

1 S.230

2 Introduced by Senator Cummings

3 Referred to Committee on

4 Date:

5 Subject: Insurance; property and casualty; electronic notices

6 Statement of purpose: This bill proposes to permit insurers to send certain
7 notices to policyholders by electronic means.

8 An act relating to property and casualty insurers and electronic notices

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 Sec. 1. 8 V.S.A. § 3666 is added to read:

11 § 3666. DELIVERY OF NOTICES BY ELECTRONIC MEANS

12 (a) As used in this section:

13 (1) "Delivered by electronic means" includes:

14 (A) delivery to an electronic mail address at which a party has
15 consented to receive notice; and

16 (B) posting on an electronic network, together with separate notice to
17 a party sent to the electronic mail address at which the party has consented to
18 receive notice of the posting.

19 (2) "Party" means an applicant, an insured, or a policyholder.

1 (b) Subject to subsection (d) of this section, any notice to a party required
2 under section 3880, 3881, 4224, 4225, 4712, or 4713 of this title may be
3 delivered by electronic means provided the process used to obtain consent of
4 the party to have notice delivered by electronic means meets the requirements
5 of 9 V.S.A. chapter 20, the Uniform Electronic Transactions Act.

6 (c) Delivery of a notice pursuant to subsection (b) of this section shall be
7 considered equivalent to any delivery method required under section 3883,
8 4226, or 4714 of this title, including delivery by first-class mail, certified mail,
9 certificate of mail, or certificate of mailing.

10 (d) A notice may be delivered by electronic means by an insurer to a party
11 under this section if:

12 (1) The party has affirmatively consented to such method of delivery
13 and not subsequently withdrawn consent.

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

16 (A) informing the party of:

17 (i) any right or option of the party to have the notice provided or
18 made available in paper or another nonelectronic form;

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21 imposed in the event consent is withdrawn;

1 (iii) whether the party's consent applies:

2 (I) only to the particular transaction as to which the notice must
3 be given; or

4 (II) to identified categories of notices that may be delivered by
5 electronic means during the course of the party's relationship with the insurer;

6 (iv)(I) how, after consent is given, the party may obtain a paper
7 copy of a notice delivered by electronic means; and

8 (II) the fee, if any, for the paper copy; and

9 (v) the procedures the party must use to withdraw consent to have
10 notice delivered by electronic means and to update information needed to
11 contact the party electronically.

12 (3) The party:

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

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

20 (4) After consent of the party is given, the insurer, in the event a change
21 in the hardware or software requirements needed to access or retain a notice

1 delivered by electronic means creates a material risk that the party will not be
2 able to access or retain a subsequent notice to which the consent applies:

3 (A) provides the party with a statement of:

4 (i) the revised hardware and software requirements for access to
5 and retention of a notice delivered by electronic means;

6 (ii) the right of the party to withdraw consent without the
7 imposition of any fee, condition, or consequence not disclosed under
8 subdivision (2)(A)(i) of this subsection; and

9 (B) complies with subdivision (2) of this subsection.

10 (e) This section does not affect the content or timing of any notice required
11 under chapter 105, 113, or 128 of this title.

12 (f) If a provision of chapter 105, 113, or 128 of this title requiring notice to
13 be provided to a party expressly requires verification or acknowledgment of
14 receipt of the notice, the notice may be delivered by electronic means only if
15 the method used provides for verification or acknowledgment of receipt.

16 (g) The legal effectiveness, validity, or enforceability of any contract or
17 policy of insurance executed by a party may not be denied solely because of
18 the failure to obtain electronic consent or confirmation of consent of the party
19 in accordance with subdivision (d)(3)(B) of this section.

1 (h)(1) A withdrawal of consent by a party does not affect the legal
2 effectiveness, validity, or enforceability of a notice delivered by electronic
3 means to the party before the withdrawal of consent is effective.

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

6 (3) Failure to comply with subdivision (d)(4) of this section may be
7 treated, at the election of the party, as a withdrawal of consent for purposes of
8 this section.

9 (i) If a provision of chapter 105, 113, or 128 of this title requires a
10 signature or record to be notarized, acknowledged, verified, or made under
11 oath, the requirement is satisfied if the electronic signature of the person
12 authorized to perform those acts, together with all other information required
13 to be included by the provision, is attached to or logically associated with the
14 signature of record.

15 (j) This section shall not be construed to modify, limit, or supersede the
16 provisions of the federal Electronic Signatures in Global and National
17 Commerce Act, 15 U.S.C. chapter 96, relating to the use of an electronic
18 record to provide or make available information that is required to be provided
19 or made available in writing to a party.

1 Sec. 2. INTERPRETATION

2 The delivery of notice in accordance with Sec. 1 of this act is intended and
3 shall be construed to meet the requirements of state insurance regulation 78-01,
4 section 1, as revised.

5 Sec. 3. EFFECTIVE DATE

6 This act shall take effect on January 1, 2013 and apply to all policies and
7 certificates delivered, issued for delivery, or renewed in this state on or after
8 that date.