

## CHAPTER 87.

[H. B. No. 205.]

## AN ACT RELATING TO CERTAIN CORPORATIONS BECOMING SURETY UPON BONDS, STIPULATIONS, ETC., AND REPEALING CONFLICTING LAWS.

AN ACT relating to recognizances, stipulations, bonds and undertakings, and to allow certain corporations to be accepted as surety thereon, and to provide for the payment of the charges of such suretyship on the same as part of the lawful expense and costs of the principal or principals on the same; repealing an act of the Legislature of the State of Washington entitled "An act relative to recognizances, stipulations, bonds and undertakings, and to allow certain corporations to be accepted as surety thereon, and to provide for the payment of the charges of such suretyship on the same as part of the lawful expense and costs of the principal or principals on the same, and repealing an act of the Legislature of the State of Washington entitled 'An act relating to official bonds of state, county, city, town and precinct officers,' approved March 20, 1895, and all other inconsistent acts, and declaring an emergency," approved March 17, 1897; providing a penalty for its violation; repealing all other inconsistent acts and declaring an emergency.

*Be it enacted by the Legislature of the State of Washington:*

SECTION 1. Whenever any bond, recognizance, obligation, stipulation, or undertaking is by law, State, municipal or otherwise, or by the rules or regulations of any board, court, judge, body or organization, or officer, State, municipal, or otherwise, required or permitted to be made, given, tendered or filed, for the security or protection of any person or persons, corporation, municipality, State, or any department thereof, or any other organization whatever, conditioned for the doing or not doing of any thing in such bond, recognizance, obligation, stipulation or undertaking, specified, any and all heads of departments, public officers, State, county, town or municipal, and any and all boards, courts, judges and municipalities, now or hereafter required or permitted to accept or approve of the sufficiency of any such bond, recognizance, obligation, stipulation or undertaking may, in the discretion of such head of department, court, judge, public officer, board or municipality, accept such

Acceptance—  
by whom.

bond, recognizance, obligation, stipulation or undertaking, ing, and approve the same, whenever the same is executed, or the conditions thereof are guaranteed, solely by a corporation, with net assets or paid up unimpaired capital of not less than three hundred and fifty (\$350,000) thousand dollars, incorporated under the laws of the United States, or of any state, and authorized under its charter or articles of incorporation to guarantee the fidelity of persons holding places of public or private trust, to guarantee the performance of contracts, and to execute and guarantee bonds and undertakings required or permitted in actions or proceedings in law or equity: *Provided*, That such corporation has complied with all the provisions of this act. And whenever any such bond, recognizance, obligation, stipulation or undertaking is so required to be made, given, tendered, or filed with one surety, or with two or more sureties, the execution of the same or the guaranteeing of the performance of the conditions thereof, shall be sufficient when executed or guaranteed solely by such corporation, so authorized, and shall be in all respects a full and complete compliance with every requirement of every law, ordinance, rule or regulation, that such bond, undertaking, recognizance, obligation or stipulation shall be executed or guaranteed by one surety or by two or more sureties, or that such sureties shall be residents, householders, or freeholders, or both, and a full and complete compliance with every other requirement of every law, ordinance, rule or regulation, relating to the same, and no justification by such company shall be necessary or required, and any and all heads of departments, courts, judges, public officers, boards and municipalities whose duties it may be, or shall hereafter be, to accept or approve the sufficiency of any such bond, recognizance, obligation, stipulation or undertaking, may accept and approve the same, when executed or guaranteed solely by such corporation, and all such corporations are hereby vested with full power and authority to execute and guarantee such bonds, recognizances, stipulations, obligations and undertakings, whether given under the laws of this State or of the United States, or of any state or county.

Amount of capital required.

Right to issue bond.

Requirements of sureties.

Approval of bond.

SEC. 2. Any receiver, assignee, trustee, guardian, executor, administrator, committee or other fiduciary, required by law to give bond as such, may include as a part of his

Suretiship fee.

lawful expenses, such reasonable sum paid to such a corporation for such suretyship, not exceeding one per cent. per annum on the amount of said bond, as the head of the department, court, judge or officer by whom, or the court or body by which he was appointed, allows, and in all actions and proceedings, the party entitled to recover costs may include therein such reasonable sum as may have been paid such company for executing or guaranteeing any such bond or undertaking therein as may be allowed by the court or judge before whom the action or proceeding is pending.

Corporations  
may be es-  
topped—how.

SEC. 3. That any corporation which shall execute or guarantee any bond, recognizance, stipulation, obligation or undertaking under the provisions of this act, shall be estopped in any proceeding to enforce the liability which it shall have assumed to incur, to deny its corporate power to execute or guarantee such instrument, or assume such liability.

Release from  
liability.

SEC. 4. Any corporation executing any bond, recognizance, obligation, stipulation or undertaking, and any such surety may be released from its liability on the same terms and conditions as are or may be by law prescribed for the release of individuals upon any such bond, recognizance, obligation, stipulation or undertaking; it being the true intent and meaning of this act to enable corporations created for the purpose to execute and become surety on bonds, recognizances, obligations, stipulations or undertakings required or permitted by law, State or municipal, or otherwise, or by the rules or regulations of any court, judge, officer, board, city charter, village, town organization or otherwise.

Duty of In-  
surance Com-  
missioner.

SEC. 5. The Insurance Commissioner must cause every corporation before engaging in business in this State as a surety or guaranty corporation under the provisions of this act, to file in his office as follows:

Articles of in-  
corporation.

*First.* If incorporated under the laws of this State, a copy of the articles of incorporation, or charter of the corporation, together with any amendments or alterations made therein;

Certified  
copy of char-  
ter.

*Second.* If incorporated under the laws of any other state or country a copy of its articles of incorporation, or charter, duly certified by the officer having the custody of such articles and such certificate to show that such cor-

poration is organized under the laws of such state or country, and that it is authorized to do business therein as a surety corporation;

*Third.* A certificate signed by the president of such corporation showing that said corporation has net assets, or paid up unimpaired capital, of not less than three hundred and fifty thousand (\$350,000) dollars. Amount of paid-up capital.

SEC. 6. The Insurance Commissioner shall issue to any surety corporation his certificate of authority to transact business in this State under the following conditions: When said corporation has complied with all the provisions of this act, and when he is satisfied that said corporation has net assets or paid up and unimpaired capital of not less than three hundred and fifty thousand (\$350,000) dollars. Issuance of certificate of authority.

SEC. 7. It shall be unlawful for any corporation to transact business as a surety corporation in this State, unless the corporation shall have complied with all the provisions of this act, and shall have obtained a certificate of authority from the Insurance Commissioner as herein provided. Unlawful to act without certificate of authority.

SEC. 8. If any such surety corporation, its agent, or attorney shall do business as such in this State without having complied with the provisions of this act, said corporation, its agents or attorneys so doing business shall be guilty of a misdemeanor and shall be subject to a fine of not less than one hundred dollars or more than five hundred dollars. Violation and penalty..

SEC. 9. Every certificate of authority granted pursuant to the provisions of this act, to a surety corporation to do business in this State, shall expire on the 31st day of December, after date of issue. If the Insurance Commissioner is not satisfied that the net assets or paid up unimpaired capital remain not less than three hundred and fifty thousand (\$350,000) dollars, and that said corporation may be safely entrusted with the continuance of its authority to do business in this State, he shall revoke its certificate of authority. Expiration of certificate —revocation of—when.

SEC. 10. Every such corporation organized outside of this State, shall constitute and appoint an agent who shall reside in this State, to be designated as hereinafter required. Such appointment shall be in writing, signed by the president or chief officer of such corporation, and shall be at- Appointment of agent by foreign companies.

tested by its corporate seal, and shall contain the name of the agent and his place of residence, in this State, and shall authorize such agent to accept service of process in any action or suit pertaining to the property, business or transactions of such corporation within this State, in which such corporation may be a party, the signature of such president or chief officer attested by the corporate seal to such written appointment, shall be sufficient proof of the appointment of such agent. Such appointment, when duly executed, shall be filed for record in the office of the Insurance Commissioner by such corporation, and shall be there recorded, and such corporation shall have and keep continually some resident agent, empowered as aforesaid, during all the time such corporation shall conduct or carry on any business within this State, and service of any process, pleading, notice or other paper on such agent shall be taken and held as due service on such corporation. If any attorney of any surety corporation, appointed under the provisions of this act, shall remove from the State, or become disqualified in any manner from accepting service, valid service may be made on such corporation by service upon the Insurance Commissioner: *Provided*, That in such case the Insurance Commissioner shall immediately notify such corporation, and the principal agent for the Pacific Coast, inclosing a copy of such service by mail, post paid: *And, provided further*, That in such case no proceeding shall be had within forty days after such service on the Insurance Commissioner. Such corporation may change its agent from time to time by filing and recording with the Insurance Commissioner a new appointment, stating the change of such agent.

Filing with  
Insurance  
Commissioner.

Service upon  
Insurance  
Commissioner  
deemed  
valid.

Proceedings.

Change of  
agents.

SEC. 11. The Insurance Commissioner of the State shall require in advance the following fees:

*First.* For filing articles of incorporation or certified copies of articles, by-laws or other certificates required to be filed in his office, \$25; issuing certificates of authority to do business, \$10. For each renewal certificate of authority, \$10. The said Insurance Commissioner shall also require, and it shall be the duty of all corporations herein provided for, and doing business in this State, or that may hereafter do business in this State, to file with the Insurance Commissioner annually on or before the 15th day

Fees of In-  
surance Com-  
missioner.

of February in each year, a statement under oath stating the amount of all premiums received by said corporations, during the year ending December 31st preceding, in this State, and the amounts actually paid under the obligations of such bonds, recognizances, stipulations, obligations and undertakings during the same time, and shall pay into the State Treasury through the Insurance Commissioner a tax of two per cent. on all such premiums collected, less the amount of losses actually paid, as hereinbefore stated. Said tax shall be due and payable on the first day of March succeeding the filing of the statement provided for herein. Any corporation failing or refusing to render such statement and to pay the required two per cent. tax on premiums for more than thirty days after the time hereinabove specified, shall be liable to a fine of \$2 for each additional day of delinquency. And the tax may be collected by distraint; and the fine recovered by an action to be instituted by the Insurance Commissioner in the name of the State in any court of competent jurisdiction; and the Insurance Commissioner shall revoke and annul the certificate of authority of said delinquent organization until such taxes and fine are fully paid, and notice thereof given to the said Insurance Commissioner. And it shall be unlawful for any such corporation to transact any business whatever in this State until such taxes are fully paid; and while such tax remains unpaid any such delinquent corporation is hereby prohibited from transacting any business whatever in this State.

SEC. 12. When the license of authority of any surety corporation doing business in this State has been revoked by the Insurance Commissioner, the same shall be published four times in some newspaper of general circulation published in this State.

SEC. 13. That if any such company shall neglect or refuse to pay any final judgment or decree rendered against it upon any such recognizance, stipulation, bond or undertaking made or guaranteed by it under the provisions of this act, from which no appeal has been taken for three months after the rendition of such judgment or decree, it shall forfeit all right to do business under this act.

SEC. 14. Every corporation doing business in this State or which shall hereafter do business in this State under the

Annual statement—what to show.

Two per cent. tax—when due.

Collection of 2 per cent. tax.

Unlawful to transact business.

Publication of revocation of license.

Forfeiture of rights.

Amenable to insurance laws.

provisions of this act shall be deemed and taken to be an insurance company and shall be subject to the insurance laws of the State so far as the same are applicable.

Repeal. SEC. 15. That an act of the legislature of the State of Washington entitled "An act relative to recognizances, stipulations, bonds and undertakings, and to allow certain corporations to be accepted as surety thereon, and to provide for the payment of the charges of such suretyship on the same as part of the lawful expense and costs of the principal or principals on the same, and repealing an act of the legislature of the State of Washington entitled 'An act relating to official bonds of State, county, city, town and precinct officers,' approved March 20, 1895, and all other inconsistent acts, and declaring an emergency," approved March 17, 1897, and all acts and parts of acts inconsistent with the provisions of this act are hereby repealed: *Provided*, That nothing in this act affects bonds heretofore given.

Emergency. SEC. 16. Whereas, existing laws of this State relating to sureties on bonds, recognizances, obligations, stipulations and undertakings are defective and insufficient, an emergency is hereby declared to exist, and therefore this act shall take effect and be in force from and after its passage and approval by the Governor.

Passed the House February 27, 1903.

Passed the Senate March 10, 1903.

Approved by the Governor March 14, 1903.