



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1680

Introduced 2/20/2015, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

215 ILCS 5/143.34 new

Amends the Illinois Insurance Code. Provides that 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. Provides that delivery of a notice or document by electronic means shall be considered equivalent to any delivery method required under applicable law, including delivery by first class mail; first class mail, postage prepaid; certified mail; or registered mail. Provides requirements to allow insurers to deliver documents by electronic means. Provides that 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 the Act. Contains provisions to withdraw consent for electronic delivery of documents. Makes other changes. Effective immediately.

LRB099 10100 MLM 30323 b

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by adding
5 Section 143.34 as follows:

6 (215 ILCS 5/143.34 new)

7 Sec. 143.34. Electronic delivery of notices and documents.

8 (a) As used in this Section:

9 "Applicable law" means applicable statutory law and rules
10 and regulations having the force of law.

11 "Deliver by electronic means" includes either of the
12 following:

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

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

21 "Party" means a recipient of a notice or document required
22 as part of an insurance transaction, including an applicant, an
23 insured, or a policyholder.

1 (b) Subject to the provisions of this Section, notice to a
2 party or any other document that is required under applicable
3 law in an insurance transaction or that serves as evidence of
4 insurance coverage, may be stored, presented, and delivered by
5 electronic means.

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

11 If a provision or rule requires a notice or document to be
12 provided to a party and expressly requires verification or
13 acknowledgment of receipt of the notice or document, the notice
14 or document may be delivered by electronic means only if the
15 method used provides for verification or acknowledgment of
16 receipt and the verification or acknowledgment of receipt can
17 be documented.

18 (c) (1) Unless paragraph (2) of subsection (e) of this
19 Section applies, an insurer may deliver notices and documents
20 to a party by electronic means under this Section if:

21 (A) the party affirmatively consented to that method of
22 delivery and has not withdrawn the consent;

23 (B) before the party gave consent, the insurer provided
24 the party with a statement of the hardware and software
25 requirements for access to and retention of notices and
26 documents delivered by electronic means;

1 (C) the party consented electronically or confirmed
2 consent electronically in a manner that reasonably
3 demonstrates that the party is able to access information
4 in the electronic form that the insurer will use for
5 delivery of notices and documents by electronic means; and

6 (D) before the party gave consent, the insurer provided
7 the party with a clear and conspicuous statement informing
8 the party of all of the following:

9 (i) the right or option of the party to have
10 notices and documents provided or made available in
11 paper or another non-electronic form instead;

12 (ii) the right of the party to withdraw consent to
13 have notices and documents delivered by electronic
14 means and any fees, conditions, or consequences that
15 are imposed if consent is withdrawn;

16 (iii) that the party's consent applies to any
17 notices or documents that may be delivered by
18 electronic means during the course of the relationship
19 between the party and the insurer;

20 (iv) after consent for delivery by electronic
21 means is given, the means, if any, by which a party may
22 obtain a paper copy of a notice or document that has
23 been delivered by electronic means and the fee, if any,
24 for the paper copy; and

25 (v) the procedure a party must follow to withdraw
26 consent to have notices and documents delivered by

1 electronic means and to update information needed to
2 contact the party electronically.

3 (2) Subject to the provisions of this Section, the insurer
4 may elect to deliver all notices and documents by electronic
5 means or only those notices and documents selected by the
6 insurer.

7 (3) Nothing in this Section shall be construed to require
8 an insurer to use electronic delivery methods. Insurers may
9 choose to deliver any notice or document by first class mail;
10 first class mail, postage prepaid; certified mail; or
11 registered mail.

12 (d) (1) This Section shall not be construed to affect any
13 requirement related to the content or timing of a notice or
14 document required under applicable law.

15 (2) The legal effectiveness, validity, or enforceability
16 of any contract or policy of insurance executed by a party may
17 not be denied solely because the contract or policy was
18 delivered by electronic means if the insurer has obtained the
19 electronic consent or confirmation of consent of the party in
20 accordance with this Section.

21 (3) A withdrawal of consent by a party becomes effective 30
22 days after the insurer receives the notice of withdrawal. A
23 withdrawal of consent by a party does not affect the legal
24 effectiveness, validity, or enforceability of a notice or
25 document delivered by electronic means to the party before the
26 withdrawal of consent becomes effective.

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

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

14 (6) Except as provided in paragraph (4) of this subsection,
15 this Section does not and may not be construed to modify,
16 limit, or supersede the provisions of the federal Electronic
17 Signatures in Global and National Commerce Act, as amended.

18 (7) If an insurer attempts to deliver a notice or document
19 by electronic means to the most recent electronic mail address
20 for the insured in the insurer's files and the insurer receives
21 a notice that the delivery by electronic means has failed, the
22 insurer shall deliver the notice or document by first class
23 mail or by any other delivery method required for the notice or
24 document under law.

25 (8) Nothing in this Section shall prevent an insurer from
26 offering a discount to an insured who elects to receive notices

1 and documents electronically.

2 (9) Providing electronic delivery of documents under this
3 Section shall be the responsibility of the insurer who elects
4 to offer such manner of delivery.

5 (e) (1) This Section does not apply to a notice or document
6 delivered by an insurer by electronic means before the
7 effective date of this amendatory Act of the 99th General
8 Assembly to a party who, before that date, consented to receive
9 a notice or document by electronic means otherwise allowed by
10 applicable law.

11 (2) If the consent of a party to receive certain notices or
12 documents by electronic means is on file with an insurer before
13 the effective date of this amendatory Act of the 99th General
14 Assembly, and, in accordance with this Section, the insurer
15 intends to deliver notices and documents to the party by
16 electronic means, before delivering any additional notices or
17 documents by electronic means, the insurer shall notify the
18 party of the following:

19 (A) The notices or documents that may be delivered by
20 electronic means under this Section that were not
21 previously delivered by electronic means.

22 (B) The party's right to withdraw consent to have any
23 notices or documents delivered by electronic means.

24 (f) Nothing in this Section requires an insurer to deliver
25 a notice or document by electronic means or to post policies
26 and endorsements on an Internet website.

1 (g) Nothing in this Section shall prevent an insurer from
2 posting on the insurer's Internet website any standard policy,
3 and any endorsements to such a policy, that do not contain
4 personally identifiable information in accordance with this
5 Section in lieu of delivery to a policyholder, insured, or
6 applicant for insurance by any other method.

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.