

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 22-1398

BY REPRESENTATIVE(S) Bird and Holtorf, Pico, Ricks;
also SENATOR(S) Kolker and Liston, Coram, Kirkmeyer, Smallwood,
Woodward.

CONCERNING THE DESIGNATION OF REGISTERED AGENTS BY INSURANCE COMPANIES FOR THE PURPOSE OF RECEIVING SERVICE OF PROCESS, AND, IN CONNECTION THEREWITH, REQUIRING THE COMMISSIONER OF INSURANCE TO MAINTAIN A LIST OF SUCH REGISTERED AGENTS AND DESCRIBING CIRCUMSTANCES WHEN SERVICE OF PROCESS MAY BE MADE ON THE COMMISSIONER RATHER THAN ON AN INSURANCE COMPANY'S REGISTERED AGENT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 10-3-107 as follows:

10-3-107. Appointment of registered agent to receive service of process - commissioner required to maintain list - when service of process may be made on commissioner. (1) (a) ~~Except pursuant to the provisions of article 5 of this title, no foreign insurance company, directly or indirectly, shall issue policies, take risks, or transact~~ AN INSURANCE

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

~~COMPANY SHALL NOT ENGAGE IN THE BUSINESS OF INSURANCE IN THIS STATE UNTIL UNLESS IT HAS FIRST APPOINTED, IN WRITING, FILED WITH THE COMMISSIONER TO BE THE TRUE AND LAWFUL ATTORNEY OF SUCH COMPANY IN AND FOR THIS STATE; UPON WHOM ALL LAWFUL PROCESS IN ANY ACTION OR PROCEEDING AGAINST THE COMPANY MAY BE SERVED WITH THE SAME EFFECT AS IF THE COMPANY EXISTED IN THIS STATE. SUCH POWER OF ATTORNEY SHALL STIPULATE AND AGREE, UPON THE PART OF THE COMPANY, THAT ANY LAWFUL PROCESS AGAINST THE COMPANY THAT IS SERVED ON SAID ATTORNEY, OR IN THE COMMISSIONER'S ABSENCE ANY EMPLOYEE IN CHARGE OF THE COMMISSIONER'S OFFICE, SHALL BE OF THE SAME LEGAL FORCE AND VALIDITY AS IF SERVED ON THE COMPANY AND THAT THE AUTHORITY SHALL CONTINUE IN FORCE SO LONG AS ANY LIABILITY REMAINS OUTSTANDING AGAINST THE COMPANY IN THIS STATE. A CERTIFICATE OF SUCH APPOINTMENT, DULY CERTIFIED AND AUTHENTICATED, SHALL BE FILED IN THE OFFICE OF THE COMMISSIONER, AND COPIES CERTIFIED BY THE COMMISSIONER SHALL BE DEEMED SUFFICIENT EVIDENCE, AND SERVICE UPON SUCH ATTORNEY SHALL BE DEEMED SUFFICIENT SERVICE UPON THE PRINCIPAL. THE CERTIFICATE OF APPOINTMENT MAY BE FILED IN AN ELECTRONIC FORMAT THE NAME OF A REGISTERED AGENT IN THIS STATE DESIGNATED TO RECEIVE SERVICE OF PROCESS.~~

(b) THE COMMISSIONER SHALL MAINTAIN A LIST OF REGISTERED AGENTS THAT ARE DESIGNATED TO RECEIVE SERVICE OF PROCESS PURSUANT TO SUBSECTION (1)(a) OF THIS SECTION AND SHALL MAKE INFORMATION FROM THE LIST AVAILABLE TO ANY PERSON UPON REQUEST. EACH INSURANCE COMPANY MUST REPORT ANY CHANGE IN THE REGISTERED AGENT DESIGNATED TO RECEIVE SERVICE OF PROCESS TO THE COMMISSIONER WITHIN TEN DAYS AFTER MAKING THE CHANGE.

(c) THE INFORMATION REQUIRED TO BE FILED WITH THE COMMISSIONER PURSUANT TO THIS SUBSECTION (1) MAY BE FILED IN AN ELECTRONIC FORMAT.

~~(1.5) (a) The provisions of subsection (1) of this section shall not apply to any insurance company maintaining a home office or a regional home office in this state.~~

~~(b) Each insurance company maintaining a home office or regional home office in this state shall file with the commissioner the name of a person designated to receive service of process. The commissioner shall maintain a list of persons so designated and shall make information from such list available to any person upon request. Each company must report~~

~~any change in the name of the person designated to receive service of process to the commissioner within ten days after making such change. The information required to be filed with the commissioner pursuant to this subsection (1.5) may be filed in an electronic format.~~

(2) NOTWITHSTANDING SUBSECTION (1) OF THIS SECTION, SERVICE OF PROCESS MAY BE MADE ON THE COMMISSIONER IF:

(a) AN INSURANCE COMPANY FAILS TO APPOINT OR MAINTAIN A REGISTERED AGENT AS REQUIRED BY SUBSECTION (1) OF THIS SECTION;

(b) AN INSURANCE COMPANY'S REGISTERED AGENT UNDER SUBSECTION (1) OF THIS SECTION CANNOT BE FOUND WITH REASONABLE DILIGENCE; OR

(c) AN INSURANCE COMPANY'S CERTIFICATE OF AUTHORITY IS REVOKED.

(3) IF AN INDIVIDUAL REASONABLY RELIES ON THE LIST OF REGISTERED AGENTS MAINTAINED BY THE COMMISSIONER PURSUANT TO SUBSECTION (1)(b) OF THIS SECTION AND SERVES OTHERWISE VALID PROCESS ON AN INSURANCE COMPANY'S REGISTERED AGENT SO DESIGNATED IN THE LIST, AND IT IS LATER DETERMINED THAT THE REGISTERED AGENT LISTED BY THE COMMISSIONER IS NOT THE CORRECT REGISTERED AGENT PROPERLY DESIGNATED BY THE COMPANY, THEN:

(a) THE INDIVIDUAL MAY SERVE PROCESS UPON THE COMMISSIONER; AND

(b) IF THE INDIVIDUAL USES DUE DILIGENCE TO SERVE THE COMMISSIONER, THE APPLICABLE STATUTE OF LIMITATIONS IS TOLLED FOR THE PERIOD OF TIME BEGINNING WHEN THE INCORRECT REGISTERED AGENT RECEIVED SERVICE OF PROCESS AND ENDING WHEN THE COMMISSIONER RECEIVES SERVICE OF PROCESS.

~~(2)~~ (4) Whenever lawful process against any insurance company is served upon the commissioner, three copies shall be furnished, and ~~he~~ THE COMMISSIONER shall ~~forthwith~~ forward a copy of the process ~~served on him by certified mail, postpaid,~~ to the secretary of the company or, in case of companies of foreign countries, to the resident manager in this country, and

he THE COMMISSIONER shall also forward a copy thereof OF THE PROCESS to the general agent of said company in this state.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect

unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Alec Garnett
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO