articles of Incorporation of Foreign

2 Corporation. Each foreign corporation authorized to transact
3 business in this state, whenever its articles of incorporation are
4 amended, shall forthwith file in the office of the secretary of state
5 a copy of such amendment duly certified by the secretary of state

6 or other proper official of the state under the laws of which
7 such corporation is formed. The secretary of state shall thereupon
8 issue to such corporation, a certificate of amendment, in such
9 form as he may prescribe.

1 Sec. 14. Merger of Foreign Corporation Authorized to
2 Transact Business in this State. Whenever a foreign corporation
3 authorized to transact business in this state shall be a party to
4 a statutory merger permitted by the laws of the state under which
5 it is formed, and such corporation shall be the surviving corporation,
6 it shall forthwith file with the secretary of state a copy of the
7 articles of merger duly certified by the secretary of state or
8 other proper official of the state under the laws of which such
9 statutory merger was effected. The secretary of state shall
10 thereupon issue to such corporation, a certificate of authority,
11 in such form as he may prescribe.

1 Sec. 15. Suit Against Foreign Corporation. The acceptance
2 by a foreign corporation of a certificate of authority to do
3 business in this state, or the doing of business in this state by
4 a foreign corporation without a certificate shall subject such
5 foreign corporation to suit in the courts of this state at any
6 time upon causes of action arising in this state. Suit may be
7 brought in the county in which the principal office of the
8 corporation in this state is located, or in the county where the
9 cause of action arose or where the plaintiff resides.

1 Sec. 16. Service of Process on Authorized Foreign
2 Corporation. Service of process may be had upon a foreign

3 corporation holding a certificate of authority to do business in
4 this state by service upon the resident agent designated by such
5 foreign corporation as provided in this act, or upon the secretary
6 of state as the agent of such foreign corporation as hereinafter
7 provided.

8 The secretary of state shall be the agent of a foreign
9 corporation authorized to do business in this state upon whom
10 process may be served, in the event:

11 1. The regularly designated resident agent of such foreign
12 corporation shall have died, removed from this state, or been
13 twice returned non est.

14 2. The certificate of authority of such foreign corporation
15 shall have been revoked or surrendered and not reinstated.

16 Service of process under this section shall be made upon
17 the secretary of state by leaving with him or with the deputy
18 secretary of state duplicate copies of such process and a fee of
19 three dollars, which amount shall be included as taxable costs in
20 the proceeding in which such process is issued. Upon receipt of
21 such process the secretary of state shall forthwith accept service
22 on behalf of such corporation and forward a copy by registered
23 mail, with request for return receipt, to the foreign corporation
24 at its principal office in the state under the laws of which it
25 was formed, or the address furnished by such foreign corporation
26 under Section 7 hereof, and retain a copy of such process for
27 his files.

28 The secretary of state shall keep a record of all such

29 process served upon him and shall endorse upon the copy of the
30 process retained by him, the time of such service and his action
31 thereafter with respect thereto.

32 Nothing herein contained shall limit or affect the right
33 to serve process upon a foreign corporation in any other manner
34 permitted by law.

1 Sec. 17. Service of Process upon Foreign Corporation Doing
2 Business Without a Certificate of Authority. The secretary of
3 state shall be the agent of a foreign corporation doing business
4 in this state without having a certificate of authority so to do upon
5 whom may be served all lawful process directed to such foreign
6 corporation. Such service of process shall be made upon the
7 secretary of state by leaving with him or the deputy secretary
8 of state duplicate copies of such process and a fee of three
9 dollars, which amount shall be included as taxable costs in the
10 proceeding in which such process is issued.

11 Upon receipt of such process and fee the secretary of state
12 shall forthwith forward by registered mail, with request for
13 return receipt, a copy of such process to the corporation at the
14 principal office of the corporation in the state under the laws
15 under which it is formed, and shall retain a copy of such process
16 for his files.

17 The secretary of state shall keep a record of all such
18 process served upon him and shall endorse upon the copy of the
19 process retained by him, the time of such service and his action
20 thereafter with respect thereto.

21 The court in which such action is pending may order such
22 continuance as may be necessary in order to afford the defendant
23 a reasonable opportunity to defend the action.

24 Nothing herein contained shall limit or affect the right
25 to serve process upon a foreign corporation doing business in this
26 state without a certificate of authority so to do in any other
27 manner permitted by law.

1 Sec. 18. Freedom from attachment. A foreign corporation
2 holding an unrevoked and unsurrendered certificate of authority
3 under this act authorizing it to do business in this state shall
4 not be subject to process of attachment under any law of this
5 state on the ground that it is a foreign corporation or non-resident
6 of this state.

1 Sec. 19. Suspension of Statute of Limitation. No foreign
2 corporation required to procure a certificate of authority under
3 the provisions of this act which shall unlawfully do business in
4 this state without holding an unrevoked and unsurrendered
5 certificate of authority so to do shall be entitled to the benefit
6 of any statute of this state limiting the time for the commencement
7 of civil actions, during the time it shall do business in this
8 state without having such certificate of authority, and limitations
9 shall be suspended during the period during which such foreign
10 corporation shall unlawfully do business in this state without holding
11 such certificate of authority.

1 Sec. 20. Certificate as Evidence. The certificate of
2 authority issued to a foreign corporation as provided in this act,

3 or a copy of such certificate certified to by the secretary of state
4 shall be prima facie evidence that such foreign corporation is duly
5 authorized to do business in this state. Such evidence may be
6 rebutted by a certificate of the secretary of state to the effect
7 that such certificate of authority has been and then stands revoked
8 or surrendered, or otherwise by competent evidence.

1 Sec. 21. Certificate Conclusive as to Doing Business. Any
2 foreign corporation which, upon application, has been granted a
3 certificate of authority to do business in this state shall be
4 conclusively presumed to be doing business in this state during
5 the period in which such certificate shall remain in force,
6 unrevoked and unsurrendered.

1 Sec. 22. Penalty for Doing Business Without Certificate of
2 Authority. Any foreign corporation required to procure a certificate
3 of authority under the provisions of this act which shall do
4 business in this state without first procuring such certificate
5 shall forfeit and pay to this state a penalty not exceeding five
6 hundred dollars for each month or fraction thereof it shall continue
7 to do business in this state without being so authorized.

8 Such penalties may be recovered in the court of any
9 county in this state in which the foreign corporation has done
10 business or has property, or has its principal place of business,
11 in an action in the name of the state brought by the attorney
12 general or may be fixed and collected by the secretary of state
13 under the provisions of Section 11 hereof.

1 Sec. 23. Penalty for Transacting Business on Behalf of

2 Unauthorized Foreign Corporation. Any person who shall do
3 business in this state on behalf of a foreign corporation which
4 is required by the provisions of this act to procure a certificate
5 of authority but has not done so, shall be guilty of a misdemeanor,
6 and shall be subject to imprisonment not exceeding thirty days,
7 or a fine of not more than one thousand dollars, or both.

1 Sec. 24. Foreign Corporation Doing Business Without
2 Certificate Not to Maintain Suit. No foreign corporation required
3 to procure a certificate of authority under the provisions of this
4 act which is doing business in this state without having procured
5 such certificate, or after its certificate has been revoked or
6 surrendered, shall maintain any action in any of the courts of
7 this state until it shall procure such certificate or had the
8 same reinstated as the case may be.

1 Sec. 25. Penalty for Filing Fraudulent Report or Making
2 False Affidavit. Any person who knowingly makes or files, or
3 any person who knowingly assists in the preparation or filing of
4 a false or fraudulent report, certificate or statement required
5 by this act, or any person who procures, counsels, or advises
6 the preparation of such report, certificate, or statement,
7 knowing the same to be false or fraudulent, shall be guilty of a
8 misdemeanor and shall upon conviction be fined not more than one
9 thousand dollars.

10 Any person who knowingly makes a false affidavit required
11 by this act shall be guilty of perjury.

1 Sec. 26. Fees of Secretary of State. The secretary of

2 state shall charge and receive the following fees for the
3 following services :

4 1. For filing a notice provided for in Section 6 of this
5 act, three dollars.

6 2. For filing an application for a certificate of
7 authority to do business in this state and the issuance of such
8 certificate under Sections 7 and 8 of this act, twenty-five dollars.

9 3. For filing an application for withdrawal and issuing
10 a certificate of withdrawal under Section 9 of this act, five
11 dollars.

12 4. For filing an application for reinstatement of a
13 certificate of authority to do business in this state and issuing
14 a certificate of reinstatement under Section 11 of this act, five
15 dollars.

16 5. For filing a certified copy of articles of merger under
17 Section 14 of this act, ten dollars.

18 6. For filing certificate of change of principal office,
19 agent, or address, under Section 12 of this act, one dollar.

20 7. For filing certified copy of amendment to articles under
21 Section 13 of this act, five dollars.

22 8. For filing any other statement or report, except an
23 annual report, one dollar.

24 9. For certifying a copy of any corporation record,
25 instrument, or paper with seal attached, one dollar.

26 10. For copying any corporation record, instrument or
27 paper, or any part thereof, fifty cents per page of thirty lines,

28 for original copies and twenty-five cents per page for each
29 duplicate copy thereof, no copy fee to be less than fifty cents.

1 Sec. 27. Annual Report—Penalty for Violation of Section.

2 1. Each foreign corporation authorized to transact business
3 in this state, unless it shall be exempted under subdivision IX
4 of Section 28 of this act, shall file an annual report with the
5 secretary of state between the fifteenth day of January and the
6 last day of February of each year, and shall pay an annual filing
7 fee therefor in the sum of five dollars.

8 2. Such annual report shall include the following:

9 (a) The name of the corporation and the state under the
10 laws of which it is organized.

11 (b) The date of its incorporation and the period of its
12 duration.

13 (c) The address, including street and number, if any, of
14 its principal office in the state under the laws of which it is
15 organized.

16 (d) The address, including street and number, if any, of
17 its principal office in this state, and the name and address,
18 including street and number, if any, of its resident agent in
19 this state.

20 (e) The names of the states other than this state, if any,
21 in which it is admitted or qualified to transact business.

22 (f) A brief statement of the character of the business
23 in which it is actually engaged in this state.

24 (g) The names and respective addresses, including street

25 and number, if any, of its directors and officers.

26 (h) A statement of the aggregate number of shares which
27 the corporation has authority to issue, itemized by classes, par
28 value of shares, shares without par value, and series, if any,
29 within a class.

30 (i) A statement of the aggregate number of issued shares,
31 itemized by classes, par value of shares, shares without par
32 value, and series, if any, within a class.

33 (j) A statement, expressed in dollars, of the amount of
34 stated capital and the amount of paid-in surplus of the
35 corporation after giving effect to (1) the allocation between
36 stated capital and paid-in surplus of the total consideration
37 received for, or on account of, issued shares; (2) any amount
38 added or transferred to stated capital upon the issuance of
39 shares as a share dividend, exclusive of any amount transferred
40 to stated capital or paid-in surplus without the issuance of
41 shares, exclusive of any amount transferred to stated capital
42 from paid-in surplus; (4) any increase or decrease in the sum of
43 the stated capital and paid-in surplus resulting from any exchange
44 or reclassification of shares; (5) any decrease in the sum of
45 the stated capital and paid-in surplus resulting from any
46 redemption and cancellation of shares; and (6) any reduction of
47 the stated capital made in accordance with the laws of the state
48 under which the corporation is organized.

49 (k) A statement, expressed in dollars, of the value of
50 all the property owned by the corporation, wherever located,

51 and the value of the property located within this state, and a
52 statement, expressed in dollars, of the gross amount of business
53 transacted by the corporation for the twelve months ended on
54 the thirty-first day of December preceding the date herein
55 provided for the filing of such report and the gross amount thereof
56 transacted by the corporation at or from places of business in
57 this state. If, on the thirty-first day of December preceding
58 the time herein provided for the filing of such report, the
59 corporation has not been authorized to transact business in this
60 state for a period of twelve months, the statement with respect to
61 business transacted shall be furnished for the period since
62 the date of its authorization to transact business in this
63 state. If all the property of the corporation is located in
64 this state and all of its business is transacted at or from
65 places of business in this state, or if the corporation elect
66 to pay the annual franchise tax on the basis of its entire
67 stated capital and paid-in surplus, then the information required
68 by this subparagraph need not be set forth in such report.

70 (1) Such additional information as may be necessary or
71 appropriate in order to enable the secretary of state to determine
72 and assess the proper amount of fees and franchise taxes payable
73 by such foreign corporations.

74 III. Such annual report shall be made on forms prescribed
75 and furnished by the secretary of state, and the information
76 therein contained shall be given as of the close of business on
77 the thirty-first day of December next preceding the date herein

78 provided for the filing of such report. It shall be executed by
79 the corporation by its president or vice president, and verified
80 by him, and attested by its secretary or an assistant secretary,
81 or if the corporation is in the hands of a receiver or trustee,
82 it shall be executed in behalf of the corporation and verified
83 by such receiver or trustee.

84 IV. If the secretary of state finds that such report
85 conforms to the requirements of this act, he shall file the
86 same, and endorse thereon the word "filed" and the month, day
87 and year of the filing thereof. If he finds that it does not so
88 conform, he shall promptly return the same to the corporation for
89 any necessary corrections, in which event the penalties hereinafter
90 prescribed for failure to file such report within the time
91 hereinabove provided shall not apply, if such report is corrected
92 to conform to the requirements of this act and returned prior to
93 the first day of April of the year in which it is due. The
94 first annual report of a corporation shall be filed between
95 the fifteenth day of January and the last day of February of
96 the year next succeeding the calendar year in which such
97 corporation was authorized to transact business in this state.

98 V. Each corporation that fails or refuses to file its
99 annual report for any period, within the time prescribed by
100 this act, shall be subject to a penalty of ten per cent of the
101 amount of the franchise tax assessed against it for the period
102 beginning July first of the year in which such report should
103 have been filed. Such penalty shall be assessed by the

104 secretary of state at the time of the assessment of the franchise
105 tax. If the amount of franchise tax as originally assessed
106 against such corporation be thereafter adjusted in accordance
107 with the provisions of this act, the amount of the penalty shall
108 be likewise adjusted to ten per cent of the amount of the
109 adjusted franchise tax. The amount of the franchise tax and the
110 amount of the penalty shall be separately stated in any notice to
111 the corporation with respect thereto.

1 Sec. 28. Franchise Tax.

2 I. Each foreign corporation required by this act to make
3 an annual report shall pay an annual franchise tax to the
4 secretary of state during the month of July of each year in which
5 the corporation is required by this act to file an annual report.

6 II. Such annual franchise tax shall be computed at the
7 rate of one-twentieth of one per cent of the basis prescribed in
8 this act for the twelve months' period commencing on the first
9 day of July of the year in which such tax is payable. The
10 minimum annual franchise tax payable by each foreign corporation
11 shall be the sum of ten dollars.

12 III. The basis for the annual franchise tax of a foreign
13 corporation shall be the amount represented in this state,
14 determined in accordance with the provisions of this section,
15 of the sum of its stated capital and paid-in surplus on the
16 thirty-first day of December of the preceding calendar year as
17 disclosed by its last annual report. For the purpose of
18 determining the amount represented in this state of the sum of

19 the stated capital and paid-in surplus of a corporation, the
20 amount represented in this state shall be that proportion of
21 the sum of its stated capital and paid-in surplus which the
22 sum of (1) the value of its property located in this state and
23 (2) the gross amount of business transacted by it at or from
24 places of business in this state bears to the sum of (1) the
25 value of all of its property, wherever located, and (2) the
26 gross amount of its business, wherever located.

27 The proportion represented in this state of the sum of
28 the stated capital and paid-in surplus of a foreign corporation
29 shall be determined from information contained in the last
30 annual report filed by the corporation with the secretary of
31 state as required by this act.

32 IV. It shall be the duty of the secretary of state to
33 collect all annual franchise taxes, fees and penalties imposed
34 by, or assessed in accordance with, this act.

35 Between the first day of March and the fifteenth day of
36 June of each year the secretary of state shall assess against
37 each corporation required to file an annual report in such year
38 the franchise tax payable by it for the twelve months' period
39 commencing on the first day of July of such year in accordance
40 with the foregoing provisions, and, if it has failed to file its
41 annual report within the time prescribed by this act, the penalty
42 imposed by this act upon such corporation for its failure so to
43 do; and shall mail a written notice to each corporation against
44 which such tax is assessed, addressed to such corporation at

45 its principal office, notifying the corporation (a) of the
46 amount of franchise tax assessed against it for the year next
47 ensuing and the amount of penalty, if any, assessed against it
48 for failure to file its annual report; (b) that objections, if
49 any, to such assessment will be heard by the officer making the
50 assessment, on or before the twenty-fifth day of June of such
51 year, upon receipt of a request from the corporation; and (c)
52 that such tax and penalty shall be payable to the secretary of
53 state on the first day of July next succeeding the date of the
54 notice. Failure to receive such notice shall not relieve the
55 corporation of its obligation to pay the tax and any penalty
56 assessed, or invalidate the assessment thereof.

57 V. The secretary of state shall have power to hear and
58 determine objections to any assessment of franchise tax within
59 the time hereinabove specified, and, after hearing, to change
60 or modify any such assessment. In the event of any adjustment
61 of franchise tax with respect to which a penalty has been
62 assessed for failure to file an annual report, the penalty shall
63 be adjusted in accordance with the provisions of this act
64 imposing such penalty. In case a hearing on objections to such
65 assessment of franchise tax shall not be had or requested on or
66 before the twenty-fifth day of June of the year in which such
67 assessment is made, due to the absence or illness of some officer
68 of the corporation, the secretary of state, in his discretion
69 and upon proper showing of the facts, may grant a hearing on such
70 objections after such date.

71 VI. Any corporation aggrieved by an assessment of a
72 franchise tax made by the secretary of state, after a hearing
73 as provided hereinabove, may appeal to the district court of Polk
74 County, Iowa, within twenty days after the date of said hearing
75 by serving a written notice of such appeal on the secretary of
76 state or the deputy secretary of state and filing with the clerk
77 of said court a bond to the state of Iowa in the sum of twice
78 the amount of the franchise tax assessment, with sufficient
79 surety to be approved by the clerk of said court, conditioned
80 upon the diligent prosecution of such appeal to final judgment
81 and the payment within twenty days thereafter of the amount of
82 the franchise tax, interest, and all costs as shall be adjudged
83 against the appellant.

84 In case of such appeal, the secretary of state shall
85 transmit the transcript of the hearing had before him, as
86 provided in this section hereinabove, to said court, and the
87 cause shall be tried as an equitable action and given
88 precedence over all matters pending in said court.

89 VII. All annual franchise taxes and all penalties for
90 failure to file annual reports shall be due and payable on the
91 first day of July of each year. If the annual franchise tax
92 assessed against any corporation subject to the provisions of
93 this act, together with all penalties assessed thereon, shall
94 not be paid to the secretary of state on or before the
95 thirty-first day of July of the year in which such tax is due and
96 payable, the secretary of state shall certify such facts to the

97 attorney general, and the attorney general shall, at any time
98 on or after the first day of August of such year, institute an
99 action in the name of the state of Iowa, in any court of
100 competent jurisdiction, for the recovery of the amount of such
101 taxes, penalties, and costs of suit, and prosecute the same to
102 final judgment.

103 VIII. The secretary of state shall not file any articles,
104 certificates, reports, applications, notices, or other papers
105 relating to any foreign corporation, subject to the provisions
106 of this act while such corporation is in default in the payment
107 of any fees, franchise taxes, charges, or penalties provided
108 by this act to be paid by or assessed against it.

109 IX. Nothing in this act shall be construed as imposing an
110 annual fee or requiring an annual report and payment of a
111 franchise tax from any foreign non-pecuniary corporation holding
112 a permit under the provisions of Sections 8600 to 8603,
113 inclusive, of the Code, 1931, or from any corporation organized
114 as a building and loan or savings and loan association in
115 accordance with the provisions of Chapter 417 of the Code, 1931,
116 and received a certificate of authority from the auditor of
117 state, nor from insurance companies or associations who have
118 paid or have been exempted from the taxes provided in Sections
119 7021 to 7025, inclusive, Code, 1931, and received a certificate
120 of authority from the commissioner of insurance.

121 X. Any foreign corporation holding a certificate of
122 authority to do business in this state prior to the adoption of

123 this act, and whose certificate has not expired by limitation,
124 and any foreign corporation hereafter authorized to do business
125 in this state shall be subject to the provisions of this act,
126 provided, however, any such corporation authorized to do business
127 in this state prior to the adoption of this act and whose
128 certificate has not expired by limitation shall be entitled to
129 credit upon its assessment of franchise tax in an amount equal
130 to that proportion of the initial filing fee paid to the secretary
131 of state as the unexpired term of the certificate bears to the
132 full term of such certificate, which amount, so credited,
133 shall be prorated over the unexpired term of such certificate.
134 No such corporation shall be entitled to any additional credit
135 for, or any refund of, the filing fees or any other charges
136 paid to and collected by the secretary of state under the
137 provisions of this act.

1 Sec. 29. Reserved Powers. The General Assembly shall
2 at all times have power to prescribe such regulations, provisions,
3 and limitations which it may deem advisable, which regulations,
4 provisions, and limitations shall be binding upon any and all foreign
5 corporations, subject to the provisions of this act, and the
6 General Assembly shall have power to amend, repeal, or modify
7 this act at pleasure.

1 Sec. 30. Application to Foreign Corporation Heretofore
2 Authorized to Do Business. Except where otherwise expressly
3 stated herein, this act shall be applicable to any foreign
4 corporation heretofore authorized to do business in this state

5 under Chapter 386 of the Code, 1931.

1 Sec. 31. Repeal. Sections, Iowa Code, 8420, 8421, 8422,
2 8423, 824, 8425, 8426, 8427, 8428, 8429, 8430, 8431, 8432, 8433,
3 8434, 8435, 8436, 8437, 8438 are hereby repealed.

1 Sec. 32. Savings Clause. This act shall not impair or
2 affect any act done, offense committed or right accruing, accrued
3 or acquired, or liability, penalty, forfeiture or punishment
4 incurred prior to the time this act takes effect, but the same
5 may be enjoyed, asserted, enforced, prosecuted or inflicted, as
6 fully and to the same extent as if this act had not been passed.

1 Sec. 33. Constitutionality. If any part of this act shall
2 be found to be unconstitutional, the other parts thereof shall
3 not thereby be affected, provided such invalid or unconstitutional
4 part or parts may be separable from the valid or constitutional
5 part or parts. The legislature hereby declares that it would
6 have passed this act, and each part thereof, irrespective of
7 the fact that some parts might be declared unconstitutional.

1 Sec. 34. Titles. Sectional titles of subject matter
2 set forth and used in this act shall not be taken or considered
3 to be any part of this act.