



Sen. William R. Haine

Filed: 3/19/2015

09900SB1680sam001

LRB099 10100 MLM 32546 a

1 AMENDMENT TO SENATE BILL 1680

2 AMENDMENT NO. _____. Amend Senate Bill 1680 by replacing
3 everything after the enacting clause with the following:

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

6 (215 ILCS 5/143.34 new)

7 Sec. 143.34. Electronic notices and documents.

8 (a) As used in this Section:

9 "Delivered by electronic means" includes:

10 (1) delivery to an electronic mail address at which a
11 party has consented to receive notices or documents; or

12 (2) posting on an electronic network or site accessible
13 via the Internet, mobile application, computer, mobile
14 device, tablet, or any other electronic device, together
15 with separate notice of the posting, which shall be
16 provided by electronic mail to the address at which the

1 party has consented to receive notice or by any other
2 delivery method that has been consented to by the party.

3 "Party" means any recipient of any notice or document
4 required as part of an insurance transaction, including, but
5 not limited to, an applicant, an insured, a policyholder, or an
6 annuity contract holder.

7 (b) Subject to the requirements of this Section, any notice
8 to a party or any other document required under applicable law
9 in an insurance transaction or that is to serve as evidence of
10 insurance coverage may be delivered, stored, and presented by
11 electronic means so long as it meets the requirements of the
12 Electronic Commerce Security Act.

13 (c) Delivery of a notice or document in accordance with
14 this Section shall be considered equivalent to any delivery
15 method required under applicable law, including delivery by
16 first class mail; first class mail, postage prepaid; certified
17 mail; certificate of mail; or certificate of mailing.

18 (d) A notice or document may be delivered by electronic
19 means by an insurer to a party under this Section if:

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21 method of delivery and has not withdrawn the consent;

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

24 (A) the right of the party to withdraw consent to
25 have a notice or document delivered by electronic
26 means, at any time, and any conditions or consequences

1 imposed in the event consent is withdrawn;

2 (B) the types of notices and documents to which the
3 party's consent would apply;

4 (C) the right of a party to have a notice or
5 document delivered in paper form; and

6 (D) the procedures a party must follow to withdraw
7 consent to have a notice or document delivered by
8 electronic means and to update the party's electronic
9 mail address;

10 (3) the party:

11 (A) before giving consent, is provided with a
12 statement of the hardware and software requirements
13 for access to, and retention of, a notice or document
14 delivered by electronic means; and

15 (B) consents electronically, or confirms consent
16 electronically, in a manner that reasonably
17 demonstrates that the party can access information in
18 the electronic form that will be used for notices or
19 documents delivered by electronic means as to which the
20 party has given consent; and

21 (4) after consent of the party is given, the insurer,
22 in the event a change in the hardware or software
23 requirements needed to access or retain a notice or
24 document delivered by electronic means creates a material
25 risk that the party will not be able to access or retain a
26 subsequent notice or document to which the consent applies:

1 (A) provides the party with a statement that
2 describes:

3 (i) the revised hardware and software
4 requirements for access to and retention of a
5 notice or document delivered by electronic means;
6 and

7 (ii) the right of the party to withdraw consent
8 without the imposition of any condition or
9 consequence that was not disclosed at the time of
10 initial consent; and

11 (B) complies with paragraph (2) of this subsection

12 (d).

13 (e) Delivery of a notice or document in accordance with
14 this Section does not affect requirements related to content or
15 timing of any notice or document required under applicable law.

16 (f) If a provision of this Section or applicable law
17 requiring a notice or document to be provided to a party
18 expressly requires verification or acknowledgment of receipt
19 of the notice or document, the notice or document may be
20 delivered by electronic means only if the method used provides
21 for verification or acknowledgment of receipt.

22 (g) The legal effectiveness, validity, or enforceability
23 of any contract or policy of insurance executed by a party may
24 not be denied solely because of the failure to obtain
25 electronic consent or confirmation of consent of the party in
26 accordance with subparagraph (B) of paragraph (3) of subsection

1 (d) of this Section.

2 (h) A withdrawal of consent by a party does not affect the
3 legal effectiveness, validity, or enforceability of a notice or
4 document delivered by electronic means to the party before the
5 withdrawal of consent is effective.

6 A withdrawal of consent by a party is effective within a
7 reasonable period of time after receipt of the withdrawal by
8 the insurer.

9 Failure by an insurer to comply with paragraph (4) of
10 subsection (d) of this Section and subsection (j) of this
11 Section may be treated, at the election of the party, as a
12 withdrawal of consent for purposes of this Section.

13 (i) This Section does not apply to a notice or document
14 delivered by an insurer in an electronic form before the
15 effective date of this amendatory Act of the 99th General
16 Assembly to a party who, before that date, has consented to
17 receive notice or document in an electronic form otherwise
18 allowed by law.

19 (j) If the consent of a party to receive certain notices or
20 documents in an electronic form is on file with an insurer
21 before the effective date of this amendatory Act of the 99th
22 General Assembly and, pursuant to this Section, an insurer
23 intends to deliver additional notices or documents to the party
24 in an electronic form, then prior to delivering such additional
25 notices or documents electronically, the insurer shall:

26 (1) provide the party with a statement that

1 describes:

2 (A) the notices or documents that shall be
3 delivered by electronic means under this Section
4 that were not previously delivered electronically;
5 and

6 (B) the party's right to withdraw consent to
7 have notices or documents delivered by electronic
8 means without the imposition of any condition or
9 consequence that was not disclosed at the time of
10 initial consent; and

11 (2) comply with paragraph (2) of subsection (d) of
12 this Section.

13 (k) An insurer shall deliver a notice or document by any
14 other delivery method permitted by law other than electronic
15 means if:

16 (1) the insurer attempts to deliver the notice or
17 document by electronic means and has a reasonable basis for
18 believing that the notice or document has not been received
19 by the party; or

20 (2) the insurer becomes aware that the electronic mail
21 address provided by the party is no longer valid.

22 (l) An insurer shall not be subject to civil liability for
23 any harm or injury that occurs as a result of a party's
24 election to receive any notice or document by electronic means
25 or by an insurer's failure to deliver a notice or document by
26 electronic means.

1 (m) This Section shall not be construed to modify, limit,
2 or supersede the provisions of the federal Electronic
3 Signatures in Global and National Commerce Act, as amended.

4 (n) Nothing in this Section shall prevent an insurer from
5 posting on the insurer's Internet site any standard policy and
6 any endorsements to such a policy that does not contain
7 personally identifiable information, in accordance with
8 Section 143.33 of this Code, in lieu of delivery to a
9 policyholder, insured, or applicant for insurance by any other
10 method.

11 (o) Nothing in this Section shall prevent an insurer from
12 offering a discount to an insured who elects to receive notices
13 and documents electronically.

14 Section 97. Severability. The provisions of this Act are
15 severable under Section 1.31 of the Statute on Statutes."