



2013 ASSEMBLY BILL 373

September 17, 2013 - Introduced by Representatives WEININGER, NYGREN, CRAIG, A. OTT, SPIROS, T. LARSON, OHNSTAD, CZAJA, STONE, KOOYENGA, KNUDSON, TITTL, BORN, BALLWEG, KAHL, KNODL, BIES, JAGLER, KLEEFISCH, STROEBEL, NASS, PETRYK, GOYKE, DANOU, KOLSTE, MURPHY, LEMAHIEU and BEWLEY, cosponsored by Senators LASEE, L. TAYLOR, OLSEN, SHILLING, LASSA and GUDEX. Referred to Committee on Insurance.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT to create** 610.60 of the statutes; **relating to:** electronic delivery by
2 property and casualty insurers of notices and documents.

Analysis by the Legislative Reference Bureau

This bill authorizes any insurer that provides property or casualty insurance to provide notices and documents to an insurance applicant, an insured, or a policyholder (consumer) by electronic means, and provides that doing so, in compliance with the requirements under the bill, is equivalent to any other method of delivering notices and documents required under applicable law.

Such an insurer may provide notices and documents electronically if the consumer has consented to delivery in that manner and has not withdrawn the consent. The consumer must give consent electronically in a manner that reasonably demonstrates that the consumer will be able to receive the notices and documents electronically. If a consumer gives consent for electronic delivery, the consent applies to any notice or document that the insurer elects to deliver electronically. The consumer may, however, receive a paper copy of a notice or document that has been sent electronically, upon request and for a fee, if any, if the insurer offers this option. Before the consumer gives consent for electronic delivery, the insurer must provide the consumer with a clear and conspicuous statement that contains a number of pieces of information, including that the consent applies to any notices and documents that may be delivered electronically; that the consumer may receive notices and documents in paper form instead; how to request a paper copy, if the insurer offers that option, of a notice or document that has been delivered electronically; and that the consumer may withdraw the consent and the method for doing so.

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The bill contains various related provisions, such as that an oral communication between a consumer and an insurer may qualify as a notice or document delivered electronically if the communication can be reliably stored and reproduced by the insurer; that withdrawal of consent is effective 30 days after the insurer receives the withdrawal; that the withdrawal of consent does not affect the legality, validity, or enforceability of a notice or document delivered electronically before the withdrawal becomes effective; that the legality, validity, or enforceability of a notice or document delivered electronically may not be denied solely because the consent was not given electronically; and that notices and documents delivered electronically must meet the requirements of the provisions of the statutes that codify the Uniform Electronic Transactions Act.

The bill also authorizes an insurer that provides property or casualty insurance to post on the insurer's Internet site any standard policy and endorsements to the policy that do not contain personally identifiable information. A number of requirements apply if the insurer elects to post such documents, including: 1) the documents must remain accessible on the Internet site for as long as they are in effect; 2) the insurer must make the documents available upon request for at least five years after the policy terminates; 3) the documents must be posted in such a manner that they can be printed and saved by using programs or applications that are widely available and free to use; 4) in or with each declarations page that is provided when the policy is issued and when it is renewed, the insurer must provide a description of the exact policy and endorsements that the insured has purchased, information about how the insured may obtain a paper copy of the policy and any endorsements, and the address of the Internet site where the documents are posted; and 5) if the insurer makes any changes to the policy or an endorsement form, the insurer must provide notice of the change to the policy or endorsement form, that the insured may obtain a paper copy of the policy or endorsement form, and the address of the Internet site where the policy or endorsement form is posted.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 610.60 of the statutes is created to read:

2 **610.60 Electronic delivery of notices and documents. (1) DEFINITIONS.**

3 In this section:

4 (a) "Applicable law" means applicable statutory law and rules and regulations
5 having the force of law.

6 (b) "Deliver by electronic means" includes any of the following:

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1 1. Delivery to an electronic mail address at which a party has consented to
2 receive notices or documents.

3 2. Posting on an electronic network or site that is accessible via the Internet
4 by using a mobile application, computer, mobile device, tablet, or any other electronic
5 device and sending separate notice of the posting to a party, directed to the electronic
6 mail address at which the party has consented to receive notice of the posting.

7 (c) "Party" means a recipient of a notice or document required as part of an
8 insurance transaction, including an applicant, an insured, or a policyholder.

9 **(2) ELECTRONIC DELIVERY PERMITTED; EQUIVALENT TO OTHER METHODS.** (a) Subject
10 to par. (c), sub. (3), and s. 137.12 (2r) (c), notice to a party, and any other document
11 that is required under applicable law in an insurance transaction or that serves as
12 evidence of insurance coverage, may be stored, presented, and delivered by electronic
13 means, as long as the notice or other document meets the requirements of subch. II
14 of ch. 137.

15 (b) Delivery of a notice or document in accordance with this section shall be
16 considered equivalent to any delivery method required under applicable law,
17 including delivery by 1st class mail; 1st class mail, postage prepaid; certified mail;
18 or registered mail.

19 (c) If a provision of, or rule promulgated under, chs. 600 to 655 that requires
20 a notice or document to be provided to a party expressly requires verification or
21 acknowledgment of receipt of the notice or document, the notice or document may be
22 delivered by electronic means only if the method used provides for verification or
23 acknowledgment of receipt.

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1 **(3) CONDITIONS PRECEDENT FOR ELECTRONIC DELIVERY.** (a) An insurer may deliver
2 notices and documents to a party by electronic means under this section if all of the
3 following are satisfied:

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

6 2. Before the party gave consent, the insurer provided the party with a
7 statement of the hardware and software requirements for access to and retention of
8 notices and documents delivered by electronic means.

9 3. The party consented electronically, or confirmed consent electronically, in a
10 manner that reasonably demonstrates that the party is able to access information
11 in the electronic form that the insurer will use for delivery of notices and documents
12 by electronic means.

13 4. Before the party gave consent, the insurer provided the party with a clear
14 and conspicuous statement informing the party of all of the following:

15 a. The right or option of the party to have notices and documents provided or
16 made available in paper or another nonelectronic form instead.

17 b. The right of the party to withdraw consent to have notices and documents
18 delivered by electronic means and any fees, conditions, or consequences that are
19 imposed if consent is withdrawn.

20 c. That the party's consent applies to any notices or documents that may be
21 delivered by electronic means during the course of the relationship between the
22 party and the insurer.

23 d. After consent for delivery by electronic means is given, the means, if any, by
24 which a party may obtain a paper copy of a notice or document that has been
25 delivered by electronic means and the fee, if any, for the paper copy.

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1 e. The procedure a party must follow to withdraw consent to have notices and
2 documents delivered by electronic means and to update information needed to
3 contact the party electronically.

4 (b) If the conditions under par. (a) are satisfied, the insurer may elect to deliver
5 all notices and documents by electronic means or only those notices and documents
6 selected by the insurer.

7 (c) Even if the conditions under par. (a) are satisfied, the insurer may deliver
8 any notice or document by 1st class mail; 1st class mail, postage prepaid; certified
9 mail; or registered mail.

10 **(4) MISCELLANEOUS RELATED PROVISIONS.** (a) This section does not affect any
11 requirement related to the content or timing of a notice or document required under
12 applicable law.

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

17 (c) 1. A withdrawal of consent by a party becomes effective 30 days after the
18 insurer receives the withdrawal.

19 2. A withdrawal of consent by a party does not affect the legal effectiveness,
20 validity, or enforceability of a notice or document delivered by electronic means to the
21 party before the withdrawal of consent becomes effective.

22 (d) If an oral communication or a recording of an oral communication between
23 a party and an insurer or an insurer's agent can be reliably stored and reproduced
24 by the insurer, the oral communication or recording may qualify as a notice or
25 document delivered by electronic means for purposes of this section.

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1 (e) If a provision of, or rule promulgated under, chs. 600 to 655 requires a
2 signature or a notice or document to be notarized, acknowledged, verified, or made
3 under oath, the requirement is satisfied if the electronic signature of the person
4 authorized to perform those acts, together with all other information required to be
5 included by the provision, is attached to or logically associated with the signature,
6 notice, or document.

7 (f) Except as provided in par. (d), this section does not and may not be construed
8 to modify, limit, or supersede the provisions of the federal Electronic Signatures in
9 Global and National Commerce Act, 15 USC 7001 et seq., as amended.

10 **(5) EFFECT ON EARLIER ELECTRONIC DELIVERY.** (a) This section does not apply to
11 a notice or document delivered by an insurer in an electronic form before the effective
12 date of this paragraph [LRB inserts date], to a party who, before that date,
13 consented to receive a notice or document in electronic form otherwise allowed by
14 law.

15 (b) If the consent of a party to receive certain notices or documents in an
16 electronic form is on file with an insurer before the effective date of this paragraph
17 [LRB inserts date], and, in accordance with this section, the insurer intends to
18 deliver notices and documents to the party in electronic form, before delivering any
19 additional notices or documents electronically, the insurer shall notify the party of
20 all of the following:

21 1. The notices or documents that may be delivered by electronic means under
22 this section that were not previously delivered electronically.

23 2. The party's right to withdraw consent to have any notices or documents
24 delivered by electronic means.

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1 **(6) POSTING OF POLICIES AND ENDORSEMENTS ON INTERNET.** Notwithstanding subs.
2 (1) to (5), in lieu of delivery to a policyholder, insured, or applicant for insurance by
3 any other method, an insurer may post on the insurer's Internet site any standard
4 policy, and any endorsements to such a policy, that do not contain personally
5 identifiable information. An insurer that elects to post such a policy and any
6 endorsements to the policy on its Internet site shall comply with all of the following
7 requirements:

8 (a) The policy and any endorsements must be accessible on the insurer's
9 Internet site for as long as the policy is in effect.

10 (b) For at least 5 years after the policy terminates, the insurer must archive the
11 policy and any endorsements to the policy and make them available upon request.

12 (c) The policy and any endorsements must be posted in such a manner that the
13 insured is able to print and save the policy and endorsements by using programs or
14 applications that are widely available on the Internet and free to use.

15 (d) The insurer must provide all of the following information in, or
16 simultaneously with, each declarations page that is provided when the policy is
17 initially issued and when it is renewed:

18 1. A description of the exact policy and endorsement forms purchased by the
19 insured.

20 2. The method by which the insured may obtain, upon request and without
21 charge, a paper copy of the policy and any endorsements to the policy.

22 3. The address of the Internet site where the policy and any endorsements to
23 the policy are posted.

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1 (e) If the insurer makes any changes to the policy or an endorsement form, the
2 insurer must provide notice, in the format preferred by the insured, of all of the
3 following:

4 1. The change to the policy or endorsement form.

5 2. The insured's right to obtain, upon request and without charge, a paper copy
6 of the policy or endorsement form.

7 3. The address of the Internet site where the policy or endorsement form is
8 posted.

9 **(7) APPLICABILITY.** This section applies only to property and casualty insurance,
10 as described in s. Ins. 6.75 (2), Wis. Adm. Code.

11 **(8) OPTIONAL METHODS.** Nothing in this section requires an insurer to deliver
12 a notice or document by electronic means or to post policies and endorsements on an
13 Internet site.

14 **(END)**