

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1079
97TH GENERAL ASSEMBLY

4551H.02T

2014

AN ACT

To repeal sections 379.011 and 379.012, RSMo, and to enact in lieu thereof two new sections relating to insurance documents.

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Section A. Sections 379.011 and 379.012, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 379.011 and 379.012, to 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 address at
3 which a party has consented to receive notices or documents, or posting on an electronic network
4 or site accessible via the internet, mobile application, computer, mobile device, tablet, or any
5 other electronic device, together with a separate notice to a party directed to the electronic mail
6 address at which the party has consented to receive notice of the posting;

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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19 withdrawn the consent;

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

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

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

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

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

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

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

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

44 (a) Provides the party with a statement of the revised hardware and software
45 requirements for access to and retention of a notice or document delivered by electronic means
46 and of the right of the party to withdraw consent pursuant to paragraph (b) of subdivision (2) of
47 this subsection; and

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

49 4. This section does not affect requirements relating to content or timing of any notice
50 or document required under applicable law. If any provision of applicable law requiring a notice
51 or document to be provided to a party expressly requires verification or acknowledgment of

52 receipt of the notice or document, the notice or document may be delivered by electronic means
53 only if the method used provides for verification or acknowledgment of receipt. Absent
54 verification or acknowledgment of receipt of the initial notice or document on the part of the
55 party, the insurer shall send two subsequent notices or documents at intervals of five business
56 days. The legal effectiveness, validity, or enforceability of any contract or policy of insurance
57 executed by a party may not be made contingent upon obtaining electronic consent or
58 confirmation of consent of the party in accordance with subdivision (3) of subsection 3 of this
59 section.

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

66 6. This section does not apply to a notice or document delivered by an insurer in an
67 electronic form before August 28, 2013, to a party who, before that date, has consented to receive
68 notices or documents in an electronic form otherwise allowed by law. If the consent of a party
69 to receive certain notices or documents in an electronic form is on file with an insurer before
70 August 28, 2013, and pursuant to this section, an insurer intends to deliver additional notices or
71 documents to such party in an electronic form, then prior to delivering such additional notices
72 or documents electronically, the insurer shall notify the party of:

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

75 (2) The party's right to withdraw consent to have notices or documents delivered by
76 electronic means.

77 7. A party who does not consent to delivery of notices or documents under subsection
78 3 of this section, or who withdraws their consent, shall not be subject to any additional fees or
79 costs for having notices or documents provided or made available to them in paper or another
80 nonelectronic form.

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

86 9. This section may not be construed to modify, limit, or supercede the provisions of
87 sections **354.442, 376.1450, or 432.200 to 432.295, RSMo. The provisions of this section**

88 **shall apply to notices and documents issued by insurers organized under chapter 379 or**
89 **380, RSMo, and to notices and documents relating to life insurance products issued by**
90 **insurers organized under chapter 376, RSMo.**

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

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

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

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

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

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

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

30 (5) At policy renewal, the insurer shall provide clear and conspicuous notice to the
31 insured, in the manner it customarily communicates with an insured, of any changes which have

32 been made to the policy forms or endorsements since the prior coverage period. Such notice
33 shall be made in accordance with the requirements of subdivision (4) of this subsection; and

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

37 3. The director may promulgate any rules necessary to implement and administer the
38 provisions of this section. Any rule or portion of a rule, as that term is defined in section
39 536.010, that is created under the authority delegated in this section shall become effective only
40 if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
41 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
42 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
43 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
44 and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

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