


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.