

FLORIDA HOUSE OF REPRESENTATIVES BILL ANALYSIS

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BILL #: [CS/HB 157](#)
TITLE: Service of Process
SPONSOR(S): Redondo

COMPANION BILL: None
LINKED BILLS: None
RELATED BILLS: [SB 576](#) (Leek)

Committee References

[Civil Justice & Claims](#)
18 Y, 0 N, As CS



[Judiciary](#)

SUMMARY

Effect of the Bill:

CS/HB 157 amends the statutory requirements for service of process of certain entities to resolve ambiguities that have arisen since Chapter 48, Florida Statutes, was amended in 2022. The bill extends the required hours of operation for a designated registered agent office, requiring such offices to be open an additional two hours each weekday. The bill clarifies who can be served in the agent's absence at the designated office and provides that an agent who is a natural person may be personally served in the manner of other natural persons even when they are not present at their office.

In matters requiring service on a business in receivership, the bill identifies the receiver as the person who must be personally served. The bill clarifies that, in matters relying on substituted service to the Secretary of State, the Secretary of State is not to be named as a party to the suit, but rather identified as the agent for purposes of initial service of process. The bill includes a nonresident who was formerly a resident of the state in list of those who can be served in the care of the Secretary of State by substituted service.

The bill provides clarification on the applicability of the law as revised in 2022 and creates a safe harbor that would validate service of process made in conformity with the 2022 legislation or under prior law. The bill is effective upon becoming law.

Fiscal or Economic Impact:

None.

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ANALYSIS

EFFECT OF THE BILL:

CS/HB 175 amends [s. 48.091, F.S.](#), relating to [service of process](#) on various [business entities](#). The bill requires a [registered agent](#) with a [designated registered agent office](#) to be open an additional two hours per business day, from 2:00 p.m. until 4:00 p.m. during the weekdays. Additionally, the bill clarifies that a registered agent who is a natural person may be served in accordance with [s. 48.031, F.S.](#) Further, the bill clarifies that when attempting service upon a registered agent who is a natural person (not a business entity), and the agent is not present at the office, service may be made on any employee of that agent who is present at the office at the time of service. Such service on an employee of the agent may be made during the first attempt at service on the agent. If the registered agent is not a natural person, but rather a business entity, service may be made at the office of the registered agent as the law prescribes for service on that type of entity or on any employee of the agent who is present at the office at the time of service. (Section [1](#)).

The bill also amends [s. 48.101, F.S.](#), relating to service of process on a domestic dissolved corporation and business organizations in [receivership](#). As such, service on a domestic business, business trust, or sole proprietorship in

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receivership may be effectuated by personal service on the receiver during the pendency of the receivership. (Section [2](#)).

The bill revises current law to clarify certain aspects of [substituted service](#) in the care of the Secretary of State. When effectuating service via substituted service on the Secretary of State, the process must be issued in the name of the party to be served and must specify that it is “in the care of the Secretary of State.” As such, the Secretary of State should not be erroneously named as a party to the legal action, but rather should be identified as the recipient of such substituted service by using the phrase, “in the care of.” Further, the bill clarifies that service on an individual or business entity that is a nonresident of the state or that conceals his, her, or its whereabouts, may be accomplished via substituted service in the care of the Secretary of State. However, prior to utilizing substituted service on the Secretary of State, the party seeking to effectuate service must first exercise due diligence¹ to locate and personally serve the individual or business entity. Notice of substituted service and a copy of the process must be sent to the party being served by the party effectuating such service. (Section [3](#)).

The bill specifically clarifies that the Secretary of State and the Department of State are not parties to a lawsuit by the use of substituted service in the care of the Secretary of State. Further, the bill prohibits additional filings, that is, any subsequent filing in a matter after the initial process, from being served upon or sent to the Secretary of State. Additionally, the bill removes a provision in current law requiring the Secretary of State to keep a record of the time and date of all process served on the Secretary of State. (Section [3](#)).

In order to use substituted service in care of the Florida Secretary of State, an [affidavit of compliance](#) must be filed. The affidavit of compliance must contain sufficient facts showing that due diligence was exercised in trying to locate the party for personal service and, to the extent possible, the party’s nonresidence, or concealment, or that the party is a business entity for which substituted service is authorized by law. Further, the bill clarifies that, when using substituted service on the Secretary of State, service of process is deemed to be effectuated on the date the affidavit of compliance is filed, or the date when the notice of service requirements is completed, whichever is later. (Section [3](#)).

The bill amends [s. 48.181, F.S.](#), to specify that any individual who was a resident of the state and who became a nonresident is deemed to have appointed the Secretary of State as his or her agent for service. (Section [4](#)).

The bill provides clarification that the revisions to ch. 48, F.S., in 2022 apply to causes of action that accrued on or after January 2, 2023, and to all causes of action that accrued before January 2, 2023, for which service of process was effectuated on or after January 2, 2023. This language clarifies ambiguity that has arisen in the courts’ interpretation of the amendments made by chapter 2022-190, Laws of Florida (2022 CS/CS/SB 1062). Further, the bill creates a safe harbor for any service of process that took place between January 2, 2023, and October 1, 2025, providing that any service made during that timeframe which has not been invalidated by a court, is valid, regardless of whether service was effectuated under the amendments made to ch. 48, F.S., in 2022, or complied with prior law. (Section [5](#)).

The bill applies to all service of process made or effectuated on or after October 1, 2025, regardless of when the cause of action accrued. Additionally, the bill explicitly does not extend, modify, or revive the time for challenging the validity of any service of process or waiver thereof. (Section [5](#)).

The bill is effective upon becoming law. (Section [6](#)).

RELEVANT INFORMATION

SUBJECT OVERVIEW:

[Service of Process](#)

¹ “Due diligence” is the care or attention to a matter that is sufficient to avoid liability, though not necessarily exhaustive. Cornell Law School Legal Information Institute, *Due Diligence*, https://www.law.cornell.edu/wex/due_diligence (last visited Feb. 14, 2025).

“Process” is used by a court or administrative body to acquire or exercise jurisdiction over a person or property.² There are three primary types of process: original, mesne, and final process. Original process includes an original writ or summons issued by the court as the first step in a lawsuit and includes a notice to the party being served regarding the time and date to appear before the court. Mesne process is an intermediate process issued between the original process and the final judgment. Final process is a writ of execution pursuant to a final judgment issued in the subject legal proceeding.

Generally, service of process is made by:

- Delivering a copy of the process to the person to be served; or
- Leaving the process at the person’s usual place of abode³ with any person residing there who is fifteen years of age or older and informing that person of the contents of the process.⁴

Service of Process on Business Entities

There are many different types of business entities that can exist under the laws of Florida, including a corporation, limited liability company, partnership, general partnership, limited partnership, and a sole proprietorship. The main features of such business entities are as follows:

- **Corporation:** A corporation is an independent legal entity which exists separate from the people who own, control, and manage it.⁵ A corporation can enter into contracts, pay taxes, and transact business.⁶
- **Limited Liability Company (LLC):** A limited liability company is similar to a corporation in that it offers limited personal liability to those who own, control, and manage it, but is not required to comply with the abundance of corporate liabilities that a corporation must comply with.⁷
- **Partnership:** A partnership exists when two or more persons co-own a business and share in the profits and losses of that business. Generally, each of the partners or co-owners contribute something of value (money, property, etc.) to the business endeavor.⁸
 - **General Partnership:** A general partnership is a partnership in which the rights and responsibilities are divided equally among all partners. In a general partnership, each partner can act on behalf of all of the partners, and each partner is responsible for the debts and obligations of the partnership as a whole.⁹
 - **Limited Partnership:** A limited partnership is a partnership made of limited and general partners and allows each partner to determine and, in turn, limit his or her personal liability exposure. Under a limited partnership, limited partners are not responsible for the partnership’s actions, debts, and obligations. Further, general partners have the right to manage the business, whereas limited partners do not.¹⁰
- **Sole Proprietorship:** A sole proprietorship is the simplest and most common structure chosen to start a business. It is an unincorporated business wholly owned and operated by one person, with no level of distinction between the business and the owner.¹¹

Chapter 48 of the Florida Statutes prescribes how service of process must be made on a variety of business entities such as partnerships, corporations, limited liability companies, and limited partnerships. For example, for service on a partnership, process must be served on any partner of the partnership and is valid as service on the partnership as if it was actually served on each partner.¹² If a partner is not available, he or she may designate any

² Black’s Law Dictionary 837 (6th ed. 1995).

³ “Usual place of abode” means the place where the party actually lives at the time of service of process. *Shurman v. Atlantic Mortg. & Inv. Corp.*, 795 So. 2d 952 (Fla. 2001).

⁴ S. [48.031\(1\)\(a\), F.S.](#)

⁵ Florida Division of State: Division of Corporations, *Types of Business Entities/Structures*, <https://dos.fl.gov/sunbiz/start-business/corporate-structure/> (last visited Feb. 17, 2025).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² S. [48.061\(1\), F.S.](#)

employee or agent to accept service. If, after one attempt to serve a partner or his or her designated employee or agent, such service is not achieved, service may be made on a person in charge of the partnership during regular business hours. For service on a corporation, process must be served on the designated registered agent of that corporation. Section [48.061, F.S.](#), provides a detailed hierarchical chain of acceptable contacts upon which service may be made if the previous contact in the hierarchy is unavailable or unable to be served.

[Substituted Service](#)

The Florida Secretary of State, as head of the Florida Department of State, is involved in many aspects of service of process. In some scenarios involving nonresident business entities, Florida law allows service of process through substituted service on the Florida Secretary of State when a party is unable to personally serve the individual or the business entity's representative.¹³

Substituted service on the Secretary of State is effectuated by electronic or physical delivery addressed to the Secretary of State. A copy of the process must be sent to the individual or entity at the last known address by certified or registered mail, by use of a commercial firm regularly engaged in the business of document or package delivery, or by electronic transmission.¹⁴ Court decisions interpreting the statute require that a party using substituted service on the Secretary of State make an honest and conscientious effort, in addition to the mailing, to provide the defendant with actual notice of the lawsuit,¹⁵ which may be noticed through a known email.¹⁶

[Affidavit of Compliance](#)

Pursuant to [s. 48.161\(3\), F.S.](#), an affidavit of compliance must be filed by the party effectuating service or the party's attorney. Such affidavit must be filed within forty days after the date of service in care of the Secretary of State, unless a different deadline is set by the court. The affidavit must provide the facts that justify the substituted service and must also include sufficient facts demonstrating that due diligence was used to attempt to locate and serve the party in question.

[Registered Agent](#)

A registered agent is a person or entity designated by a business to receive legal documents and lawsuits on behalf of the business.¹⁷ The agent may be an officer of the business or a third party, like the business's attorney or a private professional registered agent.¹⁸ The primary purpose of a registered agent is to ensure that the business is aware of lawsuits filed against it and to receive notice of such suits.¹⁹

Under chapter 48 of the Florida Statutes, the following business entities are required to designate a registered agent and registered office:

- Domestic limited liability partnership;
- Domestic limited partnership (including limited liability limited partnerships);
- Domestic corporation;
- Domestic limited liability company;
- Registered foreign limited liability partnership;
- Registered foreign limited partnership (including limited liability limited partnerships);
- Registered foreign corporation; and

¹³ S. [48.161, F.S.](#); s. [48.181, F.S.](#)

¹⁴ S. [48.161, F.S.](#)

¹⁵ *All Mobile Video v. Whitener*, 773 So. 2d 587, 589-90 (Fla. 1st DCA 2000) (plaintiff knew telephone and fax number of defendant company but did not call or fax for new address when mailed copy of process was returned).

¹⁶ *Crystal Springs Partners, Ltd. v. Michael R. Band, P.A.*, 132 So. 3d 1230 (Fla. 3rd DCA 2014) (law firm plaintiff knew former client's email address and should have emailed copy of process in addition to mailing).

¹⁷ Cornell Law School Legal Information Institute, Agent for Service of Process, https://www.law.cornell.edu/wex/agent_for_service_of_process#:~:text=The%20primary%20reason%20why%20an,which%20you%20operate%20or%20live. (last visited Feb. 19, 2025).

¹⁸ *Id.*

¹⁹ *Id.*

- Registered foreign limited liability company.²⁰

The registered agent is responsible for promptly forwarding copies of the process and any other papers received in connection with the service to a responsible person in charge of the business entity.²¹

Designated Registered Office

The registered agent must keep the designated registered office open from at least 10:00 a.m. until noon each weekday except for legal holidays. The agent must keep one or more individuals on whom process may be served at the designated registered office during the required open hours.²² If the registered agent is not a natural person, the person attempting service may serve process on any employee of the agent.²³ If the agent is a natural person, and the natural person is temporarily absent from the designated office, the person attempting service may serve the process on any employee of the agent during the first attempt at effectuating service.²⁴

Receivership

A receivership is a remedy used by secured lenders primarily to preserve their collateral when a borrower fails to pay its debt and the property may be at risk of losing value.²⁵ In a court-ordered receivership, an independent party will be appointed as “receiver” and will exercise control over the party’s property or asset to preserve and manage the property or asset.²⁶ That sometimes involves managing business operations, collecting rents, or even preparing the property for a sale.²⁷

Receivership is typically used as a way of protecting a company and is a powerful tool for protecting the company’s creditors.²⁸

RECENT LEGISLATION:

YEAR	BILL #	HOUSE SPONSOR(S)	SENATE SPONSOR	OTHER INFORMATION
2022	CS/CS/HB 545	Beltran	Bradley	The bill became law on June 16, 2022.

²⁰ S. [48.091\(2\), F.S.](#)

²¹ S. [48.091\(5\), F.S.](#)

²² S. [48.091\(3\), F.S.](#)

²³ S. [48.091\(4\), F.S.](#)

²⁴ S. [48.091\(4\), F.S.](#)

²⁵ Edgar A. Quintero, The National Law Review, *Secured Lenders: Keeping your Receiver in the Driver’s Seat During Bankruptcy* (Jan. 21, 2025), https://natlawreview.com/article/secured-lenders-keeping-your-receiver-drivers-seat-during-bankruptcy#google_vignette (last visited March 2, 2025).

²⁶ *Id.*

²⁷ *Id.*

²⁸ Stephen Conmy, Corporate Governance Institute, *What Does a Receivership Mean?*, https://www.thecorporategovernanceinstitute.com/insights/lexicon/what-does-receivership-mean/?srsltid=AfmBOoqmxijMjKmfmo_8geLSid0sFdUp1y5M0dADMT2kUA0Ty0ut5vZ-c (last visited March 2, 2025).

BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
Civil Justice & Claims Subcommittee	18 Y, 0 N, As CS	3/5/2025	Jones	Mathews
THE CHANGES ADOPTED BY THE COMMITTEE:	The amendment clarified the required information that must be included in the affidavit of compliance in order to use substituted service on the Secretary of State and specified when service is deemed effectuated when using such substituted service.			
Judiciary Committee				

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THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.
