

Subsection (e) is substituted for 6:11 to eliminate unnecessary words, for clarity and consistency, and because of the restatement.

§ 9306. Surety corporations acting outside area of incorporation and place of principal office

(a) A surety corporation may provide a surety bond under section 9304 of this title in a judicial district outside the State, the District of Columbia, or a territory or possession of the United States under whose laws it was incorporated and in which its principal office is located only if the corporation has a resident agent for service of process for that district. The resident agent—

(1) may be an official of the State, the District of Columbia, the territory or possession in which the court sits who is authorized or appointed under the law of the State, District, territory or possession to receive service of process on the corporation; or

(2) may be an individual who resides in the jurisdiction of the district court for the district in which a surety bond is to be provided and who is appointed by the corporation as provided in subsection (b)¹

(b) If the surety corporation meets the requirement of subsection (a) by appointing an individual under subsection (a)(2), the surety corporation shall file a certified copy of the power of attorney with the clerk of the district court for the district in which a surety bond is to be given at each place the court sits. A copy of the power of attorney may be used as evidence in a civil action under section 9307 of this title.

(c)(1) If a resident agent is removed, resigns, dies, or becomes disabled, the surety corporation shall appoint another agent as described in this section.

(2) Until an appointment is made under paragraph (1) of this subsection or during an absence of an agent from the district in which the surety bond is given, service of process may be made on the clerk of the court in which a civil action against the corporation is brought. The official serving process on the clerk of the court—

(A) immediately shall mail a copy of the process to the corporation; and

(B) shall state in the official's return that the official served the process on the clerk of the court.

(3) A judgment or order of a court entered or made after service of process under this section is as valid as if the corporation were served in the judicial district of the court.

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 1048; Pub. L. 106-113, div. B, §1000(a)(9) [title V, §5007], Nov. 29, 1999, 113 Stat. 1536, 1501A-594.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 9306 6:7.

In subsection (a), before clause (1), the words "in a judicial district" are added for clarity. The word "outside" is substituted for "beyond the limits" to eliminate unnecessary words. The words "territory or possession of the United States" are substituted for "Ter-

¹ So in original. Probably should be followed by a period.

ritory" for consistency in the revised title. The word "resident" is added for consistency.

In subsection (b), the words "duly . . . and authenticated" are omitted as surplus. The words "in which a surety bond is to be given" are added for clarity and because of the restatement. The words "the court sits" are substituted for "where a term of such court is or may be held", and the words "A copy of the power of attorney may be used as evidence in a civil action" are substituted for "which copy, or a certified copy thereof, shall be legal evidence in all controversies", to eliminate unnecessary words and for clarity and consistency.

In subsection (c)(1), the words "a resident" are substituted for "any such" for clarity. The words "becomes disabled" are substituted for "become insane, or otherwise incapable of acting" to eliminate unnecessary words. The words "the surety corporation shall" are substituted for "it shall be the duty of such company to" to eliminate unnecessary words and for consistency. The words "in his place" are omitted as unnecessary.

In subsection (c)(2), before clause (A), the words "the district in which the surety bond is given" are substituted for "such district", and the words "a civil action against the corporation" are substituted for "such suit", for clarity and consistency. The words "with like effect as upon an agent appointed by the company" are omitted as unnecessary. The words "official serving" are substituted for "officer executing such" for consistency. Clause (2) is substituted for "state such fact in his return" for clarity.

In subsection (c)(3), the words "decree or" are omitted as being included in "order". The words "and binding" are omitted as being included in "valid". The words "as if the corporation were served in the judicial district of the court" are substituted for "on such company as if served with process in said district" for clarity and consistency.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-113, §1000(a)(9) [title V, §5007(1)], substituted "has a resident agent for service of process for that district. The resident agent—" and pars. (1) and (2) for "designates a person by written power of attorney to be the resident agent of the corporation for that district. The designated person—

"(1) may appear for the surety corporation; "(2) may receive service of process for the corporation;

"(3) must reside in the jurisdiction of the district court for the district in which a surety bond is to be provided; and

"(4) must be a domiciliary of the State, the District of Columbia, territory, or possession in which the court sits."

Subsec. (b). Pub. L. 106-113, §1000(a)(9) [title V, §5007(2)], substituted "If the surety corporation meets the requirement of subsection (a) by appointing an individual under subsection (a)(2), the" for "The".

§9307. Civil actions and judgments against surety corporations

(a)(1) A surety corporation providing a surety bond under section 9304 of this title may be sued in a court of the United States having jurisdiction of civil actions on surety bonds in—

(A) the judicial district in which the surety bond was provided; or

(B) the district in which the principal office of the corporation is located.

(2) Under sections 9304-9308 of this title, a surety bond is deemed to be provided in the district—

(A) in which the principal office of the surety corporation is located;

(B) to which the surety bond is returnable;