

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-1

ADMINISTRATIVE PROCEDURES

Emergency Regulation 22-E-14

CONCERNING APPOINTMENT OF INSURANCE COMPANY REGISTERED AGENTS

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Section 1 Authority

This emergency regulation is being promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-108(7), 10-1-109, 10-3-107, and 10-3-109(3), C.R.S.

Section 2 Scope and Purpose

The purpose of this emergency regulation is to ensure compliance with the requirement for insurance companies engaged in the business of insurance in this state to maintain a registered agent in the state as required by § 10-3-107, C.R.S. The appointment of a registered agent in accordance with this regulation will also apply to insurers' obligations under § 10-3-1117, C.R.S.

The Division of Insurance (Division) finds, pursuant to § 24-4-103(6)(a), C.R.S., that immediate adoption of this regulation is imperatively necessary for the preservation of public health, safety, or welfare. This emergency regulation is necessary to ensure compliance with HB 22-1398 and to provide an efficient and effective means of service of process and service of auto liability disclosure requests on insurance companies. On May 27, 2022, the Governor signed HB 22-1398, which becomes effective August 9, 2022. The time between the Governor signing the bill and the effective date of the new provisions is insufficient time for the Division to comply with the requirements of § 24-4-103, C.R.S. Insurance companies subject to the new law have actively solicited guidance from the Division on the implementation of the new provisions. In an effort to ensure smooth implementation and to provide up to date service of process instructions, the Division will be implementing a transition phase from August 9, 2022 to December 1, 2022. For these reasons, compliance with the requirements of § 24-4-103, C.R.S., would be contrary to the public interest.

Section 3 Applicability

This regulation shall apply to all insurance companies engaged in the business of insurance in this state.

Section 4 Rules

- A. All insurance companies holding a Certificate of Authority in this state must file with the Commissioner a fully executed Uniform Consent to Service of Process form ([Form 12](#)), available on [NAIC's Uniform Certificate of Authority Application](#) website, to name a registered agent in this state to receive service of process.
1. Domestic insurance companies should file a Form 12 – Uniform Consent to Service with the Division. Foreign companies must submit a Form 12 through the National Association of Insurance Commissioners' Uniform Certificate of Authority Application (UCAA) through the Corporate Amendment App. See <https://content.naic.org/industry/ucaa>.
 2. It is the intent of the Division that the Division will not serve as the registered agent in this state for a company holding a Certificate of Authority.
 3. Insurance companies should also file with the Colorado Secretary of State to conform the registered agent between the corporate (Secretary of State) filing and the Uniform Consent to Service of Process (Division of Insurance). See https://www.coloradosos.gov/pubs/business/forms_main.html.
 4. Note: Filing the Form 12 with the Division of Insurance **WILL NOT** change the registered agent with the Colorado Secretary of State. Each company is responsible for recording the change of registered agent for corporate purposes with the Secretary of State.
- B. The Division will provide a transition period from August 9, 2022, through December 1, 2022, for companies currently holding a Certificate of Authority to file an updated Form 12 designating a registered agent in this state.
1. All companies must file a Form 12 to name a registered agent in this state by December 1, 2022.
 2. Any company applying for a Certificate of Authority after August 9, 2022, must designate a registered agent in this state before a Certificate of Authority will be issued.
- C. Complete Form 12
1. A fully and properly completed Form 12 must include the following to designate a registered agent in Colorado:
 - a. Applicant Company Officers' Certification and Attestation;
 - b. Name of the registered agent (entity);
 - c. Phone number of the registered agent;
 - d. Email address of the registered agent;
 - e. Colorado mailing address of the registered agent;
 - f. Colorado street address of registered agent and
 - g. Resolution authorizing Appointment of Attorney.
 2. An acknowledgement that the registered agent information has been received and recorded in the Division's records will be sent to the company.
 3. Failure to file a correct and complete Form 12 will subject a company to the penalties established under § 10-3-109(3), C.R.S. Penalties for failing to file a correct and complete Form 12 will be assessed starting January 1, 2023.

- D. On the first business day of every month, the Division will post the revised list of registered agents on the Division's website.

Section 5 Service of Process

- A. During the transition period of August 9 to December 1, 2022, on the last business day of each week, the Division will post a listing of all insurance companies' registered agents as modified by the filing and processing of Form 12s since the posting of the prior list.
- B. When service is made on the Division, the Division will determine if the insurance company has designated a registered agent (other than the Division) and will handle the services follows:
1. When the insurance company has designated a registered agent, and the registered agent appears on the list published on the Division's website, the Division will reject the service of process.
 2. If the insurance company has designated a registered agent but the change has not been published on the Division's website, the Division will accept the service of process and send a copy of it to the secretary of the company and a copy to the registered agent.
 3. If the insurance company has not designated a registered agent, the Division will accept service of process and send a copy of it to the secretary of the company. Accompanying the service will be notification that unless the company files a Form 12 to designate a registered agent in the State of Colorado by December 1, 2022, the Division will begin enforcement proceedings.

Section 6 Auto Liability Disclosures

- A. The Division will modify its online auto liability disclosure application to remove companies who have filed a Form 12 with a registered agent in Colorado. To request an auto liability disclosure, the requesting party shall submit the request to the registered agent of the insurance company. Hard copy requests for auto liability disclosure where the insurance company has designated a registered agent will be rejected and returned to the requesting party.
- B. During the transition period of August 9th to December 1st, the requesting party must submit the request to the registered agent identified in the Division's weekly published listing regardless of any filings made with the Secretary of State or the filing of Form 12s that have not yet been processed by the Division. The Division will handle liability disclosure requests as outlined in 5.B through December 1st.
- C. Auto liability disclosures submitted to the Division, either online or in hard copy, where the insurance company has not filed a Form 12 to designate a registered agent other than the Division will be sent to the company contact email address currently on file with the Division. Notification will accompany the service that unless the company files a Form 12 to designate a registered agent in the State of Colorado, the Division will begin enforcement proceedings.

Section 7 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 8 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 9 Effective Date

This emergency regulation shall become effective August 9, 2022.

Section 10 History

Emergency regulation effective August 9, 2022