

HOUSE BILL 854

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D3

2001 Regular Session
(11r0884)

ENROLLED BILL
-- Judiciary/Judicial Proceedings --

Introduced by **Delegate Vallario**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Courts - Service of Process and Subpoenas - Governmental Entities**

3 FOR the purpose of requiring certain units of the State government and political
4 subdivisions and other local entities to file with the Department of Assessments
5 and Taxation designations of persons as resident agents on whom process and
6 notice may be served under certain circumstances; ~~clarifying that process may~~
7 ~~be served on certain resident agents and the Attorney General persons for~~
8 ~~service on certain governmental entities and officers of the State;~~ providing that
9 a subpoena for certain custodians of public records may be served on certain
10 resident agents and the Attorney General under certain circumstances;
11 providing for the application of this Act; defining certain terms; and generally
12 relating to requiring the designation of certain resident agents, and service of
13 process and subpoenas on certain persons for State and local governmental
14 entities and officers of the State and certain custodians of records.

15 BY repealing and reenacting, with amendments,
16 Article 24 - Political Subdivisions - Miscellaneous Provisions

1 Section 1-110
2 Annotated Code of Maryland
3 (1998 Replacement Volume and 2000 Supplement)
4 (As enacted by Chapter 608 of the Acts of the General Assembly of 2000)

5 BY adding to
6 Article - Courts and Judicial Proceedings
7 Section ~~6-313~~ and 6-410
8 Annotated Code of Maryland
9 (1998 Replacement Volume and 2000 Supplement)

10 BY repealing and reenacting, with amendments,
11 Article - State Government
12 Section 6-109
13 Annotated Code of Maryland
14 (1999 Replacement Volume and 2000 Supplement)
15 (As enacted by Chapter 608 of the Acts of the General Assembly of 2000)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article 24 - Political Subdivisions - Miscellaneous Provisions**

19 1-110.

20 (a) (1) In this section the following words have the meanings indicated.

21 (2) "Department" means the Department of Assessments and Taxation.

22 (3) "Governing body" means the board of commissioners, county or
23 municipal council, board of directors, or other governing body of a local entity.

24 (4) "Local entity" means a county, municipal corporation, bicounty or
25 multicounty agency, public authority, special taxing district, or other political
26 subdivision or unit of a political subdivision of this State.

27 (b) (1) A local entity [may] SHALL designate a citizen of this State who
28 resides in the State, a Maryland corporation, or an officer of the local entity as its
29 resident agent by filing for record with the Department:

30 (i) A certification of the person whom the charter of the local entity
31 authorizes to accept service of process for the local entity; or

32 (ii) If the charter does not designate a person for service, a certified
33 copy of a resolution of the local entity's governing body that authorizes the
34 designation.

1 (2) If a local entity changes its resident agent, the local entity [may]
2 SHALL file for record with the Department:

3 (i) A certification of the person whom the charter of the local entity
4 authorizes to accept service of process for the local entity; or

5 (ii) If the charter does not designate a person for service, a certified
6 copy of a resolution of the local entity's governing body that authorizes the
7 designation.

8 (3) A local entity may change the address for its resident agent by filing
9 for record with the Department a statement of the change signed by the chairman or
10 other principal officer of its governing body.

11 (c) (1) A resident agent whose address changes may notify the Department
12 by filing for record with the Department a statement of the change signed by or for
13 the resident agent.

14 (2) A resident agent may resign by filing with the Department a
15 statement of resignation.

16 (d) There is no fee for a filing under this section.

17 (e) A designation, change of agent, change of address, or resignation is
18 effective as provided in the Corporations and Associations Article for a corporate
19 resident agent.

20 (f) (1) Service of process on a resident agent of a local entity constitutes
21 effective service of process under the Maryland Rules on the local entity in an action,
22 suit, or proceeding that is pending, filed, or instituted against the local entity.

23 (2) Any notice required by law to be served by personal service on a
24 resident agent or other agent or officer of a local entity may be served in the manner
25 provided by the Maryland Rules relating to service of process on local entities.

26 (3) Service under the Maryland Rules is equivalent to personal service
27 on a resident agent or other agent or officer of a local entity.

28 **Article - Courts and Judicial Proceedings**

29 ~~6-313.~~

30 ~~PROCESS MAY BE SERVED ON:~~

31 ~~(1) A RESIDENT AGENT DESIGNATED UNDER ARTICLE 24, § 1-110 OF THE~~
32 ~~CODE FOR SERVICE ON A LOCAL ENTITY;~~

33 ~~(2) A RESIDENT AGENT DESIGNATED UNDER § 6-109 OF THE STATE~~
34 ~~GOVERNMENT ARTICLE FOR SERVICE ON A STATE AGENCY THAT IS NOT~~
35 ~~REPRESENTED BY THE ATTORNEY GENERAL; OR~~

1 (3) ~~THE ATTORNEY GENERAL OR AN INDIVIDUAL DESIGNATED BY THE~~
2 ~~ATTORNEY GENERAL AS PROVIDED UNDER THE MARYLAND RULES FOR SERVICE ON~~
3 ~~A STATE AGENCY THAT IS REPRESENTED BY THE ATTORNEY GENERAL.~~

4 ~~PROCESS MAY BE SERVED ON A LOCAL ENTITY OR A STATE AGENCY OR~~
5 ~~OFFICER AS PROVIDED UNDER MARYLAND RULES 2-124 AND 3-124.~~

6 6-410.

7 (A) (1) IN THIS SECTION THE FOLLOWING TERMS WORDS HAVE THE
8 MEANINGS INDICATED.

9 (2) "CUSTODIAN" HAS THE MEANING STATED IN § 10-611 OF THE STATE
10 GOVERNMENT ARTICLE.

11 (3) ~~"OFFICIAL CUSTODIAN" HAS THE MEANING STATED IN § 10-611 OF~~
12 ~~THE STATE GOVERNMENT ARTICLE.~~

13 (4) (3) "PUBLIC RECORD" HAS THE MEANING STATED IN § 10-611 OF THE
14 STATE GOVERNMENT ARTICLE.

15 (B) ~~A SUBPOENA FOR AN OFFICIAL CUSTODIAN OR CUSTODIAN OF PUBLIC~~
16 ~~RECORDS DESCRIBED UNDER TITLE 10, SUBTITLE 6 OF THE STATE GOVERNMENT~~
17 ~~ARTICLE MAY BE SERVED ON AN OFFICIAL CUSTODIAN OR CUSTODIAN OF PUBLIC~~
18 ~~RECORDS OR IF THE CUSTODIAN OF PUBLIC RECORDS IS NOT KNOWN AND CANNOT~~
19 ~~BE ASCERTAINED AFTER A REASONABLE EFFORT BY A PARTY IN A LEGAL~~
20 ~~PROCEEDING, THE PARTY MAY REQUEST A COURT TO ISSUE A SUBPOENA FOR THE~~
21 ~~CUSTODIAN OF PUBLIC RECORDS TO BE SERVED ON:~~

22 (1) A RESIDENT AGENT DESIGNATED UNDER ARTICLE 24, § 1-110 OF THE
23 CODE ~~OR MARYLAND RULES 2-124 AND 3-124~~ FOR SERVICE ON A LOCAL ENTITY;

24 (2) A RESIDENT AGENT DESIGNATED UNDER § 6-109 OF THE STATE
25 GOVERNMENT ARTICLE ~~OR MARYLAND RULES 2-124 AND 3-124~~ FOR SERVICE ON A
26 STATE AGENCY THAT IS NOT REPRESENTED BY THE ATTORNEY GENERAL; OR

27 (3) THE ATTORNEY GENERAL OR AN INDIVIDUAL DESIGNATED BY THE
28 ATTORNEY GENERAL AS PROVIDED UNDER THE MARYLAND RULES FOR SERVICE ON
29 A STATE AGENCY THAT IS REPRESENTED BY THE ATTORNEY GENERAL.

30 (C) SERVICE OF A SUBPOENA UNDER THIS SECTION IS EQUIVALENT TO
31 PERSONAL SERVICE ON AN OFFICIAL CUSTODIAN OR A CUSTODIAN OF PUBLIC
32 RECORDS.

33 (D) THE COURT OF APPEALS MAY ADOPT RULES TO IMPLEMENT THE
34 PROVISIONS OF THIS SECTION.

Article - State Government

1
2 6-109.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) "Department" means the Department of Assessments and Taxation.

5 (3) "Governing body" means the head, board, council, board of directors,
6 or other governing body of a State agency.

7 (b) (1) A State agency not represented by the Attorney General [may]
8 SHALL designate a citizen of this State who resides in this State, a Maryland
9 corporation, or an officer of the State agency as its resident agent and change its
10 resident agent by filing for record with the Department a certified copy of a resolution
11 of its governing body that authorizes the designation or change.

12 (2) A State agency may change the address for its resident agent by
13 filing for record with the Department a statement of the change signed by the
14 chairman or other principal officer of its governing body.

15 (c) (1) A resident agent whose address changes may notify the Department
16 by filing for record with the Department a statement of the change signed by or for
17 the resident agent.

18 (2) A resident agent may resign by filing with the Department a
19 statement of resignation.

20 (d) There is no fee for a filing under this section.

21 (e) A designation, change of agent, change of address, or resignation is
22 effective as provided in the Corporations and Associations Article for a corporate
23 resident agent.

24 (f) (1) Service of process on a resident agent of a State agency constitutes
25 effective service of process under the Maryland Rules on the State agency in an
26 action, suit, or proceeding that is pending, filed, or instituted against the State
27 agency.

28 (2) Any notice required by law to be served by personal service on a
29 resident agent or other agent or officer of a State agency may be served in the manner
30 provided by the Maryland Rules relating to service of process on State agencies.

31 (3) Service under the Maryland Rules is equivalent to personal service
32 on a resident agent or other agent or officer of a State agency.

33 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
34 construed only prospectively and may not be applied or interpreted to have any effect
35 on or application to any service of process or a subpoena before the effective date of
36 this Act.

1 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
2 effect October 1, 2001.