

Delaware Long-Arm Statute

Del. Code. Ann. Tit. 3, § 3104

§ 3104. Personal jurisdiction by acts of nonresidents

(a) The term "person" in this section includes any natural person, association, partnership or corporation.

(b) The following acts constitute legal presence within the State. Any person who commits any of the acts hereinafter enumerated thereby submits to the jurisdiction of the Delaware courts and is deemed thereby to have appointed and constituted the Secretary of State of this State the person's agent for the acceptance of legal process in any civil action against such nonresident person arising from the following enumerated acts. The acceptance shall be an acknowledgement of the agreement of such nonresident that any process when so served shall have the same legal force and validity as if served upon such nonresident personally within the State, and that such appointment of the Secretary of State shall be irrevocable and binding upon the personal representative.

(c) As to a cause of action brought by any person arising from any of the acts enumerated in this section, a court may exercise personal jurisdiction over any nonresident, or a personal representative, who in person or through an agent:

(1) Transacts any business or performs any character of work or service in the State;

(2) Contracts to supply services or things in this State;

(3) Causes tortious injury in the State by an act or omission in this State;

(4) Causes tortious injury in the State or outside of the State by an act or omission outside the State if the person regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from services, or things used or consumed in the State;

(5) Has an interest in, uses or possesses real property in the State; or

(6) Contracts to insure or act as surety for, or on, any person, property, risk, contract, obligation or agreement located, executed or to be performed within the State at the time the contract is made, unless the parties otherwise provide in writing.

(d) Service of the legal process provided for in this section with the fee of \$ 2 shall be made upon the Secretary of State of this State in the same manner as is provided by law for service of writs of summons, and when so made shall be as effectual to all intents and purposes as if made personally upon the defendant within this State; provided, that not later than 7 days following the filing of the return of services of process in the court in which the civil action is commenced or following the filing with the court of the proof of the nonreceipt of notice provided for in subsection (g) of this section, the plaintiff or a person acting in the plaintiff's behalf shall send by registered mail to the nonresident defendant, or to the defendant's executor or administrator, a notice consisting of a copy of the process and complaint served upon the Secretary of State and the statement that service of the original of such process has been made upon the Secretary of State of this State, and that under this section such service is as effectual to all intents and purposes as if it had been made upon such nonresident personally within this State.

(e) Proof of the defendant's nonresidence and of the mailing and receipt or refusal of the notice shall be made in such manner as the court, by rule or otherwise, shall direct.

(f) The return receipt or other official proof of delivery shall constitute presumptive evidence that the notice mailed was received by the defendant or the defendant's agent; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or the defendant's agent.

(g) The plaintiff or the plaintiff's counsel of record in the action may within 7 days following the return of any undelivered notice mailed in accordance with subsection (d) of this section other than a notice, delivery of which is shown by the notation of the postal authorities on the original envelope to have been refused by the defendant or the defendant's agent, file with the court in which the civil action is commenced proof of the nonreceipt of the notice by the defendant or the defendant's agent, which proof shall consist of the usual receipt given by the post office at the time of mailing to the person mailing the registered article containing the notice, the original envelope of the undelivered registered article and an affidavit made by or on behalf of plaintiff specifying:

(1) The date upon which the envelope containing the notice was mailed by registered mail;

(2) The date upon which the envelope containing the notice was returned to the sender;

(3) That the notice provided for in subsection (d) of this section was contained in the envelope at the time it was mailed; and

(4) That the receipt, obtained at the time of mailing by the person mailing the envelope containing the notice, is the receipt filed with the affidavit.

(h) The time in which defendant shall serve an answer shall be computed from the date of the mailing of the registered letter which is the subject of the return receipt or other official proof of delivery or the notation of refusal of delivery; provided, however, that the court in which the action is pending may, at any time before or after the expiration of the prescribed time for answering, order such continuances as may be necessary to afford the defendant therein reasonable opportunity to defend the action.

(i) Nothing herein contained limits or effects the rights to serve process in any other manner now or hereafter provided by law. This section is an extension of and not a limitation upon the rights otherwise existing of service of legal process upon nonresidents.

(j) When jurisdiction over a person is based solely upon this section, only a cause of action arising from any act enumerated in this section may be asserted against the person.

(k) This section does not invalidate any other section of the Code that provides for service of summons on nonresidents. This section applies only to the extent that the other statutes that already grant personal jurisdiction over nonresidents do not cover any of the acts enumerated in this section.

(l) In any cause of action arising from any of the acts enumerated in this section, the court may provide for a stay or dismissal of action if the court finds, in the interest of justice, that the action should be heard in another forum.