

SENATE BILL NO. 263

BY SENATOR MARTINY AND REPRESENTATIVE HUNTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

AN ACT

To amend and reenact R.S. 9:3424(B), R.S. 13:3471(1)(c), R.S. 22:177(B), 335, and 442(B), and R.S. 45:200.8(B), relative to service of process; to provide for the manner in which the secretary of state effects service of process; to allow the secretary of state to obtain service of process by certified mail, and to remove the requirement that return receipt be requested; to provide for the secretary of state's service of process on a foreign corporation or foreign limited liability company; to provide for the secretary of state's service of process on an insurer's attorney-in-fact, on a foreign insurer and on an unauthorized insurer; to provide for the secretary of state's service of process on the owner of a public carrier vehicle; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:3424(B) is hereby amended and reenacted to read as follows:

§3424. Service of process

* * *

B. Failure to maintain a designated agent for service of process shall constitute appointment of the secretary of state of this state as the designated agent for service of process. Upon receipt of service of process the secretary of state shall ascertain the domiciliary post office address of the foreign partnership, and shall send the original papers served to the foreign partnership by registered or certified mail, ~~with return receipt requested~~, or by commercial courier as defined in R.S. 13:3204(D), when the person to be served is located outside of this state. The secretary of state shall retain in his office true copies of these papers, on which he

1 shall note the date, the manner and other particulars of the service, and of the
2 disposition made of the original papers.

3 Section 2. R.S. 13:3471(1)(c) is hereby amended and reenacted to read as follows:

4 §3471. Supplementary rules of service of process

5 The following rules supplement those governing the service of citation and
6 other legal process in a civil action or proceeding contained in the Code of Civil
7 Procedure:

8 (1)(a)

9 * * *

10 (c) The secretary of state shall ascertain the domiciliary post office address
11 of the corporation, or limited liability company and shall send the original papers
12 served to the corporation or limited liability company by registered **or certified** mail,
13 ~~with return receipt requested,~~ or by commercial courier as defined in R.S.
14 13:3204(D), when the corporation or person to be served is located outside of this
15 state. The secretary of state shall retain in his office true copies of these papers, on
16 which he shall note the date, the manner and other particulars of the service, and of
17 the disposition made of the original papers.

18 * * *

19 Section 3. R.S. 22:177(B), 335 and 442(B) are hereby amended and reenacted to
20 read as follows:

21 §177. Process

22 * * *

23 B. When such process is served upon the secretary of state, duplicate copies
24 of such process shall be delivered to him and he shall immediately forward one copy
25 of such process to the insurer's attorney-in-fact, by registered **or certified** mail ~~with~~
26 ~~return receipt requested, postage prepaid,~~ **or by commercial courier as defined in**
27 **R.S. 13:3204(D)**, giving the day and hour of such service.

28 * * *

29 §335. Service of process; secretary of state as attorney

30 Every foreign or alien insurer shall appoint the secretary of state to be its true

1 and lawful attorney in this state upon whom, or some other person in his office
 2 during his absence he may designate, all lawful process in any action or proceeding
 3 against such insurer may be served, which shall constitute service on such insurer.
 4 Such appointment shall continue in force so long as any contract or other liability of
 5 such insurer in this state shall remain outstanding. Whenever such process shall be
 6 served upon the secretary of state, he shall forthwith forward a copy of the process
 7 by ~~prepaid~~ registered **or certified** mail or by commercial courier as defined in R.S.
 8 13:3204(D), when the person to be served is located outside of this state to the
 9 person designated for the purpose by the insurer.

* * *

§442. Legal process against unauthorized insurer

* * *

13 B. Service of legal process against the insurer may be made in any such
 14 action by service upon the secretary of state or some other person in his office whom
 15 he may designate during his absence. The secretary of state shall forthwith mail the
 16 documents of process served, or a true copy thereof, to the person designated by the
 17 insurer in the policy for the purpose by ~~prepaid~~ registered **or certified** mail ~~with~~
 18 ~~return receipt requested~~ **or by commercial courier as defined in R.S. 13:3204(D).**

19 The insurer shall have forty days from the date of service upon the secretary of state
 20 within which to plead, answer, or otherwise defend the action. Upon service of
 21 process upon the secretary of state in accordance with this provision, the court shall
 22 be deemed to have jurisdiction in personam over the insurer.

* * *

Section 4. R.S. 45:200.8(B) is hereby amended and reenacted to read as follows:

§200.8. Appointment of secretary of state as agent to receive service of process

* * *

27 B. When any process or pleadings are served upon the secretary of state, it
 28 shall be by duplicate copies, one of which shall be filed in the office of the secretary
 29 of state and the other immediately forwarded by the secretary of state by registered
 30 **or certified** mail or by commercial courier as defined in R.S. 13:3204(D), when the

1 person to be served is located outside of this state to the address shown on such
2 certificate of such owner against whom the process and pleadings are directed. The
3 secretary of state shall note on the copy retained the date, the manner and other
4 particulars of service, and disposition of the forwarded copy.

5 * * *

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____