

H.B. NO. 139

Introduced by

Robert A. Burgess
W. F. Swanton

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W. F. Swanton

A BILL
FOR

AN ACT relating to insurers not authorized to transact business in this state; providing for actions in this state against and for the service of process upon such insurers; prescribing how a defense may be made by such insurers; and providing for the allowance of attorneys fees in actions against such insurers.

JAN 25 1955

Introduced	✓
Read in Senate	✓
Reported to Senate	3
Placed on general file	✓

JAN 27 1955

Returned from Printing Committee

Delivered to Com. No. 3

JAN 31 1955

Returned from Com. No. 3

Recommended do pass

Placed on general file

FEB 1 1955

Considered in committee of the whole

Recommended do pass

Report of Com. of Whole adopted

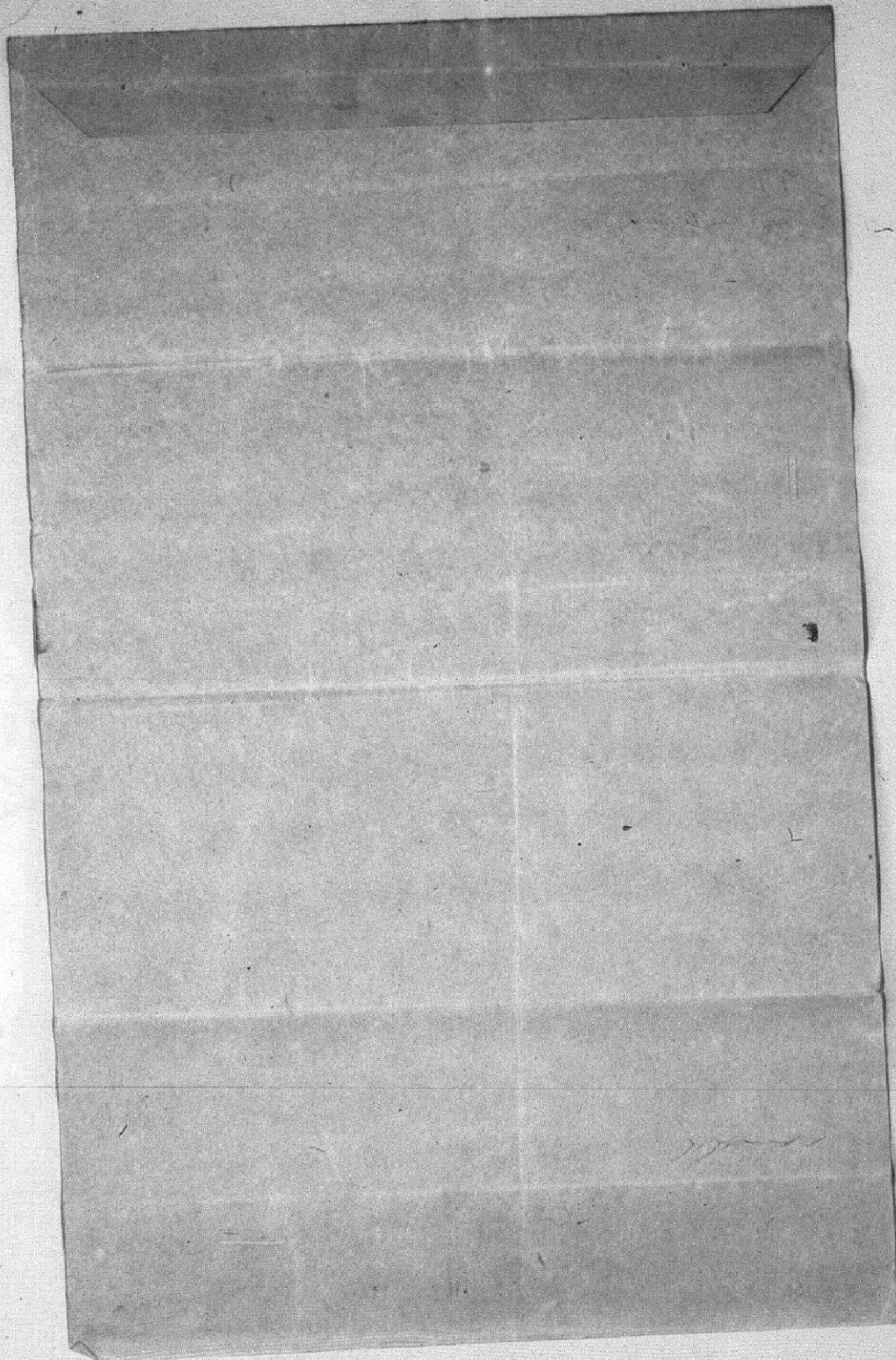
PLACED ON SECOND READING

FEB 2 1955

READ SECOND TIME

Order engrossed for third reading

Delivered to Com. No. 3



H. B. NO. 139

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Jan. 25, 1955

Introduced

Read first time

Referred to Com. No. 3

Delivered to Printing Com.

Jan. 27, 1955

Returned from Printing Committee

Delivered to Com. No. 3

Jan. 31, 1955

Returned from Com. No. 3

Recommended DO PASS

Placed on general file

Feb. 1, 1955

Considered in committee of the whole

Recommended DO PASS

Report of Com. of Whole adopted

Placed on second reading

Feb. 2, 1955

Read second time

Order engrossed for third reading

Delivered to Com. No. 18

Returned from Com. No. 18

Placed on 3rd reading

FEB 3 1955

READ THIRD TIME

PASSED
AYES 55 NOES 1 EXCUSED 1 ABSENT 5

Sent to Senate

Received from House FEB 4 1955

Read first time FEB 4 1955

Referred to Com. No. 1

Delivered to Com. No. 1

FEB 6 1955

Returned from Committee No. 1

RECOMMENDING DO PASS

Placed on general file

FEB 10 1955

Considered in Committee of the Whole

Recommended be Amended as follows

Strike Section 1

Page 2, line 2: renumber

to be "Section 1"

Page 3, line 27: renumber

to be "Section 2"

Page 4, line 16: renumber

to be "Section 3"

Strike Sections 5 and 6

Amendment adopted

Recommended do Pass as Amended

Committee of Whole Report Adopted

FEB 11 1955

READ SECOND TIME

Ordered Read Third Time

FEB 12 1955 READ THIRD TIME

Passed Ayes 22 Noes 1 Absent 1 Excused 1

Sent to House

Feb. 12, 1955

Received from Senate

FEB 14 1955

NAVAL EDUCATION
on line Com. No. 1

PASSED
AYES 54 NOES 1 EXCUSED 1 ABSENT 2

Delivered to Com. No. 1

1443 NO. 139

INTRODUCED BY:

Robert C. Burgess
W. F. Swanton

A B I L L
F O R

AN ACT relating to insurers not authorized to transact business in this state; providing for actions in this state against and for the service of process upon such insurers; prescribing how a defense may be made by such insurers; and providing for the allowance of attorneys fees in actions against such insurers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WYOMING:

Section 1. The purpose of this Act is to subject certain insurers to the jurisdiction of courts of this state in suits by or on behalf of insureds or beneficiaries under insurance contracts.

The legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued or delivered in this state by insurers while not authorized to do business in this state, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such state interest, the legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing it exercises its power to protect its residents and to define, for the purpose of this statute, what constitutes doing business in this state, and also exercises powers and privileges available to the state by virtue of Public Law 15, 79th Congress of the United States,

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Chapter 20, 1st Session, S. 340, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

Section 2.

(A) Any of the following acts in this state, effected by mail or otherwise, by an unauthorized foreign or alien insurer: (1) the issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of insurance business, is equivalent to and shall constitute an appointment by such insurer of the Insurance Commissioner and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

1000 (B) Such service of process shall be made by delivering to and leaving with the Insurance Commissioner or some person in apparent charge of his office two copies thereof and the payment to him of such fees as may be prescribed by law. The Insurance Commissioner shall forthwith mail by registered mail one of the copies of such process to the defendant at its last known principal place of business, and shall keep a record of all process so served upon him. Such service of process is sufficient, provided notice of such service and a copy of the process are sent within ten days thereafter by registered mail by plaintiff or plaintiff's attorney to the defendant at its last known prin-

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CHAPTER 50, THE EVIDENCE, 2, AND WHICH...
cipal place of business, and the defendant's receipt, or receipt issued by the postoffice with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(C) Service of process in any such action, suit or proceeding shall in addition to the manner provided in subsection (B) of this section be valid if served upon any person within this state who, in this state on behalf of such insurer, is

(1) soliciting insurance, or

(2) making, issuing or delivering any contract of insurance, or

(3) collecting or receiving any premium, membership fee, assessment or other consideration for insurance; and a copy of such process is sent within ten days thereafter by registered mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the postoffice with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow.

(D) No plaintiff or complainant shall be entitled to a judgment by default under this section until the expiration of thirty days from the date of the filing of the affidavit of compliance.

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(E) Nothing in this section contained shall limit or abridge the right to serve any process, notice or demand upon any insurer in any other manner now or hereafter permitted by law.

Section 2.

(A) Before any unauthorized foreign or alien insurer shall file or cause to be filed any pleading in any action, suit or proceeding instituted against it, such unauthorized insurer shall deposit with the clerk of the court in which such action, suit or proceeding is pending, cash or securities, or file with such clerk a bond with good and sufficient sureties, to be approved by the court, in an amount to be fixed by the court, sufficient to secure the payment of any final judgment which may be rendered in such action; or (2) procure a certificate of authority to transact the business of insurance in this state.

(B) The court in any action, suit or proceeding, in which service is made in the manner provided in subsections (B) or (C) of Section 2 may, in its discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (A) of this section and to defend such action.

(C) Nothing in subsection (A) of this section is to be construed to prevent an unauthorized foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in subsections (B) or (C) of Section 2 hereof on the ground either (1) that such unauthorized insurer has not done any of the acts enumerated in subsection (A) of Section 2, or (2) that the person on whom service was made pursuant to subsection (C) of Section 2 was not doing any of the acts therein enumerated.

Section 3.

In any action against an unauthorized foreign or alien insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do

business therein, if the insurer has failed for thirty days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was vexatious and without reasonable cause, the court shall allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action, and in no event shall such fee be less than twenty-five dollars. Failure of an insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was vexatious and without reasonable cause.

Section 5. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Section 6. This Act may be cited as the Unauthorized Insurers Process Act.