

HOUSE BILL No. 1058

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-1-43.

Synopsis: Electronic delivery of insurance notices and documents. Provides for the electronic delivery of insurance notices and documents instead of other modes of delivery otherwise required for such notices and documents. Requires a recipient's consent to electronic delivery and a method to withdraw consent.

Effective: July 1, 2014.

Mayfield

January 7, 2014, read first time and referred to Committee on Insurance.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1058

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-43 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]:
4 **Chapter 43. Electronic Delivery of Notices and Documents**
5 **Sec. 1. As used in this chapter, "electronic delivery" or**
6 **"electronically delivered" includes the following:**
7 **(1) Delivery to an electronic mail address at which a party has**
8 **consented to receive notices or documents.**
9 **(2) Posting on an electronic network or web site accessible via**
10 **the Internet, a mobile application, a computer, a mobile**
11 **device, a tablet, or another electronic device, with separate**
12 **notice delivered to the electronic mail address at which a**
13 **party has consented to receive notice of the posting.**
14 **Sec. 2. (a) As used in this chapter, "party" means a recipient of**
15 **a notice or document required as part of an insurance transaction.**
16 **(b) The term includes an applicant, an insured, a policyholder,**



1 and an annuity contract holder.

2 Sec. 3. (a) Except as provided in subsection (c), a notice to a
3 party, or another document, that:

4 (1) is legally required in an insurance transaction; or

5 (2) serves as evidence of insurance coverage;

6 may be electronically delivered, stored, and presented in
7 compliance with IC 26-2-8.

8 (b) Electronic delivery of a notice or document under this
9 section is considered to be equivalent to any legally required
10 delivery method, including delivery by:

11 (1) first class mail;

12 (2) first class mail, postage prepaid;

13 (3) certified mail;

14 (4) certificate of mail; or

15 (5) certificate of mailing.

16 (c) Electronic delivery of a notice or document by an insurer to
17 a party is permitted under this chapter if all the following apply:

18 (1) The party has affirmatively consented to electronic
19 delivery and has not withdrawn the consent.

20 (2) The party, before giving consent, is provided with a clear
21 and conspicuous statement informing the party of all the
22 following:

23 (A) Any right or option of the party to have the notice or
24 document provided or made available in paper or another
25 nonelectronic form.

26 (B) The right of the party to withdraw consent to
27 electronic delivery of a notice or document and any fees,
28 conditions, or consequences that will be imposed on the
29 party if the party withdraws consent.

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

31 (i) only to the particular transaction as to which the
32 notice or document must be given; or

33 (ii) to identified categories of notices or documents
34 subject to electronic delivery during the course of the
35 party's relationship with the insurer.

36 (D) The:

37 (i) means, after consent is given, by which the party may
38 obtain a paper copy of an electronically delivered notice
39 or document; and

40 (ii) applicable fee for the paper copy.

41 (E) The procedure the party must follow to:

42 (i) withdraw consent to electronic delivery of a notice or



- 1 document; and
 2 (ii) update information needed to contact the party
 3 electronically.
- 4 (3) The party:
 5 (A) before giving consent, is provided with a statement of
 6 the hardware and software requirements for access to and
 7 retention of an electronically delivered notice or document;
 8 and
 9 (B) electronically:
 10 (i) consents; or
 11 (ii) confirms consent;
 12 in a manner that reasonably demonstrates that the party
 13 is able to access information in the electronic form that will
 14 be used for electronic delivery of notices or documents to
 15 which the party has given consent.
- 16 (4) If, after the party has consented to electronic delivery of
 17 notices or documents, a change in the hardware or software
 18 requirements needed for the party to access or retain an
 19 electronically delivered notice or document creates a material
 20 risk that the party will not be able to access or retain a
 21 subsequent notice or document to which the consent applies,
 22 the insurer:
 23 (A) provides the party with a statement of the:
 24 (i) revised hardware and software requirements for
 25 access to and retention of an electronically delivered
 26 notice or document; and
 27 (ii) right of the party to withdraw consent without the
 28 imposition of a fee, condition, or consequence that was
 29 not disclosed under subdivision (2)(B); and
 30 (B) complies with subdivision (2).
- 31 Sec. 4. (a) This chapter does not affect any applicable legal
 32 requirement related to content or timing of a notice or document.
 33 (b) If another law requiring a notice or document to be provided
 34 to a party expressly requires verification or acknowledgment of
 35 receipt of the notice or document, electronic delivery of the notice
 36 or document is permitted only if the method of electronic delivery
 37 provides for verification or acknowledgment of receipt.
 38 (c) The legal effectiveness, validity, or enforceability of a
 39 contract or policy of insurance executed by a party may not be
 40 denied solely because of the failure of the insurer to obtain
 41 electronic consent or confirmation of consent of the party in
 42 accordance with section 3(c)(3)(B) of this chapter.



1 **Sec. 5. (a)** A withdrawal of consent by a party does not affect the
 2 legal effectiveness, validity, or enforceability of a notice or
 3 document that is electronically delivered to the party before the
 4 withdrawal of consent is effective.

5 **(b)** A withdrawal of consent by a party is effective thirty (30)
 6 days after the insurer receives notice of the withdrawal.

7 **(c)** An insurer's failure to comply with section 3(c)(4) of this
 8 chapter is, at the election of the party, considered to be a
 9 withdrawal of the party's consent under this chapter.

10 **Sec. 6. (a)** This chapter does not apply to a notice or document
 11 that is electronically delivered:

12 **(1)** by an insurer before July 1, 2014; and

13 **(2)** to a party who, before July 1, 2014, consented to receive
 14 electronically delivered notices or documents as otherwise
 15 allowed by law.

16 **(b) If:**

17 **(1)** the consent of a party to receive certain electronically
 18 delivered notices or documents is on file with an insurer
 19 before July 1, 2014; and

20 **(2)** the insurer intends to electronically deliver additional
 21 notices or documents to the party under this chapter;

22 the insurer shall, before electronically delivering the additional
 23 notices or documents, notify the party that notices or documents
 24 that were not previously electronically delivered may now be
 25 electronically delivered under this chapter and that the party has
 26 a right to withdraw consent to electronic delivery of notices or
 27 documents.

28 **Sec. 7. (a)** Except as otherwise provided by law, if an oral
 29 communication or a recording of an oral communication from a
 30 party can be reliably stored and reproduced by an insurer, the oral
 31 communication or recording may qualify as an electronically
 32 delivered notice or document under this chapter.

33 **(b)** If a provision of this title or other applicable law requires a
 34 signature, notice, or document to be notarized, acknowledged,
 35 verified, or made under oath, the requirement is satisfied if:

36 **(1)** the electronic signature of the person authorized to
 37 notarize, acknowledge, verify, or give an oath; and

38 **(2)** all other information required to be included by the
 39 provision;

40 is attached to or logically associated with the signature, notice, or
 41 document.

42 **Sec. 8.** This chapter does not modify, limit, or supersede the



1 **federal Electronic Signatures in Global and National Commerce**
2 **Act (15 U.S.C. 7001 et seq.).**

