

# An Act

ENROLLED SENATE  
BILL NO. 372

By: Paxton of the Senate

and

Coody of the House

An Act relating to insurance; defining terms; authorizing electronic delivery of certain documents; declaring electronic delivery of documents to be legally equal to mail delivery; specifying terms of consent for electronic delivery; authorizing electronic delivery in certain situations requiring verification or acknowledgment of receipt; prohibiting denial of policy due to electronic delivery of documents; prohibiting denial of policy after consent for electronic delivery is withdrawn; specifying terms of withdrawal of consent for electronic delivery; denying applicability of act to previous consent for electronic delivery; specifying terms for continuing consent for electronic delivery after effective date of act; authorizing document delivery by mail if electronic delivery is unavailable in certain situations; denying civil liability for any harm or injury from electronic delivery; providing for certain construction of this act; providing for codification; and providing an effective date.

SUBJECT: Electronic delivery of insurance documentation

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 123 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. In this section, the following words shall have the following meanings:

1. "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.

2. "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.

B. 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, so long as it meets the requirements of the Uniform Electronic Transactions Act pursuant to Section 15-101, et seq. of Title 12A of the Oklahoma Statutes.

C. Delivery of a notice or document in accordance with this section shall be considered 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.

D. A notice or document may be delivered by electronic means by an insurer to a party under this section if:

1. The party has affirmatively consented to that method of delivery and has not withdrawn the consent; or

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

- a. the right of the party 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,
- b. the types of notices and documents to which the party's consent would apply,
- c. the right of a party to have a notice or document delivered in paper form, and
- d. 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;

3. The party:

- a. before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice or 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 notices or documents delivered by electronic means as to which the party has given consent;

4. The insurer takes measures reasonably calculated to ensure that delivery by electronic means results in receipt of the notice or document by the party; and

5. 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:

- a. provides the party with a statement that describes:
  - (1) the revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means, and
  - (2) the right of the party to withdraw consent without the imposition of any condition or consequence that was not disclosed at the time of initial consent, and
- b. complies with paragraph 2 of this subsection.

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

F. If a provision of 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.

G. 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 subparagraph b of paragraph 3 of subsection D of this section.

H. 1. 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.

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

3. Failure by an insurer to comply with paragraph 5 of subsection D and subsection J of this section may be treated, at the election of the party, as a withdrawal of consent for purposes of this section.

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

J. If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before the effective date of this act, 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:

1. Provide the party with a statement that describes:
  - a. the notices or documents that shall be delivered by electronic means under this section that were not previously delivered electronically, and
  - b. 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
2. Comply with paragraph 2 of subsection D of this section.

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

1. 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

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

L. 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.

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

SECTION 2. This act shall become effective November 1, 2017.

Passed the Senate the 21st day of March, 2017.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 3rd day of April, 2017.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_