

Amendment No. 236

Assembly Amendment to Assembly Bill No. 455 (BDR 57-112)

Proposed by: Assembly Committee on Transportation

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

AAK/WLK



Date: 4/17/2017

A.B. No. 455—Authorizes the electronic delivery of certain notices and documents relating to policies of insurance. (BDR 57-112)



ASSEMBLY BILL NO. 455—COMMITTEE
ON COMMERCE AND LABOR

MARCH 27, 2017

Referred to Committee on Transportation

SUMMARY—Authorizes the electronic delivery of certain notices and documents relating to policies of insurance. (BDR 57-112)

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 the delivery by electronic means of notices or other documents relating to a policy of insurance in certain circumstances; authorizing the posting of certain standard policies of insurance or endorsements on an Internet website in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a party to agree to conduct transactions by electronic means and generally grants legal recognition to electronic records and electronic signatures. (NRS 719.220, 719.240) Existing law also authorizes an insurer to provide evidence of insurance for the operation of a motor vehicle in an electronic format upon the request of the insured. (NRS 690B.023) **Section 6** of this bill: (1) allows a notice or other document required by law to be provided as part of an insurance transaction or which serves as evidence of insurance to be delivered by electronic means in certain circumstances; and (2) deems a delivery by electronic means to satisfy a requirement for delivery in physical form. **Section 7** of this bill establishes certain conditions which must be met for a notice or other document to be delivered by electronic means. **Section 7** also ***;(1) requires the delivery by electronic means of a notice or other document which requires verification or acknowledgment of receipt to be in an electronic form that allows for verification or acknowledgment of receipt ~~to be in an electronic form that allows for verification or acknowledgment of receipt~~ ; and (2) requires such a notice or other document to be delivered by any other delivery method authorized by law if a verification or acknowledgment of receipt is not received within 3 days after electronic delivery.*** **Section 8** of this bill requires an insurer to cease delivery by electronic means and resume delivery by another method authorized by law in certain circumstances. **Section 9** of this bill provides that a notice or other document delivered by electronic means before consent to delivery by electronic means is withdrawn is not affected by the withdrawal of consent and establishes when a withdrawal of consent is effective. **Section 10** of this bill allows an insurer who has an agreement with a party for delivery by electronic means of certain notices or documents before October 1, 2017, to continue such delivery if the insurer provides the party with certain statements. **Section 12** of this bill allows an insurer to post a standard policy of property or casualty insurance or a standard endorsement of such a policy on its Internet website rather than mailing or delivering the policy or endorsement if the policy or endorsement does not contain personally identifiable information and the insurer satisfies certain conditions.

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

1 **Section 1.** Chapter 680A of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 to 12, inclusive, of this act.

3 **Sec. 2.** *As used in sections 2 to 12, inclusive, of this act, unless the context*
4 *otherwise requires, the words and terms defined in sections 3 and 4 of this act*
5 *have the meanings ascribed to them in those sections.*

6 **Sec. 3.** *“Deliver by electronic means” means:*

7 1. *To deliver to an electronic mail address at which a party has consented to*
8 *receive notices or documents; or*

9 2. *To post a notice or document on an electronic network or website*
10 *accessible via the Internet or a mobile application or using a computer, mobile*
11 *device, tablet or any other electronic device and to deliver a separate notice of the*
12 *posting of the notice or document to an electronic mail address at which a party*
13 *has consented to receive notices or documents.*

14 **Sec. 4.** *“Party” means any recipient of a notice or document required to be*
15 *provided as part of an insurance transaction, including, without limitation, an*
16 *applicant, insured, policyholder or holder of an annuity contract.*

17 **Sec. 5.** *The provisions of sections 2 to 12, inclusive, of this act:*

18 1. *Do not apply to a notice or other document delivered by an insurer in an*
19 *electronic form before October 1, 2017, to a party who consented before that date*
20 *to receive the notice or other document in an electronic form which was*
21 *authorized by law at the time of delivery; and*

22 2. *Shall not be construed to affect any other provision of law relating to the*
23 *content or timing of delivery of any notice or other document.*

24 **Sec. 6.** 1. *A notice to a party or any other document which is required by*
25 *law to be provided as part of an insurance transaction or which serves as*
26 *evidence of insurance coverage may be delivered by electronic means if such*
27 *delivery satisfies the requirements of chapter 719 of NRS and section 7 of this*
28 *act.*

29 2. *The delivery of a notice or other document pursuant to subsection 1 is*
30 *deemed to satisfy any requirement of this Code to deliver a notice or other*
31 *document in physical form, including, without limitation, by:*

32 (a) *Mail;*

33 (b) *Mail, postage prepaid;*

34 (c) *Certified mail;*

35 (d) *Certified mail, return receipt requested;*

36 (e) *First-class mail;*

37 (f) *Registered mail;*

38 (g) *Registered mail, return receipt requested; or*

39 (h) *Overnight delivery using a nationally recognized carrier.*

40 **Sec. 7.** 1. *Except as otherwise provided in subsection 2 and section 8 of*
41 *this act, a notice or other document may be delivered by electronic means by an*
42 *insurer to a party pursuant to subsection 1 of section 6 of this act if:*

43 (a) *The party has affirmatively consented to delivery by electronic means and*
44 *has not withdrawn such consent;*

45 (b) *Before giving consent to delivery by electronic means, the party is*
46 *provided with a clear and conspicuous statement informing the party of:*

47 (1) *The right of the party to withdraw consent to delivery by electronic*
48 *means at any time and any conditions or consequences which may be imposed in*
49 *the event consent is withdrawn;*

1 (2) *The types of notices and other documents to which the consent of the*
2 *party to delivery by electronic means would apply;*

3 (3) *The right of the party to have a notice or other document delivered in*
4 *paper form; and*

5 (4) *The procedures the party must follow to withdraw consent to delivery*
6 *by electronic means and to update the electronic mail address of the party;*

7 (c) *The party, after being provided with a statement of the hardware and*
8 *software requirements for access to and retention of a notice or other document*
9 *delivered by electronic means, consents or confirms consent electronically in a*
10 *manner that reasonably demonstrates that the party can access information in*
11 *the electronic form that will be used for delivery by electronic means of notices or*
12 *other documents to which the party has given consent;*

13 (d) *The insurer takes measures reasonably calculated to ensure that delivery*
14 *by electronic means results in the receipt of a notice or other document by the*
15 *party; and*

16 (e) *Upon a change in the hardware or software requirements for access to*
17 *and retention of a notice or other document delivered by electronic means which*
18 *occurs after the party has consented to delivery by electronic means which creates*
19 *a material risk that the party will not be able to access or retain a subsequent*
20 *notice or other document, the insurer provides the party with:*

21 (1) *A statement that describes the revised hardware or software*
22 *requirements for access to and retention of a notice or other documents delivered*
23 *by electronic means and the right of the party to withdraw consent without the*
24 *imposition of any condition or consequence not described in the statement*
25 *initially provided to the party pursuant to paragraph (b); and*

26 (2) *A revised statement containing the information described in*
27 *paragraph (b) which applies to the revised hardware or software requirements.*

28 2. *If a provision of this Code or any other law applicable to the delivery of a*
29 *notice or other document including, without limitation, a notice required*
30 *pursuant to NRS 687B.320 to 687B.350, inclusive, requires verification or*
31 *acknowledgment of receipt of the notice or other document, the notice or other*
32 *document may be delivered by electronic means only if the electronic form used*
33 *for delivery provides for verification or acknowledgment of receipt. If the insurer*
34 *does not receive verification or acknowledgment of receipt within 3 days after*
35 *delivery by electronic means of a notice or other document described by this*
36 *subsection, the insurer shall deliver the notice or other document by any other*
37 *delivery method authorized by law.*

38 Sec. 8. *An insurer shall cease delivering by electronic means any notice or*
39 *other document and shall deliver such notices and other documents by any other*
40 *delivery method authorized by law if:*

41 1. *The insurer attempts to deliver by electronic means a notice or other*
42 *document and has a reasonable basis to believe that the notice or other document*
43 *was not received by the party; or*

44 2. *The insurer becomes aware that the electronic mail address provided by*
45 *the party is no longer valid.*

46 Sec. 9. 1. *The withdrawal of consent by a party to delivery by electronic*
47 *means does not affect the legal effectiveness, validity or enforceability of a notice*
48 *or other document delivered by electronic means to the party before the*
49 *withdrawal of consent is effective.*

50 2. *A withdrawal of consent by a party becomes effective within a reasonable*
51 *period of time after receipt of the withdrawal of consent by the insurer.*

52 3. *The failure of an insurer to comply with the provisions of paragraph (e)*
53 *of subsection 1 of section 7 of this act or section 10 of this act is deemed to*

1 *constitute a withdrawal of consent to delivery by electronic means unless a party*
2 *elects to continue to grant consent.*

3 **Sec. 10.** *If a party consented to the delivery by electronic means of certain*
4 *notices or documents by an insurer before October 1, 2017, the insurer may*
5 *continue to deliver by electronic means such notices or documents if, before*
6 *delivering by electronic means such notices or documents, the insurer provides*
7 *the party with:*

8 1. *A statement that describes:*

9 (a) *Any notices or documents to be delivered by electronic means pursuant to*
10 *sections 2 to 12, inclusive, of this act which were not previously delivered by*
11 *electronic means; and*

12 (b) *The right of the party to withdraw consent without the imposition of any*
13 *condition or consequence that was not disclosed at the time the party gave*
14 *consent; and*

15 2. *A statement that satisfies the requirements of paragraph (b) of subsection*
16 *1 of section 7 of this act.*

17 **Sec. 11.** 1. *The failure to obtain the electronic consent or confirmation of*
18 *consent of a party pursuant to paragraph (c) of subsection 1 of section 7 of this*
19 *act may not be the sole basis for determining that a contract or policy of*
20 *insurance is not legally effective, valid or enforceable.*

21 2. ~~*An insurer*~~ *A producer of insurance* *is not subject to civil liability for*
22 *any harm or injury that occurs as a result of the election of a party for the*
23 *delivery by electronic means of any notice or other document or for the failure of*
24 *an insurer to deliver by electronic means a notice or other document.*

25 3. *Nothing in sections 2 to 12, inclusive, of this act shall be construed to*
26 *modify, limit or supersede the federal Electronic Signatures in Global and*
27 *National Commerce Act, 15 U.S.C. §§ 7001 et seq.*

28 **Sec. 12.** *If a standard policy of property or casualty insurance or a*
29 *standard endorsement of such a policy does not contain personally identifiable*
30 *information, the insurer offering such a policy or endorsement may satisfy a*
31 *requirement to mail or deliver the policy or endorsement by posting the policy or*
32 *endorsement on the Internet website of the insurer if:*

33 1. *The policy or endorsement is accessible to the insured and to any*
34 *producer of insurance who transacted insurance involving the policy or*
35 *endorsement with the insured for as long as the policy or endorsement is in force;*

36 2. *The insurer retains an archive of expired policies and endorsements for*
37 *not less than 5 years after the expiration of each policy or endorsement and*
38 *makes expired policies and endorsements available upon request;*

39 3. *The policy or endorsement is posted in a manner that enables the insured*
40 *and any producer of insurance who transacted insurance involving the policy or*
41 *endorsement with the insured to print and save the policy or endorsement using*
42 *any program or other application which is widely available on the Internet and*
43 *free to use;*

44 4. *The insurer provides, in or with the declarations page provided at the*
45 *time of issuance of the initial policy and each renewal of the policy:*

46 (a) *A description of the exact form of policy or endorsement purchased by*
47 *the insured;*

48 (b) *A description of the right of the insured to receive, upon request and*
49 *without charge, a paper copy of the policy or endorsement by mail; and*

50 (c) *The address of the Internet website where the policy or endorsement is*
51 *posted;*

52 5. *Upon request of the insured and without charge, the insurer mails a*
53 *paper copy of the policy or endorsement to the insured; and*

1 6. *The insurer provides notice in the manner preferred by the insured of*
2 *any change to the policy or endorsement which includes a description of the right*
3 *of the insured to obtain, upon request and without charge, a paper copy of the*
4 *revised policy or endorsement and the address of the Internet website where the*
5 *revised policy or endorsement is posted.*

6 7. *The insurer complies with all applicable provisions of chapter 719 of*
7 *NRS.*