

## CHAPTER 46

## S.B. No. 357

## AN ACT

relating to service of process on certain insurers.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. PURPOSE. The purpose of this Act is to clarify and consolidate the procedure for effecting service of process on companies doing the business of insurance in the State of Texas, whether licensed or not, to provide general instructions for unique circumstances, and to establish fees for service of legal process and related documentation.

SECTION 2. Chapter 1, Insurance Code, as amended, is amended by adding Article 1.36 to read as follows:

**Art. 1.36. SERVICE OF PROCESS**

**Sec. 1. DEFINITION.** *In this article, "commissioner" means the Commissioner of Insurance.*

**Sec. 2. SERVICE ON DOMESTIC INSURANCE COMPANIES LICENSED BY STATE BOARD OF INSURANCE.** (a) *Except as provided by Subsection (b) of this section, a domestic insurance carrier, including a casualty, county mutual, farm mutual, fire, fraternal, life, Lloyd's, mutual other than life, reciprocal, stipulated premium, or title insurance company, and any mutual assessment company, carrier providing job protection insurance, risk retention group, group hospital service corporation, health maintenance organization, prepaid legal services corporation, and exempt association under Article 14.17 of this code authorized to conduct the business of insurance in this state, and any other company domiciled in Texas and engaged in the business of insurance as a principal, may be served with legal process, notice, or demand required or permitted by law by serving the president, any active vice-president, secretary, or attorney in fact at the home office or principal place of business of that carrier or by leaving a copy of the process, notice, or demand at the home office or principal business office of the carrier during regular business hours.*

(b) *A domestic carrier and the controlling person of the affiliated insurance holding company system that has moved its principal offices and any portion of its books, records, and accounts outside this state under Article 1.28 of this code must have appointed the commissioner as their attorney for service for all judicial and administrative processes, notices, or demands.*

**Sec. 3. PROCEDURE FOR SERVICE OF PROCESS, NOTICE, OR DEMAND ON COMMISSIONER OF INSURANCE FOR DOMESTIC INSURERS APPROVED TO OPERATE UNDER ARTICLE 1.28, FOREIGN AND ALIEN INSURANCE COMPANIES, RISK RETENTION GROUPS, UNAUTHORIZED PERSONS OR INSURERS, ORGANIZATIONS FORMED UNDER ARTICLE 3.71, AND SURPLUS LINES INSURERS.** (a) *If service of legal process, notice, or demand is to be effected on a company or organization by serving the commissioner, the process, notice, or demand may be served personally by a disinterested person over 18 years of age by leaving at the offices of the State Board of Insurance during regular business hours two copies of the process, notice, or demand with the commissioner or with any appointee of the commissioner authorized to receive process or by certified or registered mail.*

(b) *A fee of not more than \$50, payable by check or money order to the State Board of Insurance, must be provided for each legal process, notice, or demand served on the commissioner, and the fee must accompany each service of legal process, notice, or demand filed with the commissioner.*

(c) *The citation must be directed to the defendant insurance company or organization, served through the commissioner, and must include the following:*

(1) *for a licensed company, the name and address of the company as it appears in the records of the State Board of Insurance;*

(2) for an unauthorized person or insurer, the name and address of the person or insurer to be served;

(3) for a surplus lines insurer, the name and address of the company to be served;

(4) for a risk retention group, the name and address of the group to be served; or

(5) for an unincorporated association, trust, or other organization formed under Article 3.71 of this code, the name and address of the association, trust, or organization.

(d) If the process, notice, or demand is served on the commissioner, he shall immediately have one copy forwarded by certified or registered mail to:

(1) the home office or principal business office of the company, if licensed, as indicated in the records of the State Board of Insurance; or

(2) the defendant at the address supplied in the citation as provided by Subdivision (2), (3), (4), or (5) of Subsection (c) of this section.

(e) The commissioner shall keep a record of any process, notice, or demand served on him under this article and the action taken by him with reference to the process, notice, or demand.

(f) The commissioner shall provide on request a certificate issued by him showing the service and proof of delivery by a return receipt for certified or registered mail. The commissioner may charge a fee not to exceed \$10 for this certificate.

(g) Service on the commissioner acting as attorney for service constitutes service on the principal.

(h) Fees collected under this article must be deposited in the State Treasury to the credit of the State Board of Insurance operating fund for the use and benefit of the State Board of Insurance as provided by legislative appropriation. The money deposited shall be used for the payment of salaries and other expenses arising out of and in connection with the examination of insurance companies, the licensing of insurance companies, and investigations of violations of the insurance laws of this state.

**Sec. 4. SERVICE OF PROCESS ON FOREIGN AND ALIEN INSURANCE COMPANIES LICENSED BY STATE BOARD OF INSURANCE.** (a) As a condition of being issued a certificate of authority to conduct the business of insurance in this state, foreign or alien insurance carriers, including a life, mutual life, nonprofit life, fire, mutual fire and/or casualty, fire and casualty, casualty, Mexican casualty, Lloyd's, reciprocal, fraternal, and title insurance company, and a health maintenance organization, risk retention group, and any other foreign or alien insurance company regardless of its type or category authorized to conduct the business of insurance in this state, shall appoint a person in this state as attorney for service of process on whom any process, notice, or demand required or permitted by law to be served on the insurance company may be served.

(b) If a foreign or alien insurance company authorized to transact business in this state fails to appoint or maintain an attorney for service in this state, or if an attorney for service cannot with reasonable diligence be found, or if the certificate of authority of a foreign insurance company is revoked, the commissioner shall be the attorney for service of the company on whom process, notice, or demand may be served as provided by Section 3 of this article.

**Sec. 5. SERVICE OF PROCESS ON RISK RETENTION GROUP REGISTERED WITH STATE BOARD OF INSURANCE.** (a) A risk retention group registered in this state under Article 21.54 of this code must designate the commissioner as its agent for service of process and receipt of legal documents.

(b) Procedures and fees for service of process on a risk retention group are governed by Section 3 of this article.

**Sec. 6. SERVICE OF PROCESS ON PERSONS, INSURERS, OR OTHER ENTITIES IN RECEIVERSHIP.** If a court of competent jurisdiction has appointed the liquidator as receiver for any person, insurer, or other entity, service of process with respect to that person, insurer, or other entity must be made on the person designated

liquidator as receiver. This service of process has no effect if it is made on the commissioner or the secretary of state.

**Sec. 7. SERVICE OF PROCESS ON COMMISSIONER ON BEHALF OF UNAUTHORIZED PERSONS OR INSURERS.** (a) Any act of doing an insurance business as provided by Section 2 of Article 1.14-1 of this code by an unauthorized person or insurer is equivalent to and constitutes an irrevocable appointment of the commissioner by that person or insurer, binding on him, his executor, administrator, or personal representative or, if a corporation, successor in interest to be the lawful attorney for service of that person or insurer. The commissioner may be served any process, notice, or demand arising out of doing an insurance business in this state by that person or insurer, except in an action, suit, or proceeding by the State Board of Insurance or by the state.

(b) Any act of doing an insurance business as provided by Section 2 of Article 1.14-1 of this code by any unauthorized person or insurer signifies the person's or insurer's agreement that legal process served under this section has the same legal force and validity as personal service of process in this state on that person or insurer or his executor, administrator, or personal representative or, if a corporation, its successor in interest.

(c) In addition to service under Section 3 of this article and Subsection (a) of this section, service of process, notice, or demand on an unauthorized person or insurer is valid if served on any person in this state who on behalf of that unauthorized person or insurer is doing any act of an insurance business as provided by Section 2 of Article 1.14-1 of this code.

(d) A plaintiff or complainant is not entitled to a judgment by default in any action, suit, or proceeding in which process, notice, or demand is served under this section earlier than the 30th day after the date on which the copy of the process, notice, or demand served is mailed to the defendant.

(e) The courts of this state have jurisdiction over any person defined by Subsection (i) of Section 2 of Article 21.49-1 of this code, who is not resident, domiciled, or authorized to do business in this state and who files a statement with the commissioner under Article 21.49-1 of this code and over actions involving any person defined by Subsection (i) of Section 2 of Article 21.49-1 of this code arising out of violations of that article. Any person defined by Subsection (i) of Section 2 of Article 21.49-1 of this code is considered to have performed acts equivalent to and constituting an appointment of the commissioner by that person to be his lawful attorney on whom process in any action, suit, or proceeding arising out of violations of Article 21.49-1 of this code may be served. Copies of process shall be served on the commissioner and transmitted by the commissioner by registered or certified mail to that person at his last known address. Procedures and fees for service of process are governed by Section 3 of this article.

**Sec. 8. SERVICE OF PROCESS, NOTICE, ORDER, OR PLEADING ON SECRETARY OF STATE ON BEHALF OF UNAUTHORIZED PERSONS AND INSURERS.**

(a) Service of process may be effected on the secretary of state only in those actions, suits, or other proceedings brought:

(1) in court by the State Board of Insurance or by the state against unauthorized persons or insurers; or

(2) before the State Board of Insurance by notice, order, pleading, or process against unauthorized persons or insurers.

(b) Any act of doing an insurance business as provided by Section 2 of Article 1.14-1 of this code by any unauthorized person or insurer is equivalent to and constitutes an irrevocable appointment of the secretary of state by that person or insurer, binding on him, his executor, administrator, or personal representative or, if a corporation, successor in interest to be the lawful attorney for service of that person or insurer. The secretary of state may be served legal notice, order, pleading, or other process in any proceeding described by Subsection (a) of this section that arises out of doing an insurance business in this state by that person or insurer.

(c) Any act of doing an insurance business as provided by Section 2 of Article 1.14-1 of this code by any unauthorized person or insurer signifies that such person or insurer agrees that a notice, order, pleading, or other legal process in the proceeding described by Subsection (a) of this section has the same legal force and validity as personal service of process in this state on that person or insurer or his executor, administrator, or personal representative or, if a corporation, its successor in interest.

(d) Service of a notice, order, pleading, or other process in a proceeding described by Subsection (a) of this section must be made by leaving at the office of the secretary of state during regular business hours two copies of the notice, order, pleading, or other process. The copies may be left with the secretary of state or with any appointee of the secretary of state authorized to receive service.

(e) The secretary of state shall mail one copy of the notice, order, pleading, or other process in the proceeding to the defendant in a court proceeding or to whom the notice, order, pleading, or process in an administrative proceeding is addressed or directed at the person's or entity's last known home office or principal place of business. The secretary of state shall keep a record of the notices, orders, pleadings, and other process served on him.

(f) A plaintiff or complainant is not entitled to a judgment or determination by default in any court or administrative proceeding in which a notice, order, pleading, or other process in proceedings is served under this section earlier than the 30th day after the date the copy of the service is mailed to the defendant.

Sec. 9. **ENFORCEMENT BY ATTORNEY GENERAL.** The attorney general, on request of the State Board of Insurance, may proceed in the courts of this or any other state or in any federal court or agency to enforce an order or decision resulting from a court proceeding or an administrative proceeding before the State Board of Insurance under Sections 7 and 8 of this article.

Sec. 10. **OTHER METHODS OF SERVICE.** Sections 7 and 8 of this article do not limit or abridge the right to serve process, notice, other pleading, or demand on any person or insurer in any other manner provided by law.

Sec. 11. **UNAUTHORIZED PERSON'S OR INSURER'S DEFENSE OF ACTION.** (a) Before an unauthorized person or insurer files or has filed any pleading in any court action, suit, or proceeding or in an administrative proceeding before the State Board of Insurance instituted against that person or insurer through service of process, notice, order, demand, or pleading under Section 7 or 8 of this article, that person or insurer must either:

(1) deposit with the clerk of the court in which the action, suit, or proceeding is pending cash or securities or a bond with good and sufficient sureties to be approved by the court in an amount to be determined by the court sufficient to secure the payment of any final judgment that may be rendered in that court proceeding; provided that the court may in its discretion issue an order dispensing with the deposit or bond if the insurer makes a showing satisfactory to that court that it maintains in a state of the United States funds or securities, in trust or otherwise, that are sufficient and available to satisfy any final judgment that may be entered in the court action, suit, or proceeding; or

(2) deposit with the chief clerk of the State Board of Insurance in administrative proceedings before that board if required by statute cash or securities or a bond with good and sufficient sureties approved by the board in an amount determined by the board to be sufficient to secure the payment of any final order that may be rendered in the administrative proceeding before the board; provided that the board may in its discretion issue an order dispensing with the deposit or bond if the insurer makes a showing satisfactory to the board that the insurer maintains in a state of the United States funds or securities, in trust or otherwise, sufficient and available to satisfy any final order that may be entered in an administrative proceeding before the board.

(b) A court in any action, suit, or proceeding in which service is made as provided by Section 7 of this article, or the State Board of Insurance in any administrative proceeding in which service is made as provided by Section 8 of this article, may order

any postponement necessary to afford the defendant reasonable opportunity to comply with Subsection (a) of this section and to defend that court action or administrative proceeding.

(c) Subsection (a) of this section does not prevent an unauthorized person or insurer from filing a motion to quash a writ or to set aside service made under Section 7 or 8 of this article on the ground that the unauthorized person or insurer has not done any of the acts enumerated in this article.

Sec. 12. *SERVICE OF PROCESS ON SURPLUS LINES INSURERS.* (a) A surplus lines insurer may be sued on any cause of action arising in this state under any surplus lines insurance contract issued by it or under any certificate, cover note, or other confirmation of that insurance issued by the surplus lines agent, under the same procedure provided for unauthorized insurers in Sections 3, 7, and 8 of this article.

(b) Any policy issued by the surplus lines insurer or any certificate of insurance issued by the surplus lines agent must contain a provision stating the substance of this section and designating the person to whom the commissioner is to mail process. This address must be supplied by the plaintiff in the citation that is served.

(c) Each surplus lines insurer assuming a surplus lines risk under this article is considered to have made itself subject to the terms of this section.

(d) This section is cumulative of any other methods that may be provided by law for service of process on a surplus lines insurer, including Section 3 of this article.

Sec. 13. *RULES.* The State Board of Insurance may promulgate rules as may be determined by it to be essential for the effective implementation of this article.

SECTION 3. Articles 7.01, 8.24, and 15.14, Insurance Code, are amended to read as follows:

Art. 7.01. *VENUE OF SUIT ON BOND*~~[; SERVICE]~~. If any suit shall be instituted upon any bond or obligation of any insurance company licensed in this State and having authority to act as surety and guarantor of the fidelity of employees, trustees, executors, administrators, guardians or others appointed to, or assuming the performance of any trust, public or private, under appointment of any court or tribunal, or under contract between private individuals or corporations, or upon any bond or bonds that may be required to be filed in any judicial proceedings, or to guarantee any contract or undertaking between individuals, or between private corporations, or between individuals or private corporations and the State and municipal corporations or counties or between corporations and individuals, or on any bond or bonds that may be required of any state official, district official, county official or official of any school district or of any municipality, the proper court of the county wherein said bond is filed shall have jurisdiction of said cause. Service therein shall be had *as provided by Section 2, 3, or 4, Article 1.36 of this code, as applicable*~~[, either upon the attorney of said company, by law required to be appointed, or upon the Chairman of the State Board of Insurance, and such service shall be to all intents valid and effectual as service upon said company]~~. Such guaranty, fidelity and surety companies shall be deemed resident of the counties wherever they may do business, and the doing or performing of any business in any county shall be deemed an acceptance of the provisions of this Act.

Art. 8.24. *MEXICAN CASUALTY INSURANCE COMPANIES; POLICIES IN FORCE WHILE INSURED PERSONS OR PROPERTY ARE IN MEXICO; REQUIREMENTS FOR ISSUANCE IN STATE; PREMIUM TAX; RATES; ENFORCEMENT.* Any insurance carrier lawfully organized under the laws of the Republic of Mexico, or under the laws of any state thereof, and duly authorized by such laws and by its charter or articles of association and by current license of the appropriate insurance regulatory authority of such Republic or any state thereof to underwrite risks of the kinds and in the circumstances hereinafter mentioned, may issue in the State of Texas, under license of the Board of Insurance Commissioners of Texas, policies of insurance affording any and all kinds of automobile coverage, accident insurance and/or other casualty coverage, upon persons and/or personal property, to be in force only while such persons and/or personal property shall be physically within the boundaries of the Republic of Mexico, by complying with the following requirements:

(a) Such insurance carrier shall file with the Board of Insurance Commissioners of the State of Texas (called Board) a written application for certificate to do business in this State, accompanied by a correct English translation of its charter and by-laws, duly certified by two of its principal officers and by the insurance regulatory officials under whose supervision it operates in the Republic of Mexico, and of all of its policy forms, application forms, claim forms, and other forms of every nature which it uses or expects to use in underwriting the coverage hereby authorized to be written in Texas, all of which shall be subject to the approval of such Board.

(b) Before admission, and annually thereafter, such carrier shall also file with such Board a photostatic copy of its current license or licenses to operate in the Republic of Mexico, and shall file a copy of its latest financial reports or statements, and of the latest examination reports of its affairs and financial condition by the insurance regulatory authorities under which it operates in Mexico.

(c) Such carrier shall deposit with the Treasurer of the State of Texas at least Twenty-five Thousand (\$25,000.00) Dollars in lawful money of the United States or in securities eligible for other casualty insurers licensed in Texas and approved by such Board, which deposit shall be liable for all lawful claims and final judgments against such insurance carrier, including taxes due the State of Texas, and policy claims and other debts and obligations incurred in the course of operations hereunder as provided herein, and such deposit shall be kept replenished from time to time with like cash or approved securities to maintain a minimum total deposit of Twenty-five Thousand (\$25,000.00) Dollars. Such deposit or the unencumbered balance thereof shall be returned to such carrier with approval of such Board upon withdrawing from the business authorized hereby and upon a showing to such Board that all of its policies written in Texas hereunder have expired or have been cancelled and that all of its claims and obligations upon policies written in this State which would constitute lawful charges against such deposits have been satisfied.

(d) ~~[Such carrier shall file with the Board a power of attorney, in a form designated by the Board, designating an agent or attorney in fact upon whom legal process may be served within this State, which appointment shall continue until revoked and a successor duly appointed by the carrier, and further authorizing service of legal process upon the Chairman of the Board of Insurance Commissioners of Texas and his successors in office as alternate attorney in fact for such carrier upon whom service of process may be had in event such process cannot be served upon the designated agent or attorney in fact for service as herein provided, upon suits for any alleged liability incurred in operations of the carrier pursuant to this law, with like effect as if such process had been served personally upon the appropriate persons, representatives or officials of such carrier within its home jurisdiction in the Republic of Mexico. In event process shall be served upon the Chairman of the Board, as provided above, he shall immediately give written notice thereof to such carrier and shall forward such process by registered mail, postage prepaid, and properly addressed to the president of such carrier at its home office as furnished to the Board; and no judgment by default shall be taken in any such cause until after the expiration of forty (40) days after said process and notice shall have been received at the home office of such carrier. Until rebutted, the presumption shall obtain that such notice and process was received at the home office of the carrier on the fifth (5th) day after being deposited in the mail at Austin, Texas, as herein provided.]~~ The State Treasurer, upon the approval of the Board, shall pay from the deposit required herein any unsatisfied final judgment obtained against such carrier in any court of competent jurisdiction in Texas based upon such substituted service as authorized by Article 1.36 of this code [herein].

(e) Such carrier shall pay the State of Texas annually a premium or occupation tax based solely upon its gross premium receipts from insurance policies issued by it in Texas which cover resident citizens of Texas or property or risks principally domiciled or located in this State, as shown by reports made to the Board each year, upon the same percentage rate, and in the same manner, as other licensed insurance carriers in Texas writing accident and casualty coverage. Each such carrier likewise shall pay such other maintenance fees, charges and taxes and upon the same basis as other licensed insurance carriers writing accident and casualty coverage in Texas are required by law to pay; and

shall make the same reports as are required of such other insurance carriers, but in such adapted forms as may be prescribed by the Board of Insurance Commissioners for such purposes.

(f) The coverage hereby authorized shall be underwritten only at rates prescribed or approved from time to time by such Board.

(g) Such Board shall have the authority to examine at any or all times, at the expense of such carrier, the affairs and condition and all books and records of such carrier for the purpose of ascertaining its financial condition and solvency, and its compliance with the applicable laws of this State and of its home jurisdiction.

(h) Such carrier shall file in English a document executed by its officials expressly accepting the terms of this article and agreeing that such Board may at any time in its lawful discretion revoke, suspend or refuse to grant or renew the license of such Board to such carrier to conduct in Texas the business hereby authorized, upon a determination by such Board that it is insolvent or in dangerous financial condition, or that it has violated any applicable law of this State or of its home jurisdiction.

(i) It shall underwrite business in Texas only through its resident Texas agents thereunto duly authorized by it in writing and duly licensed by such Board under the provisions of Article 21.14 of this code, as the same now exists or as it may be amended hereafter, and the license issued to such Texas agents shall specially authorize them to write for such foreign carriers complying herewith the risks authorized hereby.

(j) The State Board of Insurance shall have authority to suspend or revoke the certificate of authority of any insurance carrier authorized to do business in Texas under this Article, if the Board, after notice and opportunity for hearing, shall find that such carrier has systematically, with neglect and with willful disregard, failed to comply with its obligations derived from the contracts of insurance, and the laws applicable thereto, as contained in policies issued in the State of Texas.

Any carrier aggrieved by an order of the Board hereunder shall be entitled to appeal therefrom pursuant to the provisions of Article 1.04(f) of the Insurance Code.

Art. 15.14. FOREIGN MUTUAL COMPANY. Any such mutual insurance company organized outside of this State and authorized to transact the business of insurance on the mutual plan in any state, district or territory, shall be admitted and licensed to transact the kinds of insurance authorized by its charter or articles to the extent and with the powers and privileges specified in this chapter when it shall be solvent under this chapter, and shall have complied with the following requirements:

(a) Filed with the State Board of Insurance [~~Commissioners~~] a copy of its by-laws certified to by its secretary;

(b) Filed with the said Board a certified copy of its charter or articles of incorporation;

(c) Appointed the *Commissioner of Insurance* [~~Chairman of the said Board~~] its agent for the service of process *as provided by Article 1.36 of this code* [~~in any action, suit or proceedings in any court of this State, which authority shall continue as long as any liability shall remain outstanding in this State~~];

(d) Filed a financial statement under oath, in such form as the Board may require, and have complied with the other provisions of law applicable to the filing of papers and furnishing information by stock companies on application for authority to transact the same kind of insurance;

(e) Its name shall not be so similar to any name already in use by any such existing corporation, company or association organized or licensed in this State as to be confusing or misleading.

SECTION 4. Subsection (a), Section 4, Texas Health Maintenance Organization Act, as amended (Article 20A.04, Vernon's Texas Insurance Code), is amended to read as follows:

(a) Each application for a certificate of authority shall be on a form prescribed by rule of the commissioner and shall be verified by the applicant, an officer, or other authorized representative of the applicant, and shall set forth or be accompanied by the following:

- (1) a copy of the basic organizational document, if any, of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;
- (2) a copy of the bylaws, rules and regulations, or similar document, if any, regulating the conduct of the internal affairs of the applicant;
- (3) a list of the names, addresses, and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing body or committee, the principal officer in the case of a corporation, and the partnership or members in the case of a partnership or association;
- (4) a copy of any independent or other contract made or to be made between any provider, physician, or persons listed in Paragraph (3) hereof and the applicant;
- (5) a statement generally describing the health maintenance organization, its health care plan or plans, facilities, and personnel;
- (6) a copy of the form of evidence of coverage to be issued to the enrollee;
- (7) a copy of the form of the group contract, if any, which is to be issued to employers, unions, trustees, or other organizations;
- (8) a financial statement showing the applicant's assets, liabilities, and sources of financial support; if the applicant's financial affairs are audited by an independent certified public accountant, a copy of the applicant's most recent regular certified financial statement shall be deemed to satisfy this requirement unless the commissioner directs that additional or more recent financial information is required for the proper administration of this Act;
- (9) a description of the proposed method of marketing the plan, a financial plan which includes a projection of the initial operating results anticipated until the organization has had a net income for 12 consecutive months, and a statement as to the sources of working capital, as well as any other sources of funding, provided that updated projections for the next calendar year must be filed by December 31 of each year until the organization has had a net income for 12 consecutive months;
- (10) *a statement acknowledging that all lawful process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this state is valid if served in accordance with Article 1.36, Insurance Code [a power of attorney duly executed by such applicant, if not domiciled in this state, appointing the commissioner and his successors in office, or a duly authorized deputy, as the true and lawful attorney of such applicant in and for the state upon whom all lawful processes in any legal action or proceedings against the health maintenance organization on a cause of action arising in this state may be served];*
- (11) a statement reasonably describing the geographic area or areas to be served;
- (12) a description of the complaint procedures to be utilized;
- (13) a description of the procedures and programs to be implemented to meet the quality of health care requirements set forth herein;
- (14) a description of the mechanisms by which enrollees will be afforded the opportunity to participate in matters of policy and operation; and
- (15) such other information as the commissioner may require to make the determinations required by this Act.

SECTION 5. Section 6, Article 21.21, Insurance Code, as amended, is amended to read as follows:

Sec. 6. HEARINGS, WITNESSES, APPEARANCES, AND PRODUCTION OF BOOKS [~~AND SERVICE OF PROCESS~~]. (a) Whenever the Board shall have reason to believe that any such person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice defined in Section 4, and that a proceeding by it in respect thereto would be to the interest of the public, it shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than five days after the date of the service thereof;



(b) At the time and place fixed for such hearing, such person shall have an opportunity to be heard and to show cause why an order should not be made by the Board requiring such person to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the Board shall permit any person to intervene, appear and be heard at such hearing by counsel or in person;

(c) Nothing contained in this Act shall require the observance at any such hearing of formal rules of pleading or evidence;

(d) The Board, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which it deems relevant to the inquiry. The Board, upon such hearing, may, and upon the request of any party, shall cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the Board shall prepare a statement of the evidence and proceeding for use on review. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the District Court of Travis County or the county where such party resides, on application of the Board, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof;

~~[(e) Statements of charges, notices, orders, and other processes of the Board under this Act may be served by anyone duly authorized by the Board, either in the manner provided by law for service of process in civil actions, or by registering and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order or other process, registered and mailed as aforesaid, shall be proof of the service of the same].~~

SECTION 6. Subsection (b), Section 3, Article 21.54, Insurance Code, is amended to read as follows:

(b) Except as required by this article, a risk retention group seeking to be chartered in this state must be chartered and licensed as an insurance company authorized by Chapters 2 and 8 of this code and must comply with all of the laws, rules, regulations, and requirements, *including Article 1.36 of this code*, applicable to insurers chartered and licensed under those chapters.

SECTION 7. Subsection (a), Section 4, Article 21.54, Insurance Code, is amended to read as follows:

(a) A risk retention group chartered in another state, Bermuda, or the Cayman Islands and seeking to do business as a risk retention group in this state must:

(1) register with the commissioner;

(2) ~~designate the commissioner as its agent for service of process and receipt of legal documents;~~

~~[(3)]~~ file with the commissioner not later than March 1 of each year its annual statement as filed with the insurance commissioner of another state in which it is chartered;

(3) ~~[(4)]~~ file with the commissioner a copy of the last examination, if any, made of the risk retention group, certified by the insurance commissioner of another state in which it is chartered;

(4) ~~[(5)]~~ file with the commissioner not later than March 1 of each year a product liability loss experience data report;

(5) ~~[(6)]~~ file with the commissioner not more than 30 days after filing with the insurance commissioner of another state in which it is chartered or of another state conducting any examination or investigation of its financial condition or impairment a copy of each and every document filed by it in connection with the examination or investigation; and

(6) [(7)] file with the commissioner not more than 30 days after filing with the commissioner of another state in which it is chartered any document concerning its financial condition.

SECTION 8. Subsection (b), Section 14, Article 21.54, Insurance Code, is amended to read as follows:

(b) A risk retention group doing business in this state that is not chartered or licensed under Section 3 or 4 of this article is considered an unauthorized insurer and is subject to Articles 1.14, 1.14-1, 1.36, 21.28, and 21.28-A of this code.

SECTION 9. Section 3 of Article 3.71, Insurance Code, as amended, is amended to read as follows:

Sec. 3. Any unincorporated association, trust or other organization formed under the authority of this Article may sue and be sued in its association, trust or organization name. ~~[Process in any civil suit against any such association, trust or organization may be served on the president, secretary or managing agent thereof or on the Chairman of the State Board of Insurance. Such service shall have the same force and effect as if such service had been made upon all members of the association, trust or other organization. In the event of such service on the Chairman of the State Board of Insurance he shall immediately forward the same by registered mail, postage prepaid, to the president, secretary or managing agent of such association, trust or other organization at the last known address thereof according to the records of the State Board of Insurance.]~~

SECTION 10. Subsection (a), Article 17A.03, Code of Criminal Procedure, is amended to read as follows:

(a) When a complaint is filed or an indictment or information presented against a corporation or association, the court or clerk shall issue a summons to the corporation or association. The summons shall be in the same form as a *caus* except that:

(1) it shall summon the corporation or association to appear before the court named at the place stated in the summons; and

(2) it shall be accompanied by a certified copy of the complaint, indictment, or information; and

(3) it shall provide that the corporation or association appear before the court named at or before 10 a.m. of the Monday next after the expiration of 20 days after it is served with summons, except when service is made upon the secretary of state or *the Commissioner* ~~[chairman of the State Board]~~ of Insurance, in which instance the summons shall provide that the corporation or association appear before the court named at or before 10 a.m. of the Monday next after the expiration of 30 days after the secretary of state or *the Commissioner* ~~[chairman of the State Board]~~ of Insurance is served with summons.

SECTION 11. This Act and the powers and functions authorized by this Act are to be exercised to the end that its purposes be accomplished. If there is a conflict between this Act and any other law relating to the subject matter of this Act or its application, this Act controls.

SECTION 12. Section (e) of Article 1.02, Sections 4, 5, and 6 of Article 1.14-1, Section 11 of Article 1.14-2, Articles 3.64, 3.65, 3.66, 8.22, 9.26, 9.27, 10.24, 14.34, 18.17, 18.20, 19.04, Section 5 of Article 21.21-1, and Article 22.16, Insurance Code, are repealed.

SECTION 13. This Act takes effect September 1, 1987.

SECTION 14. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 17, 1987, by a viva-voce vote. Passed the House on April 21, 1987, by a non-record vote.

Approved April 30, 1987.

Effective Sept. 1, 1987.