

#77.170

4/1/76

Memorandum 76-38

Subject: Study 77,170 - Nonprofit Corporations (Service of Process)

The attached draft of Chapter 17, relating to service of process, is the same in substance as the comparable provisions of the new business corporations law except that some technical corrections proposed to be made in that law by a corrective bill introduced by Assemblyman Knox have been made in the attached draft.

Respectfully submitted,

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Executive Secretary

CHAPTER 17. SERVICE OF PROCESS

Article 1. Manner of Service Generally§ 6710. Additional method for serving domestic corporation

6710. In addition to the provisions of Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, process may be served upon domestic nonprofit corporations as provided in this chapter.

Comment. Sections 6710 to 6732 are the same in substance as Sections 1700-1702 of the Corporations Code. Section 1702, as proposed to be amended by Assembly Bill 2849 of the 1975-76 Regular Session, has been used in preparing this chapter. The following table shows the source of each section in this chapter.

<u>Section</u>	<u>Source (Corp. Code Sections)</u>
6710	1700
6720	1701
6730	1702(a)
6731	1702(b)(first two sentences)
6732	1702(c)

Article 2. Service on Designated Agent§ 6720. Service on designated agent for service

6720. Delivery by hand of a copy of any process against the nonprofit corporation (a) to any natural person designated by it as agent or (b), if a corporate agent has been designated, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of such corporate agent shall constitute valid service on the nonprofit corporation.

Comment. See the Comment to Section 6710.

Article 3. Service on Secretary of State

§ 6730. Service on Secretary of State

6730. If an agent for the purpose of service of process has resigned and has not been replaced or if the agent designated cannot with reasonable diligence be found at the address designated for delivery by hand of the process, and it is shown by affidavit to the satisfaction of the court that process against a domestic nonprofit corporation cannot be served with reasonable diligence upon the designated agent by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20 or subdivision (a) of Section 415.30 of the Code of Civil Procedure or upon the nonprofit corporation in the manner provided in subdivision (a), (b), or (c) of Section 416.10 or subdivision (a) of Section 416.20 of the Code of Civil Procedure, the court may make an order that the service be made upon the nonprofit corporation by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing such service. Service in this manner is deemed complete on the 10th day after delivery of the process to the Secretary of State.

Comment. See the Comment to Section 6710.

§ 6731. Notice to corporation

6731. Upon the receipt of any such copy of process, the Secretary of State shall give notice of the service of the process to the nonprofit corporation at its principal executive office, by forwarding to

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such office, by registered mail with request for return receipt, the copy of the process or, if the records of the Secretary of State do not disclose an address for its principal executive office, by forwarding such copy in the same manner to the last designated agent for service of process who has not resigned. If the agent for service of process has resigned and has not been replaced and the records of the Secretary of State do not disclose an address for its principal executive office, no action need be taken by the Secretary of State.

Comment. See the Comment to Section 6710.

§ 6732. Record of service; certificate of Secretary of State as evidence

6732. (a) The Secretary of State shall keep a record of all process served upon the Secretary of State under this article and shall record therein the time of service and the Secretary of State's action with reference thereto.

(b) The certificate of the Secretary of State, under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the nonprofit corporation, and the forwarding of such process pursuant to this article, shall be competent and prima facie evidence of the matters stated therein.

Comment. See the Comment to Section 6710.