

CHAPTER 48

PROCESS AND SERVICE OF PROCESS

- 48.011 Process; how directed.
 48.021 Process; by whom served.
 48.031 Service of process generally; service of witness subpoenas.
 48.041 Service on minor.
 48.042 Service on incompetent.
 48.051 Service on state prisoners.
 48.061 Service on partnerships and limited partnerships.
 48.071 Service on agents of nonresidents doing business in the state.
 48.081 Service on corporation.
 48.091 Corporations; designation of registered agent and registered office.
 48.101 Service on dissolved corporations.
 48.111 Service on public agencies and officers.
 48.121 Service on the state.
 48.131 Service on alien property custodian.
 48.141 Service on labor unions.
 48.151 Service on statutory agents for certain persons.
 48.161 Method of substituted service on nonresident.
 48.171 Service on nonresident motor vehicle owners, etc.
 48.181 Service on nonresident engaging in business in state.
 48.183 Service of process in action for possession of premises.
 48.19 Service on nonresidents operating aircraft or watercraft in the state.
 48.193 Acts subjecting person to jurisdiction of courts of state.
 48.194 Personal service outside state.
 48.195 Service of foreign process.
 48.196 Service of process in connection with actions under the Florida International Arbitration Act.
 48.20 Service of process on Sunday.
 48.21 Return of execution of process.
 48.22 Cumulative to other laws.
 48.23 Lis pendens.
 48.25 Short title.
 48.27 Certified process servers.
 48.29 Certification of process servers.
 48.31 Removal of certified process servers; false return of service.

48.011 Process; how directed.—Summons, subpoenas, and other process in civil actions run throughout the state. All process except subpoenas shall be directed to all and singular the sheriffs of the state.

History.—s. 1, ch. 4397, 1895; GS 1397; RGS 2594; CGL 4234; s. 2, ch. 29737, 1955; s. 4, ch. 67-254.

Note.—Former s. 47.08.

48.021 Process; by whom served.—

(1) All process shall be served by the sheriff of the county where the person to be served is found, except initial nonenforceable civil process may be served by a special process server appointed by the sheriff as pro-

vided for in this section or by a certified process server as provided for in ss. 48.25-48.31. Witness subpoenas may be served by any person authorized by rules of procedure.

(2)(a) The sheriff of each county may, in his or her discretion, establish an approved list of natural persons designated as special process servers. The sheriff shall add to such list the names of those natural persons who have met the requirements provided for in this section. Each natural person whose name has been added to the approved list is subject to annual recertification and reappointment by the sheriff. The sheriff shall prescribe an appropriate form for application for appointment. A reasonable fee for the processing of the application shall be charged.

(b) A person applying to become a special process server shall:

1. Be at least 18 years of age.
2. Have no mental or legal disability.
3. Be a permanent resident of the state.
4. Submit to a background investigation, which shall include the right to obtain and review the criminal record of the applicant.
5. Obtain and file with the application a certificate of good conduct, which specifies there is no pending criminal case against the applicant and that there is no record of any felony conviction, nor a record of a misdemeanor or involving moral turpitude or dishonesty, with respect to the applicant within the past 5 years.

6. Submit to an examination testing the applicant's knowledge of the laws and rules regarding the service of process. The content of the examination and the passing grade thereon, and the frequency and the location at which such examination shall be offered shall be prescribed by the sheriff. The examination shall be offered at least once annually.

7. Execute a bond in the amount of \$5,000 with a surety company authorized to do business in this state for the benefit of any person wrongfully injured by malfeasance, misfeasance, or neglect of duty, or incompetence of the applicant, in connection with his or her duties as a process server. Such bond shall be renewable annually.

8. Take an oath that the applicant will honestly, diligently, and faithfully exercise the duties of a special process server.

(c) The sheriff may prescribe additional rules and requirements directly related to subparagraphs (b)1.-8. regarding the eligibility of a person to become a special process server or to have his or her name maintained on the list of special process servers.

(d) An applicant who completes the requirements set forth in this section shall be designated as a special process server provided that the sheriff of the county has determined that the appointment of special process servers is necessary or desirable. Each special process server shall be issued an identification card bearing his or her identification number, printed name, signature and photograph, and an expiration date. Each identifica-

tion card shall be renewable annually upon proof of good standing and current bond.

(e) The sheriff shall have the discretion to revoke an appointment at any time that he or she determines a special process server is not fully and properly discharging the duties as a special process server. The sheriff shall institute a program to determine whether the special process servers appointed as provided for in this section are faithfully discharging their duties pursuant to such appointment, and a reasonable fee may be charged for the costs of administering such program.

(3) A special process server appointed in accordance with this section shall be authorized to serve process in only the county in which the sheriff who appointed him or her resides and may charge a reasonable fee for his or her services.

(4) Any special process server shall be disinterested in any process he or she serves; and if the special process server willfully and knowingly executes a false return of service or otherwise violates the oath of office, he or she shall be guilty of a felony of the third degree, punishable as provided for in s. 775.082, s. 775.083, or s. 775.084, and shall be permanently barred from serving process in Florida.

History.—s. 16, July 22, 1845; s. 1, ch. 3721, 1887; RS 1014, 1246; GS 1401; RGS 2598; s. 1, ch. 9318, 1923; CGL 4238; s. 4, ch. 67-254; s. 12, ch. 73-334; s. 1, ch. 76-263; s. 2, ch. 79-396; s. 1, ch. 81-266; s. 1, ch. 88-135; s. 2, ch. 91-306; s. 268, ch. 95-147.

Note.—Former s. 47.12.

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

(1)(a) Service of original process is made by delivering a copy of it to the person to be served with a copy of the complaint, petition, or other initial pleading or paper or by leaving the copies at his or her usual place of abode with any person residing therein who is 15 years of age or older and informing the person of their contents. Minors who are or have been married shall be served as provided in this section.

(b) Employers, when contacted by an individual authorized to make service of process, shall permit the authorized individual to make service on employees in a private area designated by the employer.

(2)(a) Substitute service may be made on the spouse of the person to be served at any place in the county, if the cause of action is not an adversary proceeding between the spouse and the person to be served, if the spouse requests such service, and if the spouse and person to be served are residing together in the same dwelling.

(b) Substitute service may be made on an individual doing business as a sole proprietorship at his or her place of business, during regular business hours, by serving the manager of the business if one or more attempts to serve the owner have been made at the place of business.

(3) The service of process of witness subpoenas, whether in criminal cases or civil actions, is to be made as provided in subsection (1). However, service of a subpoena on a witness in a criminal traffic case, a misdemeanor case, or a second degree or third degree felony may be made by certified United States mail directed to the witness at the last known address, and such service must be mailed at least 7 days prior to the date of the witness's required appearance.

(4)(a) Service of a criminal witness subpoena upon a law enforcement officer or upon any federal, state, or municipal employee called to testify in an official capacity in a criminal case may be made as provided in subsection (1) or by delivery to a designated supervisory or administrative employee at the witness's place of employment if the agency head or highest ranking official at the witness's place of employment has designated such employee to accept such service. However, no such designated employee is required to accept service:

1. For a witness who is no longer employed by the agency at that place of employment;
2. If the witness is not scheduled to work prior to the date the witness is required to appear; or
3. If the appearance date is less than 5 days from the date of service.

The agency head or highest ranking official at the witness's place of employment may determine the days of the week and the hours that service may be made at the witness's place of employment.

(b) Service may also be made in accordance with subsection (3) provided that the person who requests the issuance of the criminal witness subpoena shall be responsible for mailing the subpoena in accordance with that subsection and for making the proper return of service to the court.

History.—s. 5, Nov. 23, 1828; RS 1015; GS 1402; RGS 2599; CGL 4246; s. 6, ch. 29737, 1955; s. 4, ch. 67-254; s. 1, ch. 75-34; s. 3, ch. 79-396; s. 3, ch. 82-118; s. 1, ch. 84-339; s. 7, ch. 85-80; s. 2, ch. 87-405; s. 6, ch. 93-208; s. 269, ch. 95-147; s. 1, ch. 95-172.

Note.—Former s. 47.13.

48.041 Service on minor.—

(1) Process against a minor who has never been married shall be served:

(a) By serving a parent or guardian of the minor as provided for in s. 48.031 or, when there is a legal guardian appointed for the minor, by serving the guardian as provided for in s. 48.031.

(b) By serving the guardian ad litem or other person, if one is appointed by the court to represent the minor. Service on the guardian ad litem is unnecessary when he or she appears voluntarily or when the court orders the appearance without service of process on him or her.

(2) In all cases heretofore adjudicated in which process was served on a minor as prescribed by any law heretofore existing, the service was lawfully made, and no proceeding shall be declared irregular or illegal if a guardian ad litem appeared for the minor.

History.—ss. 1, 2, ch. 7853, 1919; CGL 4273, 4274; s. 1, ch. 19175, 1939; CGL 1940 Supp. 4274(13); s. 2, ch. 29737, 1955; s. 4, ch. 67-254; s. 1, ch. 84-176; s. 270, ch. 95-147.

Note.—Former ss. 47.23-47.25.

48.042 Service on incompetent.—

(1) Process against an incompetent shall be served:

(a) By serving two copies of the process to the person who has care or custody of the incompetent or, when there is a legal guardian appointed for the incompetent, by serving the guardian as provided in s. 48.031.

(b) By serving the guardian ad litem or other person, if one is appointed by the court to represent the incompetent. Service on the guardian ad litem is unnecessary

when he or she appears voluntarily or when the court orders the appearance without service of process on him or her.

(2) In all cases heretofore adjudicated in which process was served on an incompetent as prescribed by any law heretofore existing, the service was lawfully made, and no proceeding shall be declared irregular or illegal if a guardian ad litem appeared for the incompetent.

History.—s. 2, ch. 84-176; s. 271, ch. 95-147.

48.051 Service on state prisoners.—Process against a state prisoner shall be served on the prisoner.

History.—s. 30, ch. 3883, 1889; RS 3043; GS 4124; RGS 6243; CGL 8580; s. 1, ch. 21992, 1943; s. 1, ch. 25041, 1949; s. 44, ch. 57-121; s. 4, ch. 67-254; ss. 19, 35, ch. 69-106; s. 13, ch. 71-355.

Note.—Former s. 47.26.

48.061 Service on partnerships and limited partnerships.—

(1) Process against a partnership shall be served on any partner and is as valid as if served on each individual partner. If a partner is not available during regular business hours to accept service on behalf of the partnership, he or she may designate an employee to accept such service. After one attempt to serve a partner or designated employee has been made, process may be served on the person in charge of the partnership during regular business hours. After service on any partner, plaintiff may proceed to judgment and execution against that partner and the assets of the partnership. After service on a designated employee or other person in charge, plaintiff may proceed to judgment and execution against the partnership assets but not against the individual assets of any partner.

(2) Process against a domestic limited partnership may be served on any general partner or on the agent for service of process specified in its certificate of limited partnership or in its certificate as amended or restated and is as valid as if served on each individual member of the partnership. After service on a general partner or the agent, the plaintiff may proceed to judgment and execution against the limited partnership and all of the general partners individually. If a general partner cannot be found in this state and service cannot be made on an agent because of failure to maintain such an agent or because the agent cannot be found or served with the exercise of reasonable diligence, service of process may be effected by service upon the Secretary of State as agent of the limited partnership as provided for in s. 48.181. Service of process may be made under ss. 48.071 and 48.21 on limited partnerships.

(3) Process against a foreign limited partnership may be served on any general partner found in the state or on any agent for service of process specified in its application for registration and is as valid as if served on each individual member of the partnership. If a general partner cannot be found in this state and an agent for service of process has not been appointed or, if appointed, the agent's authority has been revoked or the agent cannot be found or served with the exercise of reasonable diligence, service of process may be effected by service upon the Secretary of State as agent of the limited partnership as provided for in s. 48.181, or process may be served as provided in ss. 48.071 and 48.21.

History.—s. 13, Nov. 23, 1828; RS 1017; GS 1404; RGS 2601; CGL 4248; s. 4, ch. 67-254; s. 74, ch. 86-263; s. 3, ch. 87-405; s. 272, ch. 95-147.

Note.—Former s. 47.15.

48.071 Service on agents of nonresidents doing business in the state.—When any natural person or partnership not residing or having a principal place of business in this state engages in business in this state, process may be served on the person who is in charge of any business in which the defendant is engaged within this state at the time of service, including agents soliciting orders for goods, wares, merchandise or services. Any process so served is as valid as if served personally on the nonresident person or partnership engaging in business in this state in any action against the person or partnership arising out of such business. A copy of such process with a notice of service on the person in charge of such business shall be sent forthwith to the nonresident person or partnership by registered or certified mail, return receipt requested. An affidavit of compliance with this section shall be filed before the return day or within such further time as the court may allow.

History.—s. 1, ch. 59-280; s. 4, ch. 67-254; s. 273, ch. 95-147.

Note.—Former s. 47.161.

48.081 Service on corporation.—

(1) Process against any private corporation, domestic or foreign, may be served:

(a) On the president or vice president, or other head of the corporation;

(b) In the absence of any person described in paragraph (a), on the cashier, treasurer, secretary, or general manager;

(c) In the absence of any person described in paragraph (a) or paragraph (b), on any director; or

(d) In the absence of any person described in paragraph (a), paragraph (b), or paragraph (c), on any officer or business agent residing in the state.

(2) If a foreign corporation has none of the foregoing officers or agents in this state, service may be made on any agent transacting business for it in this state.

(3) 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 place of business.

(4) This section does not apply to service of process on insurance companies.

(5) When a corporation engages in substantial and not isolated activities within this state, or has a business office within the state and is actually engaged in the transaction of business therefrom, service upon any officer or business agent while on corporate business within this state may personally be made, pursuant to this section, and it is not necessary in such case that the action, suit, or proceeding against the corporation shall have arisen out of any transaction or operation connected with or incidental to the business being transacted within the state.

History.—s. 8, Nov. 21, 1829; s. 2, Feb. 11, 1834; s. 1, ch. 3590, 1885; RS 1019; GS 1406; s. 1, ch. 6908, 1915; s. 1, ch. 7752, 1918; RGS 2604; CGL 4251; s. 1, ch. 57-97; ss. 1, 2, 3, ch. 59-46; s. 4, ch. 67-254; s. 1, ch. 67-399; s. 6, ch. 79-396; s. 7, ch. 83-216; s. 1, ch. 84-2.

Note.—Former s. 47.17.

48.091 Corporations; designation of registered agent and registered office.—

(1) Every Florida corporation and every foreign corporation now qualified or hereafter qualifying to transact business in this state shall designate a registered agent and registered office in accordance with chapter 607.

(2) Every corporation shall keep the registered office open from 10 a.m. to 12 noon each day except Saturdays, Sundays, and legal holidays, and shall keep one or more registered agents on whom process may be served at the office during these hours. The corporation shall keep a sign posted in the office in some conspicuous place designating the name of the corporation and the name of its registered agent on whom process may be served.

History.—ss. 1, 2, 11, 13, 14, ch. 11829, 1927; CGL 4257, 4258, 4267, 4269, 4270; ss. 1, 2, ch. 20842, 1941; s. 1, ch. 29873, 1955; s. 24, ch. 57-1; s. 1, ch. 63-241; s. 1, ch. 65-32; s. 4, ch. 67-254; s. 2, ch. 67-562; ss. 10, 35, ch. 69-106; s. 3, ch. 71-114; s. 1, ch. 71-269; s. 28, ch. 71-377; s. 1, ch. 76-209.

Note.—Former ss. 47.34, 47.35, 47.42, 47.43, 47.45, 47.50.

48.101 Service on dissolved corporations.—Process against the directors of any corporation which is dissolved as trustees of the dissolved corporation shall be served on one or more of the directors of the dissolved corporation as trustees thereof and binds all of the directors of the dissolved corporation as trustees thereof.

History.—s. 1, ch. 19064, 1939; CGL 1940 Supp. 4251(1); s. 4, ch. 67-254.

Note.—Former s. 47.22.

48.111 Service on public agencies and officers.—

(1) Process against any municipal corporation, agency, board, or commission, department, or subdivision of the state or any county which has a governing board, council, or commission or which is a body corporate shall be served:

(a) On the president, mayor, chair, or other head thereof; and in his or her absence;

(b) On the vice president, vice mayor, or vice chair, or in the absence of all of the above;

(c) On any member of the governing board, council, or commission.

(2) Process against any public agency, board, commission, or department not a body corporate or having a governing board or commission shall be served on the public officer being sued or the chief executive officer of the agency, board, commission, or department.

(3) In any suit in which the Department of Revenue or its successor is a party, process against the department shall be served on the executive director of the department. This procedure is to be in lieu of any other provision of general law, and shall designate said department to be the only state agency or department to be so served.

History.—ss. 1, 2, ch. 3242, 1881; RS 581, 1021, 1022; GS 774, 1408, 1409; RGS 1494, 2606, 2607; CGL 2203, 4253, 4254; s. 4, ch. 67-254; s. 1, ch. 73-73; s. 8, ch. 83-216; s. 274, ch. 95-147.

Note.—Former ss. 47.20, 47.21.

48.121 Service on the state.—When the state has consented to be sued, process against the state shall be served on the state attorney or an assistant state attorney for the judicial circuit within which the action is brought and by sending two copies of the process by registered or certified mail to the Attorney General. The

state may serve motions or pleadings within 40 days after service is made.

History.—s. 2, ch. 29724, 1955; s. 4, ch. 67-254.

Note.—Former s. 69.18.

48.131 Service on alien property custodian.—In every action or proceeding in any court or before any administrative board involving real, personal, or mixed property, or any interest therein, when service of process or notice is required or directed to be made upon any person, firm or corporation located, or believed to be located, within any country or territory in the possession of or under the control of any country between which and the United States a state of war exists, in addition to the giving of the notice or service of process, a copy of the notice or process shall be sent by registered or certified mail to the alien property custodian, addressed to him or her at Washington, District of Columbia; but failure to mail a copy of the notice or process to the alien property custodian does not invalidate the action or proceeding.

History.—s. 1, ch. 22074, 1943; s. 4, ch. 67-254; s. 275, ch. 95-147.

Note.—Former s. 47.51.

48.141 Service on labor unions.—Process against labor organizations shall be served on the president or other officer, business agent, manager or person in charge of the business of such labor organization.

History.—s. 4, ch. 67-254.

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 two copies of the process with the public officer, board, agency, or commission or in the office thereof, or by mailing said copies to the public officer, board, agency, or commission. The public officer, board, agency, or commission so served shall file one copy in his or her or its records and promptly send the other copy, 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.

(2) This section does not apply to substituted service of process on nonresidents.

(3) The Insurance Commissioner and Treasurer or his or her assistant or deputy or another person in charge of the office is the agent for service of process on all insurers applying for authority to transact insurance in this state, all licensed nonresident insurance agents, all nonresident disability insurance agents

licensed by the Department of Insurance pursuant to s. 626.835, any unauthorized insurer under s. 626.906 or s. 626.937, domestic reciprocal insurers, fraternal benefit societies under chapter 632, automobile inspection and warranty associations, ambulance service associations, and persons required to file statements under s. 628.461.

(4) The Comptroller is the agent for service of process for any issuer as defined in s. 517.021, or any dealer, investment adviser, or associated person registered with the Department of Banking and Finance, for any violation of any provision of chapter 517.

(5) The Secretary of State is the agent for service of process for any retailer, dealer or vendor who has failed to designate an agent for service of process as required under s. 212.151 for violations of chapter 212.

History.—s. 4, ch. 67-254; ss. 10, 12, 13, 35, ch. 69-106; s. 14, ch. 71-355; s. 29, ch. 71-377; s. 2, ch. 76-100; s. 16, ch. 79-164; s. 4, ch. 83-215; s. 1, ch. 87-316; s. 10, ch. 90-248; s. 276, ch. 95-147.

48.161 Method of substituted service on nonresident.—

(1) When authorized by law, substituted service of process on a nonresident or a person who conceals his or her whereabouts by serving a public officer designated by law shall be made by leaving a copy of the process with a fee of \$8.75 with the public officer or in his or her office or by mailing the copies by certified mail to the public officer with the fee. The service is sufficient service on a defendant who has appointed a public officer as his or her agent for the service of process. Notice of service and a copy of the process shall be sent forthwith by registered or certified mail by the plaintiff or his or her attorney to the defendant, and the defendant's return receipt and the affidavit of the plaintiff or his or her attorney of compliance shall be filed on or before the return day of the process or within such time as the court allows, or the notice and copy shall be served on the defendant, if found within the state, by an officer authorized to serve legal process, or if found without the state, by a sheriff or a deputy sheriff of any county of this state or any duly constituted public officer qualified to serve like process in the state or jurisdiction where the defendant is found. The officer's return showing service shall be filed on or before the return day of the process or within such time as the court allows. The fee paid by the plaintiff to the public officer shall be taxed as cost if he or she prevails in the action. The public officer shall keep a record of all process served on him or her showing the day and hour of service.

(2) If any person on whom service of process is authorized under subsection (1) dies, service may be made on his or her administrator, executor, curator, or personal representative in the same manner.

(3) This section does not apply to persons on whom service is authorized under s. 48.151.

(4) The public officer may designate some other person in his or her office to accept service.

History.—ss. 2, 4, ch. 17254, 1935; CGL 1936 Supp. 4274 (6), (10); s. 1, ch. 59-382; s. 4, ch. 67-254; s. 4, ch. 71-114; s. 1, ch. 71-308; s. 57, ch. 90-132; s. 277, ch. 95-147.

Note.—Former ss. 47.30, 47.32.

48.171 Service on nonresident motor vehicle owners, etc.—Any nonresident of this state, being the oper-

ator or owner of any motor vehicle, who accepts the privilege extended by the laws of this state to nonresident operators and owners, of operating a motor vehicle or of having it operated, or of permitting any motor vehicle owned, or leased, or controlled by him or her to be operated with his or her knowledge, permission, acquiescence, or consent, within the state, or any resident of this state, being the licensed operator or owner of or the lessee, or otherwise entitled to control any motor vehicle under the laws of this state, who becomes a nonresident or conceals his or her whereabouts, by the acceptance or licensure and by the operation of the motor vehicle, either in person, or by or through his or her servants, agents, or employees, or by persons with his or her knowledge, acquiescence, and consent within the state constitutes the Secretary of State his or her agent for the service of process in any civil action begun in the courts of the state against such operator or owner, lessee, or other person entitled to control of the motor vehicle, arising out of or by reason of any accident or collision occurring within the state in which the motor vehicle is involved.

History.—s. 1, ch. 17254, 1935; CGL 1936 Supp. 4274(7); ss. 1, 2, ch. 25003, 1949; s. 4, ch. 67-254; s. 276, ch. 95-147.

Note.—Former s. 47.29.

48.181 Service on nonresident engaging in business in state.—

(1) The acceptance by any person or persons, individually or associated together as a copartnership or any other form or type of association, who are residents of any other state or country, and all foreign corporations, and any person who is a resident of the state and who subsequently becomes a nonresident of the state or conceals his or her whereabouts, of the privilege extended by law to nonresidents and others to operate, conduct, engage in, or carry on a business or business venture in the state, or to have an office or agency in the state, constitutes an appointment by the persons and foreign corporations of the Secretary of State of the state as their agent on whom all process in any action or proceeding against them, or any of them, arising out of any transaction or operation connected with or incidental to the business or business venture may be served. The acceptance of the privilege is signification of the agreement of the persons and foreign corporations that the process against them which is so served is of the same validity as if served personally on the persons or foreign corporations.

(2) If a foreign corporation has a resident agent or officer in the state, process shall be served on the resident agent or officer.

(3) Any person, firm, or corporation which sells, consigns, or leases by any means whatsoever tangible or intangible personal property, through brokers, jobbers, wholesalers, or distributors to any person, firm, or corporation in this state is conclusively presumed to be both engaged in substantial and not isolated activities within this state and operating, conducting, engaging in, or carrying on a business or business venture in this state.

History.—s. 1, ch. 6224, 1911; RGS 2602; CGL 4249; s. 1, ch. 26657, 1951; s. 1, ch. 57-747; s. 4, ch. 67-254; s. 2, ch. 84-2; s. 279, ch. 95-147.

Note.—Former s. 47.16.

48.183 Service of process in action for possession of premises.—

(1) In an action for possession of residential premises under s. 83.59 or nonresidential premises, if the tenant cannot be found in the county or there is no person 15 years of age or older residing at the tenant's usual place of abode in the county after at least two attempts to obtain service as provided above in this subsection, summons may be served by attaching a copy to a conspicuous place on the property described in the complaint or summons. The minimum time delay between the two attempts to obtain service shall be 6 hours. Nothing herein shall be construed as prohibiting service of process on a tenant as is otherwise provided on defendants in civil cases.

(2) If a landlord causes or anticipates causing a defendant to be served with a summons and complaint solely by attaching them to some conspicuous place on the property described in the complaint or summons, the landlord shall provide the clerk of the court with an additional copy of the complaint and a prestamped envelope addressed to the defendant at the premises involved in the proceeding. The clerk of the court shall immediately mail the copy of the summons and complaint by first-class mail, note the fact of mailing in the docket, and file a certificate in the court file of the fact and date of mailing. Service shall be effective on the date of posting or mailing, whichever occurs later, and at least 5 days must elapse from the date of service before a judgment for final removal of the defendant may be entered.

History.—s. 4, ch. 73-330; s. 1, ch. 75-34; s. 1, ch. 83-39; s. 2, ch. 84-339; s. 4, ch. 87-405; s. 1, ch. 88-379; s. 3, ch. 94-170.

48.19 Service on nonresidents operating aircraft or watercraft in the state.

—The operation, navigation, or maintenance by a nonresident of an aircraft or a boat, ship, barge, or other watercraft in the state, either in person or through others, and the acceptance thereby by the nonresident of the protection of the laws of this state for the aircraft or watercraft, or the operation, navigation, or maintenance by a nonresident of an aircraft or a boat, ship, barge, or other watercraft in the state, either in person or through others, other than under the laws of the state, or any person who is a resident of the state and who subsequently becomes a nonresident or conceals his or her whereabouts, constitutes an appointment by the nonresident of the Secretary of State as the agent of the nonresident or concealed person on whom all process may be served in any action or proceeding against the nonresident or concealed person growing out of any accident or collision in which the nonresident or concealed person may be involved while, either in person or through others, operating, navigating, or maintaining an aircraft or a boat, ship, barge, or other watercraft in the state. The acceptance by operation, navigation, or maintenance in the state of the aircraft or watercraft is signification of the nonresident's or concealed person's agreement that process against him or her so served shall be of the same effect as if served on him or her personally.

History.—s. 1, ch. 59-148; s. 1, ch. 65-118; s. 4, ch. 67-254; s. 2, ch. 70-90; s. 280, ch. 95-147.

Note.—Former s. 47.162.

48.193 Acts subjecting person to jurisdiction of courts of state.

(1) Any person, whether or not a citizen or resident of this state, who personally or through an agent does any of the acts enumerated in this subsection thereby submits himself or herself and, if he or she is a natural person, his or her personal representative to the jurisdiction of the courts of this state for any cause of action arising from the doing of any of the following acts:

(a) Operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state.

(b) Committing a tortious act within this state.

(c) Owning, using, possessing, or holding a mortgage or other lien on any real property within this state.

(d) Contracting to insure any person, property, or risk located within this state at the time of contracting.

(e) With respect to a proceeding for alimony, child support, or division of property in connection with an action to dissolve a marriage or with respect to an independent action for support of dependents, maintaining a matrimonial domicile in this state at the time of the commencement of this action or, if the defendant resided in this state preceding the commencement of the action, whether cohabiting during that time or not. This paragraph does not change the residency requirement for filing an action for dissolution of marriage.

(f) Causing injury to persons or property within this state arising out of an act or omission by the defendant outside this state, if, at or about the time of the injury, either:

1. The defendant was engaged in solicitation or service activities within this state; or

2. Products, materials, or things processed, serviced, or manufactured by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade, or use.

(g) Breaching a contract in this state by failing to perform acts required by the contract to be performed in this state.

(h) With respect to a proceeding for paternity, engaging in the act of sexual intercourse within this state with respect to which a child may have been conceived.

(2) A defendant who is engaged in substantial and not isolated activity within this state, whether such activity is wholly interstate, intrastate, or otherwise, is subject to the jurisdiction of the courts of this state, whether or not the claim arises from that activity.

(3) Service of process upon any person who is subject to the jurisdiction of the courts of this state as provided in this section may be made by personally serving the process upon the defendant outside this state, as provided in s. 48.194. The service shall have the same effect as if it had been personally served within this state.

(4) If a defendant in his or her pleadings demands affirmative relief on causes of action unrelated to the transaction forming the basis of the plaintiff's claim, the defendant shall thereafter in that action be subject to the jurisdiction of the court for any cause of action, regardless of its basis, which the plaintiff may by amendment assert against the defendant.

(5) Nothing contained in this section limits or affects the right to serve any process in any other manner now or hereinafter provided by law.

History.—s. 1, ch. 73-179; s. 3, ch. 84-2; s. 3, ch. 88-176; s. 3, ch. 93-250; s. 281, ch. 95-147.

48.194 Personal service outside state.—

(1) Except as otherwise provided herein, service of process on persons outside of this state shall be made in the same manner as service within this state by any officer authorized to serve process in the state where the person is served. No order of court is required. An affidavit of the officer shall be filed, stating the time, manner, and place of service. The court may consider the affidavit, or any other competent evidence, in determining whether service has been properly made.

(2) Where in rem or quasi in rem relief is sought in a foreclosure proceeding as defined by s. 702.09, service of process on a person outside of this state where the address of the person to be served is known may be made by registered mail as follows:

(a) The party's attorney or the party, if the party is not represented by an attorney, shall place a copy of the original process and the complaint, petition, or other initial pleading or paper and, if applicable, the order to show cause issued pursuant to s. 702.10 in a sealed envelope with adequate postage addressed to the person to be served.

(b) The envelope shall be placed in the mail as registered mail.

(c) Service under this subsection shall be considered obtained upon the signing of the return receipt by the person allowed to be served by law.

(3) If the registered mail which is sent as provided for in subsection (2) is returned with an endorsement or stamp showing "refused," the party's attorney or the party, if the party is not represented by an attorney, may serve original process by first-class mail. The failure to claim registered mail is not refusal of service within the meaning of this subsection. Service of process pursuant to this subsection shall be perfected as follows:

(a) The party's attorney or the party, if the party is not represented by an attorney, shall place a copy of the original process and the complaint, petition, or other initial pleading or paper and, if applicable, the order to show cause issued pursuant to s. 702.10 in a sealed envelope with adequate postage addressed to the person to be served.

(b) The envelope shall be mailed by first-class mail with the return address of the party's attorney or the party, if the party is not represented by an attorney, on the envelope.

(c) Service under this subsection shall be considered obtained upon the mailing of the envelope.

(4) If service of process is obtained under subsection (2), the party's attorney or the party, if the party is not represented by an attorney, shall file an affidavit setting forth the return of service. The affidavit shall state the nature of the process; the date on which the process was mailed by registered mail; the name and address on the envelope containing the process; the fact that the process was mailed registered mail return receipt requested; who signed the return receipt, if known, and

the basis for that knowledge; and the relationship between the person who signed the receipt and the person to be served, if known, and the basis for that knowledge. The return receipt from the registered mail shall be attached to the affidavit. If service of process is perfected under subsection (3), the party's attorney or the party, if the party is not represented by an attorney, shall file an affidavit setting forth the return of service. The affidavit shall state the nature of the process; the date on which the process was mailed by registered mail; the name and address on the envelope containing the process that was mailed by registered mail; the fact that the process was mailed registered mail and was returned with the endorsement or stamp "refused"; the date, if known, the process was "refused"; the date on which the process was mailed by first-class mail; the name and address on the envelope containing the process that was mailed by first-class mail; and the fact that the process was mailed by first-class mail with a return address of the party or the party's attorney on the envelope. The return envelope from the attempt to mail process by registered mail and the return envelope, if any, from the attempt to mail the envelope by first-class mail shall be attached to the affidavit.

History.—s. 1, ch. 73-179; s. 4, ch. 93-250.

48.195 Service of foreign process.—

(1) The service of process issued by a court of a state other than Florida may be made by the sheriffs of this state in the same manner as service of process issued by Florida courts. The provisions of this section shall not be interpreted to permit a sheriff to take any action against personal property, real property, or persons.

(2) An officer serving such foreign process shall be deemed as acting in the performance of his or her duties for the purposes of ss. 30.01, 30.02, 843.01, and 843.02, but shall not be held liable as provided in s. 839.19 for failure to execute any process delivered to him or her for service.

(3) The sheriffs shall be entitled to charge fees for the service of foreign process, and the fees shall be the same as fees for the service of comparable process for the Florida courts. When the service of foreign process requires duties to be performed in excess of those required by Florida courts, the sheriff may perform the additional duties and may collect reasonable additional compensation for the additional duties performed.

History.—s. 7, ch. 79-396; s. 36, ch. 81-259; s. 11, ch. 91-45; s. 282, ch. 95-147.

48.196 Service of process in connection with actions under the Florida International Arbitration Act.

(1) Any process in connection with the commencement of an action before the courts of this state under chapter 684, the Florida International Arbitration Act, shall be served:

(a) In the case of a natural person, by service upon:

1. That person;
2. Any agent for service of process appointed in, or pursuant to, any applicable agreement or by operation of any law of this state; or

3. Any person authorized by the law of the jurisdiction where process is being served to accept service for that person.

(b) In the case of any person other than a natural person, by service upon:

1. Any agent for service of process appointed in, or pursuant to, any applicable agreement or by operation of any law of this state;

2. Any person authorized by the law of the jurisdiction where process is being served to accept service for that person; or

3. Any person, whether natural or otherwise and wherever located, who by operation of law or internal action is an officer, business agent, director, general partner, or managing agent or director of the person being served; or

4. Any partner, joint venturer, member or controlling shareholder, wherever located, of the person being served, if the person being served does not by law or internal action have any officer, business agent, director, general partner, or managing agent or director.

(2) The process served under subsection (1) shall include a copy of the application to the court together with all attachments thereto and shall be served in the following manner:

(a) In any manner agreed upon, whether service occurs within or without this state;

(b) If service is within this state:

1. In the manner provided in ss. 48.021 and 48.031, or

2. If applicable under their terms, in the manner provided in ss. 48.161, 48.183, 48.23, or chapter 49; or

(c) If service is outside this state:

1. By personal service by any person authorized to serve process in the jurisdiction where service is being made or by any person appointed to do so by any competent court in that jurisdiction;

2. In any other manner prescribed by the laws of the jurisdiction where service is being made for service in an action before a local court of competent jurisdiction;

3. In the manner provided in any applicable treaty to which the United States is a party;

4. In the manner prescribed by order of the court;

5. By any form of mail requiring a signed receipt, to be addressed and dispatched by the clerk of the court to the person being served; or

6. If applicable, in the manner provided in chapter 49.

(3) No order of the court is required for service of process outside this state. The person serving process shall make proof of service to the court by affidavit or as prescribed by the law of the jurisdiction where process is being served or as prescribed in an order of the court. Such proof shall be made prior to expiration of the time within which the person served must respond. If service is by mail, the proof of service shall state the date and place of mailing and shall include a receipt signed by the addressee or other evidence of delivery satisfactory to the court.

History.—s. 2, ch. 86-266.

48.20 Service of process on Sunday.—Service or execution on Sunday of any writ, process, warrant, order, or judgment is void and the person serving or executing, or causing it to be served or executed, is liable to the party aggrieved for damages for so doing as if he

or she had done it without any process, writ, warrant, order, or judgment. If affidavit is made by the person requesting service or execution that he or she has good reason to believe that any person liable to have any such writ, process, warrant, order, or judgment served on him or her intends to escape from this state under protection of Sunday, any officer furnished with an order authorizing service or execution by the judge or magistrate of any incorporated town may serve or execute such writ, process, warrant, order, or judgment on Sunday, and it is as valid as if it had been done on any other day.

History.—s. 44, Nov. 23, 1828; RS 1025; GS 1413; RGS 2611; CGL 4275; s. 4, ch. 67-254; s. 12, ch. 73-334; s. 283, ch. 95-147.

Note.—Former s. 47.66.

48.21 Return of execution of process.—All officers to whom process is directed shall note on it, or on a return-of-service form attached thereto, the time when it comes to hand, the time when it is executed, the manner of execution, the name of the person on whom it was executed and if such person is served in a representative capacity, the position occupied by the person. A failure to state the foregoing facts invalidates the service, but the return is amendable to state the 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. A failure to state all the facts in the return shall subject the officer so failing to a fine not exceeding \$10, in the court's discretion.

History.—s. 18, Nov. 23, 1828; RS 1026; GS 1414; RGS 2612; CGL 4276; s. 4, ch. 67-254; s. 4, ch. 94-170; s. 1356, ch. 95-147.

Note.—Former s. 47.47.

48.22 Cumulative to other laws.—All provisions of this chapter are cumulative to other provisions of law or rules of court about service of process, and all other provisions about service of process are cumulative to this chapter.

History.—s. 9, ch. 11829, 1927; CGL 4265; s. 7, ch. 22858, 1945; s. 4, ch. 67-254.

Note.—Former ss. 47.33, 47.44.

48.23 Lis pendens.—

(1)(a) No action in any of the state or federal courts in this state operates as a lis pendens on any real or personal property involved therein or to be affected thereby until a notice of the commencement of the action is recorded in the office of the clerk of the circuit court of the county where the property is, which notice contains the names of the parties, the time of institution of the action, the name of the court in which it is pending, a description of the property involved or to be affected, and a statement of the relief sought as to the property.

(b) Except for the interest of persons in possession or easements of use, the filing for record of such notice of lis pendens shall constitute a bar to the enforcement against the property described in said notice of lis pendens of all interests and liens including but not limited to federal tax liens and levies, unrecorded at the time of filing for record such notice of lis pendens unless the holder of any such unrecorded interest or lien shall intervene in such proceedings within 20 days after the filing and recording of said notice of lis pendens. If the holder of any such unrecorded interest or lien does not intervene in the proceedings and if such proceedings

are prosecuted to a judicial sale of the property described in said notice of lis pendens, the property shall be forever discharged from all such unrecorded interests and liens. In the event said notice of lis pendens is discharged by order of the court, the same shall not in any way affect the validity of any unrecorded interest or lien.

(2) No notice of lis pendens is effectual for any purpose beyond 1 year from the commencement of the action unless the relief sought is disclosed by the initial pleading to be founded on a duly recorded instrument or on a lien claimed under part I of chapter 713 against the property involved, except when the court extends the time on reasonable notice and for good cause. The court may impose such terms for the extension of time as justice requires.

(3) When the initial pleading does not show that the action is founded on a duly recorded instrument or on a lien claimed under part I of chapter 713, the court may control and discharge the notice of lis pendens as the court may grant and dissolve injunctions.

(4) This section applies to all actions now or hereafter pending in any state or federal courts in this state, but the period of time above-mentioned does not include the period of pendency of any action in an appellate court.

History.—RS 1220; GS 1649; RGS 2853; ss. 1-3, ch. 12081, 1927; CGL 4550; s. 1, ch. 24336, 1947; s. 4, ch. 67-254; s. 1, ch. 67-567; s. 1, ch. 85-308; s. 19, ch. 90-109; s. 5, ch. 93-250.

Note.—Former s. 47.49.

48.25 Short title.—Sections 48.25-48.31 may be cited as the "Florida Certified Process Server Act."

History.—s. 2, ch. 88-135.

48.27 Certified process servers.—

(1) The chief judge of each judicial circuit may establish an approved list of natural persons designated as certified process servers. The chief judge may periodically add to such list the names of those natural persons who have met the requirements for certification provided for in s. 48.29. Each person whose name has been added to the approved list is subject to annual recertification and reappointment by the chief judge of a judicial circuit.

(2) The addition of a person's name to the list authorizes him to serve initial nonenforceable civil process on a person found within the circuit when a civil action has been filed against such person in the circuit court or in a county court in the circuit. Upon filing an action in circuit or county court, a person may select from the list one or more certified process servers to serve initial nonenforceable civil process.

(3) Nothing herein shall be interpreted to exclude a sheriff or deputy or other person appointed by the sheriff pursuant to s. 48.021 from serving process or to exclude a person from appointment by individual motion and order to serve process in any civil action in accordance with Rule 1.070(b) of the Florida Rules of Civil Procedure.

History.—s. 3, ch. 88-135.

48.29 Certification of process servers.—

(1) The circuit court administrator and the clerk of the court in each county in the circuit shall maintain the list of process servers approved by the chief judge of

the circuit. Such list may, from time to time, be amended or modified to add or delete a person's name in accordance with the provisions of this section or s. 48.31.

(2) A person seeking the addition of his or her name to the approved list in any circuit shall submit an application to the chief judge of the circuit or to the chief judge's designee on a form prescribed by the court. A reasonable fee for processing the application may be charged.

(3) A person applying to become a certified process server shall:

- (a) Be at least 18 years of age;
- (b) Have no mental or legal disability;
- (c) Be a permanent resident of the state;
- (d) Submit to a background investigation, which shall include the right to obtain and review the criminal record of the applicant;
- (e) Obtain and file with his or her application a certificate of good conduct, which specifies there is no pending criminal case against the applicant and that there is no record of any felony conviction, nor a record of a conviction of a misdemeanor involving moral turpitude or dishonesty, with respect to the applicant within the past 5 years;

(f) If prescribed by the chief judge of the circuit, submit to an examination testing his or her knowledge of the laws and rules regarding the service of process. The content of the examination and the passing grade thereon, and the frequency and location at which such examination shall be offered shall be prescribed by the chief judge of the circuit. The examination, if any, shall be offered at least once annually;

(g) Execute a bond in the amount of \$5,000 with a surety company authorized to do business in this state for the benefit of any person wrongfully injured by any malfeasance, misfeasance, neglect of duty, or incompetence of the applicant, in connection with his or her duties as a process server. Such bond shall be renewable annually; and

(h) Take an oath of office that he or she will honestly, diligently, and faithfully exercise the duties of a certified process server.

(4) The chief judge of the circuit may, from time to time by administrative order, prescribe additional rules and requirements regarding the eligibility of a person to become a certified process server or to have his or her name maintained on the list of certified process servers.

(5)(a) An applicant who completes the requirements set forth in this section and whose name the chief judge by order enters on the list of certified process servers shall be designated as a certified process server.

(b) Each certified process server shall be issued an identification card bearing his or her identification number, printed name, signature and photograph, the seal of the circuit court, and an expiration date. Each identification card shall be renewable annually upon proof of good standing and current bond.

(6)(a) A certified process server shall place on the face of any process served by him or her, his or her printed name, signature, and identification number, and words stating that he or she is a certified process server in the circuit wherein he or she is serving the process. In addition, the certified process server shall endorse on

the original process, and on all copies served, the date and hour of service.

(b) Return of service shall be made by a certified process server on a form which has been reviewed and approved by the court.

(7)(a) A person may qualify as a certified process server and have his or her name entered on the list in more than one circuit.

(b) A process server whose name is on a list of certified process servers in more than one circuit may serve process on a person found in any such circuits.

(c) A certified process server may serve foreign process in any circuit in which his or her name has been entered on the list of certified process servers for that circuit.

(8) A certified process server may charge a fee for his or her services.

History.—s. 4, ch. 88-135; s. 284, ch. 95-147.

48.31 Removal of certified process servers; false return of service.—

(1) A certified process server may be removed from the list of certified process servers for any malfeasance, misfeasance, neglect of duty, or incompetence, as provided by court rule.

(2) A certified process server must be disinterested in any process he or she serves; if the certified process server willfully and knowingly executes a false return of service, he or she is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be permanently barred from serving process in this state.

History.—s. 5, ch. 88-135; s. 285, ch. 95-147.