

**Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 14-0978.01 Duane Gall x4335

HOUSE BILL 14-1344

HOUSE SPONSORSHIP

Rosenthal,

SENATE SPONSORSHIP

Tochtrop,

House Committees

Business, Labor, Economic, & Workforce Development

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE USE OF ELECTRONIC MEANS TO DOCUMENT**
102 **TRANSACTIONS RELATED TO THE BUSINESS OF INSURANCE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

The bill allows certain notices and other documents related to insurance coverage to be sent electronically to an e-mail address specified by the policyholder if the policyholder consents to receiving the documents electronically. Consent may be withdrawn at any time, reinstating the insurer's obligation to provide the documents in hard copy

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

form and deliver them personally or by regular mail as the case may be.

The bill also allows standard property and casualty insurance policies and endorsements to be posted on an insurer's web site if:

- ! They do not contain personally identifiable information;
- ! Policyholders are given reliable and current information on how the documents may be accessed; and
- ! Access can be obtained using programs or applications that are widely available on the Internet and free to use.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 10-1-137 and
3 10-1-138 as follows:

4 **10-1-137. Electronic delivery of documents - when permitted**
5 **- definitions - consent - construction with other laws.** (1) AS USED IN
6 THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 (a) DELIVERED OR DELIVERY "BY ELECTRONIC MEANS" TO A
8 PARTY INCLUDES:

9 (I) DELIVERY TO AN ELECTRONIC MAIL ADDRESS AT WHICH THE
10 PARTY HAS CONSENTED TO RECEIVE NOTICES OR DOCUMENTS; AND

11 (II) POSTING ON AN ELECTRONIC NETWORK OR WEB SITE
12 ACCESSIBLE TO THE PARTY VIA THE INTERNET, MOBILE APPLICATION,
13 COMPUTER, MOBILE DEVICE, TABLET, OR ANY OTHER ELECTRONIC DEVICE
14 IF THE PARTY IS GIVEN SEPARATE NOTICE OF THE POSTING BY EITHER:

15 (A) ELECTRONIC MAIL TO THE ELECTRONIC MAIL ADDRESS AT
16 WHICH THE PARTY HAS CONSENTED TO RECEIVE NOTICE; OR

17 (B) ANY OTHER DELIVERY METHOD THAT HAS BEEN CONSENTED
18 TO BY THE PARTY.

19 (b) "PARTY" MEANS ANY RECIPIENT OF A NOTICE OR DOCUMENT
20 REQUIRED AS PART OF AN INSURANCE TRANSACTION. THE TERM INCLUDES
21 AN APPLICANT, AN INSURED, A POLICYHOLDER, AND AN ANNUITY

1 CONTRACT HOLDER.

2 (2) SUBJECT TO SUBSECTION (4) OF THIS SECTION, ANY NOTICE TO
3 A PARTY OR ANY OTHER DOCUMENT REQUIRED UNDER APPLICABLE LAW
4 IN AN INSURANCE TRANSACTION OR THAT IS TO SERVE AS EVIDENCE OF
5 INSURANCE COVERAGE MAY BE DELIVERED, STORED, AND PRESENTED BY
6 ELECTRONIC MEANS IF IT MEETS THE REQUIREMENTS OF THE "UNIFORM
7 ELECTRONIC TRANSACTIONS ACT", ARTICLE 71.3 OF TITLE 24, C.R.S.

8 (3) DELIVERY OF A NOTICE OR DOCUMENT IN ACCORDANCE WITH
9 THIS SECTION IS EQUIVALENT TO ANY DELIVERY METHOD REQUIRED
10 UNDER APPLICABLE LAW, INCLUDING DELIVERY BY FIRST CLASS MAIL;
11 FIRST CLASS MAIL, POSTAGE PREPAID; CERTIFIED MAIL; CERTIFICATE OF
12 MAIL; OR CERTIFICATE OF MAILING.

13 (4) A NOTICE OR DOCUMENT MAY BE DELIVERED BY ELECTRONIC
14 MEANS BY AN INSURER TO A PARTY UNDER THIS SECTION IF:

15 (a) THE PARTY HAS AFFIRMATIVELY CONSENTED TO THAT METHOD
16 OF DELIVERY AND HAS NOT WITHDRAWN THE CONSENT;

17 (b) THE PARTY, BEFORE GIVING CONSENT, IS PROVIDED WITH A
18 CLEAR AND CONSPICUOUS STATEMENT INFORMING THE PARTY OF:

19 (I) ANY RIGHT OR OPTION OF THE PARTY TO HAVE THE NOTICE OR
20 DOCUMENT PROVIDED OR MADE AVAILABLE IN PAPER OR ANOTHER
21 NONELECTRONIC FORM;

22 (II) THE RIGHT OF THE PARTY TO WITHDRAW CONSENT TO HAVE
23 A NOTICE OR DOCUMENT DELIVERED BY ELECTRONIC MEANS AND ANY
24 CONDITIONS OR CONSEQUENCES IMPOSED IF THE CONSENT IS WITHDRAWN;

25 (III) WHETHER THE PARTY'S CONSENT APPLIES:

26 (A) ONLY TO THE PARTICULAR TRANSACTION AS TO WHICH THE
27 NOTICE OR DOCUMENT MUST BE GIVEN; OR

1 (B) TO IDENTIFIED CATEGORIES OF NOTICES OR DOCUMENTS THAT
2 MAY BE DELIVERED BY ELECTRONIC MEANS DURING THE COURSE OF THE
3 PARTY'S RELATIONSHIP WITH THE INSURER;

4 (IV) [REDACTED] THE MEANS, AFTER CONSENT IS GIVEN, BY WHICH THE
5 PARTY MAY OBTAIN A PAPER COPY OF A NOTICE OR DOCUMENT
6 DELIVERED BY ELECTRONIC MEANS; AND

7 [REDACTED]
8 (V) THE PROCEDURE A PARTY MUST FOLLOW TO WITHDRAW
9 CONSENT TO HAVE A NOTICE OR DOCUMENT DELIVERED BY ELECTRONIC
10 MEANS AND TO UPDATE INFORMATION NEEDED TO CONTACT THE PARTY
11 ELECTRONICALLY;

12 (c) THE PARTY:

13 (I) BEFORE GIVING CONSENT, IS PROVIDED WITH A STATEMENT OF
14 THE HARDWARE AND SOFTWARE REQUIREMENTS FOR ACCESS TO AND
15 RETENTION OF A NOTICE OR DOCUMENT DELIVERED BY ELECTRONIC
16 MEANS; AND

17 (II) CONSENTS ELECTRONICALLY, OR CONFIRMS CONSENT
18 ELECTRONICALLY, IN A MANNER THAT REASONABLY DEMONSTRATES
19 THAT THE PARTY CAN ACCESS INFORMATION IN THE ELECTRONIC FORM
20 THAT WILL BE USED FOR NOTICES OR DOCUMENTS DELIVERED BY
21 ELECTRONIC MEANS AS TO WHICH THE PARTY HAS GIVEN CONSENT; AND

22 (d) IF, AFTER THE PARTY CONSENTS, A CHANGE IN THE HARDWARE
23 OR SOFTWARE REQUIREMENTS NEEDED TO ACCESS OR RETAIN A NOTICE OR
24 DOCUMENT DELIVERED BY ELECTRONIC MEANS CREATES A MATERIAL
25 RISK THAT THE PARTY WILL NOT BE ABLE TO ACCESS OR RETAIN A
26 SUBSEQUENT NOTICE OR DOCUMENT TO WHICH THE CONSENT APPLIES, THE
27 INSURER:

1 (I) PROVIDES THE PARTY WITH A STATEMENT OF:

2 (A) THE REVISED HARDWARE AND SOFTWARE REQUIREMENTS FOR
3 ACCESS TO AND RETENTION OF A NOTICE OR DOCUMENT DELIVERED BY
4 ELECTRONIC MEANS; AND

5 (B) THE RIGHT OF THE PARTY TO WITHDRAW CONSENT WITHOUT
6 THE IMPOSITION OF ANY FEE, CONDITION, OR CONSEQUENCE THAT WAS
7 NOT DISCLOSED UNDER SUBPARAGRAPH (II) OF PARAGRAPH (b) OF THIS
8 SUBSECTION (4); AND

9 (II) PROVIDES THE PARTY WITH A COMPLETE AND UPDATED
10 VERSION OF THE INFORMATION LISTED IN PARAGRAPH (b) OF THIS
11 SUBSECTION (4).

12 (5) THIS SECTION DOES NOT AFFECT ANY REQUIREMENT RELATED
13 TO THE CONTENT OR TIMING OF A NOTICE OR OTHER DOCUMENT REQUIRED
14 UNDER APPLICABLE LAW.

15 (6) IF A PROVISION OF THIS TITLE OR OTHER APPLICABLE LAW
16 REQUIRING A NOTICE OR DOCUMENT TO BE PROVIDED TO A PARTY
17 EXPRESSLY REQUIRES VERIFICATION OR ACKNOWLEDGMENT OF RECEIPT
18 OF THE NOTICE OR DOCUMENT, THE NOTICE OR DOCUMENT MAY BE
19 DELIVERED BY ELECTRONIC MEANS ONLY IF THE METHOD USED PROVIDES
20 FOR VERIFICATION OR ACKNOWLEDGMENT OF RECEIPT.

21 (7) THE LEGAL EFFECTIVENESS, VALIDITY, OR ENFORCEABILITY OF
22 ANY CONTRACT OR POLICY OF INSURANCE EXECUTED BY A PARTY SHALL
23 NOT BE DENIED SOLELY BECAUSE OF THE FAILURE TO OBTAIN ELECTRONIC
24 CONSENT OR CONFIRMATION OF CONSENT OF THE PARTY IN ACCORDANCE
25 WITH SUBPARAGRAPH (II) OF PARAGRAPH (c) OF SUBSECTION (4) OF THIS
26 SECTION.

27 (8) (a) A WITHDRAWAL OF CONSENT BY A PARTY:

1 (I) DOES NOT AFFECT THE LEGAL EFFECTIVENESS, VALIDITY, OR
2 ENFORCEABILITY OF A NOTICE OR DOCUMENT DELIVERED BY ELECTRONIC
3 MEANS TO THE PARTY BEFORE THE WITHDRAWAL OF CONSENT IS
4 EFFECTIVE; AND

5 (II) IS EFFECTIVE WITHIN A REASONABLE PERIOD OF TIME AFTER
6 RECEIPT OF THE WITHDRAWAL BY THE INSURER.

7 (b) AN INSURER'S FAILURE TO COMPLY WITH PARAGRAPH (d) OF
8 SUBSECTION (4) OF THIS SECTION MAY BE TREATED, AT THE ELECTION OF
9 THE PARTY, AS A WITHDRAWAL OF CONSENT FOR PURPOSES OF THIS
10 SECTION.

11 (9) THIS SECTION DOES NOT APPLY TO A NOTICE OR DOCUMENT
12 DELIVERED BY ELECTRONIC MEANS BEFORE THE EFFECTIVE DATE OF THIS
13 SECTION TO A PARTY WHO, BEFORE THAT DATE, HAD CONSENTED TO
14 RECEIVE NOTICE OR DOCUMENTS IN AN ELECTRONIC FORM OTHERWISE
15 ALLOWED BY LAW.

16 (10) IF THE CONSENT OF A PARTY TO RECEIVE CERTAIN NOTICES
17 OR DOCUMENTS IN AN ELECTRONIC FORM IS ON FILE WITH AN INSURER
18 BEFORE THE EFFECTIVE DATE OF THIS SECTION AND THE INSURER INTENDS
19 TO DELIVER ADDITIONAL NOTICES OR DOCUMENTS TO SUCH PARTY IN AN
20 ELECTRONIC FORM PURSUANT TO THIS SECTION, THEN, BEFORE
21 DELIVERING THE ADDITIONAL NOTICES OR DOCUMENTS BY ELECTRONIC
22 MEANS, THE INSURER SHALL NOTIFY THE PARTY OF:

23 (a) ANY NOTICES OR DOCUMENTS THAT MAY BE DELIVERED BY
24 ELECTRONIC MEANS UNDER THIS SECTION THAT WERE NOT PREVIOUSLY
25 DELIVERED ELECTRONICALLY; AND

26 (b) THE PARTY'S RIGHT TO WITHDRAW CONSENT TO HAVE NOTICES
27 OR DOCUMENTS DELIVERED BY ELECTRONIC MEANS.

1 (11) (a) EXCEPT AS OTHERWISE PROVIDED BY LAW, IF AN ORAL
2 COMMUNICATION OR A RECORDING OF AN ORAL COMMUNICATION FROM
3 A PARTY CAN BE RELIABLY STORED AND REPRODUCED BY AN INSURER,
4 THE ORAL COMMUNICATION OR RECORDING QUALIFIES AS A NOTICE OR
5 DOCUMENT DELIVERED BY ELECTRONIC MEANS FOR PURPOSES OF THIS
6 SECTION.

7 (b) IF A PROVISION OF THIS TITLE OR OTHER APPLICABLE LAW
8 REQUIRES A SIGNATURE OR NOTICE OR DOCUMENT TO BE NOTARIZED,
9 ACKNOWLEDGED, VERIFIED, OR MADE UNDER OATH, THE REQUIREMENT
10 IS SATISFIED IF THE ELECTRONIC SIGNATURE OF THE PERSON AUTHORIZED
11 TO PERFORM THOSE ACTS, TOGETHER WITH ALL OTHER INFORMATION
12 REQUIRED TO BE INCLUDED BY THE PROVISION, IS ATTACHED TO OR
13 LOGICALLY ASSOCIATED WITH THE SIGNATURE, NOTICE, OR DOCUMENT.

14 (12) (a) THIS SECTION SHALL NOT BE CONSTRUED TO MODIFY,
15 LIMIT, OR SUPERSEDE THE PROVISIONS OF THE FEDERAL "ELECTRONIC
16 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT", PUB.L.
17 106-229, AS AMENDED.

18 (b) IN THE EVENT OF ANY CONFLICT BETWEEN THIS SECTION AND
19 THE "UNIFORM ELECTRONIC TRANSACTIONS ACT", ARTICLE 71.3 OF TITLE
20 24, C.R.S., THIS SECTION CONTROLS.

21 **10-1-138. Internet posting of standard insurance provisions**
22 **- conditions - notice of revisions.** (1) NOTWITHSTANDING ANY
23 PROVISION OF SECTION 10-1-137 TO THE CONTRARY, STANDARD
24 INSURANCE POLICIES AND ENDORSEMENTS THAT DO NOT CONTAIN
25 PERSONALLY IDENTIFIABLE INFORMATION MAY BE MAILED, DELIVERED,
26 OR POSTED ON THE INSURER'S WEB SITE. IF THE INSURER ELECTS TO POST
27 INSURANCE POLICIES AND ENDORSEMENTS ON ITS WEB SITE IN LIEU OF

1 MAILING OR DELIVERING THEM TO THE INSURED, IT SHALL COMPLY WITH
2 ALL OF THE FOLLOWING CONDITIONS:

3 (a) THE POLICY AND ENDORSEMENTS MUST BE ACCESSIBLE ON THE
4 WEB SITE AND REMAIN SO FOR AS LONG AS THE POLICY IS IN FORCE;

5 (b) THE POLICIES AND ENDORSEMENTS MUST BE POSTED IN A
6 MANNER THAT ENABLES THE INSURED TO PRINT AND SAVE THE POLICY
7 AND ENDORSEMENTS USING PROGRAMS OR APPLICATIONS THAT ARE
8 WIDELY AVAILABLE ON THE INTERNET AND FREE TO USE;

9 (c) THE INSURER SHALL PROVIDE THE FOLLOWING INFORMATION
10 IN, OR SIMULTANEOUSLY WITH, EACH DECLARATIONS PAGE PROVIDED AT
11 THE TIME OF ISSUANCE OF THE INITIAL POLICY AND ANY RENEWALS OF
12 THAT POLICY:

13 (I) A DESCRIPTION OF THE EXACT POLICY AND ENDORSEMENT
14 FORMS PURCHASED BY THE INSURED;

15 (II) A METHOD BY WHICH THE INSURED MAY OBTAIN, UPON
16 REQUEST AND WITHOUT CHARGE, A PAPER OR ELECTRONIC COPY OF EACH
17 POLICY AND ENDORSEMENT PURCHASED BY THE INSURED; AND

18 (III) THE INTERNET ADDRESS WHERE THE INSURED'S POLICY AND
19 ENDORSEMENTS ARE POSTED;

20 (d) THE INSURER SHALL ARCHIVE ITS EXPIRED POLICIES AND
21 ENDORSEMENTS FOR AT LEAST FIVE YEARS AND MAKE THEM AVAILABLE
22 UPON REQUEST; AND

23 (e) THE INSURER SHALL PROVIDE THE INSURED WITH NOTICE, IN
24 THE SAME MANNER IN WHICH THE INSURER CUSTOMARILY
25 COMMUNICATES WITH THE INSURED, OF:

26 (I) ANY CHANGES TO THE FORMS OR ENDORSEMENTS;

27 (II) THE INSURED'S RIGHT TO OBTAIN, UPON REQUEST AND

1 WITHOUT CHARGE, A PAPER COPY OF THE FORMS OR ENDORSEMENTS; AND
2 (III) THE INTERNET ADDRESS WHERE THE FORMS OR
3 ENDORSEMENTS ARE POSTED.

4 **SECTION 2. Act subject to petition - effective date -**
5 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
6 the expiration of the ninety-day period after final adjournment of the
7 general assembly (August 6, 2014, if adjournment sine die is on May 7,
8 2014); except that, if a referendum petition is filed pursuant to section 1
9 (3) of article V of the state constitution against this act or an item, section,
10 or part of this act within such period, then the act, item, section, or part
11 will not take effect unless approved by the people at the general election
12 to be held in November 2014 and, in such case, will take effect on the
13 date of the official declaration of the vote thereon by the governor.

14 (2) This act applies to insurance policies issued or renewed on or
15 after the applicable effective date of this act.