

2A: 14-22

LEGISLATIVE HISTORY CHECKLIST

NJSA: 2A: 14-22 (Foreign corporations--statute of limitations)

LAWS OF: 1984 CHAPTER: 131

Bill No: S953

Sponsor(s): Russo

Date Introduced: Pre-filed

Committee: Assembly: Judiciary

Senate: Judiciary

Amended during passage: No

Date of Passage: Assembly: June 28, 1984

Senate: April 30, 1984

Date of Approval: August 23, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

Veto Message: No

Message on Signing: ~~No~~ Yes.

Following were printed:

Reports: No

Hearings: No

SENATE, No. 953

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1984 SESSION

By Senator RUSSO

AN ACT concerning the statute of limitations in certain cases and amending N. J. S. 2A:14-22.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. N. J. S. 2A:14-22 is amended to read as follows:

2 2A:14-22. If any person against whom there is any of the causes  
3 of action specified in sections 2A:14-1 to 2A:14-5 and 2A:14-8,  
4 or if any surety against whom there is a cause of action specified  
5 in any of the sections of article 2 of this chapter, is not a resident  
6 of this State when such cause of action accrues, or removes from  
7 this State after the accrual thereof and before the expiration of  
8 the times limited in said sections, or if any corporation or corporate  
9 surety not organized under the laws of this State, against whom  
10 there is such a cause of action, is not represented in this State by  
11 any person or officer upon whom summons or other original process  
12 may be served, when such cause of action accrues or at any time  
13 before the expiration of the times so limited, the time or times  
14 during which such person or surety is not residing within this State  
15 or such corporation or corporate surety is not so represented  
16 within this State shall not be computed as part of the periods of time  
17 within which such an action is required to be commenced by the  
18 section. The person entitled to any such action may commence  
19 the same after the accrual of the cause therefor, within the period  
20 of time limited therefor by said section, exclusive of such time or  
21 times of nonresidence or nonrepresentation.

22 *A corporation shall be deemed represented for purposes of this*  
23 *section if the corporation has filed with the Secretary of State a*  
24 *notice designating a representative to accept service of process.*

1 2. This act shall take effect immediately.

**Matter printed in italics thus is new matter.**

## STATEMENT

In a recent decision, *Coons v. American Honda Motor Co., Inc.*, 94 N. J. 307 (1983), the New Jersey Supreme Court declared as unconstitutional N. J. S. 2A:14-22, which tolls the running of the statute of limitations in actions against foreign corporation that are not represented in New Jersey. The court found that in order to be represented in the context of N. J. S. 2A:14-22, a foreign corporation must obtain a certificate to do business in this State. The court ruled that this certificate requirement violated the commerce clause of the United States Constitution in that it unduly burdened interstate commerce by requiring a foreign corporation engaged exclusively in interstate commerce to obtain such certificate. In order to both meet the court's objections as stated in the *Coons* decision and to assist New Jersey citizens to pursue their claims against foreign corporations, this bill would provide that a foreign corporation would be deemed represented in New Jersey for the purpose of N. J. S. 2A:14-22 if the corporation filed with the Secretary of State a notice designating a representative to accept service of process.

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## STATEMENT

In a recent decision, *Coons v. American Honda Motor Co., Inc.*, 94 N. J. 307 (1983), the New Jersey Supreme Court declared as unconstitutional N. J. S. 2A:14-22, which tolls the running of the statute of limitations in actions against foreign corporation that are not represented in New Jersey. The court found that in order to be represented in the context of N. J. S. 2A:14-22, a foreign corporation must obtain a certificate to do business in this State. The court ruled that this certificate requirement violated the commerce clause of the United States Constitution in that it unduly burdened interstate commerce by requiring a foreign corporation engaged exclusively in interstate commerce to obtain such certificate. In order to both meet the court's objections as stated in the *Coons* decision and to assist New Jersey citizens to pursue their claims against foreign corporations, this bill would provide that a foreign corporation would be deemed represented in New Jersey for the purpose of N. J. S. 2A:14-22 if the corporation filed with the Secretary of State a notice designating a representative to accept service of process.

5953(1984)

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

**SENATE, No. 953**

**STATE OF NEW JERSEY**

DATED: JUNE 18, 1984

N. J. S. 2A:14-22 tolls the running of the statute of limitations in civil actions against foreign corporations that are not represented in New Jersey and thus cannot be reached with service of process. Senate Bill No. 953 would provide that a foreign corporation would be deemed represented in New Jersey for the purpose of N. J. S. 2A:14-22 if the corporation filed with the Secretary of State a notice designating a representative to accept service of process.

Senate Bill No. 953 was introduced in response to a recent New Jersey Supreme Court decision, *Coons v. American Honda Co., Inc.*, 94 N. J. 327 (1983). In the *Coons* case, the plaintiff was injured when he was thrown from a Honda motorcycle. Suit was instituted four years after the accident. At that point the defendant raised the two year statute of limitations as a defense. In that decision, the court determined that in order to be "represented" in the context of N. J. S. 2A:14-22, a foreign corporation must obtain a certificate to do business in New Jersey. The court ruled that this requirement was in violation of the commerce clause of the U. S. Constitution in that it unduly burdened interstate commerce by requiring a foreign corporation engaged exclusively in interstate commerce to obtain such a certificate.

The filing of a notice designating a representative to accept process is a less burdensome requirement than obtaining a certificate to do business. Therefore, by providing that a foreign corporation would be deemed represented for purposes of N. J. S. 2A:14-22 if such a notice were filed, Senate Bill No. 953 is intended to meet the Supreme Court's objections as stated in the *Coons* decision and thereby assist New Jersey citizens to pursue their claims against foreign corporations.

Although recently a subsequent decision was rendered in the *Coons* case, it was limited to the issue of whether the *Coons I* decision should be applied retroactively. The court ruled that the decision should be applied prospectively only, from the date of the *Coons I* decision, August 3, 1983, thereby letting lawsuits to be filed until August 1985.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

**SENATE, No. 953**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 23, 1984

N. J. S. 2A:14-22 tolls the running of the statute of limitations in civil actions against foreign corporations that are not represented in New Jersey and thus cannot be reached with service of process. This bill would provide that a foreign corporation would be deemed represented in New Jersey for the purpose of N. J. S. 2A:14-22 if the corporation filed with the Secretary of State a notice designating a representative to accept service of process.

The bill was introduced in response to a recent New Jersey Supreme Court decision, *Coons v. American Honda Co., Inc.*, 94 N. J. 327 (1983). In that decision, the court determined that in order to be "represented" in the context of N. J. S. 2A:14-22, a foreign corporation must obtain a certificate to do business in New Jersey. The court ruled that this requirement was in violation of the commerce clause of the U. S. Constitution in that it unduly burdened interstate commerce by requiring a foreign corporation engaged exclusively in interstate commerce to obtain such a certificate.

The filing of a notice designating a representative to accept process is a less burdensome requirement than obtaining a certificate to do business. Therefore, by providing that a foreign corporation would be deemed represented for purposes of N. J. S. 2A:14-22 if such a notice were filed, S-953 is intended to meet the Supreme Court's objections as stated in the *Coons* decision and thereby assist New Jersey citizens to pursue their claims against foreign corporations.



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AUG 23 1984

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Acting Governor Carmen A. Orechio has signed the following bills:

S-136, sponsored by State Senator Walter Rand, D-Camden, which permits expansion of a municipal public library from seven to nine members.

S-953, sponsored by State Senator John F. Russo, D-Ocean, which provides that a foreign corporation (that is, corporations organized under the laws of another state) is deemed to be represented in the State for the purpose of statute of limitations if a notice has been filed designating a representative.

S-1032/A-199, sponsored by State Senator Christopher J. Jackman, D-Hudson and Assemblyman Nicholas LaRocca, D-Hudson, which amends the Teachers Pension and Annuity Fund to provide that the beneficiaries of members who work past the age of 70 shall receive the same death, accidental death and additional death benefits as the beneficiaries of members who were under 70 and who dies in active service. The bill also provides for the optional payment of such benefits in installments rather than a lump sum.

S-1770, sponsored by Senator Orechio, which provides limited protection against salary reductions to unclassified employees who are members of the Teachers Pension and Annuity Fund.

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