

TITLE 4: ECONOMIC RESOURCES
DIVISION 7: INSURANCE

§ 7305. Unauthorized Insurer (Uniform Unauthorized Insurers Act).

(a) Representing or Placing Insurance with Unauthorized Insurers Prohibited.

No person, corporation, association or partnership may act as agent for any insurer not authorized to transact insurance business in the Commonwealth, or negotiate for, or place, or aid in placing insurance coverage in the Commonwealth for another with any such insurer.

(b) Aiding Unauthorized Insurers. No person, corporation, association or partnership shall aid any unauthorized insurer in adjusting insurance or in transacting insurance business in the Commonwealth, either by fixing rates, by adjusting or investigating losses, by inspecting or examining risks, by acting as attorney-in-fact or as attorney for service of process, or otherwise, except as may otherwise be provided in this division.

(c) Representing or Aiding Insured in Effecting Insurance on Property or Risk in Unauthorized State. No person, corporation, association or partnership may make, negotiate for or place, or aid in negotiating or placing any insurance contract in the Commonwealth for another who is an applicant for insurance covering any property or risk in a state with any insurer not authorized to transact insurance business in the state, wherein such property or risk or any part thereof is located.

(d) Excepted Contracts and Activities. The provisions of the foregoing subsections do not apply to contracts of reinsurance or to contracts of insurance covering risks of transportation and navigation, or to contracts of insurance made through authorized surplus line brokers or agents, nor do they apply to an insurer not authorized in the Commonwealth or its representatives, in investigating, adjusting losses or otherwise complying in the Commonwealth with the terms of its insurance contracts made in a state wherein the insurer was authorized and in which the property or risk was located or residing at the time of the execution of the contract.

(e) Service of Process Upon Unauthorized Insurer.

(1) The transacting of business in the Commonwealth by a foreign or alien insurer without a certificate of authority and the issuance or delivery by the foreign or alien insurer of a policy or contract of insurance to a citizen of the Commonwealth or to a resident thereof, or to a corporation authorized to do business therein, is equivalent to an appointment by the insurer to the commissioner to be its true and lawful attorney, upon whom may be served all lawful process in any action, suit or proceeding arising out of the policy or contract of insurance. The issuance or delivery of the policy or contract of insurance is a signification of its agreement that any such service or process is of the same legal force and validity as personal service of process in the Commonwealth upon it.

(2) Service of process shall be made by delivering and leaving with the commissioner or to some person in apparent charge of the commissioner's office two copies thereof and the payment to the commissioner of any fees prescribed by law. The commissioner shall mail by registered mail one of the copies of the process to the defendant at the defendant's last known principal place of business and shall keep a record of all processes so served upon him. The service of process is sufficient if notice of the service and a copy of the

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process are sent within ten days by registered mail by plaintiff's attorney to the defendant at the defendant's last known principal place of business, 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 plaintiff's attorney showing compliance herewith, are filed with the Clerk of the Court in which the action is pending on or before the date the defendant is required to appear, or within such further time as the court may allow. However, no plaintiff shall be entitled to a judgement by default, or a judgement with leave to prove damages, or a judgement *pro confesso* under this section until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(3) Service of process in any such action, suit or proceedings shall, in addition to the manner provided in subsection (b) of this section, be valid if:

(A) Served upon any person within the Commonwealth who, in the Commonwealth, on behalf of that insurer, is soliciting insurance, or making any contract of insurance or issuing or delivering any policies or written contracts of insurance, or collecting or receiving any premium for insurance; and

(B) A copy of the process is sent within 10 days thereafter by registered mail by the plaintiff's attorney to the defendant at the last known principal place of business of the defendant; and

(C) 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 and the name and address of the person to whom the letter is addressed; and

(D) The affidavit of the plaintiff's attorney showing compliance herewith is filed with the Clerk of the Court in which the action is pending, on or before the date the defendant is required to appear, or with such further time as the court may follow.

(4) Nothing in this section contained shall limit or abridge the right to serve any process, notice, or demand upon any insurer in any other manner now or hereafter permitted by law.

(f) *Institution of Action by Unauthorized Insurer.* No unauthorized insurer shall institute or file, or cause to be instituted or filed, any suit, action or proceeding in the Commonwealth to enforce any right, claim, or demand arising out of the transaction of business in the Commonwealth, until the insurer has obtained a certificate of authority to transact insurance business in the Commonwealth.

(g) *Defense of Action by Unauthorized Insurer.*

(1) Before any unauthorized insurer may file or cause to be filed any pleading in any action, suit, or proceeding instituted against it, the unauthorized insurer shall either:

(A) File with the Clerk of the Court in which the action, suit or, proceeding is pending, a bond with good and sufficient sureties to be approved by the court, in an amount to be fixed by the court sufficient to secure the payment of any final judgement which may be rendered in the action; or

(B) Procure a certificate of authority to transact the business of insurance in the Commonwealth.

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(2) The court in any action, suit, or proceeding in which service is made in the manner provided in subsections (e)(2) or (e)(3) of this section, may order postponements as necessary to afford the defendant reasonable opportunity to comply with the provisions of subsection (g)(1) of this section, and to defend the action.

(3) Nothing in subsection (g)(1) of this section shall prevent an unauthorized insurer from filing a motion to quash a writ to set aside service made in the manner provided in subsection (e)(2) or (e)(3) of this section, on the ground either:

(A) That no policy or contract of insurance has been issued or delivered to a citizen or resident of the Commonwealth, or to a corporation authorized to do business herein; or

(B) That the insurer has not been transacting business in the Commonwealth; or

(C) That the person on whom service was made pursuant to subsection (e)(3) of this section, was not doing any of the acts therein enumerated.

(h) *Penalty.* Any person, corporation, association, or partnership violating any of the provisions of this section may be found guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not less than \$1,000 nor more than \$2,000, or imprisonment of not more than six months, or both such fine and imprisonment.

(i) *Uniformity of Interpretation.* This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those jurisdictions which enact it.

(j) *Short Title.* This section [4 CMC § 7305] may be cited as the Uniform Unauthorized Insurers Act.

Source: PL 3-107, § 19.