

2840

2009-2010 Regular Sessions

I N S E N A T E

March 4, 2009

Introduced by Sens. STACHOWSKI, VOLKER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to service of process on certain property owners who reside outside of the state

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

1 Section 1. Subdivision 3 of section 308 of the civil practice law and  
2 rules, as amended by chapter 765 of the laws of 1974, is amended to read  
3 as follows:

4 3. by delivering the summons within the state to the agent for service  
5 of the person to be served as designated under rule 318, except in: A.  
6 matrimonial actions where service hereunder may be made pursuant to an  
7 order made in accordance with the provisions of subdivision a of section  
8 two hundred thirty-two of the domestic relations law; OR

9 B. BUSINESS ACTIONS, COMMENCED WITHIN ANY CITY WITH A POPULATION OF  
10 MORE THAN TWO HUNDRED NINETY THOUSAND BUT LESS THAN THREE HUNDRED THOU-  
11 SAND ACCORDING TO THE TWO THOUSAND FEDERAL CENSUS, WHERE A NATURAL  
12 PERSON WHO IS A REAL PROPERTY OWNER, RESIDES OUTSIDE OF THE STATE AND  
13 WHO OWNS MORE THAN ONE RESIDENTIAL PROPERTY WITHIN SUCH CITY, HAS DESIG-  
14 NATED THE SECRETARY OF STATE TO RECEIVE SUCH PROCESS PURSUANT TO SECTION  
15 THREE HUNDRED EIGHT-A OF THIS ARTICLE;

16 S 2. The civil practice law and rules is amended by adding a new  
17 section 308-a to read as follows:

18 S 308-A. PERSONAL SERVICE UPON A PROPERTY OWNER WHO RESIDES OUTSIDE OF  
19 THE STATE; WITHIN CERTAIN CITIES. 1. THE SECRETARY OF STATE SHALL BE THE  
20 AGENT OF EVERY NATURAL PERSON WHO IS A PROPERTY OWNER, WITHIN A CITY  
21 WITH A POPULATION OF MORE THAN TWO HUNDRED NINETY THOUSAND BUT LESS THAN  
22 THREE HUNDRED THOUSAND ACCORDING TO THE TWO THOUSAND FEDERAL CENSUS,  
23 UPON WHOM PROCESS AGAINST SUCH PERSON MAY BE SERVED.

24 2. NO DEED FROM A NATURAL PERSON WHO IS A PROPERTY OWNER SHALL BE  
25 RECORDED, WITHIN A CITY WITH A POPULATION OF MORE THAN TWO HUNDRED NINE-

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

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1 TY THOUSAND BUT LESS THAN THREE HUNDRED THOUSAND ACCORDING TO THE TWO  
2 THOUSAND FEDERAL CENSUS, WITHOUT VERIFIED PROOF THAT SUCH PROPERTY OWNER  
3 SEEKING TO RECORD OWNERSHIP HAS DESIGNATED THE SECRETARY OF STATE AS THE  
4 AGENT UPON WHOM PROCESS AGAINST SUCH PERSON MAY BE SERVED, IN A FORM TO  
5 BE PROVIDED BY THE SECRETARY OF STATE.

6 3. ANY DESIGNATION BY A PERSON OF THE SECRETARY OF STATE AS SUCH  
7 AGENT, WHICH DESIGNATION IS IN EFFECT ON THE EFFECTIVE DATE OF THIS  
8 SECTION, SHALL CONTINUE. ANY SUCH PERSON WHO IS A PROPERTY OWNER WHO HAS  
9 NOT DESIGNATED THE SECRETARY OF STATE AS SUCH AGENT SHALL BE DEEMED TO  
10 HAVE DONE SO. ANY DESIGNATION MADE PRIOR TO THE EFFECTIVE DATE OF THIS  
11 SECTION, BY SUCH PERSON OF AN AGENT OTHER THAN THE SECRETARY OF STATE,  
12 SHALL TERMINATE UPON THE EFFECTIVE DATE OF THIS SECTION.

13 4. ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE  
14 SHALL MAIL A COPY OF PROCESS SERVED UPON HIM OR HER AS AGENT OF SUCH  
15 PERSON SHALL CONTINUE UNTIL SUCH PERSON FILES A FORM PROVIDED BY THE  
16 SECRETARY OF STATE WHICH DIRECTS THE MAILING TO A DIFFERENT POST OFFICE  
17 ADDRESS.

18 5. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT TO SERVE PROCESS IN  
19 ANY OTHER MANNER PERMITTED BY LAW.

20 6. FOR PURPOSES OF THIS SECTION, "PROPERTY OWNER" SHALL MEAN A NATURAL  
21 PERSON WHO OWNS MORE THAN ONE PARCEL OF RESIDENTIAL REAL PROPERTY WITHIN  
22 A CITY WITH A POPULATION OF MORE THAN TWO HUNDRED NINETY THOUSAND BUT  
23 LESS THAN THREE HUNDRED THOUSAND ACCORDING TO THE TWO THOUSAND FEDERAL  
24 CENSUS AND RESIDES OUTSIDE THE STATE.

25 S 3. The civil practice law and rules is amended by adding a new  
26 section 311-b to read as follows:

27 S 311-B. PERSONAL SERVICE UPON PROPERTY OWNERS WHO ARE NON-DOMICILIAR-  
28 IES OR UNAUTHORIZED FOREIGN CORPORATIONS; WITHIN CERTAIN CITIES. 1. THE  
29 SECRETARY OF STATE SHALL BE THE AGENT OF EVERY NON-DOMICILIARY OR  
30 FOREIGN CORPORATION NOT AUTHORIZED TO DO BUSINESS WITHIN THIS STATE, WHO  
31 IS A PROPERTY OWNER, WITHIN A CITY WITH A POPULATION OF MORE THAN TWO  
32 HUNDRED NINETY THOUSAND BUT LESS THAN THREE HUNDRED THOUSAND ACCORDING  
33 TO THE TWO THOUSAND FEDERAL CENSUS, UPON WHOM PROCESS AGAINST SUCH  
34 PERSON OR CORPORATION MAY BE SERVED.

35 2. NO DEED FROM A NON-DOMICILIARY OR FOREIGN CORPORATION NOT AUTHOR-  
36 IZED TO DO BUSINESS WITHIN THIS STATE, WHO IS A PROPERTY OWNER SHALL BE  
37 RECORDED, WITHIN A CITY WITH A POPULATION OF MORE THAN TWO HUNDRED NINE-  
38 TY THOUSAND BUT LESS THAN THREE HUNDRED THOUSAND ACCORDING TO THE TWO  
39 THOUSAND FEDERAL CENSUS, WITHOUT VERIFIED PROOF THAT SUCH PROPERTY OWNER  
40 SEEKING TO RECORD OWNERSHIP HAS DESIGNATED THE SECRETARY OF STATE AS THE  
41 AGENT UPON WHOM PROCESS AGAINST SUCH PERSON MAY BE SERVED, IN A FORM TO  
42 BE PROVIDED BY THE SECRETARY OF STATE.

43 3. ANY DESIGNATION BY A NON-DOMICILIARY OR FOREIGN CORPORATION NOT  
44 AUTHORIZED TO DO BUSINESS WITHIN THIS STATE, OF THE SECRETARY OF STATE  
45 AS SUCH AGENT, WHICH DESIGNATION IS IN EFFECT ON THE EFFECTIVE DATE OF  
46 THIS SECTION, SHALL CONTINUE. ANY SUCH NON-DOMICILIARY OR FOREIGN CORPO-  
47 RATION NOT AUTHORIZED TO DO BUSINESS WITHIN THIS STATE WHO IS A PROPERTY  
48 OWNER WHO HAS NOT DESIGNATED THE SECRETARY OF STATE AS SUCH AGENT SHALL  
49 BE DEEMED TO HAVE DONE SO. ANY DESIGNATION MADE PRIOR TO THE EFFECTIVE  
50 DATE OF THIS SECTION, BY SUCH NON-DOMICILIARY OR FOREIGN CORPORATION NOT  
51 AUTHORIZED TO DO BUSINESS WITHIN THIS STATE, OF AN AGENT OTHER THAN THE  
52 SECRETARY OF STATE, SHALL TERMINATE UPON THE EFFECTIVE DATE OF THIS  
53 SECTION.

54 4. ANY DESIGNATED POST OFFICE ADDRESS TO WHICH THE SECRETARY OF STATE  
55 SHALL MAIL A COPY OF PROCESS SERVED UPON HIM OR HER AS AGENT OF SUCH  
56 NON-DOMICILIARY OR FOREIGN CORPORATION NOT AUTHORIZED TO DO BUSINESS

1 WITHIN THIS STATE SHALL CONTINUE UNTIL SUCH PERSON FILES A FORM PROVIDED  
2 BY THE SECRETARY OF STATE WHICH DIRECTS THE MAILING TO A DIFFERENT POST  
3 OFFICE ADDRESS.

4 5. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT TO SERVE PROCESS IN  
5 ANY OTHER MANNER PERMITTED BY LAW.

6 6. FOR PURPOSES OF THIS SECTION, "PROPERTY OWNER" SHALL MEAN A  
7 NON-DOMICILIARY OR FOREIGN CORPORATION NOT AUTHORIZED TO DO BUSINESS  
8 WITHIN THIS STATE, WHO OWNS MORE THAN ONE PARCEL OF RESIDENTIAL REAL  
9 PROPERTY WITHIN A CITY WITH A POPULATION OF MORE THAN TWO HUNDRED NINETY  
10 THOUSAND BUT LESS THAN THREE HUNDRED THOUSAND ACCORDING TO THE TWO THOU-  
11 SAND FEDERAL CENSUS AND RESIDES OUTSIDE THE STATE.

12 S 4. This act shall take effect on the one hundred eightieth day after  
13 it shall have become a law; provided, however that effective immediate-  
14 ly, the addition, amendment and/or repeal of any rule or regulation  
15 necessary for the implementation of this act on its effective date are  
16 authorized and directed to be made on or before such date.