

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To authorize insurers to transmit electronic notices of documents related to insurance and insurance policies under certain circumstances with consent of the recipient and to electronically post property and casualty insurance policies and endorsements where certain conditions are met.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Transaction Modernization Electronic Delivery or Posting Act of 2014”.

Sec. 2. Definitions.

For the purposes of this act, the term:

(1) “Delivered by electronic means” means delivery to an electronic mail address at which a party has consented to receive notices or documents or the 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.

(2) “Insurance document” means any notice or document required in an insurance transaction or that is evidence of insurance coverage.

(3) “Party” means a recipient of an insurance document, including an applicant, an insured, a policyholder, or an annuity contract holder.

Sec. 3. Electronic notices and documents.

(a) An insurance document may be delivered, stored, and presented by electronic means; provided, that it meets the requirements of Chapter 49 of Title 28 of the D.C. Official Code.

(b) Delivery of an insurance document in accordance with this section shall be considered the equivalent to any delivery method required under applicable law, including delivery by first class mail; first class mail, postage prepaid; certified mail; certificate of mail; or certificate of mailing.

(c) An insurance document may be delivered by electronic means to a party under this section if:

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(1) The party has affirmatively consented to that method of delivery and has not withdrawn consent to such delivery;

(2) The party, before giving consent, is provided with a clear and conspicuous statement informing the party:

(A) Of the right or option of the party to have an insurance document provided or made available in paper or another non-electronic form;

(B) The right of the party to withdraw consent to have an insurance document delivered by electronic means and of any conditions or consequences that may be imposed on the party if consent is withdrawn;

(C) That no fees may be imposed as a condition or consequence of withdrawal of consent;

(D) As to whether the party's consent applies only to the particular transaction or to identified categories of insurance documents that may be delivered by electronic means during the course of the relationship between the sender of the insurance documents and the party;

(E) Of the means, after consent for delivery by electronic means is given, by which a party may also obtain a paper copy of an insurance document and a statement that no fee shall be imposed for providing the requested paper copy; and

(F) Of the procedure a party must follow to withdraw consent to have any or all insurance documents delivered by electronic means and of how to update information needed to contact the party electronically;

(3) The party:

(A) Before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of an insurance document delivered by electronic means; and

(B) 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 insurance documents delivered by electronic means; and

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

(A) Provides the party with a statement regarding the revised hardware and software requirements that will be necessary for access to and retention of an insurance document delivered by electronic means and of the right of the party to withdraw consent without the imposition of any fee, condition, or consequence that was not disclosed under paragraph (2)(B) of this subsection; and

(B) Complies with paragraph (2) of this subsection.

(d) This section shall not affect requirements related to content or timing of any insurance document required under applicable law.

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(e) If a provision of this act or applicable law requiring an insurance document to be provided to a party expressly requires verification or acknowledgement of receipt of the insurance document, the insurance document may be delivered by electronic means only if the method used provides for verification or acknowledgement of receipt.

(f) The legal effectiveness, validity, or enforceability of any contract or policy of insurance executed by a party shall not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with subsection (c)(3)(B) of this section.

(g)(1) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of an insurance document delivered by electronic means to the party before the withdrawal of consent is effective.

(2) A withdrawal of consent by a party is effective within a reasonable period of time after receipt by the insurer of a party's withdrawal of consent that insurance documents may be delivered by electronic means.

(3) Failure by an insurer to comply with subsection (c)(4) of this section may be treated, at the election of the party, as a withdrawal of consent pursuant to this section.

(h) This section does not apply to an insurance document delivered by an insurer in an electronic form to a party who before the effective date of this act had consented to receive notices or documents pertaining to an insurance transaction in an electronic form allowed by a law other than this act.

(i) If the consent of a party to receive certain notices or documents in an electronic form is on file with the insurer before the effective date of this act, and, pursuant to this section, an insurer intends to deliver additional notices or documents electronically, the insurer shall notify the party of:

(1) The insurance documents that may be delivered by electronic means pursuant to this section that were not previously delivered electronically; and

(2) The party's right to withdraw consent to have insurance documents delivered by electronic means.

(j)(1) Except as otherwise provided by law, if an oral communication has been recorded and can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as an insurance document delivered by electronic means pursuant to this section.

(2) If a provision of this act or other applicable law requires a signature or for an insurance document to be notarized, acknowledged, verified, or executed under oath, the requirement shall be satisfied if the electronic signature of the person authorized to perform the action, together with all other information required to be included, is attached to or logically associated with the signature and the insurance document.

(k) This section shall not be construed to modify, limit, or supersede the provisions of the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 464; 15 U.S.C. § 7001).

**Sec. 4. Posting of policies on the Internet.**

Notwithstanding any provision of section 3, standard property and casualty insurance policies and endorsements that do not contain personally identifiable information may be mailed, delivered, or posted on the insurer's website. If the insurer elects to post insurance policies and endorsements on its website in lieu of mailing or delivering them to the insured, the insurer shall:

(1) Ensure that the policy and endorsements are accessible and remain that way for as long as the policy is in force;

(2) After the expiration of the policy, archive its expired policies and endorsements for a period of 5 years and make them available upon request;

(3) Post the policies and endorsements in a manner that enables an insured to print and save the policy and endorsements using programs or application that are widely available on the Internet and free to use;

(4) Provide the following information in, or simultaneous with, each declaration page provided at the time of issuance of the initial policy and any renewals of that policy:

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

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

(C) The Internet address where the policy and endorsements are posted; and

(5) Provide notice, in the format preferred by the insured, of any changes to the forms or endorsements, the insured's right to obtain, upon request and without charge, a paper copy of the forms or endorsements, and the Internet address where the forms or endorsements are posted.

**Sec. 5. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

**Sec. 6. Effective date.**

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code §1-202.02(c)(1)), and publication in the District of Columbia Register.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia