

4916

2015-2016 Regular Sessions

I N S E N A T E

April 23, 2015

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to process server records

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

1 Section 1. Section 89-bb of the general business law is amended by
2 adding a new subdivision 3 to read as follows:

3 3. A "THIRD PARTY CONTRACTOR" IS AN INDEPENDENT THIRD PARTY WHO
4 PROVIDES SERVICES AND PERFORMS FUNCTIONS DESCRIBED IN SUBDIVISION ONE OF
5 SECTION EIGHTY-NINE-CC OF THIS ARTICLE FOR THE PURPOSE OF MEETING THE
6 DATA STORAGE AND RETRIEVAL REQUIREMENTS SET FORTH THEREIN. FOR PURPOSES
7 OF THIS ARTICLE, A THIRD PARTY WILL NOT BE CONSIDERED INDEPENDENT IF A
8 PROCESS SERVER, OR ANY OFFICER THAT HAS TEN PERCENT OR MORE OF THE
9 SHARES OF A PROCESS SERVING AGENCY, HAS ANY INTEREST, DIRECT OR INDI-
10 RECT, IN SUCH THIRD PARTY.

11 S 2. Subdivision 1 of section 89-cc of the general business law, as
12 added by chapter 340 of the laws of 1986, is amended to read as follows:

13 1. Each process server shall maintain a legible record of all service
14 made by him as prescribed in this section. [Such records shall be kept
15 in chronological order in a bound, paginated volume. Corrections in
16 records shall be made only by drawing a straight line through the inac-
17 curate entry and clearly printing the accurate information directly
18 above the inaccurate entry. All other methods of correction, including
19 but not limited to erasing, opaquing, obliterating or redacting, are
20 prohibited.] THE PROCESS SERVER SHALL PRESERVE SUCH RECORD BY SUBMITTING
21 RECORDED ENTRIES TO A THIRD PARTY CONTRACTOR WITHIN THREE DAYS OF
22 SERVICE OR ATTEMPTED SERVICE, PROVIDED, HOWEVER THAT PERMISSIONS
23 PERTAINING TO SUCH DATA WILL BE SECURED SO THAT THE DATA CANNOT BE
24 DELETED UPON SUBMISSION. RECORDS SHALL BE REPORTED IN CHRONOLOGICAL
25 ORDER. IT SHALL BE UNLAWFUL FOR ANY PROCESS SERVER TO TAMPER WITH DATA

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

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1 OR PROPERTIES OF ANY ELECTRONIC RECORD KEPT PURSUANT TO THIS SECTION
2 AFTER AN IMAGE FILE IS MADE BY MODIFYING, AMENDING, DELETING, REARRANG-
3 ING OR IN ANY OTHER WAY ALTERING ANY SUCH DATA OR PROPERTIES INCLUDING,
4 BUT NOT LIMITED TO, USING A META DATA SCRUBBER OR SIMILAR DEVICE OR
5 PROGRAM. IF A TYPOGRAPHICAL ERROR HAS OCCURRED OR IF DATA CONTAINED IN
6 THE PROCESS SERVER'S RECORD WAS ACCIDENTALLY OMITTED FROM THE ELECTRONIC
7 DATA ENTRY, THE THIRD PARTY CONTRACTOR MAY MAKE AN AMENDMENT IN WHICH
8 THE ORIGINAL RECORD SHALL BE IDENTIFIED BY ENTERING IT IN ITALICS. ALL
9 THIRD PARTY CONTRACTORS MUST MAINTAIN A DAILY BACKUP OF ALL SUBMITTED
10 DATA, AND ALL DATA MUST BE AVAILABLE FOR REVIEW UPON REQUEST OF ANY AND
11 ALL INTERESTED PARTIES.

12 S 3. This act shall take effect on the thirtieth day after it shall
13 have become a law.