

Int. No. 1037

By Council Member Garodnick, Lappin, Brewer, James, Liu, Gerson and Nelson

A Local Law to amend the administrative code of the city of New York, in relation to process servers.

Be it enacted by the Council as follows:

Section 1. Section 20-403 of the administrative code of the city of New York is amended to read as follows:

a. Process server license. It shall be unlawful for any person to be employed as or perform the services of a process server without a license therefor.

b. Process serving agency license. It shall be unlawful for any process serving agency to assign or distribute process to individual process servers for actual service without a license therefore.

§2. Section 20-404 of the administrative code of the city of New York is amended to read as follows:

a. A process server is a person engaged in the business of serving or one who purports to serve or one who serves personally or by substituted service upon any person, corporation, governmental or political subdivision or agency, a summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceedings.

b. A process serving agency is any person, firm, partnership, association or corporation, other than an attorney or law firm located in this state, who maintains an office, bureau or agency the purpose of which is to assign or distribute process to individual process servers for actual service.

[b] c. For the purposes of this subchapter the service of five or more process in

any one year shall be deemed to constitute doing business as a process server.

§3. Subchapter 23 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding new sections, 20-406.1, 20-406.2, 20-406.3 and 20-406.4 to read as follows:

20-406.1 Bond required. a. As a condition of the issuance of a process server license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond in the sum of ten thousand dollars, payable to the city of New York, executed by the applicant and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay to the city any fine, penalty or other obligation relating to a violation of this subchapter and any rules promulgated thereunder, within thirty days of its imposition, or any final judgment recovered by any person who was injured by the violation of any of the provisions of this subchapter and was damaged thereby. The commissioner may by rule authorize an individual applicant, in lieu of furnishing a bond, to satisfy the requirements of this section by depositing cash in an amount equal to the amount of the surety bond required by this section or by rule of the commissioner.

b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be required to furnish a surety bond pursuant to subdivision a of this section.

c. As a condition of the issuance of a process server agency license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety

bond in the sum of one hundred thousand dollars, payable to the city of New York, executed by the applicant and a surety approved by the commissioner. Such bond shall be conditioned upon the agency applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay to the city any fine, penalty or other obligation relating to a violation of this subchapter and any rules promulgated thereunder, within thirty days of its imposition, or any final judgment recovered by any person who was injured by the violation of any of the provisions of this subchapter or by the willful or negligent wrongful act of the principal, agent, or employee of such applicant. In each and every suit, or prosecution arising out of this subchapter, it shall be presumed that an employee of the agency is acting in the course of his or her employment when serving process assigned or distributed by the applicant. The commissioner may by rule authorize an applicant, in lieu of furnishing a bond, to satisfy the requirements of this section by depositing cash in an amount equal to the amount of the surety bond required by this section or by rule of the commissioner.

§20-406.2 Responsibilities of process serving agencies. Every process serving agency licensed under this subchapter shall:

- a. Comply with all applicable state and federal laws;
- b. Provide to each process server employed by such agency a written statement indicating the rights of such employee and the obligations of the process serving agency under city, state and federal law. Such statement of rights and obligations shall include, but not be limited to, a general description of employee rights and employer obligations pursuant to laws regarding minimum wage, overtime and hours of work, record keeping,

social security payments, unemployment insurance coverage, disability insurance coverage and workers' compensation. Such statement of rights and obligations shall be prepared and distributed by the commissioner to licensed process serving agencies;

c. Keep on file in its principal place of business for a period of three (3) years a statement for each employee, signed by such employee, indicating that the employee has read and understands the statement of rights and obligations he or she received pursuant to subdivision (b) of this section;

d. Provide annual training for every process server under its employ regarding compliance with all laws and regulations pertaining to the proper service of process, including, but not limited to, the preparation, notarization and filing of affidavits of service of process and other documents and the maintenance of records.

§20-406.3 Records. a. Every process server and process serving agency licensed under this subchapter shall retain records for no less than seven (7) years of each process served.

b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be required to retain records for no less than seven years pursuant to subdivision a of this section, but shall be required to comply with all applicable state laws pertaining to record keeping.

§20-406.4 Handbook. The commissioner shall develop a handbook to be distributed to all process servers and process serving agencies licensed under this subchapter. Such handbook shall contain, at a minimum, a statement of all laws and regulations pertaining to service of process in New York City.

§4. This local law shall take one hundred eighty days after enactment except that the commissioner of consumer affairs shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

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