72A.37 SERVICE UPON UNAUTHORIZED INSURER.

Subdivision 1. **Acts constituting appointment of commissioner as attorney.** Any of the following acts in this state, effected by mail or otherwise, by any such unauthorized foreign or alien insurer: (1) The issuance or delivery of contracts of insurance to residents of this state; (2) the solicitation of applications for such contracts; (3) the collection of premiums, membership fees, assessments or other considerations for such contracts; or (4) any other transaction of insurance business; is equivalent to and shall constitute an appointment by such insurer of the commissioner of commerce and a 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 section 72A.35 under the provisions of the Unfair Trade Practice Act, 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.

Subd. 2. **Method of service.** Service of a statement of charges and notices under said unfair trade practice act shall be made by any deputy or employee of the Department of Commerce upon the commissioner or some person in apparent charge of the office, in compliance with section 45.028. Service of process issued by any court in any action, suit or proceeding to collect any penalty under said act provided, shall be made in compliance with section 45.028, subdivision 2.

Subd. 3. **Service on agents and certain others.** Service of statement of charges, notices and process in any such proceeding, action or suit shall in addition to the manner provided in subdivision 2 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 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 days thereafter by certified 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 certified, 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 court administrator 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.

Subd. 4. **Cease or desist order.** No cease or desist order under this section shall be entered until the expiration of 30 days from the date of the filing of the affidavit of compliance.

Subd. 5. **Other methods of service.** Service of process and notice under the provisions of sections 72A.33 to 72A.39 shall be in addition to all other methods of service provided by law, and nothing in sections 72A.33 to 72A.39 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: *1967 c 395 art 12 s 37; 1978 c 674 s 60; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1992 c 564 art 2 s 8*