



COLORADO

Department of
Regulatory Agencies

Division of Insurance

Bulletin No. B-1.30

Acceptance of Service of Process

I. Background and Purpose

The purpose of this bulletin is to provide carriers, consumers, and other interested parties with the Division of Insurance's (Division's) policy concerning accepting service of process.

Bulletins are the Division's interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor finally determine issues or rights.

II. Applicability and Scope

This bulletin is intended for carriers, consumers, and other interested parties.

III. Division Position

The following clarifications are provided to assist those wishing to serve Service of Process upon the Division.

- A. Any party serving pleadings must provide the Division with three (3) copies of each document to be served. No exceptions will be made.
- B. The Division is unable to accept service of process without the exact name of the insurance company. Since the Division does not license groups or corporations, we will not be able to properly forward the service unless the exact company is specified in writing. If the Service only has a group name (taken from letterhead, for example), please review the insured's policy, or other available documentation, for the correct name of the entity underwriting or providing the insurance coverage. If the exact insurance company name cannot be found, please contact the insurance company's main office and ask for the correct name of the company issuing the insured's policy.
- C. A certificate of appointment must be filed with the Division, not with the office of the Secretary of State. As a result, a filing with the Secretary of State does not satisfy the requirements of § 10-3-107(1), C.R.S. Nothing filed with the Secretary of State is certified or authenticated by the Commissioner of Insurance (Commissioner) and does not replace the certificate of appointment required by § 10-3-107(1), C.R.S. If the Division is not listed as the registered agent in the Division's database, service will be refused and an attempt will be made to provide the name of the proper registered agent.
- D. Hand-altered documents will not be accepted.
- E. Pursuant to § 10-3-107, C.R.S., no foreign insurance company may transact business in this state until it appoints the Commissioner as its registered agent. As a foreign insurance company's registered agent, lawful service on the Commissioner binds the foreign insurance company as though it was served directly. An exception is made for those foreign insurance companies who maintain a home office or regional office in Colorado. For those companies, service must be made on the registered agent at the home or regional office. Information on



registered agents for foreign insurance companies maintaining a home or regional office is kept on file at the Division.

- F. Pursuant to § 10-3-107, C.R.S., domestic insurance companies with a home office in Colorado are required to file the name of the registered agent and address upon whom lawful service can be made with the Division, which is kept on file.
- G. Pursuant to §§ 10-3-905 and 10-3-1003, C.R.S., the Commissioner is an appointed agent able to accept lawful process against unauthorized foreign or alien insurance companies transacting business in Colorado. To serve an unauthorized foreign insurance company, the statute requires that two (2) copies of the pleadings be served on the Division in addition to a ten dollar (\$10.00) fee. The individual serving the papers is required to provide the Division with a last known address for the unauthorized foreign or alien insurance company. It should be noted that these statutes do not prohibit or limit service of process upon such entities by any other manner permitted by law, such as direct service on the entity.
- H. Pursuant to § 10-5-114, C.R.S., the Commissioner is the appointed agent to accept lawful process against (non-admitted) surplus line insurers.
- I. Pursuant to § 10-2-503, C.R.S., the Commissioner is the appointed agent to accept lawful process against nonresident insurance producers. The statute requires three (3) copies of the pleadings to be served. It is helpful for a last known address to be provided because it may be more current than Division records for producers who have failed to notify the Division of address changes.
- J. Pursuant to § 42-7-414(3), C.R.S., “If the insured’s whereabouts for service of process cannot be determined through reasonable effort, the insured agrees to designate and irrevocably appoint the insurance carrier as the agent of the insured for service of process, pleadings, or other filings in a civil action brought against the insured or to which the insured has been joined as a defendant or respondent in any Colorado court if the cause of action concerns an incident that occurred when the policy was in effect.” Therefore, the Division is required to accept service for substitute service. However, the Division requires the company name to be in the documents being served or on a cover letter attached to the service.
- K. Pursuant to Colorado Insurance Regulation 2-1-8, risk retention groups shall submit a resolution of the board of directors, certified by the corporate secretary or equivalent officer, which designates the Commissioner as agent for the purpose of receiving service of legal documents or process.

IV. Definitions

- A. A “foreign insurance company” is any insurer incorporated or organized under the laws of any state other than Colorado.
- B. An “alien insurance company” is any insurer incorporated or organized under the laws of any country other than the United States.
- C. A “domestic insurance company” is any insurer incorporated or organized under the laws of Colorado.
- D. A “regional home office” is an office located in Colorado that substantially performs operational functions mandated in Colorado statute, or a Colorado office that maintains significant direct insurance operations supported by functional operations pertinent to a line or lines of business written by the company.

V. Additional Division Resources

For More Information

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