

Bulletin 269

APPOINTMENT OF AGENT FOR SERVICE OF PROCESS

1997 Public Law Chapter 457, effective June 11, 1997, establishes new requirements for insurers to designate agents for service of legal process and for third parties to serve process upon insurers and other carriers (referred to as "insurers" for purposes of this bulletin). The purpose of this Bulletin is to inform insurers of the new standards and to set forth those procedures which the Bureau of Insurance has established to administer the new requirements.

The new requirements pertain to all authorized insurers, fraternal benefit societies, nonprofit hospital, medical service or health care organizations, and health maintenance organizations. They do not pertain to unauthorized insurers, risk retention groups or risk purchasing groups.

Under the new law, the Superintendent will no longer be agent for service of legal process upon authorized insurers. The law requires each licensed insurer to file with the Bureau of Insurance, prior to December 11, 1997, a notice of appointment of a Maine resident attorney or law firm who will be its new agent for service of process. That notice must be accompanied by a copy of a resolution of the board of directors or like governing body of the insurer which shows that those officers who executed the appointment were duly authorized to act on behalf of the insurer. Some insurers currently designate a private sector firm to receive legal process from the Superintendent. The Bureau of Insurance does not believe that it was the intent of the new law to curtail this practice. Any such firm should, however, designate a Maine resident attorney or firm as its' lawful agent in Maine for receipt of service of process.

A uniform form for the notice of appointment is not being prescribed, however, it should include the name of the insurer and the name and street address of the attorney or firm and should be properly executed. Each appointment should be drafted so as to be effective upon its' filing with the Bureau. A non-mandatory, but acceptable, format is enclosed with this Bulletin. A separate notice of appointment and board resolution should be submitted for each member of a group of companies which is a licensed insurer. The filing should be addressed to Financial Analysis Division, Maine Bureau of Insurance, 34 State House Station, Augusta, ME 04333.

Each licensed insurer shall be responsible for keeping its filing current. Any change in the identity of the insurer or of the attorney or law firm designated as agent for service of process should be filed as described above. Changes of address may be filed by letter.

The filing of the notice of appointment of a Maine resident attorney or firm shall replace the designation of the superintendent for agent of service of process which all insurers have previously filed as a condition of licensure. Immediately upon receipt of that filing, the Bureau will respond to public requests as to the identity of the agent for service of process by providing information in accordance with that filing; however, in order to address the transitional problem that some legal process may be in transit at the time an insurer makes the filing, the Bureau will consider the prior appointment of the Superintendent to not terminate for 10 calendar days after receipt of the filing and will continue to process any service received during that time in accordance with prior procedures.

The failure of any insurer to make the requisite filing on or prior to December 11, 1997 will result in penalties as provided by the Maine Insurance Code, including the suspension of certificate of authority and civil penalties.

Inquiries regarding the subject matter of this bulletin should be directed to Thomas M. Record, Senior Staff Attorney, Maine Bureau of Insurance at (207)624-8424 or to Thomas.M.Record@State.Me.US.

DATED: August 20, 1997 _____

BRIAN K. ATCHINSON
Superintendent of Insurance

NOTE: This bulletin is intended solely for informational purposes. It is not intended to establish legal

rights, duties or privileges, nor is it intended to provide legal advice. Readers are encouraged to consult applicable statutes and to contact the Bureau, if they need additional information.