

Insurance Company, Designation of Agents. Agents, Designated by Insurance Companies. Service of Process, Insurance Company to Designate Agents For.

Under the statutes of Montana, insurance companies must designate agents to accept service of process, which designation continues in force so long as any liability exists against the company.

December 15, 1910.

Hon. Harry R. Cunningham,
Commissioner of Insurance,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of December 8th, together with which you submit a power of attorney, being the blank form on which which insurance companies are required to designate agents in this state for the acceptance of the service of process directed against the companies. Section 4062 of the Revised Codes, as amended by Chapter 25, Session Laws of 1909, provides that the designation of agents for the purpose of accepting service of process, shall apply to all insurance companies, except life, which continue in force until all liability against the company in this state, is removed. Section 4121, requires similar action on the part of life insurance companies, except that a lesser number of agents is required and the designation remains in force so long as any liability exists against the company in this state. Section 7, Chapter 139, Laws of 1909, provides for a similar designa-

tion of agents upon whom process may be served, and makes the designation co-extensive with the existence of liability against the company in this state.

These various statutes require of foreign insurance companies doing business in this state, a compliance with the conditions imposed therein of designating certain persons as agents for the acceptance of process directed against the company, and is a fair and reasonable requirement fully within the power of the legislature to impose and notwithstanding the discontinuance by the company of its business in this state, either voluntarily or involuntarily, I believe that the courts would sustain the validity of service made upon the designated agents after the discontinuance of business in this state, so long as any liability which might be made the subject of suit existed against the company.

The form which you submit should, I suggest, be amended in some particulars. The line at the top of the page should be omitted entirely. Below this line is found the words "power of attorney," this line should, in my opinion read, "designation of attorney; the words "auditor's office," should either be changed to "office of insurance commissioner" or "office of auditor and commissioner of insurance officio;" at the right of page "power of attorney to acknowledge service of process" should read "power of attorney to accept service of process;" before the words "in witness whereof" I suggest that you remove the period following the word "substitute" and add these words "and so long as any debt, liability, obligation or cause of action shall exist against said company in the state of Montana." The law governing the appointment of agents for the purpose of accepting service of process by corporations other than insurance corporations requires an acceptance of such designation by the person so named. I, therefore, suggest to you that upon the same blank you provide space for a form of acceptance of the designation as agent by the persons named in the instrument and that you require agents to sign such acceptance. It is, of course, not necessary for you or your successors in office to file any formal acceptance of agency as in all cases the insurance commissioner is designated officially by the present statutes as an agent of the company for this purpose.

Yours very truly,

ALBERT J. GALEN,

Attorney General.