

8455

2011-2012 Regular Sessions

I N   A S S E M B L Y

June 16, 2011

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Introduced by M. of A. WEINSTEIN -- read once and referred to the  
Committee on Judiciary

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph 1 of subdivision b of section 306 of the busi-  
2     ness corporation law, as amended by chapter 419 of the laws of 1990, is  
3     amended to read as follows:  
4     (1) Service of process on the secretary of state as agent of a domes-  
5     tic or authorized foreign corporation shall be made by personally deliv-  
6     ering to and leaving with the secretary of state or a deputy, or with  
7     any person authorized by the secretary of state to receive such service,  
8     at the office of the department of state in the city of Albany OR AT ONE  
9     OF HIS OR HER REGULARLY ESTABLISHED OFFICES, duplicate copies of such  
10    process together with the statutory fee, which fee shall be a taxable  
11    disbursement. Service of process on such corporation shall be complete  
12    when the secretary of state is so served. The secretary of state shall  
13    promptly send one of such copies by certified mail, return receipt  
14    requested, to such corporation, at the post office address, on file in  
15    the department of state, specified for the purpose. If a domestic or  
16    authorized foreign corporation has no such address on file in the  
17    department of state, the secretary of state shall so mail such copy, in  
18    the case of a domestic corporation, in care of any director named in its  
19    certificate of incorporation at the director's address stated therein  
20    or, in the case of an authorized foreign corporation, to such corpo-  
21    ration at the address of its office within this state on file in the  
22    department.

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

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

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

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

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

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

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

44 S 5. Section 19 of the general associations law, as amended by chapter  
45 166 of the laws of 1991, is amended to read as follows:

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

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

9 S 6. The opening paragraph of paragraph 2 of subdivision (e) of  
10 section 301-A of the limited liability company law, as added by chapter  
11 448 of the laws of 1998, is amended to read as follows:

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

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

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

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

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

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

48 (b) Service of process on the secretary of state as agent of a domes-  
49 tic corporation formed under article four of this chapter or an author-  
50 ized foreign corporation shall be made by personally delivering to and  
51 leaving with him or his deputy, or with any person authorized by the  
52 secretary of state to receive such service, at the office of the depart-  
53 ment of state in the city of Albany OR AT ONE OF HIS OR HER REGULARLY  
54 ESTABLISHED OFFICES, duplicate copies of such process together with the  
55 statutory fee, which fee shall be a taxable disbursement. Service of  
56 process on such corporation shall be complete when the secretary of

1 state is so served. The secretary of state shall promptly send one of  
2 such copies by certified mail, return receipt requested, to such corpo-  
3 ration, at the post office address, on file in the department of state,  
4 specified for the purpose. If a domestic corporation formed under arti-  
5 cle four of this chapter or an authorized foreign corporation has no  
6 such address on file in the department of state, the secretary of state  
7 shall so mail such copy to such corporation at the address of its office  
8 within this state on file in the department.

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

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

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

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

30 S 12. Paragraph 1 of subdivision (a) of section 121-109 of the part-  
31 nership law, as added by chapter 950 of the laws of 1990 and such subdi-  
32 vision as relettered by chapter 341 of the laws of 1999, is amended to  
33 read as follows:

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

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

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

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

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

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

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

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

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

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

52 S 17. This act shall take effect immediately.