

Article - Insurance

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§27–601.2.

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

(2) “Delivered by electronic means” includes:

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

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

(3) “Party” means an applicant, an insured, or a policyholder.

(b) Subject to subsection (d) of this section, any notice to a party required under this subtitle may be delivered by electronic means provided the process used to obtain consent of the party to have notice delivered by electronic means meets the requirements of Title 21, Subtitle 1 of the Commercial Law Article.

(c) Delivery of a notice in accordance with subsection (b) of this section shall be considered equivalent to any delivery method required under this subtitle, including delivery by first-class mail, certified mail, or a first-class mail tracking method.

(d) A notice may be delivered by electronic means by an insurer to a party under this section if:

(1) the party has affirmatively consented to that method of delivery and has not withdrawn the consent;

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

(i) informing the party of:

1. any right or option of the party to have the notice provided or made available in paper or another nonelectronic form;

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to have notice delivered by electronic means and any fees, conditions, or consequences imposed in the event consent is withdrawn;

3. whether the party's consent applies:

A. only to the particular transaction as to which the notice must be given; or

B. to identified categories of notices that may be delivered by electronic means during the course of the parties' relationship;

4. A. how, after consent is given, the party may obtain a paper copy of a notice delivered by electronic means; and

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

5. the procedures the party must use to withdraw consent to have notice delivered by electronic means and to update information needed to contact the party electronically;

(3) the party:

(i) before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice delivered by electronic means; and

(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 notices delivered by electronic means as to which the party has given consent; and

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

(i) provides the party with a statement of:

1. the revised hardware and software requirements for access to and retention of a notice delivered by electronic means; and

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

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

(e) This section does not affect the content or timing of any notice required under this subtitle.

(f) If a provision of this subtitle requiring notice to be provided to a party expressly requires verification or acknowledgment of receipt of the notice, the notice may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.

(g) The legal effectiveness, validity, or enforceability of any 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 (d)(3)(ii) of this section.

(h) (1) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice delivered by electronic means to the party before the withdrawal of consent is effective.

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

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

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

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

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

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

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

(2) If a provision of this subtitle requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person 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 or record.

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

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