

## Kahler, Pam

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**From:** misha@leegovernmentrelations.com  
**Sent:** Wednesday, April 10, 2013 3:44 PM  
**To:** Kahler, Pam  
**Cc:** Seeman, Kirsten; Andy Franken  
**Subject:** LRB 1709/P2

Good afternoon Pam.

Per our discussion earlier today with Andy Franken regarding the language under S. 610.60 (4) (d), we are comfortable with either the word "between" or "with". This should address the issue in which certain Life insurers utilize oral applications in the course of their everyday business operations. The goal is ensure that the bill does not interfere with this existing practice by life insurers. I sincerely apologize for the confusion and appreciate your assistance.

Regards,

MISHA LEE  
Lee Government Relations, LLC  
103 North Hamilton Street  
Madison, Wisconsin 53703  
(608) 219-0574 phone  
(888) 279-0575 fax  
[misha@leegovernmentrelations.com](mailto:misha@leegovernmentrelations.com)



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

(w-4-11)

X Regen

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

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

Insert A

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

3 SECTION 1. 610.60 of the statutes is created to read:  
4 **610.60 Electronic delivery of notices and documents.** (1) DEFINITIONS.

5 In this section:

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

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

9 2. Posting on an electronic network or site that is accessible via the Internet  
10 by using a mobile application, computer, mobile device, tablet, or any other electronic

1 device and sending separate notice of the posting to a party, directed to the electronic  
2 mail address at which the party has consented to receive notice of the posting.

3 (b) "Party" means a recipient of a notice or document required as part of an  
4 insurance transaction, including an applicant, an insured, a policyholder, or an  
5 annuity contract holder.

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

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

16 (c) If a provision of chs. 600 to 655 that requires a notice or document to be  
17 provided to a party expressly requires verification or acknowledgment of receipt of  
18 the notice or document, the notice or document may be delivered by electronic means  
19 only if the method used provides for verification or acknowledgment of receipt.

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

23 (a) The party affirmatively consented to that method of delivery and has not  
24 withdrawn the consent.

1 (b) Before the party gave consent, the insurer provided the party with a  
2 statement of the hardware and software requirements for access to and retention of  
3 notices and documents delivered by electronic means.

4 (c) The party consented electronically, or confirmed consent electronically, in  
5 a manner that reasonably demonstrates that the party is able to access information  
6 in the electronic form that will be used for notices and documents delivered by  
7 electronic means as to which the party gave consent.

8 (d) Before the party gave consent, the insurer provided the party with a clear  
9 and conspicuous statement informing the party of all of the following:

10 1. The right or option of the party to have all notices and documents provided  
11 or made available in paper or another nonelectronic form instead.

12 2. The right of the party to withdraw consent to have notices and documents  
13 delivered by electronic means and any fees, conditions, or consequences that are  
14 imposed if consent is withdrawn.

15 3. That the party's consent applies to all notices and documents that may be  
16 delivered by electronic means during the course of the relationship between the  
17 party and the insurer.

18 4. After consent is given, the means, if any, by which a party may obtain a paper  
19 copy of a notice or document delivered by electronic means and the fee, if any, for the  
20 paper copy.

21 5. The procedure a party must follow to withdraw consent to have notices and  
22 documents delivered by electronic means and to update information needed to  
23 contact the party electronically.

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

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

8 (c) 1. A withdrawal of consent by a party does not affect the legal effectiveness,  
9 validity, or enforceability of a notice or document delivered by electronic means to the  
10 party before the withdrawal of consent becomes effective.

11 2. A withdrawal of consent by a party becomes effective 30 days after the  
12 insurer receives the withdrawal.

13 (d) Except as otherwise provided by law, if an oral communication or a  
14 recording of an oral communication ~~from~~ <sup>between</sup> a party <sup>and an insurer or</sup>  
15 reproduced by <sup>the</sup> ~~an~~ insurer, the oral communication or recording may qualify as a  
16 notice or document delivered by electronic means for purposes of this section.

17 (e) If a provision of chs. 600 to 655 requires a signature or a notice or document  
18 to be notarized, acknowledged, verified, or made under oath, the requirement is  
19 satisfied if the electronic signature of the person authorized to perform those acts,  
20 together with all other information required to be included by the provision, is  
21 attached to or logically associated with the signature, notice, or document.

22 (f) This section may not be construed to modify, limit, or supersede the  
23 provisions of the federal Electronic Signatures in Global and National Commerce  
24 Act, 15 USC 7001 et seq., as amended.

*an insurer's agent*



**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1709/P3ins  
PJK:.....

**INSERT A**

This bill authorizes an insurer to provide notices and documents to an insurance applicant, an insured, a policyholder, or an annuity contract holder (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.

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 all notices and documents that the insurer sends. The consumer may, however, if the insurer offers this option, receive a paper copy of a notice or document that has been sent electronically, upon request and for a fee, if any. 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 all notices and documents; that the consumer may receive all 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.

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.

(END OF INSERT A)

## Kahler, Pam

---

**From:** Reader, Kirsten  
**Sent:** Wednesday, May 08, 2013 5:51 PM  
**To:** Kahler, Pam  
**Subject:** LRB - 1709, e-delivery

Hi, Pam:

Some changes we'd like to make to LRB-1709\_P3:

We would like the legislation to be limited to property and casualty companies. In addition, we would like the following language:

Amend XXX of the XXX Code by adding a new section thereto as follows:  
Statute X Posting of Policies on the Internet.

Notwithstanding any other provisions of Statute XX Electronic Notices and Documents, standard property and casualty insurance policies and endorsements that do not contain personally identifiable information may be mailed, delivered or posted on the insurer's Web site. If the insurer elects to post insurance policies and endorsements on its Web site in lieu of mailing or delivering them to be insured, it must comply with all of the following conditions:

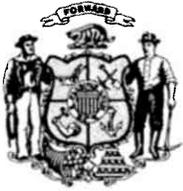
1. The policy and endorsements must be accessible and remain that way for as long as the policy is in force;
2. After the expiration of the policy, the insurer must archive its expired policies and endorsements for a period of five years, and make them available upon request;
3. The policies and endorsements must be posted in a manner that enables the insured to print and save the policy and endorsements using programs or applications that are widely available on the Internet and free to use;
4. The insurer provides the following information in, or simultaneous with each declarations page provided at the time of insurance of the initial policy and any renewals of that policy:
  - a. A description of the exact policy and endorsement forms purchased by the insured;
  - b. A method by which the insured may obtain, upon request and without charge, a paper copy of their policy, and
  - c. The internet address where their policy and endorsements are posted,

And;

5. The insurer provides notice, in the format preferred by the insured, of any changes to the forms or endorsements, the insured's right to obtain, upon request, and without charge, a paper copy of such forms and endorsements, and the internet address where such forms or endorsements are posted.

Thanks, Pam! Please let me know questions/concerns,

Kirsten Reader  
Research Assistant  
Office of Representative Chad Weininger  
4<sup>th</sup> Assembly District  
125 West, State Capitol  
608-266-5840 / [kirsten.reader@legis.wisconsin.gov](mailto:kirsten.reader@legis.wisconsin.gov)



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

D-note  
(in 5-10)

Regen

4

1

AN ACT *to create* 610.60 of the statutes; **relating to:** electronic delivery by

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insurers of notices and documents.

***Analysis by the Legislative Reference Bureau***

This bill authorizes an insurer to provide notices and documents to an insurance applicant, an insured, a policyholder, or an annuity contract holder (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.

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 all notices and documents that the insurer sends. The consumer may, however, if the insurer offers this option, receive a paper copy of a notice or document that has been sent electronically, upon request and for a fee, if any. 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 all notices and documents; that the consumer may receive all 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.

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. solely

Subsect 2-A

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

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

3 In this section:

- 4 (a) "Deliver by electronic means" includes any of the following:
- 5 1. Delivery to an electronic mail address at which a party has consented to
  - 6 receive notices or documents.
  - 7 2. Posting on an electronic network or site that is accessible via the Internet
  - 8 by using a mobile application, computer, mobile device, tablet, or any other electronic
  - 9 device and sending separate notice of the posting to a party, directed to the electronic
  - 10 mail address at which the party has consented to receive notice of the posting.

11 (b) "Party" means a recipient of a notice or document required as part of an  
12 insurance transaction, including an applicant, an insured, a policyholder, or an  
13 annuity contract holder.

14 (2) ELECTRONIC DELIVERY PERMITTED; EQUIVALENT TO OTHER METHODS. (a) Subject  
15 to par. (c), sub. (3), and s. 137.12 (2r) (c), notice to a party, and any other document  
16 that is required under applicable law in an insurance transaction or that serves as

1 evidence of insurance coverage, may be stored, presented, and delivered by electronic  
2 means, as long as the notice or other document meets the requirements of subch. II  
3 of ch. 137.

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

8 (c) If a provision of chs. 600 to 655 that requires a notice or document to be  
9 provided to a party expressly requires verification or acknowledgment of receipt of  
10 the notice or document, the notice or document may be delivered by electronic means  
11 only if the method used provides for verification or acknowledgment of receipt.

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

15 (a) The party affirmatively consented to that method of delivery and has not  
16 withdrawn the consent.

17 (b) Before the party gave consent, the insurer provided the party with a  
18 statement of the hardware and software requirements for access to and retention of  
19 notices and documents delivered by electronic means.

20 (c) The party consented electronically, or confirmed consent electronically, in  
21 a manner that reasonably demonstrates that the party is able to access information  
22 in the electronic form that will be used for notices and documents delivered by  
23 electronic means as to which the party gave consent.

24 (d) Before the party gave consent, the insurer provided the party with a clear  
25 and conspicuous statement informing the party of all of the following:

1           1. The right or option of the party to have all notices and documents provided  
2 or made available in paper or another nonelectronic form instead.

3           2. The right of the party to withdraw consent to have notices and documents  
4 delivered by electronic means and any fees, conditions, or consequences that are  
5 imposed if consent is withdrawn.

6           3. That the party's consent applies to all notices and documents that may be  
7 delivered by electronic means during the course of the relationship between the  
8 party and the insurer.

9           4. After consent is given, the means, if any, by which a party may obtain a paper  
10 copy of a notice or document delivered by electronic means and the fee, if any, for the  
11 paper copy.

12           5. The procedure a party must follow to withdraw consent to have notices and  
13 documents delivered by electronic means and to update information needed to  
14 contact the party electronically.

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

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

22           (c) 1. A withdrawal of consent by a party does not affect the legal effectiveness,  
23 validity, or enforceability of a notice or document delivered by electronic means to the  
24 party before the withdrawal of consent becomes effective.

1           2. A withdrawal of consent by a party becomes effective 30 days after the  
2 insurer receives the withdrawal.

3           (d) Except as otherwise provided by law, if an oral communication or a  
4 recording of an oral communication between a party and an insurer or an insurer's  
5 agent can be reliably stored and reproduced by the insurer, the oral communication  
6 or recording may qualify as a notice or document delivered by electronic means for  
7 purposes of this section.

8           (e) If a provision of chs. 600 to 655 requires a signature or a notice or document  
9 to be notarized, acknowledged, verified, or made under oath, the requirement is  
10 satisfied if the electronic signature of the person authorized to perform those acts,  
11 together with all other information required to be included by the provision, is  
12 attached to or logically associated with the signature, notice, or document.

13           (f) This section may not be construed to modify, limit, or supersede the  
14 provisions of the federal Electronic Signatures in Global and National Commerce  
15 Act, 15 USC 7001 et seq., as amended.

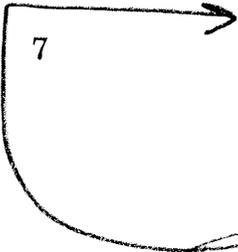
16           **(5) EFFECT ON EARLIER ELECTRONIC DELIVERY.** (a) This section does not apply to  
17 a notice or document delivered by an insurer in an electronic form before the effective  
18 date of this paragraph .... [LRB inserts date], to a party who, before that date,  
19 consented to receive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

21           (b) If the consent of a party to receive certain notices or documents in an  
22 electronic form is on file with an insurer before the effective date of this paragraph  
23 .... [LRB inserts date], and, in accordance with this section, the insurer intends to  
24 deliver all notices and documents to the party in electronic form, before delivering

1 any additional notices or documents electronically, the insurer shall notify the party  
2 of all of the following:

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

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



(END)

Insert 6-6 ✓

D-note

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1709/P4ins  
PJK:.....

*pmc*

INSERT 2-A

\*\*\*\*NOTE: This version of the draft does not include an analysis for the new provision regarding posting policies and endorsements on the Internet.✓

(END OF INSERT 2-A)

INSERT 6-6

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

\*\*\*\*NOTE: Is an insurer authorized to do this without the insured's consent for "delivery" by this means? If so, that should be stated.✓

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

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

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

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

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



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

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

5           (e) The insurer must provide notice, in the format preferred by the insured, of  
6 all of the following:

7           1. Any changes to the forms or endorsements. ✓

8           2. The insured's right to obtain, upon request and without charge, a paper copy  
9 of the forms and endorsements.

10          3. The address of the Internet site where the forms and endorsements are  
11 posted.

      \*\*\*\*NOTE: I don't understand par. (e) above. Are the "forms" the ones mentioned  
in par. (d)? If so, why are forms and endorsements treated separately in par. (e) and the  
policy not mentioned? Doesn't the insured already have notice that he or she can obtain  
paper copies under par. (d) 2., as well as notice of the Internet address where they are  
posted under par. (d) 3.?

12          (7) APPLICABILITY. This section applies only to property and casualty insurance.

(END OF INSERT 6-6)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1709/P4dn

PJK: f:...

*jld*  
*revision*

*date*

Do you want to specify what types of insurance are included in "property and casualty"? Most likely any insurer will know whether their product is property and casualty, but a consumer probably will not.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1709/P4dn  
PJK:jld:jm

Do you want to specify what types of insurance are included in “property and casualty”? Most likely any insurer will know whether their product is property and casualty, but a consumer probably will not.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)

## Kahler, Pam

---

**From:** Reader, Kirsten  
**Sent:** Thursday, May 23, 2013 2:10 PM  
**To:** Kahler, Pam  
**Subject:** LRB - 1709/P4 changes  
**Attachments:** Edelivery.doc

Hi, Pam:

Attached are some changes we'd like to make to the e-delivery bill.

Please let me know if there are questions!

Kirsten Reader  
Research Assistant  
Office of Representative Chad Weininger  
4<sup>th</sup> Assembly District  
125 West, State Capitol  
608-266-5840 / [Kirsten.Reader@legis.wisconsin.gov](mailto:Kirsten.Reader@legis.wisconsin.gov)

✓ 1. There's no definition of property and casualty insurance in the statutes, although Wis. Adm. Code sec. Ins 6.75(2) lists all the lines of property and casualty insurance and the legislation could reference that, i.e., "This section applies only to the lines and classes of insurance listed in Wis. Adm. Code sec. Ins 6.75(2)."

✓ 2. An insurer is not permitted under either Chapter 137 or federal e-sign to post generic policy forms with the intention of a policyholder retrieving electronically without getting the insured's consent for electronic delivery. "Electronic record" in both of those laws is broad enough to include posting and consumer retrieval – it means "a contract or other record created, generated, sent, communicated, received, or stored by electronic means" so consent should apply to electronic posting.

✓ 3. Pam's question under subs. (6)(e), after line 16: Use the same language in (e) that is used in (d) – "policy and endorsement forms."

✓ 4. Page 2, line 12 and 13: delete "annuity contract holder."

✓ 5. Page 3, line 8: instead of just "law," say "statutory law and rules and regulations having the force of law".

✓ 6. Page 3, line 10 "Whether or not a party consents to delivery electronically, an insurer may deliver by 1<sup>st</sup> class mail, postage prepaid; certified mail; or registered mail." [This is just to protect the insurer if it decided to send something by mail after the insured consented to e-delivery.]

✓ 7. Page 4, line 5: Delete the word "all."

✓ 8. Page 4, line 6 at the end of the paragraph: Add "An insurer may elect to provide all notices and documents by electronic means or may limit electronic delivery to only those notices and documents selected by the insurer." [To give an insurer that wants to do partial electronic communication.]

✓ 9. Page 4, line 10: Delete the word "all".

✓ 10. Page 4, line 12 at the end of the paragraph: Add "Nothing in this section requires an insurer to make a notice or document available electronically." [Again, to specifically protect insurers who don't want to do electronic delivery.]

✓ 11. Page 5, line 6: After "otherwise" add "Wisconsin" to make it clear that this section is not either UETA or federal e-sign.

✓ 12. Page 5, line 16: At the beginning of the sentence, add "Except as provided in par. (d)". [Again, to make it clear that paragraph (d) is a modification of federal e-sign.]

New



PS  
r m is run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note  
(in 6-4)

Property and casualty

Regen

4

1

AN ACT to create 610.60 of the statutes; relating to: electronic delivery by insurers of notices and documents.

2

that provides property or casualty insurance

Analysis by the Legislative Reference Bureau

This bill authorizes <sup>any</sup> an insurer to provide notices and documents to an insurance applicant, an insured, <sup>or</sup> a policyholder, or an annuity contract holder (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.

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9 device and sending separate notice of the posting to a party, directed to the electronic  
10 mail address at which the party has consented to receive notice of the posting.

11 ~~a~~ c ~~a~~ "Party" means a recipient of a notice or document required as part of an  
12 insurance transaction, including an applicant, an insured, a policyholder, or an

13 annuity contract holder.

Insert A

Insert 2-3

or

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

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

11 (c) If a provision of chs. 600 to 655 that requires a notice or document to be  
12 provided to a party expressly requires verification or acknowledgment of receipt of  
13 the notice or document, the notice or document may be delivered by electronic means  
14 only if the method used provides for verification or acknowledgment of receipt.

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

18 ¶ 1. (a) The party affirmatively consented to that method of delivery and has not  
19 withdrawn the consent.

20 ¶ 2. (b) Before the party gave consent, the insurer provided the party with a  
21 statement of the hardware and software requirements for access to and retention of  
22 notices and documents delivered by electronic means.

23 ¶ 3. (c) The party consented electronically, or confirmed consent electronically, in  
24 a manner that reasonably demonstrates that the party is able to access information

Insert 3-14

→ (a)

Section 4-2

1 in the electronic form that <sup>the insurer</sup> will ~~be~~ used for <sup>delivery of</sup> notices and documents ~~delivered~~ by  
 2 electronic means as to which the party gave consent

3 ~~5~~ 4. (d) Before the party gave consent, the insurer provided the party with a clear  
 4 and conspicuous statement informing the party of all of the following: ✓

5 ~~4~~ <sup>a</sup> 4. The right or option of the party to have ~~all~~ notices and documents provided ✓  
 6 or made available in paper or another nonelectronic form instead.

7 ~~4~~ <sup>b</sup> 4. The right of the party to withdraw consent to have notices and documents  
 8 delivered by electronic means and any fees, conditions, or consequences that are  
 9 imposed if consent is withdrawn. ✓

10 ~~4~~ <sup>c</sup> 3. That the party's consent applies to ~~all~~ <sup>any</sup> notices ~~and~~ <sup>or</sup> documents that may be ✓  
 11 delivered by electronic means during the course of the relationship between the  
 12 party and the insurer. ✓

13 ~~4~~ <sup>d</sup> 4. After consent is given, the means, if any, by which a party may obtain a paper  
 14 copy of a notice or document <sup>for delivery by electronic means</sup> delivered by electronic means and the fee, if any, for the  
 15 paper copy. ✓ <sup>that has been</sup>

16 ~~4~~ <sup>e</sup> 5. The procedure a party must follow to withdraw consent to have notices and  
 17 documents delivered by electronic means and to update information needed to  
 18 contact the party electronically. ✓

Section 4-18

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

22 (b) The legal effectiveness, validity, or enforceability of any contract or policy  
 23 of insurance executed by a party may not be denied solely because of the failure to  
 24 obtain electronic consent or confirmation of consent of the party in accordance with

25 sub. (3) (c) <sup>3</sup>  
<sup>a</sup>

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

4 2. A withdrawal of consent by a party becomes effective 30 days after the  
5 insurer receives the withdrawal.

6 (d) Except as otherwise provided by law, if an oral communication or a  
7 recording of an oral communication between a party and an insurer or an insurer's  
8 agent can be reliably stored and reproduced by the insurer, the oral communication  
9 or recording may qualify as a notice or document delivered by electronic means for  
10 purposes of this section.

11 (e) If a provision of chs. 600 to 655 requires a signature or a notice or document  
12 to be notarized, acknowledged, verified, or made under oath, the requirement is  
13 satisfied if the electronic signature of the person authorized to perform those acts,  
14 together with all other information required to be included by the provision, is  
15 attached to or logically associated with the signature, notice, or document.

16 (f) This section may not be construed to modify, limit, or supersede the  
17 provisions of the federal Electronic Signatures in Global and National Commerce  
18 Act, 15 USC 7001 et seq., as amended.

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

24 (b) If the consent of a party to receive certain notices or documents in an  
25 electronic form is on file with an insurer before the effective date of this paragraph

Insert 5-15

Except as provided in par. (d),  
does not and

1 .... [LRB inserts date], and, in accordance with this section, the insurer intends to  
2 deliver <sup>e</sup>(all) notices and documents <sup>✓</sup> to the party in electronic form, before delivering  
3 any additional notices or documents electronically, the insurer shall notify the party  
4 of all of the following:

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

7 2. The party's right to withdraw consent to have any notices or documents  
8 delivered by electronic means. <sup>to a policyholder,</sup> <sup>insured, or applicant for insurance ✓</sup>

9 (6) POSTING OF POLICIES AND ENDORSEMENTS ON INTERNET. Notwithstanding subs.  
10 (1) to (5), <sup>✓</sup>in lieu of delivery <sup>by any other method,</sup> an insurer may <sup>post on the insurer's</sup>  
11 Internet site any standard policy, and any endorsements to such a policy, that do not  
12 contain personally identifiable information. An insurer that elects to post such a  
13 policy and any endorsements to the policy on its Internet site shall comply with all  
14 of the following requirements:

\*\*\*\*NOTE: Is an insurer authorized to do this without the insured's consent for  
"delivery" by this means? If so, that should be stated.

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

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

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

✓  
) with the policyholder, insured,  
or applicant's consent

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

4 1. A description of the exact policy and endorsement forms purchased by the  
5 insured. ✓

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

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

10 (e) The insurer must provide notice, in the format preferred by the insured, of  
11 all of the following:

12 1. Any changes to the <sup>policy</sup> forms or endorsements ✓

13 2. The insured's right to obtain, upon request and without charge, a paper copy  
14 of the <sup>policy</sup> forms and endorsements ✓

15 3. The address of the Internet site where the <sup>policy</sup> forms and endorsements are  
16 posted. ✓

\*\*\*NOTE: I don't understand par. (e) above. Are the "forms" the ones mentioned in par. (d)? If so, why are forms and endorsements treated separately in par. (e) and the policy not mentioned? Doesn't the insured already have notice that he or she can obtain paper copies under par. (d) 2., as well as notice of the Internet address where they are posted under par. (d) 3.?

17 (7) APPLICABILITY. This section applies only to property and casualty insurance

18 (END)

as described in s. Ins 6.75 (2), Wis. Adm. Code

D-note

Insert 7-5

Insert 7-12

Insert 7-14

Insert 7-16

Insert 7-17

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1709/P5ins  
PJK:.....

INSERT A

The bill also authorizes an insurer that provides property or casualty insurance to post on the insurer's Internet site, with the consent of the policyholder, insured, or applicant for insurance, 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) the insurer must provide notice of any changes to the policy or endorsement forms, that 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.

check

(END OF INSERT A)

INSERT 2-3

- 1 (a) "Applicable law" means applicable statutory law and rules and regulations
- 2 having the force of law.

(END OF INSERT 2-3)

INSERT 3-14

\*\*\*\*NOTE: I don't know if there are actually any provisions in chs. 600 to 655 to which the above paragraph applies. Do you want to add "or any rule promulgated under those chapters"?

(END OF INSERT 3-14)

INSERT 4-2

\*\*\*\*NOTE: This provision was somewhat unclear because of its passive construction. I reworded it to make it more understandable. Let me know if I have changed the intended meaning in any way.

(END OF INSERT 4-2)

INSERT 4-18



*Ins 4-18 contd*

1 (b) If the conditions under par. (a) <sup>✓</sup> are satisfied, the insurer may elect to deliver  
2 all notices and documents by electronic means or only those notices and documents  
3 selected by the insurer. <sup>✓</sup>

4 (c) Even if the conditions under par. (a) <sup>✓</sup> are satisfied, the insurer may deliver  
5 any notice or document by 1st class mail; <sup>✓</sup> 1st class mail, postage prepaid; <sup>✓</sup> certified  
6 mail; or registered mail. <sup>✓</sup>

(END OF INSERT 4-18)

**INSERT 5-15**

\*\*\*\*NOTE: I don't know if there are actually any provisions in chs. <sup>✓</sup> 600 to 655 to which the above paragraph applies. Do you want to add "or any rule promulgated under those chapters"? <sup>✓</sup>

(END OF INSERT 5-15)

**INSERT 7-5**

\*\*\*\*NOTE: Is "form" correct here? When I purchase insurance, I think I'm purchasing a policy, not a form. <sup>✓</sup>

(END OF INSERT 7-5)

**INSERT 7-12**

\*\*\*\*NOTE: Is "form" correct here? Is there a change to the policy terms or to the policy form, such as a different printing font, or a reorganization of the printed provisions of the policy, for example?

(END OF INSERT 7-12)

**INSERT 7-14**

\*\*\*\*NOTE: "Form" could work here, but I don't think it's necessary. <sup>✓</sup>

(END OF INSERT 7-14)

**INSERT 7-16**



*Ins 7-16 contd*

\*\*\*\*NOTE: "Form" could work here, but I don't think it's necessary.✓

(END OF INSERT 7-16)

**INSERT 7-17**

- 1           (8) OPTIONAL METHODS. ✓ Nothing in this section ✓ requires an insurer to deliver
- 2           a notice or document by electronic means or to post policies and endorsements on an
- 3           Internet site. ✓

\*\*\*\*NOTE: Since "deliver by electronic means" is the defined phrase, I used that instead of "make available electronically." Okay?

(END OF INSERT 7-17)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

*date*

LRB-1709/P5dn

PJK:.....

*missouri*  
*old*

✓ Except for one, I have made all of the suggested changes, although not necessarily in the manner or at the locations suggested. Let me know if anything needs to be changed.

I have not added "Wisconsin" to s. 610.60 (4) (d) ✓ because the suggested location for it did not make sense and I'm not sure what is wanted. I added "Except as provided in par. (d)" to s. 610.60 (4) (f) ✓, but then to reconcile pars. (d) and (f), I took "Except as otherwise provided by law" out of par. (d). ✓ The two paragraphs cannot except each other. Is it necessary to make an exception for other law in par. (d)? Is there any law in particular, other than par. (f), that you are aware of that conflicts with par. (d)? ✓

It still seems to me that pars. (d) and (e) under sub. (6) ✓ contain redundancies. Subdivisions 2. and 3. under each paragraph are nearly identical. We know when the insurer must provide the information under par. (d) but not under par. (e). ✓ It would seem that the information under par. (e) 2. and 3. are provided when that same information is provided under par. (d). I don't know why it is included twice. Perhaps it would help if the draft specified when the information had to be provided under par. (e). ✓ Also, is there a difference in sub. (6) ✓ between "policy and endorsements" and "policy and endorsement forms"? Use of the two different phrases is confusing, and, if they are different, I'm not sure that they are used properly.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.wisconsin.gov

✓  
*If what I have done is not acceptable, please provide more information.*

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1709/P5dn  
PJK:jld:jf

June 7, 2013

Except for one, I have made all of the suggested changes, although not necessarily in the manner or at the locations suggested. Let me know if anything needs to be changed.

I have not added "Wisconsin" to s. 610.60 (4) (d) because the suggested location for it did not make sense and I'm not sure what is wanted. I added "Except as provided in par. (d)" to s. 610.60 (4) (f), but then to reconcile pars. (d) and (f), I took "Except as otherwise provided by law" out of par. (d). The two paragraphs cannot except each other. Is it necessary to make an exception for other law in par. (d)? Is there any law in particular, other than par. (f), that you are aware of that conflicts with par. (d)? If what I have done is not acceptable, please provide more information.

It still seems to me that pars. (d) and (e) under sub. (6) contain redundancies. Subdivisions 2. and 3. under each paragraph are nearly identical. We know when the insurer must provide the information under par. (d) but not under par. (e). It would seem that the information under par. (e) 2. and 3. are provided when that same information is provided under par. (d). I don't know why it is included twice. Perhaps it would help if the draft specified when the information had to be provided under par. (e). Also, is there a difference in sub. (6) between "policy and endorsements" and "policy and endorsement forms"? Use of the two different phrases is confusing, and, if they are different, I'm not sure that they are used properly.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.wisconsin.gov

## Kahler, Pam

---

**From:** Reader, Kirsten  
**Sent:** Tuesday, June 11, 2013 10:35 AM  
**To:** Kahler, Pam  
**Subject:** LRB - 1709/P5

Hi, Pam:

Below are what should be the last few changes and comments to the E-Delivery draft, LRB-1709/P5.

Per your comments in the drafter's note, paragraph 2:

- The word "Wisconsin" was suggested as an addition to make it clear that this provision is neither UETA nor Federal E-sign; we're okay that the distinction has been made.
- We're okay with both pars. (d) and (f) as written.

Per your comments in the drafter's note, paragraph 3:

- Pars. (d) and (e) address the policy forms and endorsements that must be communicated to the insured with the declarations page when the policy is first issued and at each renewal. Par. (e) addresses what the insurer needs to do if it changes its policy and endorsement forms. Andy played around with combining the two, but would like them kept separate as they are in the draft. *D - note*

Per your comments on the draft legislation:

- ✓ Page 3 – please add the suggested language “or any rule promulgated under those chapters.”
- ✓ Page 4 – language is okay.
- ✓ Page 6 – please add the suggested language “or any rule promulgated under those chapters.”
- Page 7 – the word “form” is correct; forms of actual contract are what are filed with the OCI and generic policy forms and endorsement forms are what would be posted on the insurer’s website for review by consumers. Each policy form and endorsement form has a number so an insured can get the correct generic forms that make up his/her policy.
- ✓ Page 8, line 7, after line 9 and after line 11 – use of the word “form” is appropriate.
- ✓ Page 8, after line 16 – language okay as written.

As for the “LRB inserts date” throughout the draft, could we please have those say “effective upon publication” or the variance that is often used. *D - note*

I believe once these changes are made, we should be good to have this be a /1.

Thanks, and let me know questions.

Kirsten Reader  
Research Assistant  
Office of State Representative Chad Weininger  
125 West, State Capitol  
608-266-5840 / [Kirsten.Reader@legis.wisconsin.gov](mailto:Kirsten.Reader@legis.wisconsin.gov)



State of Wisconsin  
2013 - 2014 LEGISLATURE



LRB-1709/PA  
PJK:jld:af

2013 BILL

rmisur

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Vote  
(in bill)

4 Regen

- 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, if the insurer offers this option, receive a paper copy of a notice or document that has been sent electronically, upon request and for a fee, if any. 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.

if the insurer offers this option



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, with the consent of the policyholder, insured, or applicant for insurance, 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) the insurer must provide notice of any changes to the policy or endorsement forms, that 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.

*If the insurer makes any changes to the policy or an endorsement form,*

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

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

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

In this section:

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

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

*the*  
*policy or endorsement form is*

*form*

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 chs. 600 to 655 that requires a notice or document to be  
20 provided to a party expressly requires verification or acknowledgment of receipt of  
21 the notice or document, the notice or document may be delivered by electronic means  
22 only if the method used provides for verification or acknowledgment of receipt.

\*\*\*\*NOTE: I don't know if there are actually any provisions in chs. 600 to 655 to which the above paragraph applies. Do you want to add "or any rule promulgated under those chapters"?

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.

✓ **\*\*\*NOTE:** This provision was somewhat unclear because of its passive construction.  
I reworded it to make it more understandable. Let me know if I have changed the  
intended meaning in any way.

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.

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

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

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

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

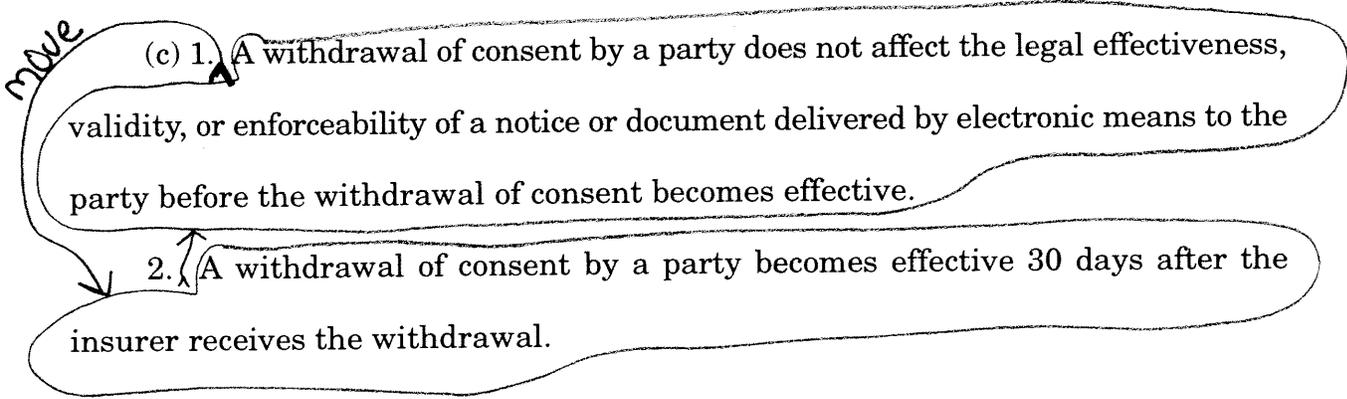
13 (4) MISCELLANEOUS RELATED PROVISIONS. (a) This section does not affect any  
14 requirement related to the content or timing of a notice or document required under  
15 applicable law.

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

20 (c) 1. A withdrawal of consent by a party does not affect the legal effectiveness,  
21 validity, or enforceability of a notice or document delivered by electronic means to the  
22 party before the withdrawal of consent becomes effective.

23 2. A withdrawal of consent by a party becomes effective 30 days after the  
24 insurer receives the withdrawal.

LP5 - Switch these two sentences around



✓ ( ) or rule promulgated under,

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

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

✓ **NOTE:** I don't know if there are actually any provisions in chs. 600 to 655 to which the above paragraph applies. Do you want to add "or any rule promulgated under those chapters"?

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

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

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

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

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

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

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

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

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

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

22           1. A description of the exact policy and endorsement forms purchased by the  
23 insured.

✓       \*\*\*\*NOTE: Is "form" correct here? When I purchase insurance, I think I'm  
          purchasing a policy, not a form.

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

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

*Insert 8-5 ✓*

5 (e) The insurer must provide notice, in the format preferred by the insured, of  
6 all of the following:

7 1. ~~Any~~ <sup>The</sup> changes to the policy or endorsement forms

\*\*\*\*NOTE: Is "form" correct here? Is there a change to the policy terms or to the policy form, such as a different printing font, or a reorganization of the printed provisions of the policy, for example?

8           2. The insured's right to obtain, upon request and without charge, a paper copy  
9 of the policy <sup>or</sup> and endorsement forms.

\*\*\*\*NOTE: "Form" could work here, but I don't think it's necessary.

10           3. The address of the Internet site where the policy and endorsement forms are  
11 <sup>is</sup> posted.

\*\*\*\*NOTE: "Form" could work here, but I don't think it's necessary.

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

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

\*\*\*\*NOTE: Since "deliver by electronic means" is the defined phrase, I used that instead of "make available electronically." Okay?

17 (END)

*D - info*

2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-1709/lins  
PJK:.....

*r m is run*

INSERT 8-5

1

*not*

If the insurer makes any changes to the policy or an endorsement form,

*NO  
A*

(END OF INSERT 8-5)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1709/1dn

PJK:.....

*r mis run jld*

*date*

I have modified the language of sub. (6) (e),<sup>✓</sup> based on your explanation that that provision applies if the insurer changes the policy or endorsement form. Let me know if you want to go back to the previous language.<sup>✓</sup>

I have not made any changes to the "LRB inserts date" references. When we make reference to the day after publication, it is in a nonstatutory effective date provision, which does not get printed in the statutes.<sup>✓</sup> When we make reference to the effective date of a subsection, or paragraph, etc., it is in a nonstatutory provision, which does not get printed in the statutes. In the draft, wherever it now says "the effective date of this paragraph ... [LRB inserts date]," the actual effective date of the act, which will be the day after publication, will be printed in the statute.<sup>✓</sup> For example, see s. 655.006 (1) (a) and (2).<sup>✓</sup> This is how in-text effective dates are drafted. If, in a statutory provision, I were to make reference to the effective date or publication date, forevermore into the future a person reading the statute would have to do some research to determine when the act that created or amended the statute was published. Let me know if you have any further questions about this.

I noticed as I was reviewing the draft that it is not clear in what form, such as written or electronic, an insurer must make a posted policy or endorsement form available upon request for five years after the policy terminates under sub. (6) (b).<sup>✓</sup> Do you want to clarify this?

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1709/1dn  
PJK:jld:jm

June 13, 2013

I have modified the language of sub. (6) (e), based on your explanation that that provision applies if the insurer changes the policy or endorsement form. Let me know if you want to go back to the previous language.

I have not made any changes to the "LRB inserts date" references. When we make reference to the day after publication, it is in a nonstatutory effective date provision, which does not get printed in the statutes. When we make reference to the effective date of a subsection, or paragraph, etc., it is in a nonstatutory provision, which does not get printed in the statutes. In the draft, wherever it now says "the effective date of this paragraph ... [LRB inserts date]," the actual effective date of the act, which will be the day after publication, will be printed in the statute. For example, see s. 655.006 (1) (a) and (2). This is how in-text effective dates are drafted. If, in a statutory provision, I were to make reference to the effective date or publication date, forevermore into the future a person reading the statute would have to do some research to determine when the act that created or amended the statute was published. Let me know if you have any further questions about this.

I noticed as I was reviewing the draft that it is not clear in what form, such as written or electronic, an insurer must make a posted policy or endorsement form available upon request for five years after the policy terminates under sub. (6) (b). Do you want to clarify this?

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## Kahler, Pam

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**From:** Reader, Kirsten  
**Sent:** Monday, June 24, 2013 9:22 AM  
**To:** Kahler, Pam  
**Cc:** Kovach, Robert  
**Subject:** LRB 1709/1 and senate companion

Hi, Pam:

We have one more change we'd like to make to both the assembly version of the e-delivery draft and its senate companion.

On page 7, lines 3-4, we'd like to delete "with the policyholder's, insured's, or applicant's consent" as this renders this portion of the bill moot and negates industry's intent to be forward looking on insurance document delivery since existing state law under EUTA (as referenced above) already allows for this activity with consent.

Thank you,

Kirsten Reader  
Research Assistant  
Office of Representative Chad Weininger  
4<sup>th</sup> Assembly District  
125 West, State Capitol  
608-266-5840 / [Kirsten.Reader@legis.wisconsin.gov](mailto:Kirsten.Reader@legis.wisconsin.gov)



*r m is new*

# 2013 BILL

*Just  
6/24  
jm*

*see p. 27*

*Lx A - note*

*Regen ←*

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.

**BILL**

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, with the consent of the policyholder, insured, or applicant for insurance, 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.

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***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:

**BILL**

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.

**BILL**

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.

**BILL**

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.

**BILL**

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.

**BILL**

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 <sup>✓</sup> with the policyholder's, insured's, or applicant's  
4           consent, post on the insurer's Internet site any standard policy, and any  
5           endorsements to such a policy, that do not contain personally identifiable  
6           information. An insurer that elects to post such a policy and any endorsements to  
7           the policy on its Internet site shall comply with all of the following 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.

**BILL**

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)

*D-note*

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1709/2dn

PJK: A:...

*rm is now jld*

*date*

This version of the draft removes the language that requires consent for electronic posting of standard policies and endorsements. When the electronic posting language was first included in the draft, I asked whether consent was needed, and I understood the response to mean that it was. I'm not sure that I understand the explanation for why it should be removed, but I guess the result is that whether consent is required is left up to other state or federal law.

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1709/2dn  
PJK:jld:jm

June 24, 2013

This version of the draft removes the language that requires consent for electronic posting of standard policies and endorsements. When the electronic posting language was first included in the draft, I asked whether consent was needed, and I understood the response to mean that it was. I'm not sure that I understand the explanation for why it should be removed, but I guess the result is that whether consent is required is left up to other state or federal law.

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**Parisi, Lori**

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**From:** Reader, Kirsten  
**Sent:** Friday, August 23, 2013 9:48 AM  
**To:** LRB.Legal  
**Cc:** Kovach, Robert  
**Subject:** Draft Review: LRB -1709/2 Topic: Allowing e-delivery of insurance notices and documents

Please Jacket LRB -1709/2 for the ASSEMBLY.