

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.80175 Nonresidents; secretary of state as attorney for service of summons; service; procedure; sufficiency; death; appointment of secretary of state as attorney; abatement of actions; costs; applicability to all courts.

Sec. 80175. (1) The operation by a nonresident of a vessel upon the waters of this state, or the operation on the waters of this state of a vessel owned by a nonresident if operated with his or her consent, expressed or implied, is the appointment by the nonresident of the secretary of state as his or her true and lawful attorney, upon whom may be served the summons in any action against him or her, growing out of any accident or collision in which the nonresident may be involved while operating a vessel on the waters of this state, or in which the vessel may be involved while being so operated. The operation is a signification of his or her agreement that any summons against him or her that is so served has the same legal force and validity as if served on him or her personally within this state. Service of summons shall be made by leaving a copy of the summons with the secretary of state, or his or her deputy, who shall keep a record of each process and the day and hour of service. Service shall be sufficient service upon the nonresident, if notice of the service and a copy of the summons are forthwith either served upon the defendant personally by the sheriff or constable of the county in which he or she resides or sent by certified mail by the plaintiff or his or her attorney to the defendant. If personal service of the notice and copy of summons is had upon the defendant, the officer making the service shall so certify in his or her return, which shall be filed with the court having jurisdiction of the cause. If service is made by certified mail, then the plaintiff or his or her attorney shall make an affidavit showing that he or she has made service of the notice and summons upon the defendant by certified mail, and the affiant shall attach to the affidavit a true copy of the summons and notice so served and the return receipt of the defendant and shall file the affidavit and attached papers with the court having jurisdiction of the cause. The court in which the action is pending may order such extension of time as is necessary to afford the defendant reasonable opportunity to defend the action.

(2) The death of a nonresident does not revoke the appointment by him or her of the secretary of state as his or her true and lawful attorney upon whom may be served the summons in an action against him or her growing out of any such accident or collision, and any action growing out of such accident or collision may be commenced or prosecuted against his or her executor or administrator duly appointed by the state, territory, or district of the United States or foreign country in which the nonresident was domiciled at the time of his or her death. Service of the summons shall be made upon the secretary of state, and personal service of such notice and the copy of the summons be upon his or her executor or administrator, in like manner, with the same force and effect as service upon the nonresident during his or her lifetime.

(3) Any action or proceeding pending in any court of this state, in which the court has obtained jurisdiction of the nonresident pursuant to this section, shall not abate by reason of the death of the nonresident, but his or her executor or administrator duly appointed in the state, territory, or district of the United States or foreign country in which he or she was domiciled at the time of his or her death, upon the application of the plaintiff in the action and upon such notice as the court may prescribe, shall be brought in and substituted in the place of the decedent, and the action or proceeding shall continue.

(4) The court shall include as taxable costs, in addition to other legal costs against the plaintiff in case the defendant prevails in the action, the actual traveling expenses of the defendant from his or her residence to the place of trial and return, not to exceed the sum of \$100.00.

(5) This section applies to actions commenced in all courts of this state having civil jurisdiction, including justice courts.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: Marine Safety Act

Popular name: NREPA