SENATE FILE NO. SF0017

Insurance-electronic delivery of documents.

Sponsored by: Joint Corporations, Elections and Political Subdivisions Interim Committee

A BILL

for

AN ACT relating to insurance; providing for the transmission of electronic notices or documents related to insurance and insurance policies; providing limitations; providing for posting of property and casualty insurance policies and endorsements; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 26-3-501 and 26-3-502 are created to read:

ARTICLE 5

ELECTRONIC DELIVERY OF DOCUMENTS

26-3-501. Electronic notices and documents.

(a) Subject to subsection (c) 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, W.S. 40-21-101 through 40-21-119.

(b) 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.

(c) A notice or document may be delivered by electronic means by an insurer to a party under this section if all of the following are met:

(i) The party has affirmatively consented to that method of delivery and has not withdrawn the consent;

(ii) The party, before giving consent, is provided with a clear and conspicuous statement informing the party of:

(A) Any right or option of the party to have the notice or document provided or made available in paper or another nonelectronic form;

(B) 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or document delivered by electronic means and any fees, conditions or consequences imposed in the event consent is withdrawn;

(C) Whether the party's consent applies:

(I) Only to the particular transaction as to which the notice or document must be given; or

(II) To identified categories of notices or documents that may be delivered by electronic means during the course of the parties' relationship.

(D) 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 the fee, if any, for the paper copy; and

(E) 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.

(iii) The party:

(A) 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

(B) 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.

(iv) 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 or document delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies:

(A) Complies with paragraph (ii) of this subsection; and

(B) Provides the party with a statement of:

(I) The revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means;

(II) The right of the party to withdraw consent without the imposition of any fee, condition, or consequence that was not disclosed under subparagraph (ii)(B) of this subsection.

(d) This section does not affect requirements related to content or timing of any notice or document required under applicable law.

(e) 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.

(f) 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 (c)(iii)(B) of this section.

(g) With respect to withdrawal of consent, the following apply:

(i) 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;

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

(iii) Failure by an insurer to comply with paragraph (c)(iv) of this section may be treated, at the election of the party, as a withdrawal of consent for purposes of this section.

(h) This section does not apply to a notice or document delivered by an insurer in an electronic form before July 1, 2014 to a party who, before that date, has consented to receive notice or document in an electronic form otherwise allowed by law.

(j) If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before July 1, 2014, 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:

(i) The notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically; and

(ii) The party's right to withdraw consent to have notices or documents delivered by electronic means.

(k) 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. 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.

(m) 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.

(n) As used in this section:

(i) "Delivered by electronic means" includes:

(A) Delivery to an electronic mail address at which a party has consented to receive notices or documents; or

(B) 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.

(ii) "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.

26-3-502. Posting of policies on the internet.

(a) Notwithstanding any other provisions of W.S. 26-3-501, 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 shall comply with all of the following conditions:

(i) The policy and endorsements shall be accessible and remain that way for as long as the policy is in force;

(ii) After the expiration of the policy, the insurer shall archive its expired policies and endorsements for a period of ten (10) years, and make them available upon request;

(iii) The policies and endorsements shall 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;

(iv) 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;

(C) The internet address where their policy and endorsements are posted.

(v) 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.

Section 2. This act is effective July 1, 2014.

(END)