

40-2419. Same; service upon unauthorized insurer. Any of the following acts in this state, effected by mail or in any other manner, by any such unauthorized foreign or alien insurer:

- (1) The issuance or delivery of contracts or certificates of insurance to residents of this state;
- (2) the solicitation of applications for such contracts or certificates of insurance;
- (3) the collection of premiums, whether paid by an employee or an employer or by any other person, membership fees, assessments or other considerations for such contracts or certificates of insurance; or
- (4) any other transaction of insurance business, is equivalent to and shall constitute an appointment by such insurer of the commissioner and his successor or successors in office, to be its true and lawful attorney, upon whom may be served all statements of charges, notices and lawful process in any proceeding instituted in respect to the misrepresentations set forth in K.S.A. 40-2417 under the provisions of the unfair trade practice law, or in any action, suit or proceeding for the recovery of any penalty therein provided, and any such act shall be signification of its agreement that such service of statement of charges, notices or process is of the same legal force and validity as personal service of such statement of charges, notices or process in this state, upon such insurer.

Service of a statement of charges and notices under said unfair trade practice law shall be made by any deputy or employee of the insurance department delivering to and leaving with the commissioner or some person in apparent charge of his office, two (2) copies thereof. Service of process issued by any court in any action, suit or proceeding to collect any penalty under said act provided, shall be made by delivering and leaving with the commissioner, or some person in apparent charge of his office, two (2) copies thereof. The commissioners shall forthwith cause to be mailed by registered mail one of the copies of such statement of charges, notices or process to the defendant at its last known principal place of business, and shall keep a record of all statements of charges, notices and process so served. Such service of statement of charges, notices or process shall be sufficient provided they shall have been so mailed and the defendant's receipt or receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing such letter showing a compliance herewith are filed with the commissioner in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as may be allowed.

Service of statement of charges, notices and process in any such proceeding, action or suit shall in addition to the manner provided in this section be valid if served upon any person within this state who on behalf of such insurer is (1) soliciting insurance, or (2) making, issuing or delivering any contract or certificate of insurance, or (3) collecting or receiving in this state any premium for insurance; and a copy of such statement of charges, notices or process is sent within ten (10) days thereafter by registered mail by or on behalf of the commissioner to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is registered, showing the name of the sender of the letter, the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing the same showing a compliance herewith, are filed with the commissioner in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as the court may allow.

No cease or desist order or judgment by default under this section shall be entered until the expiration of thirty (30) days from the date of the filing of the affidavit of compliance.

Service of process and notice under the provisions of this act shall be in addition to all other methods of service provided by law, and nothing in this act shall limit or prohibit the right to serve any statement of charges, notices or process upon any insurer in any other manner now or hereafter permitted by law.

History: L. 1963, ch. 265, § 5; July 1.