STATE OF NEW YORK

3300

2019-2020 Regular Sessions

IN ASSEMBLY

January 29, 2019

Introduced by M. of A. DINOWITZ -- 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, the tax law, the administrative code of the city of New York, the real property law, the general business law, the navigation law, and the vehicle and traffic law, in relation to expanding service of process to the department of state in the city of New York

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph 1 of subdivision (b) of section 306 of the business corporation law, as amended by chapter 419 of the laws of 1990, is amended to read as follows:

(1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation shall be made by personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corpo-

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

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ration, to such corporation at the address of its office within this state on file in the department.

§ 2. The executive law is amended by adding a new section 92-a to read as follows:

§ 92-a. Service of process. In any case in which service of process on the secretary of state as agent or attorney of an organization, association, partnership, corporation, company, trust or other person or entity is authorized by law at the office of the department of state in the city of Albany, service of process on the secretary of state may be made by personal delivery to the secretary of state or a deputy, or any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of New York. The secretary of state shall so authorize appropriate persons at such office.

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

2. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or any person authorized by the secretary of state to accept such service a copy thereof at the office of the department of state in **either** the city of Albany **or New York**, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general or any other party to such charitable organization by certified mail with return receipt requested, at its office as set forth in the registration form required to be filed with the attorney general pursuant to section one hundred seventy-two of this article, or in default of the filing of such form, at the last address known to the attorney general or any other party. Service of such process shall be complete upon the receipt by the attorney general or any other party of a return receipt purporting to be signed by the addressee or a person qualified to receive its certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or its agent, ten days after the return to the attorney general or any other party of a notation by the postal authorities that receipt thereof was refused.

§ 4. Subdivision 2 of section 173-c of the executive law, as amended by chapter 43 of the laws of 2002, is amended to read as follows:

2. Service of such process or notice upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or any person authorized by the secretary of state to accept such service a copy thereof at the office of the department of state in **either** the city of Albany **or New York**, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general or other party as the case may be to such professional fund raiser, fund raising counsel, professional solicitor or commercial co-venturer by certified mail with return receipt requested, at the office address as set forth in the registration form required to be filed with the attorney general pursuant to sections one hundred seventy-three and one hundred seventy-three-b of this article, or in default of the filing of such form, at the last address known to the attorney general or other party. Service of such process shall be complete ten days after the receipt by the attorney general or other party of a return receipt purporting to be signed by the addressee or a person qualified to receive the addressee's certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or the

agent, ten days after the return to the attorney general or other party of the original envelope bearing a notation by the postal authorities that receipt thereof was refused.

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

§ 19. Service of process. Service of process against an association upon the secretary of state shall be made by personally delivering to and leaving with him or a deputy secretary of state or an associate attorney, senior attorney or attorney in the corporation division of the department of state, duplicate copies of such process at the office of the department of state in **either** the city of Albany **or New York**. At the time of such service the plaintiff shall pay a fee of forty dollars to the secretary of state which shall be a taxable disbursement. If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service of such process. The secretary of state shall forthwith send by registered mail one of such copies to the association at the address fixed for that purpose, as herein provided. If the action or proceeding is instituted in a court of limited jurisdiction, service of process may be made in the manner provided in this section if the cause of action arose within the territorial jurisdiction of the court and the office of the defendant, as set forth in its statement filed pursuant to section eighteen of this [~~chapter~~] **article**, is within such territorial jurisdiction.

§ 6. Subdivision (b) of section 304 of the limited liability company law is amended to read as follows:

(b) Service of such process upon the secretary of state shall be made by personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement.

§ 7. Paragraph (b) of section 306 of the not-for-profit corporation law, as amended by chapter 23 of the laws of 2014, is amended to read as follows:

(b) Service of process on the secretary of state as agent of a domestic corporation formed under article four of this chapter or an authorized foreign corporation shall be made by personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic corporation formed under article four of this chapter or an authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy to such corporation at the address of its office within this state on file in the department.

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

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 9. Paragraph 1 of subdivision (a) of section 121-109 of the partnership law, as added by chapter 950 of the laws of 1990, such subdivision as relettered by chapter 341 of the laws of 1999, is amended to read as follows:

(1) By personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement.

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

(a) Service of process on the secretary of state as agent of a registered limited liability partnership under this article shall be made by personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such registered limited liability partnership shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such registered limited liability partnership, at the post office address on file in the department of state specified for such purpose.

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

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 12. Subdivision 2 of section 203 of the tax law, as amended by chapter 100 of the laws of 1964, is amended to read as follows:

2. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon him. In case any such corporation shall have failed to file such

certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon him to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon him to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 13. Section 216 of the tax law, as added by chapter 415 of the laws of 1944, the opening paragraph as amended by chapter 100 of the laws of 1964 and redesignated by chapter 613 of the laws of 1976, is amended to read as follows:

§ 216. Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this article, except a corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this article may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon him. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have desig-

nated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon him to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon him to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 14. Subdivision (b) of section 310 of the tax law, as added by chapter 400 of the laws of 1983, is amended to read as follows:

(b) Service of process.--Service of process upon any petroleum business which is a corporation (including any such petroleum business having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law), in any action commenced at any time pursuant to the provisions of this article, may be made by either (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to such petroleum business at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of

the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such petroleum business, or the officer performing corresponding functions under another name, or a director or managing agent of such petroleum business, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 15. Subdivision 5 of section 511 of the tax law, as amended by section 7 of part E of chapter 60 of the laws of 2007, is amended to read as follows:

5. The operation by a nonresident of a vehicular unit in this state or the operation in this state of a motor vehicle, trailer, semi-trailer, dolly or other device owned by a nonresident shall be deemed equivalent to an appointment by such nonresident of the secretary of state to be his true and lawful attorney upon whom may be served the process in any action or proceeding against him growing out of any liability for fees, taxes, penalties or interest under this article and such operation shall be deemed a signification of his agreement that any such process against him which is so served shall be of the same legal force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the process issues. Service of process shall be made by either (1) personally delivering to and leaving with the secretary of state or a deputy secretary of state duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail one of such copies to the person at the address designated by him in his application for a certificate of registration under this article or in the last return filed by him under this article or as shown on the records of the commissioner, or if no application has been filed, at his last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state or a deputy secretary of state a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to the person, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the process is pending within thirty days after such service and such service shall be complete ten days after proof thereof is filed.

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

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 17. Subdivision (a) of section 303 of the limited liability company law, as relettered by chapter 341 of the laws of 1999, is amended to read as follows:

(a) Service of process on the secretary of state as agent of a domestic limited liability company or authorized foreign limited liability

company shall be made by personally delivering to and leaving with the secretary of state or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such limited liability company shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such limited liability company at the post office address on file in the department of state specified for that purpose.

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

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 19. The opening paragraph of paragraph 2 of subdivision (e) of section 306-a of the business corporation law, as added by chapter 469 of the laws of 1997, is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 20. The opening paragraph of subdivision (b) of section 307 of the business corporation law is amended to read as follows:

Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, a copy of such process together with the statutory fee, which fee shall be a taxable disbursement. Such service shall be sufficient if notice thereof and a copy of the process are:

§ 21. Section 11-609 of the administrative code of the city of New York is amended to read as follows:

§ 11-609 Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this subchapter, except a corporation having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this subchapter may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon the secretary of state. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation

shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon him or her to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon the secretary of state to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority under **former** section two hundred twelve of the general corporation law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this subchapter, may be made by either: (a) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (b) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 22. Section 11-659 of the administrative code of the city of New York, as added by section 1 of part D of chapter 60 of the laws of 2015, is amended to read as follows:

§ 11-659 Collection of taxes. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this subchapter, except a corporation having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or a vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this subchapter may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon the secretary of state. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon him or her

to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail copies of process thereafter served upon the secretary of state to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having a certificate of authority under section eight hundred five of the limited liability company law or having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this subchapter, may be made by either: (a) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (b) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy thereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 23. Subdivision 1 of section 11-665 of the administrative code of the city of New York is amended to read as follows:

1. Every foreign corporation (other than a moneyed corporation) subject to the provisions of this subchapter, except a corporation having authority to do business by virtue of section thirteen hundred five of the business corporation law, shall file in the department of state a certificate of designation in its corporate name, signed and acknowledged by its president or vice-president or its secretary or treasurer, under its corporate seal, designating the secretary of state as its agent upon whom process in any action provided for by this subchapter or subchapter five of this chapter may be served within this state, and setting forth an address to which the secretary of state shall mail a copy of any such process against the corporation which may be served upon the secretary of state. In case any such corporation shall have failed to file such certificate of designation, it shall be deemed to have designated the secretary of state as its agent upon whom such process against it may be served; and until a certificate of designation shall have been filed the corporation shall be deemed to have directed the secretary of state to mail copies of process served upon the secretary of state to the corporation at its last known office address within or without the state. When a certificate of designation has been filed by such corporation the secretary of state shall mail

copies of process thereafter served upon the secretary of state to the address set forth in such certificate. Any such corporation, from time to time, may change the address to which the secretary of state is directed to mail copies of process, by filing a certificate to that effect executed, signed and acknowledged in like manner as a certificate of designation as herein provided. Service of process upon any such corporation or upon any corporation having authority to do business by virtue of section thirteen hundred five of the business corporation law, in any action commenced at any time pursuant to the provisions of this subchapter five or **former** subchapter six of this chapter may be made by either: (1) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service duplicate copies thereof at the office of the department of state in **either** the city of Albany **or New York**, in which event the secretary of state shall forthwith send by registered mail, return receipt requested, one of such copies to the corporation at the address designated by it or at its last known office address within or without the state, or (2) personally delivering to and leaving with the secretary of state, a deputy secretary of state or with any person authorized by the secretary of state to receive such service, a copy thereof at the office of the department of state in **either** the city of Albany **or New York** and by delivering a copy hereof to, and leaving such copy with, the president, vice-president, secretary, assistant secretary, treasurer, assistant treasurer, or cashier of such corporation, or the officer performing corresponding functions under another name, or a director or managing agent of such corporation, personally without the state. Proof of such personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service, and such service shall be complete ten days after proof thereof is filed.

§ 24. Subdivision 7 of section 339-n of the real property law, as amended by chapter 346 of the laws of 1997, is amended to read as follows:

7. A designation of the secretary of state as agent of the corporation or board of managers upon whom process against it may be served. Service of process on the secretary of state as agent of such corporation or board of managers shall be made personally delivering to and leaving with him or her or his or her deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with the statutory fee, which shall be a taxable disbursement. Service of process on such corporation or board of managers shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation or board of managers, at the post office address, on file in the department of state, specified for such purpose. Nothing in this subdivision shall affect the right to serve process in any other manner permitted by law. The corporation or board of managers shall also file with the secretary of state the name and post office address within or without this state to which the secretary of state shall mail a copy of any process against it served upon the secretary of state and shall update the filing as necessary.

§ 25. Subdivision 3 of section 442-g of the real property law, as amended by chapter 482 of the laws of 1963, is amended to read as follows:

3. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or his deputy or with any person authorized by the secretary of state to receive such service, at the office of the department of state in **either** the city of Albany **or New York**, duplicate copies of such process together with a fee of five dollars if the action is solely for the recovery of a sum of money not in excess of two hundred dollars and the process is so endorsed, and a fee of ten dollars in any other action or proceeding, which fee shall be a taxable disbursement. If such process is served upon behalf of a county, city, town or village, or other political subdivision of the state, the fee to be paid to the secretary of state shall be five dollars, irrespective of the amount involved or the nature of the action on account of which such service of process is made. If the cost of registered mail for transmitting a copy of the process shall exceed two dollars, an additional fee equal to such excess shall be paid at the time of the service of such process. Proof of service shall be by affidavit of compliance with this subdivision filed by or on behalf of the plaintiff together with the process, within ten days after such service, with the clerk of the court in which the action or special proceeding is pending. Service made as provided in this section shall be complete ten days after such papers are filed with the clerk of the court and shall have the same force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the process issues.

§ 26. Subdivision 2 of section 250 of the general business law, as amended by chapter 103 of the laws of 1981, is amended to read as follows:

2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by mailing a copy thereof to the **office of the** secretary of state [~~at his office~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and such service shall be sufficient service upon such nonresident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his registered mail, in accordance with the rules and customs of the post office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by

the defendant or a person qualified to receive his registered mail; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the **office of the** secretary of state [~~**at his office**~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and by delivering a duplicate copy thereof, with a complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgments of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshal or deputy United States marshal. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The court in which the action is pending may order such extensions as may be necessary to afford the defendant reasonable opportunity to defend the action.

§ 27. Subdivision 2 of section 352-b of the general business law, as amended by chapter 252 of the laws of 1983, is amended to read as follows:

2. Service of such process upon the secretary of state shall be made by personally delivering to and leaving with him or a deputy secretary of state a copy thereof at the office of the department of state in **either** the city of Albany **or New York**, and such service shall be sufficient service provided that notice of such service and a copy of such process are forthwith sent by the attorney general to such person, partnership, corporation, company, trust or association, by registered or certified mail with return receipt requested, at his or its office as set forth in the "broker-dealer's statement", "salesman's statement" or "investment advisor's statement" filed in the department of law pursuant to section three hundred fifty-nine-e or section three hundred fifty-nine-eee of this article, or in default of the filing of such statement, at the last address known to the attorney general. Service of such process shall be complete on receipt by the attorney general of a return receipt purporting to be signed by the addressee or a person qualified to receive his or its registered or certified mail, in accordance with the rules and customs of the post office department, or, if acceptance was refused by the addressee or his or its agent, on return to the attorney general of the original envelope bearing a notation by the postal authorities that receipt thereof was refused.

§ 28. Subdivision 2 of section 48 of the navigation law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by mailing a copy thereof to the **office of the** secretary of state [~~**at his office**~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and such service shall be sufficient service upon such non-resident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the

plaintiff to the defendant by registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his registered mail, in accordance with the rules an customs of the post-office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post-office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete ten days after such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his registered mail; and the notation or refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the **office of the** secretary of state [~~**at this office**~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and by delivering a duplicate copy thereof, with the complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgements of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshal or deputy United States marshal. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete ten days after proof thereof is filed. The court in which the action is pending may order such extensions as may be necessary to afford the defendant reasonable opportunity to defend the action.

Nothing herein shall be construed as affecting other methods of service of process against non-residents as provided by law.

§ 29. Subdivision 2 of section 74 of the navigation law, as amended by chapter 395 of the laws of 1963, is amended to read as follows:

2. A summons and complaint in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons and complaint shall be made by mailing a copy thereof to the **office of the** secretary of state [~~**at his office**~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of five dollars, and such service shall be sufficient service upon such non-resident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by registered

mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his registered mail, in accordance with the rules and customs of the post office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post-office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his registered mail; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the **office of the** secretary of state [~~**at his office**~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of five dollars, and by delivering a duplicate copy thereof, with the complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgments of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshal or deputy United States marshal. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The court in which the action is pending may order such extension as may be necessary to afford the defendant reasonable opportunity to defend the action.

§ 30. Subdivision 2 of section 253 of the vehicle and traffic law, as amended by chapter 166 of the laws of 1991, is amended to read as follows:

2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by mailing a copy thereof to the **office of the** secretary of state [~~**at his office**~~] **either** in the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and such service shall be sufficient service upon such non-resident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by certified mail or registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of

such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his certified mail or registered mail, in accordance with the rules and customs of the post-office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail; or, if the registered or certified letter was returned to the post office unclaimed, the original envelope bearing a notation by the postal authorities of such mailing and return, an affidavit by or on behalf of the plaintiff that the summons was posted again by ordinary mail and proof of mailing certificate of ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post-office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his certified mail or registered mail; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the **office of the** secretary of state [~~at his office~~] in **either** the city of Albany **or New York**, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and by delivering a duplicate copy thereof with the complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, undersheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgements of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States [~~marshall~~] **marshal** or deputy United States [~~marshall~~] **marshal**. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The court in which the action is pending may order such extensions as may be necessary to afford the defendant reasonable opportunity to defend the action.

§ 31. This act shall take effect on the one hundred eightieth day after it shall have become a law.