
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) "Delivered by electronic means" includes:

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

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

20 (2) Subject to subsection (4) of this section, any notice to a
21 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
3 so 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
11 an insurer to a party under this section as set forth in this
12 subsection (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14 delivery and has not withdrawn the consent;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
16 and conspicuous statement informing the party of:

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

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22 or consequences imposed in the event consent is withdrawn;

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

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

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

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

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

35 (c) The party:

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

39 (ii) Consents electronically, or confirms consent electronically,
40 in a manner that reasonably demonstrates that the party can access

1 information in the electronic form that will be used for notices or
2 documents delivered by electronic means as to which the party has
3 given consent; and

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

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

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

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

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

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

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

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

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

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

35 (c) Failure by an insurer to comply with subsection (4)(d) of
36 this section may be treated, at the election of the party, as a
37 withdrawal of consent for purposes of this section.

38 (9) This section does not apply to a notice or document delivered
39 by an insurer in an electronic form before the effective date of this

1 section to a party who, before that date, has consented to receive a
2 notice or document in an electronic form otherwise allowed by law.

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

10 (a) The notices or documents that may be delivered by electronic
11 means under this section that were not previously delivered
12 electronically; and

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

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

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

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

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

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

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

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

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

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

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

15 (c) The internet address where their policy and endorsements are
16 posted; and

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

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

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