

1 SB292
2 165952-5
3 By Senator Blackwell
4 RFD: Banking and Insurance
5 First Read: 19-MAR-15

1 SB292

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4 ENROLLED, An Act,

5 Relating to property and casualty insurance; to
6 allow electronic delivery of a property or casualty insurance
7 policy to the address at which the party has consented to
8 receive notice; to specify that policies and endorsements may
9 be delivered electronically subject to certain requirements;
10 and to provide that a paper copy of a policy would be
11 available to the policyholder upon request without charge.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. As used in this act, each of the
14 following words shall have the following meanings:

15 (1) DELIVERED BY ELECTRONIC MEANS or ELECTRONIC
16 DELIVERY. Any of the following:

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

19 b. Posting on an electronic network or site
20 accessible via the Internet, mobile application, computer,
21 mobile device, tablet, or any other electronic device,
22 together with separate notice of the posting which shall be
23 provided 1. by electronic mail to the address at which the
24 party has consented to receive notice or 2. by any other
25 delivery method that has been consented to by the party.

1 (2) PARTY. A recipient of any notice or document
2 required as part of an insurance transaction, including, but
3 not limited to, an applicant, an insured, a policyholder, or
4 an annuity contract holder.

5 Section 2. (a) Subject to the requirements of this
6 section, any notice to a party or any other document required
7 under applicable law in an insurance transaction involving
8 property and casualty insurance or that is to serve as
9 evidence of insurance coverage may be delivered, stored, and
10 presented by electronic means so long as it meets the
11 requirements of the Uniform Electronic Transactions Act.

12 (b) Delivery of a notice or document in accordance
13 with this section shall be considered equivalent to any
14 delivery method required under applicable law, including
15 delivery by first class mail, postage prepaid, certified mail,
16 certificate of mail, or certificate of mailing.

17 (c) A notice or document may be delivered by
18 electronic means by an insurer to a party under this section
19 if:

20 (1) The party has affirmatively consented to that
21 method of delivery and has not withdrawn the consent.

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

1 a. The right of the party to withdraw consent to
2 have a notice or document delivered by electronic means, at
3 any time, and any conditions or consequences imposed in the
4 event consent is withdrawn.

5 b. The types of notices and documents to which the
6 consent of the party would apply.

7 c. The right of a party to have a notice or document
8 delivered in paper form.

9 d. The procedures a party must follow to withdraw
10 consent to have a notice or document delivered by electronic
11 means and to update the electronic mail address of the party.

12 (d) (1) The party, before giving consent, is provided
13 with a statement of the hardware and software requirements for
14 access to and retention of a notice or document delivered by
15 electronic means and consents electronically, or confirms
16 consent electronically, in a manner that reasonably
17 demonstrates that the party can access information in the
18 electronic form that will be used for notices or documents
19 delivered by electronic means as to which the party has given
20 consent.

21 (2) After consent of the party is given, the
22 insurer, if a change in the hardware or software requirements
23 is needed to access or retain a notice or document delivered
24 by electronic means creates a material risk that the party may
25 not be able to access or retain a subsequent notice or

1 document to which the consent applies shall provide the party
2 with a statement that:

3 a. Describes the revised hardware and software
4 requirements for access to and retention of a notice or
5 document delivered by electronic means.

6 b. The right of the party to withdraw consent
7 without the imposition of any condition or consequence that
8 was not disclosed at the time of initial consent.

9 c. Complies with subdivision (2) of subsection (c).

10 (e) This section shall not affect the requirements
11 related to content or timing of any notice or document
12 required under applicable law.

13 (f) If a provision of this section or applicable law
14 requiring a notice or document to be provided to a party
15 expressly requires verification or acknowledgment of receipt
16 of the notice or document, the notice or document may be
17 delivered by electronic means only if the method used provides
18 for verification or acknowledgment of receipt.

19 (g) The legal effectiveness, validity, or
20 enforceability of any contract or policy of insurance executed
21 by a party may not be denied solely because of the failure to
22 obtain electronic consent or confirmation of consent of the
23 party in accordance with subsection (c) of this section.

24 (h) (1) A withdrawal of consent by a party does not
25 affect the legal effectiveness, validity, or enforceability of

1 a notice or document delivered by electronic means to the
2 party before the withdrawal of consent is effective.

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

6 (3) Failure by an insurer to comply with the notice
7 requirement of this section may be treated, at the election of
8 the party, as a withdrawal of consent for purposes of this
9 section.

10 (i) This section does not apply to a notice or
11 document delivered by an insurer in an electronic form before
12 the effective date of this act to a party who, before that
13 date, has consented to receive notices or documents in an
14 electronic form otherwise allowed by law.

15 (j) If the consent of a party to receive certain
16 notices or documents in an electronic form is on file with an
17 insurer before the effective date of this act, and pursuant to
18 this section, an insurer intends to deliver additional notices
19 or documents to such party in an electronic form, then prior
20 to delivering such additional notices or documents
21 electronically, the insurer shall meet the following
22 requirements:

23 (1) Provide the party with a statement that
24 describes:

1 a. The notices or documents that shall be delivered
2 by electronic means under this section that were not
3 previously delivered electronically.

4 b. The right of a party to withdraw his or her
5 consent to have notices or documents delivered by electronic
6 means, without the imposition of any condition or consequence
7 that was not disclosed at the time of initial consent.

8 (2) Comply with subdivision (2) of subsection (c).

9 (k) An insurer shall deliver a notice or document by
10 any other delivery method permitted by law other than
11 electronic means if:

12 (1) The insurer attempts to deliver the notice or
13 document by electronic means and has a reasonable basis for
14 believing that the notice or document has not been received by
15 the party.

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

18 (1) It is the responsibility of the insurer to
19 deliver to a party any notice or document authorized to be
20 sent electronically pursuant to this act.

21 (m) This section may not be construed to modify,
22 limit, or supersede the provisions of the federal Electronic
23 Signatures in Global and National Commerce Act, Public Law
24 106-229, as amended.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB292

Senate 30-APR-15

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 04-JUN-15

By: Senator Blackwell