

1 SB292  
2 165952-4  
3 By Senator Blackwell  
4 RFD: Banking and Insurance  
5 First Read: 19-MAR-15

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to property and casualty insurance; to  
12 allow electronic delivery of a property or casualty insurance  
13 policy to the address at which the party has consented to  
14 receive notice; to specify that policies and endorsements may  
15 be delivered electronically subject to certain requirements;  
16 and to provide that a paper copy of a policy would be  
17 available to the policyholder upon request without charge.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. As used in this act, each of the  
20 following words shall have the following meanings:

21 (1) DELIVERED BY ELECTRONIC MEANS or ELECTRONIC  
22 DELIVERY. Any of the following:

23 a. Delivery to an electronic mail address at which a  
24 party has consented to receive notices or documents.

25 b. Posting on an electronic network or site  
26 accessible via the Internet, mobile application, computer,  
27 mobile device, tablet, or any other electronic device,

1 together with separate notice of the posting which shall be  
2 provided 1. by electronic mail to the address at which the  
3 party has consented to receive notice or 2. by any other  
4 delivery method that has been consented to by the party.

5 (2) PARTY. A recipient of any notice or document  
6 required as part of an insurance transaction, including, but  
7 not limited to, an applicant, an insured, a policyholder, or  
8 an annuity contract holder.

9 Section 2. (a) Subject to the requirements of this  
10 section, any notice to a party or any other document required  
11 under applicable law in an insurance transaction involving  
12 property and casualty insurance or that is to serve as  
13 evidence of insurance coverage may be delivered, stored, and  
14 presented by electronic means so long as it meets the  
15 requirements of the Uniform Electronic Transactions Act.

16 (b) Delivery of a notice or document in accordance  
17 with this section shall be considered equivalent to any  
18 delivery method required under applicable law, including  
19 delivery by first class mail, postage prepaid, certified mail,  
20 certificate of mail, or certificate of mailing.

21 (c) A notice or document may be delivered by  
22 electronic means by an insurer to a party under this section  
23 if:

24 (1) The party has affirmatively consented to that  
25 method of delivery and has not withdrawn the consent.

1           (2) The party, before giving consent, is provided  
2 with a clear and conspicuous statement informing the party of  
3 all of the following:

4           a. The right of the party to withdraw consent to  
5 have a notice or document delivered by electronic means, at  
6 any time, and any conditions or consequences imposed in the  
7 event consent is withdrawn.

8           b. The types of notices and documents to which the  
9 consent of the party would apply.

10          c. The right of a party to have a notice or document  
11 delivered in paper form.

12          d. The procedures a party must follow to withdraw  
13 consent to have a notice or document delivered by electronic  
14 means and to update the electronic mail address of the party.

15          (d) (1) The party, before giving consent, is provided  
16 with a statement of the hardware and software requirements for  
17 access to and retention of a notice or document delivered by  
18 electronic means and consents electronically, or confirms  
19 consent electronically, in a manner that reasonably  
20 demonstrates that the party can access information in the  
21 electronic form that will be used for notices or documents  
22 delivered by electronic means as to which the party has given  
23 consent.

24          (2) After consent of the party is given, the  
25 insurer, if a change in the hardware or software requirements  
26 is needed to access or retain a notice or document delivered  
27 by electronic means creates a material risk that the party may

1 not be able to access or retain a subsequent notice or  
2 document to which the consent applies shall provide the party  
3 with a statement that:

4 a. Describes the revised hardware and software  
5 requirements for access to and retention of a notice or  
6 document delivered by electronic means.

7 b. The right of the party to withdraw consent  
8 without the imposition of any condition or consequence that  
9 was not disclosed at the time of initial consent.

10 c. Complies with subdivision (2) of subsection (c).

11 (e) This section shall not affect the requirements  
12 related to content or timing of any notice or document  
13 required under applicable law.

14 (f) If a provision of this section or applicable law  
15 requiring a notice or document to be provided to a party  
16 expressly requires verification or acknowledgment of receipt  
17 of the notice or document, the notice or document may be  
18 delivered by electronic means only if the method used provides  
19 for verification or acknowledgment of receipt.

20 (g) The legal effectiveness, validity, or  
21 enforceability of any contract or policy of insurance executed  
22 by a party may not be denied solely because of the failure to  
23 obtain electronic consent or confirmation of consent of the  
24 party in accordance with subsection (c) of this section.

25 (h) (1) A withdrawal of consent by a party does not  
26 affect the legal effectiveness, validity, or enforceability of

1 a notice or document delivered by electronic means to the  
2 party before the withdrawal of consent is effective.

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

6 (3) Failure by an insurer to comply with the notice  
7 requirement of this section may be treated, at the election of  
8 the party, as a withdrawal of consent for purposes of this  
9 section.

10 (i) This section does not apply to a notice or  
11 document delivered by an insurer in an electronic form before  
12 the effective date of this act to a party who, before that  
13 date, has consented to receive notices or documents in an  
14 electronic form otherwise allowed by law.

15 (j) If the consent of a party to receive certain  
16 notices or documents in an electronic form is on file with an  
17 insurer before the effective date of this act, and pursuant to  
18 this section, an insurer intends to deliver additional notices  
19 or documents to such party in an electronic form, then prior  
20 to delivering such additional notices or documents  
21 electronically, the insurer shall meet the following  
22 requirements:

23 (1) Provide the party with a statement that  
24 describes:

25 a. The notices or documents that shall be delivered  
26 by electronic means under this section that were not  
27 previously delivered electronically.

1           b. The right of a party to withdraw his or her  
2 consent to have notices or documents delivered by electronic  
3 means, without the imposition of any condition or consequence  
4 that was not disclosed at the time of initial consent.

5           (2) Comply with subdivision (2) of subsection (c).

6           (k) An insurer shall deliver a notice or document by  
7 any other delivery method permitted by law other than  
8 electronic 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 by  
12 the party.

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

15           (1) It is the responsibility of the insurer to  
16 deliver to a party any notice or document authorized to be  
17 sent electronically pursuant to this act.

18           (m) This section may not be construed to modify,  
19 limit, or supersede the provisions of the federal Electronic  
20 Signatures in Global and National Commerce Act, Public Law  
21 106-229, as amended.

22           Section 3. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Banking and Insurance..... 19-MAR-15

Read for the second time and placed on the calen-  
dar 1 amendment..... 16-APR-15

Read for the third time and passed as amended .... 30-APR-15

Yeas 29  
Nays 0

Patrick Harris  
Secretary