

## CHAPTER 2011-159

### Committee Substitute for House Bill No. 59

An act relating to service of process; amending s. 30.231, F.S.; authorizing a sheriff to charge a fee for processing a writ of execution; authorizing a person to provide the sheriff with an electronic copy of a process for service; amending s. 48.031, F.S.; directing a process server to place required information on the first page of at least one of the processes served; requiring a process server to list all initial pleadings delivered and served along with the process on the return-of-service form; requiring the person issuing the process to file the return-of-service form with the court; granting authorized process servers unannounced access to specified residential areas where a defendant or witness resides or is known to be; amending s. 48.081, F.S.; authorizing a person attempting to serve process on the registered agent of a corporation to serve the process, in specified circumstances, on any employee of the registered agent during the first attempt at service even if the registered agent is temporarily absent from his or her office; amending s. 48.151, F.S.; revising the number of copies of process that must be served on statutory agents for certain persons; providing that records may be retained as paper or electronic copies; amending s. 48.21, F.S.; requiring a process server to sign the return-of-service form; authorizing an employee of a sheriff to sign a return-of-service form electronically; providing that the failure to sign a return-of-service form invalidates the service and subjects the process server to a fine; amending s. 48.29, F.S.; directing a process server to place required information on the first page of at least one of the processes served; amending s. 624.423, F.S.; reducing the number of copies to be served on the Chief Financial Officer or an assistant as process agent of an insurer; providing that records may be retained as paper or electronic copies; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (1) and subsection (3) of section 30.231, Florida Statutes, are amended to read:

30.231 Sheriffs' fees for service of summons, subpoenas, and executions.

(1) The sheriffs of all counties of the state in civil cases shall charge fixed, nonrefundable fees for docketing and service of process, according to the following schedule:

(d) Executions:

1. Forty dollars for processing ~~docketing and indexing~~ each writ of execution, regardless of the number of persons involved.
2. Fifty dollars for each levy.

a. A levy is considered made when any property or any portion of the property listed or unlisted in the instructions for levy is seized, or upon demand of the sheriff the writ is satisfied by the defendant in lieu of seizure. Seizure requires that the sheriff take actual possession, if practicable, or, alternatively, constructive possession of the property by order of the court.

b. When the instructions are for levy upon real property, a levy fee is required for each parcel described in the instructions.

c. When the instructions are for levy based upon personal property, one fee is allowed, unless the property is seized at different locations, conditional upon all of the items being advertised collectively and the sale being held at a single location. However, if the property seized cannot be sold at one location during the same sale as advertised, but requires separate sales at different locations, the sheriff is then authorized to impose a levy fee for the property and sale at each location.

3. Forty dollars for advertisement of sale under process.

4. Forty dollars for each sale under process.

5. Forty dollars for each deed, bill of sale, or satisfaction of judgment.

(3) ~~It shall be the responsibility of~~ The party requesting service of process must ~~to~~ furnish to the sheriff the original process, ~~or a certified copy of the process, or an electronic copy of the process, which was signed and certified by the clerk of court,~~ and sufficient copies to be served on the parties receiving the service of process. The party requesting service of process shall provide the sheriff with the best known address where the person may be served. Failure to perfect service at the address provided does not excuse the sheriff from his or her duty to exercise due diligence in locating the person to be served.

Section 2. Subsection (5) of section 48.031, Florida Statutes, is amended, and subsection (7) is added to that section, to read:

48.031 Service of process generally; service of witness subpoenas.—

(5) A person serving process shall place, on the first page of at least one of the processes copy served, the date and time of service and his or her identification number and initials for all service of process. The person serving process shall list on the return-of-service form all initial pleadings delivered and served along with the process. The person issuing the process shall file the return-of-service form with the court.

(7) A gated residential community, including a condominium association or a cooperative, shall grant unannounced entry into the community, including its common areas and common elements, to a person who is attempting to serve process on a defendant or witness who resides within or is known to be within the community.

Section 3. Paragraph (a) of subsection (3) of section 48.081, Florida Statutes, is amended to read:

48.081 Service on corporation.—

(3)(a) As an alternative to all of the foregoing, process may be served on the agent designated by the corporation under s. 48.091. However, if service cannot be made on a registered agent because of failure to comply with s. 48.091, service of process shall be permitted on any employee at the corporation's principal place of business or on any employee of the registered agent. A person attempting to serve process pursuant to this paragraph may serve the process on any employee of the registered agent during the first attempt at service even if the registered agent is temporarily absent from his or her office.

Section 4. Subsection (1) of section 48.151, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

48.151 Service on statutory agents for certain persons.—

(1) When any law designates a public officer, board, agency, or commission as the agent for service of process on any person, firm, or corporation, service of process thereunder shall be made by leaving one copy ~~two copies~~ of the process with the public officer, board, agency, or commission or in the office thereof, or by mailing one copy ~~said copies~~ to the public officer, board, agency, or commission. The public officer, board, agency, or commission so served shall retain a record file ~~one copy in his or her or its records~~ and promptly send the other copy ~~served~~, by registered or certified mail, to the person to be served as shown by his or her or its records. Proof of service on the public officer, board, agency, or commission shall be by a notice accepting the process which shall be issued by the public officer, board, agency, or commission promptly after service and filed in the court issuing the process. The notice accepting service shall state the date upon which the copy of the process was mailed by the public officer, board, agency, or commission to the person being served and the time for pleading prescribed by the rules of procedure shall run from this date. The service is valid service for all purposes on the person for whom the public officer, board, agency, or commission is statutory agent for service of process.

(6) For purposes of this section, records may be retained as paper or electronic copies.

Section 5. Section 48.21, Florida Statutes, is amended to read:

48.21 Return of execution of process.—

(1) Each person who effects service of process shall note on a return-of-service form attached thereto, the date and time when it comes to hand, the date and time when it is served, the manner of service, the name of the person on whom it was served and, if the person is served in a representative capacity, the position occupied by the person. The return-of-service form

must be signed by the person who effects the service of process. However, a person employed by a sheriff who effects the service of process may sign the return-of-service form using an electronic signature certified by the sheriff.

(2) A failure to state the foregoing facts or to include the signature required by subsection (1) invalidates the service, but the return is amendable to state the facts or to include the signature ~~truth~~ at any time on application to the court from which the process issued. On amendment, service is as effective as if the return had originally stated the omitted facts or included the signature. A failure to state all the facts in or to include the signature on the return shall subject the person effecting service to a fine not exceeding \$10, in the court's discretion.

Section 6. Subsection (6) of section 48.29, Florida Statutes, is amended to read:

48.29 Certification of process servers.—

(6) A certified process server shall place the information required provided in s. 48.031(5) on the first page of at least one of the processes ~~copy~~ served. Return of service shall be made by a certified process server on a form which has been reviewed and approved by the court.

Section 7. Subsection (1) of section 624.423, Florida Statutes, is amended to read:

624.423 Serving process.—

(1) Service of process upon the Chief Financial Officer as process agent of the insurer (under s. 624.422) shall be made by serving a copy ~~copies in triplicate~~ of the process upon the Chief Financial Officer or upon her or his assistant, deputy, or other person in charge of her or his office. Upon receiving such service, the Chief Financial Officer shall retain a record file ~~one copy in her or his office, return one copy with her or his admission of service,~~ and promptly forward one copy of the process by registered or certified mail to the person last designated by the insurer to receive the same, as provided under s. 624.422(2). For purposes of this section, records may be retained as paper or electronic copies.

Section 8. This act shall take effect July 1, 2011.

Approved by the Governor June 17, 2011.

Filed in Office Secretary of State June 17, 2011.