

RCW 48.185.005 Delivery by electronic means authorized—Insurer requirements—Party consent—Definitions. The definitions in this subsection apply throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

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

(2) Subject to the requirements of this section, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means.

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

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

(a) The party has affirmatively consented to that method of delivery and has not withdrawn the consent;

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

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document delivered by electronic means at any time, and any conditions or consequences imposed in the event consent is withdrawn;

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

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

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

(c) The party:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(13) This section does not modify, limit, or supersede the provisions of the federal electronic signatures in global and national commerce act (E-SIGN), P.L. 106-229, as amended. [2019 c 132 § 5; 2017 c 307 § 1; 2015 c 263 § 1.]