

By Mr. Gammal of Worcester, petition of Edward W. Brooke and Albert A. Gammal, Jr., for legislation to define further the procedure for service of process on foreign insurance corporations. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Seven.

AN ACT FURTHER DEFINING PROCEDURE FOR SERVICE OF FOREIGN CORPORATIONS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 37 of chapter 223 of the General Laws
2 is hereby amended by striking said section and substituting
3 therefor the following:—

4 *Section 37.* In any civil action against a county, city or town
5 or in any action or criminal proceeding against a parish or
6 religious society, or against the proprietors of wharves, general
7 fields or real estate lying in common, who are incorporated,
8 service shall be made upon the treasurer thereof, or if no treas-
9 urer is found, upon one of the county commissioners, the
10 city clerk or one of the aldermen, the town clerk or one of
11 the selectmen, upon one of the assessors or standing committee
12 of the parish or religious society, or upon one of the proprietors
13 of such land or other estate, as the case may be. If there are
14 no such officers as are mentioned in this section, service shall
15 be made upon one of the inhabitants of the county, city or town,
16 or upon one of the members of the corporation.

17 In any civil action or criminal proceeding against a domestic
18 corporation other than one mentioned in the preceding para-
19 graph, service shall be made upon the president, treasurer,
20 clerk, cashier, secretary, agent or other officer in charge of its
21 business, or, if no such officer is found within the county, upon
22 any member of the corporation. If an officer authorized to
23 serve legal process makes a return on such process that, after
24 diligent search, he can find no one upon whom he can lawfully

25 make service as aforesaid, the court to which such process is
26 returned may upon application issue an order of notice to such
27 corporation, directing it to appear and answer or enter a plea
28 within a designated period. Such order of notice shall contain
29 an exact copy of the legal process referred to in the preceding
30 sentence. The party making such application shall deliver a
31 copy of such order in duplicate with a fee of two dollars to the
32 state secretary or a deputy, or in the office of said secretary.
33 Said secretary shall forthwith cause said copy to be forwarded
34 by registered mail, return receipt requested, to such corpora-
35 tion at such address as may be designated for the purpose by
36 a writing signed by its president, treasurer or clerk and filed
37 with said secretary or if no such address has been designated,
38 to its principal place of business in the commonwealth as stated
39 in the last certificate of condition filed by it or, if no certificate
40 has been filed by it, as stated in its articles of organization or
41 any articles of amendment thereof. As soon as may be after
42 such mailing by said secretary, he shall transmit a certificate
43 to the court issuing such order, stating that he has complied
44 with the provisions of this section, and shall attach thereto the
45 return receipt or the undelivered copy, as the case may be. The
46 clerk shall note upon the docket the name of the corporation
47 and the address to which such copy was mailed by the secretary
48 and shall file with the papers in the case the certificate of the
49 secretary and the return receipt or undelivered copy, as the
50 case may be, and such service shall be a sufficient service upon
51 such corporation. The court in which the action or criminal
52 proceeding is pending may order such continuances as may be
53 necessary to afford the corporation reasonable opportunity to
54 defend the action.

1 SECTION 2. Section 38 of chapter 223 of the General Laws
2 is hereby amended by striking out the first three words thereof
3 and substituting therefor the words:— In any civil action or
4 criminal proceeding, so that said section 38 as amended shall
5 read as follows:— *Section 38.* In any civil action or criminal
6 proceeding against a foreign corporation, except an insurance
7 company, which has a usual place of business in the common-
8 wealth, or, with or without such usual place of business, is
9 engaged in or soliciting business in the commonwealth, per-

10 manently or temporarily, service may be made in accordance
11 with the provisions of the preceding section relative to service
12 on domestic corporations in general, instead of upon the com-
13 missioner of corporations and taxation under section three or
14 section three A of chapter one hundred and eighty-one.

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