

**Effective 7/1/2014**

**31A-21-316 Electronic notices and documents.**

- (1) As used in this section:
  - (a) "Delivered by electronic means" includes:
    - (i) delivery to an electronic mail address at which a party has consented to receive a notice or document; or
    - (ii) posting on an electronic network or site accessible by way of the Internet, a mobile application, a computer, a mobile device, a tablet, or any other electronic device, together with separate notice of the posting that is provided by:
      - (A) electronic mail to the address at which the party has consented to receive notice; or
      - (B) any other delivery method that has been consented to by the party.
  - (b)
    - (i) "Party" means a recipient of a notice or document required as part of an insurance transaction.
    - (ii) "Party" includes an applicant, an insured, or a policyholder.
- (2) Subject to Subsection (4), a notice to a party or another document required under applicable law in an insurance transaction or that serves as evidence of insurance coverage may be delivered, stored, and presented by electronic means if it meets the requirements of Title 46, Chapter 4, Uniform Electronic Transactions Act.
- (3) Delivery of a notice or document in accordance with this section is considered equivalent to any delivery method required under applicable law.
- (4) Subject to Subsection (5), a notice or document may be delivered by electronic means by an insurer to a party under this section if:
  - (a) the party has affirmatively consented to that method of delivery and has not withdrawn the consent;
  - (b) the party, before giving consent, is provided with a clear and conspicuous statement informing the party of:
    - (i) any right or option of the party to have the notice or document provided or made available in paper or another nonelectronic form;
    - (ii) the right of the party to withdraw consent to have a notice or document delivered by electronic means, including:
      - (A) a condition or consequence imposed if consent is withdrawn;
      - (B) when the insurer will make the party's withdrawal effective, during or at the conclusion of the policy term; and
      - (C) the procedure a party is to follow to withdraw consent to have a notice or document delivered by electronic means;
    - (iii) whether the party's consent applies:
      - (A) only to the particular transaction as to which the notice or document must be given; or
      - (B) to identified categories of notices or documents that may be delivered by electronic means during the course of the party's relationship with the insured; and
    - (iv) the means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means; and
  - (c) the party:
    - (i) before giving consent, is provided with a statement of the electronic delivery and retrieval method requirements for access to and retention of a notice or document delivered by electronic means;
    - (ii) consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used

for a notice or document delivered by electronic means as to which the party has given consent; and

- (iii) is provided a process to update information needed to contact the party electronically.
- (5)
- (a) After consent of the party is given and if a change in the electronic delivery or retrieval methods creates a substantial risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies, the insurer shall:
    - (i) provide the party with a statement of:
      - (A) the revised electronic delivery or retrieval methods; and
      - (B) the right of the party to withdraw consent without the imposition of any condition or consequence that was not disclosed under Subsection (4)(b)(ii); and
    - (ii) comply with Subsection (4)(b).
  - (b) Failure by an insurer to comply with this Subsection (5) is treated, at the election of the party, as a withdrawal of consent for purposes of this section.
  - (c) When an electronic mail address provided by the party to facilitate delivery by electronic means is returned with a message as undeliverable each time electronic delivery is attempted over a period not to exceed two business days, the party is presumed to have withdrawn consent for the purposes of this section.
  - (d)
    - (i) An insurer shall file with the department the consent statement described under Subsection (4)(b), which includes conditions or consequences for a party to revoke the party's consent to conduct an insurance transaction, electronically.
    - (ii) An insurer shall file the consent statement described in Subsection (5)(d)(i) before the insurer uses the consent statement.
    - (iii) The insurer shall communicate to the party in accordance with Subsection (4)(b) the conditions or consequences for a party to revoke the party's consent.
- (6) 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 is effective.
- (7) This section does not affect requirements related to content or timing of any notice or document required under applicable law.
- (8) If a provision of this title or applicable law requiring 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.
- (9) The legal effectiveness, validity, or enforceability of a contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with Subsection (4)(c)(ii).
- (10) This section does not apply to or affect a notice or document delivered by an insurer in an electronic form before July 1, 2014, to a party who, before July 1, 2014, has consented to receive the notice or document in an electronic form otherwise allowed by law.
- (11) If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before July 1, 2014, and pursuant to this section, an insurer intends to deliver an additional notice or document to the party in an electronic form, then before delivering the additional notices or documents electronically, the insurer shall notify the party of:
- (a) the notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically; and

(b) the party's right to withdraw consent to have notices or documents delivered by electronic means.

(12)

(a) Except as otherwise provided by Section 31A-21-102, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for purposes of this section.

(b) If a provision of this title or applicable law requires a signature, notice, or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the party 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.

(13) This section may not be construed to modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act, P. Law 106-229, as amended.

Enacted by Chapter 77, 2014 General Session