

# **WEST VIRGINIA LEGISLATURE**

**2026 REGULAR SESSION**

**Introduced**

## **Senate Bill 1045**

By Senator Weld

[Introduced February 21, 2026; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §31B-1-111 and §31D-5-504 of the Code of West Virginia, 1931, as  
 2 amended, relating to service of process; clarifying when service of process on a limited  
 3 liability company by the Secretary of State is sufficient; and clarifying when service of  
 4 process on a corporation by the Secretary of State is sufficient.

*Be it enacted by the Legislature of West Virginia:*

**CHAPTER 31B. UNIFORM LIMITED LIABILITY COMPANY ACT.**

**ARTICLE 1. GENERAL PROVISIONS.**

**§31B-1-111. Service of process.**

1 (a) An agent for service of process appointed by a limited liability company or a foreign  
 2 limited liability company is an agent of the company for service of any process, notice or demand  
 3 required or permitted by law to be served upon the company.

4 (b) If a limited liability company or foreign limited liability company fails to appoint or  
 5 maintain an agent for service of process in this state or the agent for service of process cannot with  
 6 reasonable diligence be found at the agent’s address, the Secretary of State is an agent of the  
 7 company upon whom process, notice or demand may be served.

8 (c) Service of any process, notice or demand on the Secretary of State may be made by  
 9 delivering to and leaving with the Secretary of State, the assistant Secretary of State or clerk  
 10 having charge of the limited liability company department of the Secretary of State, the original  
 11 process, notice or demand and two copies thereof for each defendant, along with the fee required  
 12 by ~~section two, article one, chapter fifty-nine~~ §59-1-2 of this code. No process, notice or demand  
 13 may be served on or accepted by the Secretary of State less than ten days before the return day  
 14 thereof. The Secretary of State, upon being served with or accepting any process, notice or  
 15 demand, shall: (1) File in his or her office a copy of the process, notice or demand, endorsed as of  
 16 the time of service or acceptance; and (2) transmit one copy of the process, notice or demand by  
 17 registered or certified mail, return receipt requested, by a means which may include electronic

18 issuance and acceptance of electronic return receipts, to the limited liability company's registered  
19 agent: *Provided*, That if there is no registered agent, then to the individual whose name and  
20 address ~~was~~ were last given to the Secretary of State's office as the person designated to receive  
21 process, notice or demand. If no person has been named, then to the principal office of the limited  
22 liability company at the address last given to the Secretary of State's office and if no address is  
23 available on record with the Secretary of State then to the address provided on the original  
24 process, notice or demand, if available; and (3) transmit the original process, notice or demand to  
25 the clerk's office of the court from which the process, notice, or demand was issued.

26 ~~(d) Such service~~ Service or acceptance of process, notice or demand by the Secretary of  
27 Sate under subsection (c) of this section is sufficient if: ~~the~~

28 (1) The return receipt is signed by an agent or employee of such company; or the

29 (2) The registered or certified mail so sent by the Secretary of State is refused by the  
30 addressee and the registered or certified mail is returned to the Secretary of State, showing the  
31 stamp of the United States Postal Service that delivery thereof has been refused, and such return  
32 receipt or registered or certified mail is received by the Secretary of State by a means which may  
33 include electronic issuance and acceptance of electronic return receipts; or

34 (3) The registered or certified mail so sent by the Secretary of State was undeliverable by  
35 the United States Postal Service at the address of either the limited liability company's registered  
36 agent, a person otherwise designated to receive process, notice, or demand, or the limited liability  
37 company's principal office, and the registered or certified mail is returned to the Secretary of State  
38 showing the stamp of the United States Postal Service reflecting that the mail was undeliverable.

39 (e) After receiving verification from the United States Postal Service that acceptance of  
40 process, notice or demand has been signed served in accordance with subsection (d) of this  
41 section, the Secretary of State shall notify the clerk's office of the court from which the process,  
42 notice or demand was issued by a means which may include electronic notification. If the process,  
43 notice or demand was refused or undeliverable by the United States Postal Service the Secretary

44 of State shall create a preservation duplicate from which a reproduction of the stored record may  
 45 be retrieved which truly and accurately depicts the image of the original record. The Secretary of  
 46 State may destroy or otherwise dispose of the original returned or undeliverable mail. Written  
 47 notice of the action by the Secretary of State shall be provided by certified mail, return receipt  
 48 requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process,  
 49 notice or demand was issued. No process, notice or demand may be served on the Secretary of  
 50 State or accepted by him or her less than ten days before the return day of the process or notice.  
 51 The court may order continuances as may be reasonable to afford each defendant opportunity to  
 52 defend the action or proceedings.

53 ~~(d)~~ (f) The Secretary of State shall keep a record of all processes, notices and demands  
 54 served pursuant to this section and record the time of and the action taken regarding the service.

55 ~~(e)~~ (g) This section does not affect the right to serve process, notice or demand in any  
 56 manner otherwise provided by law.

## **CHAPTER 31D. WEST VIRGINIA BUSINESS CORPORATION ACT.**

### **ARTICLE 5. OFFICE AND AGENT.**

#### **§31D-5-504. Service on corporation.**

1 (a) A corporation's registered agent is the corporation's agent for service of process, notice  
 2 or demand required or permitted by law to be served on the corporation.

3 (b) If a corporation has no registered agent, or the agent cannot with reasonable diligence  
 4 be served, the corporation may be served by registered or certified mail, return receipt requested,  
 5 addressed to the secretary of the corporation at its principal office. Service is perfected under this  
 6 subsection at the earliest of:

7 (1) The date the corporation receives the mail;

8 (2) The date shown on the return receipt, if signed on behalf of the corporation; or

9 (3) Five days after its deposit in the United States mail, as evidenced by the postmark, if

10 mailed postpaid and correctly addressed.

11 (c) In addition to the methods of service on a corporation provided in subsections (a) and  
12 (b) of this section, the Secretary of State is hereby constituted the attorney-in-fact for and on behalf  
13 of each corporation created pursuant to the provisions of this chapter. The Secretary of State has  
14 the authority to accept service of notice and process on behalf of each corporation and is an agent  
15 of the corporation upon whom service of notice and process may be made in this state for and  
16 upon each corporation. No act of a corporation appointing the Secretary of State as attorney-in-  
17 fact is necessary. Service of any process, notice or demand on the Secretary of State may be  
18 made by delivering to and leaving with the Secretary of State the original process, notice or  
19 demand and two copies of the process, notice or demand for each defendant, along with the fee  
20 required by ~~section two, article one, chapter fifty-nine~~ §59-1-2 of this code: *Provided*, That with  
21 regard to a class action suit in which all defendants are to be served with the same process, notice  
22 or demand, service may be made by filing with the Secretary of State the original process, notice  
23 or demand and one copy for each named defendant. Immediately after being served with or  
24 accepting any process, ~~or~~ notice, or demand, the Secretary of State shall: (1) File in his or her  
25 office a copy of the process, ~~or~~ notice, or demand endorsed as of the time of service or  
26 acceptance; (2) transmit one copy of the process, ~~or~~ notice, or demand by registered or certified  
27 mail, return receipt requested, by a means which may include electronic issuance and acceptance  
28 of electronic return receipts, to: (A) The corporation's registered agent; or (B) if there is no  
29 registered agent, to the individual whose name and address was last given to the Secretary of  
30 State's office as the person to whom notice and process are to be sent and if no person has been  
31 named, to the principal office of the corporation as that address was last given to the Secretary of  
32 State's office. If no address is available on record with the Secretary of State, then to the address  
33 provided on the original process, notice or demand, if available; and (3) transmit the original  
34 process, notice or demand to the clerk's office of the court from which the process, notice or  
35 demand was issued.

36            (d) Service or acceptance of process, or notice, or demand by the Secretary of  
37 State under subsection (c) of this section is sufficient if: return

38            (1) Return receipt is signed by an agent or employee of the corporation; ~~or the~~

39            (2) The registered or certified mail sent by the Secretary of State is refused by the  
40 addressee and the registered or certified mail is returned to the Secretary of State, or to his or her  
41 office, showing the stamp of the United States Postal Service that delivery has been refused, and  
42 the return receipt or registered or certified mail is received by the Secretary of State by a means  
43 which may include electronic issuance and acceptance of electronic return receipts; or

44            (3) The registered or certified mail so sent by the Secretary of State was undeliverable by  
45 the United States Postal Service at the address of either the corporation's registered agent, a  
46 person otherwise designated to receive process, notice, or demand, or the corporation's principal  
47 office, and the registered or certified mail is returned to the Secretary of State showing the stamp  
48 of the United States Postal Service reflecting that the mail was undeliverable.

49            (e) After receiving verification from the United States Postal Service that acceptance of  
50 process, notice or demand has been signed, served in accordance with subsection (d) of this  
51 section, the Secretary of State shall notify the clerk's office of the court from which the process,  
52 notice or demand was issued by a means which may include electronic notification. If the process,  
53 notice or demand was refused or undeliverable by the United States Postal Service the Secretary  
54 of State shall create a preservation duplicate from which a reproduction of the stored record may  
55 be retrieved which truly and accurately depicts the image of the original record. The Secretary of  
56 State may destroy or otherwise dispose of the original returned or undeliverable mail. Written  
57 notice of the action by the Secretary of State must then be provided by certified mail, return receipt  
58 requested, facsimile, or by electronic mail, to the clerk's office of the court from which the process,  
59 notice or demand was issued. No process or notice may be served on the Secretary of State or  
60 accepted by him or her less than ten days before the return day of the process or notice. The court  
61 may order continuances as may be reasonable to afford each defendant opportunity to defend the

62 action or proceedings.

63 ~~(d)~~ (f) This section does not prescribe the only means, or necessarily the required means,

64 of serving a corporation.

NOTE: The purpose of this bill is to clarify when service of process on a limited liability company or corporation by the Secretary of State is sufficient.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.