

Article - Insurance

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§4-206.

(a) An unauthorized foreign insurer or unauthorized alien insurer is deemed to have appointed the Commissioner to be the attorney of the unauthorized insurer for purposes of service of process in a proceeding instituted by or for an insured or beneficiary arising out of an insurance contract and to have agreed that service on the Commissioner has the same legal effect as personal service in the State on the unauthorized insurer, if the unauthorized insurer in the State, by mail or otherwise:

(1) issues or delivers insurance contracts to residents of the State or corporations authorized to do business in the State;

(2) solicits applications for insurance contracts;

(3) collects premiums, membership fees, assessments, or other considerations for insurance contracts; or

(4) transacts any other insurance business.

(b) (1) Service of process on the Commissioner under this subsection shall be made by:

(i) delivering to the Commissioner or an individual in apparent charge of the office of the Commissioner two copies of the process; and

(ii) paying to the Commissioner a service of process fee of \$15.

(2) Immediately after receipt of process, the Commissioner shall send one copy of the process by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the unauthorized insurer at its last known principal place of business.

(3) Service of process under this subsection is sufficient if:

(i) within 10 days after delivering copies of the process to the Commissioner under paragraph (1) of this subsection, the plaintiff or plaintiff's attorney sends notice of the service and a copy of the process by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the unauthorized insurer at its last known principal place of business; and

(ii) on or before the date that the unauthorized insurer is required to appear or within any further time that the court allows, the plaintiff or plaintiff's attorney files with the clerk of the court in which the action is pending:

1. the unauthorized insurer's receipt, or the receipt issued by

the United States Postal Service, showing the name of the sender of the letter and the name and address of the addressee; and

2. an affidavit of the plaintiff or plaintiff's attorney showing compliance with paragraph (1) of this subsection.

(4) (i) The service of process fee shall be taxed in the costs of the proceeding.

(ii) A court may award reimbursement of the service of process fee to a prevailing plaintiff in any proceeding against an unauthorized insurer.

(iii) The Commissioner:

1. shall account quarterly to the Comptroller for fees collected under this subsection; and

2. after deducting expenses for mailing the process under paragraph (2) of this subsection, shall pay the fees on accounting to the State Treasurer, for the use of the State.

(5) The Commissioner shall keep a record of all process served on the Commissioner under this subsection.

(c) As an alternative to service of process under subsection (b) of this section, service of process is valid if:

(1) service of process is made on any person in the State that, on behalf of an unauthorized foreign insurer or unauthorized alien insurer, is doing an act of insurance business listed in § 4-205(c) of this subtitle;

(2) within 10 days after service of process under item (1) of this subsection, the plaintiff or plaintiff's attorney sends a copy of the process by certified mail, return receipt requested, bearing a postmark from the United States Postal Service, to the unauthorized insurer at its last known principal place of business; and

(3) on or before the date that the unauthorized insurer is required to appear or within any further time that the court allows, the plaintiff or plaintiff's attorney files with the clerk of the court in which the action is pending:

(i) the unauthorized insurer's receipt, or the receipt issued by the United States Postal Service, showing the name of the sender of the letter and the name and address of the addressee; and

(ii) an affidavit of the plaintiff or plaintiff's attorney showing compliance with item (1) of this subsection.

(d) A judgment by default may not be entered until the expiration of 45 days

after the date of filing of the affidavit of compliance.

(e) This subtitle does not limit the right to serve any process, notice, or demand on an insurer or another person in any other manner authorized by law.

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