

---

HOUSE BILL 2662

---

State of Washington

63rd Legislature

2014 Regular Session

By Representative Stanford

Read first time 01/24/14. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to electronic notices and document delivery of  
2 insurance products; and adding a new chapter to Title 48 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions in this subsection apply  
5 throughout this chapter unless the context clearly requires otherwise.

6 (1)(a) "Delivered by electronic means" includes:

7 (i) Delivery to an electronic mail address at which a party has  
8 consented to receive notices or documents; or

9 (ii) Posting on an electronic network or site accessible via the  
10 internet, mobile application, computer, mobile device, tablet, or any  
11 other electronic device, together with separate notice of the posting  
12 which shall be provided by electronic mail to the address at which the  
13 party has consented to receive notice or by any other delivery method  
14 that has been consented to by the party.

15 (b) "Party" means any recipient of any notice or document required  
16 as part of an insurance transaction, including but not limited to an  
17 applicant, an insured, a policyholder, or an annuity contract holder.

18 (2) Subject to subsection (4) of this section, any notice to a  
19 party or any other document required under applicable law in an

1 insurance transaction or that is to serve as evidence of insurance  
2 coverage may be delivered, stored, and presented by electronic means so  
3 long as it meets the requirements of the uniform electronic  
4 transactions act.

5 (3) Delivery of a notice or document in accordance with this  
6 section is the equivalent to any delivery method required under  
7 applicable law, including delivery by first-class mail; first-class  
8 mail, postage prepaid; certified mail; certificate of mail; or  
9 certificate of mailing.

10 (4) A notice or document may be delivered by electronic means by an  
11 insurer to a party under this section as set forth in this subsection  
12 (4):

13 (a) The party has affirmatively consented to that method of  
14 delivery and has not withdrawn the consent;

15 (b) The party, before giving consent, is provided with a clear and  
16 conspicuous statement informing the party of:

17 (i) Any right or option of the party to have the notice or document  
18 provided or made available in paper or another nonelectronic form;

19 (ii) The right of the party to withdraw consent to have a notice or  
20 document delivered by electronic means and any fees, conditions, or  
21 consequences imposed in the event consent is withdrawn;

22 (iii) Whether the party's consent applies:

23 (A) Only to the particular transaction as to which the notice or  
24 document must be given; or

25 (B) To identified categories of notices or documents that may be  
26 delivered by electronic means during the course of the parties'  
27 relationship;

28 (iv)(A) The means, after consent is given, by which a party may  
29 obtain a paper copy of a notice or document delivered by electronic  
30 means; and (B) the fee, if any, for the paper copy; and

31 (v) The procedure a party must follow to withdraw consent to have  
32 a notice or document delivered by electronic means and to update  
33 information needed to contact the party electronically;

34 (c) The party:

35 (i) Before giving consent, is provided with a statement of the  
36 hardware and software requirements for access to and retention of a  
37 notice or document delivered by electronic means; and

1 (ii) Consents electronically, or confirms consent electronically,  
2 in a manner that reasonably demonstrates that the party can access  
3 information in the electronic form that will be used for notices or  
4 documents delivered by electronic means as to which the party has given  
5 consent; and

6 (d) After consent of the party is given, the insurer, in the event  
7 a change in the hardware or software requirements needed to access or  
8 retain a notice or document delivered by electronic means creates a  
9 material risk that the party will not be able to access or retain a  
10 subsequent notice or document to which the consent applies:

11 (i) Provides the party with a statement of:

12 (A) The revised hardware and software requirements for access to  
13 and retention of a notice or document delivered by electronic means;

14 (B) The right of the party to withdraw consent without the  
15 imposition of any fee, condition, or consequence that was not disclosed  
16 under (b)(ii) of this subsection; and

17 (ii) Complies with (b) of this subsection.

18 (5) This section does not affect requirements related to content or  
19 timing of any notice or document required under applicable law.

20 (6) If this title or applicable law requiring a notice or document  
21 to be provided to a party expressly requires verification or  
22 acknowledgment of receipt of the notice or document, the notice or  
23 document may be delivered by electronic means only if the method used  
24 provides for verification or acknowledgment of receipt.

25 (7) The legal effectiveness, validity, or enforceability of any  
26 contract or policy of insurance executed by a party may not be denied  
27 solely because of the failure to obtain electronic consent or  
28 confirmation of consent of the party in accordance with subsection  
29 (4)(c)(ii) of this section.

30 (8)(a) A withdrawal of consent by a party does not affect the legal  
31 effectiveness, validity, or enforceability of a notice or document  
32 delivered by electronic means to the party before the withdrawal of  
33 consent is effective.

34 (b) A withdrawal of consent by a party is effective within a  
35 reasonable period of time after receipt of the withdrawal by the  
36 insurer.

37 (c) Failure by an insurer to comply with subsection (4)(d) of this

1 section may be treated, at the election of the party, as a withdrawal  
2 of consent for purposes of this section.

3 (9) This section does not apply to a notice or document delivered  
4 by an insurer in an electronic form before the effective date of this  
5 section to a party who, before that date, has consented to receive a  
6 notice or document in an electronic form otherwise allowed by law.

7 (10) If the consent of a party to receive certain notices or  
8 documents in an electronic form is on file with an insurer before the  
9 effective date of this section, and pursuant to this section, an  
10 insurer intends to deliver additional notices or documents to such  
11 party in an electronic form, then prior to delivering such additional  
12 notices or documents electronically, the insurer shall notify the party  
13 of:

14 (a) The notices or documents that may be delivered by electronic  
15 means under this section that were not previously delivered  
16 electronically; and

17 (b) The party's right to withdraw consent to have notices or  
18 documents delivered by electronic means.

19 (11)(a) Except as otherwise provided by law, if an oral  
20 communication or a recording of an oral communication from a party can  
21 be reliably stored and reproduced by an insurer, the oral communication  
22 or recording may qualify as a notice or document delivered by  
23 electronic means for purposes of this section.

24 (b) If a provision of this title or applicable law requires a  
25 signature or notice or document to be notarized, acknowledged,  
26 verified, or made under oath, the requirement is satisfied if the  
27 electronic signature of the person authorized to perform those acts,  
28 together with all other information required to be included by the  
29 provision, is attached to or logically associated with the signature,  
30 notice, or document.

31 (12) This section does not modify, limit, or supersede the  
32 provisions of the federal electronic signatures in global and national  
33 commerce act, P.L. 106-229, as amended.

34 NEW SECTION. **Sec. 2.** Notwithstanding any other provisions of this  
35 chapter, standard property and casualty insurance policies and  
36 endorsements that do not contain personally identifiable information  
37 may be mailed, delivered, or posted on the insurer's web site. If the

1 insurer elects to post insurance policies and endorsements on its web  
2 site in lieu of mailing or delivering them to the insured, it must  
3 comply with all of the following conditions:

4 (1) The policy and endorsements must be accessible and remain that  
5 way for as long as the policy is in force;

6 (2) After the expiration of the policy, the insurer must archive  
7 its expired policies and endorsements for a period of five years, and  
8 make them available upon request;

9 (3) The policies and endorsements must be posted in a manner that  
10 enables the insured to print and save the policy and endorsements using  
11 programs or applications that are widely available on the internet and  
12 free to use;

13 (4) The insurer provides the following information in, or  
14 simultaneous with, each declarations page provided at the time of  
15 issuance of the initial policy and any renewals of that policy:

16 (a) A description of the exact policy and endorsement forms  
17 purchased by the insured;

18 (b) A method by which the insured may obtain, upon request and  
19 without charge, a paper copy of their policy; and

20 (c) The internet address where their policy and endorsements are  
21 posted; and

22 (5) The insurer provides notice, in the manner in which the insurer  
23 customarily communicates with the insured, of any changes to the forms  
24 or endorsements, the insured's right to obtain, upon request and  
25 without charge, a paper copy of such forms or endorsements, and the  
26 internet address where such forms or endorsements are posted.

27 NEW SECTION. **Sec. 3.** Sections 1 and 2 of this act constitute a  
28 new chapter in Title 48 RCW.

--- END ---