

CHAPTER 325

SERVICE OF PROCESS

S. F. 222

AN ACT to amend section six hundred seventeen point three (617.3), Code 1962, relating to service of process on foreign corporations, and nonresident persons.

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2 seventeen point three (617.3), Code 1962, is hereby repealed and the
3 following enacted in lieu thereof:

4 "If a foreign corporation makes a contract with a resident of Iowa
5 to be performed in whole or in part by either party in Iowa, or if such
6 foreign corporation commits a tort in whole or in part in Iowa against
7 a resident of Iowa, such acts shall be deemed to be doing business in
8 Iowa by such foreign corporation for the purpose of service of process
9 or original notice on such foreign corporation under this Act, and, if
10 the corporation does not have a registered agent or agents in the state
11 of Iowa, shall be deemed to constitute the appointment of the secretary
12 of state of the state of Iowa to be its true and lawful attorney upon
13 whom may be served all lawful process or original notice in actions or
14 proceedings arising from or growing out of such contract or tort. If a
15 nonresident person makes a contract with a resident of Iowa to be
16 performed in whole or in part by either party in Iowa, or if such person
17 commits a tort in whole or in part in Iowa against a resident of Iowa,
18 such acts shall be deemed to be doing business in Iowa by such person
19 for the purpose of service of process or original notice on such person
20 under this Act, and shall be deemed to constitute the appointment of
21 the secretary of state of the state of Iowa to be the true and lawful
22 attorney of such person upon whom may be served all lawful process
23 or original notice in actions or proceedings arising from or growing out
24 of such contract or tort. The making of the contract or the committing
25 of the tort shall be deemed to be the agreement of such corporation or
26 such person that any process or original notice so served shall be of the
27 same legal force and effect as if served personally upon such defendant
28 within the state of Iowa. The term 'resident of Iowa' shall include any
29 Iowa corporation, any foreign corporation holding a certificate of
30 authority to transact business in Iowa, any individual residing in Iowa,
31 and any partnership or association one or more of whose members is a
32 resident of Iowa.

33 "Service of such process or original notice shall be made (1) by filing
34 duplicate copies of said process or original notice with said secretary
35 of state, together with a fee of five (5) dollars, and (2) by mailing to
36 the defendant and to each of them if more than one, by registered or
37 certified mail, a notification of said filing with the secretary of state,
38 the same to be so mailed within ten (10) days after such filing with
39 the secretary of state. Such notification shall be mailed to each such
40 foreign corporation at the address of its principal office in the state or
41 country under the laws of which it is incorporated and to each such
42 nonresident person at his address in the state of his residence. The
43 defendant shall have sixty (60) days from the date of such filing with
44 the secretary of state within which to appear. Proof of service shall

45 be made by filing in court the duplicate copy of the process or original
 46 notice with the secretary of state's certificate of filing, and the affi-
 47 davit of the plaintiff or his attorney of compliance herewith.

48 "The secretary of state shall keep a record of all processes or orig-
 49 inal notices so served upon him, recording therein the time of service
 50 and his actions with reference thereto, and he shall promptly return
 51 one of said duplicate copies to the plaintiff or his attorney, with a cer-
 52 tificate showing the time of filing thereof in his office.

53 "For the purpose of determining whether an action has been com-
 54 menced within the time allowed by statutes for limitation of actions,
 55 the filing of the original notice with the secretary of state shall be
 56 deemed a commencement of the action.

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

61 'and unless you appear thereto and defend in the district court of
 62 Iowa in and for county at the courthouse in Iowa
 63 within sixty (60) days following the filing of this notice with the sec-
 64 retary of state of the state of Iowa, default will be entered and judg-
 65 ment rendered against you by the court if then in session in said coun-
 66 ty, and if the court is not then in session said default will be entered and
 67 judgment rendered by the court on the first (1st) day of the first (1st)
 68 succeeding term or as soon thereafter as the same may be reached.'

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

71 'To (Here insert the name of each de-
 72 fendant with proper address.) You will take notice that an original
 73 notice of suit or process against you, a copy of which is hereto at-
 74 tached, was duly served upon you at Des Moines, Iowa by filing a copy
 75 of said notice or process on the day of, 19..... with
 76 the secretary of state of the state of Iowa.

77 Dated at, Iowa this day of,
 78 19.....

79
 80 Plaintiff
 81 BY
 82
 83 Attorney for Plaintiff'

84 "Actions against foreign corporations or nonresident persons as con-
 85 templated by this law may be brought in the county of which plaintiff
 86 is a resident, or in the county in which any part of the contract is or
 87 was to be performed or in which any part of the tort was committed."

1 SEC. 2. It is hereby declared to be the legislative intent that if this
 2 Act cannot take effect in its entirety because of the decision of any
 3 court holding unconstitutional any part, sentence or clause thereof, the
 4 remaining provisions of the Act shall be given full force and effect as
 5 completely as if the part held unconstitutional had not been included
 6 herein.

Approved April 11, 1963.