

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 6-A: MODEL REGISTERED AGENTS ACT

Table of Contents

Part 1. STATE DEPARTMENTS.....	
Section 101. SHORT TITLE.....	3
Section 102. DEFINITIONS.....	3
Section 103. FEES.....	7
Section 104. ADDRESSES IN FILINGS.....	8
Section 105. APPOINTMENT OF CLERK OR REGISTERED AGENT.....	9
Section 106. LISTING OF COMMERCIAL CLERK OR COMMERCIAL REGISTERED AGENT.....	9
Section 107. TERMINATION OF LISTING OF COMMERCIAL CLERK OR COMMERCIAL REGISTERED AGENT.....	10
Section 108. CHANGE OF CLERK OR REGISTERED AGENT BY ENTITY.....	11
Section 109. CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL CLERK OR NONCOMMERCIAL REGISTERED AGENT.....	12
Section 110. CHANGE OF NAME, ADDRESS OR TYPE OF ORGANIZATION BY COMMERCIAL CLERK OR COMMERCIAL REGISTERED AGENT.....	12
Section 111. RESIGNATION OF CLERK OR REGISTERED AGENT.....	13
Section 112. APPOINTMENT OF AGENT BY NONFILING OR NONQUALIFIED FOREIGN ENTITY.....	14
Section 113. SERVICE OF PROCESS ON ENTITIES.....	15
Section 114. DUTIES OF CLERK OR REGISTERED AGENT.....	17
Section 115. JURISDICTION AND VENUE.....	17
Section 116. CONSISTENCY OF APPLICATION.....	18
Section 117. RULES.....	18
Section 118. EXPEDITED SERVICE.....	18
Section 119. ACCESS TO DATABASE.....	19
Section 120. PUBLICATIONS.....	19
Section 120-A. ROUTINE TECHNICAL RULES.....	19
Section 120-B. DUTY OF SECRETARY OF STATE.....	19
Section 120-C. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.....	20
Section 120-D. EFFECTIVE DATE.....	20

Maine Revised Statutes

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES

Chapter 6-A: MODEL REGISTERED AGENTS ACT

§101. SHORT TITLE

This chapter is known and may be cited as "the Model Registered Agents Act." [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§102. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. Appointment of agent. "Appointment of agent" means a statement appointing an agent for service of process filed by a domestic entity that is not a filing entity or a nonqualified foreign entity under section 112.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Clerk. "Clerk" means the person described in Title 13-C, chapter 5-A.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Clerk filing. "Clerk filing" means the public organic document of a domestic filing entity formed under Title 13-C.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Commercial clerk. "Commercial clerk" means a clerk who is listed under section 106.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. Commercial registered agent. "Commercial registered agent" means an individual or a domestic or foreign entity listed under section 106.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

6. Domestic entity. "Domestic entity" means an entity whose internal affairs are governed by the laws of this State.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

7. Entity. "Entity" means a person that has a separate legal existence or has the power to acquire an interest in real property in its own name other than:

A. An individual; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

B. A testamentary, inter vivos or charitable trust, with the exception of a business trust, statutory trust or similar trust; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §1 (AFF) .]

C. An association or relationship that is not a partnership by reason of Title 31, section 1022, subsection 3 or a similar provision of the law of any other jurisdiction; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. A decedent's estate; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

E. A public corporation, government or governmental subdivision, agency or instrumentality or quasi-governmental instrumentality. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

8. Filing entity. "Filing entity" means an entity that is created by the filing of a public organic document.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

9. Foreign entity. "Foreign entity" means an entity other than a domestic entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

10. Foreign qualification document. "Foreign qualification document" means an application for a certificate of authority or other foreign qualification filing with the Secretary of State by a foreign entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

11. Governance interest. "Governance interest" means the right under the organic law or organic rules of an entity, other than as a governor, agent, assignee or proxy, to:

A. Receive or demand access to information concerning, or the books and records of, the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. Vote for the election of the governors of the entity; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. Receive notice of or vote on any or all issues involving the internal affairs of the entity. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

12. Governor. "Governor" means a person by or under whose authority the powers of an entity are exercised and under whose direction the business and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

13. Interest. "Interest" means:

A. A governance interest in an unincorporated entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A transferable interest in an unincorporated entity; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. A share or membership in a corporation. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

14. Interest holder. "Interest holder" means a direct holder of an interest.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

15. Jurisdiction of organization. "Jurisdiction of organization," with respect to an entity, means the jurisdiction whose law includes the organic law of the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

16. Noncommercial clerk. "Noncommercial clerk" means a clerk that is not listed as a commercial clerk under section 106 and that is:

A. An individual that serves in this State as the agent for service of process of an entity; or [2009, c. 56, §1 (AMD) .]

B. The individual who holds the office or other position in an entity that is designated as the agent for service of process pursuant to section 105, subsection 1, paragraph B, subparagraph (2). [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

[2009, c. 56, §1 (AMD) .]

17. Noncommercial registered agent. "Noncommercial registered agent" means a person that is not listed as a commercial registered agent under section 106 and that is:

A. An individual or a domestic or foreign entity that serves in this State as the agent for service of process of an entity; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

B. The individual who holds the office or other position in an entity that is designated as the agent for service of process pursuant to section 105, subsection 1, paragraph B, subparagraph (2). [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

18. Nonqualified foreign entity. "Nonqualified foreign entity" means a foreign entity that is not authorized to transact business in this State pursuant to a filing with the Secretary of State.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

19. Nonresident LLP statement. "Nonresident LLP statement" means:

A. A statement of qualification of a domestic limited liability partnership that does not have an office in this State; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

B. A statement of foreign qualification of a foreign limited liability partnership that does not have an office in this State. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

20. Organic law. "Organic law" means the statutes, if any, other than this chapter, governing the internal affairs of an entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

21. Organic rules. "Organic rules" means the public organic document and private organic rules of an entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

22. Person. "Person" means an individual, corporation, estate, trust, partnership, limited liability company, business or similar trust, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

23. Private organic rules. "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders and are not part of its public organic document, if any.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

24. Public organic document. "Public organic document" means the public record, the filing of which creates an entity, and any amendment to or restatement of that record.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

25. Qualified foreign entity. "Qualified foreign entity" means a foreign entity that is authorized to transact business in this State pursuant to a filing with the Secretary of State.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

26. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

27. Registered agent. "Registered agent" means a commercial registered agent or a noncommercial registered agent.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

28. Registered agent filing. "Registered agent filing" means:

A. The public organic document of a domestic filing entity other than a domestic filing entity formed under Title 13-C; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A nonresident LLP statement; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. A foreign qualification document; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. An appointment of agent. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

29. Represented entity. "Represented entity" means:

A. A domestic filing entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A domestic or qualified foreign limited liability partnership that does not have an office in this State; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. A qualified foreign entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. A domestic or foreign unincorporated nonprofit association for which an appointment of agent has been filed; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

E. A domestic entity that is not a filing entity for which an appointment of agent has been filed; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

F. A nonqualified foreign entity for which an appointment of agent has been filed. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

30. Sign. "Sign" means, with present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. To attach to or logically associate with the record an electronic sound, symbol or process. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

31. Transferable interest. "Transferable interest" means the right under an entity's organic law to receive distributions from the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

32. Type. "Type," with respect to an entity, means a generic form of entity:

A. Recognized at common law; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. Organized under an organic law, whether or not some entities organized under that organic law are subject to provisions of that law that create different categories of the form of entity. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 56, §1 (AMD).

§103. FEES

1. Filing fees. The Secretary of State shall collect the following fees when a filing is made under this chapter:

A. Commercial clerk or commercial registered agent listing statement as required by section 106, \$150; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. Commercial clerk or commercial registered agent termination as required by section 107, \$150; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. Statement of appointment or change of clerk or registered agent by entity as required by section 105, subsection 1 or section 108, §35; except a statement filed for nonprofit corporations formed under Title 13-B, §15; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. Statement of change of name or address by noncommercial clerk or noncommercial registered agent as required by section 109, §35; except a statement filed for nonprofit corporations formed under Title 13-B, §15; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

E. Statement of change of name, address or type of organization by commercial clerk or commercial registered agent as required by section 110, §50; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

F. Statement of resignation by commercial clerk or commercial registered agent as required by section 111, no fee; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

G. Statement of resignation by noncommercial clerk or noncommercial registered agent as required by section 111, §35; except a statement filed for nonprofit corporations formed under Title 13-B, §15; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

H. Statement of appointment of agent for service of process for nonfiling domestic entity or nonqualified foreign entity, §100. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Copying and certification fees. The Secretary of State shall collect the following fees for copying and certifying a copy of any document filed under this chapter:

A. For copying, \$2 a page; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. For certifying the copy, \$5 for a certificate. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§104. ADDRESSES IN FILINGS

Whenever a provision of this chapter other than section 111, subsection 1, paragraph D requires that a filing state an address, the filing must state: [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. Street or rural route. An actual street address or rural route box number in this State; and

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Mailing address. A mailing address in this State, if different from the address under subsection 1.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§105. APPOINTMENT OF CLERK OR REGISTERED AGENT

1. Contents of filing. A clerk or registered agent filing must state:

A. The name of the represented entity's commercial clerk or commercial registered agent; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. If the entity does not have a commercial clerk or commercial registered agent:

(1) The name and address of the entity's noncommercial clerk or noncommercial registered agent; or

(2) The title of an office or other position with the entity if service of process is to be sent to the person holding that office or position, and the address of the business office of that person. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Consent to serve as agent. The appointment of a clerk or a registered agent pursuant to subsection 1, paragraph A or subsection 1, paragraph B, subparagraph (1) is an affirmation by the represented entity that the agent has consented to serve as such.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Daily list of filings. The Secretary of State shall make available in a record as soon as practicable a daily list of filings that contain the name of a clerk or a registered agent. The list must:

A. Be available for at least 14 calendar days; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. List in alphabetical order the names of the clerks or registered agents; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. State the type of filing and name of the represented entity making the filing. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§106. LISTING OF COMMERCIAL CLERK OR COMMERCIAL REGISTERED AGENT

1. Contents of statement. An individual or a domestic or foreign entity may become listed as a commercial clerk or commercial registered agent by filing with the Secretary of State a commercial clerk or commercial registered agent listing statement signed by or on behalf of the person that states:

A. The name of the individual or the name, type and jurisdiction of organization of the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. That the person is in the business of serving as a commercial clerk or commercial registered agent in this State; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. The address of a place of business of the person in this State to which service of process and other notice and documents being served on or sent to entities represented by it may be delivered. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Additional information. A commercial clerk or commercial registered agent listing statement may include the information regarding acceptance of service of process in a record by the commercial clerk or commercial registered agent provided for in section 113, subsection 4.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Distinguishable name. If the name of a person filing a commercial clerk or commercial registered agent listing statement is not distinguishable on the records of the Secretary of State from the name of another commercial clerk or commercial registered agent listed under this section, the person must adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this State as a commercial clerk or commercial registered agent.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Effective on filing. A commercial clerk or commercial registered agent listing statement takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. Filing noted in index; effect. The Secretary of State shall note the filing of the commercial clerk or commercial registered agent listing statement in the index of filings maintained by the Secretary of State for each entity represented by the clerk or registered agent at the time of the filing. The statement has the effect of deleting the address of the clerk or the registered agent from the clerk or registered agent filing of each of those entities.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§107. TERMINATION OF LISTING OF COMMERCIAL CLERK OR COMMERCIAL REGISTERED AGENT

1. Contents of statement. A commercial clerk or commercial registered agent may terminate its listing as a commercial clerk or commercial registered agent by filing with the Secretary of State a commercial clerk or commercial registered agent termination statement signed by or on behalf of the agent that states:

A. The name of the agent as currently listed under section 106; [2007, c. 535, Pt. B, §1 (AMD) .]

B. That the agent is no longer in the business of serving as a commercial clerk or commercial registered agent in this State; and [2007, c. 535, Pt. B, §1 (AMD) .]

C. The name and address of the person to whom the commercial clerk or commercial registered agent sends the notice required by subsection 3. [2007, c. 535, Pt. B, §1 (NEW) .]

[2007, c. 535, Pt. B, §1 (AMD) .]

2. Effective date. A commercial clerk or commercial registered agent termination statement takes effect on the 31st day after the day on which it is filed.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Notice. The commercial clerk or commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of the commercial clerk or commercial registered agent termination statement.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Effect of termination. When a commercial clerk or commercial registered agent termination statement takes effect, the clerk or registered agent ceases to be an agent for service of process on each entity formerly represented by it. Until an entity formerly represented by a terminated commercial clerk or commercial registered agent appoints a new clerk or registered agent, service of process may be made on the entity as provided in section 113. Termination of the listing of a commercial clerk or commercial registered agent under this section does not affect any contractual rights a represented entity may have against the agent or that the agent may have against the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF). 2007, c. 535, Pt. B, §1 (AMD).

§108. CHANGE OF CLERK OR REGISTERED AGENT BY ENTITY

1. Change of information. A represented entity may change the information currently on file under section 105, subsection 1 by filing with the Secretary of State a statement of change signed on behalf of the entity that states:

A. The name of the entity; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The information that is to be in effect as a result of the filing of the statement of change. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Approval not needed. Except for a corporation formed under Title 13-C, the interest holders or governors of a domestic entity need not approve the filing of:

A. A statement of change under this section; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. A similar filing changing the clerk or registered agent or registered office of the entity in any other jurisdiction. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2009, c. 56, §2 (AMD) .]

3. Consent. The appointment of a clerk or a registered agent pursuant to section 105, subsection 1 is an affirmation by the represented entity that the clerk or agent has consented to serve as such.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Effective on filing. A statement of change filed under this section takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. Amended filing. As an alternative to using the procedures in this section, a represented entity may change the information currently on file under section 105, subsection 1 by amending its most recent clerk or registered agent filing in the manner provided by the laws of this State other than this chapter for amending that filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF). 2009, c. 56, §2 (AMD).

§109. CHANGE OF NAME OR ADDRESS BY NONCOMMERCIAL CLERK OR NONCOMMERCIAL REGISTERED AGENT

1. Contents of statement. If a noncommercial clerk or noncommercial registered agent changes its name or its address as currently in effect with respect to a represented entity pursuant to section 105, subsection 1, the agent shall file with the Secretary of State, with respect to each entity represented by the agent, a statement of change signed by or on behalf of the agent that states:

- A. The name of the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]
- B. The name and address of the agent as currently in effect with respect to the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]
- C. If the name of the agent has changed, its new name; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]
- D. If the address of the agent has changed, the new address. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Effective on filing. A statement of change filed under this section takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Notice. A noncommercial clerk or noncommercial registered agent shall promptly furnish the represented entity with notice in a record of the filing of a statement of change and the changes made by the filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§110. CHANGE OF NAME, ADDRESS OR TYPE OF ORGANIZATION BY COMMERCIAL CLERK OR COMMERCIAL REGISTERED AGENT

1. Contents of statement. If a commercial clerk or commercial registered agent changes its name, its address as currently listed under section 106, subsection 1 or its type or jurisdiction of organization, the agent shall file with the Secretary of State a statement of change signed by or on behalf of the agent that states:

- A. The name of the agent as currently listed under section 106, subsection 1; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. If the name of the agent has changed, its new name; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. If the address of the agent has changed, the new address; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. If the type or jurisdiction of organization of the agent has changed, the new type or jurisdiction of organization. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Effect of filing. The filing of a statement of change under subsection 1 is effective to change the information regarding the commercial clerk or commercial registered agent with respect to each entity represented by the agent.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Effective on filing. A statement of change filed under this section takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Notice. A commercial clerk or commercial registered agent shall promptly furnish each entity represented by it with notice in a record of the filing of a statement of change relating to the name or address of the agent and the changes made by the filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. Cancellation. If a commercial clerk or commercial registered agent changes its address without filing a statement of change as required by this section, the Secretary of State may cancel the listing of the agent under section 106. A cancellation under this subsection has the same effect as a termination under section 107. Promptly after canceling the listing of an agent, the Secretary of State shall serve notice in a record in the manner provided in section 113, subsection 2 or 3 on:

A. Each entity represented by the agent, stating that the agent has ceased to be an agent for service of process on the entity and that, until the entity appoints a new clerk or registered agent, service of process may be made on the entity as provided in section 113; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The agent, stating that the listing of the agent has been canceled under this section. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§111. RESIGNATION OF CLERK OR REGISTERED AGENT

1. Statement of resignation. A clerk or registered agent may resign at any time with respect to a represented entity by filing with the Secretary of State a statement of resignation signed by or on behalf of the agent that states:

A. The name of the entity; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The name of the agent; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. That the agent resigns from serving as agent for service of process for the entity; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

D. The name and address of the person to which the agent will send the notice required by subsection 3. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Effective date. A statement of resignation takes effect on the earlier of the 31st day after the day on which it is filed or the appointment of a new registered agent for the represented entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Notice. The clerk or registered agent shall promptly furnish the represented entity notice in a record of the date on which a statement of resignation was filed.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Effect of resignation. When a statement of resignation takes effect, the clerk or registered agent ceases to have responsibility for any matter tendered to it as agent for the represented entity. A resignation under this section does not affect any contractual rights the entity has against the agent or that the agent has against the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. Standing of entity. A clerk or registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§112. APPOINTMENT OF AGENT BY NONFILING OR NONQUALIFIED FOREIGN ENTITY

1. Contents of statement. A domestic entity that is not a filing entity or a nonqualified foreign entity may file with the Secretary of State a statement appointing an agent for service of process signed on behalf of the entity that states:

A. The name, type and jurisdiction of organization of the entity; and [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The information required by section 105, subsection 1. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Effective on filing. A statement appointing an agent for service of process takes effect on filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Effect of appointment. The appointment of a registered agent under this section does not qualify a nonqualified foreign entity to do business in this State and is not sufficient alone to create personal jurisdiction over the nonqualified foreign entity in this State.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Distinguishable name. A statement appointing an agent for service of process may not be rejected for filing because the name of the entity filing the statement is not distinguishable on the records of the Secretary of State from the name of another entity appearing in those records. The filing of a statement appointing an agent for service of process does not make the name of the entity filing the statement unavailable for use by another entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. Cancellation of statement. An entity that has filed a statement appointing an agent for service of process may cancel the statement by filing a statement of cancellation, which takes effect upon filing, and shall state the name of the entity and that the entity is canceling its appointment of an agent for service of process in this State. A statement appointing an agent for service of process that has not been canceled earlier is effective for a period of 5 years after the date of filing.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

6. Termination upon becoming qualified. A statement appointing an agent for service of process for a nonqualified foreign entity terminates automatically on the date the entity becomes a qualified foreign entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§113. SERVICE OF PROCESS ON ENTITIES

1. Agent to receive service. A clerk or registered agent is an agent of the represented entity authorized to receive service of any process, notice or demand required or permitted by law to be served on the entity.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Service to other than clerk or registered agent. If an entity that previously filed a clerk or registered agent filing with the Secretary of State no longer has a clerk or registered agent, or if its clerk or registered agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, addressed to the governors of the entity by name at its principal office in accordance with any applicable judicial rules and procedures. The names of the governors and the address of the principal office may be as shown in the most recent annual report filed with the Secretary of State. Service is perfected under this subsection at the earliest of:

A. The date the entity receives the mail; [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

B. The date shown on the return receipt, if signed on behalf of the entity; or [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

C. Five days after its deposit with the United States Postal Service, if correctly addressed and with sufficient postage. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Hand delivery. If process, notice or demand cannot be served on an entity pursuant to subsection 1 or 2, service of process may be made by handing a copy to the manager, clerk or other person in charge of any regular place of business or activity of the entity if the person served is not a plaintiff in the action.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Form acceptable. Service of process, notice or demand on a clerk or a registered agent must be in the form of a written document, except that service may be made on a commercial clerk or commercial registered agent in such other forms of a record and subject to such requirements as the agent has stated from time to time in its listing under section 106 that it will accept.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. Perfected by other legal means. Service of process, notice or demand may be perfected by any other means prescribed by law other than this chapter.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

6. Service of criminal process on providers of electronic communication service or providers of remote computing service. A commercial clerk or registered agent of a provider is an agent of the provider authorized to receive service of a grand jury subpoena or a search warrant required or permitted by law to be served on the entity. Service of criminal process must be accomplished as provided in this subsection.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Criminal process" means a grand jury subpoena or search warrant issued pursuant to this section, Title 15, section 55 or 56 or Rule 17 or 17A of the Maine Rules of Unified Criminal Procedure.
- (2) "Electronic communication service" means a service that provides to users the ability to send or receive spoken, wire or electronic communications.
- (3) "Electronic communication service provider" or "provider of electronic communication service" means an entity that provides electronic communication service to the general public.
- (4) "Provider" means an electronic communication service provider or a remote computing service provider.
- (5) "Remote computing service" means computing storage or processing services provided by means of an electronic communication service.
- (6) "Remote computing service provider" or "provider of remote computing service" means an entity that provides remote computing service to the general public.
- (7) "Service of criminal process" means any service of a grand jury subpoena or search warrant.

[2017, c. 144, §1 (NEW) .]

B. The authority granted in this subsection applies to criminal process served pursuant to Title 15, section 55 or 56, Rule 17 or 17A of the Maine Rules of Unified Criminal Procedure or any other provision of state or federal law upon a provider in accordance with paragraph C. [2017, c. 144, §1 (NEW) .]

C. For purposes of this subsection, criminal process is properly served if it is:

- (1) Delivered by hand, or in a manner reasonably allowing for proof of delivery if delivered by United States mail, overnight delivery service or facsimile to a commercial clerk or commercial registered agent as provided in section 106; section 107, subsection 4; or this section;
- (2) Delivered by specific means identified by the provider for service of criminal process, including, but not limited to, e-mail, facsimile or submission via an Internet web portal; or

(3) Delivered to the provider's place of business within the State.

If service is made pursuant to subparagraph (1) or (3) and the provider promptly notifies the law enforcement agency of the specific means of service identified by the provider pursuant to subparagraph (2) for criminal process, service must be made by the means of service specified by the provider if possible. [2017, c. 144, §1 (NEW).]

D. Service of criminal process pursuant to this section governs party and nonparty recipients. [2017, c. 144, §1 (NEW).]

[2017, c. 144, §1 (NEW) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF). 2017, c. 144, §1 (AMD).

§114. DUTIES OF CLERK OR REGISTERED AGENT

The only duties under this chapter of a clerk or registered agent that has complied with this chapter are: [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. Forward. To forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice or demand that is served on the agent;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Notice. To provide the notices required by this chapter to the entity at the address most recently supplied to the agent by the entity;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Noncommercial clerk or noncommercial registered agent; current information. If the agent is a noncommercial clerk or noncommercial registered agent, to keep current the information required by section 105, subsection 1 in the most recent clerk or registered agent filing for the entity; and

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Commercial clerk or commercial registered agent; current information. If the agent is a commercial clerk or commercial registered agent, to keep current the information listed for it under section 106, subsection 1.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§115. JURISDICTION AND VENUE

The appointment or maintenance in this State of a clerk or registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this State. The address of the agent does not determine venue in an action or proceeding involving the entity. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§116. CONSISTENCY OF APPLICATION

In applying and construing this chapter, consideration must be given to the need to promote consistency of the law with respect to its subject matter among states that enact it. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§117. RULES

The Secretary of State may adopt rules consistent with this chapter pertaining to the filing of documents with the Secretary of State. These rules may include, but are not limited to: [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. Forms. Prescribing forms for documents required or permitted to be delivered for filing under this chapter and refusing to file documents not using these prescribed forms;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Disapproved filing. Disapproving the filing of a document that is not clearly legible or one that may not be clearly reproducible photographically;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Appointed designee. Appointing a designee or other agent to receive documents for filing and to file documents on behalf of the Secretary of State;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

4. Electronic filing; facsimile signatures. Permitting the filing of documents by electronic transmission and permitting facsimile signatures on documents to be filed; and

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

5. Effective dates of filings. Unless specifically stated in this chapter, setting forth the effective dates of filings required by this chapter.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§118. EXPEDITED SERVICE

The Secretary of State may provide an expedited service for the processing of documents in accordance with this chapter. If the service is provided, the Secretary of State shall establish by rule a fee schedule and governing procedures in accordance with the Maine Administrative Procedure Act. Fees collected for expedited service must be deposited into a fund for use by the Secretary of State to provide an improved filing service. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§119. ACCESS TO DATABASE

The Secretary of State may provide public access to the database through a dial-in modem, through public terminals and through electronic duplicates of the database. If access to the database is provided to the public, the Secretary of State may adopt rules in accordance with the Maine Administrative Procedure Act to establish a fee schedule and governing procedures. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120. PUBLICATIONS

1. Fee for publications. The Secretary of State may establish by rule in accordance with the Maine Administrative Procedure Act a fee schedule to cover the cost of printing and distribution of publications and to set forth the procedures for the sale of those publications.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Use of fees. Fees collected pursuant to this section must be deposited in a fund for use by the Secretary of State to replace and update publications offered in accordance with this chapter and to fund new publications.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120-A. ROUTINE TECHNICAL RULES

Rules adopted pursuant to this chapter, unless expressly designated otherwise, are routine technical rules as defined in chapter 375, subchapter 2-A. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120-B. DUTY OF SECRETARY OF STATE

The duty of the Secretary of State to file documents under this chapter is ministerial. The filing or refusal to file a document does not: [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

1. Validity of documents. Affect the validity or invalidity of the document in whole or in part;

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

2. Correctness of information. Relate to the correctness or incorrectness of information contained in the document; or

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

3. Presumption of validity or correctness. Create a presumption that the document is valid or invalid or that the information in the document is correct or incorrect.

[2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF) .]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120-C. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001, et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b). [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

§120-D. EFFECTIVE DATE

This chapter takes effect July 1, 2008. [2007, c. 323, Pt. A, §1 (NEW); 2007, c. 323, Pt. G, §4 (AFF).]

SECTION HISTORY

2007, c. 323, Pt. A, §1 (NEW). 2007, c. 323, Pt. G, §4 (AFF).

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