

1-1 By: McClendon (Senate Sponsor - Wentworth) H.B. No. 297
1-2 (In the Senate - Received from the House March 29, 2005;
1-3 March 30, 2005, read first time and referred to Committee on
1-4 Government Organization; April 20, 2005, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; April 20, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to changing the title of assistant secretary of state to
1-9 deputy secretary of state.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 405.004, Government Code, is amended to
1-12 read as follows:

1-13 Sec. 405.004. DEPUTY [~~ASSISTANT~~] SECRETARY OF STATE. (a)
1-14 The secretary of state shall appoint a deputy [~~an assistant~~]
1-15 secretary of state who shall:

1-16 (1) perform the duties prescribed by law for the
1-17 secretary of state when the secretary of state is absent or unable
1-18 to act; and

1-19 (2) perform other duties required by the secretary of
1-20 state.

1-21 (b) The deputy [~~assistant~~] secretary of state serves at the
1-22 pleasure of the secretary of state.

1-23 SECTION 2. Section 221.023(c), Health and Safety Code, is
1-24 amended to read as follows:

1-25 (c) The secretary of state may be served by delivering two
1-26 copies of the process, notice, or demand to the secretary of state,
1-27 the deputy [~~assistant~~] secretary of state, or a clerk in charge of
1-28 the corporation department of the secretary of state's office. The
1-29 secretary of state shall immediately forward one copy of the
1-30 process, notice, or demand by registered mail to the development
1-31 corporation at its registered office.

1-32 SECTION 3. Section 303.034(c), Local Government Code, is
1-33 amended to read as follows:

1-34 (c) The secretary of state may be served by delivering two
1-35 copies of the process, notice, or demand to the secretary of state,
1-36 the deputy [~~assistant~~] secretary of state, or a clerk in charge of
1-37 the corporation department of the secretary of state's office. The
1-38 secretary of state shall immediately forward one copy of the
1-39 process, notice, or demand by registered mail to the corporation at
1-40 its registered office.

1-41 SECTION 4. Section 171.355(b), Tax Code, is amended to read
1-42 as follows:

1-43 (b) Complete and valid service of process is made on a
1-44 corporation through the secretary of state by delivering duplicate
1-45 copies of the process to the secretary of state or the deputy
1-46 [~~assistant~~] secretary of state.

1-47 SECTION 5. Section B, Article 2.07, Texas Non-Profit
1-48 Corporation Act (Article 1396-2.07, Vernon's Texas Civil
1-49 Statutes), is amended to read as follows:

1-50 B. Whenever a corporation shall fail to appoint or maintain
1-51 a registered agent in this State, or whenever its registered agent
1-52 cannot with reasonable diligence be found at the registered office,
1-53 then the Secretary of State shall be an agent of such corporation
1-54 upon whom any such process, notice, or demand may be served.
1-55 Service on the Secretary of State of any process, notice, or demand
1-56 shall be made by delivering to and leaving with him, or with the
1-57 Deputy [~~Assistant~~] Secretary of State, or with any clerk having
1-58 charge of the corporation department of his office, duplicate
1-59 copies of such process, notice, or demand. In the event any such
1-60 process, notice, or demand is served on the Secretary of State, he
1-61 shall immediately cause one of the copies thereof to be forwarded by
1-62 registered mail, addressed to the corporation at its registered
1-63 office. Any service so had on the Secretary of State shall be
1-64 returnable in not less than thirty (30) days.

2-1 SECTION 6. Section B, Article 8.09, Texas Non-Profit
 2-2 Corporation Act (Article 1396-8.09, Vernon's Texas Civil
 2-3 Statutes), is amended to read as follows:

2-4 B. Whenever a foreign corporation authorized to conduct
 2-5 affairs in this State shall fail to appoint or maintain a registered
 2-6 agent in this State, or whenever any such registered agent cannot
 2-7 with reasonable diligence be found at the registered office, or
 2-8 whenever the certificate of authority of a foreign corporation
 2-9 shall be revoked, then the Secretary of State shall be an agent of
 2-10 such corporation upon whom any such process, notice, or demand may
 2-11 be served. Service on the Secretary of State of any such process,
 2-12 notice, or demand shall be made by delivering to and leaving with
 2-13 him, or with the Deputy [~~Assistant~~] Secretary of State, or with any
 2-14 clerk having charge of the corporation department of his office,
 2-15 duplicate copies of such process, notice, or demand. In the event
 2-16 any such process, notice or demand is served on the Secretary of
 2-17 State, he shall immediately cause one of such copies thereof to be
 2-18 forwarded by registered mail, addressed to the corporation at its
 2-19 principal office in the state or country under the laws of which it
 2-20 is incorporated. Any service so had on the Secretary of State shall
 2-21 be returnable in not less than thirty (30) days.

2-22 SECTION 7. Section B, Article 2.08, Texas Limited Liability
 2-23 Company Act (Article 1528n, Vernon's Texas Civil Statutes), is
 2-24 amended to read as follows:

2-25 B. Whenever a limited liability company or foreign limited
 2-26 liability company shall fail to appoint or maintain a registered
 2-27 agent in this State, or whenever its registered agent cannot with
 2-28 reasonable diligence be found at the registered office, then the
 2-29 Secretary of State shall be an agent of such limited liability
 2-30 company or foreign limited liability company upon whom any such
 2-31 process, notice, or demand may be served. Service on the Secretary
 2-32 of State of any process, notice, or demand shall be made by
 2-33 delivering to and leaving with the Secretary of State, or with the
 2-34 Deputy [~~Assistant~~] Secretary of State, or with any clerk having
 2-35 charge of the limited liability company department of the Secretary
 2-36 of State's office, duplicate copies of such process, notice, or
 2-37 demand. In the event any such process, notice, or demand is served
 2-38 on the Secretary of State, the Secretary of State shall immediately
 2-39 cause one of the copies thereof to be forwarded by registered mail,
 2-40 addressed to the limited liability company or foreign limited
 2-41 liability company at its registered office. Any service so had on
 2-42 the Secretary of State shall be returnable in not less than thirty
 2-43 (30) days.

2-44 SECTION 8. Section B, Article 2.11, Texas Business
 2-45 Corporation Act, is amended to read as follows:

2-46 B. Whenever a corporation shall fail to appoint or maintain
 2-47 a registered agent in this State, or whenever its registered agent
 2-48 cannot with reasonable diligence be found at the registered office,
 2-49 then the Secretary of State shall be an agent of such corporation
 2-50 upon whom any such process, notice, or demand may be served.
 2-51 Service on the Secretary of State of any process, notice, or demand
 2-52 shall be made by delivering to and leaving with him, or with the
 2-53 Deputy [~~Assistant~~] Secretary of State, or with any clerk having
 2-54 charge of the corporation department of his office, duplicate
 2-55 copies of such process, notice, or demand. In the event any such
 2-56 process, notice, or demand is served on the Secretary of State, he
 2-57 shall immediately cause one of the copies thereof to be forwarded by
 2-58 registered mail, addressed to the corporation at its registered
 2-59 office. Any service so had on the Secretary of State shall be
 2-60 returnable in not less than thirty (30) days.

2-61 SECTION 9. Section B, Article 8.10, Texas Business
 2-62 Corporation Act, is amended to read as follows:

2-63 B. Whenever a foreign corporation authorized to transact
 2-64 business in this State shall fail to appoint or maintain a
 2-65 registered agent in this State, or whenever any such registered
 2-66 agent cannot with reasonable diligence be found at the registered
 2-67 office, or whenever the certificate of authority of a foreign
 2-68 corporation shall be revoked, then the Secretary of State shall be
 2-69 an agent of such corporation upon whom any such process, notice, or

3-1 demand may be served. Service on the Secretary of State of any such
 3-2 process, notice, or demand shall be made by delivering to and
 3-3 leaving with him, or with the Deputy [~~Assistant~~] Secretary of
 3-4 State, or with any clerk having charge of the corporation
 3-5 department of his office, duplicate copies of such process, notice,
 3-6 or demand. In the event any such process, notice or demand is
 3-7 served on the Secretary of State, he shall immediately cause one of
 3-8 such copies thereof to be forwarded by registered mail, addressed
 3-9 to the corporation at its principal office in the state or country
 3-10 under the laws of which it is incorporated. Any service so had on
 3-11 the Secretary of State shall be returnable in not less than thirty
 3-12 days.

3-13 SECTION 10. Section 10(b), Development Corporation Act of
 3-14 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to
 3-15 read as follows:

3-16 (b) Whenever a corporation shall fail to appoint or maintain
 3-17 a registered agent in this state or whenever its registered agent
 3-18 cannot with reasonable diligence be found at the registered office,
 3-19 then the secretary of state shall be an agent of such corporation
 3-20 upon whom any such process, notice, or demand may be served.
 3-21 Service on the secretary of state of any process, notice, or demand
 3-22 shall be made by delivering to and leaving with him or with the
 3-23 deputy [~~assistant~~] secretary of state or with any clerk having
 3-24 charge of the corporation department of his office duplicate copies
 3-25 of such process, notice, or demand. In the event any such process,
 3-26 notice, or demand is served on the secretary of state, he shall
 3-27 immediately cause one of the copies thereof to be forwarded by
 3-28 registered mail, addressed to the corporation at its registered
 3-29 office. Any service so had on the secretary of state shall be
 3-30 returnable in not less than 30 days.

3-31 SECTION 11. Section 1.08(b), Texas Revised Limited
 3-32 Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes),
 3-33 is amended to read as follows:

3-34 (b) If a limited partnership fails to appoint or maintain a
 3-35 registered agent in Texas or its registered agent cannot with
 3-36 reasonable diligence be found at the registered office, and if a
 3-37 general partner of the limited partnership cannot with reasonable
 3-38 diligence be found, the secretary of state is an agent of the
 3-39 limited partnership on whom any process, notice, or demand may be
 3-40 served. Service on the secretary of state of any process, notice,
 3-41 or demand may be made by delivering to the secretary of state,
 3-42 deputy [~~assistant~~] secretary of state, or any clerk having charge
 3-43 of the corporation department of the secretary of state's office
 3-44 duplicate copies of the process, notice, or demand. If the process,
 3-45 notice, or demand is served on the secretary of state, the secretary
 3-46 of state shall immediately forward one of the copies by registered
 3-47 mail, addressed to the address of a general partner as it appears on
 3-48 file with the secretary of state or, if no address appears on file,
 3-49 at the partnership's last registered office. Service on the
 3-50 secretary of state is returnable in not less than 30 days.

3-51 SECTION 12. Section 9.10(b), Texas Revised Limited
 3-52 Partnership Act (Article 6132a-1, Vernon's Texas Civil Statutes),
 3-53 is amended to read as follows:

3-54 (b) If a foreign limited partnership registered in Texas
 3-55 fails to appoint or maintain a registered agent in Texas, if its
 3-56 registered agent cannot with reasonable diligence be found at the
 3-57 registered office, if its registration is canceled, or if a foreign
 3-58 limited partnership transacts business in Texas without having
 3-59 registered under Section 9.02 of this Act, the secretary of state is
 3-60 an agent of the foreign limited partnership on whom any process,
 3-61 notice, or demand may be served. Service on the secretary of state
 3-62 of any process, notice, or demand shall be made by delivering to the
 3-63 secretary of state, deputy [~~assistant~~] secretary of state, or any
 3-64 clerk having charge of the corporation department of the secretary
 3-65 of state's office duplicate copies of the process, notice, or
 3-66 demand. If any process, notice, or demand is served on the
 3-67 secretary of state, the secretary of state shall immediately
 3-68 forward one of the copies by registered mail addressed to the
 3-69 foreign limited partnership at its principal office in the state

4-1 under which the foreign limited partnership is formed as shown on
4-2 the registration application. Service had in this manner on the
4-3 secretary of state is returnable in not less than 30 days.

4-4 SECTION 13. Section 10.05(1), Texas Revised Partnership Act
4-5 (Article 6132b-10.05, Vernon's Texas Civil Statutes), is amended to
4-6 read as follows:

4-7 (1) Service on the secretary of state of any process,
4-8 notice, or demand shall be made by delivering duplicate copies of
4-9 the process, notice, or demand to the secretary of state, deputy
4-10 ~~[assistant]~~ secretary of state, or any clerk having charge of the
4-11 corporation department of the secretary of state's office. If any
4-12 process, notice, or demand is served on the secretary of state, the
4-13 secretary of state shall immediately forward one of the copies by
4-14 registered mail addressed to the foreign limited liability
4-15 partnership at its principal office in the state under which the
4-16 foreign limited liability partnership is formed as shown on the
4-17 statement of foreign qualification. Service had in this manner on
4-18 the secretary of state is returnable in not less than 30 days.

4-19 SECTION 14. Section 5.20(B), Texas Real Estate Investment
4-20 Trust Act (Article 6138A, Vernon's Texas Civil Statutes), is
4-21 amended to read as follows:

4-22 (B) When a real estate investment trust fails to appoint or
4-23 maintain a registered agent in this state or when the registered
4-24 agent of the real estate investment trust cannot with reasonable
4-25 diligence be found at the registered office, the secretary of state
4-26 shall be an agent of the real estate investment trust on whom any
4-27 process, notice, or demand may be served. Service of any process,
4-28 notice, or demand on the secretary of state shall be made by
4-29 delivering to and leaving with the secretary of state, the deputy
4-30 ~~[assistant]~~ secretary of state, or any clerk having charge of the
4-31 corporation department of the office of the secretary of state,
4-32 duplicate copies of the process, notice, or demand. If any process,
4-33 notice, or demand is served on the secretary of state under this
4-34 Section, the secretary of state shall immediately forward by
4-35 registered mail one of the copies of the process, notice, or demand
4-36 to the real estate investment trust at its registered office. Any
4-37 service made on the secretary of state shall be returnable in not
4-38 less than 30 days.

4-39 SECTION 15. Article 17A.04(b), Code of Criminal Procedure,
4-40 is amended to read as follows:

4-41 (b) If the peace officer certifies on the return that he
4-42 diligently but unsuccessfully attempted to effect service under
4-43 Paragraph (a) of this article, or if the corporation is a foreign
4-44 corporation that has no certificate of authority, then he shall
4-45 serve the summons on the secretary of state by personally
4-46 delivering a copy of it to him, or to the deputy ~~[assistant]~~
4-47 secretary of state, or to any clerk in charge of the corporation
4-48 department of his office. On receipt of the summons copy, the
4-49 secretary of state shall immediately forward it by certified or
4-50 registered mail, return receipt requested, addressed to the
4-51 defendant corporation at its registered or principal office in the
4-52 state or country under whose law it was incorporated.

4-53 SECTION 16. (a) The title of assistant secretary of state
4-54 is changed to deputy secretary of state.

4-55 (b) Any reference in law to the assistant secretary of state
4-56 means the deputy secretary of state.

4-57 (c) The validity of an action taken by or in relation to the
4-58 authority of the assistant secretary of state before the change in
4-59 title under Subsection (a) of this section is not affected by this
4-60 Act.

4-61 SECTION 17. This Act takes effect September 1, 2005.

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