

  
Councilmember Vincent B. Orange

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5 A BILL  
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10 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA  
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16 Councilmember Vincent B. Orange introduced the following bill, which was referred to the  
17 Committee on \_\_\_\_\_.  
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19 | To allow the Department of Insurance, Securities, and Banking to transmit electronic notices of  
20 documents related to insurance and insurance policies under certain circumstances and  
21 the posting of property and casualty insurance policies and endorsements where certain  
22 conditions are met.  
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24 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
25 act may be cited as the “District of Columbia Insurance Transaction Modernization Electronic  
26 Delivery or Posting Act of 2014”.

27 Sec. 2. Definitions.

28 For the purposes of this act, the term:

29 (1) “Delivered by electronic means” means delivery to an electronic mail address at  
30 which a party has consented to receive notices or documents; or posting on an electronic network  
31 or site accessible via the internet, mobile application, computer, mobile device, tablet, or any  
32 other electronic device, together with separate notice of the posting which shall be provided by  
33 electronic mail to the address at which the party has consented to receive notice or by any other  
34 delivery method that has been consented to by the party.  
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1 (2) "Party" means any recipient of any notice or document required as part of an  
2 insurance transaction, including but not limited to an applicant, an insured, a policyholder, or an  
3 annuity contract holder.

4 Sec. 3. Electronic notices and documents.

5 (a) Any notice to a party or any other document required under applicable law in an  
6 insurance transaction or that is to serve as evidence of insurance coverage may be delivered,  
7 stored, and presented by electronic means so long as it meets the requirements of D.C. Official  
8 Code § 28-4901 *et seq.*

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

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

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

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

18 (A) Any right or option of the party to have the notice or document  
19 provided or made available in paper or another non-electronic form.

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

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

1 i. Only to the particular transaction as to which the notice or  
2 document must be given; or

3 ii. To identified categories of notices or documents that may  
4 be delivered by electronic means during the course of the parties' relationship;

5 (D) (i) The means, after consent is given, by which a party may obtain  
6 a paper copy of a notice or document delivered by electronic means; and

7 (ii) The fee, if any, for the paper copy; and

8 (E) The procedure a party must follow to withdraw consent to have a  
9 notice or document delivered by electronic means and to update information needed to contact  
10 the party electronically;

11 (3) The party:

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

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

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

23 (A) Provides the party with a statement of:

1 i. The revised hardware and software requirements for access  
2 to and retention of a notice or document delivered by electronic means;

3 ii. The right of the party to withdraw consent without the  
4 imposition of any fee, condition, or consequence that was not disclosed under paragraph (2)(B)  
5 of this subsection; and

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

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

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

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

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

20 (2) A withdrawal of consent by a party is effective within a reasonable period of  
21 time after receipt of the withdrawal by the insurer.

22 (3) Failure by an insurer to comply with subsection (c4) of this section may be  
23 treated, at the election of the party, as a withdrawal of consent for purposes of this section.

1 (h) This section does not apply to a notice or document delivered by an insurer in an  
2 electronic form before the effective date of this act to a party who, before that date, has  
3 consented to receive notice or document in an electronic form otherwise allowed by law.

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

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

11 (2) The party's right to withdraw consent to have notices or documents delivered  
12 by electronic means.

13 (k)(1) Except as otherwise provided by law, if an oral communication or a  
14 recording of an oral communication from a party can be reliably stored and reproduced by an  
15 insurer, the oral communication or recording may qualify as a notice or document delivered by  
16 electronic means for purposes of this section.

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

1 (l) This section may not be construed to modify, limit, or supersede the provisions  
2 of the federal Electronic Signatures in Global and National Commerce Act, Public Law 106-229,  
3 as amended.

4 Sec. 4. Posting of policies on the internet.

5 Notwithstanding any other provisions of section 3, standard property and casualty  
6 insurance policies and endorsements that do not contain personally identifiable information may  
7 be mailed, delivered, or posted on the insurer's website. If the insurer elects to post insurance  
8 policies and endorsements on its website in lieu of mailing or delivering them to the insured, it  
9 must comply with all of the following conditions:

10 (a) The policy and endorsements must be accessible and remain that way for as  
11 long as the policy is in force;

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

14 (c) The policies and endorsements must be posted in a manner that enables the  
15 insured to print and save the policy and endorsements using programs or applications that are  
16 widely available on the Internet and free to use;

17 (d) The insurer provides the following information in, or simultaneous with each  
18 declarations page provided at the time of issuance of the initial policy and any renewals of that  
19 policy:

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

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

1                   (3) The internet address where their policy and endorsements are posted,  
2 and;

3                   (e) The insurer provides notice, in the format preferred by the insured, of any  
4 changes to the forms or endorsements, the insured's right to obtain, upon request and without  
5 charge, a paper copy of such forms or endorsements, and the internet address where such forms  
6 or endorsements are posted.

7                   Sec. 5. Fiscal impact statement.

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

11                  Sec. 6. Effective date.

12                  This act shall take effect following approval by the Mayor (or in the event of veto by the  
13 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as  
14 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December  
15 24, 1973 (87 Stat. 813; D.C. Official Code § 1-202.02(c)(1)), and publication in the District of  
16 Columbia.