

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

19 "Party" means any recipient of any notice or document
20 required as part of an insurance transaction, including, but
21 not limited to, an applicant, an insured, a policyholder, or an
22 annuity contract holder.

23 (b) Subject to the requirements of this Section, any notice

1 to a party or any other document required under applicable law
2 in an insurance transaction or that is to serve as evidence of
3 insurance coverage may be delivered, stored, and presented by
4 electronic means so long as it meets the requirements of the
5 Electronic Commerce Security Act.

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

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

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14 method of delivery and has not withdrawn the consent;

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

17 (A) the right of the party to withdraw consent to
18 have a notice or document delivered by electronic
19 means, at any time, and any conditions or consequences
20 imposed in the event consent is withdrawn;

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

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

25 (D) the procedures a party must follow to withdraw
26 consent to have a notice or document delivered by

1 electronic means and to update the party's electronic
2 mail address;

3 (3) the party:

4 (A) before giving consent, is provided with a
5 statement of the hardware and software requirements
6 for access to, and retention of, a notice or document
7 delivered by electronic means; and

8 (B) consents electronically, or confirms consent
9 electronically, in a manner that reasonably
10 demonstrates that the party can access information in
11 the electronic form that will be used for notices or
12 documents delivered by electronic means as to which the
13 party has given consent; and

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

20 (A) provides the party with a statement that
21 describes:

22 (i) the revised hardware and software
23 requirements for access to and retention of a
24 notice or document delivered by electronic means;

25 and

26 (ii) the right of the party to withdraw consent

1 without the imposition of any condition or
2 consequence that was not disclosed at the time of
3 initial consent; and

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

5 (d).

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

9 (f) If a provision of this Section or applicable law
10 requiring a notice or document to be provided to a party
11 expressly requires verification or acknowledgment of receipt
12 of the notice or document, the notice or document may be
13 delivered by electronic means only if the method used provides
14 for verification or acknowledgment of receipt.

15 (g) 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 of the failure to obtain
18 electronic consent or confirmation of consent of the party in
19 accordance with subparagraph (B) of paragraph (3) of subsection
20 (d) of this Section.

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

25 A withdrawal of consent by a party is effective within a
26 reasonable period of time after receipt of the withdrawal by

1 the insurer.

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

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

12 (j) If the consent of a party to receive certain notices or
13 documents in an electronic form is on file with an insurer
14 before the effective date of this amendatory Act of the 99th
15 General Assembly and, pursuant to this Section, an insurer
16 intends to deliver additional notices or documents to the party
17 in an electronic form, then prior to delivering such additional
18 notices or documents electronically, the insurer shall:

19 (1) provide the party with a statement that
20 describes:

21 (A) the notices or documents that shall be
22 delivered by electronic means under this Section
23 that were not previously delivered electronically;
24 and

25 (B) the party's right to withdraw consent to
26 have notices or documents delivered by electronic

1 means without the imposition of any condition or
2 consequence that was not disclosed at the time of
3 initial consent; and
4 (2) comply with paragraph (2) of subsection (d) of
5 this Section.

6 (k) An insurer shall deliver a notice or document by any
7 other delivery method permitted by law other than electronic
8 means if:

9 (1) the insurer attempts to deliver the notice or
10 document by electronic means and has a reasonable basis for
11 believing that the notice or document has not been received
12 by the party; or

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

15 (l) A producer shall not be subject to civil liability for
16 any harm or injury that occurs as a result of a party's
17 election to receive any notice or document by electronic means
18 or by an insurer's failure to deliver a notice or document by
19 electronic means unless the harm or injury is caused by the
20 willful and wanton misconduct of the producer.

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

24 (n) Nothing in this Section shall prevent an insurer from
25 posting on the insurer's Internet site any standard policy and
26 any endorsements to such a policy that does not contain

1 personally identifiable information, in accordance with
2 Section 143.33 of this Code, in lieu of delivery to a
3 policyholder, insured, or applicant for insurance by any other
4 method.

5 Section 97. Severability. The provisions of this Act are
6 severable under Section 1.31 of the Statute on Statutes.