

SENATE BILL 608

C4

5lr0072

By: **Chair, Finance Committee (By Request – Departmental – Maryland Insurance Administration)**

Introduced and read first time: February 6, 2015

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Property and Casualty Insurance – Notices, Policies, and Proof of Insurance –**
3 **Electronic Format**

4 FOR the purpose of altering the application of certain provisions of law requiring an insurer
5 to provide certain proof of insurance under certain circumstances; authorizing
6 certain proof of insurance to be delivered by electronic means in a certain manner
7 under certain circumstances; authorizing certain required written notices of
8 property and casualty insurers to be delivered by electronic means in a certain
9 manner; authorizing property and casualty insurers to make available, on request of
10 an insured, an electronic copy of the insured's policy and all endorsements to the
11 policy by posting them on a Web site in a certain manner and in accordance with
12 certain requirements; altering the application of certain provisions of law
13 authorizing certain notices of property and casualty insurers to be delivered by
14 electronic means; authorizing certain notices and certain proof of insurance to be
15 delivered by electronic means to certain parties under certain circumstances;
16 providing that delivery by electronic means of a notice or proof of insurance shall be
17 considered equivalent to any delivery method required under certain provisions of
18 law; altering the application of certain provisions of law authorizing certain notices
19 requiring certain verification of receipt of the notice to be delivered by electronic
20 means; defining a certain term; altering the definition of a certain term; making
21 stylistic and conforming changes; and generally relating to the provision of notices,
22 policies, and proof of insurance in an electronic format.

23 BY repealing and reenacting, without amendments,
24 Article – Insurance
25 Section 1–101(a)
26 Annotated Code of Maryland
27 (2011 Replacement Volume and 2014 Supplement)

28 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Insurance
2 Section 1–101(l–1), 19–117, and 19–118
3 Annotated Code of Maryland
4 (2011 Replacement Volume and 2014 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Insurance
7 Section 12–301(d) and 27–601.2
8 Annotated Code of Maryland
9 (2011 Replacement Volume and 2014 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
11 That the Laws of Maryland read as follows:

12 **Article – Insurance**

13 1–101.

14 (a) In this article the following words have the meanings indicated.

15 **(L–1) “DELIVERED BY ELECTRONIC MEANS” INCLUDES:**

16 **(1) DELIVERY TO AN ELECTRONIC MAIL ADDRESS AT WHICH A PARTY**
17 **HAS CONSENTED TO RECEIVE NOTICE; AND**

18 **(2) POSTING ON AN ELECTRONIC NETWORK, TOGETHER WITH**
19 **SEPARATE NOTICE TO A PARTY DIRECTED TO THE ELECTRONIC MAIL ADDRESS AT**
20 **WHICH THE PARTY HAS CONSENTED TO RECEIVE NOTICE OF THE POSTING.**

21 12–301.

22 (d) (1) This subsection applies only to an automobile insurance policy [that is
23 procured by an independent insurance producer].

24 (2) [Upon renewal of an existing automobile insurance policy, if] **IF** the
25 insured or a person holding an insurable interest in the subject of the policy requests proof
26 of insurance, an authorized insurer shall provide:

27 (i) a copy of the automobile insurance policy declarations; or

28 (ii) written proof of the automobile insurance that consists of:

29 1. the name and address of the insured and insurer;

30 2. a description of the vehicle, including the vehicle
31 identification number, that is the subject of the insurance policy;

1 3. a description and the amount, if applicable, of the
2 insurance coverage including applicable deductibles;

3 4. the inception and expiration dates of coverage;

4 5. the name and address of the person with an insurable
5 interest; and

6 6. the premium for the applicable coverage.

7 **(3) IF AN INSURER IS REQUIRED TO PROVIDE PROOF OF INSURANCE**
8 **TO AN INSURED OR A PERSON HOLDING AN INSURABLE INTEREST UNDER THIS**
9 **SUBSECTION, THE PROOF OF INSURANCE MAY BE DELIVERED BY ELECTRONIC**
10 **MEANS BY THE INSURER IN ACCORDANCE WITH § 27-601.2 OF THIS ARTICLE.**

11 **19-117.**

12 **(A) IN THIS SECTION, "PARTY" MEANS:**

13 **(1) AN APPLICANT, AN INSURED, OR A POLICYHOLDER; OR**

14 **(2) A PERSON HOLDING AN INSURABLE INTEREST IN THE SUBJECT OF**
15 **A POLICY THAT IS ENTITLED TO NOTICE UNDER THIS TITLE.**

16 **(B) THIS SECTION APPLIES TO EACH AUTHORIZED INSURER THAT ISSUES**
17 **POLICIES OF PROPERTY INSURANCE OR CASUALTY INSURANCE IN THE STATE.**

18 **(C) IF AN INSURER IS REQUIRED TO PROVIDE A WRITTEN NOTICE TO A**
19 **PARTY UNDER THIS TITLE, THE NOTICE MAY BE DELIVERED BY ELECTRONIC MEANS**
20 **BY THE INSURER IN ACCORDANCE WITH § 27-601.2 OF THIS ARTICLE.**

21 **19-118.**

22 **(A) THIS SECTION APPLIES TO EACH AUTHORIZED INSURER THAT ISSUES**
23 **POLICIES OF PROPERTY INSURANCE OR CASUALTY INSURANCE IN THE STATE.**

24 **(B) ON REQUEST OF AN INSURED, AN INSURER MAY MAKE AVAILABLE TO**
25 **THE INSURED AN ELECTRONIC COPY OF THE INSURED'S POLICY AND ALL**
26 **ENDORSEMENTS TO THE POLICY BY POSTING THE POLICY AND ENDORSEMENTS ON**
27 **A WEB SITE IN ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION.**

1 **(C) IF THE INSURER CHOOSES TO MAKE AVAILABLE TO AN INSURED AN**
2 **ELECTRONIC COPY OF THE INSURED’S POLICY AND ALL ENDORSEMENTS TO THE**
3 **POLICY, THE INSURER SHALL:**

4 **(1) POST THE POLICY AND ENDORSEMENTS IN A SECURE AREA OF THE**
5 **WEB SITE THAT IS PROTECTED BY A PASSWORD OR SIMILAR DEVICE TO LIMIT**
6 **ACCESS TO THE INSURED AND INDIVIDUALS AUTHORIZED BY THE INSURED;**

7 **(2) PROVIDE THE INSURED WITH THE WEB SITE ADDRESS,**
8 **PASSWORD, AND ANY OTHER INFORMATION NECESSARY TO OBTAIN ACCESS TO THE**
9 **POLICY AND ENDORSEMENTS ON THE WEB SITE;**

10 **(3) POST THE POLICY AND ENDORSEMENTS ON THE WEB SITE NOT**
11 **LATER THAN 15 DAYS AFTER THE EFFECTIVE DATE OF THE POLICY;**

12 **(4) POST THE POLICY AND ENDORSEMENTS ON THE WEB SITE IN A**
13 **FORMAT THAT CAN BE EASILY DOWNLOADED AND PRINTED;**

14 **(5) MAINTAIN THE POSTING OF THE POLICY AND ENDORSEMENTS AS**
15 **LONG AS THE POLICY AND ENDORSEMENTS ARE EFFECTIVE;**

16 **(6) UPDATE THE POLICY AND ENDORSEMENTS TO INCLUDE ANY**
17 **CHANGES TO THE POLICY OR ENDORSEMENTS NOT LATER THAN THE EFFECTIVE**
18 **DATE OF THE CHANGES; AND**

19 **(7) (I) MAINTAIN AN ELECTRONIC COPY OF THE POLICY AND**
20 **ENDORSEMENTS FOR AT LEAST 5 YEARS AFTER THE EXPIRATION OF THE POLICY**
21 **AND ENDORSEMENTS; AND**

22 **(II) MAKE AN ELECTRONIC COPY OF THE POLICY AND**
23 **ENDORSEMENTS AVAILABLE TO THE INSURED ON REQUEST DURING THE 5-YEAR**
24 **PERIOD.**

25 27-601.2.

26 (a) [(1) In this section the following words have the meanings indicated.

27 (2) “Delivered by electronic means” includes:

28 (i) delivery to an electronic mail address at which a party has
29 consented to receive notice; and

1 (ii) posting on an electronic network, together with separate notice
2 to a party directed to the electronic mail address at which the party has consented to receive
3 notice of the posting.

4 (3) “Party” means] **IN THIS SECTION, “PARTY” MEANS:**

5 (1) an applicant, an insured, or a policyholder; **OR**

6 (2) **A PERSON HOLDING AN INSURABLE INTEREST IN THE SUBJECT OF**
7 **A POLICY THAT IS ENTITLED TO NOTICE OR PROOF OF INSURANCE UNDER THIS**
8 **ARTICLE.**

9 (B) **THIS SECTION APPLIES TO:**

10 (1) **PROOF OF INSURANCE REQUIRED UNDER § 12-301 OF THIS**
11 **ARTICLE;**

12 (2) **A NOTICE REQUIRED UNDER TITLE 19 OF THIS ARTICLE; AND**

13 (3) **A NOTICE REQUIRED UNDER THIS SUBTITLE.**

14 [(b)] (C) Subject to subsection [(d)] (E) of this section, any notice **OR PROOF OF**
15 **INSURANCE** to a party [required under this subtitle] may be delivered by electronic means
16 provided the process used to obtain consent of the party to have notice delivered by
17 electronic means meets the requirements of Title 21, Subtitle 1 of the Commercial Law
18 Article.

19 [(c)] (D) Delivery of a notice **OR PROOF OF INSURANCE** in accordance with
20 subsection [(b)] (C) of this section shall be considered equivalent to any delivery method
21 required under this subtitle **OR TITLE 19 OF THIS ARTICLE**, including delivery by
22 first-class mail, certified mail, or a first-class mail tracking method.

23 [(d)] (E) A notice **OR PROOF OF INSURANCE** may be delivered by electronic
24 means by an insurer to a party under this section if:

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

27 (2) the party, before giving consent, is provided with a clear and
28 conspicuous statement:

29 (i) informing the party of:

30 1. any right or option of the party to have the notice **OR**
31 **PROOF OF INSURANCE** provided or made available in paper or another nonelectronic form;

1 2. the right of the party to withdraw consent to have notice
2 **OR PROOF OF INSURANCE** delivered by electronic means and any fees, conditions, or
3 consequences imposed in the event consent is withdrawn;

4 3. whether the party's consent applies:

5 A. only to the particular transaction as to which the notice
6 **OR PROOF OF INSURANCE** must be given; or

7 B. to identified categories of notices **OR PROOF OF**
8 **INSURANCE** that may be delivered by electronic means during the course of the parties'
9 relationship;

10 4. A. how, after consent is given, the party may obtain a
11 paper copy of a notice **OR PROOF OF INSURANCE** delivered by electronic means; and

12 B. the fee, if any, for the paper copy; and

13 5. the procedures the party must use to withdraw consent to
14 have notice **OR PROOF OF INSURANCE** delivered by electronic means and to update
15 information needed to contact the party electronically;

16 (3) the party:

17 (i) before giving consent, is provided with a statement of the
18 hardware and software requirements for access to and retention of a notice **OR PROOF OF**
19 **INSURANCE** delivered by electronic means; and

20 (ii) consents electronically, or confirms consent electronically, in a
21 manner that reasonably demonstrates that the party can access information in the
22 electronic form that will be used for notices **OR PROOF OF INSURANCE** delivered by
23 electronic means as to which the party has given consent; and

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

29 (i) provides the party with a statement of:

30 1. the revised hardware and software requirements for
31 access to and retention of a notice **OR PROOF OF INSURANCE** delivered by electronic
32 means; and

1 2. the right of the party to withdraw consent without the
2 imposition of any fee, condition, or consequence that was not disclosed under item (2)(i)2 of
3 this subsection; and

4 (ii) complies with item (2) of this subsection.

5 **[(e)] (F)** This section does not affect the content or timing of any notice **[required**
6 **under this subtitle] OR PROOF OF INSURANCE.**

7 **[(f)] (G)** If a provision of this subtitle **OR TITLE 19 OF THIS ARTICLE** requiring
8 notice to be provided to a party expressly requires verification or acknowledgment of receipt
9 of the notice, the notice may be delivered by electronic means only if the method used
10 provides for verification or acknowledgment of receipt.

11 **[(g)] (H)** The legal effectiveness, validity, or enforceability of any contract or
12 policy of insurance executed by a party may not be denied solely because of the failure to
13 obtain electronic consent or confirmation of consent of the party in accordance with
14 subsection **[(d)(3)(ii)] (E)(3)(II)** of this section.

15 **[(h)] (I)** (1) A withdrawal of consent by a party does not affect the legal
16 effectiveness, validity, or enforceability of a notice **OR PROOF OF INSURANCE** delivered by
17 electronic means to the party before the withdrawal of consent is effective.

18 (2) A withdrawal of consent by a party is effective within a reasonable
19 period of time after receipt of the withdrawal by the insurer.

20 (3) Failure to comply with subsection **[(d)(4)] (E)(4)** of this section may be
21 treated, at the election of the party, as a withdrawal of consent for purposes of this section.

22 **[(i)] (J)** This section does not apply to a notice delivered by an insurer in an
23 electronic form before October 1, 2011, to a party who, before October 1, 2011, has consented
24 to receive notice in an electronic form otherwise allowed by law.

25 **[(j)] (K)** If the consent of a party to receive notice in an electronic form is on file
26 with an insurer before October 1, 2011, the insurer shall notify the party of:

27 (1) the notices that may be delivered by electronic means under this
28 section; and

29 (2) the party's right to withdraw consent to have notices delivered by
30 electronic means.

31 **[(k)] (L)** (1) Except as otherwise provided by law, if an oral communication
32 or a recording of an oral communication can be reliably stored and reproduced by an
33 insurer, the oral communication or recording may qualify as a notice delivered by electronic
34 means for purposes of this section.

1 (2) If a provision of this subtitle requires a signature or record to be
2 notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the
3 electronic signature of the person authorized to perform those acts, together with all other
4 information required to be included by the provision, is attached to or logically associated
5 with the signature or record.

6 **[1] (M)** This section may not be construed to modify, limit, or supersede the
7 provisions of the federal Electronic Signatures in Global and National Commerce Act
8 relating to the use of an electronic record to provide or make available information that is
9 required to be provided or made available in writing to a party.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2015.