

**SUBJECT:** Requirements for registered agents that accept service of process

**COMMITTEE:** Business and Industry — favorable, without amendment

**VOTE:** 9 ayes — Brimer, Dukes, Corte, George, Giddings, Ritter, Siebert, Solomons, Woolley  
0 nays

**WITNESSES:** For — Jacqueline Newman, Tyler McLennon  
Against — None  
On — Carmen Flores, Texas Secretary of State, Statutory Filings Division

**BACKGROUND:** Every business or domestic business entity that transacts business in the state must appoint a registered agent to accept service of process. Service of process is a court-supervised communication to the party being sued, either by actual delivery of the court papers or by other statutorily approved means, notifying the party of the suit and giving the party an opportunity to mount a defense. Current law contains no requirements for the registry of a registered agent of a corporation or related business organization other than listing the registered agent in the articles of incorporation filed with the secretary of state. These agents need not be aware of their appointment to be held liable in a potential lawsuit.

**DIGEST:** HB 2168 would amend the Civil Practice and Remedies Code to require that the appointment of a registered agent to accept service of process be evidenced by a written statement of appointment. To be authorized to accept a service of process, the registered agent would have to sign a document evidencing the appointment or file with the secretary of state a written document indicating acceptance of the appointment.

The bill would take effect September 1, 1999, and would apply only to the appointment of an agent made after that date.

**SUPPORTERS SAY:** HB 2168 would prevent service of process on a person who did not consent to be listed as a registered agent for a business organization. Under current law, corporations do not need the written consent of employees or other persons to list them as registered agents. Therefore, a person served may be liable or may have to track down the business that listed them for correction. This bill would eliminate the possibility of an incorrect service.

In many cases, the registered agent may change from the agent listed in the filed articles of incorporation. This creates uncertainty as to who should be served in a lawsuit. While a chief operating officer or general partner may be served if there is no properly registered agent, such service may lead to unnecessary delays and added costs. HB 2168 would establish clear requirements.

**OPPONENTS SAY:** HB 2168 would not necessarily reduce the time and costs associated with serving process. A person suing a corporation that complies with the requirement for properly registering an agent for service of process still might sue the wrong agent, as the law does not specify what a corporation must do in case the registered agent leaves employment. Conceivably, the plaintiff then would have to sue the corporate president or litigate the validity of the service of process.

**OTHER OPPONENTS SAY:** HB 2168 should contain provisions regarding the time frame within which the registered agent's written document indicating acceptance should be filed with Secretary of State's Office.