
SUBSTITUTE HOUSE BILL 1845

State of Washington 65th Legislature 2017 Regular Session

By House Business & Financial Services (originally sponsored by Representatives Vick, Kirby, and Haler)

READ FIRST TIME 02/13/17.

1 AN ACT Relating to the delivery of insurance notices and
2 documents by electronic means; and amending RCW 48.185.005.

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

4 **Sec. 1.** RCW 48.185.005 and 2015 c 263 s 1 are each amended to
5 read as follows:

6 The definitions in this subsection apply throughout this chapter
7 unless the context clearly requires otherwise.

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

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

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

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

20 (b) "Party" means any recipient of any notice or document
21 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). An electronic signature shall
9 be deemed the equivalent of a digital signature, as those terms are
10 defined in chapter 19.34 RCW, for the purposes of satisfying the
11 requirements of chapter 19.34 RCW under this chapter.

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

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

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19 delivery and has not withdrawn the consent;

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

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

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

27 (iii) The right of a party to have a notice or document in paper
28 form; and

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

32 (c) The party:

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (9) This section does not apply to a notice or document delivered
37 by an insurer in an electronic form before July 24, 2015, to a party
38 who, before that date, has consented to receive a notice or document
39 in an electronic form otherwise allowed by law.

1 (10) If the consent of a party to receive certain notices or
2 documents in an electronic form is on file with an insurer before
3 July 24, 2015, and pursuant to this section, an insurer intends to
4 deliver additional notices or documents to such party in an
5 electronic form, then prior to delivering such additional notices or
6 documents electronically, the insurer shall:

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

8 (i) The notices or documents that shall be delivered by
9 electronic means under this section that were not previously
10 delivered electronically; and

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

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

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

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

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

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

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

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