

# **FIFTH AMENDED AND RESTATED BYLAWS TEXAS PROCESS SERVERS ASSOCIATION**

## **ARTICLE I - NAME**

The name of the Association shall be known as the TEXAS PROCESS SERVERS ASSOCIATION, hereinafter referred to as "the Association".

## **ARTICLE II - OFFICES**

Section 1. The registered office and registered agent of the Association shall be as set forth in the Association's Certificate of Formation. The registered office or the registered agent may be changed by resolution of the Board of Directors (hereinafter referred to as "Board"), upon making the appropriate filing with the Secretary of State.

Section 2. The principal office of the Association shall be 7215 Bosque Blvd., Waco, TX 76710, provided that the Board shall have the power to change the location of the principal office.

Section 3. The Association may also have other offices at such places, within or without the State of Texas, as the Board may designate, or as the business of the Association may require or as may be desirable.

## **ARTICLE III - PURPOSE**

To promote, upgrade, and perpetuate the process serving profession through the following objectives:

Section 1. Promoting legislation and rules which will advance the profession

Section 2. Combating legislation and rules which may harm the profession.

Section 3. Promoting and maintaining professional and ethical standards for the profession.

Section 4. Improving relations between the profession and the legal community – attorneys, judges, clerks and officers of the court - and the general public, both statewide and nationally.

Section 5. Promote the Association to the legal community and to the general public.

## **ARTICLE IV - MEMBERSHIP**

The Association shall have three classes of members: Active, Associate, and Honorary. Members must meet the following qualifications for membership: applying for membership in the Association by meeting such qualifications, completing such forms, and paying such membership dues.

Section 1. Application for membership in the Association shall be open to all persons who are affiliated with the profession of process serving. Membership is approved on an individual basis by the members of the Association and the Board, and is not transferable.

Section 2. Active members are those who reside in the State of Texas and are Supreme Court certified or are authorized to be a process server under the laws of the State of Texas or under the local rules and orders of the courts or as determined by the Board.

Section 3. Associate members are those persons who do not maintain a residence or office within the State of Texas.

Section 4. Honorary membership shall be determined by the Board.

Section 5. Only active members shall have the right to vote or to hold office.

Section 6. All applications for membership must be completed in full on a form provided by the Association, or on the Association website. Each application must be accompanied by one year's dues. No applicant shall be considered for membership if the applicant has been convicted of a felony within the past five years or who has had their license, permit, or right to serve process revoked by any issuing authority, unless said conviction or revocation has been pardoned or expunged.

Section 7. Membership may be revoked by the Board for violations of the Bylaws, the Code of Ethics, or failure to comply with decisions of the Grievance and Arbitration Committee. In addition, any member who is convicted of a felony or who has their license, permit, or right to serve process revoked by any issuing authority may have their membership revoked after review by the Board.

Section 8. A member convicted of a felony shall report the full details within 10 days of being convicted to the Board by notification to the Secretary.

Section 9. A member who has their process serving authority, license, appointment or certification suspended, revoked or cancelled, shall report the full details of such suspension, revocation, or cancellation within 10 days to the Board by notification to the Secretary.

Section 10. The Association Membership Director shall publish the names of all applicants to the membership. If no objection is received within 30 days after publication, the applicant is accepted. If an objection is received within 30 days, the Membership Director shall advise the applicant and the applicant may submit a written response to the objection or request to appear *in person* before the Board to answer questions regarding the objection and their qualifications for membership.

Section 11. Any member may resign by filing a written resignation with the Secretary.

Section 12. Upon written request signed by a former member and filed with the Secretary, the Board may, by the affirmative vote of fifty-one percent (51%) of the Board, reinstate such former member to membership upon such terms as the Board may deem appropriate.

Section 13. Membership in the Association is not transferable or assignable.

## ARTICLE V - DUES

Section 1. The annual membership dues shall be determined by a majority vote of the membership at the annual meeting and shall remain in effect until changed.

Section 2. The annual dues for Associate Members shall be determined by a majority of the membership at the annual meeting and shall remain in effect until changed. Honorary members shall be dues exempt.

Section 3. The effective date of membership shall be 30-days from the first day of the month following their application date. The Association shall notify the membership by e-mail at least 30 days prior to their renewal date that renewal is due and will notify by e-mail 30 days after renewal date that their membership has not been renewed and is subject to lapse. If renewal payment is not received 45 days after renewal date, the membership is revoked.

Section 4. Any officer or elected director's dues shall be waived during their term of office.

## ARTICLE VI – ELECTION OF OFFICERS AND DIRECTORS

Section 1. No member shall be eligible to be an officer or director until they have been a member in good standing for two years. Anyone on probation or pending shall not be eligible to run for office. If there is an open Officer or Director position, the Board has the option to waive the 2 year member eligibility requirement to appoint a person who has a minimum of 3 years' experience as a JBCC certified process server, as long as they are a current member in good standing.

Section 2. The officers shall consist of a President, Vice-President, Secretary and Treasurer. Terms of each officer shall be for two years.

Section 3. Up to six (6) Regional Directors shall be elected at the annual meeting. Terms of each elected director shall be for two years. The regions will consist of North/North East, South, East, West, and Central.

Section 4. No member shall hold the office of President for more than four consecutive years.

Section 5. Officers and Directors shall be elected by a majority vote of the members in good standing who vote by one of the following methods: in person at the annual members meeting, by absentee ballot, or by electronic methods, i.e. e-mail or facsimile. Regional Directors shall be elected in a single ballot with each member from that region casting one vote for each seat to be filled. Nominees must be present at the annual membership meeting to win their respective elections. No proxies shall be allowed.

Section 6. The Membership Director shall be elected by a majority vote of the members in good standing who vote by one of the following methods: in person at the annual members meeting, by absentee ballot, or by electronic methods, i.e. e-mail or facsimile. Nominees must be present at the annual membership meeting to win the election. No proxies shall be allowed.

Section 7. The Training Director is an appointed position voted on by the Board.

Section 8. A vacancy in any office or director position shall be filled by the Board and selected by a majority vote of the remaining board.

## ARTICLE VII – DUTIES OF THE OFFICERS

Section 1. The administration and management of the Association shall be controlled by the Board consisting of the officers and directors. They shall have the authority to do any and all things necessary for the administration of the Association.

Section 2. The President shall preside at all Board and Annual meetings, make all appointments that are deemed necessary to run the Association, and submit a report describing programs and board actions at the annual meeting. The President shall not vote on any matter except to break a tie or when vote is by secret ballot.

Section 3. The Vice President shall perform the duties of the office of President whenever the President is unable to do so.

Section 4. The Secretary shall cause to be recorded the minutes of all board meetings and the annual meeting.

Section 5. The Treasurer shall be responsible for carrying out all fiscal policies and procedures adopted by the Board; and be responsible for preparation of financial statements and presentation of these to the Board at each regular meeting; and shall submit a written report at the annual meeting. All checks are to be signed by two officers if over \$750.

Section 6. The Board shall adopt a Code of Ethics and Policy and Procedure Manual and the President shall appoint a Grievance and Arbitration Committee which together with these Bylaws shall constitute the governing authority of each member. All persons accepting membership in the Association agree to abide by the above as a condition of membership and continued membership.

## ARTICLE VIII - MEETINGS

Section 1. There shall be a minimum of one Board meeting per quarter. Board meetings shall be called by the President. A Board meeting must be called within thirty (30) days if petitioned by a majority of the members. The membership shall be notified at least two weeks prior to all regular board meetings and encouraged to attend.

Section 2. Special meetings of the Board may be held by mail, fax, e-mail, telephone conference or any other electronic means. Special meetings of the Board shall be held upon call of the President or at the request of five directors. Such meetings are to be called only in case of emergency or dire circumstances which condition could not wait until the next regular Board meeting. Matters brought up can be voted upon without full discussion or debate. Minutes of a special meeting shall be sent to all directors within forty-eight (48) hours of the meeting and each director shall be required to approve or correct the minutes within twenty-four (24) hours of receipt.

Section 3. At any members meeting, five percent (5%) of the active membership represent a majority of the members and shall constitute a quorum. Decisions shall be reached by majority vote. No proxy voting shall be allowed.

Section 4. Members shall be admitted to all meetings except executive sessions. Non-members may be admitted to all meetings unless disapproved by a majority of the members present. Only matters involving the personal affairs of an individual may be held in executive session.

Section 5. An annual members meeting shall be held. Officer's reports, committee reports, and any new or old business as the membership sees fit will be discussed. The annual meeting shall also serve the purpose of nominating and electing the officers and directors for the upcoming year, or for any expired or vacated positions.

Section 6. All notices provided for in the Bylaws shall be sent by mail, e-mail, facsimile, or other electronic means to the addresses recorded with the Association and the posting of such notices to said addressee shall be regarded as notice to the members.

Section 7. At a meeting where a vote has been taken, the Secretary shall publish the following information on the Association's website: (a) a description of the motion or amendment, (b) the result of the vote and (c) the final wording of the order or amendment if passed.

Section 8. The latest edition of *Robert's Rules of Order Newly Revised* shall govern the conduct of all meetings where the Bylaws or the Policy and Procedure Manual do not specifically address.

## ARTICLE IX - LOGO

Section 1. The logo shall be a design to be determined by the Board. It shall be used only for the purpose of the Association identification, signifying membership therein, on letterheads, business cards, and advertising matter.

Section 2. As a condition of membership, every member of the Association agrees that use of the logo shall be and is limited to the time during which their membership herein shall be in good standing, and each member hereby agrees that upon termination of their membership, they will discontinue use of such logo.

## ARTICLE X - CERTIFICATES OF MEMBERSHIP

Section 1. The Board may provide for the issuance of certificates, or cards, or other instruments evidencing membership rights, voting rights or ownership rights (hereinafter referred to as "certificates"), which shall be in such form as may be determined by the Board. Such certificates shall be signed by the President or Vice President and by the Secretary. The name and address of each member and the date of issuance of the certificate shall be entered on the records of the Association. If any certificate shall become lost, mutilated or destroyed, a new certificate may be issued therefore upon such terms and conditions as the Board determine.

Section 2. When a member has been admitted to membership and has paid any dues that may then be required, a certificate shall be issued in that member's name and shall be delivered to the member by the Office Manager.

## ARTICLE XI – INDEMNIFICATION AND INSURANCE

Section 1. The Association shall have the full power to indemnify and advance expenses pursuant to the provisions of the Texas Business Organizations Code to any person entitled to indemnification under the provisions of the Texas Business Organizations Code.

Section 2. The Association may purchase and maintain insurance or another arrangement on behalf of any person who is or was a member, director, officer, employee, or agent of the Association or who is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, employee benefit plan, other enterprise, or other entity, against any liability asserted against him or her and incurred by him or her in such a capacity or arising out of his or her status as such a person, whether or not the Association would have the power to indemnify him or her against that liability. If the insurance or other arrangement is with a person or entity that is not regularly engaged in the business of providing insurance coverage, the insurance or arrangement may provide for payment of a liability with respect to which the Association would not have the power to indemnify the person only if including coverage for the additional liability has been approved by the members of the Association. Without limiting the power of the Association to procure or maintain any kind of insurance or other arrangement, the Association may, for the benefit of persons indemnified by the Association, (1) create a trust fund; (2) establish any form of self-insurance; (3) secure its indemnity obligation by grant of a security interest or other lien on the assets of the Association; or (4) establish a letter of credit, guaranty, or surety arrangement. The insurance or other arrangement may be procured, maintained, or established within the Association or with any insurer or other person deemed appropriate by the Board regardless of whether all or part of the stock or other securities of the insurer or other person are owned in whole or part by the Association. In the absence of fraud, the Judgment of the Board as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other person participating in an arrangement shall be conclusive and the insurance or arrangement shall not be voidable and shall not subject the directors approving the insurance or arrangement to liability, on any ground, regardless of whether directors participating in the approval are beneficiaries of the insurance or arrangement.

## ARTICLE XII- CONSTRUCTION

Section 1. All personal pronouns used in these Bylaws shall include the other gender whether used in masculine or feminine or neuter gender, and the singular shall include the plural whenever and as often as may be appropriate. All headings herein are for convenience only and neither limit nor amplify the provisions of these Bylaws.

Section 2. If any one or more of the provisions of these Bylaws, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid and enforceable, and the validity and enforceability of all other provisions of these Bylaws and all other applications of any such provision shall not be affected thereby.

Section 3. In the event of a conflict with any other governing document of the Association, these Bylaws shall control.

### ARTICLE XIII- BYLAW AMENDMENTS

Section 1. Board proposed Bylaw amendments must be submitted to the Secretary and published to the membership not less than thirty (30) days prior to a scheduled Bylaws vote by the membership.

Section 2. The Bylaws may be amended or revised by an affirmative (2/3) vote of the membership present and voting at any members meeting or a scheduled Bylaws vote of the membership.

Section 3. Bylaw amendments or revisions may be acted upon only at the time published in the meeting agenda unless the majority of the members present at that time agree to a later time for further action.