

February 20, 1963.
Passed on File.

Senate File 222
By COMMITTEE ON JUDICIARY 1.

Passed Senate, Date 2-27-63

Passed House, Date 3-29-63

Vote: Ayes 48 Nays 0

Vote: Ayes 90 Nays 0

Amended by House
concurrent by Senate
aye 44
nay 0
4/5

Approved H-11-63
A BILL FOR

Judiciary # 3/11
Substituted H.7.353
on calendar 3/22 3/22

An Act to amend section six hundred seventeen point three (617.3), Code 1962, relating to service of process on foreign corporations.

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

1 Section 1. The second (2d) paragraph of section six hundred
2 seventeen point three (617.3), Code 1962, is hereby repealed and
3 the following enacted in lieu thereof:

4 "If a foreign corporation makes a contract with a resident of
5 Iowa to be performed in whole or in part by either party in Iowa,
6 or if such foreign corporation commits a tort in whole or in part
7 in Iowa against a resident of Iowa, such acts shall be deemed to
8 be doing business in Iowa by such foreign corporation for the
9 purpose of service of process or original notice on such foreign
10 corporation under this Act, and, if the corporation does not have
11 a registered agent or agents in the state of Iowa, shall be
12 deemed to constitute the appointment of the secretary of state of
13 the state of Iowa to be its true and lawful attorney upon whom
14 may be served all lawful process or original notice in actions
15 or proceedings arising from or growing out of such contract or
16 tort. The making of the contract or the committing of the tort
17 shall be deemed to be the agreement of such corporation that any
18 process or original notice so served shall be of the same legal
19 force and effect as if served personally upon such defendant
20 within the state of Iowa. The term 'resident of Iowa' shall

21 include any Iowa corporation, any foreign corporation holding a
22 certificate of authority to transact business in Iowa, any
23 individual residing in Iowa, and any partnership or association
24 one or more of whose members is a resident of Iowa.

25 "Service of such process or original notice shall be made (1)
26 by filing duplicate copies of said process or original notice
27 with said secretary of state, together with a fee of five (5)
28 dollars, and (2) by mailing to the defendant and to each of them
29 if more than one, by registered or certified mail, a notification
30 of said filing with the secretary of state, the same to be so
31 mailed within ten (10) days after such filing with the secretary
32 of state, and to be addressed to each such foreign corporation
33 at its principal office in the state or country under the laws
34 of which it is incorporated. The defendant shall have sixty (60)
35 days from the date of such filing with the secretary of state
36 within which to appear. Proof of service shall be made by filing
37 in court the duplicate copy of the process or original notice
38 with the secretary of state's certificate of filing, and the
39 affidavit of the plaintiff or his attorney of compliance
40 herewith.

41 "The secretary of state shall keep a record of all processes
42 or original notices so served upon him, recording therein the
43 time of service and his actions with reference thereto, and he
44 shall promptly return one of said duplicate copies to the
45 plaintiff or his attorney, with a certificate showing the time of
46 filing thereof in his office.

47 "For the purpose of determining whether an action has been
48 commenced within the time allowed by statutes for limitation of
49 actions, the filing of the original notice with the secretary of

50 state shall be deemed a commencement of the action.

51 "The original notice of suit filed with the secretary of state
52 shall be in form and substance the same as provided in suits
53 against residents of this state, except that that part of said
54 notice pertaining to the return day shall be in substantially the
55 following form, to-wit:

56 'and unless you appear thereto and defend in the district
57 court of Iowa in and for county at the courthouse in
58 Iowa within sixty (60) days following the filing
59 of this notice with the secretary of state of the state of Iowa,
60 default will be entered and judgment rendered against you by the
61 court if then in session in said county, and if the court is not
62 then in session said default will be entered and judgment
63 rendered by the court on the first (1st) day of the first (1st)
64 succeeding term or as soon thereafter as the same may be reached.'

65 "The notification of filing shall be in substantially the
66 following form, to-wit:

67 'To (Here
68 insert the name of each defendant with proper address.) You will
69 take notice that an original notice of suit or process against
70 you, a copy of which is hereto attached, was duly served upon
71 you at Des Moines, Iowa by filing a copy of said notice or
72 process on the day of, 19..... with the
73 secretary of state of the state of Iowa.

74 Dated at, Iowa this day of
75 19.....

76

77 Plaintiff

78 By.....

79

Attorney for Plaintiff'

80 "Actions against foreign corporations as contemplated by this
 81 law may be brought in the county of which plaintiff is a
 82 resident, or in the county in which any part of the contract is
 83 or was to be performed or in which any part of the tort was
 84 committed."

- 1 Amend Senate File 222 as follows:
- 2 1. Amend the title by striking the period (.) and
- 3 inserting in lieu thereof the following: ", and non-
- 4 resident persons."
- 5 2. Amend section 1, line 4 by inserting after the
- 6 word "corporation" the following: "or a non-resident
- 7 person".
- 8 3. Amend section 1, line 6 by inserting after the
- 9 word "corporation" the following: "or person".
- 10 4. Amend section 1, line 8 by inserting after the
- 11 word "corporation" the following: "or such person".
- 12 5. Amend section 1, line 10 by inserting before
- 13 the word "does" the following: "or person".
- 14 6. Amend section 1, line 17 by inserting after the
- 15 word "corporation" the following: "or such person".

Filed and adopted
 February 27, 1963.

By NOLAN.

SENATE FILE 222
 (Corrected Amendment as Adopted March 29, 1963.)

- 1 Senate File 222 is hereby amended as follows:
- 2 1. Section 1, by striking all of lines four (4) through
- 3 seventeen (17) and inserting in lieu thereof the following:
- 4 "If a foreign corporation makes a contract with a resident of
- 5 Iowa to be performed in whole or in part by either party in Iowa,
- 6 or if such foreign corporation commits a tort in whole or in part
- 7 in Iowa against a resident of Iowa, such acts shall be deemed to
- 8 be doing business in Iowa by such foreign corporation for the
- 9 purpose of service of process or original notice on such foreign
- 10 corporation under this Act, and, if the corporation does not have
- 11 a registered agent or agents in the state of Iowa, shall be
- 12 deemed to constitute the appointment of the secretary of state of
- 13 the state of Iowa to be its true and lawful attorney upon whom
- 14 may be served all lawful process or original notice in actions
- 15 or proceedings arising from or growing out of such contract or
- 16 tort. If a nonresident person makes a contract with a resident
- 17 of Iowa to be performed in whole or in part by either party in
- 18 Iowa, or if such person commits a tort in whole or in part in
- 19 Iowa against a resident of Iowa, such acts shall be deemed to be
- 20 doing business in Iowa by such person for the purpose of service
- 21 of process or original notice on such person under this Act, and
- 22 shall be deemed to constitute the appointment of the secretary
- 23 of state of the state of Iowa to be the true and lawful attorney
- 24 of such person upon whom may be served all lawful process or
- 25 original notice in actions or proceedings arising from or growing
- 26 out of such contract or tort. The making of the contract or the
- 27 committing of the tort shall be deemed to be the agreement
- 28 of such corporation or such person that any".
- 29 2. Section 1, by striking all of lines thirty-two (32) and
- 30 thirty-three (33) and that part of line thirty-four (34) preceding
- 31 the word "The" and inserting in lieu thereof the following:
- 32 "of state. Such notification shall be mailed to each such foreign
- 33 corporation at the address of its principal office in the state
- 34 or country under the laws of which it is incorporated and to each
- 35 such nonresident person at his address in the state of his
- 36 residence."
- 37 3. Section 1, by inserting following the word "corporations"
- 38 in line eighty (80) the words "or nonresident persons".
- 39 4. By adding thereto a new section as follows:
- 40 Sec. 2. It is hereby declared to be the legislative intent
- 41 that if this Act cannot take effect in its entirety because of
- 42 the decision of any court holding unconstitutional any part,
- 43 sentence or clause thereof, the remaining provisions of the
- 44 Act shall be given full force and effect as completely as if
- 45 the part held unconstitutional had not been included herein.

*Senate
 concurred
 4/5*

Filed
 April 3, 1963.

STANLEY of Muscatine.