

1 **SENATE FLOOR VERSION**

2 March 26, 2024

3 ENGROSSED HOUSE
4 BILL NO. 1505

By: Sneed and Deck of the House

5 and

6 Paxton of the Senate

7
8 An Act relating to insurance; 36 O.S. 2021, Section
9 123, which relates to delivery and storage of
10 electronic documents; permitting insurers to post
11 certain policies or endorsements; providing
12 requirements; and providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 36 O.S. 2021, Section 123, is
15 amended to read as follows:

16 Section 123. A. In this section, the following words shall
17 have the following meanings:

18 1. "Delivered by electronic means" includes:

19 a. delivery to an electronic mail address at which a
20 party has consented to receive notices or documents,

21 or

22 b. posting on an electronic network or site accessible
23 via the Internet, mobile application, computer, mobile
24 device, tablet or any other electronic device,

together with separate notice of the posting which

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

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

9 B. Subject to the requirements of this section, any notice to a
10 party or any other document required under applicable law in an
11 insurance transaction, or that is to serve as evidence of insurance
12 coverage, may be delivered, stored and presented by electronic
13 means, so long as it meets the requirements of the Uniform
14 Electronic Transactions Act pursuant to Section 15-101, et seq. of
15 Title 12A of the Oklahoma Statutes.

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

21 D. A notice or document may be delivered by electronic means by
22 an insurer to a party under this section if:

23 1. The party has affirmatively consented to that method of
24 delivery and has not withdrawn the consent; or

1 2. The party, before giving consent, is provided with a clear
2 and conspicuous statement informing the party of:

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

7 b. the types of notices and documents to which the
8 party's consent would apply,

9 c. the right of a party to have a notice or document
10 delivered in paper form, and

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

15 3. The party:

16 a. before giving consent, is provided with a statement of
17 the hardware and software requirements for access to
18 and retention of a notice or document delivered by
19 electronic means, and

20 b. consents electronically, or confirms consent
21 electronically, in a manner that reasonably
22 demonstrates that the party can access information in
23 the electronic form that will be used for notices or
24

1 documents delivered by electronic means as to which
2 the party has given consent;

3 4. The insurer takes measures reasonably calculated to ensure
4 that delivery by electronic means results in receipt of the notice
5 or document by the party; and

6 5. After consent of the party is given, the insurer, in the
7 event a change in the hardware or software requirements needed to
8 access or retain a notice or document delivered by electronic means
9 creates a material risk that the party will not be able to access or
10 retain a subsequent notice or document to which the consent applies:

11 a. provides the party with a statement that describes:

12 (1) the revised hardware and software requirements
13 for access to and retention of a notice or
14 document delivered by electronic means, and

15 (2) the right of the party to withdraw consent
16 without the imposition of any condition or
17 consequence that was not disclosed at the time of
18 initial consent, and

19 b. complies with paragraph 2 of this subsection.

20 E. This section does not affect requirements related to content
21 or timing of any notice or document required under applicable law.

22 F. If a provision of this title or applicable law requiring a
23 notice or document to be provided to a party expressly requires
24 verification or acknowledgment of receipt of the notice or document,

1 the notice or document may be delivered by electronic means only if
2 the method used provides for verification or acknowledgment of
3 receipt.

4 G. The legal effectiveness, validity or enforceability of any
5 contract or policy of insurance executed by a party may not be
6 denied solely because of the failure to obtain electronic consent or
7 confirmation of consent of the party in accordance with subparagraph
8 b of paragraph 3 of subsection D of this section.

9 H. 1. A withdrawal of consent by a party does not affect the
10 legal effectiveness, validity or enforceability of a notice or
11 document delivered by electronic means to the party before the
12 withdrawal of consent is effective.

13 2. A withdrawal of consent by a party is effective within a
14 reasonable period of time after receipt of the withdrawal by the
15 insurer.

16 3. Failure by an insurer to comply with paragraph 5 of
17 subsection D and subsection J of this section may be treated, at the
18 election of the party, as a withdrawal of consent for purposes of
19 this section.

20 I. This section does not apply to a notice or document
21 delivered by an insurer in an electronic form before the effective
22 date of this act to a party who, before that date, has consented to
23 receive notice or document in an electronic form otherwise allowed
24 by law.

1 J. If the consent of a party to receive certain notices or
2 documents in an electronic form is on file with an insurer before
3 the effective date of this act, and pursuant to this section, an
4 insurer intends to deliver additional notices or documents to such
5 party in an electronic form, then prior to delivering such
6 additional notices or documents electronically, the insurer shall:

7 1. Provide the party with a statement that describes:

8 a. the notices or documents that shall be delivered by
9 electronic means under this section that were not
10 previously delivered electronically, and

11 b. the party's right to withdraw consent to have notices
12 or documents delivered by electronic means, without
13 the imposition of any condition or consequence that
14 was not disclosed at the time of initial consent; and

15 2. Comply with paragraph 2 of subsection D of this section.

16 K. An insurer shall deliver a notice or document by any other
17 delivery method permitted by law other than electronic means if:

18 1. The insurer attempts to deliver the notice or document by
19 electronic means and has a reasonable basis for believing that the
20 notice or document has not been received by the party; or

21 2. The insurer becomes aware that the electronic mail address
22 provided by the party is no longer valid.

23 L. Notwithstanding subsection A or any other law or regulation
24 of this state requiring an insurer to provide, send, or deliver an

1 insurance policy or endorsement to an insured, an insurer may elect
2 to post a policy or endorsement that does not contain personally
3 identifiable information on its website provided it complies with
4 all of the following:

5 1. The policy or endorsement is easily accessible on the
6 website so long as it is in force;

7 2. The policy or endorsement is posted in a manner that enables
8 the insured to print and save it using programs or applications
9 widely available on the Internet and free of charge to use;

10 3. The insurer provides notice, in the manner it normally
11 communicates with the insured at the time of issuance or renewal of
12 the policy or endorsement, or at the time of any changes to the
13 policy or endorsement, of a method by which the insured may obtain,
14 upon request and without charge, at the choice of the insured, a
15 paper or electronic copy of the policy or endorsement, or any
16 changes to them, and the Internet address where the policy and
17 endorsement are posted;

18 4. The insurer provides all of the following information on
19 each declarations page, or similar document as appropriate to the
20 line of coverage, provided to the insured at the time of issuance or
21 renewal:

22 a. a description of the exact policy and endorsement
23 forms purchased by the insured,

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- 1 b. a method by which the insured may obtain, upon request
2 and without charge, a paper or electronic copy of the
3 policy or endorsement, or any changes to them,
4 c. the Internet address where the policy and endorsement
5 are posted; and

6 5. After expiration of the policy or endorsement, the insurer
7 archives the expired policies or endorsements in accordance with the
8 Oklahoma Insurance Department's general record retention
9 requirements and makes them available upon request.

10 M. A producer shall not be subject to civil liability for any
11 harm or injury that occurs as a result of a party's election to
12 receive any notice or document by electronic means or by an
13 insurer's failure to deliver a notice or document by electronic
14 means.

15 ~~M.~~ N. This section may not be construed to modify, limit or
16 supersede the provisions of the federal Electronic Signatures in
17 Global and National Commerce Act, Public Law 106-229, as amended.

18 SECTION 2. This act shall become effective November 1, 2024.

19 COMMITTEE REPORT BY: COMMITTEE ON RETIREMENT AND INSURANCE
20 March 26, 2024 - DO PASS