



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 373**

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

Analysis by the Legislative Reference Bureau

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

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

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

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

5 (c) “Party” means a recipient of a notice or document required as part of an
6 insurance transaction, including an applicant, an insured, or a policyholder.

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

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

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

23 **(3) CONDITIONS PRECEDENT FOR ELECTRONIC DELIVERY.** (a) Unless sub. (5) (b)
24 applies, an insurer may deliver notices and documents to a party by electronic means
25 under this section if all of the following are satisfied:

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

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

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

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

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

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

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

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

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

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

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

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

10 (b) The legal effectiveness, validity, or enforceability of any contract or policy
11 of insurance executed by a party may not be denied solely because the contract or
12 policy was delivered by electronic means if the insurer has obtained the electronic
13 consent or confirmation of consent of the party in accordance with sub. (3) (a) 3. or
14 has complied with sub. (5) (b).

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

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

20 (d) If an oral communication or a recording of an oral communication between
21 a party and an insurer or an insurer's agent can be reliably stored and reproduced
22 by the insurer, the oral communication or recording may qualify as a notice or
23 document delivered by electronic means for purposes of this section. This paragraph
24 does not apply to notices or documents that are required by applicable law to be in
25 writing.

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 (g) If an insurer attempts to deliver a notice or document by electronic means
11 to the most recent electronic mail address for the insured in the insurer's files and
12 the insurer receives a notice that the delivery by electronic means has failed, the
13 insurer shall deliver the notice or document by 1st class mail or by any other delivery
14 method required for the notice or document by a provision of, or rule promulgated
15 under, chs. 600 to 655.

16 **(5) EFFECT ON EARLIER ELECTRONIC DELIVERY.** (a) This section does not apply to
17 a notice or document delivered by an insurer by electronic means 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 by electronic means otherwise allowed by
20 applicable law.

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

1 additional notices or documents by electronic means, the insurer shall notify the
2 party 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 by electronic means.

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

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

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

16 (b) After the policy terminates, the insurer must retain copies of the policy and
17 any endorsements to the policy as provided in any provision of, or rule promulgated
18 under, chs. 600 to 655, but must make the policy and any endorsements to the policy
19 available upon the request of an insured for at least 3 years.

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

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

