

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

SENATE BILL NO. 609

97TH GENERAL ASSEMBLY

2014

4744S.01T

AN ACT

To repeal sections 379.011 and 379.012, RSMo, and to enact in lieu thereof two new sections relating to providing certain insurance documents through electronic means.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 379.011 and 379.012, RSMo, are repealed and two new

2 sections enacted in lieu thereof, to be known as sections 379.011 and 379.012, to
3 read as follows:

379.011. 1. As used in this section, the following terms mean:

2 (1) "Delivered by electronic means", includes delivery to an electronic mail
3 address at which a party has consented to receive notices or documents, or
4 posting on an electronic network or site accessible via the internet, mobile
5 application, computer, mobile device, tablet, or any other electronic device,
6 together with a separate notice to a party directed to the electronic mail address
7 at which the party has consented to receive notice of the posting;

8 (2) "Party", any recipient of any notice or document required as part of an
9 insurance transaction, including but not limited to an applicant, an insured or a
10 policyholder.

11 2. Subject to subsection 3 of this section, any notice to a party or any
12 other document required under applicable law in an insurance transaction or that
13 is to serve as evidence of insurance coverage may be delivered, stored, and
14 presented by electronic means so long as it meets the requirements of sections
15 432.200 to 432.295. Delivery of a notice or document in accordance with this
16 subsection shall be considered equivalent to any delivery method required under

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 applicable law, including delivery by first class mail, first class mail postage
18 prepaid, certified mail, or certificate of mailing.

19 3. A notice or document may be delivered by electronic means by an
20 insurer to a party under this subsection if:

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22 has not withdrawn the consent;

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

25 (a) Any right or option to have the notice or document provided in paper
26 or another nonelectronic form at no additional cost;

27 (b) The right of party to withdraw consent to have a notice or document
28 delivered by electronic means;

29 (c) Whether the party's consent applies only to the particular transaction
30 as to which the notice or document must be given or to identified categories of
31 notices or documents that may be delivered by electronic means during the course
32 of the parties' relationship;

33 (d) The means, after consent is given, by which a party may obtain a
34 paper copy of a notice or document delivered by electronic means at no additional
35 cost; and

36 (e) The procedure a party must follow to withdraw consent to have a
37 notice or document delivered by electronic means and to update information
38 needed to contact the party electronically;

39 (3) The party, before giving consent, is provided with a statement of the
40 hardware and software requirements for access to and retention of a notice or
41 document delivered by electronic means and consents electronically, and confirms
42 consent electronically, in a manner that reasonably demonstrates that the party
43 can access information in the electronic form that will be used for notices or
44 documents delivered by electronic means as to which the party has given consent;
45 and

46 (4) After consent of the party is given, the insurer, in the event a change
47 in the hardware or software requirements needed to access or retain a notice or
48 document delivered in electronic means creates a material risk that the party will
49 not be able to access or retain a subsequent notice or document to which the
50 consent applies:

51 (a) Provides the party with a statement of the revised hardware and

52 software requirements for access to and retention of a notice or document
53 delivered by electronic means and of the right of the party to withdraw consent
54 pursuant to paragraph (b) of subdivision (2) of this subsection; and

55 (b) Complies with subdivision (2) of this subsection.

56 4. This section does not affect requirements relating to content or timing
57 of any notice or document required under applicable law. If any provision of
58 applicable law requiring a notice or document to be provided to a party expressly
59 requires verification or acknowledgment of receipt of the notice or document, the
60 notice or document may be delivered by electronic means only if the method used
61 provides for verification or acknowledgment of receipt. Absent verification or
62 acknowledgment of receipt of the initial notice or document on the part of the
63 party, the insurer shall send two subsequent notices or documents at intervals
64 of five business days. The legal effectiveness, validity, or enforceability of any
65 contract or policy of insurance executed by a party may not be made contingent
66 upon obtaining electronic consent or confirmation of consent of the party in
67 accordance with subdivision (3) of subsection 3 of this section.

68 5. A withdrawal of consent by a party does not affect the legal
69 effectiveness, validity, or enforceability of a notice or document delivered by
70 electronic means to the party before the withdrawal of consent is effective. A
71 withdrawal of consent by a party is effective within thirty days after receipt of
72 the withdrawal by the insurer. Failure by an insurer to comply with subdivision
73 (4) of subsection 3 of this section may be treated, at the election of the party, as
74 a withdrawal of consent for purposes of this section.

75 6. This section does not apply to a notice or document delivered by an
76 insurer in an electronic form before August 28, 2013, to a party who, before that
77 date, has consented to receive notices or documents in an electronic form
78 otherwise allowed by law. If the consent of a party to receive certain notices or
79 documents in an electronic form is on file with an insurer before August 28, 2013,
80 and pursuant to this section, an insurer intends to deliver additional notices or
81 documents to such party in an electronic form, then prior to delivering such
82 additional notices or documents electronically, the insurer shall notify the party
83 of:

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

86 (2) The party's right to withdraw consent to have notices or documents

87 delivered by electronic means.

88 7. A party who does not consent to delivery of notices or documents under
89 subsection 3 of this section, or who withdraws their consent, shall not be subject
90 to any additional fees or costs for having notices or documents provided or made
91 available to them in paper or another nonelectronic form.

92 8. If any provision of applicable law requires a signature or notice or
93 document to be notarized, acknowledged, verified, or made under oath, the
94 requirement is satisfied if the electronic signature of the person authorized to
95 perform those acts, together with all other information required to be included by
96 the provision, is attached to or logically associated with the signature, notice, or
97 document.

98 9. This section may not be construed to modify, limit, or supercede the
99 provisions of sections **354.442, 376.1450, or 432.200 to 432.295. The**
100 **provisions of this section shall apply to notices and documents issued**
101 **by insurers organized under chapter 379 or 380 and to notices and**
102 **documents relating to life insurance products issued by insurers**
103 **organized under chapter 376.**

104 10. Nothing in this section shall prevent an insurer from offering a
105 discount to an insured who elects to receive notices and documents electronically
106 in accordance with this section.

 379.012. 1. In addition to and notwithstanding any other provisions or
2 requirements of section 379.011 to the contrary, insurance policy forms and
3 endorsements for [property] insurance as described in subdivisions (1), (2), (3),
4 and (5) of subsection 1 of section 379.010 issued or renewed in this state, or
5 covering risks in this state, which do not contain personally identifiable
6 information, may be made available electronically on the insurer's website in lieu
7 of mailing or delivering a paper copy of policy forms and endorsements to an
8 insured. **Any insurer, including any insurer organized under chapter**
9 **380, issuing any insurance of the types described in this section may**
10 **make policy forms and endorsements available electronically on the**
11 **insurer's website in the manner prescribed under this section.**

12 2. If the insurer elects to make such insurance policy forms and
13 endorsements available electronically on the insurer's website in lieu of mailing
14 or delivering a paper copy to the insured, it shall comply with all the following
15 conditions with respect to such policy forms and endorsements:

16 (1) The policy forms and endorsements issued or sold in this state shall
17 be easily and publicly accessible on the insurer's website and remain that way for
18 as long as the policy form or endorsement is in force or actively sold in this state;

19 (2) The insurer shall retain and store the policy forms and endorsements
20 after they are withdrawn from use or replaced with other policy forms and
21 endorsements for a period of five years and make them available to insureds and
22 former insureds upon request and at no cost;

23 (3) The policy forms and endorsements shall be available on the insurer's
24 website in an electronic format that enables the insured to print and save the
25 policy forms and endorsements using programs or applications that are widely
26 available on the internet and free to use;

27 (4) At policy issuance and renewal, the insurer shall provide clear and
28 conspicuous notice to the insured, in the manner it customarily communicates
29 with an insured, that it does not intend to mail or deliver a paper copy of the
30 policy forms or documents. The notice shall provide instructions on how the
31 insured may access the policy forms and endorsements on the insurer's
32 website. The insurer shall also notify the insured of their right to obtain a paper
33 copy of the policy forms and endorsements at no cost and provide either a toll-free
34 telephone number or the telephone number of the insured's producer by which the
35 insured can make this request;

36 (5) At policy renewal, the insurer shall provide clear and conspicuous
37 notice to the insured, in the manner it customarily communicates with an
38 insured, of any changes which have been made to the policy forms or
39 endorsements since the prior coverage period. Such notice shall be made in
40 accordance with the requirements of subdivision (4) of this subsection; and

41 (6) On each declarations page, or similar coverage summary document,
42 issued to an insured, the insurer shall clearly identify the exact policy forms and
43 endorsements purchased by the insured, so that the insured may easily access
44 those forms on the insurer's website.

45 3. The director may promulgate any rules necessary to implement and
46 administer the provisions of this section. Any rule or portion of a rule, as that
47 term is defined in section 536.010, that is created under the authority delegated
48 in this section shall become effective only if it complies with and is subject to all
49 of the provisions of chapter 536 and, if applicable, section 536.028. This section
50 and chapter 536 are nonseverable and if any of the powers vested with the

51 general assembly pursuant to chapter 536 to review, to delay the effective date,
52 or to disapprove and annul a rule are subsequently held unconstitutional, then
53 the grant of rulemaking authority and any rule proposed or adopted after August
54 28, 2013, shall be invalid and void.

✓

Unofficial

Bill

Copy