

38-1-6.1. Process against foreign limited liability companies.

A. In all personal actions brought in any court of this state against any foreign limited liability company, process may be served upon any manager or statutory agent of the company, either personally or by leaving a copy of the process at his residence, or by leaving a copy at the registered office of the foreign limited liability company in this state.

B. If no person has been designated by a foreign limited liability company doing business in this state as its statutory agent upon whom service of process can be made, or if upon diligent search neither the agent so designated nor any of the managers of the company can be found in this state, then, upon the filing of an affidavit by the plaintiff to that effect, together with service upon the secretary of state of two copies of the process in the cause, the secretary of state shall accept service of process as the agent of the foreign limited liability company, but the service is not complete until a fee of twenty-five dollars (\$25.00) is paid to the secretary of state by the plaintiff in the action. The plaintiff shall provide the name of the person upon whom the summons and complaint is to be served and the last known address.

C. Within two days after receipt of the process and fee, the secretary of state shall give notice by certified or registered mail, to the foreign limited liability company at its principal place of business outside this state of the service of the process. Where the secretary of state has no record of the principal place of business of the foreign limited liability company outside this state, he shall forward the copy of the process to the place designated as such company's principal office or as the office required to be maintained in the state or other jurisdiction of its organization in its application for registration to transact business in this state, or the most recent amendment of such application, but if no such application for registration has been filed in this state, to the place designated as such company's principal office in an affidavit filed with the secretary of state by the plaintiff in the suit or by his attorney.

D. A foreign limited liability company served as provided in this section shall appear and answer within thirty days after the secretary of state gives the notice. The certificate of service shall not be issued by the secretary of state until the defendant is served with the summons and complaint.

E. The secretary of state shall keep a record of all process served on him as provided for in this section, and of the time of the service and of his action in respect to the service.

F. Any foreign limited liability company engaging in business in this state, either in its own name or in the name of an agent, without having first applied for registration or otherwise having become qualified to engage in business in this state shall be deemed to have consented to the provisions of this section.

History: Laws 1993, ch. 280, § 76.