

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1505

6 By: Sneed

7 COMMITTEE SUBSTITUTE

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,

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

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

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

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

22 D. A notice or document may be delivered by electronic means by  
23 an insurer to a party under this section if:  
24

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2 delivery and has not withdrawn the consent; or

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

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8 in the event consent is withdrawn,

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

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

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

17        3. The party:

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

22           b. consents electronically, or confirms consent  
23 electronically, in a manner that reasonably  
24 demonstrates that the party can access information in

1 the electronic form that will be used for notices or  
2 documents delivered by electronic means as to which  
3 the party has given consent;

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

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

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

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

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

20 b. complies with paragraph 2 of this subsection.

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

23 F. If a provision of this title or applicable law requiring a  
24 notice or document to be provided to a party expressly requires

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

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

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

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

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

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

1 receive notice or document in an electronic form otherwise allowed  
2 by law.

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

- 9 1. Provide the party with a statement that describes:
- 10 a. the notices or documents that shall be delivered by  
11 electronic means under this section that were not  
12 previously delivered electronically, and
  - 13 b. the party's right to withdraw consent to have notices  
14 or documents delivered by electronic means, without  
15 the imposition of any condition or consequence that  
16 was not disclosed at the time of initial consent; and

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

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

- 20 1. The insurer attempts to deliver the notice or document by  
21 electronic means and has a reasonable basis for believing that the  
22 notice or document has not been received by the party; or
- 23 2. The insurer becomes aware that the electronic mail address  
24 provided by the party is no longer valid.

1       L. Notwithstanding subsection A or any other law or regulation  
2 of this state requiring an insurer to provide, send, or deliver an  
3 insurance policy or endorsement to an insured, an insurer may elect  
4 to post a policy or endorsement that does not contain personally  
5 identifiable information on its website provided it complies with  
6 all of the following:

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

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

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

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

- 1           a. A description of the exact policy and endorsement  
2           forms purchased by the insured,  
3           b. A method by which the insured may obtain, upon request  
4           and without charge, a paper or electronic copy of the  
5           policy or endorsement, or any changes to them,  
6           c. The internet address where the policy and endorsement  
7           are posted; and

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

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

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

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

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22           59-2-10349           MJ           02/20/24  
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