

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

400H0243

## SENATE BILL NO. 20

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to service of process  
2 on foreign corporations through the secretary of state.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 47-8-17 be amended to read as follows:

5 47-8-17. ~~If a foreign corporation makes a contract with a resident of South Dakota to be~~  
6 ~~performed in whole or in part by either party in South Dakota, or if such foreign corporation~~  
7 ~~commits a tort in whole or in part in South Dakota against a resident of South Dakota, such acts~~  
8 ~~shall be deemed to be doing business in South Dakota by the foreign corporation and shall be~~  
9 ~~deemed equivalent to the appointment by the foreign corporation of the secretary of state of the~~  
10 ~~State of South Dakota and his successors to be its true and lawful attorney upon whom may be~~  
11 ~~served all lawful process in any actions or proceedings against the foreign corporation arising~~  
12 ~~from or growing out of such contract or tort. The making of the contract or the committing of~~  
13 ~~the tort shall be deemed to be the agreement of the foreign corporation that any process against~~  
14 ~~it which is so served upon the secretary of state shall be of the same legal force and effect as if~~  
15 ~~served personally within the State of South Dakota.~~ A foreign corporation without a certificate



1 of authority, by virtue of its acceptance of the privilege extended by law to nonresidents and  
2 others to operate, conduct, engage in, and carry on business in this state, constitutes an  
3 appointment by the foreign corporation of the secretary of state as its agent on whom all process  
4 and any action or proceeding against it, arising out of the transaction, operation, or connected  
5 with the transaction of business in this state, may be served with the same legal force and effect  
6 as if served personally within the State of South Dakota. Any corporation that sells, consigns,  
7 or leases by any means whatsoever tangible or intangible personal property through brokers,  
8 jobbers, wholesalers, or distributors to any person, firm, or corporation in this state, is  
9 conclusively presumed to be both engaged in substantial and not an isolated activity within this  
10 state, and in operating, conducting, engaging in, or carrying on a business in this state.