

By Mr. Lemanski of Chicopee, petition of Michael Joseph Connolly, Kenneth M. Lemanski and Timothy A. Bassett relative to the appointment of resident agents by foreign corporations. Commerce and Labor.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Three.

AN ACT RELATIVE TO THE APPOINTMENT OF A RESIDENT AGENT BY FOREIGN CORPORATION.

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 four of chapter 181 of the General Laws is
2 hereby amended by striking out clause (4) in the first paragraph
3 thereof and inserting in place thereof the following clause: —

4 (4) The location of its local office, if any, and the name and post
5 office address in the commonwealth of its resident agent.

1 SECTION 2. Said section four of chapter 181 is hereby further
2 amended by striking out the second paragraph beginning with the
3 words, "In the certificate" and ending with the words, "remain
4 outstanding".

1 SECTION 3. Said section four of chapter 181 is hereby further
2 amended by striking out the third paragraph thereof beginning
3 with the words "Every foreign corporation" and ending with the
4 words "date of such change" and inserting in place thereof the
5 following paragraph: —

6 Every foreign corporation doing business in the common-
7 wealth shall file with the state secretary an amended certificate
8 signed under penalties of perjury by its president or a vice-presi-
9 dent and its clerk or an assistant clerk, or its secretary or an
10 assistant secretary, in such form as the state secretary shall require,
11 setting forth any change in the information required by the clauses
12 numbers (1) through (4) of the first paragraph of this section. Said

13 filing shall be made within sixty days of the effective date of such
14 change.

1 SECTION 4. Said section four of chapter 181 is hereby further
2 amended by striking out the comma appearing after the word
3 "agent" and the words "if any", appearing in clause (3) of the fourth
4 paragraph thereof.

1 SECTION 5. Said section four of chapter 181 is hereby further
2 amended by adding at the end thereof the following: —

3 Every foreign corporation doing business in the commonwealth
4 shall by vote of its directors appoint a resident agent as its true and
5 lawful attorney upon whom all lawful processes in any action or
6 proceeding in the commonwealth against such corporation may be
7 served. Such resident agent shall be either an individual who is a
8 resident of and has a business address in the commonwealth or a
9 corporation organized under the laws of any other state of the
10 United States which has complied with the provisions of this
11 section and which has an office in the commonwealth. Such ap-
12 pointment shall become effective upon the filing in the office of the
13 state secretary of a certificate, signed under the penalties of perjury
14 by the clerk or an assistant clerk or by the secretary or an assistant
15 secretary of the corporation, setting forth the name and business
16 address of the resident agent and a copy of the vote of the directors
17 appointing him as such. Such corporation may by like vote revoke
18 any such appointment or appoint a new resident agent, which
19 revocation or appointment shall become effective upon the filing
20 with the state secretary of a certificate, signed under the penalties of
21 perjury by its clerk or an assistant clerk, or secretary or assistant
22 secretary, setting forth a copy of the vote of the directors revoking
23 such prior appointment or appointing such new resident agent and,
24 in the case of the appointment of a new resident agent, the name
25 and business address of such agent. In the event of any change in the
26 business address of the resident agent of any foreign corporation, a
27 certificate setting forth the new business address of such resident
28 agent, signed under the penalties of perjury by such resident agent,
29 shall be filed with the state secretary within five days of such
30 change. Any resident agent of a corporation may resign as such
31 agent by filing with the state secretary a certificate, signed under

32 the penalties of perjury by such agent, setting forth the fact of his
33 resignation and the effective date thereof, which shall be not less
34 than thirty days after the date of the filing of such certificate, and
35 stating that a copy of such certificate has been mailed postage
36 prepaid, to the corporation at the address of the principal office of
37 the corporation as currently on file with the state secretary or, if
38 that office is also the office of the resident agent, at the address
39 most recently furnished to such agent by the corporation as the
40 address to which copies of all processes served upon him as such
41 agent are to be forwarded.

1 SECTION 6. Every foreign corporation which shall have
2 complied with the provisions of section four of Chapter 181 prior
3 to the effective date of the amendments thereto as set forth in
4 sections 1 through 5 of this Act shall, within 180 days after such
5 effective date, comply with the provisions of section four as amend-
6 ed by this Act.

1 SECTION 7. Said chapter 181 is hereby further amended by
2 striking out section 15 and inserting in place thereof the following
3 section: —

4 *Section 15.* Foreign corporations shall be liable to be sued and
5 to have their property attached in the same manner as to the same
6 extent as individuals who are resident of other states.

7 Every foreign corporation doing business in the commonwealth
8 which has not complied with the provisions of section four of
9 this chapter and every foreign corporation which has complied with
10 such provisions but whose resident agent cannot, after a diligent
11 search by an officer authorized to serve legal process, be found at
12 the business address of such resident agent stated in its most recent
13 certificate filed with the state secretary pursuant to this chapter,
14 shall be deemed to have appointed the state secretary and his
15 successor in office to be its true and lawful attorney upon whom all
16 lawful processes in any action or proceeding may be served so long
17 as any liability incurred in the commonwealth while it was doing
18 business shall remain outstanding. Service of process in all actions
19 and proceedings in the commonwealth against such a foreign
20 corporation may be made upon the state secretary. Service of
21 process in all actions and proceedings in the commonwealth

22 against a foreign corporation formerly doing business in the com-
23 monwealth that has not complied with the provisions of section
24 four, or against a foreign corporation formerly doing business in
25 the commonwealth that has withdrawn from the commonwealth
26 pursuant to this chapter, may be made upon the state secretary if
27 the action or proceeding involves a liability alledged to have been
28 incurred by the foreign corporation while it was doing business in
29 the commonwealth.

30 When lawful process in any action or proceeding against any
31 foreign corporation which pursuant to this section may be made
32 upon the state secretary is served upon the state secretary, the state
33 secretary shall immediatley forward the process by mail, postage
34 prepaid, directed to such corporation at its last known principal
35 office or, in the case of a foreign corporation established in a
36 foreign country, to the resident manager, if any, in the United
37 States. A fee of ten dollars shall be paid by the plaintiff to the state
38 secretary at the time of the service and such fees shall be taxed in his
39 costs, if he prevails in the suit. The state secretary shall keep a
40 record of all such processes, which shall show the day and hour of
41 service.

42 In the case of service of process on a foreign corporation that has
43 not complied with section four, the notice herein provided for shall
44 be mailed by the state secretary to the proper address of the foreign
45 corporation furnished to him by the plaintiff or his attorney.

46 Service of process upon a foreign corporation for violation of
47 any criminal law of the commonwealth may be made in the manner
48 hereinabove provided except that no fee shall be paid to the state
49 secretary.