§108. Service of process on nonresidents

1. Acceptance of jurisdiction. The acceptance by a nonresident of the rights and privileges conferred by this Title as evidenced by the nonresident's or the nonresident's agent's operation of a motor vehicle on a public way in this State or of aircraft in this State is:

A. An appointment of the Secretary of State to be the nonresident's true and lawful attorney on whom may be served a process in an action or proceeding against that nonresident, growing out of an accident or collision in which that person may be involved during that operation; and [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

B. Evidence of agreement that the process against the nonresident that is so served is of the same legal force and validity as if served on the nonresident personally. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

2. Method of service. Service must be made by leaving a copy of the process with a fee of $2 in the office of the Secretary of State. This service is sufficient if:

A. Notice of the service and a copy of the process are personally served on the defendant and the return showing that service is filed with the clerk of the court where the action is pending; or [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

B. Notice of the service and a copy of the process are sent by registered mail to the defendant and the defendant's receipt for the registered mail and the plaintiff's affidavit of compliance are filed with the clerk of the court in which the action is pending. [PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

3. Deceased defendant. If the defendant is deceased, service may be made in the same manner on a personal representative or, if there is no personal representative, on the public administrator in the county in which the action is pending. Notwithstanding other requirements for probate, when service is made on the public administrator, the administrator shall petition the Probate Court for probate of the defendant's estate.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

4. Continuances. The court may order a continuance if necessary to afford the defendant or a personal representative reasonable opportunity to defend the action.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

5. Plaintiff's bond. The plaintiff shall file with the return of service a bond to the defendant, with 2 or more sureties approved by the judge or clerk of the court, or with a surety company authorized to do business in this State, as surety in the sum of $100, conditioned that, if judgment is rendered against the plaintiff, as much of the penalty of the bond required to satisfy a judgment for costs awarded must be applied to the judgment. The attorney for the plaintiff is liable to the defendant for costs in the action for an amount not exceeding $50 until the bond is filed.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

6. Fee taxed in costs to prevailing plaintiff. The fee of $2, paid by the plaintiff to the Secretary of State, is taxed in the plaintiff's costs, if the plaintiff prevails in the action.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

7. Record of service. The Secretary of State shall keep a record of the day and the hour of service.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

8. Application to a resident who becomes a nonresident. This section applies to a resident who becomes a nonresident prior to the time that an action or proceeding has been brought.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

SECTION HISTORY

PL 1993, c. 683, §A2 (NEW). PL 1993, c. 683, §B5 (AFF).

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