

BILL TEXT:

STATE OF NEW YORK

3065

2005-2006 Regular Sessions

IN ASSEMBLY

January 31, 2005

Introduced by M. of A. HOYT -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, in relation to service of process on certain property owners who reside outside of the state

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

1 Section 1. Subdivision 3 of section 308 of the civil practice law and
2 rules, as amended by chapter 765 of the laws of 1974, is amended to read
3 as follows:

4 3. by delivering the summons within the state to the agent for service
5 of the person to be served as designated under rule 318, except in: a.
6 matrimonial actions where service hereunder may be made pursuant to an
7 order made in accordance with the provisions of subdivision a of section
8 two hundred thirty-two of the domestic relations law; or

9 b. business actions, commenced within any city with a population of
10 more than two hundred ninety thousand but less than three hundred thou-
11 sand according to the two thousand federal census, where a natural
12 person who is a real property owner, resides outside of the state and
13 who owns more than one residential property within such city, has desig-
14 nated the secretary of state to receive such process pursuant to section
15 three hundred eight-a of this article;

16 § 2. The civil practice law and rules is amended by adding a new
17 section 308-a to read as follows:

18 § 308-a. Personal service upon a property owner who resides outside of
19 the state; within certain cities. 1. The secretary of state shall be the
20 agent of every natural person who is a property owner, within a city
21 with a population of more than two hundred ninety thousand but less than
22 three hundred thousand according to the two thousand federal census,
23 upon whom process against such person may be served.

24 2. No deed from a natural person who is a property owner shall be
25 recorded, within a city with a population of more than two hundred nine-

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

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1 ty thousand but less than three hundred thousand according to the two
2 thousand federal census, without verified proof that such property owner
3 seeking to record ownership has designated the secretary of state as the
4 agent upon whom process against such person may be served, in a form to
5 be provided by the secretary of state.

6 3. Any designation by a person of the secretary of state as such
7 agent, which designation is in effect on the effective date of this
8 section, shall continue. Any such person who is a property owner who has
9 not designated the secretary of state as such agent shall be deemed to
10 have done so. Any designation made prior to the effective date of this
11 section, by such person of an agent other than the secretary of state,
12 shall terminate upon the effective date of this section.

13 4. Any designated post office address to which the secretary of state
14 shall mail a copy of process served upon him or her as agent of such
15 person shall continue until such person files a form provided by the
16 secretary of state which directs the mailing to a different post office
17 address.

18 5. Nothing in this section shall affect the right to serve process in
19 any other manner permitted by law.

20 6. For purposes of this section, "property owner" shall mean a natural
21 person who owns more than one parcel of residential real property within
22 a city with a population of more than two hundred ninety thousand but
23 less than three hundred thousand according to the two thousand federal
24 census and resides outside the state.

25 § 3. The civil practice law and rules is amended by adding a new
26 section 311-b to read as follows:

27 § 311-b. Personal service upon property owners who are non-domiciliar-
28 ies or unauthorized foreign corporations; within certain cities. 1. The
29 secretary of state shall be the agent of every non-domiciliary or
30 foreign corporation not authorized to do business within this state, who
31 is a property owner, within a city with a population of more than two
32 hundred ninety thousand but less than three hundred thousand according
33 to the two thousand federal census, upon whom process against such
34 person or corporation may be served.

35 2. No deed from a non-domiciliary or foreign corporation not author-
36 ized to do business within this state, who is a property owner shall be
37 recorded, within a city with a population of more than two hundred nine-
38 ty thousand but less than three hundred thousand according to the two
39 thousand federal census, without verified proof that such property owner
40 seeking to record ownership has designated the secretary of state as the
41 agent upon whom process against such person may be served, in a form to
42 be provided by the secretary of state.

43 3. Any designation by a non-domiciliary or foreign corporation not
44 authorized to do business within this state, of the secretary of state
45 as such agent, which designation is in effect on the effective date of
46 this section, shall continue. Any such non-domiciliary or foreign corpo-
47 ration not authorized to do business within this state who is a property
48 owner who has not designated the secretary of state as such agent shall
49 be deemed to have done so. Any designation made prior to the effective
50 date of this section, by such non-domiciliary or foreign corporation not
51 authorized to do business within this state, of an agent other than the
52 secretary of state, shall terminate upon the effective date of this
53 section.

54 4. Any designated post office address to which the secretary of state
55 shall mail a copy of process served upon him or her as agent of such
56 non-domiciliary or foreign corporation not authorized to do business

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1 within this state shall continue until such person files a form provided
 2 by the secretary of state which directs the mailing to a different post
 3 office address.

4 5. Nothing in this section shall affect the right to serve process in
 5 any other manner permitted by law.

6 6. For purposes of this section, "property owner" shall mean a non-
 7 domiciliary or foreign corporation not authorized to do business within
 8 this state, who owns more than one parcel of residential real property
 9 within a city with a population of more than two hundred ninety thousand
 10 but less than three hundred thousand according to the two thousand
 11 federal census and resides outside the state.

12 § 4. This act shall take effect on the one hundred eightieth day after
 13 it shall have become a law; provided, however that effective immediate-
 14 ly, the addition, amendment and/or repeal of any rule or regulation
 15 necessary for the implementation of this act on its effective date are
 16 authorized and directed to be made on or before such date.

SPONSORS MEMO:

**NEW YORK STATE ASSEMBLY
 MEMORANDUM IN SUPPORT OF LEGISLATION
 submitted in accordance with Assembly Rule III, Sec 1(e)**

BILL NUMBER: A3065

REVISED 02/10/05

SPONSOR: Hoyt

TITLE OF BILL: An act to amend the civil practice law and rules, in relation to service of process on certain property owners who reside outside of the state

PURPOSE OR GENERAL IDEA OF THE BILL: The purpose of this bill is to require those who own property in Erie County but reside outside of the State of New York to register with the County Clerk's office so that the Secretary of State may accept service on their behalf. This will allow the courts to have better access to these individuals or corporations for purposes of summons.

SUMMARY OF SPECIFIC PROVISIONS: Section 1 amends subdivision 3 of section 308 of the civil practice law and rules by amending the law to add that businesses within cities with a population of 290,000 but under 300,000 to designate the Secretary of State for service of process.

Section 1 amends subdivision 3 of section 308 of the civil practice law to add Section 308-A adding to the law that individuals who reside outside of the State of New York but own property within the Erie County shall designate the Secretary of State for service of process.

Section 3 amends subdivision 3 of section 311-b of the civil practice law to add that also non-domiciliaries or unauthorized foreign corporations of the State of New York but own property within the Erie County shall designate the Secretary of State for service of process.

JUSTIFICATION: The purpose of this bill is to eradicate housing violations and consequently improve the quality of life in Erie County and make the areas where these residences are located a safer, more

desirable place to live. The largest isolated residential housing problem in the City of Buffalo and in Erie County is reaching residential property owners who are foreign corporations and those that reside outside of the State of New York. It is a growing concern because these properties have repeatedly shown to have housing code violations and are often abandoned. The owners of these properties are unreachable by the City of Buffalo, the County of Erie and the court system therein. Subsequently, in order to get through to these property owners this act will allow judges and justices to reach out to the owners of the problem properties and essentially get them into court in the most efficient manner in order to get the problems rectified.

This legislation, allows for owners who reside out of state or foreign corporations to register with the Erie County Clerk's Office where the property is situated so that the Secretary of State may accept service of process on their behalf. This will allow the Secretary of State to forward the summons to the property owners at their registered address.

This legislation enables the courts to locate and serve the people who do not reside in New York State, and the corporations who are foreign to New York State. The streamlining of service of process for any out-of-state landlord eases the burden on the court to both locate and bring to justice problem property owners for whom the courts have had difficulty finding. The improvement of dilapidated properties with Erie County is an important step in the revitalization of the area for both the quality of life and the peace of mind of residents.

PRIOR LEGISLATIVE HISTORY:

2003/04 A.10392 Referred to Rules

2003/04 S.7113-A Amend and Recommit to Codes, Print Number 7113A

FISCAL IMPLICATIONS: None.

EFFECTIVE DATE: This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made on or before such date.
