

INSURANCE CODE

TITLE 6. ORGANIZATION OF INSURERS AND RELATED ENTITIES

SUBTITLE A. GENERAL PROVISIONS APPLICABLE TO INSURERS AND RELATED  
ENTITIES

CHAPTER 804. SERVICE OF PROCESS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 804.001. DEFINITION. In this chapter, "process" means legal process, including a demand or notice required or permitted by law.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.002. RULES. The commissioner may adopt rules essential for the effective implementation of this chapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.003. FEES. A fee collected under this chapter shall be deposited to the credit of the Texas Department of Insurance operating account for use by the department. The department shall use the money for payment of salaries and other expenses arising from the:

- (1) examination of insurance companies;
- (2) licensure of insurance companies; and
- (3) investigation of violations of the insurance laws of this state.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

SUBCHAPTER B. PERSONS AUTHORIZED TO RECEIVE SERVICE OF PROCESS

Sec. 804.101. DOMESTIC COMPANY. (a) In this section:

(1) "Domestic company" means a company that is domiciled in and authorized to engage in the business of insurance in this state.

(2) "Company" means:

(A) an insurance company, including:

(i) a casualty insurance company;

- (ii) a county mutual insurance company;
  - (iii) an exempt association under Section 887.102;
  - (iv) a farm mutual insurance company;
  - (v) a fire insurance company;
  - (vi) a fraternal benefit society;
  - (vii) a life insurance company;
  - (viii) a Lloyd's plan;
  - (ix) a mutual assessment company;
  - (x) a mutual insurance company other than a mutual life insurance company;
  - (xi) a reciprocal exchange;
  - (xii) a risk retention group;
  - (xiii) a stipulated premium insurance company;
  - (xiv) a title insurance company; and
  - (xv) a carrier providing job protection insurance;
- (B) a group hospital service corporation;
  - (C) a health maintenance organization;
  - (D) a prepaid legal services corporation; or
  - (E) any other company engaged in the business of insurance as a principal.

(b) A domestic company may be served with process by:

(1) serving the president, an active vice president, secretary, or attorney in fact at the home office or principal place of business of the company; or

(2) leaving a copy of the process at the home office or principal business office of the company during regular business hours.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.102. DOMESTIC COMPANY THAT MAINTAINS PRINCIPAL OFFICES OR BOOKS, RECORDS, AND ACCOUNTS OUT OF STATE. (a) In this section, "domestic company" has the meaning assigned by Section 803.001.

(b) As a condition of being authorized to engage in the

business of insurance in this state, a domestic company that under Chapter 803 has moved its principal offices and any part of its books, records, and accounts outside this state and the controlling person of an affiliated insurance holding company system must appoint and maintain as agent for service of process a person in this state on whom a judicial or administrative process may be served.

(c) If a domestic company does not appoint or maintain a person in this state as agent for service of process or the agent cannot with reasonable diligence be found, the commissioner may accept service of process and notify the company in the manner provided by Subchapter C.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.103. AUTHORIZED ALIEN OR FOREIGN COMPANY. (a) In this section, "company" means:

- (1) an insurance company, including a:
  - (A) fire, casualty, or fire and casualty insurance company;
  - (B) fraternal benefit society;
  - (C) life insurance company, including a mutual or nonprofit life insurance company;
  - (D) Lloyd's plan;
  - (E) Mexican casualty insurance company;
  - (F) mutual fire, mutual casualty, or mutual fire and casualty insurance company;
  - (G) reciprocal exchange;
  - (H) risk retention group; and
  - (I) title insurance company;
- (2) a health maintenance organization; and
- (3) any other insurance company, regardless of its type or category, authorized to engage in the business of insurance in this state.

(b) As a condition to being issued a certificate of authority to engage in the business of insurance in this state, an alien or foreign company must appoint a person in this state as agent for service of process on whom any process to be served on the

company may be served.

(c) The commissioner is an alien or foreign company's agent on whom process may be served as provided by Subchapter C if the:

(1) company fails to appoint or maintain an agent under Subsection (b);

(2) agent appointed under Subsection (b) cannot with reasonable diligence be found; or

(3) company's certificate of authority is revoked.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.104. RISK RETENTION GROUP NOT CHARTERED IN THIS STATE. A risk retention group that is not chartered but that is registered in this state under Section [2201.152](#), must designate the commissioner as its agent for service of process and receipt of legal documents.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. [2636](#)), Sec. 2E.003, eff. April 1, 2009.

Sec. 804.105. PERSON IN RECEIVERSHIP. (a) Service of process with respect to an individual, insurer, or other entity for which a court has appointed the liquidator as receiver must be made only on the receiver.

(b) If Subsection (a) applies, service on the commissioner or the secretary of state has no effect.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.106. ELIGIBLE SURPLUS LINES INSURER; POLICY REQUIREMENT FOR INSURER AND AGENT. (a) Each surplus lines insurer that assumes a surplus lines risk under Chapter [981](#) is subject to this section.

(b) Any act of engaging in the business of insurance by an eligible surplus lines insurer:

(1) constitutes the irrevocable appointment of the secretary of state by that insurer as agent for service of process arising from the insurer's engaging in the business of insurance in

this state, other than service of process for an action or proceeding by the department or state; and

(2) signifies the insurer's agreement that service under this subsection has the same effect as personal service on the insurer or the insurer's successor in interest.

(c) An appointment under Subsection (b)(1) is binding on the eligible surplus lines insurer and the insurer's successor in interest.

(d) A policy issued by an eligible surplus lines insurer or a certificate of insurance issued by the surplus lines agent must contain a provision stating the substance of this section and designating the person to whom the commissioner is to mail process. The plaintiff shall supply this address in any citation served under this section.

(e) This section is in addition to any other method provided by law for service of process on a surplus lines insurer, including the method provided by Subchapter C.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.107. UNAUTHORIZED PERSON OR INSURER. (a) In this section, "personal representative" includes an executor or administrator.

(b) Any act of engaging in the business of insurance as provided by Subchapter B, Chapter 101, by an unauthorized person or insurer:

(1) constitutes the irrevocable appointment of the commissioner by that person or insurer as agent for service of process arising from the person's or insurer's engaging in the business of insurance in this state, other than service of process for an action or proceeding by the department or state;

(2) constitutes the irrevocable appointment of the secretary of state by that person or insurer as agent for service of process for an action or proceeding described by Subsection (c) and arising from the person's or insurer's engaging in the business of insurance in this state; and

(3) signifies the agreement of the person or insurer that process served under this subsection and Subsection (d) has

the same effect as personal service in this state on that person or insurer or the personal representative of that person or insurer or if a corporation, the corporation's successor in interest.

(c) The process may be served on the secretary of state only in an action or proceeding brought:

(1) in court by the department or the state against an unauthorized person or insurer; or

(2) before the department by a process against the unauthorized person or insurer.

(d) Service of process on an unauthorized person or insurer may be served on a person in this state that engages, on the behalf of the unauthorized person or insurer, in an act of engaging in the business of insurance in this state as provided by Subchapter B, Chapter 101.

(e) In an action or proceeding in which process is served under Subsection (b) or (d), a plaintiff or complainant is not entitled to a default judgment or determination before the 30th day after the date on which the copy of the process is mailed to the defendant.

(f) This section does not apply to an entity that was an eligible surplus lines insurer under Chapter 981 on the date on which the applicable coverage was issued.

(g) This section does not limit or diminish the right to serve process on a person or insurer in any other manner provided by law.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.108. INSURANCE HOLDING COMPANY SYSTEM LAW. A person, as that term is defined by Section 823.002, that violates Chapter 823 is considered to have appointed the commissioner as agent for service of process on the person for an action or proceeding arising from a violation of that chapter.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

SUBCHAPTER C. PROCEDURES RELATING TO SERVICE OF PROCESS ON  
COMMISSIONER

Sec. 804.201. PROCEDURE FOR SERVING COMMISSIONER. (a) Process served by serving the commissioner under this chapter must be directed to the defendant and include:

(1) for an unauthorized person or insurer, the name and address of the person or insurer to be served;

(2) for a risk retention group, the name and address of the group to be served;

(3) for a surplus lines insurer, the name and address of the insurer to be served;

(4) for an unincorporated association, trust, or other organization formed under Chapter 1505, the name and address of the association, trust, or organization; or

(5) for an authorized company, the name and address of the company as it appears in the department records.

(b) Process may be served on the commissioner:

(1) personally by a disinterested person who is at least 18 years of age leaving two copies of the process at the office of the department during regular business hours with:

(A) the commissioner; or

(B) an appointee of the commissioner authorized to receive process; or

(2) by certified or registered mail.

(c) A fee not to exceed \$50, payable by check or money order to the department, must accompany each process served on the commissioner.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 730 (H.B. 2636), Sec. 2E.004, eff. April 1, 2009.

Sec. 804.202. EFFECT OF SERVICE ON COMMISSIONER. Service on the commissioner acting as agent for service of process is service on the principal.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.203. MAILING PROCESS; CERTIFICATE. (a) The commissioner shall immediately send by registered or certified

mail, return receipt requested, one copy of process served on the commissioner under Section 804.201 to:

(1) the defendant at the address supplied in the process as provided by Sections 804.201(a)(1) through (4); or

(2) if Section 804.201(a)(5) applies, the home office or principal business office of the authorized company, as indicated in the department records.

(b) The commissioner shall send by registered or certified mail, return receipt requested, copies of process served under Section 804.108 to the last known address of the person.

(c) On receiving the return receipt for certified or registered mail, the commissioner shall issue a certificate showing the service and proof of delivery by a return receipt to the plaintiff and clerk of the court or agency where the proceeding is pending.

(d) The commissioner shall provide on request the certificate described by Subsection (c). The commissioner may charge a fee not to exceed \$10 for the certificate.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.204. RECORD. The commissioner shall keep a record of:

(1) each process served on the commissioner under this chapter; and

(2) the action taken by the commissioner regarding the process.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

#### SUBCHAPTER D. PROCEDURES RELATING TO SERVICE OF PROCESS ON SECRETARY OF STATE

Sec. 804.301. PROCEDURE FOR SERVING SECRETARY OF STATE. Process served by serving the secretary of state under Section 804.107 must be served by leaving two copies of the process at the office of the secretary of state during regular business hours with:

(1) the secretary of state; or



(2) an appointee of the secretary of state authorized to receive service.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.302. MAILING PROCESS. The secretary of state shall mail one copy of process in the proceeding served on the secretary of state under Section [804.301](#) to the defendant in a court proceeding or to whom the process in an administrative proceeding is addressed or directed, at the person's or entity's last known home office or principal place of business.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.

Sec. 804.303. RECORD. The secretary of state shall keep a record of each process served on the secretary of state.

Added by Acts 2001, 77th Leg., ch. 1419, Sec. 1, eff. June 1, 2003.