
By: **Delegates Vallario, Dembrow, Montague, Turner, and R. Baker**
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CHAPTER _____

1 AN ACT concerning

2 **Civil Actions - Substituted Service of Process**

3 FOR the purpose of authorizing certain substituted service of process under certain
4 circumstances when a defendant ~~has had~~ applicable ~~insurance; insurance~~
5 coverage at a certain time; requiring an insurer to appoint the Maryland
6 Insurance Commissioner as the attorney for substituted service of process under
7 this Act; providing that this Act does not apply ~~under certain circumstances; in~~
8 certain actions; requiring an insurer under certain circumstances to provide
9 certain information known to the insurer; requiring a plaintiff to make certain
10 efforts to locate and actually serve a defendant if the insurer provides certain
11 information to the plaintiff; specifying that an insurer, and its employees and
12 agents, who ~~provides~~ provide certain information ~~is~~ are not subject to certain
13 liability; providing that certain judgments shall be limited to the limits of any
14 applicable insurance under certain circumstances; providing an exception;
15 authorizing applicable defenses notwithstanding substituted service of process;
16 authorizing the Maryland Insurance Commissioner to adopt certain regulations;
17 providing for the application of this Act; ~~making provisions of this Act severable;~~
18 and generally relating to substituted service of process.

19 BY adding to
20 Article - Courts and Judicial Proceedings
21 Section 6-311
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1997 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Insurance

1 Section 4-107(a)
2 Annotated Code of Maryland
3 (1997 Volume)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article - Courts and Judicial Proceedings**

7 6-311.

8 (A) SUBSTITUTED SERVICE OF PROCESS MAY BE MADE UNDER THIS SECTION
9 AND ANY JUDGMENT SUBSEQUENTLY RENDERED SHALL BE LIMITED TO THE LIMITS
10 OF ANY APPLICABLE INSURANCE IF THE PLAINTIFF HAS SHOWN BY AFFIDAVIT:

11 (1) THAT THE DEFENDANT ~~HAS AN~~ HAD APPLICABLE INSURANCE
12 COVERAGE AT THE TIME THE ALLEGED LIABILITY WAS INCURRED;

13 (2) THAT THE DEFENDANT IS EVADING SERVICE OF PROCESS OR THE
14 WHEREABOUTS OF THE DEFENDANT ARE UNKNOWN TO THE PLAINTIFF AND THAT
15 REASONABLE EFFORTS HAVE BEEN MADE, IN GOOD FAITH, TO LOCATE THE
16 DEFENDANT, AND THERE HAVE BEEN THREE UNSUCCESSFUL ATTEMPTS AT
17 SERVICE WHICH HAVE BEEN RETURNED NON-EST; AND

18 (3) ~~SERVICE HAS BEEN MADE ON:~~

19 (i) ~~THE RESIDENT AGENT OF THE INSURER BY CERTIFIED MAIL,~~
20 ~~RETURN RECEIPT REQUESTED; OR~~

21 (ii) ~~IF THERE IS NO RESIDENT AGENT OF THE INSURER IN THIS~~
22 ~~STATE, THE MARYLAND INSURANCE COMMISSIONER.~~

23 (3) SERVICE ON THE INSURER HAS BEEN MADE BY SERVING THE
24 MARYLAND INSURANCE COMMISSIONER PURSUANT TO §§ 2-112 AND 4-107 OF THE
25 INSURANCE ARTICLE.

26 (B) ~~THIS SECTION DOES NOT APPLY IF:~~

27 (1) ~~THE DEFENDANT HAS NO ACTUAL KNOWLEDGE OF THE LAWSUIT;~~
28 ~~AND~~

29 (2) ~~THE INSURER HAS VALIDLY DISCLAIMED INSURANCE COVERAGE~~
30 ~~FOR NONCOOPERATION OR OTHERWISE.~~

31 (B) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THIS
32 SECTION APPLIES TO AN ACTION AGAINST A DEFENDANT WHO HAD APPLICABLE
33 INSURANCE COVERAGE UNDER A PROPERTY OR CASUALTY INSURANCE POLICY.

34 (2) THIS SECTION DOES NOT APPLY TO AN ACTION FOR DAMAGES FILED
35 UNDER TITLE 3, SUBTITLE 2A OF THIS ARTICLE.

1 (C) (1) IF PROCESS IS SERVED ON THE MARYLAND INSURANCE
2 COMMISSIONER UNDER SUBSECTION ~~(A)(3)(H)~~ (A)(3) OF THIS SECTION, -;

3 (I) THE MARYLAND INSURANCE COMMISSIONER SHALL FORWARD
4 A COPY OF THE PROCESS TO THE LAST KNOWN BUSINESS ADDRESS OF THE INSURER;
5 AND

6 (II) THE INSURER, ON WRITTEN REQUEST OF A PLAINTIFF, SHALL
7 PROVIDE TO THE PLAINTIFF INFORMATION KNOWN TO THE INSURER CONCERNING
8 THE DEFENDANT'S WHEREABOUTS, INCLUDING THE DEFENDANT'S CURRENT HOME
9 ADDRESS.

10 (2) IF AN INSURER PROVIDES TO A PLAINTIFF INFORMATION
11 CONCERNING THE DEFENDANT'S WHEREABOUTS AS REQUIRED IN THIS
12 SUBSECTION, THE PLAINTIFF SHALL MAKE REASONABLE EFFORTS, BASED ON THE
13 INFORMATION PROVIDED, TO LOCATE AND ACTUALLY SERVE THE DEFENDANT.

14 (3) ~~THE PROVIDING OF INFORMATION CONCERNING THE DEFENDANT'S~~
15 ~~WHEREABOUTS, BY AN INSURER UNDER THIS SECTION, MAY NOT FORM THE BASIS~~
16 ~~OF LIABILITY OF THE INSURER TO ITS INSURED FOR BREACH OF CONTRACT AN~~
17 ~~INSURER, AND ITS EMPLOYEES AND AGENTS, SHALL HAVE NO CIVIL OR CRIMINAL~~
18 ~~LIABILITY FOR THE DISCLOSURE OF INFORMATION PURSUANT TO THIS SECTION.~~

19 (D) IF PROCESS IS SERVED ON THE DEFENDANT AT ANY TIME BEFORE THE
20 COMMENCEMENT OF THE TRIAL, THE LIMITATION ON JUDGMENTS PROVIDED
21 UNDER SUBSECTION (A) OF THIS SECTION DOES NOT APPLY.

22 (E) NOTWITHSTANDING ANY SUBSTITUTED SERVICE AUTHORIZED UNDER
23 THIS SECTION, ALL DEFENSES UNDER THE TERMS OF THE APPLICABLE INSURANCE,
24 INCLUDING NONCOOPERATION, SHALL BE AVAILABLE TO THE INSURER.

25 (F) EXCEPT AS LIMITED UNDER SUBSECTIONS (A) AND (B) OF THIS SECTION,
26 SERVICE UNDER THIS SECTION IS AS EFFECTIVE AS ACTUAL PERSONAL SERVICE.

27 (G) THE METHOD OF SERVICE PROVIDED IN THIS SECTION IS IN ADDITION TO
28 AND NOT EXCLUSIVE OF ANY OTHER MEANS OF SERVICE THAT MAY BE PROVIDED BY
29 STATUTE OR RULE FOR OBTAINING JURISDICTION OVER A DEFENDANT.

30 **Article - Insurance**

31 4-107.

32 (a) (1) On the form that the Commissioner provides, each insurer applying
33 for a certificate of authority must appoint the Commissioner as attorney for service of
34 process issued [against]:

35 (I) AGAINST the insurer in the State; OR

36 (II) AS SUBSTITUTED SERVICE OF PROCESS UNDER § 6-311 OF THE
37 COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

1 (2) AN INSURED IS DEEMED TO HAVE CONSENTED TO SUBSTITUTED
2 SERVICE OF PROCESS AS PROVIDED UNDER ITEM (1)(II) OF THIS SUBSECTION AND §
3 6-311 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE.

4 (3) THE INSURANCE COMMISSIONER MAY ADOPT REGULATIONS TO
5 REQUIRE THAT EACH PROPERTY OR CASUALTY INSURANCE POLICY CONTAIN A
6 PROVISION THAT STATES THAT AN INSURED IS SUBJECT TO SUBSTITUTED SERVICE
7 OF PROCESS UNDER THIS SUBSECTION AND § 6-311 OF THE COURTS AND JUDICIAL
8 PROCEEDINGS ARTICLE.

9 SECTION 2. AND BE IT FURTHER ENACTED, ~~that~~ That the provisions of
10 this Act shall apply to any case pending or filed on or after the effective date of this
11 Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this
13 Act or the application thereof to any person or circumstance is held invalid for any
14 reason in a court of competent jurisdiction, the invalidity does not affect other
15 provisions or any other application of this Act which can be given effect without the
16 invalid provision or application, and for this purpose the provisions of this Act are
17 declared severable.

18 SECTION ~~3- 4.~~ AND BE IT FURTHER ENACTED, That this Act shall take
19 effect October 1, 1998.