



General Assembly

February Session, 2014

Raised Bill No. 284

LCO No. 1546



Referred to Committee on BANKS

Introduced by:
(BA)

AN ACT CONCERNING CONSTRUCTIVE SERVICE ON THE BANKING COMMISSIONER.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 36b-33 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2014*):

4 (g) Every applicant for registration under sections 36b-2 to 36b-34,
5 inclusive, every investment adviser exempt under subsection (e) of
6 section 36b-6, and every issuer, other than the United States, any state,
7 Canada, any other foreign government with which the United States
8 currently maintains diplomatic relations, or any issuer of covered
9 securities under Section 18(b)(1) of the Securities Act of 1933, which
10 proposes to offer a security in this state through any person acting on
11 an agency basis in the common-law sense shall file with the
12 commissioner, in such form as the commissioner by regulation
13 prescribes, an irrevocable consent appointing the commissioner or the
14 commissioner's successor in office to be his or her attorney to receive
15 service of any lawful process in any noncriminal suit, action, or

16 proceeding against him or her or his or her successor executor or
17 administrator which arises under sections 36b-2 to 36b-34, inclusive, or
18 any regulation or order thereunder after the consent has been filed,
19 with the same force and validity as if served personally on the person
20 filing the consent. A person who has filed such a consent in connection
21 with a previous registration need not file another. Service may be
22 made by leaving a copy of the process in the office of the
23 commissioner, but it is not effective unless (1) the plaintiff, who may
24 be the commissioner in a suit, action, or proceeding instituted by the
25 commissioner, forthwith sends notice of the service and a copy of the
26 process by registered mail, return receipt requested, certified mail,
27 return receipt requested, or [by] any express delivery carrier that
28 provides a dated delivery receipt, to the defendant or respondent at
29 the defendant's or respondent's last address on file with the
30 commissioner, and (2) the plaintiff's affidavit of compliance with this
31 subsection is filed in the case on or before the return day of the
32 process, if any, or within such further time as the court allows.

33 Sec. 2. Subsection (h) of section 36b-33 of the general statutes is
34 repealed and the following is substituted in lieu thereof (*Effective*
35 *October 1, 2014*):

36 (h) When any person, including any nonresident of this state,
37 engages in conduct prohibited or made actionable by sections 36b-2 to
38 36b-34, inclusive, or any regulation or order thereunder, and such
39 person has not filed a consent to service of process under subsection
40 (g) of this section and personal jurisdiction over such person cannot
41 otherwise be obtained in this state, that conduct shall be considered
42 equivalent to such person's appointment of the commissioner or the
43 commissioner's successor in office to be such person's attorney to
44 receive service of any lawful process in any noncriminal suit, action, or
45 proceeding against such person or such person's successor executor or
46 administrator which grows out of that conduct and which is brought
47 under said sections or any regulation or order thereunder, with the
48 same force and validity as if served on such person personally. Service

49 may be made by leaving a copy of the process in the office of the
50 commissioner, and it is not effective unless (1) the plaintiff, who may
51 be the commissioner in a suit, action, or proceeding instituted by the
52 commissioner, forthwith sends notice of the service and a copy of the
53 process by registered mail, return receipt requested, certified mail,
54 return receipt requested, or by any express delivery carrier that
55 provides a dated delivery receipt, to the defendant or respondent at
56 the defendant's or respondent's last known address or takes other
57 steps which are reasonably calculated to give actual notice, and (2) the
58 plaintiff's affidavit of compliance with this subsection is filed in the
59 case on or before the return day of the process, if any, or within such
60 further time as the court allows.

61 Sec. 3. Subsections (e) and (f) of section 36b-62 of the general statutes
62 are repealed and the following is substituted in lieu thereof (*Effective*
63 *October 1, 2014*):

64 (e) Every seller proposing to sell or offer for sale a business
65 opportunity in this state or from this state directly or through any
66 person acting on an agency basis, as determined by reference to the
67 principles of common law, shall file with the commissioner, in such
68 form as the commissioner by regulation, adopted pursuant to section
69 36b-77, or order prescribes, an irrevocable consent appointing the
70 commissioner to be the seller's attorney to receive service of any lawful
71 process in any noncriminal suit, action or proceeding against the seller
72 or the seller's successor, executor or administrator that arises under
73 sections 36b-60 to 36b-80, inclusive, or any regulation or order adopted
74 or issued under said sections after the consent has been filed, with the
75 same force and validity as if served personally on the person filing the
76 consent. Service may be made by leaving a copy of the process in the
77 office of the commissioner, but such service shall not be effective
78 unless (1) the plaintiff, who may be the commissioner in a suit, action
79 or proceeding instituted by the commissioner, forthwith sends notice
80 of the service and a copy of the process by registered mail, return
81 receipt requested, certified mail, return receipt requested, or [by] any

82 express delivery carrier that provides a dated delivery receipt, to the
83 defendant or respondent at the defendant's or respondent's last
84 address on file with the commissioner, and (2) the plaintiff's affidavit
85 of compliance with this subsection is filed in the case on or before the
86 return day of the process, if any, or within such further time as the
87 court allows.

88 (f) When any person, including any nonresident of this state,
89 engages in conduct prohibited or made actionable by sections 36b-60 to
90 36b-80, inclusive, or any regulation or order adopted or issued under
91 said sections, and such person has not filed a consent to service of
92 process under subsection (e) of this section and personal jurisdiction
93 over such person cannot otherwise be obtained in this state, such
94 conduct shall be considered equivalent to such person's appointment
95 of the commissioner to be such person's attorney to receive service of
96 any lawful process in any noncriminal suit, action or proceeding
97 against such person or such person's successor, executor or
98 administrator that grows out of such conduct and that is brought
99 under said sections or any regulation or order adopted or issued under
100 said sections, with the same force and validity as if served on such
101 person personally. Service may be made by leaving a copy of the
102 process in the office of the commissioner, but such service shall not be
103 effective unless (1) the plaintiff, who may be the commissioner in a
104 suit, action or proceeding instituted by the commissioner, forthwith
105 sends notice of the service and a copy of the process by registered mail,
106 return receipt requested, certified mail, return receipt requested, or
107 [by] any express delivery carrier that provides a dated delivery receipt,
108 to the defendant or respondent at the defendant's or respondent's last
109 known address, and (2) the plaintiff's affidavit of compliance with this
110 subsection is filed in the case on or before the return day of the
111 process, if any, or within such further time as the court allows.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2014</i>	36b-33(g)
Sec. 2	<i>October 1, 2014</i>	36b-33(h)
Sec. 3	<i>October 1, 2014</i>	36b-62(e) and (f)

Statement of Purpose:

To permit the use of less costly certified mail as an alternative to registered mail or overnight courier for constructive service on the Banking Commissioner.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]