

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:

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.