

507A.7 Proceedings before commissioner — indemnifying bond.

1. Before any unauthorized person or insurer files or causes to be filed any pleading or process in an administrative proceeding before the commissioner of insurance, instituted against such person or insurer, by service made as provided in this chapter, such person or insurer shall either:

a. Deposit with the clerk of the court in which such action, suit, or proceeding is pending, or with the commissioner of insurance in administrative proceedings before the commissioner, cash or securities, or file with such clerk or commissioner a bond with good and sufficient sureties, to be approved by the clerk or commissioner in an amount to be fixed by the court or commissioner sufficient to secure the payment of any final judgment which may be rendered in such action or administrative proceeding.

b. Procure a certificate of authority to transact the business of insurance in this state.

2. The court in any action, suit, or proceeding in which service is made as provided in subsections 2 and 3 of section 507A.6, or the commissioner of insurance in any administrative proceeding before the commissioner in which service is made as provided in subsections 2 and 3 of section 507A.6, may in the court's or commissioner's discretion, order such postponement as may be necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection 1 of this section and to defend such action.

3. Nothing in subsection 1 of this section shall be construed to prevent an unauthorized person or foreign or alien insurer from filing a motion to quash a writ or to set aside service thereof made in the manner provided in sections 507A.5 and 507A.6, on the ground that such unauthorized person or insurer has not done any of the acts enumerated in section 507A.3.

4. In an action against an unauthorized person or insurer upon a contract of insurance issued or delivered in this state to a resident thereof or to a corporation authorized to do business therein, if the person or insurer has failed for thirty days after demand prior to the commencement of the action to make payment in accordance with the terms of the contract, and it appears to the court that such refusal was without reasonable cause, the court may allow to the plaintiff a reasonable attorney fee and include such fee in any judgment that may be rendered in such action. Failure of the person or insurer to defend any such action shall be deemed prima facie evidence that its failure to make payment was without reasonable cause.

[C50, 54, 58, 62, 66, §507A.4, 507A.5; C71, 73, 75, 77, 79, 81, §507A.7]

Referred to in §602.8102(69)