

State of Wisconsin



2013 Assembly Bill 373

Date of enactment: **December 12, 2013**
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2013 WISCONSIN ACT 73

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

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:

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

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

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

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

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

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

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

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 The party affirmatively consented to that method of delivery and has not withdrawn the consent.

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

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

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

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

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

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

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

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

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

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

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

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

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

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

not apply to notices or documents that are required by applicable law to be in writing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

must be sent to the insured by mail if the insured so requests.

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

(e) If the insurer makes any changes to the policy or an endorsement form, the insurer must provide notice to the insured of all of the following:

1. The change to the policy or endorsement form.

2. The insured's right to obtain and the method for obtaining, upon request and without charge, a paper copy of the policy or endorsement form, which paper copy must be sent to the insured by mail if the insured so requests.

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

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