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

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:

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

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

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

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

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

2. NO DEED FROM A NATURAL PERSON WHO IS A PROPERTY OWNER SHALL BE 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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TY THOUSAND BUT LESS THAN THREE HUNDRED THOUSAND ACCORDING TO THE TWO THOUSAND FEDERAL CENSUS, WITHOUT VERIFIED PROOF THAT SUCH PROPERTY OWNER SEEKING TO RECORD OWNERSHIP HAS DESIGNATED THE SECRETARY OF STATE AS THE AGENT UPON WHOM PROCESS AGAINST SUCH PERSON MAY BE SERVED, IN A FORM TO BE PROVIDED BY THE SECRETARY OF STATE.

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

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

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

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

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

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

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

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

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

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

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

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

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