



Ohio Revised Code

Section 3921.35 Service of process upon agent.

Effective: September 6, 2012

Legislation: House Bill 341 - 129th General Assembly

(A) Any fraternal benefit society authorized to transact business in this state shall have and maintain an agent upon whom may be served any process, notice, or demand required or permitted by law to be served upon a society.

The agent required under this section may be a natural person residing in this state or a corporation holding a license under the laws of this state that is authorized by its articles of incorporation to act as an agent and that maintains a business address in this state. A statutory agent is not required to be a licensed insurance agent.

(B) The written appointment of an agent shall be in the form the superintendent of insurance prescribes and may include a consent to service of process.

The appointment shall set forth the name and complete address of the agent. The agent shall reside or maintain a business address within this state.

(C) The superintendent shall keep a record of the fraternal benefit societies transacting business in this state and the name and address of their respective agents.

(D)(1) If any agent dies, moves out of the state, or resigns, the society immediately shall appoint another agent and file with the superintendent a written appointment as described in division (B) of this section.

(2) If an agent changes the agent's address, the society or agent immediately shall notify the superintendent of the change, and shall set forth the agent's new address, on a form prescribed by the superintendent.

(E) An agent may resign by filing with the superintendent a written notice signed by the agent. The agent shall send a copy of the notice to the society at the current or last known address of the



society's principal office prior to the date the notice is filed with the superintendent.

The notice required under this division shall set forth the society's name, the current or last known address of the society, the name and address of the agent, the resignation of the agent, and a statement that a copy of the notice has been sent to the society and the date the copy was sent.

The agent's authority to represent the fraternal benefit society shall terminate thirty days after the notice is filed with the superintendent under this division.

(F) A society may revoke the appointment of an agent by filing with the superintendent a written appointment of another agent and a statement that the appointment of the former agent is revoked. The authority of the agent whose appointment has been revoked shall terminate thirty days after the notice required under this division is filed with the superintendent.

(G) Any process, notice, or demand required or permitted by law to be served upon a society may be served by delivering a copy of the process, notice, or demand to the agent of record at the address appearing in the superintendent's records.

If the agent cannot be found, the agent no longer has that address, or the society has failed to maintain an agent as required by this section, the party desiring that the process, notice, or demand be served, or its agent, may file with the superintendent an affidavit stating that one of the foregoing conditions exists and stating the most recent address of the society that the party, after diligent search, has been able to ascertain.

Upon the filing of the affidavit, service of process, notice, or demand may be initiated upon the superintendent as the society's agent by delivering two copies of the process, notice, or demand to the superintendent. The superintendent shall give notice to the society at its principal office as shown in the superintendent's records or at the address set forth in the affidavit. The superintendent shall give notice by regular mail with a copy of the process, notice, or demand enclosed. After the superintendent has mailed the appropriate documents, service upon the society is deemed complete.

(H) The superintendent shall keep a record of each process, notice, and demand delivered to the superintendent under division (G) of this section or any other law of this state that authorizes



service upon the superintendent.

(I) This section does not limit or affect the right to serve any process, notice, or demand upon a society in any other manner permitted by law.

(J) A society shall include a fee of five dollars with any change of agent appointment or change of address. This division does not apply to an agent appointment filed with an original application for a certificate of authority.

(K) If a society fails to appoint or maintain an agent or to notify the superintendent of an agent's change of address, the superintendent shall provide notice of that failure to the society by certified mail. If the society does not remedy the society's failure within thirty days after the date of the mailing of the notice or within any additional time the superintendent allows, the superintendent shall fine the society not less than twenty-five dollars nor more than two hundred dollars per violation. The superintendent also may charge a society a fifty-dollar fee for each time the superintendent is required to give notice to the society in accordance with division (G) of this section.

(L) The superintendent shall pay all moneys collected by the superintendent in accordance with this section into the state treasury to the credit of the department of insurance operating fund.