S T A T E O F N E W Y O R K

5533

2011-2012 Regular Sessions

I N S E N A T E

May 31, 2011

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the business corporation law, the executive law, the general associations law, the limited liability company law, the not-for-profit corporation law, the partnership law, and the real property law, in relation to service of process

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 1 of subdivision b of section 306 of the business corporation law, as amended by chapter 419 of the laws of 1990, is amended to read as follows:

(1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation shall be made by personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 2. The opening paragraph of subparagraph 2 of paragraph (e) of section 306-A of the business corporation law, as added by chapter 469 of the laws of 1997, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

S 3. The opening paragraph of paragraph (b) of section 307 of the business corporation law is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

S 4. Subdivision 2 of section 172-c of the executive law, as amended by chapter 43 of the laws of 2002, is amended to read as follows:

2. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or any person authorized by the secretary of state to accept such service a copy thereof at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general or any other party to such charitable organization by certified mail with return receipt requested, at its office as set forth in the registration form required to be filed with the attorney general pursuant to section one hundred seventy-two of this article, or in default of the filing of such form, at the last address known to the attorney general or any other party. Service of such process shall be complete upon the receipt by the attorney general or any other party of a return receipt purporting to be signed by the addressee or a person qualified to receive its certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or its agent, ten days after the return to the attorney general or any other party of a notation by the postal authorities that receipt thereof was refused.

S 5. Section 19 of the general associations law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

S 19. Service of process. Service of process against an association upon the secretary of state shall be made by personally delivering to and leaving with him or a deputy secretary of state or an associate attorney, senior attorney or attorney in the corporation division of the department of state, duplicate copies of such process at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES. At the time of such service the plaintiff shall pay a fee of forty dollars to the secretary of state which shall be a taxable disbursement. If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service

of such process. The secretary of state shall forthwith send by registered mail one of such copies to the association at the address fixed for that purpose, as herein provided. If the action or proceeding is instituted in a court of limited jurisdiction, service of process may be made in the manner provided in this section if the cause of action arose within the territorial jurisdiction of the court and the office of the defendant, as set forth in its statement filed pursuant to section eighteen of this chapter, is within such territorial jurisdiction.

S 6. The opening paragraph of paragraph 2 of subdivision (e) of section 301-A of the limited liability company law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

S 7. Subdivision (a) of section 303 of the limited liability company law, as relettered by chapter 341 of the laws of 1999, is amended to read as follows:

(a) Service of process on the secretary of state as agent of a domestic limited liability company or authorized foreign limited liability company shall be made by personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such limited liability company shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such limited liability company at the post office address on file in the department of state specified for that purpose.

S 8. Subdivision (b) of section 304 of the limited liability company law is amended to read as follows:

(b) Service of such process upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement.

S 9. Paragraph (b) of section 306 of the not-for-profit corporation law, as amended by chapter 168 of the laws of 1982, is amended to read as follows:

(b) Service of process on the secretary of state as agent of a domestic corporation formed under article four of this chapter or an authorized foreign corporation shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of

state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic corporation formed under article four of this chapter or an authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy to such corporation at the address of its office within this state on file in the department.

S 10. The opening paragraph of paragraph (b) of section 307 of the not-for-profit corporation law is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

S 11. The opening paragraph of paragraph 2 of subdivision (e) of section 121-104-A of the partnership law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

S 12. Paragraph 1 of subdivision (a) of section 121-109 of the partnership law, as added by chapter 950 of the laws of 1990 and such subdivision as relettered by chapter 341 of the laws of 1999, is amended to read as follows:

(1) By personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement.

S 13. The opening paragraph of subdivision (b) of section 121-109 of the partnership law, as added by chapter 950 of the laws of 1990 and as relettered by chapter 341 of the laws of 1999, is amended to read as follows:

In any case in which a non-domiciliary would be subject to the personal or other jurisdiction of the courts of this state under article three of the civil practice law and rules, a foreign limited partnership not authorized to do business in this state is subject to a like jurisdiction. In any such case, process against such foreign limited partnership may be served upon the secretary of state as its agent. Such process may issue in any court in this state having jurisdiction of the subject matter. Service of process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, a copy of such process together with the statutory fee, which fee shall be a taxable

disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

S 14. Subdivision (a) of section 121-1505 of the partnership law, as added by chapter 470 of the laws of 1997, is amended to read as follows:

(a) Service of process on the secretary of state as agent of a registered limited liability partnership under this article shall be made by personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such registered limited liability partnership shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such registered limited liability partnership, at the post office address on file in the department of state specified for such purpose.

S 15. The opening paragraph of paragraph 2 of subdivision (f) of section 121-1506 of the partnership law, as added by chapter 448 of the laws of 1998, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

S 16. Subdivision 7 of section 339-n of the real property law, as amended by chapter 346 of the laws of 1997, is amended to read as follows:

7. A designation of the secretary of state as agent of the corporation or board of managers upon whom process against it may be served. Service of process on the secretary of state as agent of such corporation or board of managers shall be made personally delivering to and leaving with him or her or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY ESTABLISHED OFFICES, duplicate copies of such process together with the statutory fee, which shall be a taxable disbursement. Service of process on such corporation or board of managers shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation or board of managers, at the post office address, on file in the department of state, specified for such purpose. Nothing in this subdivision shall affect the right to serve process in any other manner permitted by law. The corporation or board of managers shall also file with the secretary of state the name and post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon the secretary of state and shall update the filing as necessary.

S 17. This act shall take effect immediately.