
Business & Financial Services Committee

HB 2662

Brief Description: Addressing electronic notices and document delivery of insurance products.

Sponsors: Representative Stanford.

Brief Summary of Bill

- Permits insurers to provide electronic notifications and documents to applicants, policyholders, and other recipients.
- Permits insurers to post electronically standard property and casualty insurance policies.

Hearing Date: 2/4/14

Staff: David Rubenstein (786-7153).

Background:

Insurers are extensively regulated under Washington law. In many statutory provisions, insurers are required to give notice to policyholders and provide copies of policies, forms, endorsements, and contracts. Provisions requiring such notice are scattered throughout the code, and many of them specify the mode by which notice must be made. Additionally, policy documents, such as the policy itself and any endorsements, are usually mailed to consumers regardless of how the consumer entered into the agreement with the insurer.

Electronic signatures and authentication are governed by both federal law and Washington law.

Summary of Bill:

Electronic Notice.

Any notice or document required by law in an insurance transaction or any document that serves as evidence of insurance coverage may be sent by electronic means, provided it meets the requirements of the Uniform Electronic Transactions Act. Delivery by electronic means is

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defined as e-mail to an e-mail address provided by the recipient or posting to a website or other electronic space accessible to the recipient. If the document is posted to an electronic space, the recipient must receive separate notice of the posting. Any notice or document provided electronically has the same effect as any other method required by law, including mailing.

Oral communications can constitute electronic delivery, provided the communication can be recorded and reproduced by the insurer, and electronic notarization is allowed.

Disclosure and Consent.

Notice or documents may be delivered electronically to a party, meaning an applicant, insured, policyholder, annuity contract holder, or other recipient in an insurance transaction, only if the party affirmatively consented to electronic delivery.

Additionally, the party must be given a clear and conspicuous statement of:

1. the party's option to receive paper notices and documents;
2. the right to withdraw consent for electronic delivery and any associated fees or consequences;
3. whether the consent applies to only a particular transaction or identified categories of notices;
4. the means by which the party can obtain a paper copy and any associated fees; and
5. the procedure a party must follow to withdraw consent to electronic delivery.

Hardware and Software Requirements.

Before giving consent, the party must be provided with a statement of hardware and software requirements for access to electronically delivered documents. Then, the party must consent or confirm consent electronically in such a way that demonstrates that the party can access the electronically delivered documents, although failure to comply with this requirement will not invalidate a policy or contract.

If hardware or software requirements materially change, the insurer must inform the party of the change and the party's right to withdraw consent without any new fees or consequences and provide a new disclosure statement, outlined above. If the insurer did not properly notify the party after such a change, it may be treated as a withdrawal of consent by the party.

Withdrawal of consent, either affirmatively or by operation of law, does not affect the legal effectiveness of any notice or document delivered electronically before the withdrawal.

Preexisting Consent and Delivery.

Any document or notice delivered before this act becomes effective retains its validity, provided the recipient consented to electronic delivery. The insurer may continue to electronically deliver documents under that preexisting consent if it notifies the party of any new documents that will be delivered electronically and the party's right to withdraw consent.

Posting of Standard Insurance Documents.

Regardless of the electronic delivery provisions, an insurer may post standard property and casualty insurance policies and endorsements to its website in lieu of mailing. In order to do so, the insurer must comply with the following:

- the policy must remain accessible for as long as it is in force;

- after the expiration, the insurer must archive the policy for five years;
- the insured must be able to print and save the policy using widely available software;
- the insurer must provide the insurer with a description of the exact policy and endorsement forms purchased, a method by which the insured may obtain a paper copy without charge, and the web address where the policy and endorsements are posted; and
- the insurer must notify the insured of any changes to forms and endorsements.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.