

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1058

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AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 27-1-43 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 43. Electronic Delivery of Notices and Documents**

**Sec. 1. As used in this chapter, "electronic delivery" or "electronically delivered" includes the following:**

- (1) Delivery to an electronic mail address at which a party has consented to receive notices or documents.**
- (2) Posting on an electronic network or web site accessible via the Internet, a mobile application, a computer, a mobile device, a tablet, or another electronic device, with separate notice delivered to the electronic mail address at which a party has consented to receive notice of the posting.**

**Sec. 2. (a) As used in this chapter, "party" means a recipient of a notice or document required as part of an insurance transaction.**

**(b) The term includes an applicant, an insured, a policyholder, and an annuity contract holder.**

**Sec. 3. (a) Except as provided in subsection (c), a notice to a party, or another document, that:**

- (1) is legally required in an insurance transaction; or**
- (2) serves as evidence of insurance coverage;**

HEA 1058



may be electronically delivered, stored, and presented in compliance with IC 26-2-8.

(b) Electronic delivery of a notice or document under this section is considered to be equivalent to any legally required delivery method, including delivery by:

- (1) first class mail;
- (2) first class mail, postage prepaid;
- (3) certified mail;
- (4) certificate of mail; or
- (5) certificate of mailing.

(c) Electronic delivery of a notice or document by an insurer to a party is permitted under this chapter if all the following apply:

- (1) The party has affirmatively consented to electronic delivery and has not withdrawn the consent.
- (2) The party, before giving consent, is provided with a clear and conspicuous statement informing the party of all the following:

(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 electronic delivery of a notice or document and any fees, conditions, or consequences that will be imposed on the party if the party withdraws consent.

(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 subject to electronic delivery during the course of the party's relationship with the insurer.

(D) The:

- (i) means, after consent is given, by which the party may obtain a paper copy of an electronically delivered notice or document; and
- (ii) applicable fee for the paper copy.

(E) The procedure the party must follow to:

- (i) withdraw consent to electronic delivery of a notice or document; and
- (ii) update information needed to contact the party electronically.

(3) The party:

(A) before giving consent, is provided with a statement of



the hardware and software requirements for access to and retention of an electronically delivered notice or document; and

**(B) electronically:**

**(i) consents; or**

**(ii) confirms consent;**

**in a manner that reasonably demonstrates that the party is able to access information in the electronic form that will be used for electronic delivery of notices or documents to which the party has given consent.**

**(4) If, after the party has consented to electronic delivery of notices or documents, a change in the hardware or software requirements needed for the party to access or retain an electronically delivered notice or document 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, the insurer:**

**(A) provides the party with a statement of the:**

**(i) revised hardware and software requirements for access to and retention of an electronically delivered notice or document; and**

**(ii) right of the party to withdraw consent without the imposition of a fee, condition, or consequence that was not disclosed under subdivision (2)(B); and**

**(B) complies with subdivision (2).**

**Sec. 4. (a) This chapter does not affect any applicable legal requirement related to content or timing of a notice or document.**

**(b) If another law requiring a notice or document to be provided to a party expressly requires verification or acknowledgment of receipt of the notice or document, electronic delivery of the notice or document is permitted only if the method of electronic delivery provides for verification or acknowledgment of receipt.**

**(c) The legal effectiveness, validity, or enforceability of a contract or policy of insurance executed by a party may not be denied solely because of the failure of the insurer to obtain electronic consent or confirmation of consent of the party in accordance with section 3(c)(3)(B) of this chapter.**

**Sec. 5. (a) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document that is electronically delivered to the party before the withdrawal of consent is effective.**

**(b) A withdrawal of consent by a party is effective thirty (30)**



days after the insurer receives notice of the withdrawal.

(c) An insurer's failure to comply with section 3(c)(4) of this chapter is, at the election of the party, considered to be a withdrawal of the party's consent under this chapter.

Sec. 6. (a) This chapter does not apply to a notice or document that is electronically delivered:

- (1) by an insurer before July 1, 2014; and
- (2) to a party who, before July 1, 2014, consented to receive electronically delivered notices or documents as otherwise allowed by law.

(b) If:

- (1) the consent of a party to receive certain electronically delivered notices or documents is on file with an insurer before July 1, 2014; and
- (2) the insurer intends to electronically deliver additional notices or documents to the party under this chapter;

the insurer shall, before electronically delivering the additional notices or documents, notify the party that notices or documents that were not previously electronically delivered may now be electronically delivered under this chapter and that the party has a right to withdraw consent to electronic delivery of notices or documents.

Sec. 7. (a) 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 an electronically delivered notice or document under this chapter.

(b) If a provision of this title or other applicable law requires a signature, notice, or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if:

- (1) the electronic signature of the person authorized to notarize, acknowledge, verify, or give an oath; and
- (2) all other information required to be included by the provision;

is attached to or logically associated with the signature, notice, or document.

Sec. 8. (a) This chapter does not modify, limit, or supersede the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.).

(b) This chapter does not apply to a document to which IC 27-1-44 applies.

SECTION 2. IC 27-1-44 IS ADDED TO THE INDIANA CODE AS

HEA 1058



A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

**Chapter 44. Electronic Posting of Documents**

**Sec. 1.** As used in this chapter, "property and casualty insurance" means one (1) or more of the types of insurance described in IC 27-1-5-1, Class 2 and Class 3.

**Sec. 2.** A standard property and casualty insurance policy or endorsement that does not contain personally identifiable information may be:

- (1) mailed or electronically delivered (as provided in IC 27-1-43) to the insured; or
- (2) posted on the insurer's Internet web site.

**Sec. 3.** An insurer that elects to post a property and casualty insurance policy or endorsement on the insurer's Internet web site under section 2 of this chapter shall comply with all the following:

- (1) The policy or endorsement must remain accessible as long as the policy is in force.
- (2) After the expiration of the policy or endorsement, the insurer shall:
  - (A) archive the expired policy or endorsement for at least five (5) years; and
  - (B) make the expired policy or endorsement available upon request.
- (3) The policy or endorsement must be posted in a manner that enables the insured to print and save the policy or endorsement using programs or applications that are widely available on the Internet and free of charge.
- (4) The insurer provides to the insured the following information in, or in addition to, each declaration page provided at issuance and each renewal of the policy or endorsement:
  - (A) A description of the specific policy or endorsement forms purchased by the insured.
  - (B) A method by which the insured may obtain, upon request and without charge, a paper copy of the policy or endorsement.
  - (C) The Internet web site address at which the policy or endorsement is posted.
- (5) The insurer provides written or electronic notice, in the format preferred by the insured, of the following:
  - (A) Any change to the policy or endorsement form.
  - (B) The insured's right to obtain, upon request and without



**charge:**

- (i) a paper copy of the change to the policy or endorsement form; and**
- (ii) the Internet web site address at which the policy or endorsement is posted.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**HEA 1058**

