

16100976D

**HOUSE BILL NO. 851**

Offered January 13, 2016

Prefiled January 12, 2016

*A BILL to amend and reenact § 38.2-325 of the Code of Virginia and to repeal the second enactment of Chapter 257 of the Acts of Assembly of 2013, relating to electronic delivery of information relating to insurance policies.*

---

 Patron—Hugo
 

---

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:****1. That § 38.2-325 of the Code of Virginia is amended and reenacted as follows:****§ 38.2-325. Electronic delivery.**

A. If parties have agreed to conduct business by electronic means, and the agent of record, if applicable, has been so notified by the insurer, any information that is required to be delivered in writing may be delivered by (i) placing such information within the body of the electronic message; (ii) placing such information as an attachment to the electronic message that may be opened through the use of software that is readily available; (iii) 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 (iv) placing such information on the insurer's secured server and an electronic message is provided advising that insurance information or, when appropriate, time-sensitive insurance information has been placed on the insurer's secured server and is available for retrieval. This section should be construed to be consistent with the Electronic Signatures in Global and National Commerce Act (15 U.S.C. § 7001 et seq.).

B. If parties have agreed to conduct business by electronic means, and notice is provided by the insurer to the named insured pursuant to § 38.2-231, 38.2-2113, 38.2-2114, 38.2-2208, or 38.2-2212, an electronic notification shall also be provided to the agent of record of the named insured, if the named insured has an agent of record. Such electronic notification shall be transmitted to the agent of record as soon as practicable, but in no case more than 72 hours after electronic notice is transmitted to the named insured.

C. The insurer shall retain evidence of electronic notification to the agent of record for at least one year from the date of transmittal. Failure to provide such notice to the agent of record shall not be deemed to invalidate any electronic notice otherwise properly provided to the named insured. For purposes of this section, an electronic notification to the agent of record shall mean a copy of the actual notice, as set forth herein, or in the alternative, shall include the named insured's name, policy number, and termination date. Electronic notice need not be given to the agent of record if the agent (i) is an employee of the insurer, (ii) is a non-employee exclusive agent of the insurer, or (iii) has waived the receipt of such notices in writing.

D. Notwithstanding any other provision of law, any property and casualty insurance forms and endorsements that do not contain personally identifiable information may be posted to the insurer's publicly available website in lieu of any other method of delivery, provided that:

1. Such forms and endorsements are readily accessible on the insurer's website and that once such forms or endorsements are no longer used in the Commonwealth they are stored in a readily accessible archive portion of the insurer's website;

2. Such forms and endorsements are posted in such a manner that they may be readily printed and downloaded without charge and without the use of any special program or application that is not readily available to the public without charge;

3. The insurer provides written notice at time of the issuance of the initial policy forms and any renewal forms of a method by which policyholders may obtain, upon request and without charge, a paper or electronic copy of their policy or contract; and

4. The insurer gives notice, in the manner it customarily communicates with a policyholder, of any changes to the forms or endorsements, and of the policyholder's right to obtain, upon request and without charge, a paper or electronic copy of such forms or endorsements.

E. (Expires December 31, 2016) The notification to an insurer of any change of the electronic address for the named insured shall be the sole responsibility of the named insured. The giving to the agent of record by any person of notice of such change of the named insured's electronic address shall not be deemed to be notice to the insurer unless it is specifically identified as a change and receipt has been accepted by the agent of record. An agent shall not be subject to civil liability for any harm or

INTRODUCED

HB851

**59** *injury that occurs as a result of a party's election to receive any notice or document by electronic*  
**60** *means or by an insurer's failure to deliver a notice or document by electronic means.*  
**61** **2. That the second enactment of Chapter 257 of the Acts of Assembly of 2013 is repealed.**