

SENATE BILL NO. 495—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 25, 2013

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Authorizes an insurer and an insured to agree to conduct business through electronic transmission. (BDR 57-1094)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to insurance; authorizing an insurer and an insured to agree to conduct business through electronic transmission and authorizing the electronic delivery of certain documents if such an agreement is made; authorizing an insurer to post certain forms on the Internet website of the insurer; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Commissioner of Insurance to adopt regulations governing electronic means to conduct business concerning insurance. (NRS 679B.136) **Sections 1 and 7** of this bill: (1) authorize an insurer or a person engaged in the business of entering into agreements or purchasing agreements and an insured to agree to conduct business through electronic transmission; (2) require the insurer or person engaged in the business of entering into agreements or purchasing agreements to notify any representative, agent or broker of the insured of such an agreement; and (3) establishes means by which information concerning insurance may be delivered electronically. **Section 8** of this bill allows an insurer to post forms relating to property or casualty insurance on the insurer's Internet website and establishes requirements governing the manner in which the forms may be posted.

Existing law requires an insurer to provide notice before cancelling an insurance policy. (NRS 687B.420) **Sections 4, 9 and 10** of this bill allow an insurer or a person engaged in the business of entering into agreements or purchasing agreements to provide this notice electronically if the insurer or person and the insured have agreed to conduct business through electronic transmission and, if such notice is provided electronically, requires the insurer or person to also notify any representative, agent or broker of the insured.



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 686A of NRS is hereby amended by adding thereto a new section to read as follows:

1. A company and an insured may agree to conduct business through electronic transmission, including, without limitation, the use of electronic signatures and the acceptance and transmission of electronic records and payments. The company shall notify any representative, agent or broker of the insured not later than 72 hours after such an agreement is made.

2. If a company and an insured have agreed to conduct business through electronic transmission, the company shall deliver to the insured any information that is otherwise required to be delivered in writing by:

(a) Including the information within the body of an electronic mail;

(b) Attaching the information to an electronic mail, where the attachment may be opened using software that is readily available;

(c) Displaying the information, or a clear and conspicuous link to the information, as an essential step to completing the transaction to which the information relates; or

(d) Making the information available on the secured server of the company and sending an electronic mail to the insured stating that the information is available on the server of the company and the date, if any, by which the information must be viewed or by which any action concerning the information is required.

3. Any business conducted electronically pursuant to this section is subject to the provisions of chapters 719 and 720 of NRS and any regulations adopted by the Commissioner pursuant to NRS 679B.136 or 685A.210.

4. The provisions of this section must be construed in a manner that is consistent with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001 et seq.

5. As used in this section:

(a) "Electronic mail" has the meaning ascribed to it in NRS 108.4731.

(b) "Electronic record" means a record created, generated, sent, communicated, received or stored by electronic means.

(c) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(d) "Record" means information which is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.



(e) *“Transaction” means an action or set of actions occurring between two or more persons relating to the transaction of business, commercial or governmental affairs.*

Sec. 2. NRS 686A.330 is hereby amended to read as follows:

686A.330 As used in NRS 686A.330 to 686A.520, inclusive, *and section 1 of this act*, unless the context otherwise requires:

1. “Agreement” means a contract between a person and an insured or prospective insured under which the person agrees to pay a premium in advance on behalf of the insured or prospective insured in exchange for repayment of the amount advanced with interest or for some other consideration.

2. “Company” means a person engaged in the business of entering into agreements or purchasing agreements. The term does not include a person who finances a premium in connection with the sale of a motor vehicle upon which the person holds a lien.

3. *“Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.*

Sec. 3. NRS 686A.350 is hereby amended to read as follows:

686A.350 1. A license to engage in the business of a company is not required of any:

(a) State or federally chartered building association or savings and loan association.

(b) State or federally chartered bank.

(c) State or federally chartered credit union.

(d) Thrift company licensed pursuant to chapter 677 of NRS.

(e) Insurance agent financing his or her own accounts.

(f) Insurer authorized to do business in this state financing its own policies or those of an affiliated company.

(g) Business, in addition to those included in paragraphs (a) to (d), inclusive, which is licensed and regulated by the Division of Financial Institutions of the Department of Business and Industry.

2. The provisions of NRS 686A.330 to 686A.520, inclusive, *and section 1 of this act*, other than those which concern licensing, apply to persons exempt from licensing pursuant to subsection 1.

Sec. 4. NRS 686A.460 is hereby amended to read as follows:

686A.460 1. When an agreement contains a power of attorney enabling the company, in the name of the insured, to cancel any insurance policy listed in the agreement, the insurance policy must not be cancelled by the company unless it is cancelled in accordance with this section.

2. A company shall mail written notice of its intent to cancel an insurance policy because of a default in payment under an agreement to the insured at the last known address of the insured as indicated in the records of the company ~~and to the agent who~~



~~submitted the agreement~~ or, if the company and the insured have agreed to conduct business through electronic transmission pursuant to section 1 of this act, shall deliver the notice by electronic transmission to the insured at least 10 days before the cancellation. If the default is cured within this 10-day period, the company shall not cancel the insurance policy.

3. Except as otherwise provided in this subsection and subsection 5, if the company and the insured have agreed to conduct business through electronic transmission pursuant to section 1 of this act and the company has provided electronic notice of cancellation of a policy to the insured pursuant to subsection 2, the company shall also provide notice to any representative, agent or broker of the insured. The notice must be delivered, mailed or transmitted not more than 72 hours after electronic notice has been transmitted to the insured and at least 10 days before the cancellation. This notice must include the name of the insured, the number of the policy and the date on which the policy is terminated. A company is not required to comply with this subsection if the representative, agent or broker of the insured is an employee or an exclusive agent of the company.

4. Failure by a company to provide the notice required by subsection 3 to any representative, agent or broker of the insured does not affect the validity of any notice of cancellation provided to the insured pursuant to subsection 2.

5. A representative, agent or broker of the insured may waive the notice required by subsection 3.

6. If the company delivers the notice required by subsection 2 or 3 through electronic transmission, the company shall retain evidence of the electronic notification to the insured and the representative, agent or broker of the insured for 1 year after the date of the transmission.

7. If the default is not cured within the 10-day period, the company may cancel the policy if it mails to the insured at the last known address of the insured as indicated in the records of the company and to the insurer a notice of cancellation which must include the effective date of cancellation. The policy must be cancelled as if the notice of cancellation had been submitted by the insured, but without requiring the return of the policy.

~~14-~~ 8. No insurance policy may be cancelled for nonpayment of a charge for a late payment.

~~15-~~ 9. This section does not authorize the cancellation of an insurance policy without giving any other notice required by law or satisfying other conditions for cancellation.

~~16-~~ 10. A company shall not impose or collect a fee for the cancellation of a policy or agreement.



1 **Sec. 5.** NRS 686A.510 is hereby amended to read as follows:

2 686A.510 1. A person who violates the provisions of NRS
3 686A.340 shall be punished by a fine of not more than \$200 per day
4 or \$500 per agreement per day for every day the violation continues,
5 whichever is greater.

6 2. A person who violates any other provision of NRS
7 686A.330 to 686A.520, inclusive, *and section 1 of this act* shall be
8 punished by a fine of not more than \$1,000.

9 3. A person who fails or refuses to comply with an order issued
10 by the Commissioner pursuant to NRS 686A.330 to 686A.520,
11 inclusive, *and section 1 of this act* shall be punished by a fine of not
12 more than \$1,000.

13 **Sec. 6.** Chapter 687B of NRS is hereby amended by adding
14 thereto the provisions set forth as sections 7 and 8 of this act.

15 **Sec. 7.** 1. *An insurer and an insured may agree to conduct*
16 *business through electronic transmission, including, without*
17 *limitation, the use of electronic signatures and the acceptance and*
18 *transmission of electronic records and payments. The insurer*
19 *shall notify any representative, agent or broker of the insured not*
20 *later than 72 hours after such an agreement is made.*

21 2. *If an insurer and an insured have agreed to conduct*
22 *business through electronic transmission, the insurer shall deliver*
23 *to the insured any information that is otherwise required to be*
24 *delivered in writing by:*

25 (a) *Including the information within the body of an electronic*
26 *mail;*

27 (b) *Attaching the information to an electronic mail, where the*
28 *attachment may be opened using software that is readily available;*

29 (c) *Displaying the information, or a clear and conspicuous*
30 *link to the information, as an essential step to completing the*
31 *transaction to which the information relates; or*

32 (d) *Making the information available on the secured server of*
33 *the insurer and sending an electronic mail to the insured stating*
34 *that the information is available on the server of the insurer and*
35 *the date, if any, by which the information must be viewed or by*
36 *which any action concerning the information is required.*

37 3. *Any business conducted electronically pursuant to this*
38 *section is subject to the provisions of chapters 719 and 720 of NRS*
39 *and any regulations adopted by the Commissioner pursuant to*
40 *NRS 679B.136 or 685A.210.*

41 4. *The provisions of this section must be construed in a*
42 *manner that is consistent with the Electronic Signatures in Global*
43 *and National Commerce Act, 15 U.S.C. §§ 7001 et seq.*

44 5. *As used in this section:*



1 (a) *"Electronic" means relating to technology having*
2 *electrical, digital, magnetic, wireless, optical, electromagnetic or*
3 *similar capabilities.*

4 (b) *"Electronic mail" has the meaning ascribed to it in*
5 *NRS 108.4731.*

6 (c) *"Electronic record" means a record created, generated,*
7 *sent, communicated, received or stored by electronic means.*

8 (d) *"Electronic signature" means an electronic sound, symbol*
9 *or process attached to or logically associated with a record and*
10 *executed or adopted by a person with the intent to sign the record.*

11 (e) *"Record" means information which is inscribed on a*
12 *tangible medium or which is stored in an electronic or other*
13 *medium and is retrievable in perceivable form.*

14 (f) *"Transaction" means an action or set of actions occurring*
15 *between two or more persons relating to the transaction of*
16 *business, commercial or governmental affairs.*

17 **Sec. 8.** *Any form concerning property or casualty insurance,*
18 *including, without limitation, an endorsement form, that does not*
19 *contain personally identifiable information may be posted to the*
20 *Internet website of the insurer and be made available to the public*
21 *in lieu of any other method of delivery if:*

22 1. *The form is readily accessible on the Internet website and*
23 *may be printed and downloaded without charge using readily*
24 *available software;*

25 2. *Once the form is no longer used in this State, it is stored in*
26 *a readily accessible archive portion of the Internet website;*

27 3. *The insurer provides to policyholders with any initial*
28 *policy forms and renewal forms written instructions for obtaining*
29 *a paper or an electronic copy of their policy or contract; and*

30 4. *The insurer gives notice, in the manner it customarily*
31 *communicates with a policyholder, of any changes to a form and*
32 *of the right of the policyholder to obtain, upon request and without*
33 *charge, a paper copy of the form.*

34 **Sec. 9.** NRS 687B.310 is hereby amended to read as follows:

35 687B.310 1. NRS 687B.310 to 687B.420, inclusive, apply to
36 all binders and all contracts of insurance the general terms of which
37 are required to be approved or are subject to disapproval by the
38 Commissioner, except as otherwise provided by statute or by rule
39 pursuant to subsection 3.

40 2. The contract may provide terms more favorable to
41 policyholders than are required by NRS 687B.310 to 687B.420,
42 inclusive.

43 3. The Commissioner may by rule exempt from NRS 687B.310
44 to 687B.420, inclusive, classes of insurance contracts where the
45 policyholders do not need protection against arbitrary termination.



1 4. The rights provided by NRS 687B.310 to 687B.420,
2 inclusive, are in addition to and do not prejudice any other rights the
3 policyholder may have at common law or under other statutes.

4 5. NRS 687B.310 to 687B.420, inclusive, do not prevent the
5 rescission or reformation of any life or health insurance contract not
6 otherwise denied by the terms of the contract or by any other statute.

7 6. Any notice to an insured required pursuant to NRS
8 687B.320 to 687B.350, inclusive, must be personally delivered to
9 the insured, ~~or~~ mailed first class or certified to the insured at the
10 address of the insured last known by the insurer ~~or~~ *or, if the insurer
11 and the insured have agreed to conduct business through
12 electronic transmission pursuant to section 7 of this act, delivered
13 by electronic transmission to the insured.* The notice must state the
14 effective date of the cancellation or nonrenewal and be accompanied
15 by a written explanation of the specific reasons for the cancellation
16 or nonrenewal.

17 7. *Except as otherwise provided in this subsection and
18 subsection 9, if the insurer and the insured have agreed to conduct
19 business through electronic transmission pursuant to section 7 of
20 this act and the insurer has provided electronic notice of
21 cancellation of a policy to the insured pursuant to subsection 6,
22 the insurer shall also provide notice to any representative, agent or
23 broker of the insured. The notice must be delivered, mailed or
24 transmitted not more than 72 hours after electronic notice has
25 been transmitted to the insured. This notice must include the name
26 of the insured, the number of the policy and the date on which the
27 policy is terminated. An insurer is not required to comply with this
28 subsection if the representative, agent or broker of the insured is
29 an employee or an exclusive agent of the insurer.*

30 8. *Failure by an insurer to provide the notice required by
31 subsection 7 to any representative, agent or broker of the insured
32 does not affect the validity of any notice of cancellation provided
33 to the insured pursuant to subsection 6.*

34 9. *A representative, agent or broker of the insured may waive
35 the notice required by subsection 7.*

36 10. *If the insurer delivers the notice required by subsection 6
37 or 7 through electronic transmission, the insurer shall retain
38 evidence of the electronic notification to the insured and the
39 representative, agent or broker of the insured for 1 year after the
40 date of the transmission.*

41 11. *As used in this section, "electronic" means relating to
42 technology having electrical, digital, magnetic, wireless, optical,
43 electromagnetic or similar capabilities.*



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Sec. 10. NRS 687B.325 is hereby amended to read as follows:

687B.325 1. No policy of industrial insurance that has been in effect for at least 70 days or that has been renewed may be cancelled by the insurer before the expiration of the agreed term or 1 year after the effective date of the policy or renewal, whichever occurs first, except on any one of the following grounds:

(a) A failure by the policyholder to pay a premium for the policy of industrial insurance when due, including the failure of the policyholder to remit an amount due because of an endorsement for a deductible;

(b) A failure by the policyholder to:

(1) Report any payroll;

(2) Allow the insurer to audit any payroll in accordance with the terms of the policy or any previous policy issued by the insurer; or

(3) Pay any additional premium charged because of an audit of any payroll as required by the terms of the policy or any previous policy issued by the insurer;

(c) A material failure by the policyholder to comply with any federal or state order concerning safety or any written recommendation of the insurer's designated representative for loss control;

(d) A material change in ownership of the policyholder or any change in the policyholder's business or operations that:

(1) Materially increases the hazard for frequency or severity of loss;

(2) Requires additional or different classifications for the calculation of premiums; or

(3) Contemplates an activity that is excluded by any reinsurance treaty of the insurer;

(e) A material misrepresentation made by the policyholder; or

(f) A failure by the policyholder to cooperate with the insurer in conducting an investigation of a claim.

2. An insurer shall not cancel a policy of industrial insurance pursuant to paragraph (a) of subsection 1 except upon 10 days' written notice submitted by the insurer to the policyholder.

3. Except as otherwise provided in this subsection, an insurer shall not cancel a policy of industrial insurance pursuant to paragraph (b), (c), (d), (e) or (f) of subsection 1 except upon 30 days' written notice by the insurer to the policyholder. An insurer is not required to provide a written notice to a policyholder pursuant to this subsection if the policyholder and the insurer consent to the cancellation of the policy of industrial insurance and to the reissuance of another policy of industrial insurance effective upon a material change in the ownership or operations of the insured. If the



1 policyholder corrects the condition to the satisfaction of the insurer
2 within the period specified in the policy of insurance, the insurer
3 shall not cancel the policy.

4 4. Any written notice submitted to a policyholder pursuant to
5 this section must be given by first-class mail addressed to the
6 policyholder at the address of the policyholder set forth in the policy
7 of industrial insurance **H or, if the insurer and the policyholder**
8 **have agreed to conduct business through electronic transmission**
9 **pursuant to section 7 of this act, delivered by electronic**
10 **transmission to the policyholder.** Evidence indicating that a written
11 notice specified in this section has been mailed **or delivered** is
12 sufficient proof of notice.

13 5. The provisions of this section do not prohibit, during any
14 period in which a policy of industrial insurance is in force, any
15 change in the premium rate required or authorized by any law,
16 regulation or order of the Commissioner, or otherwise agreed upon
17 by the policyholder and the insurer.

18 6. **Except as otherwise provided in this subsection and**
19 **subsection 9, if an insurer and the policyholder have agreed to**
20 **conduct business through electronic transmission pursuant to**
21 **section 7 of this act and the insurer has provided electronic notice**
22 **of cancellation of a policy to the policyholder pursuant to**
23 **subsection 4, the insurer shall also provide notice to any**
24 **representative, agent or broker of the policyholder. The notice**
25 **must be delivered, mailed or transmitted not more than 72 hours**
26 **after electronic notice has been transmitted to the policyholder.**
27 **This notice must include the name of the policyholder, the number**
28 **of the policy and the date on which the policy is terminated. An**
29 **insurer is not required to comply with this subsection if the**
30 **representative, agent or broker of the policyholder is an employee**
31 **or an exclusive agent of the insurer.**

32 7. **Failure by an insurer to provide the notice required by**
33 **subsection 6 to any representative, agent or broker of the**
34 **policyholder does not affect the validity of any notice of**
35 **cancellation provided to the policyholder pursuant to subsection 4.**

36 8. **A representative, agent or broker of the policyholder may**
37 **waive the notice required by subsection 6.**

38 9. **If the insurer delivers the notice required by subsection 4**
39 **or 6 through electronic transmission, the insurer shall retain**
40 **evidence of the electronic notification to the policyholder and the**
41 **representative, agent or broker of the insured for 1 year after the**
42 **date of the transmission.**

43 10. **As used in this section, "electronic" means relating to**
44 **technology having electrical, digital, magnetic, wireless, optical,**
45 **electromagnetic or similar capabilities.**



1 **11.** For the purposes of this section, any policy of industrial
2 insurance that is written for a term of more than 1 year, or any
3 policy of industrial insurance with no fixed date of expiration, shall
4 be deemed to be written for successive periods of 1 year.

5 **Sec. 11.** This act becomes effective on July 1, 2013.

