



# REPORT OF THE ELECTRONICS INSURANCE NOTICES AND DOCUMENTS WORKING GROUP

Pursuant to S.C.R. No. 159, S.D. 1 (2013)  
REQUESTING THE INSURANCE COMMISSIONER TO CONVENE A  
WORKING GROUP TO EXPLORE THE USE OF ELECTRONIC  
TRANSMISSION OF INSURANCE NOTICES AND DOCUMENTS

Prepared by the

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December 2013

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# **ELECTRONIC INSURANCE NOTICES AND DOCUMENTS WORKING GROUP REPORT**

## **INTRODUCTION**

Senate Concurrent Resolution No. 159, S.D. 1 (2013) (“SCR 159”) requested the Insurance Commissioner to do the following:

- (1) Convene a working group to explore the use of electronic transmission of insurance notices and documents; and
- (2) Develop alternatives for insurance notices and documents that balance the convenience of electronic notices and documents with consumer protection.

A copy of the resolution is attached as Appendix A.

SCR 159 specified that the Working Group be composed of the Insurance Commissioner and representatives from the following: Commission to Promote Uniform Legislation (“Hawaii Commission”); Property Casualty Insurers Association of America (“PCI”); Hawaii Insurers Council (“HIC”); and State Farm Insurance Company (“State Farm”).

The Working Group consisted of the following: Gordon Ito, Insurance Commissioner; Alex Hageli, PCI; Isaac Kosasa, HIC; Lori C. Lum, Watanabe Ing LLC representing PCI; Robert R. Nash, State Farm; Alison Powers, HIC; Mark Sektnan, PCI; and Bob Toyofuku, Hawaii Commission.

Additional participants in the Working Group were: Martha Im, Insurance Division; Robert Joslin, Hawaii Public Adjusters; David Leifer, American Council of Life Insurers (“ACLI”); Ann Le Lievre, Insurance Division; Joann Waiters, ACLI; and Tiffany Yajima, Ashford & Wriston, LLLP.

SCR 159 requested that the Legislative Reference Bureau submit a final report of the Working Group's findings and recommendations, including any proposed legislation, to the Legislature no later than 20 days prior to the convening of the Regular Session of 2014.

The Working Group met over the course of August 2013 through November 2013. Minutes from each meeting, with accompanying exhibits discussed during the meetings, are posted on the Department of Commerce and Consumer Affairs, Insurance Division website at: <http://hawaii.gov/dcca/ins/>.

## **DISCUSSION**

### **I. Model Law**

The Working Group reviewed and discussed a model law drafted by the insurance industry, the Model Merged Insurance Transaction Modernization Electronic Delivery or Posting ("Model Law"), which allows for both electronic delivery of insurance documents and notices, as well as for electronic posting of property and casualty insurance documents that contain no personally identifiable information<sup>1</sup>. Although the Model Law has not been adopted by a majority of the states, it has been adopted, in whole or in part, by some states within the past two (2) years with the support of the insurance industry. See Appendix B.

The Model Law has two (2) components. The first part allows for electronic delivery of all insurance notices and documents, provided the consumer affirmatively consents, or opts-in, to receiving specific notices or documents electronically. The

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<sup>1</sup> The first iteration of part 1 of the Model Law began circulating in approximately 2009, while part 2 of the Model Law began circulating in approximately 2011. In late 2012, the two (2) parts were joined to form the Model Law, the most recent iteration of which is dated March 2013.

second part of the Model Law allows for electronic posting on a website of standard policy forms and endorsements that contain no personally identifiable information, provided that the consumer does not specifically request, or opts-out, to receiving those documents in paper form.

A. Electronic Delivery of Insurance Documents

Part 1 of the Model Law, entitled “Electronic Notices and Documents”, allows for delivery of insurance documents to a recipient’s electronic mail address or posting of the same on an electronic network or site accessible via the internet, together with separate notice of the posting to a recipient’s electronic mail address, provided the recipient affirmatively consents, or opts-in, to receive the documents by electronic means. Part 1 is intended to apply to all insurance notices and documents, including those that contain personally identifiable information.

In addition, the recipient must be provided a statement regarding the right to receive a paper copy of the documents. The statement must include language regarding the right to withdraw such consent, whether the consent applies to a single transaction or categories of documents, the means to obtain a paper copy and any associated fees for paper copies, and the procedure to withdraw consent. There must also be information provided regarding hardware and software requirements, and any updates to such, to access electronic documents. Other provisions in part 1 of the Model Law address the validity of the transaction if consents or acknowledgment of receipt of notices or documents are not verified, effect of prior transactions in the event consent to electronic delivery is revoked, electronic storage of oral consents, and

acknowledgment of the federal Electronic Signatures in Global and National Commerce Act (“E-SIGN”), Public Law 106-229, codified at 15 USC § 7001 et seq.

B. Electronic Posting

Part 2 of the Model Law, entitled “Posting of Policies on the Internet”, allows for electronic posting of property and casualty insurance notices and documents on a website, usually the insurers’ website, for retrieval by the policyholder. Documents that would be posted electronically are restricted to those that do not contain personally identifiable information, such as the standard policy form and standard endorsement. The insurer would post these documents on their website unless the policy holder specifically declines to receive an electronic copy, or opts-out, and will then receive a paper copy.

Certain conditions must be in place for electronic posting to occur, including that the policy and endorsements: 1) must be accessible for as long as the policy is in force; 2) are archived for five (5) years after expiration; and 3) are posted in a manner that allows the insured to retrieve and print using software widely available on the internet and free to use. Further, the insurer is to provide certain information with the declarations page and any renewals, including the exact policy and endorsement forms purchased, the method by which the insured may obtain without charge a paper copy of the policy, and the internet address where the policy and endorsements are posted. Lastly, the insurer must provide notice in the format preferred by the policy holder, of any changes to the forms or endorsements, the right to obtain a paper copy of documents, and the internet address where the forms are posted.

## II. Use of Electronic Insurance Notices and Documents in Other States

Generally speaking, an insurance document may be delivered electronically unless: (1) it is expressly prohibited, as enumerated in Hawaii's Uniform Electronic Transactions Act ("UETA"), Hawaii Revised Statutes ("HRS") §489E-3(b)(3)(C); or (2) a law requires a specific document to be delivered via first class mail. The Working Group gathered information about use of electronic insurance notices and documents in other states. Eleven (11) states<sup>2</sup> have enacted insurance code provisions that allow for electronic delivery of policies and endorsements and an additional three (3) states<sup>3</sup> have issued bulletins which have interpreted electronic mail to equate with physical mail under the respective states' insurance code sections. See Appendix C.

## III. Electronic Posting in Other States

Currently, twelve (12) states allow for electronic posting, or e-posting, of insurance documents.<sup>4</sup> Of the twelve (12) states, eight (8) states<sup>5</sup> restrict e-posting to property and casualty policies or endorsements, three (3) states<sup>6</sup> are silent as to the lines of insurance qualifying for e-posting, and one (1) state<sup>7</sup> restricts e-posting to automobile policies.

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<sup>2</sup> Delaware, Florida (for commercial lines policy only, must opt-out), Idaho, Kansas, Maryland, Minnesota, Missouri, North Carolina, Pennsylvania, Texas, and Virginia.

<sup>3</sup> Arkansas, Kentucky, and Tennessee.

<sup>4</sup> Alaska, Arizona, Florida, Illinois, Kansas, Michigan, Minnesota, Missouri, Oklahoma, Pennsylvania, Texas, and Virginia.

<sup>5</sup> Alaska, Arizona, Florida, Minnesota, Missouri, Oklahoma, Texas (also includes automobile policies for e-posting), and Virginia.

<sup>6</sup> Illinois, Kansas, and Pennsylvania.

<sup>7</sup> Michigan.

#### IV. Industry Interests

The industry supports parts 1 and 2 of the Model Law. Insurers are in favor of allowing electronic delivery of all documents, including those that contain personally identifiable information, if the consumer affirmatively opts-in to receive such notices and documents electronically. In addition, insurers support e-posting of standard policies and endorsements that contain no personally identifiable information where policy holders must opt-out to receive a paper copy of those documents. Other than the exemptions under E-SIGN regarding electronic notices of cancellations for life insurance benefits (except for annuities) and health insurance and benefits, industry representatives were in favor of electronic notices and documents for all lines of insurance.

Industry representatives stated that consumers are increasingly requesting electronic documents, especially younger consumers who are technology savvy and prefer electronic transactions. Electronic documents allow for cost savings for the insurer for printing and mailing, which are then passed on to the consumer, as well as environmental savings in fossil fuel and paper waste. The electronic format allows for documents to be readily available and accessible from the internet, and in a searchable format.

#### V. Consumer Interests and Concerns

While there were no named representatives in the Working Group representing formal consumer advocate organizations or interests, comments shared during Working Group meetings did not, in general, indicate strong opposition to part 1 of the Model Law, allowing electronic notices and documents to be transmitted electronically when



the consumer opts-in to receive those documents electronically. However, the Hawaii Commission strongly opposed any electronic cancellation, termination, lapse, or material alteration of a contract of insurance, insurance benefits, life settlement or viatical settlement agreements, or service contract. Additionally, the Hawaii Commission and public comments indicated concerns regarding the language in part 2 of the Model Law that allows insurers to post standard policies and endorsements on the internet unless the consumer opts-out to receive those documents in paper form. In particular, the concern was that many consumers would find it confusing to opt-in for one set of documents, and opt-out for another category of documents.

Hawaii's consumers include the elderly and many immigrants for whom English is a second language; either or both groups may not be technology savvy. In addition, rural areas in Hawaii have limited cell phone or internet access. Having standard policies and endorsements automatically posted on the internet may hamper consumers' access to electronically posted documents. Consumers may not understand that the standard policy form is available on the internet and that they would need to opt-out to request a paper copy. Other concerns included consumers who would not understand that the declarations page was not the policy, which would be a separate document available through the insurer's website. There was also concern that changes to standard policy forms and endorsements may be transmitted electronically but not received due to an inaccurate email address or filtered out as spam, resulting in consumers being unaware of such changes even if the consumer opted-in to receive e-documents.

Additionally, fees for paper copies of notices and documents were discussed. One concern voiced regarding part 1 of the Model Law addressed discounts for consumers who opt-in to receive electronic notices and documents, then later change their mind and request paper copies. Any charges for paper copies should be equitable in relation to the discount for opting-in for electronic documents. For part 2 of the Model Law, while some industry representatives in the Working Group stated they would not impose any fees for consumers who opt-out to receive a paper copy of standard policy forms and endorsements, there are some insurers who do charge for paper copies of the standard policy forms and endorsements. Working Group industry representatives also stated they may later reassess if a fee would be imposed for continuing to receive paper copies of standard policies and endorsements.

Finally, the Working Group was cognizant that electronic delivery of notices and documents must be compliant with the Americans with Disabilities Act and other state disability laws.

#### VI. Uniform Electronic Transactions Act

The UETA was developed in 1999 by the National Conference of Commissioners on Uniform State Laws to enable use of electronic records and signatures relating to a transaction between two (2) or more individuals in the conduct of business, commercial, or governmental affairs. UETA was meant to allow for electronic records and electronic signatures to have the same legally binding effect as paper records and manual signatures, provided that the two (2) parties agree to those terms.

Forty-seven (47) states, including Hawaii, have adopted UETA. The three (3) states<sup>8</sup> which have not adopted UETA have enacted statutes that essentially allow for use of electronic transactions. Hawaii's UETA statute, codified at HRS Chapter 489E, allows for and recognizes electronic records and signatures. However, there is a specific exclusion for certain types of insurance documents. HRS § 489E-3(b)(3)(C) states in part as follows:

(b) This chapter does not apply to a transaction to the extent it is governed by: . . .

(3) A law or rule governing notice of: . . .

(C) Cancellation, termination, lapse, or material alteration of a contract of insurance, insurance benefits, life settlement or viatical settlement agreement, or service contract.

If the Legislature allows for electronic delivery of notices of cancellation, termination, lapse, or material alteration of a contract of insurance, insurance benefits, life settlement or viatical settlement agreement, or service contract, then HRS § 489E-3(b)(3)(C) may need to be amended, as well as a substantial number of provisions requiring written notice in the Insurance Code. A partial listing of the affected provisions in the Insurance Code is as follows:

Article 3A, Chapter 431

Notices related to the privacy of personal financial information

Article 10, Chapter 431

Disclosure of healthcare coverage

Application for insurance coverage

Execution of policies

Delivery of policies

Notice of cancellation or non-renewal

Assignment of policies

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<sup>8</sup> Illinois, New York, and Washington are the three (3) states which have not adopted UETA.

Article 10A, Chapter 431 Health Insurance

Cancellation non-renewal reinstatement of coverage

Notice of right to return the policy – free examination of policy

Article 10C, Chapter 431 Motor vehicle Insurance

Notice of replacement of insurance by a subsidiary or affiliate of insurer

Notice of cancellation or non-renewal

Disclosure of personal injury protection limits and payments

Article 10D, Chapter 431 Life Insurance and Annuities

Disclosure requirements of insurers and producers

Disclosure and reporting when replacing life insurance with a new policy

Article 10H, Chapter 431 Long Term Care Insurance

Disclosure of right to return policy free look at policy

Report of long term care benefits

Notice of unintentional lapse

Notice of lapse or termination for non-payment of premium

Standard format and outline of coverage

Chapter 431C, Life Settlements

Disclosures to Owners

If the Legislature allows electronic notices for cancellation, termination, lapse, or material alteration of a contract of insurance, insurance benefits, life settlement or viatical settlement agreement, or service contract notices, where the Insurance Code is silent as of these types of documents, HRS § 489E-3 requires clarifying language to specifically allow for this.

## **FINDINGS AND RECOMMENDATIONS**

After much discussion and deliberation, the Working Group makes the following findings and recommendations:

1. All Working Group representatives agree that a growing number of consumers prefer communicating with insurers electronically rather than

through traditional means, including receiving documents, notices, and policy forms.

2. There was no unanimous agreement as to recommendations on electronic transmission of insurance notices and documents:
  - a. Industry Working Group representatives agree insurers that wish to do so should be permitted, but not required, to offer their policyholders the option to receive all insurance notices and documents electronically. In addition, industry Working Group representatives agree that insurers should be permitted, but not required, to post standard forms and policies that contain no personally identifiable information on insurers' websites for purposes of satisfying their legal obligation to deliver such documents to their policyholders.
  - b. While the Hawaii Commission to Promote Uniform Legislation ("Hawaii Commission") recognizes the benefits of electronic transmission of insurance notices and documents, the Hawaii Commission supports insureds affirmatively consenting to receive electronically certain insurance notices and documents, including those that do not contain personally identifiable information. However, the Hawaii Commission specifically opposes any electronic notices and documents that are in direct contravention to Hawaii's UETA, HRS §489E-3(b)(3)(C), which specifically prohibits electronic delivery of notices of cancellation, termination, lapse, or

material alteration of a contract of insurance, insurance benefits, life settlement or viatical settlement agreement, or service contract.

- c. The Insurance Commissioner recognizes the benefits of electronic transmission of insurance notices and documents and supports allowing consumers to choose to receive insurance notices and documents. However, the Insurance Commissioner is opposed to the automatic e-posting of documents and requiring the consumer to opt-out or affirmatively choose to receive certain documents in paper format. Additionally, the Insurance Commissioner is concerned with any fees insurers may impose for paper copies of documents.

3. There was no unanimous agreement on proposed legislation:

- a. Industry representatives agree to adoption of both parts 1 and 2 of the Model Merged Insurance Transaction Modernization Electronic Delivery or Posting (“Model Law”).
- b. The Hawaii Commission opposes any legislation allowing for electronic delivery of notices of cancellation, termination, lapse, or material alteration of a contract of insurance, insurance benefits, life settlement or viatical settlement agreement, or service contract, in direct contravention to Hawaii’s UETA, HRS §489E-3(b)(3)(C).
- c. The Hawaii Commission and the Insurance Commissioner oppose any proposed legislation allowing for automatic electronic posting of

documents or notices that would then require the consumer to affirmatively request, or opt-in to receive, paper copies of the same.

4. The Legislature should consider language in the Model Law and determine if industry and consumer interests may be accommodated by allowing electronic transmission of insurance notices and documents.
5. The Legislature may need to consider whether rulemaking is necessary before implementation of any statute allowing for electronic transmission of insurance notices and documents, to provide appropriate guidance to insurers and consumers.

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# SENATE CONCURRENT RESOLUTION

REQUESTING THE INSURANCE COMMISSIONER TO CONVENE A WORKING GROUP  
TO EXPLORE THE USE OF ELECTRONIC TRANSMISSION OF INSURANCE  
NOTICES AND DOCUMENTS.

1           WHEREAS, Hawaii has adopted the model Uniform Electronic  
2 Transactions Act, codified as chapter 489E, Hawaii Revised  
3 Statutes; and

4  
5           WHEREAS, chapter 489E, Hawaii Revised Statutes, excludes  
6 insurance documents and notices from its purview; and

7  
8           WHEREAS, insurance notices and documents are currently  
9 required to be in writing; and

10  
11           WHEREAS, although consumers have indicated a preference to  
12 obtain notices and documents by electronic means, there are  
13 certain questions as to the appropriate use and application of  
14 electronic notices and documents; and

15  
16           WHEREAS, the insurance industry, like other industries, is  
17 engaged in more online and internet-based sales and  
18 notifications; and

19  
20           WHEREAS, because the insurance marketplace is in the  
21 process of this change, the State is interested in exploring the  
22 appropriate balance between consumer convenience and consumer  
23 protection; and

24  
25           WHEREAS, potential issues related to the use of electronic  
26 transmission of insurance notices and documents should be  
27 explored; now, therefore,

28  
29           BE IT RESOLVED by the Senate of the Twenty-seventh  
30 Legislature of the State of Hawaii, Regular Session of 2013, the  
31 House of Representatives concurring, that the Insurance  
32 Commissioner is requested to convene a working group to explore





1 the use of electronic transmission of insurance notices and  
2 documents; and

3  
4 BE IT FURTHER RESOLVED that the working group be composed  
5 of the Insurance Commissioner and representatives from the  
6 Commission to Promote Uniform Legislation, Property Casualty  
7 Insurers Association of America, Hawaii Insurers Council, and  
8 State Farm Insurance Company; and

9  
10 BE IT FURTHER RESOLVED that the working group is also  
11 requested to develop alternatives for insurance notices and  
12 documents that balance the convenience of electronic notices and  
13 documents with consumer protection; and

14  
15 BE IT FURTHER RESOLVED that the representatives on the  
16 working group not be considered state employees based solely  
17 upon their participation in the working group; and

18  
19 BE IT FURTHER RESOLVED that the working group is requested  
20 to submit a final report of the working group's findings and  
21 recommendations, including any proposed legislation, to the  
22 Legislature no later than twenty days prior to the convening of  
23 the Regular Session of 2014; and

24  
25 BE IT FURTHER RESOLVED that certified copies of this  
26 Concurrent Resolution be transmitted to the Insurance  
27 Commissioner, Commission to Promote Uniform Legislation,  
28 Property Casualty Insurers Association of America, Hawaii  
29 Insurers Council, and State Farm Insurance Company.  
30



Mar. 25, 2013 version

MODEL MERGED INSURANCE TRANSACTION MODERNIZATION  
ELECTRONIC DELIVERY OR POSTING

AN ACT TO ALLOW THE TRANSMISSION OF ELECTRONIC NOTICES OR DOCUMENTS RELATED TO INSURANCE AND INSURANCE POLICIES UNDER CERTAIN CIRCUMSTANCES AND POSTING OF PROPERTY AND CASUALTY INSURANCE POLICIES AND ENDORSEMENTS WHERE CERTAIN CONDITIONS ARE MET.

BE IT ENACTED:

Amend XXXXX of the XXXX Code by adding a new section thereto as follows:

§XXXX Electronic Notices and Documents.

1) In this section, the following words shall have the following meanings:

A. "Delivered by electronic means" includes:

1. Delivery to an electronic mail address at which a party has consented to receive notices or documents; or
2. Posting on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device, together with separate notice of the posting which shall be provided by electronic mail to the address at which the party has consented to receive notice or by any other delivery method that has been consented to by the party.

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

- 2) Subject to subsection (4) of this section, any notice to a party or any other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means so long as it meets the requirements of the Uniform Electronic Transactions Act [CITATION].
- 3) Delivery of a notice or document in accordance with this section 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; certificate of mail; or certificate of mailing.

- 4) A notice or document may be delivered by electronic means by an insurer to a party under this section if:
- A. The party has affirmatively consented to that method of delivery and has not withdrawn the consent;
  - B. The party, before giving consent, is provided with a clear and conspicuous statement informing the party of:
    - 1. Any right or option of the party to have the notice or document provided or made available in paper or another non-electronic form.
    - 2. The right of the party to withdraw consent to have a notice or document 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 or document must be given; or
      - b. To identified categories of notices or documents that may be delivered by electronic means during the course of the parties' relationship;
    - 4. (1) The means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means; and (2) The fee, if any, for the paper copy; and
    - 5. The procedure a party must follow to withdraw consent to have a notice or document delivered by electronic means and to update information needed to contact the party electronically;
  - C. The party:
    - 1. Before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice or document delivered by electronic means; and
    - 2. 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 or documents delivered by electronic means as to which the party has given consent; and
  - D. 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

1. Provides the party with a statement of:
    - a. The revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means;
    - b. The right of the party to withdraw consent without the imposition of any fee, condition, or consequence that was not disclosed under (B)(2) of this subsection; and
  2. Complies with paragraph (B) of this subsection.
- 5) This section does not affect requirements related to content or timing of any notice or document required under applicable law.
  - 6) If a provision of this title or applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgment of receipt.
  - 7) 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 subparagraph (4)(C)(2) of this section.
  - 8) (1) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document 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 by an insurer to comply with subsection (4)(D) of this section may be treated, at the election of the party, as a withdrawal of consent for purposes of this section.
  - 9) This section does not apply to a notice or document delivered by an insurer in an electronic form before the effective date of this act to a party who, before that date, has consented to receive notice or document in an electronic form otherwise allowed by law.
  - 10) If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before the effective date of this act, and pursuant to this section, an insurer intends to deliver additional notices or documents to such party in an electronic form, then prior to delivering such additional notices or documents electronically, the insurer shall notify the party of:

- A. The notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically; and
- B. The party's right to withdraw consent to have notices or documents delivered by electronic means.

- 11)(1) Except as otherwise provided by law, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for purposes of this section. (2) If a provision of this title or applicable law requires a signature or notice or document 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, notice or document.
- 12) This section may not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act, Public Law 106-229, as amended.

Amend XXXXX of the XXXX Code by adding a new section thereto as follows:

§ XXXX Posting of Policies on the Internet.

Notwithstanding any other provisions of §XXXX Electronic Notices and Documents, standard property and casualty insurance policies and endorsements that do not contain personally identifiable information may be mailed, delivered, or posted on the insurer's Web site. If the insurer elects to post insurance policies and endorsements on its Web site in lieu of mailing or delivering them to the insured, it must comply with all of the following conditions:

- 1) The policy and endorsements must be accessible and remain that way for as long as the policy is in force;
- 2) After the expiration of the policy, the insurer must archive its expired policies and endorsements for a period of five years, and make them available upon request;

- 3) The policies and endorsements must be posted in a manner that enables the insured to print and save the policy and endorsements using programs or applications that are widely available on the Internet and free to use;
- 4) The insurer provides the following information in, or simultaneous with each declarations page provided at the time of issuance of the initial policy and any renewals of that policy:

A. a description of the exact policy and endorsement forms purchased by the insured;

B. a method by which the insured may obtain, upon request and without charge, a paper copy of their policy; and

C. the internet address where their policy and endorsements are posted,

and;

- 5) The insurer provides notice, in the format preferred by the insured, of any changes to the forms or endorsements, the insured's right to obtain, upon request and without charge, a paper copy of such forms or endorsements, and the internet address where such forms or endorsements are posted.



Property Casualty Insurers  
Association of America

Advocacy. Leadership. Results.

### e-Delivery/e-Posting – Laws & Regulations\*

STATE	E-DELIVERY	E-POSTING
Alabama	No	No
Alaska	No	Yes
Arizona	No	Yes
Arkansas	Yes (DOI bulletin)	No
California	No	No
Colorado	No	No
Connecticut	No	No
Delaware	Yes	No
D.C.	No	No
Florida	Yes (commercial only; policy only; opt-out)	Yes
Georgia	No	No
Hawaii	No	No
Idaho	Yes	No
Illinois	No	Yes
Indiana	No	No
Iowa	No	No
Kansas	Yes	Yes
Kentucky	Yes (DOI bulletin)	No
Louisiana	No	No
Maine	No	No
Maryland	Yes	No
Massachusetts	No	No
Michigan	No	Yes
Minnesota	Yes	Yes
Mississippi	No	No
Missouri	Yes	Yes
Montana	No	No
Nebraska	No	No

\*The laws and regulations included within this chart have been enacted and promulgated specifically in regards to insurance. This chart does not include citation to generally applicable electronic commerce statutes such as E-SIGN and UETA.

Nevada	No	No
New Hampshire	No	No
New Jersey	No	No
New Mexico	No	No
New York	No	No
North Carolina	Yes	No
North Dakota	No	No
Ohio	No	No
Oklahoma	No	Yes
Oregon	No	No
Pennsylvania	Yes	Yes
Rhode Island	No	No
South Carolina	No	No
South Dakota	No	No
Tennessee	Yes (DOI bulletin)	No
Texas	Yes	Yes
Utah	No	No
Vermont	No	No
Virginia	Yes	Yes
Washington	No	No
West Virginia	No	No
Wisconsin	No	No
Wyoming	No	No

Total states w/e-Delivery: 14 out of 51  
Total states w/e-Posting: 12 out of 51

**e-Delivery** refers broadly to the electronic delivery of any and all insurance documents (including policy, notices, bills) to policyholders who consent (i.e., opt-in) to receive such materials electronically.

**e-Posting**, or Posting Policies to the Internet, refers to the posting of policy forms and endorsements that do not contain personally identifiable information to the Internet and sending a link to the materials via e-mail to the policyholder in lieu of mailing paper copies to the policyholder. Provision of these materials via this method is made without the consent of the policyholder, and those policyholders wishing to receive paper copies must request such from their insurer (i.e., opt-out). E-Posting is easily confused with e-Delivery; however, there are distinct differences. E-Delivery refers to the electronic delivery of several types of documents and requires the policyholder’s consent; e-Posting is limited to policy forms and endorsement that contain no personally identifiable information and does not require the consent of the policyholder.