

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

2
3
4
5
6
7
8 SYNOPSIS: This bill would allow electronic delivery
9 of a property or casualty insurance policy to the
10 address at which the party has consented to receive
11 notice.

12 This bill would specify that a property or
13 casualty insurance policy or endorsement without
14 any personally identifiable information may be
15 delivered electronically subject to certain
16 requirements.

17 This bill would require each insurer to make
18 a paper copy of the policy available without charge
19 upon request by the policyholder.
20

21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 Relating to property and casualty insurance; to
26 allow electronic delivery of a property or casualty insurance
27 policy to the address at which the party has consented to

1 receive notice; to specify that policies and endorsements may
2 be delivered electronically subject to certain requirements;
3 and to provide that a paper copy of a policy would be
4 available to the policyholder upon request without charge.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

8 (1) DELIVERED BY ELECTRONIC MEANS or ELECTRONIC
9 DELIVERY. Any of the following:

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

12 b. Posting on an electronic network or site
13 accessible via the Internet, mobile application, computer,
14 mobile device, tablet, or any other electronic device,
15 together with separate notice of the posting which shall be
16 provided by electronic mail to the address at which the party
17 has consented to receive notice or by any other delivery
18 method that has been consented to by the party.

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

23 Section 2. (a) Subject to the requirements of this
24 section, any notice to a party or any other document required
25 under applicable law in an insurance transaction or that is to
26 serve as evidence of insurance coverage may be delivered,

1 stored, and presented by electronic means so long as it meets
2 the requirements of the Uniform Electronic Transactions Act.

3 (b) Delivery of a notice or document in accordance
4 with this section shall be considered equivalent to any
5 delivery method required under applicable law, including
6 delivery by first class mail, postage prepaid, certified mail,
7 certificate of mail, or certificate of mailing.

8 (c) A notice or document may be delivered by
9 electronic means by an insurer to a party under this section
10 if:

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

13 (2) The party, before giving consent, is provided
14 with a clear and conspicuous statement informing the party of
15 all of the following:

16 a. The right of the party to withdraw consent to
17 have a notice or document delivered by electronic means, at
18 any time, and any conditions or consequences imposed in the
19 event consent is withdrawn.

20 b. The types of notices and documents to which the
21 consent of the party would apply.

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

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

1 (d)(1) The party, before giving consent, is provided
2 with a statement of the hardware and software requirements for
3 access to and retention of a notice or document delivered by
4 electronic means and consents electronically, or confirms
5 consent electronically, in a manner that reasonably
6 demonstrates that the party can access information in the
7 electronic form that will be used for notices or documents
8 delivered by electronic means as to which the party has given
9 consent.

10 (2) After consent of the party is given, the
11 insurer, if a change in the hardware or software requirements
12 is needed to access or retain a notice or document delivered
13 by electronic means creates a material risk that the party may
14 not be able to access or retain a subsequent notice or
15 document to which the consent applies shall provide the party
16 with a statement that:

17 a. Describes the revised hardware and software
18 requirements for access to and retention of a notice or
19 document delivered by electronic means.

20 b. The right of the party to withdraw consent
21 without the imposition of any condition or consequence that
22 was not disclosed at the time of initial consent.

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

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

1 (f) If a provision of this section or applicable law
2 requiring a notice or document to be provided to a party
3 expressly requires verification or acknowledgment of receipt
4 of the notice or document, the notice or document may be
5 delivered by electronic means only if the method used provides
6 for verification or acknowledgment of receipt.

7 (g) The legal effectiveness, validity, or
8 enforceability of any contract or policy of insurance executed
9 by a party may not be denied solely because of the failure to
10 obtain electronic consent or confirmation of consent of the
11 party in accordance with subsection (c) (2) b. of this section.

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

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

19 (3) Failure by an insurer to comply with the notice
20 requirement of this section may be treated, at the election of
21 the party, as a withdrawal of consent for purposes of this
22 section.

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

1 (j) If the consent of a party to receive certain
2 notices or documents in an electronic form is on file with an
3 insurer before the effective date of this act, and pursuant to
4 this section, an insurer intends to deliver additional notices
5 or documents to such party in an electronic form, then prior
6 to delivering such additional notices or documents
7 electronically, the insurer shall meet the following
8 requirements:

9 (1) Provide the party with a statement that
10 describes:

11 a. The notices or documents that shall be delivered
12 by electronic means under this section that were not
13 previously delivered electronically.

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

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

19 (k) An insurer shall deliver a notice or document by
20 any other delivery method permitted by law other than
21 electronic means if:

22 (1) The insurer attempts to deliver the notice or
23 document by electronic means and has a reasonable basis for
24 believing that the notice or document has not been received by
25 the party.

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

1 (1) A producer shall not be subject to civil
2 liability for any harm or injury that occurs as a result of a
3 party's election to receive any notice or document by
4 electronic means or by an insurer's failure to deliver a
5 notice or document by electronic means.

6 (m) This section may not be construed to modify,
7 limit, or supersede the provisions of the federal Electronic
8 Signatures in Global and National Commerce Act, Public Law
9 106-229, as amended.

10 Section 3. (a) (1) Notwithstanding any other
11 provisions of the law regarding electronic notices and
12 documents, standard property and casualty insurance policies
13 and endorsements that do not contain personally identifiable
14 information may be mailed, delivered, or posted on the
15 insurer's website. If the insurer elects to post insurance
16 policies and endorsements on its website in lieu of mailing or
17 delivering them to the insured, it shall comply with all of
18 the following conditions:

19 a. The policy and endorsements shall be accessible
20 to the insured and producer of record and remain that way for
21 as long as the policy is in force.

22 b. After the expiration of the policy, the insurer
23 must archive its expired policies and endorsements for a
24 period of five years or other period required by law, and make
25 them available upon request.

26 c. The policies and endorsements must be posted in a
27 manner that enables the insured and producer of record to

1 print and save the policy and endorsements using programs or
2 applications that are widely available on the Internet and
3 free to use.

4 d. The insurer provides the following information
5 in, or simultaneous with each declarations page provided at
6 the time of issuance of the initial policy and any renewals of
7 that policy including all of the following:

8 1. A description of the exact policy and endorsement
9 forms purchased by the insured.

10 2. A description of the insured's right to receive,
11 upon request and without charge, a paper copy of the policy
12 and endorsements by mail.

13 3. The Internet address to which the policy and
14 endorsements are posted.

15 (2) The insurer, upon request and without charge,
16 shall mail a paper copy of the policy and endorsements to the
17 insured.

18 (3) The insurer shall provide notice, in the format
19 preferred by the insured, of any changes to the forms or
20 endorsements, the insured's right to obtain, upon request and
21 without charge, a paper copy of the forms or endorsements, and
22 the Internet address to which the forms or endorsements are
23 posted.

24 (b) Nothing in this section shall affect the timing
25 or content of any disclosure or other document required to be
26 provided or made available to any insured under applicable
27 law.

1 Section 4. 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.