

SENATE BILL NO. 1042

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

5156S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal section 379.011, RSMo, and to enact in lieu thereof one new section relating to electronic delivery of insurance documents or notices.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 379.011, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 379.011, to read as follows:

379.011. 1. As used in this section, the following terms mean:

(1) "Delivered by electronic means", includes delivery to an electronic mail address at which a party has consented to receive notices or documents, or posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device, together with a separate notice to a party directed to the electronic mail address at which the party has consented to receive notice of the posting;

(2) "Party", any recipient of any notice or document required as part of an insurance transaction, including but not limited to an applicant, an insured or a policyholder.

2. Subject to subsection 3 of this section, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means so long as it meets the

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 requirements of sections 432.200 to 432.295. Delivery of a
20 notice or document in accordance with this subsection shall
21 be considered equivalent to any delivery method required
22 under applicable law, including delivery by first class
23 mail, first class mail postage prepaid, certified mail, or
24 certificate of mailing.

25 3. A notice or document may be delivered by electronic
26 means by an insurer to a party under this subsection if:

27 (1) The party has affirmatively consented to that
28 method of delivery and has not withdrawn the consent;

29 (2) The party, before giving consent, is provided with
30 a clear and conspicuous statement informing the party of:

31 (a) Any right or option to have the notice or document
32 provided in paper or another nonelectronic form at no
33 additional cost;

34 (b) The right of party to withdraw consent to have a
35 notice or document delivered by electronic means;

36 (c) Whether the party's consent applies only to the
37 particular transaction as to which the notice or document
38 must be given or to identified categories of notices or
39 documents that may be delivered by electronic means during
40 the course of the parties' relationship;

41 (d) The means, after consent is given, by which a
42 party may obtain a paper copy of a notice or document
43 delivered by electronic means at no additional cost; and

44 (e) The procedure a party must follow to withdraw
45 consent to have a notice or document delivered by electronic
46 means and to update information needed to contact the party
47 electronically;

48 (3) The party, before giving consent, is provided with
49 a statement of the hardware and software requirements for
50 access to and retention of a notice or document delivered by

51 electronic means and consents electronically, and confirms
52 consent electronically, in a manner that reasonably
53 demonstrates that the party can access information in the
54 electronic form that will be used for notices or documents
55 delivered by electronic means as to which the party has
56 given consent; and

57 (4) After consent of the party is given, the insurer,
58 in the event a change in the hardware or software
59 requirements needed to access or retain a notice or document
60 delivered in electronic means creates a material risk that
61 the party will not be able to access or retain a subsequent
62 notice or document to which the consent applies:

63 (a) Provides the party with a statement of the revised
64 hardware and software requirements for access to and
65 retention of a notice or document delivered by electronic
66 means and of the right of the party to withdraw consent
67 pursuant to paragraph (b) of subdivision (2) of this
68 subsection; and

69 (b) Complies with subdivision (2) of this subsection.

70 **4. If a policy of insurance is purchased through the**
71 **internet, mobile application, computer, mobile device,**
72 **tablet, or any other electronic device or platform, or if a**
73 **policy of insurance is initially delivered by electronic**
74 **means, a party shall be considered to have affirmatively**
75 **consented to have all future notices and documents related**
76 **to the policy or claims thereunder delivered by electronic**
77 **means. Nothing in this subsection shall affect the right of**
78 **a party under this section to withdraw its consent to have a**
79 **notice or document delivered by electronic means.**

80 **5.** This section does not affect requirements relating
81 to content or timing of any notice or document required
82 under applicable law. If any provision of applicable law

83 requiring a notice or document to be provided to a party
84 expressly requires verification or acknowledgment of receipt
85 of the notice or document, the notice or document may be
86 delivered by electronic means only if the method used
87 provides for verification or acknowledgment of receipt.
88 Absent verification or acknowledgment of receipt of the
89 initial notice or document on the part of the party, the
90 insurer shall send two subsequent notices or documents at
91 intervals of five business days. The legal effectiveness,
92 validity, or enforceability of any contract or policy of
93 insurance executed by a party may not be made contingent
94 upon obtaining electronic consent or confirmation of consent
95 of the party in accordance with subdivision (3) of
96 subsection 3 of this section.

97 [5.] 6. A withdrawal of consent by a party does not
98 affect the legal effectiveness, validity, or enforceability
99 of a notice or document delivered by electronic means to the
100 party before the withdrawal of consent is effective. A
101 withdrawal of consent by a party is effective within thirty
102 days after receipt of the withdrawal by the insurer.
103 Failure by an insurer to comply with subdivision (4) of
104 subsection 3 of this section may be treated, at the election
105 of the party, as a withdrawal of consent for purposes of
106 this section.

107 [6.] 7. This section does not apply to a notice or
108 document delivered by an insurer in an electronic form
109 before August 28, 2013, to a party who, before that date,
110 has consented to receive notices or documents in an
111 electronic form otherwise allowed by law. If the consent of
112 a party to receive certain notices or documents in an
113 electronic form is on file with an insurer before August 28,
114 2013, and pursuant to this section, an insurer intends to

115 deliver additional notices or documents to such party in an
116 electronic form, then prior to delivering such additional
117 notices or documents electronically, the insurer shall
118 notify the party of:

119 (1) The notices or documents that may be delivered by
120 electronic means under this section that were not previously
121 delivered electronically; and

122 (2) The party's right to withdraw consent to have
123 notices or documents delivered by electronic means.

124 [7.] 8. A party who does not consent to delivery of
125 notices or documents under subsection 3 of this section, or
126 who withdraws their consent, shall not be subject to any
127 additional fees or costs for having notices or documents
128 provided or made available to them in paper or another
129 nonelectronic form.

130 [8.] 9. If any provision of applicable law requires a
131 signature or notice or document to be notarized,
132 acknowledged, verified, or made under oath, the requirement
133 is satisfied if the electronic signature of the person
134 authorized to perform those acts, together with all other
135 information required to be included by the provision, is
136 attached to or logically associated with the signature,
137 notice, or document.

138 [9.] 10. This section may not be construed to modify,
139 limit, or supercede the provisions of sections 354.442,
140 376.1450, or 432.200 to 432.295. The provisions of this
141 section shall apply to notices and documents issued by
142 insurers organized under this chapter or chapter 380 and to
143 notices and documents relating to life insurance products
144 issued by insurers organized under chapter 376.

145 [10.] 11. Nothing in this section shall prevent an
146 insurer from offering a discount to an insured who elects to

147 receive notices and documents electronically in accordance
148 with this section.

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