

STATE OF NEW YORK

8725

IN ASSEMBLY

January 11, 2022

Introduced by M. of A. D. ROSENTHAL -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to defining the term property/casualty insurance and providing for the electronic delivery of a policy notice or document by an insurer to a party who consents to such delivery

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (B) of paragraph 1 of subsection (a), and
2 subsections (b), (c), (e), (f), (g) and (l) of section 3458 of the
3 insurance law, as added by a chapter of the laws of 2021 amending the
4 insurance law relating to electronic delivery of property/casualty
5 insurance notices, as proposed in legislative bills numbers S. 653-A and
6 A. 651-A, are amended and a new paragraph 3 is added to subsection (a)
7 to read as follows:

8 (B) posting on an electronic network or site accessible via the inter-
9 net, mobile application, computer, mobile device, tablet, or any other
10 electronic device, together with separate notice of the posting which
11 shall be provided by electronic mail to the address at which the party
12 has consented to receive notice or by any other electronic delivery
13 method that has been consented to by the party.

14 (3) "Property/casualty insurance" means basic kinds of insurance and
15 non-basic kinds of insurance, as defined in section four thousand one
16 hundred one of this chapter, provided that "property/casualty insurance"
17 shall not include accident and health insurance as defined in paragraph
18 three of subsection (a) of section one thousand one hundred thirteen of
19 this chapter.

20 (b) Subject to the requirements of this section, any notice to a party
21 or any other document required under [~~applicable law~~] this chapter in a
22 property/casualty insurance transaction or that is to serve as evidence
23 of property/casualty insurance coverage may be delivered[, ~~stored, and~~
24 ~~presented~~] by electronic means so long as it meets the requirements of
25 article three of the state technology law. Where this chapter requires
26 that notice be mailed or delivered to an address shown in the policy,

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD05115-04-2

1 the notice may be delivered by electronic means to an electronic address
2 not specified in the policy.

3 (c) Delivery of a notice or document in accordance with this section
4 shall be considered equivalent to any delivery method required under
5 ~~[applicable law]~~ this chapter, other than section three thousand one
6 hundred eleven of this chapter, including delivery by first class mail;
7 first class mail, postage prepaid; certified mail; certificate of mail;
8 or certificate of mailing.

9 (e) (1) Before a notice or document is delivered by electronic means,
10 an insurer shall obtain a party's consent to deliver that kind of notice
11 or document by electronic means. A party's consent to receive one type
12 of notice or document shall not be construed as a blanket consent for
13 every kind of notice and document to be delivered by electronic means. A
14 party's consent shall only apply to the types of notices and documents
15 identified in the clear and conspicuous information statement provided
16 to the consenting party, as required by subparagraph (B) of paragraph
17 two of subsection (d) of this section.

18 (2) Any electronic mail being sent by an insurer to a party in
19 connection with the delivery of a cancellation notice, non-renewal
20 notice or conditional renewal notice delivered by electronic means shall
21 include in the subject line and body of the communication clear and
22 conspicuous language alerting the receiving party as to the importance
23 of the communication and the type of notice being delivered by electron-
24 ic means to such party ~~[electronically]~~.

25 (f) This section does not affect requirements related to content or
26 timing of any notice or document required under ~~[applicable law]~~ this
27 chapter.

28 (g) If a provision of this chapter ~~[or applicable law]~~ requiring a
29 notice or document to be provided to a party expressly requires verifi-
30 cation or acknowledgment of receipt of the notice or document, the
31 notice or document may be delivered by electronic means only if the
32 method used provides for verification or acknowledgment of receipt.

33 (1) An insurer shall deliver a notice or document by any other deliv-
34 ery method permitted by law other than delivery by electronic means if:

35 (1) the insurer attempts to deliver by electronic means the notice or
36 document ~~[by electronic means]~~ and has a reasonable basis for believing
37 that the notice or document has not been received by the party~~[7]~~; or

38 (2) the insurer becomes aware that the electronic mail address
39 provided by the party is no longer valid.

40 § 2. This act shall take effect on the same date and in the same
41 manner as a chapter of the laws of 2021, amending the insurance law
42 relating to electronic delivery of property/casualty insurance notices,
43 as proposed in legislative bills numbers S. 653-A and A. 651-A, takes
44 effect.