

## LEGISLATIVE BILL 447

Approved by the Governor May 25, 1983

Introduced by Hoagland, 6

AN ACT relating to civil procedure; to provide for service of summons and personal jurisdiction as prescribed; to amend sections 8-1112, 12-503, 14-808, 15-107, 16-115, 17-504, 21-1909, 21-1975, 21-20,114, 21-20,116, 23-263, 24-321, 25-314, 25-321, 25-406, 25-536, 25-540, 25-821, 25-1082, 25-1145, 25-21,118, 29-1608, 30-2511, 42-352, 42-354, 42-355, 42-364.04, 43-103, 44-135, 44-137.01, 44-137.02, 44-137.08, 44-145, 44-341, 44-342.03, 44-1033, 44-1204, 44-1801, 44-1805, 44-2001, 44-2004, 45-124, 48-175, 48-190, 48-655.01, 48-909, 53-126, 57-1001, 60-509, 60-531, 67-281, 67-285, 67-286, 71-3823, 75-325, 76-408, 76-706, 76-1306, 76-1409, 77-2712, 77-27,133, 79-2856, 81-516, 81-885.17, 81-885.35, 81-8,120, 81-8,212, 81-1507, 81-1930, 84-719, and 84-917, Reissue Revised Statutes of Nebraska, 1943, sections 21-2076, 24-524, 25-1011, 43-268, 43-1205, 44-2620, 44-3515, 48-813, 48-1126, 59-1750, 69-1204, and 77-3002, Revised Statutes Supplement, 1982, and section 25-1531, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, LB 107, Eighty-eighth Legislature, First Session, 1983; to harmonize provisions; to change duties relating to notice as prescribed; to provide duties for the Revisor of Statutes; and to repeal the original sections, and also sections 25-314.01, 25-502 to 25-518, 25-521, 25-524, 25-526, 25-530.01 to 25-530.07, 44-137, 44-137.03 to 44-137.06, 44-1034, 45-125, 45-349, 57-1002, 75-326, and 76-722, Reissue Revised Statutes of Nebraska, 1943, and sections 21-2013 and 25-530, Revised Statutes Supplement, 1982.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 8-1112, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1112. Every nonresident applicant for registration Registering as a broker-dealer, issuer-dealer, or investment adviser under sections 8-1101 to 8-1124 and every issuer which proposes to offer or directly or indirectly offering a security in this state shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such a person in any action which arises under sections 8-1101 to 8-1124. through any person acting on an agency basis in the common-law sense shall file with the director, in such form as he shall by rule prescribe, an irrevocable consent appointing the director or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor, executor or administrator which arises under sections 8-4401 to 8-4424 or any rule or order under sections 8-4401 to 8-4424 after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the director, but it shall not be effective unless (1) the plaintiff, who may be the director, in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his last address on file with the director and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court may allow.

Sec. 2. That section 12-503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

12-503. The trustees who may be appointed under the provisions of section 12-501 shall have perpetual succession, and shall be capable in law of contracting, and prosecuting and defending suits at law and in equity, and where suits shall be brought against said incorporation, mesne process against it may be served by leaving an attested copy thereof with one of the trustees at least ten days before the return day thereof. The cemetery association may be served in the manner provided for service of a summons on a corporation.

Sec. 3. That section 14-808, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

14-808. The corporate name of each

21-1975. A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the Secretary of State a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the Secretary of State an application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated;

(2) That the corporation is not conducting affairs in this state;

(3) That the corporation surrenders its authority to conduct affairs in this state;

(4) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit, or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on such corporation by service thereof on the Secretary of State outside this state; and

(5) A post office and street address at which to which the Secretary of State may mail a copy of any process against the corporation that may be served, on ~~him~~

The application for withdrawal shall be made on forms prescribed and furnished by the Secretary of State and shall be executed by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him or her.

Sec. 9. That section 21-2076, Revised Statutes Supplement, 1982, be amended to read as follows:

21-2076. One or more foreign corporations and one or more domestic corporations may be merged or consolidated, or participate in an exchange, in the following manner, if such merger, consolidation, or exchange is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of sections 21-2001 to 21-20,134 with respect to the merger, consolidation, or exchange, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized; and

(2) If the surviving or new corporation in the merger or consolidation is to be governed by the laws of

any state other than this state, it shall comply with the provisions of sections 21-2001 to 21-20,134 with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the Secretary of State of this state:

(a) An agreement that it may be served with process within or without in this state in any proceeding in the courts of this state for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights of a dissenting shareholder of any such domestic corporation against the surviving or new corporation; and

(b) An irrevocable appointment of the Secretary of State of this state as its agent to accept service of process in any such proceeding; and

(c) (b) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation, the amount, if any, to which they shall be entitled under the provisions of sections 21-2001 to 21-20,134 with respect to the rights of dissenting shareholders.

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

At any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation.

Sec. 10. That section 21-20,114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-20,114. The registered agent so appointed by a foreign corporation authorized to transact business in this state shall be an agent of such corporation upon whom any process, notice, or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation shall do business in this state, and fails to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall

be suspended or revoked; then the Secretary of State shall be an agent of such corporation upon which any such process, notice, or demand may be served. Service on the Secretary of State of any such process, notice, or demand shall be made by delivering to and leaving with him; or, if the Secretary of State is absent from or is not found in the office of the Secretary of State in the State Capitol at the time of the attempted service, then by serving any person employed in the office of the Secretary of State who, previously to such service, has been designated in writing by the Secretary of State as the person or one of the persons upon whom such service shall be made for service upon the Secretary of State. Such service shall constitute valid service upon such corporation in all courts of this state, in counties where the cause of action, or some part thereof, arose, or in counties where the contract, or portion thereof, entered into by such corporation has been violated or is to be performed; Provided, that where the Secretary of State is so served with summons or other process as agent for such corporation, the summons or process must be in duplicate and must show the city and, if of record, the street address of the corporation or the registered agent for the purpose of notification, or such information shall be furnished or given to the Secretary of State at the time of such service for such purpose. A fee of four dollars shall be paid in advance to the Secretary of State for filing the summons:

In the event any such process, notice or demand is served on the Secretary of State, he shall, within ten days after the date of service, cause one of such copies thereof to be forwarded by registered or certified mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated.

The Secretary of State shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a foreign corporation in any other manner permitted by law.

Sec. 11. That section 21-20,116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-20,116. A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the Secretary of State a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the Secretary of State an application

for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated;

(2) That the corporation is not transacting business in this state;

(3) That the corporation surrenders its authority to transact business in this state;

(4) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit, or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on such corporation by service thereof on the Secretary of State outside this state;

(5) A post-office post office address to at which the Secretary of State may mail a copy of any process against the corporation that may be served; on him; and

(6) Such additional information as may be necessary or appropriate in order to enable the Secretary of State to determine and assess any unpaid fees or taxes payable by such foreign corporation as prescribed by the laws of this state.

The application for withdrawal shall be made on forms prescribed and furnished by the Secretary of State and shall be executed by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing the application, or if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him or her.

Sec. 12. That section 23-263, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-263. In all legal proceedings against the town by name, the first process and all other writs or proceedings required to be served, shall be served on the town clerk of the town in the manner provided for service of a summons in a civil action, and whenever any suit or proceedings shall be commenced against the town, it shall be the duty of the town clerk to attend to the defense thereof, and lay before the electors of the town, at the first town meeting, a full statement of such suit or proceedings for their consideration and direction.

Sec. 13. That section 24-321, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

24-321. When action is brought under the provisions of section 24-319 summons shall be served

upon the state in the manner provided for service of a summons in a civil action. 7 subdivisions (1), (2), or (3), summons shall issue upon the filing of such petition directed to the sheriff of Lancaster County, Nebraska, and shall be served upon the state by the sheriff of Lancaster County, by serving the same upon the Governor and Attorney General; and in any action, the subject matter of which, in whole or in part, relates to or grew out of the conduct of any special department or institution of the government, summons shall also issue to the sheriff of the county in which the principal office of such special department or in which such institution is situated; and in all such cases shall also be served upon the chief officer of such department or institution, by the sheriff of the county in which the principal office of such special department or in which such institution is situated. When action is brought under the provisions of section 24-349, subdivision (4), summons shall issue to the sheriff of Lancaster County and also to the sheriff of the county wherein the realty is situated; and shall be served upon the state by the sheriff of Lancaster County by serving the same upon the Attorney General and by the sheriff of the county wherein the realty is situated by serving the same upon the county attorney of such county; and the action shall otherwise be brought as in other civil actions. When an action is brought under the provisions of section 24-349, subdivision (5), summons shall issue to the sheriff of Lancaster County; and shall be served upon the state by the sheriff of Lancaster County by serving the same upon the Attorney General. Such action brought under the provisions of section 24-319, subdivision (5), may be brought in Lancaster County, Nebraska, or in any county wherein the drainage district, irrigation district, municipal corporation, or other political or governmental subdivision whose bonds or other obligations are involved, is situated either in whole or in part. In all cases brought under the provisions of section 24-349, the day for return of summons shall be as provided by law in other actions in the district court.

Sec. 14. That section 24-524, Revised Statutes Supplement, 1982, be amended to read as follows:

24-524. (1) Actions in the Small Claims Court shall be commenced by the filing of a claim by the plaintiff on a form provided by the clerk of the county court or municipal court. The claim form shall be executed by the plaintiff in the presence of a judge or the clerk of the county or municipal court or a deputy or assistant designated by the clerk.

(2) At the time of the filing of the claim, the plaintiff shall pay a fee of five dollars to the

clerk.

(3) Upon filing of a claim in the Small Claims Court, the court shall set a time for hearing and shall cause notice to be served upon the defendant. Notice shall be served not less than five days before the time set for hearing. Notice shall consist of a copy of the complaint and a summons directing the defendant to appear at the time set for hearing and informing the defendant that if he or she fails to appear, judgment will be entered against him or her. Notice shall be served in the same manner as for other actions in the county or municipal court or by mail, at the option of the plaintiff as stated in writing in the claim. When service by mail is requested, the court shall mail the notice by registered or certified mail, return receipt requested, to the defendant at the address given in the claim. Service by mail shall be complete upon return to the court of the receipt signed by the defendant, and such receipt shall be prima facie evidence of such service in the manner provided for service of a summons in a civil action, except that service by certified mail shall be made by the clerk. The cost of service shall be paid by the plaintiff, but such cost and filing fee shall be added to any judgment given the plaintiff.

(4) The defendant may file a setoff or counterclaim in an amount not in excess of one thousand dollars, exclusive of interest and costs. Any setoff or counterclaim shall be filed and a copy delivered to the plaintiff at least two days prior to the time of trial. If the setoff or counterclaim exceeds the jurisdictional limits of the Small Claims Court, the court shall cause the entire matter to be transferred to the regular county or municipal court docket and set for trial.

(5) No prejudgment actions for attachment, garnishment, replevin, or other provisional remedy may be filed in the Small Claims Court.

(6) All forms required by this section shall be prescribed by the Supreme Court. The claim form shall provide for the names and addresses of the plaintiff and defendant, and a concise statement of the nature, amount, and time and place of accruing of the claim, and shall also contain a brief explanation of the Small Claims Court procedure and methods of appeal therefrom.

(7) Judgments rendered against a defendant in his or her absence may not be set aside but may only be appealed as governed by section 24-527.

Sec. 15. Any dissolved corporation may be sued by its corporate name upon any cause of action accrued against such corporation or which but for such dissolution would have accrued, with the same effect as if it had not been dissolved.

Sec. 16. That section 25-314, Reissue Revised



Statutes of Nebraska, 1943, be amended to read as follows:

25-314. Process against any such company, firm, or unincorporated association which has its principal place of business or activity in the state shall be served by a copy left at its usual place of doing business or conducting activities within the county with one of the members of such company, firm, or unincorporated association or with a clerk or general agent thereof or by serving a copy of such process on the Secretary of State as hereinafter provided. When such company, firm, or unincorporated organization has its principal place of business or activity outside of this state and does not have a usual place of doing business or activity within the state, nor a clerk or general agent within the state, such company, firm, or unincorporated association shall appoint an agent or agents in this state and before it is authorized to engage in any kind of business or activity in this state such company, firm, or unincorporated organization shall file in the office of the Secretary of State a certified statement setting forth that such company, firm, or unincorporated organization is doing business or conducting activities in the State of Nebraska stating the nature of the business or activity, and designating an agent or agents within the State of Nebraska, upon whom process, or other legal notice of the commencement of any legal proceeding, or in the prosecution thereof may be served; and such service of process or any such other legal notice as provided in this section made upon the Secretary of State, or upon any such agent or agents, shall constitute valid service upon such company, firm, or unincorporated organization in all courts of this state, in counties where the cause of action or some part thereof arose and the doing of business or conducting activities within the State of Nebraska without filing such certified statement and designation of agent or agents shall be deemed an appointment by such company, firm, or unincorporated association of the Secretary of State as its true and lawful attorney upon whom may be served all legal process in any action or proceeding against it growing out of such business or activities. Executions issued on any judgments rendered in such proceedings shall be levied only on property of the company, firm, partnership, or unincorporated association. A fee of five dollars shall be paid for filing the certified statement with the Secretary of State. If there is a change of the agent or agents, or if there is a change of street address, a statement shall be filed with the Secretary of State, stating the name of the new agent or agents or the new street address, or both. A filing fee of three dollars shall be paid for the filing of such

statement.

Sec. 17. That section 25-321, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-321. When the plaintiff shall be ignorant of the name of the defendant, such defendant may be designated in any pleading or proceeding by any name, or any name and description, followed by the words, "real name unknown." In any such case the person intended shall thereupon be regarded as a defendant in such action or proceeding and as sufficiently identified therein for all purposes, including service of summons or constructive service when authorized and as prescribed by the Code of Civil Procedure of the State of Nebraska. In any action wherein the subject matter is as described in section 25-547, subdivision (4) or (4), wherein it is alleged in the petition or other pleading that there are persons who have or that there are persons who claim or appear to have some interest in, right or title to, or lien upon any real or personal property within this state involved in such action, and that the ownership of, interest in, rights or title to, or lien upon such property of such persons, does not appear of record, in or by their respective names, in the county wherein such property is situated, and that the plaintiff or person in whose behalf such allegations are made, after diligent investigation and inquiry, is unable to ascertain and does not know the names or whereabouts if in this state, or the residence of such persons, such action may proceed against all such persons designated as "all persons having or claiming any interest in" such property which shall be accurately and definitely described, followed by the words, "real names unknown." ; and defendants so designated may be served by publication when the order provided for in section 25-547, subdivision (6) has been secured and the affidavit provided for in section 25-548 has been filed; judgments and decrees against persons so designated and made defendants and served by publication as herein provided shall be conclusive as against all persons who are not in actual possession of such property and whose ownership of, interest in, rights or title to, or lien upon such property does not appear of record in or by their respective names in the county wherein such property is situated.

Sec. 18. That section 25-406, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-406. An action against a railroad company, or an owner of a line of mail stages or other coaches, or a bus company, for an injury to person or property upon the road or line, or upon a liability as a carrier, may be brought in any county

through or into which the road or line passes; PROVIDED, that service of summons upon bus companies may be made as upon other persons, or by leaving a copy of the summons by the proper officer with any ticket agent, chauffeur or driver of said bus company or left at the usual place of doing business of said company within said county; AND PROVIDED FURTHER, that when an action has been commenced in a county other than as specified herein, the court in which the action has been commenced shall have jurisdiction over such action, but upon timely motion by a defendant the court shall transfer the action to the proper court in the county in which the action should or might have been commenced as herein provided. The court in the county to which the action is transferred, in its discretion, may order the plaintiff to pay to the defendant all reasonable expenses, including attorney fees of the defendant or defendants, incurred because of the improper venue or in proceedings to transfer such action.

Sec. 19. The plaintiff shall file with the clerk of the court a praecipe for summons stating the name and address of each party to be served and the manner of service for each party.

Sec. 20. (1) The summons shall be directed to the defendant or defendants, and contain the names of the parties and the name and address of the plaintiff's attorney, if any, otherwise the address of the plaintiff. It shall notify defendant that in order to defend the lawsuit an appropriate written response must be filed with the court within thirty days after service, and that upon failure to do so the court may enter judgment for the relief demanded in the petition.

(2) A judgment by default shall not be different in kind from that demanded in the petition. If only special damages are demanded a judgment by default shall not exceed the amount demanded in the petition.

Sec. 21. A copy of the petition shall be served with the summons, except when service is by publication. The plaintiff shall deliver to the clerk sufficient copies of the petition at the time it is filed.

Sec. 22. Unless otherwise limited by statute or by the court, a plaintiff may elect to have service made by any of the following methods:

(1) Personal service which shall be made by leaving the summons with the individual to be served;

(2) Residence service which shall be made by leaving the summons at the usual place of residence of the individual to be served, with some person of suitable age and discretion residing therein; or

(3) Certified mail service which shall be made by (a) within ten days of issuance, sending the summons

to the defendant by certified mail with a return receipt requested showing to whom and where delivered and the date of delivery, and (b) filing with the court proof of service with the signed receipt attached.

Sec. 23. (1) Unless the plaintiff has elected service by certified mail, the summons shall be served by the sheriff of the county where service is made, by a person otherwise authorized by law, or by a person not a party to the action specially appointed by the court for that purpose.

(2) Service by certified mail shall be made by plaintiff or plaintiff's attorney.

Sec. 24. (1) Within twenty days after the date of issue, the person serving the summons, other than by certified mail, shall make proof of service to the court stating the time, place, including the address if applicable, name of the person with whom the summons was left, and method of service, or return the unserved summons to the court with a statement of the reason for the failure to serve.

(2) When service is by certified mail, the plaintiff or plaintiff's attorney shall file proof of service within ten days after return of the signed receipt.

(3) Failure to make proof of service or delay in doing so does not affect the validity of the service.

Sec. 25. (1) An individual party, other than a person under the age of fourteen years, may be served by personal, residence, or certified mail service.

(2) A party under the age of fourteen years may be served by personal, residence, or certified mail service upon an adult person with whom the minor resides and who is the minor's parent, guardian, or person having care of the minor. If none of these can be found, a party under the age of fourteen years may be served by personal service.

(3) If the person to be served is an incapacitated person for whom a conservator or guardian has been appointed or is confined in any institution, notice of the service shall be given to the conservator, guardian, or superintendent or similar official of the institution. Failure to give such notice does not affect the validity of the service on the incapacitated person.

Sec. 26. A corporation may be served by personal, residence, or certified mail service upon any officer, director, managing agent, or registered agent, or by leaving the process at the corporation's registered office with a person employed therein, or by certified mail service to the corporation's registered office.

Sec. 27. (1) The State of Nebraska, any state agency as defined in section 81-8,210, and any employee

of the state as defined in section 81-8,210 sued in an official capacity may be served by leaving the summons at the office of the Attorney General with the Attorney General, deputy attorney general, or someone designated in writing by the Attorney General, or by certified mail service addressed to the office of the Attorney General.

(2) Any county, city, or village of this state may be served by personal, residence, or certified mail service upon the chief executive officer, or clerk;

(3) Any political subdivision of this state, as defined in subdivision (1) of section 23-2402, other than a county, city, or village, may be served by personal, residence, or certified mail service upon the chief executive officer, clerk, secretary, or other official whose duty it is to maintain the official records, or any member of the governing board or body, or by certified mail service to the principal office of the political subdivision.

Sec. 28. A dissolved corporation may be served by personal, residence, or certified mail service upon any appointed receiver. If there is no receiver, a dissolved corporation may be served by personal, residence, or certified mail service upon any person who at the time of dissolution was an officer, director, managing agent, or registered agent, or upon any officer or director designated in the last annual report filed with the Secretary of State.

Sec. 29. A partnership or limited partnership may be served by personal, residence, or certified mail service upon any partner except a limited partner, or by certified mail service at its usual place of business, or the process may be left at its usual place of business with an employee of the partnership or limited partnership.

Sec. 30. An unincorporated association may be served by personal, residence, or certified mail service upon an officer or managing agent, or by certified mail service to the association at its usual place of business, or by leaving the process at its usual place of business with an employee of the unincorporated association.

Sec. 31. Any party may be served by personal, residence, or certified mail service upon an agent authorized by appointment or by law to receive service of process.

Sec. 32. (1) The voluntary appearance of the party is equivalent to service.

(2) Prior to filing any other pleading or motion, a special appearance may be made for the purpose of objecting to the jurisdiction of the court over the person of the defendant. The defendant's assertion of a claim for affirmative relief by way of counterclaim, cross-claim, or third-party claim waives any objection

that the court erred in overruling the special appearance. The defendant's participation in proceedings on any issue other than jurisdiction over the person waives any objection that the court erred in overruling the special appearance except the objection that the defendant is not amenable to process issued by a court of this state.

Sec. 33. Upon motion and showing by affidavit that service cannot be made with reasonable diligence by any other method provided by statute, the court may permit service to be made (1) by leaving the process at the defendant's usual place of residence and mailing a copy by first-class mail to the defendant's last-known address, (2) by publication, or (3) by any manner reasonably calculated under the circumstances to provide the party with actual notice of the proceedings and an opportunity to be heard.

Sec. 34. Service may be made by publication (1) when such service is elsewhere provided for by statute or (2) when ordered by the court.

Sec. 35. That section 25-536, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-536. ~~§~~ A court may exercise personal jurisdiction over a person:

(1) Who, who acts directly or by an agent, as to a cause of action arising from the person's person:

(a) Transacting any business in this state;  
(b) Contracting to supply services or things in this state;

(c) Causing tortious injury by an act or omission in this state;

(d) Causing tortious injury in this state by an act or omission outside this state if the person he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this state;

(e) Having an interest in, using, or possessing real property in this state; or

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

(2) When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him who has any other contact with or maintains any other relation to this state to afford a basis for the exercise of personal jurisdiction consistent with the Constitution of the United States.

Sec. 36. That section 25-540, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-540. (1) When the law of this state authorizes service outside this state, the service, when reasonably calculated to give actual notice, may be made:

(a) By personal delivery in In the manner prescribed for service within this state;

(b) In the manner prescribed by the law of the place in which the service is made for service in that place in an action in any of its courts of general jurisdiction;

(c) By any form of mail addressed to the person to be served and requiring a signed receipt;

(d) (C) As directed by the foreign authority in response to a letter rogatory; or

(e) (d) As directed by the court.

(2) Proof of service outside this state may be made by affidavit of the individual who made the service or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made for proof of service in an action in any of its courts of general jurisdiction. When service is made by mail, proof of service shall include a receipt signed by the addressee or other evidence of personal delivery to the addressee satisfactory to the court.

Sec. 37. Unless specifically provided to the contrary or the context otherwise requires, the provisions of Chapter 25, article 5, on service of process, as such provisions may from time to time be amended, shall apply to all civil proceedings in all courts of this state and to all proceedings under any statute which refers to or incorporates the general provisions on process or service of process.

Sec. 38. That section 25-821, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-821. The answer or demurrer of the defendant shall be filed on or before the third Monday, and the within thirty days after service of the summons and petition. The reply or demurrer of the plaintiff on or before the fifth Monday, after the return day of the summons or service by publication shall be filed within fifteen days after the filing of the answer.

Sec. 39. That section 25-1011, Revised Statutes Supplement, 1982, be amended to read as follows:

25-1011. A copy of the summons and order of garnishment and the interrogatories in duplicate shall be served upon the garnishee as follows: if he or she is a person; they shall be served upon the garnishee personally or left at his or her usual place of residence; if a partnership; they shall be served upon a member thereof personally; or left at the usual place of

business of the partnership; and if a corporation, they shall be left with the president or other officer of the same, or managing agent thereof. Service may be made by any officer authorized by law to do so in the manner provided for service of a summons in a civil action.

Sec. 40. That section 25-1082, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1082. No receiver shall be appointed except in a suit actually commenced and pending, and after notice to all parties to be affected thereby, of the time and place of the application, the names of the proposed receiver, and of his or her proposed sureties, and of the proposed sureties of the applicant. Such notice shall state upon what papers the application is based, and be served upon the adverse party or his attorney at law at least five days before the proposed hearing, upon the adverse party in the manner provided for service of a summons in a civil action or upon the adverse party's attorney in the manner provided for service of a notice on an attorney. and one additional day for every two hundred miles of travel from the place of serving the notice to the place where the application is to be made, by the usually traveled route; or shall be published in the same manner as notices of the pendency of suits to nonresident defendants; Provided, however, that notice of application for a receiver for a corporation may in all cases be served in the same manner and under like conditions, as in this code specified for service upon corporations of a summons, or notice of suit by publication, at the commencement of a civil action; and such corporation, its officers and stockholders shall be bound thereby.

Sec. 41. That section 25-1145, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1145. Where the grounds for a new trial could not, with reasonable diligence, have been discovered before, but are discovered after the term at which the verdict, report of referee, or decision was rendered or made, the application may be made by petition filed as in other cases, and on which a summons shall issue be returnable and be served, or publication made, as prescribed in section 25-549. The facts stated in the petition shall be considered as denied without answer, and if the service shall be complete in vacation, the case shall be heard and summarily decided at the ensuing term. The case shall be placed on the trial docket, and the witnesses shall be examined in open court, or their depositions taken as in other cases, but no such petition shall be filed more than one year after the final judgment was rendered.

Sec 42. That section 25-1531, Reissue Revised



Statutes of Nebraska, 1943, as amended by section 1, LB107, Eighty-eighth Legislature, First Session, 1983, be amended to read as follows:

25-1531. If the court, upon the return of any writ of execution, or order of sale for the satisfaction of which any lands and tenements have been sold, shall, after having carefully examined the proceedings of the officer, be satisfied that the sale has in all respects been made in conformity to the provisions of this chapter and that the said property was sold for fair value, under the circumstances and conditions of the sale, or, that a subsequent sale would not realize a greater amount, the court shall direct the clerk to make an entry on the journal that the court is satisfied of the legality of such sale, and an order that the officer make the purchaser a deed of such lands and tenements. Prior to the confirmation of sale pursuant to this section, the party seeking confirmation of sale shall, except in the circumstances described in section 40-103, provide notice to the debtor informing him or her of the homestead exemption procedure available pursuant to Chapter 40, article 1. The notice shall be given by certified mailing at least ten days prior to any hearing on confirmation of sale. The officer on making such sale may retain the purchase money in his or her hands until the court shall have examined his or her proceedings as aforesaid, when he or she shall pay the same to the person entitled thereto, agreeable to the order of the court. If such sale pertains to mortgaged premises being sold under foreclosure proceedings and the amount of such sale is less than the amount of the decree rendered in such proceedings, the court may refuse to confirm such sale, if, in its opinion, such mortgaged premises have a fair and reasonable value equal to or greater than the amount of the decree. The court shall in any case condition the confirmation of such sale upon such terms or under such conditions as may be just and equitable. The judge of any district court may confirm any sale at any time after such officer has made his or her return, on motion and ten days' notice to the adverse party or his or her attorney of record, if made in vacation and such notice shall include information on the homestead exemption procedure available pursuant to Chapter 40, article 1. When any sale is confirmed in vacation the judge confirming the same shall cause his or her order to be entered on the journal by the clerk. Upon application to the court by the judgment debtor within sixty days of the confirmation of any sale confirmed pursuant to this section, such sale shall be set aside if the court finds that the party seeking confirmation of sale failed to provide notice to the judgment debtor regarding homestead exemption procedures at least ten days prior

to the confirmation of sale as required by this section.

Sec. 43. That section 25-21,118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-21,118. Constructive service may be had upon defendants who are nonresidents, and upon defendants concerning whom it is alleged in the petition that the plaintiff, after diligent investigation and inquiry, is unable to ascertain and does not know the whereabouts, if in this state, or residence of such persons. When the court in which such action is docketed or a judge thereof is satisfied that sufficient investigation has been made, an order shall be made in such action directing that service be had upon such defendant or defendants by publication. Before service by publication may be had, the affidavit provided for in section 25-548 shall be filed. Other defendants Defendants may be served as in other civil actions.

Sec. 44. That section 29-1608, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-1608. Whenever an indictment is presented, or complaint or information filed against a corporation, a summons commanding the sheriff to notify the accused thereof, and returnable on the third day after its date, shall issue on the praecipe of the prosecuting attorney. Such summons, together with a copy of the indictment, information, or complaint, shall be served and returned in the manner provided for service of summons upon such corporation in a civil action; and if the service cannot be made in the county where the prosecution began, then the sheriff may make service in any county of the state upon either its president, secretary, superintendent, clerk, cashier, treasurer, managing agent or other chief officer, or by a copy left at any general or branch office or usual place of doing business of such corporation, with the person having charge thereof. The corporation on or before the return day of a summons duly served may appear by one of its officers, or by counsel, and answer to the indictment, information, or complaint by motion, demurrer, or plea. Upon its failure to make such appearance and answer, the court clerk shall enter a plea of not guilty; and upon such appearance being made, or plea entered, the corporation shall be deemed thenceforth continuously present in the court until the case is finally disposed of.

Sec. 45. That section 30-2511, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

30-2511. Service of process may be made upon the foreign personal representative who has submitted himself or herself to the jurisdiction of the court

under section 30-2509 or is subject to jurisdiction under section 30-2510 in the manner provided for service of a summons in a civil action, by registered or certified mail, addressed to his last reasonably ascertainable address, requesting a return receipt signed by addressee only. Notice by ordinary first-class mail is sufficient if registered or certified mail service to the addressee is unavailable. Service may be made upon a foreign personal representative in the manner in which service could have been made under other laws of this state on either the foreign personal representative or his decedent immediately prior to death.

Sec. 46. That section 42-352, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-352. A proceeding under sections 42-347 to 42-379 shall be commenced by filing a petition in the district court. Except when service is by publication, a copy of the petition, together with a copy of a summons, shall be served upon the other party to the marriage. Summons shall be served upon the other party to the marriage by personal service or in the manner provided in section 25-517.02.

Sec. 47. That section 42-354, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-354. A responsive pleading, if any, shall be filed and served upon the petitioner on or before the third Monday after the return day of the summons or service by publication within thirty days after service of the summons and petition.

Sec. 48. That section 42-355, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-355. No marriage shall be dissolved or legal separation decreed unless the respondent shall have {1} been properly personally served with process if within the state; {2} been served with personal notice duly proved and appearing of record if out of this state; {3} been served by publication as provided in section 25-519; after an order for publication has been signed and filed upon affidavit of petitioner or his attorney that respondent's whereabouts is unknown and could not be determined after reasonable and due inquiry and search for thirty days after filing the petition; or {4} entered an appearance in the case.

Sec. 49. That section 42-364.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-364.04. Service upon an employer of the documents required by the provisions of section 42-364.03 shall be made in the manner provided allowed

by law for service of a summons upon a defendant in a civil action, commenced in any district court in the state. Service upon a parent-employee shall be made by mailing, by certified mail, return receipt requested, the documents required by section 42-364-03, addressed to such parent-employee at his last-known residence, whether it be in this state or in another state, or at his place of employment.

Sec. 50. That section 43-103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-103. Upon the filing of such petition the court shall fix a time for hearing the same, not less than four weeks nor more than eight weeks after the filing of such petition. The court may require notice of the hearing to be given to the child, if over fourteen years of age, to the natural parent or parents of the child, and to such other interested persons as the judge may, in the exercise of discretion, deem advisable, either by personal service or by publication in the manner provided for service of a summons in a civil action. If the judge directs notice by publication, such notice shall be published three successive weeks in a legal newspaper of general circulation in said county.

Sec. 51. That section 43-268, Revised Statutes Supplement, 1982, be amended to read as follows:

43-268. (1) Service of summons shall be made by the delivery of a copy of the summons to the person summoned or by leaving one at his or her usual place of residence with some person of suitable age and discretion residing therein.

(2) Except as provided in section 43-264, notice, when required, shall be given in the manner provided for service of a summons in a civil action. in the following manner:

(a) If the person to be notified resides in the county where the action is pending, by delivery of a copy thereof to the person to be notified or by leaving it at his or her usual place of residence;

(b) if the person to be notified resides outside or has left the county where the action is pending, by mailing a copy thereof by registered or certified mail to the last-known address of such person; or

(c) if after reasonable inquiry, the whereabouts or an address of the parent, guardian, or a relative cannot be ascertained, the court may publish a notice in a newspaper of general circulation in the county in which the proceeding is pending. The Any published notice shall simply state that a proceeding concerning the juvenile is pending in the court and that

an order making an adjudication and disposition will be entered therein. If the names of one or both parents or the guardian are unknown, he, she, or they may be notified as the parent or parents, or guardian of (naming or describing the juvenile) found (stating address or place where the juvenile was found). Such notice shall be published once each week for three weeks, the last publication of which shall be at least five days before the time of hearing.

(3) Personal or residence service shall be effected at least seventy-two hours before the time set for the hearing, but upon cause shown the court shall grant additional time to prepare for a hearing. A guardian ad litem, or one of the parents, the person having custody if there be no guardian ad litem, or the attorney for such juvenile may waive such service for the juvenile, if such juvenile concurs in open court duly noted on the records of the court. Registered or certified mail shall be mailed at least five days before the time of the hearing.

(4) Service of summons, notice, or subpoena may be made by any suitable person under the direction of the court.

Sec. 52. That section 43-1205, Revised Statutes Supplement, 1982, be amended to read as follows:

43-1205. (1) Notice required for the exercise of jurisdiction over a person outside this state shall be given in the manner provided for service of a summons in a civil action, in a manner reasonably calculated to give actual notice, and may be:

(a) in the manner specified in subdivision (2) or (4) of section 42-355, for dissolution, separation, annulment, or doubtful marriage proceedings; or

(b) in the manner specified in section 25-540, for all other proceedings.

(2) Notice under this section shall be served, mailed, or delivered, or last published at least fourteen days before any hearing in this state.

(3) Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(4) Notice is not required if a person submits to the jurisdiction of the court.

Sec. 53. That section 44-135, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-135. Any foreign or alien insurance

company or association, before it shall do any business in this state, shall procure a certificate of authority to do business in this state as provided by the laws of the State of Nebraska. Procuring such a certificate shall constitute sufficient contact with this state for the exercise of personal jurisdiction over the company or association in any action arising out of its activities in this state. It shall file in the office of the Department of Insurance a written appointment of the Director of Insurance to be the true and lawful attorney of such company or association in and for this state upon whom all lawful process in any action or proceeding against such company or association commenced in any county in this state may be served, with the same effect as if it were a domestic company having its principal office in such county. The director shall not issue a certificate of authority to transact any business of insurance in this state to any foreign or alien insurance company or association, until such company or association has executed and filed in the office of the department a written appointment of such director as above provided. Such appointment and authority shall continue as long as any certificate of membership, policy or liability remains outstanding against the company, corporation or association, in this state.

Sec. 54. That section 44-137.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-137.01. The purpose of sections 44-137.01 to 44-137.10 is to subject certain insurers to the jurisdiction of courts of this state in suits by or on behalf of insureds or beneficiaries under insurance contracts. The Legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued or delivered in this state by insurers while such insurers are not authorized to do business in this state, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for the purpose of asserting legal rights under such policies. In furtherance of such state interest, the Legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing it exercises its power to protect its residents, and to define, for the purpose of this statute, what constitutes doing business in this state.

Sec. 55. That section 44-137.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-137.02. Any of the following systematic or continuous acts in this state, effected by mail or otherwise, by an unauthorized foreign or alien insurer:

(1) The issuance or delivery of contracts of insurance to residents of this state or to corporations authorized to do business therein, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments, or other considerations for such contracts, (4) the investigation or payment payments of claims, or (5) any other transaction of business, is equivalent to and shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such foreign or alien insurer an appointment by such insurer of the Director of Insurance and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such activities, contracts of insurance, and any such act shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such insurer.

Sec. 56. That section 44-137.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-137.08. The provisions of sections 44-137.01 to 44-137.10 shall not apply to any action, suit, or proceeding against any nonadmitted foreign or alien insurer arising out of any contract of insurance (1) effected in accordance with sections 44-139 to 44-147, (2) covering reinsurance, ocean marine, aircraft, or railway insurance risks, (3) against legal liability arising out of the ownership, operation, or maintenance of any property having a permanent situs outside this state, or (4) against loss of or damage to any property having a permanent situs outside this state, where such contract of insurance contains a provision designating the director and his successor or successors in office, or designating a Nebraska resident agent duly licensed under the provisions of sections 44-139 to 44-147, to be the true and lawful attorney of such nonadmitted insurer upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance, or where the insurer enters a general appearance in any action, suit, or proceeding.

Sec. 57. That section 44-145, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-145. Every company transacting insurance under the provisions of sections 44-139 to 44-142, 44-145, and 44-147, and sections 44-147.01 to 44-147.06 shall be held to have sufficient contact with this state

for the exercise of personal jurisdiction over such company be doing business in this state as an unlicensed company, and may be sued, upon any cause of action arising out of any such transaction, under any policy of insurance so issued by it, in the county where the surplus lines agent who issued such policy either resides or transacts business, by the service of summons made upon such agent for such company. Upon service of summons being had upon such agent, the court in which the action is begun shall be deemed to have duly acquired jurisdiction in personam of the defendant company so served.

Sec. 58. That section 44-341, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-341. A license, to be known as a nonresident's license, may be granted by the Director of Insurance to any nonresident of this state who is at least eighteen years of age certifying that the nonresident is regularly licensed by the Department of Insurance of the state or province of Canada in which the nonresident resides, or licensed by the appropriate authority on any United States government installation, and that the nonresident will not negotiate nor effect any contract of insurance on property in this state in whole or in part in any company not qualified to do business in this state. Every nonresident agent's license shall expire on the last day of September and such licenses may be annually renewed or extended in such manner as the department may provide by rules and regulations or as otherwise provided in Chapter 44. When application for such nonresident license is made during the period of January 1 to March 31, only three-fourths of the annual license fee shall be paid. When application is made during the period of April 1 to June 30, only one half of the annual license fee shall be paid. When application is made during the period of July 1 to September 30, only one-fourth of the annual license fee shall be paid.

The Director of Insurance may enter into a reciprocal agreement with the officer having supervision of the insurance business in any other state or province of Canada whose qualification standards for the applicant to be examined are substantially the same as those of Nebraska. The director may accept, in lieu of the examination of a nonresident, a certificate of such officer to the effect that the applicant is licensed in that state or province of Canada in a capacity similar to that for which a license is sought in this state. In instances when a reciprocal agreement has not been reached, the director shall require an examination from nonresident applicants whose states or provinces require examinations from resident applicants of this state. A



nonresident applicant shall file with the Department of Insurance a written consent providing that a legal action may be commenced against such nonresident agent in any county of this state wherein any cause of action may arise or be claimed to have arisen out of any transaction occurring in such county or because of any transaction commenced or conducted by such nonresident agent in such county. Such consent shall provide that a service of summons in any such action may be served on the Department of Insurance for and in behalf of such nonresident and such service shall be held to be sufficient to give the court jurisdiction over such nonresident agent. Such service shall be made on the department in the same manner as service made pursuant to section 44-437.

Sec. 59. That section 44-342.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-342.03. A nonresident applicant shall file with the Department of Insurance a written consent providing that a legal action may be commenced against such nonresident broker in any county of this state wherein any cause of action may arise or be claimed to have arisen out of any transaction occurring in such county or because of any transaction commenced or conducted by such nonresident broker in such county. Such consent shall provide that a service of summons in any such action may be served on the Department of Insurance for and in behalf of such nonresident and such service shall be held to be sufficient to give the court jurisdiction over such nonresident broker. Such service shall be made on the department in the same manner as service made pursuant to section 44-437.

Sec. 60. That section 44-1033, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1033. Every domestic society, and every foreign society applying for admission, shall, before being licensed, appoint in writing the Director of Insurance, and his successors in office, to be its true and lawful attorney upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served upon such attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by the director, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted file a written consent that such admission shall constitute sufficient contact with this state for the

exercise of personal jurisdiction over the society in any action arising out of its activities in this state.

Sec. 61. That section 44-1204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1204. Concurrently with the filing of the declaration provided for by the terms of section 44-1203, the attorney shall file with the Department of Insurance an instrument in writing executed by him or her for said subscribers, conditioned that upon the issuance of certificate of authority provided for in section 44-1211 action may be brought in the county in which the property insured thereunder is situated and service of process may be had in the manner provided for service of a summons in a civil action upon the Director of Insurance in all suits in this state arising out of such policies, contracts, or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney. Three copies of such process shall be served, and the department shall file one copy, forward one copy to said attorney, and return one copy with his admission of service. Such instrument shall further provide that in all suits arising in this state on account of contracts issued by such attorney for the account of said subscribers, such action may be brought against such attorney as attorney in fact for all subscribers at such reciprocal or interinsurance exchange, and the judgment in the action shall be a judgment against and binding upon each of the subscribers, as their respective interests may appear.

Sec. 62. That section 44-1801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1801. (1) The purpose of sections 44-1801 to 44-1806 is to subject to the jurisdiction of the Director of Insurance and to the jurisdiction of the courts of this state insurers not authorized to transact business in this state which place in or send into this state any false advertising designed to induce residents of this state to purchase insurance from insurers not authorized to transact business in this state. The Legislature declares it is in the interest of the citizens of this state who purchase insurance from insurers which solicit insurance business in this state in the manner set forth in the preceding sentence that such insurers be subject to the provisions of sections 44-1801 to 44-1806. In furtherance of such state interest, the Legislature herein provides a method of substituted service of process upon such insurers and declares that in so doing, it exercises its power to protect its residents and also exercises powers and privileges available to the state by virtue of Public

Law 15, 79th Congress of the United States, Chapter 20, 1st Session, S. 340, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states, the authority provided herein to be in addition to any existing powers of this state.

(2) The provisions of sections 44-1801 to 44-1806 shall be liberally construed.

Sec. 63. That section 44-1805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1805. ~~(1)~~ Any of the following acts in this state, effected by mail or otherwise, by any such unauthorized foreign or alien insurer: ~~(a)~~ (1) The issuance or delivery of contracts of insurance to residents of this state, ~~(b)~~ (2) the solicitation of applications for such contracts, ~~(c)~~ (3) the collection of premiums, membership fees, assessments, or other considerations for such contracts, or ~~(d)~~ (4) any other transaction of insurance business, is equivalent to and shall constitute sufficient contact with the state for the exercise of personal jurisdiction over such insurer an appointment by such insurer of the director and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all statements of charges, notices, and lawful process in any proceeding instituted in respect to the misrepresentation set forth in section 44-1803 under the provisions of the Unfair Trade Practice Act, or in any action, suit, or proceeding for the recovery of any penalty therein provided, and any such act shall be signification of its agreement that such service of statement of charges, notices, or process is of the same legal force and validity as personal service of such statement of charges, notices or process in this state, upon such insurer.

(2) Service of a statement of charges and notices under the Unfair Trade Practice Act shall be made by any deputy or employee of the Department of Insurance delivering to and leaving with the director or some person in apparent charge of his office, two copies thereof. Service of process issued by any court in any action, suit, or proceeding to collect any penalty provided under such act, shall be made by delivering and leaving with the director, or some person in apparent charge of his office, two copies thereof. The director shall forthwith cause to be mailed by either registered or certified mail one of the copies of such statement of charges, notices, or process to the defendant at its last-known principal place of business, and shall keep a record of all statements of charges, notices, and process so served. Such service of statement of charges, notices, or process shall be sufficient if they

shall have been so mailed and the defendant's receipt or receipt issued by the post office with which the letter is registered or certified, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing such letter showing a compliance herewith are filed with the director in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as may be allowed-

{3} Service of statement of charges, notices, and process in any such proceeding, action, or suit shall in addition to the manner provided in subsection {2} of this section be valid if served upon any person within this state who on behalf of such insurer is {a} soliciting insurance, {b} making, issuing, or delivering any contract of insurance, or {c} collecting or receiving in this state any premium for insurance; and a copy of such statement of charges, notices, or process is sent within ten days thereafter by either registered or certified mail by or on behalf of the director to the defendant at the last-known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered or certified, showing the name of the sender of the letter, the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing the same showing a compliance herewith, are filed with the director in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as the court may allow:

{4} No cease or desist order, judgment by default, or judgment by confession under this section shall be entered until the expiration of thirty days from the date of the filing of the affidavit of compliance.

{5} Service of process and notice under the provisions of sections 44-1804 to 44-1806 shall be in addition to all other methods of service provided by law, and nothing in sections 44-1804 to 44-1806 shall limit or prohibit the right to serve any statement of charges, notices, or process upon any insurer in any other manner now or hereafter permitted by law.

Sec. 64. That section 44-2001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2001. The purpose of sections 44-2001 to 44-2007 is to subject certain insurers to the

jurisdiction of the Department of Insurance and the courts of this state in suits by or on behalf of the state. The Legislature declares that it is concerned with the protection of residents of this state against acts by insurers not authorized to do an insurance business in this state, by the maintenance of fair and honest insurance markets, by protecting authorized insurers which are subject to regulation from unfair competition by unauthorized insurers, and by protecting against the evasion of the insurance regulatory laws of this state. In furtherance of such state interest, the Legislature herein provides methods for substituted service of process upon such insurers in any proceeding, suit or action in any court and substituted service of any notice, order, pleading or process upon such insurers in any proceeding by the Director of Insurance to enforce or effect full compliance with the insurance laws of this state. In so doing, the state exercises its powers to protect residents of this state and to define what constitutes transacting an insurance business in this state, and also exercises powers and privileges available to this state by virtue of Public Law 79-15, 79th Congress of the United States, Chapter 20, 1st Session, S. 340, 59 Stat. 33; 15 U.S.C. sections 1011 to 1015 inclusive, as amended, which declares that the business of insurance and every person engaged therein shall be subject to the laws of the several states.

Sec. 65. That section 44-2004, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2004. (4) Any act of transacting an insurance business as set forth in section 44-2002 by any unauthorized insurer is equivalent to and shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such insurer an irrevocable appointment by such insurer, binding upon him, his executor or administrator, or successor in interest if a corporation, of the Secretary of State, to be the true and lawful attorney of such insurer upon whom may be served all lawful process in any action, suit, or proceeding in any court by the Director of Insurance or by the state or and upon whom may be served any notice, order, pleading or process in any proceeding before the director and which arises out of transacting an insurance business in this state by such insurer. Any act of transacting an insurance business in this state by any unauthorized insurer shall be signification of its agreement that any such lawful process in such court action, suit, or proceeding and any such notice, order, pleading, or process in such administrative proceeding before the director so served shall be of the same legal force and validity as personal service of

process in this state upon such insurer:

(2) Service of process in such action shall be made by delivering to and leaving with the Secretary of State, or some person in apparent charge of his office, two copies thereof and by payment to the Secretary of State of the fee prescribed by law. Service upon the Secretary of State as such attorney shall be service upon the principal:

(3) The Secretary of State shall forthwith forward by certified mail one of the copies of such process or such notice, order, pleading, or process in proceedings before the director to the defendant in such court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at its last-known principal place of business and shall keep a record of all process so served on him which shall show the day and hour of service. Such service is sufficient; PROVIDED, that:

(a) Notice of such service and a copy of the court process or the notice, order, pleading, or process in such administrative proceeding are sent within ten days thereafter by certified mail by the plaintiff or the plaintiff's attorney in the court proceeding or by the director in the administrative proceeding to the defendant in the court proceeding or to whom the notice, order, pleading, or process in such administrative proceeding is addressed or directed at the last-known principal place of business of the defendant in the court or administrative proceeding; and

(b) The defendant's receipt or the receipt issued by the post office with which the letter is certified, showing the name of the sender of the letter and the name and address of the person or insurer to whom the letter is addressed, and an affidavit of the plaintiff or the plaintiff's attorney in court proceeding or of the director in administrative proceeding, showing compliance therewith are filed with the clerk of the court in which such action, suit, or proceeding is pending or with the director in administrative proceedings, on or before the date the defendant in the court or administrative proceeding is required to appear or respond thereto, or within such further time as the court or director may allow.

(4) No plaintiff shall be entitled to a judgment or a determination by default in any court or administrative proceeding in which court process or notice, order, pleading, or process in proceedings before the director is served under this section until the expiration of forty-five days from the date of filing of the affidavit of compliance.

(5) Nothing in this section shall limit or affect the right to serve any process, notice, order, or demand upon any person or insurer in any other manner

now or hereafter permitted by law:

Sec. 66. That section 44-2620, Revised Statutes Supplement, 1982, be amended to read as follows:

44-2620. The director shall not issue a nonresident license to any applicant until he or she files with the director his or her designation of the director to be the applicant's true and lawful attorney for service of all lawful process. Obtaining a nonresident license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such a person in any action, suit, or proceeding instituted by or on behalf of any interested person arising out of the applicant's consulting business in Nebraska. Such designation shall constitute an agreement that such service of process is of the same legal force and validity as personal service of process upon the person. Service of process upon any nonresident licensee in any action or proceeding in any court of competent jurisdiction of Nebraska may be made on the department in the same manner as service made pursuant to section 44-137.

Sec. 67. That section 44-3515, Revised Statutes Supplement, 1982, be amended to read as follows:

44-3515. (1) Each Application of a service company applying for authority to transact business in this state, whether domestic or foreign, shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such company in any action arising appoint the director and his or her successors in office as its attorney to receive service of all legal process issued against it in any civil action or proceeding in this state, and shall agree that process so served shall be valid and binding upon the service company. The appointment shall be irrevocable, shall bind the service company and any successor in interest as to the assets or liabilities of the service company, and shall remain in effect as long as there are outstanding in this state any obligations or liability of the service company resulting from the transactions transaction of its business in the state.

(2) At the time of appointment of the director as its process agent, the service company shall file with the department a designation of the name and address of the person to whom process against it, served upon the director, is to be forwarded. The service company may change the designation at any time by a new filing.

(3) Service shall be made by serving copies in triplicate of the process upon the director or upon his or her assistant, deputy, or other person in charge of his or her office. Upon receiving such service, the

director shall file one copy with the department; return one copy with his or her admission of service; and promptly forward one copy of the process by registered or certified mail to the person last designated by the service company to receive the same; as provided in subsection (2) of this section:

Sec. 68. That section 45-124, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-124. Obtaining a license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such licensee in any action arising out of the licensee's activity in this state. No license shall be granted to any person unless and until such applicant therefor shall file with the Department of Banking a designation in writing that appoints the Director of Banking and Finance to act as applicant's agent; upon whom all judicial and other process or legal notices directed to such applicant may be served. Service upon the agent, so designated, shall be equivalent to personal service on the applicant or licensee. Copies of such appointment, certified by the Director of Banking and Finance, shall be deemed sufficient evidence thereof, and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. In such written designation, licensee shall agree that any lawful process against licensee, which is served upon such attorney or agent, shall be of the same legal force and validity as if served upon the licensee, and that the authority shall continue in force so long as any liability remains outstanding in this state.

Sec. 69. That section 48-175, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-175. (1) Whenever the post-office post office address of the defendant is known, or may be ascertained by the officer or person charged with the duty of serving the same, such summons may be served by such officer or person by either registered or certified mail, by placing a duly certified copy thereof in an envelope addressed to the party on whom it is to be served, at his office or place of residence, and depositing the envelope in any United States post office. The officer or person, so serving the summons by either registered or certified mail, shall place upon the envelope sufficient postage to carry the same to its destination and shall place or cause to be placed thereon the words, Return receipt requested and the words, Deliver to addressee only.

(2) In the event the party to be served, in accordance with subsection (1) of this section, is a corporation or a partnership, a certified copy of the



summons shall be directed to the proper officer, agent, or member of such organization who is authorized by law to accept service of process.

(3) The officer, in making his or her return of all processes served, in accordance with subsection (1) or (2) of this section, shall append to and file with the original return the return receipt as herein set forth. Any member of the compensation court may serve or cause to be served such summons by either registered or certified mail as provided in this section.

Sec. 70. That section 48-190, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-190. The state, and governmental agencies created by the state, may be sued in the Nebraska Workmen's Compensation Court upon claims for compensation benefits under the Nebraska Workmen's Compensation Law in the same manner as provided by such compensation law for suits against individuals and corporations. In such proceedings against the State of Nebraska, summons issued by such court shall be served upon the Attorney General, and in all other cases involving claims of public employees against governmental agencies for such benefits, when not otherwise provided for by law, summons shall be issued out of such court, and served upon the principal officer of the governmental agency involved, or the presiding officer of the governing body thereof in the same manner as provided by such compensation law for service of summons upon individuals and corporations in the manner provided for service of a summons in a civil action. The issuance and service of summons in such manner shall be binding upon the state and such agencies in such actions, and the Attorney General is hereby authorized and empowered to waive the issuance and service of summons and enter voluntary appearance in such suits against the State of Nebraska.

Sec. 71. That section 48-655.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-655.01. Any employer who is not a resident of this state and who exercises the privilege of having Employing one or more individuals to perform service for him within this state shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such employer in any action under sections 48-655 to 48-655.02. , and any resident employer who exercises that privilege and thereafter removes from this state, shall be deemed thereby to appoint the Secretary of State as his agent and attorney for the acceptance of process in any civil action under sections 48-655 to 48-655.02. In instituting such an

action against any such employer the commissioner shall cause such process or notice to be filed with the Secretary of State and such service shall be sufficient service upon such employer, and shall be of the same force and validity as if served upon him personally within this state; Provided, that the commissioner shall forthwith send notice of the service of such process or notice, together with a copy thereof, by registered or certified mail, return receipt requested, to such employer at his last-known address and such return receipt; the commissioner's affidavit of compliance with the provisions of sections 48-655 to 48-655-02, and a copy of the notice of service, shall be appended to the original of the process filed in the court in which such civil action is pending:

Sec. 72. That section 48-813, Revised Statutes Supplement, 1982, be amended to read as follows:

48-813. Whenever the jurisdiction of the Commission of Industrial Relations is invoked, notice of the pendency of the proceedings shall be given in such manner as the commission shall provide for serving a copy of the petition and notice of filing upon the adverse party. An employer or labor organization may be served by sending a copy of the petition filed to institute the proceedings and a notice of filing, which shall show the filing date, by any form of mail requiring a signed receipt, addressed to a principal officer at the usual place of activity of the employer or labor organization in the manner provided for service of a summons in a civil action. Such employer or labor organization shall have twenty days after receipt of the petition and notice of filing in which to serve and file its response. When a petition is filed to resolve an industrial dispute, a hearing shall be held within sixty days from the date of filing thereof, and an order made and entered thereon within thirty days after such hearing. The method of process provided in this section shall apply to suits naming the State of Nebraska or any of its departments as a party defendant. Any party, including the State of Nebraska or any of its departments or any political subdivision of the State of Nebraska, may waive such notice and may enter a voluntary appearance in any matter in the Commission of Industrial Relations. Whenever the State of Nebraska or any of its departments is named as a party defendant, notice shall be mailed to the Governor and Attorney General and, in any action the subject matter of which in whole or in part relates to or grew out of the conduct of any special department or institution of the state, to the chief officer of such department or institution. The giving of such notice in such manner shall subject the employers, the labor organizations,

and the persons therein to the jurisdiction of the Commission of Industrial Relations.

Sec. 73. That section 48-909, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-909. In any action brought under sections 48-901 to 48-912, any labor organization may be sued in its own name and without identification of any of the persons who are its members. The service of summons, subpoena, or other legal process upon any officer, agent or member of any labor organization in his capacity as such, shall constitute service upon the labor organization.

Sec. 74. That section 48-1126, Revised Statutes Supplement, 1982, be amended to read as follows:

48-1126. The state and governmental agencies created by the state may be sued upon claims arising under the Nebraska Fair Employment Practice Act in the same manner as provided by such law for suits against other employers. In such proceedings against the State of Nebraska, summons issued by the district court shall be served upon the Attorney General, and in all other cases involving claims against governmental agencies, when not otherwise provided for by law, summons shall be issued out of such court and served upon the principal officer of the governmental agency involved or the presiding officer of the governing body thereof in the same manner as provided for service of summons upon other employers. The issuance and service of summons in such manner shall be binding upon the state and the agencies in such actions.

Sec. 75. That section 53-126, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-126. No corporation, either organized under the laws of this state or any other state, or foreign country, shall be given any license provided for in this act unless such corporation shall have first procured a certificate of authority from the commission to do business in this state and shall have first appointed a citizen of the United States, and resident of Nebraska, as its agent, and shall have filed with the commission a duly authenticated copy of a duly executed power of attorney, authorizing such agent to accept service of process from both the commission and the courts of this state, and authorizing such agent to exercise full authority of such corporation, and full authority, control, and responsibility for the conduct of all business and transactions of the corporation within the state relative to alcoholic liquors. Such agent must be satisfactory to and approved by the commission with respect to his or her character, and

must be one who would be eligible personally for a license under this act. Such an agent shall at all times be maintained by such corporation. All corporations organized under the laws of any other state or foreign country shall, as a condition precedent to the issuance to it of any license, in addition, file with the Secretary of State of the State of Nebraska, a duly authorized and executed power of attorney, authorizing the Secretary of State to accept service of process from both the commission and the courts of this state; and to accept the service of any notice or order provided for in this act; and all of such acts by the Secretary of State shall be fully binding upon the corporation.

Sec. 76. That section 57-1001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-1001. (1) The performance of any service in connection with exploring for oil and gas, drilling wells therefor, regardless of whether such wells be dry, development of oil and gas interests, and operating and servicing oil and gas properties by (a) (1) a nonresident of the State of Nebraska; or (b) (2) an agent or employer of any such persons, shall constitute sufficient contact with this state for exercise of personal jurisdiction over such person in any action arising out of the activities within the State of Nebraska. be deemed an appointment of the Secretary of State of the State of Nebraska as his true and lawful attorney upon whom may be served all legal process in any action or proceeding filed against him in the State of Nebraska growing out of or resulting from his activities within the State of Nebraska:

(2) The furnishing of services pertaining to the oil industry in any way, shall be a signification of his agreement that any such process which is so served in the action against him shall be of the same legal force and effect as if served upon him personally within this state:

(3) The appointment of agent in accordance with subsection (1) or (2) of this section shall not be revocable by death; but shall continue and be binding upon the executor or administrator of such nonresident:

(4) Service of such process shall be made by serving a copy thereof upon the Secretary of State personally; in his office in the State Capitol or elsewhere; or; if the Secretary of State is absent from or is not found in his office in the State Capitol at the time of the attempted service; by leaving a copy of all legal processes served in the office of the Secretary of State with any person employed in the office of the Secretary of State who; previously to such service has been designated in writing by the Secretary of State as a person or one of the persons with whom

such copies may be left for such service upon the Secretary of State, together with a fee of two dollars; and such service shall be sufficient service upon the said nonresident; Provided, that notices of such service and a copy of the process shall within ten days after the date of such service be sent by the plaintiff to the defendant either by registered or certified mail, addressed to the defendant's last-known address; and it shall be the duty of the plaintiff to file with the clerk of the court in which the action is brought an affidavit that he has complied with such requirement:

{5} The court in which the action is pending shall order such continuance as may be necessary to afford the defendant a reasonable opportunity to defend any such action. The fee of two dollars paid by the plaintiff to the Secretary of State at the time of service shall be taxed as part of his costs if he prevails in the suit:

{6} It shall be the duty of the Secretary of State to keep a record of all processes so served, as permitted by subsection {4} of this section, which shall show the date and hour of such service, and to so arrange and index said records as to make the same readily accessible and convenient for inspection:

Sec. 77. That section 59-1750, Revised Statutes Supplement, 1982, be amended to read as follows:

59-1750. Selling or offering to sell a seller-assisted marketing plan in this state shall constitute sufficient contact with this state for the exercise of personal jurisdiction over the seller in any action arising under sections 59-1701 to 59-1761. Every seller of seller-assisted marketing plans other than a Nebraska corporation shall file with the Secretary of State an irrevocable consent appointing the Secretary of State or his or her successor in office to act as his or her attorney to receive service or any lawful process in any noncriminal suit, action, or proceeding against him or her or his or her successor, executor, or administrator, which may arise under sections 59-1701 to 59-1761. When such service is made upon the Secretary of State, it shall have the same force and validity as if served personally on the seller. Service may be made by leaving a copy of the process in the office of the Secretary of State, but such service shall not be effective unless:

{1} The plaintiff forthwith sends by first-class mail a notice of the service upon the Secretary of State and a copy of the process to the defendant or respondent at his or her last address on file with the Secretary of State; and

{2} The plaintiff's affidavit of compliance with this section is filed in the case on or before the

return date of the process, if any, or within such further time as the court allows:

Sec. 78. That section 60-509, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-509. No such policy or bond shall be effective under section 60-508 unless issued by an insurance company or surety company authorized to do business in this state, except that if such motor vehicle was not registered in this state, or was a motor vehicle which was registered elsewhere than in this state at the effective date of a policy or bond, or the most recent renewal thereof, such policy or bond shall not be effective under section 60-508 unless the insurance company or surety company, if not authorized to do business in this state, shall execute a power of attorney authorizing the Secretary of State to accept service of notice or process in its behalf; an acknowledgement that the company shall be amenable to process issued by a court of this state in any action upon such policy or bond arising out of such accident; PROVIDED, every such policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than fifteen thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of not less than thirty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to or destruction of property, to a limit of not less than ten thousand dollars because of injury to or destruction of property of others in any one accident. Upon receipt of a notice of such accident, the insurance company or surety company which issued such policy or bond shall furnish, for filing with the department, a written notice that such policy or bond was in effect at the time of such accident.

Sec. 79. That section 60-531, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-531. The nonresident owner of a motor vehicle not registered in this state may give proof of financial responsibility by filing with the department a written certificate or certificates of an insurance carrier authorized to transact business in the state in which the motor vehicle or motor vehicles described in such certificate is are registered or, if such nonresident does not own a motor vehicle, in the state in which the insured resides, if such certificate otherwise conforms to the provisions of sections 60-501 to 60-569, and the department shall accept the same upon condition that said insurance carrier complies with the

following provisions with respect to the policies so certified: (1) Said insurance carrier shall execute a power of attorney authorizing the Secretary of State to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state an acknowledgement that the carrier shall be amenable to process issued by a court of this state in any action upon such policy; and (2) said insurance carrier shall agree in writing that such policies shall be deemed to conform with the laws of this state relating to the terms of motor vehicle liability policies issued herein.

Sec. 80. That section 67-281, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-281. Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State, in duplicate, an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) The state and date of its formation;

(3) The general character of the business it proposes to transact in this state;

(4) The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint; the agent must be an individual resident of this state, a domestic corporation, or a foreign corporation having a place of business in, and authorized to do business in, this state;

(5) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if no agent has been appointed under paragraph (4) of this section or, if appointed, the agent's authority has been revoked or if the agent cannot be found or served with the exercise of reasonable diligence;

(6) (5) The address of the office required to be maintained in the state of its organization by the laws of that state or, if not so required, of the principal office of the foreign limited partnership; and

(7) (6) If the certificate of limited partnership filed in the foreign limited partnership's state of organization is not required to include the names and business addresses of the partners, a list of the names and addresses.

Sec. 81. That section 67-285, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

67-285. A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation signed and sworn to by a general partner. ~~A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transactions of business in this state.~~

Sec. 82. That section 67-286, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-286. (a) A foreign limited partnership transacting business in this state may not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.

(b) The failure of a foreign limited partnership to register in this state does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

(c) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this state without registration.

(d) A foreign limited partnership, by transacting Transaction of business in this state without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business by a foreign limited partnership shall constitute sufficient contact with this state for the exercise of personal jurisdiction over the partnership in any action arising out of its activity in this state.

Sec. 83. That section 69-1204, Revised Statutes Supplement, 1982, be amended to read as follows:

69-1204. Any person desiring to obtain a license to engage in the debt management business in this state shall file with the secretary an application in writing, under oath, setting forth his or her business name, the exact location of his or her office, names and addresses of all officers and directors if an association or a corporation, and if a partnership, the partnership name and the names and addresses of all partners, and a copy of the certificate of registration of trade name or certificate of partnership or articles of incorporation. At the time of filing the application the applicant shall pay to the secretary a license fee of two hundred dollars for the main office within each county and one hundred dollars for each additional



office. An initial investigation fee of two hundred dollars shall also be paid to the secretary at the time of filing the application. At the time of filing the application the applicant shall furnish a bond to the people of the state in the sum of ten thousand dollars, conditioned upon the faithful accounting of all money collected upon accounts entrusted to such person engaged in debt management, and their employees and agents. The aggregate liability of the surety to all claimants doing business with the office for which the bond is filed shall in no event exceed the amount of such bond. The bond or bonds shall be approved by the secretary and filed in the office of the Secretary of State. No person, firm, or corporation shall engage in the business of debt management until a good and sufficient bond is filed in accordance with the provisions of sections 69-1201 to 69-1217.

Each licensee shall furnish with his or her application a blank copy of the contract he or she intends to use between himself or herself and the debtor and shall notify the secretary of all changes and amendments thereto within thirty days of such changes and amendments.

The license issued under sections 69-1201 to 69-1217 shall expire on December 31 next following its issuance unless sooner surrendered, revoked, or suspended, but may be renewed as provided in sections 69-1201 to 69-1217.

The application shall be accompanied by an appointment of the secretary as agent of the applicant for service of process in this state. Service upon the secretary shall be sufficient service upon any licensee under sections 69-1201 to 69-1217.

Sec. 84. That section 71-3823, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3823. Any person who feels aggrieved by reason of the suspension or revocation of his or her license, the denial of certification, or of the reprimand may file suit within thirty days after receiving notice of the director's order in the district court of the county of his or her residence, to annul or vacate the order of the director. The suit shall be filed against the director as defendant, and service of process shall be upon the director. The suit shall be tried by the court without a jury and shall be a trial de novo, but the burden of proof shall be upon the plaintiff assailing the order of the director. The judgment of the district court may be appealed to the Supreme Court of Nebraska in the same manner as other civil cases.

Sec. 85. That section 75-325, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

75-325. No itinerant merchant shall engage in business as such without (1) complying with the terms and provisions of sections 75-323 to 75-335 and (2) applying for and procuring from the commission an itinerant merchant's license, as provided for in this section. Every person, partnership, firm, or corporation desiring to engage in business as an itinerant merchant shall, before engaging in such business, make an application to the commission for an itinerant merchant's license. Such application shall be in the form prescribed by the commission, and as prescribed in this section. All applications shall set forth the name and address of the applicant, his or her post-office post office or residence address, an exact description of the vehicle or vehicles to be used in the conduct of his or her business, and such other information as may be prescribed by the commission. In such application, the applicant shall designate the secretary of the commission as the agent of the applicant for the service of process in this state upon the applicant in any action instituted in any court in this state, instituted in any county in which the cause of action or some part thereof arose, to which the applicant may be a party, arising out of the business of the applicant as an itinerant merchant in this state.

Sec. 86. That section 76-408, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-408. Whenever any such lands shall revert and escheat to the State of Nebraska, as provided in sections 76-403, 76-405, and 76-411, it shall be the duty of the county attorney of the county in which such lands are situated, to proceed against such alien in the district court of the county where the land is situated for the purpose of having such forfeiture declared. Service of summons may be had upon the The nonresident alien defendants by publication as shall be served in the manner provided in the statutes of Nebraska for the service of a the summons by publication in cases of foreclosure of mortgages in a civil action, and the court shall have power to hear and determine the questions presented in such cases and to declare such lands escheated to the state. When such forfeiture shall be declared by the district court, it shall be the duty of the clerk of the court to notify the Governor of the state that the title to such lands is vested in the state by the decree of the court. The clerk of the court shall present the Director of Administrative Services with the bill of costs incurred by the county in prosecuting such case, who shall issue a warrant to the clerk of the court on the state treasury to repay the county for such costs incurred. The heirs or

persons who would have been entitled to such lands shall be paid by the State of Nebraska the full value thereof, as ascertained by appraisal upon the oaths of the judge, treasurer, and clerk of the county where such lands lie, and such lands shall become subject to the law, and shall be disposed of as other lands belonging to the state; PROVIDED, the expense of the appraisal shall be deducted from the appraised value of the land.

Sec. 87. That section 76-706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-706. Upon filing of a petition under either section 76-704 or 76-705, the county judge within three days by order entered of record shall appoint three disinterested freeholders of the county, not interested in a like question, to serve as appraisers. One appraiser so appointed shall be a real estate appraiser licensed under sections 81-8,276 to 81-8,287; PROVIDED, that if the county judge shall find that no licensed real estate appraiser is a disinterested freeholder of the county, this requirement shall not apply. The county judge shall direct the sheriff to summon the appraisers so selected to convene at the office of the county judge at a time specified in the summons for the purpose of qualifying as appraisers, and thereafter proceed to appraise the property sought to be condemned and to ascertain and determine the damages sustained by the condemnee. Notice of intention to acquire the property, and of the time and place of meeting of the board of appraisers to have the damages assessed, shall be served upon the condemnee at least ten days prior to the meeting of the board of appraisers. Service of such notice shall may be made either by personal service or by leaving a copy at the usual place of residence of the condemnee. In case the condemnee is a nonresident of this state or cannot be found in this state, service may be had as provided in section 76-722 in the manner provided for service of a summons in a civil action.

Sec. 88. That section 76-1306, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1306. (1) A retirement subdivision or community may be registered by filing with the agency a statement of record containing the following documents and information:

(a) An acknowledgement that the developer shall be amenable to process issued by any court of this state. An irrevocable appointment of the agency to receive service of any lawful process in any noncriminal proceeding arising under the provisions of sections 76-1301 to 76-1315 against the developer; or his agent;

(b) A legal description of the lands offered

for registration as a retirement subdivision or community, together with a map showing the subdivision proposed or made, and the dimensions of the lots, parcels, units, or interests and the relation of such lands to existing streets, roads, and other improvements;

(c) The states or jurisdictions, including the federal government, in which an application for registration or similar document has been filed, and any adverse order, judgment, or decree entered in connection with the subdivision or community lands by the regulatory authorities in each jurisdiction or by any court;

(d) The applicant's name, address, and the form, date, and jurisdiction of organization; and the address of each of its offices in this state;

(e) The name, address, and principal occupation for the past five years of every director and officer of the applicant or person occupying a similar status, performing similar functions or having an interest in the subdivision or community lands, or the extent and nature of his or her interest in the applicant or the subdivision or community lands as of a specified date within thirty days of the filing of the application;

(f) A statement, in a form acceptable to the agency, of the condition of the title to the subdivision or community lands including encumbrances as of a specified date within thirty days of the date of application by a title opinion of a licensed attorney, not a salaried employee, officer or director of the applicant or owner, or by other evidence of title acceptable to the agency;

(g) Copies of the instruments which will be delivered to a purchaser to evidence his or her interest in the subdivision or community lands and of the contracts and other agreements which a purchaser will be required to agree to or sign;

(h) Copies of the instruments by which the interest in the subdivision or community lands was acquired and a statement of any lien or encumbrance upon the title and copies of the instruments creating the lien or encumbrance, if any, with data as to recording;

(i) If there is a lien or encumbrance affecting more than one lot, parcel, unit, or interest, a statement of the consequences for a purchaser of failure to discharge the lien or encumbrance and the steps, if any, taken to protect the purchaser in case of this eventuality;

(j) Copies of instruments creating easements, restrictions, or other encumbrances affecting the subdivision or community lands;

(k) A statement of the zoning and other

governmental regulations affecting the use of the subdivision or community lands and also of any existing taxes and existing or proposed special taxes or assessments which affect such lands;

(l) The proposed public offering statement;

(m) A current financial statement, which shall include such information concerning the developer as the agency deems to be pertinent, including, but not restricted to, a profit and loss statement certified by an independent public accountant and information concerning any adjudication of bankruptcy against the developer or any principal owning more than ten per cent of the interests in the subdivision or community at the time of filing; and

(n) Any other information which the agency by its rules requires for the protection of purchasers.

(2) At the time of filing a statement of record, or any amendment thereto, the developer shall pay to the agency a fee, not in excess of one hundred dollars, in accordance with a schedule to be fixed by the regulations of the agency, which fees may be used by the agency to defray part of the cost of rendering services under sections 76-1301 to 76-1315.

(3) The filing with the agency of a statement of record, or of an amendment thereto, shall be deemed to have taken place upon the receipt thereof, accompanied by payment of the fee required by subsection (2) of this section.

(4) The information contained in or filed with any statement of record shall be made available to the public under such regulations as the agency may prescribe and copies thereof shall be furnished to every applicant at such reasonable charge as the agency may prescribe.

(5) If the developer registers additional subdivision or community lands, he or she may consolidate the subsequent registration with any earlier registration offering such lands for disposition under the same promotional plan.

(6) The developer shall immediately report any additional liens, adjudication of bankruptcy against the developer or any of its principal officers, or any action or development which materially changes the condition of the title to the subdivisions or community lands.

(7) Nothing in sections 76-1301 to 76-1315 shall require retirement subdivisions or community lands in existence on July 6, 1972, to prepare certified financial statements from the date of their inception, but such certified financial statements for the most recent fiscal year ending before July 6, 1972, shall be filed as otherwise required by the terms of sections 76-1301 to 76-1315.

Sec. 89. That section 76-1409, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1409. (1) The district, county, or municipal court of this state may exercise jurisdiction over any landlord or tenant with respect to any conduct in this state governed by sections 24-568 and 76-1401 to 76-1449 or with respect to any claim arising from a transaction subject to sections 24-568 and 76-1401 to 76-1449 for a dwelling unit located within its jurisdictional boundaries. In addition to any other method provided by rule or by statute, personal jurisdiction over a landlord may be acquired in a civil action or proceeding instituted in the district, county, or municipal court by the service of process in the manner provided by this section:

(2) If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by sections 24-568 and 76-1401 to 76-1449, or engages in a transaction subject to sections 24-568 and 76-1401 to 76-1449, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The designation shall be in writing and filed with the Secretary of State. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the Secretary of State, but service upon him is not effective unless the plaintiff or petitioner forthwith mails a copy of the process and pleading by registered or certified mail to the process and respondent at his last reasonably ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court on or before the return day of the process, if any, or within any further time the court allows.

Sec. 90. That section 77-2712, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2712. (1) (a) If any person liable to pay any sales or use tax neglects or refuses to pay the same after demand, that amount, including interest and penalty, shall be a lien in favor of the State of Nebraska upon all property and rights to property, whether real or personal, belonging to such person. Unless another date is specifically provided by law, such lien shall arise from the time of filing for record and shall remain in effect for five years from the time of filing for record or until such amounts have been paid or a judgment against such person arising out of such liability is satisfied or becomes unenforceable by

reason of lapse of time.

(b) If any sales or use tax including any interest and penalty imposed by sections 77-2701 to 77-27,135 is not paid when due the Tax Commissioner may, within three years after the tax becomes due, file for record with the clerk of the county in which personal property belonging to the taxpayer is situated and in the office of the register of deeds of any county in which real property belonging to the taxpayer is situated, a notice of lien specifying the year and the amount of tax, interest, and penalty due. Such notice shall contain the name and last-known address of the taxpayer, an identification number, and a statement to the effect that the Tax Commissioner has complied with all provisions of sections 77-2701 to 77-27,135 in the determination of the amount required to be paid. From the time of filing for record the amount set forth in such notice shall constitute a lien upon all real or personal property and rights to real or personal property then owned by the taxpayer in the county, and upon all real or personal property and rights to real or personal property acquired by him or her thereafter and before the lien expires. The fee for filing and indexing each notice of lien with the clerk of the county or with the office of the register of deeds shall be one dollar.

(c) A lien imposed pursuant to this subsection shall be valid against any subsequent creditor when notice of such lien and the amount due has been filed by the Tax Commissioner in the county in which the property subject to the lien is situated. In the case of any prior mortgage on real property or secured transaction covering personal property so written as to secure a present debt and also future advances, the lien provided in this subsection, when notice thereof has been filed in the proper clerk's office, shall be subject to such prior lien unless the Tax Commissioner also notified the lienholder of the recording of such tax lien in writing, in which case the lien of any indebtedness thereafter created under such mortgage or secured transaction shall be junior to the lien provided for in this subsection.

(d) The lien may, within five years from the date of filing for record, be extended by filing for record a new notice. From the time of such filing, the lien shall be extended for five years, unless fully released or otherwise discharged. The fee for filing and indexing each new notice with the clerk of the county or with the office of the register of deeds shall be one dollar.

(e) When a notice of such lien is filed, the appropriate county official shall enter the same in an alphabetical state tax lien index, showing on one line the name and residence of the taxpayer named in such

notice, the Tax Commissioner's serial number of such notice, the date and hour of filing, and the amount due. The fee for filing and indexing each notice of lien with the clerk of the county or with the office of register of deeds shall be one dollar. All such notices shall be retained in numerical order in a file designated state tax lien notices except that, in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained.

(f) When a certificate of discharge of any tax lien issued by the Tax Commissioner is filed in the office where the notice of lien is filed, the appropriate county official shall enter the same with the date of filing in the state tax lien index on the line where notice of the lien so discharged is entered, and shall file the certificate of discharge with the notice of lien. The fee for filing and indexing each certificate of discharge with the clerk of the county or the register of deeds shall be one dollar.

(g) The register of deeds and the clerk of each county shall bill the Tax Commissioner on a quarterly basis for fees for documents filed by him or her for the Tax Commissioner.

(h) The Tax Commissioner may at the request of the person involved at any time release all or any portion of the property subject to any lien provided for in sections 77-2701 to 77-27,135 from the lien or subordinate the lien to other liens and encumbrances if he or she determines that the amount, interest, and penalties have been paid or are secured sufficiently by a lien on other property or that the release or subordination of the lien will not jeopardize the collection of the amount, interest, and penalties. The fee for filing and indexing each certificate of release with the clerk of the county or with the register of deeds shall be one dollar.

(i) A certificate by the Tax Commissioner to the effect that any property has been released from the lien, or that the lien has been subordinated to other liens and encumbrances, shall be conclusive evidence that the property has been released, or that the lien has been subordinated as provided in the certificate.

(2) (a) At any time within three years after any amount of sales or use tax to be collected under the provisions of sections 77-2701 to 77-27,135 becomes due and payable or within five years after the last filing for record under subsection (1) of this section, the Tax Commissioner may bring an action in the courts of this state, or any other state, or of the United States, in the name of the people of the State of Nebraska, to collect the amount delinquent together with penalties and interest.

(b) The Attorney General shall prosecute the



action, and the rules of civil procedure relating to service of summons, pleadings, proofs, trials, and appeals shall be applicable to the proceedings.

(c) In the action a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment shall be required.

(d) In the action a certificate by the Tax Commissioner showing the delinquency shall be prima facie evidence of the determination of such tax or the amount of such tax, the delinquency of the amounts set forth, and of the compliance by the Tax Commissioner with all the provisions of sections 77-2701 to 77-27,135 in relation to the computation and determination of the amounts.

(e) In any action relating to the use tax brought under the provisions of sections 77-2701 to 77-27,135, process may be served according to the rules of civil procedure or may be served upon any agent or clerk in this state employed by any retailer engaged in business in this state. In the latter case, a copy of the process shall forthwith be sent by registered or certified mail to the retailer at his or her principal or home office.

(f) (e) (i) The sales and use tax amounts required to be paid by any person under the provisions of sections 77-2701 to 77-27,135 together with interest and penalties shall be satisfied first in any of the following cases: Whenever the person is insolvent; whenever the person makes a voluntary assignment of his or her assets; whenever the estate of the person in the hands of executors, administrators, or heirs is insufficient to pay all the debts due from the deceased; or whenever the estate and effects of an absconding, concealed, or absent person required to pay any amount under sections 77-2701 to 77-27,135 are levied upon by process of law; and

(ii) The state sales tax and the use tax shall be collected by the retailer, as agent for the State of Nebraska, on any transaction as set forth in section 77-2703, which taxes shall constitute a trust fund in the hands of the retailer and shall be owned by the state as of the time they are owing to the retailer.

(3) (a) In addition to all other remedies or actions provided by sections 77-2701 to 77-27,135, it shall be lawful for the Tax Commissioner after making demand for payment to collect any delinquent sales and use taxes together with interest, penalties, and additions to such tax, by distraint and sale of the personal property of the taxpayer.

(b) In case of failure to pay taxes or deficiencies as provided, the Tax Commissioner may authorize a sheriff, constable, or duly authorized employee of the Department of Revenue to levy upon,

seize, and sell such personal property belonging to the taxpayer as is necessary to satisfy the liability, except exempt property, for the payment of the amount due. As used in this section, exempt property shall mean such property as is exempt from execution under the laws of this state.

(c) When a warrant is issued by the Tax Commissioner for the collection of any sales or use tax, interest, penalty, or addition to such tax imposed by the provisions of sections 77-2701 to 77-27,135, or for the enforcement of any sales or use tax lien authorized by sections 77-2701 to 77-27,135, it shall have the same force and effect as a levy and sale pursuant to a writ of execution. Such warrant may be levied and sale made pursuant to it in the same manner with the same force and effect as a levy and sale pursuant to a writ of execution. The Tax Commissioner shall pay the levying sheriff or constable the same fees, commissions, and expenses pursuant to such warrant as are provided by law for similar services pursuant to a writ of execution, except that fees for publication in a newspaper shall be subject to approval by the Tax Commissioner rather than by the court. Such fees, commissions, and expenses shall be an obligation of the taxpayer and may be collected from the taxpayer by virtue of the warrant. Any such warrant shall show the name and last-known address of the taxpayer, the year for which such tax, interest, penalty, or addition to such tax is due and the amount thereof, and the fact that the Tax Commissioner has complied with all provisions of sections 77-2701 to 77-27,135 in the determination of the amount required to be paid, and that the tax, interest, penalty, or addition to such tax is due and payable according to law.

(d) Notice of the sale and the time and place thereof shall be given to the delinquent taxpayer and to any other person with an interest in the property who has filed for record in the county in which such property is situated, in writing at least twenty days before the date set for the sale in the following manner: The notice shall be sent by certified mail, return receipt requested, to the taxpayer and to any other person with such interest at his or her last-known residence or place of business in this state. The notice shall also be published for at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county twenty days prior to the date set for the sale. The notice shall contain a description of the property to be sold, a statement of the amount due, including interest,

penalties, and costs, the name of the delinquent taxpayer, and the further statement that unless the amount due, including interest, penalties, and costs, is paid on or before the time fixed in the notice for the sale, or unless such security as may be determined by the Tax Commissioner is placed with the Tax Commissioner or his or her duly authorized representative on or before such time, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

(e) At the sale the Tax Commissioner or his or her duly authorized representative shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the personal property. The bill of sale shall vest the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized shall remain in the custody and control of the Tax Commissioner or his or her duly authorized representative until offered for sale again in accordance with this section or redeemed by the taxpayer.

(f) Whenever any property which is seized and sold under the provisions of this subsection is not sufficient to satisfy the claim of the state for which distraint or seizure is made, the sheriff, constable, or duly authorized employee of the Department of Revenue may thereafter, and as often as the same may be necessary, proceed to seize and sell in like manner any other property liable to seizure of the taxpayer against whom such claim exists, until the amount due from such taxpayer, together with all expenses, is fully paid.

(g) If upon the sale the money received exceeds the total of all amounts, including interest, penalties, and costs due the state and if there is no other interest in or lien upon such proceeds, the Tax Commissioner shall return the excess to the person liable for the amounts and obtain his or her receipt. If any person having an interest in or lien upon the property files with the Tax Commissioner prior to the sale notice of his or her interest or lien, the Tax Commissioner shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the Tax Commissioner shall deposit the excess money with the State Treasurer, as trustee for the owner, subject to the order of the person liable for the amount, his or her heirs, successors, or assigns. No interest earned, if any, will become the property of the person liable for the amount.

(h) All persons and officers of companies or

corporations shall, on demand of a sheriff, constable, or duly authorized employee of the Department of Revenue about to distrain, or having distrained any property or rights of property, exhibit all books containing evidence or statements relating to the property or rights of property liable to distraint for the tax due.

(i) The distraint provisions of this section shall not be deemed exclusive, but shall be in addition to any and all other existing remedies provided by law for the enforcement of the sales and use tax provisions of sections 77-2701 to 77-27,135.

(4) No injunction or writ of mandamus or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state to enjoin the collection under the provisions of sections 77-2701 to 77-27,135 of any tax or any amount of tax required to be collected.

Sec. 91. That section 77-27,133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,133. Unless otherwise specifically provided for in sections 77-2701 to 77-27,135, a deficiency assessed against a person not within this state may be prosecuted by an action in any court in this state having jurisdiction of the subject matter, and the court shall have in personam jurisdiction of such person in any such action for taxes imposed and assessed under the provisions of sections 77-2701 to 77-27,135. Notice shall be given such person by personal service without the state or by publication; and the action shall proceed in accordance with the statutes regulating procedure in this state: if such notice shall be by publication, notice shall also be mailed by registered or certified mail to such person at his last-known address.

Sec. 92. That section 77-3002, Revised Statutes Supplement, 1982, be amended to read as follows:

77-3002. Any operator shall be required to procure a license from the Tax Commissioner permitting him or her to operate machines or devices within the State of Nebraska. The Tax Commissioner, upon the application of any person, may issue a license; PROVIDED, that if the applicant (1) is not a resident of the State of Nebraska or has not filed an appointment of the Secretary of State, in such form as the Secretary of State shall prescribe, as agent for the service of summons on him or her, which service shall be made substantially as provided in section 27-20,144; (2) is a person who is not of good character and reputation in the community in which he or she resides, (3) (2) is a person who has been convicted of or has pleaded guilty to a felony under the laws of the State of Nebraska, any

other state, or of the United States, or ~~(4)~~ (3) is a person who has been convicted of or has pleaded guilty to being the proprietor of a gambling house, or of any other crime or misdemeanor opposed to decency and morality, no license shall be issued. If the applicant is a corporation, whose majority stockholders could not obtain a license, then such corporation shall likewise not be issued a license. Such application shall be accompanied by a fee of two hundred fifty dollars, and an annual renewal fee of two hundred fifty dollars shall be payable thereafter on or before July 1 of each year; PROVIDED, that if the person required under the provisions of this section to obtain a license operates less than five machines the fee shall be twenty dollars per machine, all of which fees shall be paid into the state treasury to the credit of the General Fund. Procuring a license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such a person in any action arising out of the operation of such machines or devices in this state.

Sec. 93. That section 79-2856, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2856. Any private vocational educational institution not exempt from sections 79-2801 to 79-2858, whether or not a resident of or having a place of business in this state, which instructs or educates, or offers to contract to provide instructional or educational services in this state, whether such instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards any educational credentials to a resident of this state, thereby submits such institution, and, if a natural person his or her personal representative, to the jurisdiction of the courts of this state, concerning any cause of action arising therefrom, and for the purpose of enforcement of sections 79-2801 to 79-2858 by injunction pursuant to sections 79-2857 and 79-2858. Service of process upon any such institution subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by law, with the same force and effect as if the summons had been personally served within this state. Nothing contained in this section shall limit or affect the right to serve any process as prescribed by Chapter 25, article 5.

Sec. 94. That section 81-516, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-516. A copy of the order filed in accordance with section 81-515 together with a written

notice that the same has been so filed and will be put in force unless the owner or occupying tenant shall file with the clerk of said court his or her objections and answer thereto within the time specified in section 81-517, shall be served upon the owner of the building or structure so directed to be altered, repaired, or demolished, and if there be a tenant occupying the building, then also upon the occupant, which service shall be made upon such owner and tenant, if there be one, personally, either within or without the state; but if the whereabouts of such owner is unknown and the same cannot be ascertained by the State Fire Marshal in the exercise of reasonable diligence, then upon his filing in the office of the clerk of the district court his affidavit to this effect, service of said notice upon such owner may be made by publishing the same once in each week for three successive weeks in a newspaper printed and published in the county in which such building or structure is located, and by posting a copy thereof in a conspicuous place upon said building or structure, and the service so made shall be deemed to be complete upon the expiration of said publication period. Proof of service of said notice shall be filed in the office of the clerk of the district court within five days after the service or completed publication thereof in the manner provided for service of a summons in a civil action.

Sec. 95. That section 81-885.17, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.17. (1)(a) A nonresident of this state, who is actively engaged in the real estate business and who has been duly licensed in the state of residence to conduct such business in that state may in the discretion of the commission be issued a nonresident broker's license.

(b) A nonresident salesperson employed by a broker holding a nonresident broker's license may in the discretion of the commission be issued a nonresident salesperson's license under such nonresident broker.

(c) A nonresident licensee who becomes a resident of the State of Nebraska shall be issued a resident license. If another state requires a resident of this state to maintain a place of business in such other state in order to transact business in such state, a resident of such other state shall maintain a place of business in this state.

(2) Obtaining a nonresident broker's license shall constitute sufficient contact with this state for the exercise of personal jurisdiction over the licensee in any action arising out of the licensee's activity in this state. Prior to the issuance of license to a nonresident broker there shall be filed with the

commission a designation in writing that appoints the director of the commission to act as licensee agent, upon whom all judicial and other process or legal notices directed to such licensee may be served. Service upon the agent so designated shall be equivalent to personal service upon the licensee. Copies of such appointment, certified by the director of the commission, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. In such written designation, the licensee shall agree that any lawful process against the licensee which is served upon such agent shall be of the same legal force and validity as if served upon the licensee, and that the authority shall continue in force so long as any liability remains outstanding in this state. Upon the receipt of any such process or notice the director shall forthwith mail a copy of the same by certified mail to the last-known business address of the licensee.

(3) Prior to the issuance of any license to any nonresident, there must be filed with the commission a duly certified copy of the license issued to the applicant by the state of residence and the same license fee as provided in section 81-885.14 for the obtaining of a broker's or salesperson's license in this state must be paid to the commission.

(4) Nothing in this section shall preclude the commission from entering into reciprocal agreements with other states when such agreements are necessary to provide Nebraska residents authority to secure licenses in such other states.

(5) Nonresident licenses granted under reciprocal agreements as provided in this section shall remain in force, unless suspended or revoked by the commission for just cause or for failure to pay the annual renewal fee, only as long as a reciprocal agreement is in effect between this state and the resident state of the nonresident licensee.

(6) Prior to the issuance of any license to a nonresident applicant, there shall be filed an affidavit with the commission certifying that the applicant has reviewed and is familiar with the Nebraska Real Estate License Act of 1973, as amended, and the rules and regulations of the State Real Estate Commission and agreeing to be bound thereby.

Sec. 96. That section 81-885.35, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.35. (1) The commission shall thoroughly investigate all matters relating to the application and may require a personal inspection of the real estate by a person or persons designated by it. All expenses incurred by the commission in investigating

such real estate and the proposed sale thereof in this state shall be borne by the applicant and the commission shall require a deposit sufficient to cover such expenses prior to incurring the same.

(2) No application shall be approved by the commission unless the subdivider offers satisfactory proof of his or her ability to provide promised public improvements such as but not limited to water, sewer, gas, and streets. Satisfactory proof shall be in the form of performance bonds or other security.

(3) Obtaining a certificate of registration shall constitute sufficient contact with this state for the exercise of personal jurisdiction over such applicant in any action arising out of the applicant's activity in this state. If the subdivision is located out of this state, then prior to the approval of any such application the applicant therefor shall file with the commission a designation in writing that appoints the director of the commission to act as the applicant's agent upon whom all judicial and other process or legal notices directed to such applicant may be served. Service upon the agent so designated shall be equivalent to personal service upon the applicant. Copies of such appointment, certified by the director of the commission, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. In such written designation, the applicant shall agree that any lawful process against the applicant which is served upon such agent shall be of the same legal force and validity as if served upon the applicant and that the authority shall continue in force so long as any liability remains outstanding in this state.

Sec. 97. That section 81-8,120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,120. A nonresident of this state who is registered as a land surveyor in another state may be registered under the provisions of sections 81-8,108 to 81-8,127 by filing an application therefor with the secretary of the board accompanied by a certified copy of his or her registration in such other state and the payment to the board of a fee in the sum of not less than twenty-five dollars and not more than fifty dollars as set forth in the bylaws. He or she shall be required to take such examinations as the board deems necessary to determine his or her qualifications, but in any event he or she shall be required to pass a written and oral examination of not less than four hours' duration, which shall include questions on laws, procedures, and practices pertaining to the practice of land surveying in this state; PROVIDED, that before a nonresident of this state shall be registered under the provisions



of sections 81-8,108 to 81-8,127, he or she shall first file a written consent that actions and suits at law may be commenced against him or her in any county of this state wherein any cause of action may arise because of any survey commenced or conducted by such nonresident surveyor, his or her agent, or employees in such county. Such consent shall provide that service of summons in any such action may be served upon the Secretary of State of the State of Nebraska, for and on behalf of such nonresident land surveyor, and such service shall be held to be sufficient to give the court jurisdiction over such nonresident land surveyor and his agents.

Sec. 98. That section 81-8,212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,212. All tort claims under this act shall be filed with the Risk Manager of the State Claims Board. The Risk Manager shall immediately advise the Attorney General of the filing of any claim, and it shall be the duty of the Attorney General to cause a complete investigation to be made of all such claims. In any suit brought under this act, service of process shall be made on the Attorney General in the manner provided for service of a summons in a civil action.

Sec. 99. That section 81-1507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1507. (1) Whenever the director has reason to believe that a violation of any provision of sections 81-1501 to 81-1532 or regulation or of any order of the department has occurred he or she may cause a written complaint to be served upon the alleged violator or violators. The complaint shall specify the provision of sections 81-1501 to 81-1532 or regulation or order alleged to be violated and the facts alleged to constitute a violation thereof, and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless each person named therein requests in writing a hearing before the director no later than thirty days after the date such order is served. In lieu of such order, the director may require that the alleged violator appear before the director at a time and place specified in the notice and answer the charges complained of. The notice shall be delivered to the alleged violator or violators in accordance with the provisions of subsection (5) of this section not less than thirty days before the time set for the hearing.

(2) The director shall afford an opportunity for a fair hearing, in accordance with the provisions of sections 81-1501 to 81-1532, to the alleged violator or violators at the time and place specified in the notice

or any modification thereof. On the basis of the evidence produced at the hearing the director or hearing officer shall make findings of fact and conclusions of law and enter such order as in his or her opinion will best further the purposes of sections 81-1501 to 81-1532 and shall give written notice of such order to the alleged violator and to such other persons as shall have appeared at the hearing and made written request for notice of the order. If the hearing is held before any person other than the director, such person shall transmit a record of the hearing together with findings of fact and conclusions of law to the director. The director, prior to entering his or her order on the basis of such record, shall provide opportunity to the parties to submit for his or her consideration exceptions to the findings or conclusions and supporting reasons for such exceptions. The order of the director shall become final and binding on all parties unless appealed to the courts as provided in sections 81-1501 to 81-1532 within thirty days after notice has been sent to the parties.

(3) Any person who is denied a permit by the director or who has such permit revoked or modified shall be afforded an opportunity for a fair hearing as provided in subsection (2) of this section in connection therewith upon written application to the director within thirty days after receipt of notice from the director of such denial, revocation, or modification. On the basis of such hearing the director shall affirm, modify, or revoke its previous determination.

(4) Whenever the director finds that an emergency exists requiring immediate action to protect the public health and welfare, the director may without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (2) of this section, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately but on application to the director shall be afforded a hearing as soon as possible, and not later than ten days after such application by such affected person. On the basis of such hearing the director shall continue such order in effect, revoke it, or modify it.

(5) Except as otherwise expressly provided, any notice, order, or other instrument issued by or under authority of the director may shall be served on any person affected thereby in a manner provided for service of a summons in a civil action, personally or by publication, and proof of such service may be made in like manner as in case of service of a summons in a civil action, such proof Proof of service shall to be

filed in the office of the department, or such service may be made by mailing a copy of the notice, order, or other instrument by certified or registered mail, directed to the person affected at his or her last-known post-office address as shown by the files or records of the department, and proof thereof may be made by the affidavit of the person who did the mailing, filed in the office of the department.

Every certificate or affidavit of service made and filed as provided in this section shall be prima facie evidence of the facts therein stated, and a certified copy thereof shall have like force and effect.

(6) The hearings provided for in this section may be conducted by the director, or by any member of the department acting in his or her behalf, or the director may designate hearing officers who shall have the power and authority to conduct such hearings in the name of the director at any time and place. A verbatim record of the proceedings of such hearings shall be taken and filed with the director, together with findings of fact and conclusions of law made by the director or hearing officer. Witnesses who are subpoenaed shall receive the same fees as in civil actions in the district court and mileage as provided in section 84-306.03 for state employees. In case of contumacy or refusal to obey a notice of hearing or subpoena issued under the provisions of this section, the district court shall have jurisdiction, upon application of the director, to issue an order requiring such person to appear and testify or produce evidence as the case may require and any failure to obey such order of the court may be punished by such court as contempt thereof.

If requested to do so by any party concerned with such hearing, the full stenographic notes, or tapes of an electronic transcribing device, of the testimony presented at such hearing shall be taken and filed. The stenographer shall, upon the payment of the stenographer's fee allowed by the court therefor, furnish a certified transcript of the whole or any part of the stenographer's notes to any party to the action requiring and requesting the same.

Sec. 100. That section 81-1930, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1930. Every nonresident applicant for Obtaining a license under sections 81-1901 to 81-1936 shall file a consent with the secretary stating that suits and actions may be commenced against the applicant in the proper court of any county of this state by service of process on the secretary. Each nonresident applicant shall stipulate in the consent that service of process on the secretary shall be taken in all courts to

be valid and binding as if due service had been made upon the applicant himself or herself in the state. Duplicate copies of such process shall be filed, one with the secretary and the other immediately forwarded by registered mail to the main office of the applicant against whom the process is directed constitute sufficient contact with this state for the exercise of personal jurisdiction over such licensee in any action arising out of the licensee's activity in this state.

Sec. 101. That section 84-719, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-719. Upon the filing of a petition, the Supreme Court shall by order fix the time for hearing thereon, which shall be not less than three days nor more than ten days from the filing of the petition. A copy of the order, certified by the clerk of the court, shall be served by the bailiff of the court, or other person appointed by the court for that purpose, upon the defendants by delivering the same to them in person or at their usual place of residence, or, in the case of corporations, to their officers or agents for service of process in the State of Nebraska in the manner provided for service of a summons in a civil action, not less than two days before said hearing, unless service is waived and voluntary appearance entered.

Sec. 102. That section 84-917, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-917. (1) Any person aggrieved by a final decision in a contested case, whether such decision is affirmative or negative in form, is entitled to judicial review under sections 84-917 to 84-919. Nothing in this section shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

(2) Proceedings for review shall be instituted by filing a petition in the district court of the county where the action is taken within thirty days after the service of the final decision by the agency. All parties of record shall be made parties to the proceedings for review. Summons shall be served as in other actions except that a copy of the petition shall be served upon any such agency together with the summons within thirty days of the filing of the petition in the manner provided for service of a summons in a civil action. The court, in its discretion, may permit other interested persons to intervene.

(3) The filing of the petition or the service of summons upon such agency shall not stay enforcement of a decision. The agency may do so, or the court may order a stay after notice to such agency of application therefor, upon such terms as it deems proper, and may require the party requesting such stay to give bond in

such amount and conditioned as the court may direct.

(4) Within fifteen days after service of the petition or within such further time as the court for good cause shown may allow, the agency shall prepare and transmit to the court a certified transcript of the proceedings had before it including the final decision sought to be reversed, vacated, or modified. Any deposition or exhibit introduced in the agency proceeding shall, upon demand of the party who introduced it, be returned to such party for use in the proceedings for review.

(5) The review shall be conducted by the court without a jury on the record of the agency.

(6) The court may affirm the decision of the agency or remand the case for further proceedings; or it may reverse or modify the decision if the substantial rights of the petitioner may have been prejudiced because the agency decision is:

(a) In violation of constitutional provisions;

(b) In excess of the statutory authority or jurisdiction of the agency;

(c) Made upon unlawful procedure;

(d) Affected by other error of law;

(e) Unsupported by competent, material, and substantial evidence in view of the entire record as made on review; or

(f) Arbitrary or capricious.

(7) The review provided by this section shall not be available in any case where other provisions of law prescribe the method of appeal.

Sec. 103. The Revisor of Statutes in preparing supplements and reissued volumes for publication and distribution shall include practice notes for any sections of this act for which such notes are prepared and approved by the Legislature's Judiciary Committee.

Sec. 104. That original sections 8-1112, 12-503, 14-808, 15-107, 16-115, 17-504, 21-1909, 21-1975, 21-20,114, 21-20,116, 23-263, 24-321, 25-314, 25-321, 25-406, 25-536, 25-540, 25-821, 25-1082, 25-1145, 25-21,118, 29-1608, 30-2511, 42-352, 42-354, 42-355, 42-364.04, 43-103, 44-135, 44-137.01, 44-137.02, 44-137.08, 44-145, 44-341, 44-342.03, 44-1033, 44-1204, 44-1801, 44-1805, 44-2001, 44-2004, 45-124, 48-175, 48-190, 48-655.01, 48-909, 53-126, 57-1001, 60-509, 60-531, 67-281, 67-285, 67-286, 71-3823, 75-325, 76-408, 76-706, 76-1306, 76-1409, 77-2712, 77-27,133, 79-2856, 81-516, 81-885.17, 81-885.35, 81-8,120, 81-8,212, 81-1507, 81-1930, 84-719, and 84-917, Reissue Revised Statutes of Nebraska, 1943, sections 21-2076, 24-524, 25-1011, 43-268, 43-1205, 44-2620, 44-3515, 48-813, 48-1126, 59-1750, 69-1204, and 77-3002, Revised Statutes

Supplement, 1982, and section 25-1531, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, LB107, Eighty-eighth Legislature, First Session, 1983, and also sections 25-314.01, 25-502 to 25-518, 25-521, 25-524, 25-526, 25-530.01 to 25-530.07, 44-137, 44-137.03 to 44-137.06, 44-1034, 45-125, 45-349, 57-1002, 75-326, and 76-722, Reissue Revised Statutes of Nebraska, 1943, and sections 21-2013 and 25-530, Revised Statutes Supplement, 1982, are repealed.