

CHAPTER 38. TREATMENT OF DELAWARE STATUTORY TRUSTS

§ 3801. Definitions.

(e) "Other business entity" means a corporation, a partnership (whether general or limited), a limited liability company, a common-law trust, a foreign statutory trust or any other unincorporated business or entity, excluding a statutory trust.

(f) "Person" means a natural person, partnership (whether general or limited), limited liability company, trust (including a common law trust, business trust, statutory trust, voting trust or any other form of trust), estate, association (including any group, organization, co-tenancy, plan, board, council or committee), corporation, government (including a country, state, county or any other governmental subdivision, agency or instrumentality) custodian, nominee or any other individual or entity (or series thereof) in its own or any representative capacity, in each case, whether domestic or foreign, and a statutory trust or foreign statutory trust.

§ 3806. Management of statutory trust.

(b) A governing instrument may contain any provision relating to the management of the business and affairs of the statutory trust, and the rights, duties and obligations of the trustees, beneficial owners and other persons, which is not contrary to any provision or requirement of this chapter and, without limitation:

(2) May establish or provide for the establishment of designated series of trustees, beneficial owners-, assets or beneficial interests having separate rights, powers or duties with respect to specified property or obligations of the statutory trust or profits and losses associated with specified property or obligations, and, to the extent provided in the governing instrument, any such series may have a separate business purpose or investment objective;

(9) May provide for the manner in which it may be amended, including by requiring the approval of a person who is not a party to the governing instrument or the satisfaction of conditions, and to the extent the governing instrument provides for the manner in which it may be amended such governing instrument may be amended only in that manner or as otherwise permitted by law-, including as permitted by § 3815(f) of this title (provided that the approval of any person may be waived by such person and that any such conditions may be waived by all persons for whose benefit such conditions were intended).

§ 3808. Existence of statutory trust.

(b) Except to the extent otherwise provided in the governing instrument of a statutory trust, the death, incapacity, dissolution, termination or bankruptcy of a beneficial owner or a trustee shall not result in the termination or dissolution of a statutory trust.

§ 3810. Certificate of trust; amendment; restatement; cancellation.

(a)(1) Every statutory trust shall file a certificate of trust in the office of the Secretary of State. The certificate of trust shall set forth:

- a. The name of the statutory trust;
- b. The name and ~~the business~~ address in this State of at least one of the trustees meeting the requirements of § 3807 of this chapter;
- c. The future effective date or time (which shall be a date or time certain) of effectiveness of the certificate if it is not to be effective upon the filing of the certificate; and
- d. Any other information the trustees determine to include therein.

(d) A certificate of trust shall be cancelled upon the dissolution and the completion of winding up of a statutory trust, or ~~shall be deemed to be cancelled~~ upon the filing of a certificate of merger or consolidation if the statutory trust is not the surviving or resulting entity in a merger or consolidation, or upon the future effective date or time of a certificate of merger or consolidation if the trust is not the surviving or resulting entity in a merger or consolidation, or upon the filing of a certificate of transfer, or upon the future effective date or time of a certificate of transfer, or upon the filing of a certificate of conversion to ~~a~~ non-Delaware other business entity or upon the future effective date or time of a certificate of conversion to non-Delaware entity. A certificate of cancellation shall be filed in the office of the Secretary of State and set forth:

- (1) The name of the statutory trust;
- (2) The date of filing of its certificate of trust;
- (3) The future effective date or time (which shall be a date or time certain) of cancellation if it is not to be effective upon the filing of the certificate; and
- (4) Any other information the trustee determines to include therein.

The Secretary of State shall not issue a certificate of good standing with respect to a statutory trust if its certificate of trust is cancelled.

(e) Whenever any certificate authorized to be filed with the Office of the Secretary of State under any provision of this Chapter has been so filed and is an inaccurate record of the action therein referred to, or was defectively or erroneously executed, such certificate may be corrected by filing with the Office of the Secretary of State a certificate of correction of such certificate. The certificate of correction shall specify the inaccuracy or defect to be corrected, shall set forth the portion of the certificate in corrected form and shall be executed and filed as required by this Chapter. The certificate of correction shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the correction, and as to those persons the certificate of correction shall be effective from the filing date. In lieu of filing a certificate of correction the certificate may be corrected by filing with the Office of the Secretary of State a corrected certificate which shall be executed and filed in accordance with this Chapter. The corrected certificate shall be specifically designated as such in its heading, shall specify the inaccuracy or defect to be corrected, and shall set forth the entire certificate in corrected form. The corrected certificate shall be effective as of the date the original certificate was filed, except as to those persons who are substantially and adversely affected by the corrections, and as to those persons the corrected certificate shall be effective from the filing date.

§ 3811. Execution of certificate.

(a) Each certificate required by this chapter to be filed in the office of the Secretary of State shall be executed in the following manner:

(4) If a statutory trust is filing a certificate of merger or consolidation, certificate of conversion, certificate of transfer, certificate of transfer and continuance, certificate of statutory trust domestication or certificate of termination or amendment to any such certificate, the certificate of merger or consolidation, certificate of conversion, certificate of transfer, certificate of transfer and continuance, certificate of statutory trust domestication or certificate of termination or amendment to any such certificate must be signed by all of the trustees or as otherwise provided in the governing instrument of the statutory trust, or if the certificate of merger or consolidation, certificate of conversion, ~~certificate of transfer, certificate of transfer and continuance~~, certificate of statutory trust domestication or certificate of termination or amendment to any such certificate is being filed by an other business entity or non-United States entity (as such term is defined in § 3822 hereof), the certificate of merger or consolidation, certificate of conversion, ~~certificate of transfer, certificate of transfer and continuance~~, certificate of statutory trust domestication or certificate of termination or amendment to any such certificate must be signed by a person authorized to execute the certificate on behalf of the other business entity ~~or non-United States entity (as such term is defined in § 3822 hereof)~~.

(c) The execution of a certificate by a trustee ~~or other person authorized pursuant to (a) above~~, constitutes an oath or affirmation, under the penalties of perjury in the

third degree, that, to the best of the trustee's ~~-, or other person authorized pursuant to (a) above,~~ knowledge and belief, the facts stated therein are true.

§ 3815. Merger and consolidation.

(b) If a statutory trust is merging or consolidating under this section, the statutory trust or other business entity surviving or resulting in or from the merger or consolidation shall file a certificate of merger or consolidation in the office of the Secretary of State. The certificate of merger or consolidation shall state:

(4) In the case of a merger in which a statutory trust is the surviving entity, such amendments, if any, to the certificate of trust of the surviving statutory trust to change its name ~~-, registered office or registered agent~~ as are desired to be effected by the merger;

(8) If the surviving or resulting entity is not a statutory trust or other business entity formed or organized or existing under the laws of the State of Delaware, a statement that such surviving or resulting other business entity agrees that it may be served with process in the State ~~of Delaware~~ in any action, suit or proceeding for the enforcement of any obligation of any statutory trust which is to merge or consolidate, irrevocably appointing the Secretary of State as its agent to accept service of process in any such action, suit or proceeding and specifying the address to which a copy of such process shall be mailed to it by the Secretary of State. Process may be served upon the Secretary of State under this subsection by means of electronic transmission but only as prescribed by the Secretary of State. The Secretary of State is authorized to issue such rules and regulations with respect to such service as the Secretary of State deems necessary or appropriate. In the event of service hereunder upon the Secretary of State, the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in the certificate of merger or consolidation provided for in this section and any other address which the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the Secretary of State shall notify such surviving or resulting other business entity thereof at all such addresses furnished by the plaintiff by letter ~~-, certified mail, return receipt requested.~~ Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served upon the Secretary of State. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being made pursuant to this subsection, and to pay the Secretary of State the sum of \$50 for use of the State of Delaware, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such process setting forth the name of the

plaintiff and defendant, the title, docket number and nature of the proceedings in which process has been served upon him, the return date thereof, and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from his receipt of the service of process.

(f) Notwithstanding anything to the contrary contained in the governing instrument of a statutory trust, a governing instrument of a statutory trust ~~containing a specific reference to this § 3815(f)~~ may provide that an agreement of merger or consolidation approved in accordance with subsection (a) of this section may (1) effect any amendment to the governing instrument of the statutory trust or (2) effect the adoption of a new governing instrument of the statutory trust if it is the surviving or resulting statutory trust in the merger or consolidation. Any amendment to the governing instrument of a statutory trust or adoption of a new governing instrument of the statutory trust made pursuant to the foregoing sentence shall be effective at the effective time or date of the merger or consolidation and shall be effective notwithstanding any provision of the governing instrument relating to amendment or adoption of a new governing instrument, other than a provision that by its terms applies to an amendment to the governing instrument or the adoption of a new governing instrument, in either case, in connection with a merger or consolidation. The provisions of this subsection shall not be construed to limit the accomplishment of a merger or consolidation or of any of the matters referred to herein by any other means provided for in the governing instrument of a statutory trust or other agreement or as otherwise permitted by law, including that the governing instrument of any constituent statutory trust to the merger or consolidation (including a statutory trust formed for the purpose of consummating a merger or consolidation) shall be the governing instrument of the surviving or resulting statutory trust. Unless otherwise provided in a governing instrument, a statutory trust whose original certificate of trust was filed with the Secretary of State and effective on or prior to July 31, 2010, shall continue to be governed by this subsection as in effect of July 31, 2010.

(g) When any merger or consolidation shall have become effective under this section, for all purposes of the laws of the State of Delaware, all of the rights, privileges and powers of each of the statutory trusts and other business entities that have merged or consolidated, and all property, real, personal and mixed, and all debts due to any of said statutory trusts and other business entities, as well as all other things and causes of action belonging to each of such statutory trusts and other business entities, shall be vested in the surviving or resulting statutory trust or other business entity, and shall thereafter be the property of the surviving or resulting statutory trust or other business entity as they were of each of the statutory trusts and other business entities that have merged or consolidated, and the title to any real property vested by deed or otherwise, under the laws of the State of Delaware, in any of such statutory trusts and other business entities, shall not revert or be in any way impaired by reason of this chapter; but all rights of creditors and all liens upon any property of any of said statutory trusts and other business entities shall be preserved unimpaired, and all debts, liabilities and duties of each of the said statutory trusts and other business entities that have merged or consolidated shall thenceforth attach to the surviving or resulting statutory trust or other business entity, and may be enforced against it to the same extent as if said debts, liabilities and duties had

been incurred or contracted by it. Unless otherwise agreed, a merger or consolidation of a statutory trust, including a statutory trust which is not the surviving or resulting entity in the merger or consolidation, shall not require such statutory trust to wind up its affairs under Section 3808(d) of this title or pay any of its liabilities and distribute its assets under Section 3808(e) of this title, and the merger or consolidation shall not constitute the dissolution of such statutory trust.

(h) A governing instrument or an agreement of merger or consolidation may provide that contractual appraisal rights with respect to a beneficial interest or another interest in a statutory trust shall be available for any class ~~or~~ group or series of beneficial owners or beneficial interests in connection with any amendment of a governing instrument, any merger or consolidation in which the statutory trust is a constituent party to the merger or consolidation, or the sale of all or substantially all of the statutory trust's assets. The Court of Chancery shall have jurisdiction to hear and determine any matter relating to any such appraisal rights.

(i) A governing instrument may provide that a statutory trust shall not have the power to merge or consolidate as set forth in this section.

§3820. Conversion of other business entities to a statutory trust.

(a) Any other business entity formed or organized or existing under the laws of the State of Delaware or any other state or the United States or any foreign country or other foreign jurisdiction may convert to a statutory trust by complying with subsection (g) of this section and filing in the Office of the Secretary of State in accordance with § 3812 of this chapter:

(1) A certificate of conversion to statutory trust that has been executed ~~by the trustees~~ in accordance with § 3811 of this chapter; and

§ 3821. Approval of conversion of a statutory trust.

(e) If a statutory trust shall convert in accordance with this Section to an other business entity organized, formed or created under the laws of a jurisdiction other than the State of Delaware, a certificate of conversion to a non-Delaware entity executed in accordance with § 3811 of this Chapter, shall be filed in the Office of the Secretary of State in accordance with § 3812 of this Chapter. The certificate of conversion to a non- Delaware entity shall state:

(7) The address to which a copy of the process referred to in subsection (e)(6) of this Section shall be mailed to it by the Secretary of State. Process may be served upon the Secretary of State under subsection (e)(6) of this section by means of electronic transmission but only as prescribed by the Secretary of State. The Secretary of State is authorized to issue such rules and regulations with respect to such service as the Secretary of State deems necessary or appropriate. In the event of service under this Section upon the Secretary of State, the procedures set forth in § 3861(c) of this Chapter shall be applicable,

except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in this subsection and any other address that the plaintiff may elect to furnish, together with copies of such process as required by the Secretary of State, and the Secretary of State shall notify the statutory trust that has converted out of the State of Delaware at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 3861(c) of this Chapter.

(i) A governing instrument may provide that a statutory trust shall not have the power to convert as set forth in this section.

§ 3823. Transfer or continuance of domestic statutory trusts.

(b) If the governing instrument specifies the manner of authorizing a transfer or domestication or continuance described in (a) of this Section, the transfer or domestication or continuance shall be authorized as specified in the governing instrument. If the governing instrument does not specify the manner of authorizing a transfer or domestication or continuance described in (a) of this Section and does not prohibit such a transfer or domestication or continuance, the transfer or domestication or continuance shall be authorized in the same manner as is specified in the governing instrument for authorizing a merger or consolidation that involves the statutory trust as a constituent party to the merger or consolidation. If the governing instrument does not specify the manner of authorizing a transfer or domestication or continuance described in (a) of this Section or a merger or consolidation that involves the statutory trust as a constituent party and does not prohibit such a transfer or domestication or continuance, the transfer or domestication or continuance shall be authorized by the approval of all of the beneficial owners and all of the trustees. If a transfer or domestication or continuance described in (a) of this Section shall be approved as provided in this subsection (b), a certificate of transfer if the statutory trust's existence as a statutory trust of the State of Delaware is to cease, or a certificate of transfer and continuance if the statutory trust's existence as a statutory trust in the State of Delaware is to continue, executed in accordance with § 3811 of this Chapter, shall be filed in the Office of the Secretary of State in accordance with § 3812 of this Chapter. The certificate of transfer or the certificate of transfer and continuance shall state:

(7) The address to which a copy of the process referred to in subsection (b)(6) of this Section shall be mailed to it by the Secretary of State. Process may be served upon the Secretary of State under subsection (b)(6) of this section by means of electronic transmission but only as prescribed by the Secretary of State. The Secretary of State is authorized to issue such rules and regulations with respect to such service as the Secretary of State deems necessary or appropriate. In the event of service under this Section upon the Secretary of State, the procedures set forth in § 3861(c) of this Chapter shall be applicable, except that the plaintiff in any such action, suit or proceeding shall furnish the Secretary of State with the address specified in this subsection and any other address that the plaintiff may elect to furnish, together with copies of such process

as required by the Secretary of State, and the Secretary of State shall notify the statutory trust that has transferred or domesticated out of the State of Delaware at all such addresses furnished by the plaintiff in accordance with the procedures set forth in § 3861(c) of this Chapter; and

(h) A governing instrument may provide that a statutory trust shall not have the power to transfer, domesticate or continue as set forth in this section.

§ 3825. Construction and application of chapter and governing instrument.

(c) Action validly taken pursuant to one provision of this chapter shall not be deemed invalid solely because it is identical or similar in substance to an action that could have been taken pursuant to some other provision of this chapter but fails to satisfy one or more requirements prescribed by such other provision.

§ 3852. Registration required; application.

(a) Before doing business in the State of Delaware, a foreign statutory trust shall register with the Secretary of State. In order to register, a foreign statutory trust shall submit to the Secretary of State:

(2) A certificate, as of a date not earlier than six months prior to the filing date, issued by an authorized officer of the jurisdiction of its formation evidencing its existence. If such certificate is in a foreign language, a translation thereof, under oath of the translator, shall be attached thereto.

(3) A fee as set forth in § 3862 of this chapter shall be paid.

(b) If a foreign statutory trust that is registering to do business in the State of Delaware in accordance with § 3852(a) of this title is governed by a governing instrument that establishes or provides for the establishment of designated series of trustees, beneficial owners, beneficial interests or assets having separate rights, powers or duties with respect to specified property or obligations of the foreign statutory trust or profits and losses associated with specified property or obligations, that fact shall be so stated on the application for registration as a foreign statutory trust. In addition, the foreign statutory trust shall state on such application whether the debts, liabilities and obligations incurred, contracted for or otherwise existing with respect to a particular series, if any, shall be enforceable against the assets of such series only, and not against the assets of the foreign statutory trust generally or any other series thereof, and whether any of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the foreign statutory trust generally or any series thereof shall be enforceable against the assets of such series.

§ 3854. Name; registered office; registered agent.

Delaware: (b) Each foreign statutory trust shall have and maintain in the State of

(1) A registered office which may but need not be a place of its business in the State of Delaware; and

(2) A registered agent for service of process on the foreign statutory trust, ~~which agent may be either an individual resident of the State of Delaware whose business office is identical with the foreign statutory trust's registered office, or a domestic corporation, or a domestic limited partnership, or a statutory trust, or a domestic limited liability company, or a foreign corporation, or a foreign limited partnership, or a foreign statutory trust, or a foreign limited liability company authorized to do business in the State of Delaware~~ having a business office identical with such registered office, ~~which is generally open during normal business hours to accept service of process and otherwise perform the functions of a registered agent.~~ which agent may be any of:

a. An individual resident of the State of Delaware,

b. A domestic limited liability company, a domestic corporation, a domestic partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), or a domestic statutory trust, or

c. A foreign corporation, a foreign partnership (whether general (including a limited liability partnership) or limited (including a limited liability limited partnership)), a foreign limited liability company or a foreign statutory trust (other than the foreign statutory trust itself).

(c) A registered agent may change the address of the registered office of the foreign statutory trust(s) for which ~~he~~ the agent is registered agent to another address in the State of Delaware by paying a fee as set forth in § 3862 of this chapter and filing with the Secretary of State a certificate, executed by such registered agent, setting forth the address at which such registered agent has maintained the registered office for each of the foreign statutory trusts for which it is a registered agent, and further certifying to the new address to which each such registered office will be changed on a given day, and at which new address such registered agent will thereafter maintain the registered office for each of the foreign statutory trusts for which it is registered agent. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office, and thereafter, or until further change of address, as authorized by law the registered offices in the State of Delaware of each of the foreign statutory trusts for which the agent is registered agent shall be located at the new address of the registered agent thereof as given in the certificate. In the event of a change of name of any person acting as a registered agent of a foreign statutory trust, such registered agent shall file with the Secretary of State a certificate, executed by such registered agent, setting forth the new name of such registered agent, the name of such registered

agent before it was changed and the address at which such registered agent has maintained the registered office for each of the foreign statutory trusts for which it is registered agent, and shall pay a fee as set forth in § 3862 of this chapter. Upon the filing of such certificate, the Secretary of State shall furnish to the registered agent a certified copy of the same under the Secretary's hand and seal of office. A change of name of any person acting as a registered agent of a foreign statutory trust as a result of the merger or consolidation of the registered agent, with or into another person which succeeds to its assets and liabilities by operation of law, shall be deemed a change of name for purposes of this section. Filing a certificate under this section shall be deemed to be an amendment of the application of each foreign statutory trust affected thereby and each foreign statutory trust shall not be required to take any further action with respect thereto, to amend its application under § 3855 of this chapter. Any registered agent filing a certificate under this section shall promptly, upon such filing, deliver a copy of any such certificate to each foreign statutory trust affected thereby.

(e) The registered agent of one or more foreign statutory trusts may resign without appointing a successor registered agent by paying a fee as set forth in § 3862 of this chapter and filing a certificate of resignation with the Secretary of State, but such resignation shall not become effective until 30 days after the certificate is filed. The certificate shall contain a statement that written notice of resignation was given to each affected foreign statutory trust at least 30 days prior to the filing of the certificate by mailing or delivering such notice to the foreign statutory trust at its address last known to the registered agent and shall set forth the date of such notice. After receipt of the notice of the resignation of its registered agent, the foreign statutory trust for which such registered agent was acting shall obtain and designate a new registered agent, to take the place of the registered agent so resigning. If such foreign statutory trust fails to obtain and designate a new registered agent as aforesaid prior to the expiration of the period of 30 days after the filing by the registered agent of the certificate of resignation, such foreign statutory trust shall not be permitted to do business in the State of Delaware and its registration shall ~~be deemed to~~ be canceled. After the resignation of the registered agent shall have become effective as provided in this section and if no new registered agent shall have been obtained and designated in the time and manner aforesaid, service of legal process against the foreign statutory trust for which the resigned registered agent had been acting shall thereafter be upon the Secretary of State in accordance with § 3861 of this chapter.

§ 3860. Service of process on registered foreign statutory trusts.

(b) In case the officer whose duty it is to serve legal process cannot by due diligence serve the process in any manner provided for by subsection (a) of this section, it shall be lawful to serve the process against the foreign statutory trust upon the Secretary of State, and such service shall be as effectual for all intents and purposes as if made in any of the ways provided for in subsection (a) hereof. Process may be served upon the Secretary of State under this subsection by means of electronic transmission but only as prescribed by the Secretary of State. The Secretary of State is authorized to issue such rules and regulations with respect to such service as the Secretary of State deems necessary or appropriate. In the event that service is effected through the Secretary of State in accordance with this subsection, the Secretary ~~or of~~

State shall forthwith notify the foreign statutory trust by letter, ~~certified mail, return receipt requested~~, directed to the foreign statutory trust at its last registered office. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served on the Secretary of State pursuant to this subsection. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being effected pursuant to this subsection, and to pay to the Secretary of State the sum of \$50.00 for the use of the State of Delaware, which sum shall be taxed as a part of the costs in the proceeding if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such service setting forth the name of the plaintiff and defendant, the title, docket number and nature of the proceeding in which process has been served upon him, the fact that service has been effected pursuant to this subsection, the return date thereof and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from his receipt of the service of process.

§ 3861. Service of process on unregistered foreign statutory trusts.

(a) Any foreign statutory trust which shall do business in the State of Delaware without having registered under § 3852 of this chapter shall be deemed to have thereby appointed and constituted the Secretary of State of the State of Delaware its agent for the acceptance of legal process in any civil action, suit or proceeding against it in any state or federal court in the State of Delaware arising or growing out of any business done by it within the State of Delaware. The doing of business in the State of Delaware by such foreign statutory trust shall be a signification of the agreement of such foreign statutory trust that any such process when so served shall be of the same legal force and validity as if served upon an authorized manager or agent personally within the State of Delaware. Process may be served upon the Secretary of State under this subsection by means of electronic transmission but only as prescribed by the Secretary of State. The Secretary of State is authorized to issue such rules and regulations with respect to such service as the Secretary of State deems necessary or appropriate.

(c) In the event of service upon the Secretary of State in accordance with subsection (a) of this section, the Secretary of State shall forthwith notify the foreign statutory trust thereof by letter, ~~certified mail, return receipt requested~~, directed to the foreign statutory trust at the address furnished to the Secretary of State by the plaintiff in such action, suit or proceeding. Such letter shall be sent by a mail or courier service that includes a record of mailing or deposit with the courier and a record of delivery evidenced by the signature of the recipient. Such letter shall enclose a copy of the process and any other papers served upon the Secretary of State. It shall be the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate, to notify the Secretary of State that service is being made pursuant to this subsection, and to pay to the Secretary of State the sum of \$50.00 for the use of the State of Delaware, which sum shall be taxed as part of the costs in the proceeding, if the plaintiff shall prevail therein. The Secretary of State shall maintain an alphabetical record of any such process setting forth the name of the plaintiff and defendant, the title, docket number

and nature of the proceeding in which process has been served upon him, the return date thereof, and the day and hour when the service was made. The Secretary of State shall not be required to retain such information for a period longer than 5 years from his receipt of the service of process.