

507A.5 Proscribed acts binding on insurer.

1. No person or insurer shall directly or indirectly perform any of the acts of doing an insurance business as defined in this chapter except as provided by and in accordance with the specific authorization by statute. However, should any unauthorized person or insurer perform any act of doing an insurance business as set forth in this chapter, it shall be equivalent to and shall constitute an irrevocable appointment by such person or insurer, binding upon the person, the person's executor or administrator, or successor in interest if a corporation, of the commissioner of insurance or the commissioner's successor in office, to be the true and lawful attorney upon whom may be served all lawful process in any action, suit or proceeding in any court arising out of doing an insurance business in this state or instituted by or on behalf of an insured or beneficiary arising out of any such acts of doing an insurance business, except in an action, suit or proceeding by the commissioner of insurance or by the state. Any act of doing an insurance business by any unauthorized person or insurer shall be signification of its agreement that such service of process is of the same legal force and validity as personal service of process in this state upon such person or insurer.

2. Service of process shall be made by delivering to and leaving with the commissioner of insurance or some person in apparent charge of the commissioner's office two copies thereof and the payment to the commissioner of such fees as may be prescribed by law. The commissioner of insurance shall forthwith forward by certified mail one of the copies of such process to the defendant at the last known principal place of business and shall keep a record of all process so served. Such service of process shall be sufficient to provide notice if:

a. A copy of the process is sent within ten days thereafter by certified mail by plaintiff or plaintiff's attorney to the defendant at the last known principal place of business.

b. The defendant's receipt or receipt issued by the post office showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed and an affidavit by the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

3. Service of process in any such action, suit, or proceeding shall in addition to the manner as provided in this chapter be valid if served upon any person within this state who, in this state on behalf of such insurer, is soliciting insurance, making, issuing, or delivering any contract of insurance, or collecting or receiving any premium, membership fee, assessment, or other consideration for insurance, and if:

a. A copy of such process is sent within ten days thereafter by certified mail by the plaintiff or plaintiff's attorney to the defendant at the last known principal place of business of the defendant.

b. The defendant's receipt, or the receipt issued by the post office showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and an affidavit of the plaintiff or plaintiff's attorney showing a compliance herewith are filed with the clerk of the court in which such action is pending on or before the date the defendant is required to appear or within such further time as the court may allow.

4. No plaintiff shall be entitled to a judgment by default under this chapter until the expiration of thirty days from date of the filing of the affidavit of compliance.

5. Nothing in this section shall limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or hereafter permitted by law.

[C50, 54, 58, 62, 66, §507A.3; C71, 73, 75, 77, 79, 81, §507A.5]

Referred to in §507A.7