

Virginia

Regulatory Hot Tip 2016 – 4

Professional Insurance Agents Association of Virginia and DC, Inc.

Registered Agent Service in the Commonwealth of Virginia

This article focuses on the protocols that should be set up in your office to receive paperwork from your Registered Agent. Alternatively if you are the Agency's Registered Agent, it discusses what you should do in the event that paperwork is delivered to you.

Why am I reprising this article? Partially because of statutory changes in other jurisdictions focusing on satisfactory methods for serving documents on the registered agent that ultimately may spill over to the Commonwealth of Virginia concerning acceptable methods for serving Registered Agent paperwork---some of which are being considered in the General Assembly this session, but also because all of us from time to time need a reminder.

Your Agency's Registered Agent, be it yourself as a corporate officer, or your attorney or someone else who is designated to perform these services, will oftentimes be sent important legal paperwork and notifications. Such paperwork may be a subpoena, an order from a court, discovery requests, corporate annual reports or company assessments, etc. When these documents are received by your Registered

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NolteLaw's practice focuses on general business matters (such as business formation, acquisitions, dissolutions and employment questions) and administrative law issues (such as rulemaking and compliance) affecting regulated entities. Our diverse client base includes restaurants, healthcare providers, contractors, fiber-optic and conduit installers, business entrepreneurs, telecommunications companies, insurance entities, financial institutions, mortgage loan originators, water & sewer providers, and insurance receiverships. Jo has served as attorney for the Virginia State Corporation Commission and as in-house counsel to a privately owned national corporation. She also owned and operated an insurance surplus lines brokerage agency and an insurance consulting business.

Agent, it is as though your Agency is in receipt of the applicable process, i.e. *you have been served*. If you use a third-party, external Registered Agent, you need to know what their turnaround time will be as to your paperwork upon their receipt. For example, in my office, we provide clients for whom we serve as Registered Agent an email and scanned copies of the document (assuming that they are not oversized and can be scanned) the same business day that we receive them. Anything that arrives by mail (not always does a sheriff or process server deliver the documents) or over the weekend will be forwarded, by email, to our clients the following business day when our office is next open.

Why is this so important? When a timely response is due from you or your Agency, that time period begins to run when the Registered Agent receives the paperwork. So the longer the Registered Agent waits to deliver the paperwork, the less time you will have to respond.

Likewise, when documents are delivered to the Registered Agent requesting a response from you or your Agency, you need to have protocols in place to contact your legal advisor to assist you with such matters. Remember, the burden is on you to respond timely. You should also consider that it may take some time for your attorney to come up to speed on the issues, so to speak and to understand exactly what kind of response may be necessary from you. So, don't tarry in getting your lawyer involved. Likewise, if the subpoena is requesting documentation, it may take your staff a couple of days to pull those documents together for your attorney's review and delivery to the requesting party.

Most times when documents come by Registered Agent they deserve your immediate and full attention; first to determine whether a timely response is due from you, whether your professional carrier needs to be put on notice of this matter, or whether the information is merely to let you know that a proceeding has been commenced for which you may need to be involved in the future. So, Bottom Line: Have appropriate protocols in place so that you will be informed of the delivery of such paperwork in a timely fashion so that whatever is required of you or your Agency can be handled promptly, efficiently to afford you the best protections possible.

Lastly, make sure that your Registered Agent's contact information is current and accurate with the State Corporation Commission, otherwise important legal paper-work may be lost.