

**40-2004. Attorney fees.** In any action in which any judgment is rendered 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 it appears from the evidence that such insurer has refused to pay such loss, the court in rendering such judgment shall allow the plaintiff a reasonable sum as an attorney's fee to be recovered and collected as part of its costs: Provided, however, That when a tender is made by such insurer before the commencement of the action in which judgment is rendered and the amount recovered is not in excess of such tender, no such costs shall be allowed.

**History:** L. 1949, ch. 283, § 4; June 30.