
ENGROSSED SENATE BILL 5471

State of Washington

64th Legislature

2015 Regular Session

By Senators Angel, Mullet, Litzow, and Hobbs

Read first time 01/22/15. Referred to Committee on Financial Institutions & Insurance.

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
6 otherwise.

7 (1)(a)(i) "Delivered by electronic means" includes:

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

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

16 (ii) "Delivered by electronic means" does not include any
17 communication between an insurer and an insurance producer relating
18 to RCW 48.17.591 and 48.17.595.

19 (b) "Party" means any recipient of any notice or document
20 required as part of an insurance transaction, including but not

1 limited to an applicant, an insured, a policyholder, or an annuity
2 contract holder.

3 (2) Subject to the requirements of this section, any notice to a
4 party or any other document required under applicable law in an
5 insurance transaction or that is to serve as evidence of insurance
6 coverage may be delivered, stored, and presented by electronic means
7 so long as it meets the requirements of the Washington electronic
8 authentication act (chapter 19.34 RCW).

9 (3) Delivery of a notice or document in accordance with this
10 section is the equivalent to any delivery method required under
11 applicable law, including delivery by first-class mail; first-class
12 mail, postage prepaid; certified mail; or registered mail.

13 (4) A notice or document may be delivered by an insurer to a
14 party by electronic means under this section only if:

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16 delivery and has not withdrawn the consent;

17 (b) The party, before giving consent, has been provided with a
18 clear and conspicuous statement informing the party of:

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21 conditions or consequences imposed in the event consent is withdrawn;

22 (ii) The types of notices and documents to which the party's
23 consent would apply;

24 (iii) The right of a party to have a notice or document; and

25 (iv) The procedures a party must follow to withdraw consent to
26 have a notice or document delivered by electronic means and to update
27 the party's electronic mail address;

28 (c) The party:

29 (i) Before giving consent, has been provided with a statement of
30 the hardware and software requirements for access to and retention of
31 notices or documents delivered by electronic means; and

32 (ii) Consents electronically, or confirms consent electronically,
33 in a manner that reasonably demonstrates that the party can access
34 information in the electronic form that will be used for notices or
35 documents delivered by electronic means as to which the party has
36 given consent; and

37 (d) After consent of the party is given, the insurer, in the
38 event a change in the hardware or software requirements needed to
39 access or retain a notice or document delivered by electronic means

1 creates a material risk that the party will not be able to access or
2 retain a subsequent notice or document to which the consent applies:

3 (i) Shall provide the party with a statement that describes:

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

7 (B) The right of the party to withdraw consent without the
8 imposition of any fee, condition, or consequence that was not
9 disclosed at the time of initial consent; and

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

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

13 (6) If this title or applicable law requiring a notice or
14 document to be provided to a party expressly requires verification or
15 acknowledgment of receipt of the notice or document, the notice or
16 document may be delivered by electronic means only if the method used
17 provides for verification or acknowledgment of receipt.

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

23 (8)(a) A withdrawal of consent by a party does not affect the
24 legal effectiveness, validity, or enforceability of a notice or
25 document delivered by electronic means to the party before the
26 withdrawal of consent is effective.

27 (b) A withdrawal of consent by a party is effective within a
28 reasonable period of time, not to exceed thirty days, after receipt
29 of the withdrawal by the insurer.

30 (c) Failure by an insurer to comply with subsections (4)(d) and
31 (10) of this section may be treated, at the election of the party, as
32 a withdrawal of consent for purposes of this section.

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

37 (10) If the consent of a party to receive certain notices or
38 documents in an electronic form is on file with an insurer before the
39 effective date of this section, and pursuant to this section, an
40 insurer intends to deliver additional notices or documents to such

1 party in an electronic form, then prior to delivering such additional
2 notices or documents electronically, the insurer shall:

3 (a) Provide the party with a statement that describes:

4 (i) The notices or documents that shall be delivered by
5 electronic means under this section that were not previously
6 delivered electronically; and

7 (ii) The party's right to withdraw consent to have notices or
8 documents delivered by electronic means, without the imposition of
9 any condition or consequence that was not disclosed at the time of
10 initial consent; and

11 (b) Comply with subsection (4)(b) of this section.

12 (11) An insurer shall deliver a notice or document by any other
13 delivery method permitted by law other than electronic means if:

14 (a) The insurer attempts to deliver the notice or document by
15 electronic means and has a reasonable basis for believing that the
16 notice or document has not been received by the party; or

17 (b) The insurer becomes aware that the electronic mail address
18 provided by the party is no longer valid.

19 (12) A producer shall not be subject to civil liability for any
20 harm or injury that occurs as a result of a party's election to
21 receive any notice or document by electronic means or by an insurer's
22 failure to deliver a notice or document by electronic means.

23 (13) This section does not modify, limit, or supersede the
24 provisions of the federal electronic signatures in global and
25 national commerce act (E-SIGN), P.L. 106-229, as amended.

26 NEW SECTION. **Sec. 2.** (1) Notwithstanding any other provisions
27 of this chapter, standard property and casualty insurance policy
28 forms and endorsements that do not contain personally identifiable
29 information may be mailed, delivered, or posted on the insurer's web
30 site. If the insurer elects to post insurance policy forms and
31 endorsements on its web site in lieu of mailing or delivering them to
32 the insured, it must comply with all of the following conditions:

33 (a) The policy forms and endorsements must be accessible to the
34 insured and the producer of record and remain that way for as long as
35 the policy is in force;

36 (b) After the expiration of the policy, the insurer must archive
37 its expired policy forms and endorsements for a period of six years
38 or other period required by law, and make them available upon
39 request;

1 (c) The policy forms and endorsements must be posted in a manner
2 that enables the insured and producer of record to print and save the
3 policy form and endorsements using programs or applications that are
4 widely available on the internet and free to use;

5 (d) The insurer must provide the following information in, or
6 simultaneous with, each declarations page provided at the time of
7 issuance of the initial policy and any renewals of that policy:

8 (i) A description of the exact policy and endorsement forms
9 purchased by the insured;

10 (ii) A description of the insured's right to receive, upon
11 request and without charge, a paper copy of the policy and
12 endorsements by mail;

13 (iii) The internet address where their policy and endorsements
14 are posted;

15 (iv) Notice of the insured's right, upon request and without
16 charge, to receive a paper copy of the insured's policy and
17 endorsements by mail; and

18 (v) Notice, in the manner in which the insurer customarily
19 communicates with the insured, of any changes to the forms or
20 endorsements, the insured's right to obtain, upon request and without
21 charge, a paper copy of such forms or endorsements, and the internet
22 address where such forms or endorsements are posted.

23 (2) Nothing in this section affects the timing or content of any
24 disclosure or other document required to be provided or made
25 available to any insured under applicable law.

26 NEW SECTION. **Sec. 3.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 4.** Sections 1 and 2 of this act constitute a
31 new chapter in Title 48 RCW.

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