

State Corporation Commission 2009 Fiscal Impact Statement

1. Bill Number: SB1480

House of Origin X Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Ruff

3. Committee: Commerce and Labor

4. Title: **Life insurance policies; delivery method.**

5. Summary: Requires an insurer to deliver a life insurance policy to the policy owner to begin the time period during which the policy owner can examine, surrender, or return a policy for cancellation. The policy must be delivered by (i) registered or certified mail; (ii) delivery; with a signed written receipt of delivery; (iii) first-class mail, with a signed written receipt of delivery; or (iv) other reasonable means as determined by the Commissioner. If an insurer fails to deliver a policy as set forth in the bill, the burden of proof is on the insurer to establish that the policy was delivered if there is a dispute with the policy owner. A policy is deemed to have been received 6 months after issue date if the insured has paid the policy premiums.

6. No Fiscal Impact on the State Corporation Commission

7. Budget amendment necessary: No

8. Fiscal implications: None on the State Corporation Commission

9. Specific agency or political subdivisions affected: State Corporation Commission Bureau of Insurance

10. Technical amendment necessary: See Item 11.

11. Other comments: The Bureau of Insurance offered technical comments to the patron of Senate Bill 1480:

- The proposed new statute has been placed in Article 1, Chapter 33 of Title 38.2. This article applies to individual life insurance policies. For clarity, the Bureau suggested adding the term “individual” both in the section catchline and in subsection A.
- The drafted language suggests that delivery receipts may be obtained through a variety of mailing options offered by the U.S. Postal Service. Since one or more of these options may not offer a delivery receipt, the Bureau suggested a slight change to the wording to avoid that possibility and ensure a receipt when the policy is mailed. The Bureau also offered wording that would permit mailing of a policy through a mailing service other than the U.S. Postal Service, provided a receipt is obtained.

- The Bureau asked the patron to consider removing the subdivision 4 under proposed § 38.2-3301.1 A. The Bureau also suggested adding the language identified below under A 2 concerning electronic delivery of policies. With the changes identified below, virtually any mode of delivery is addressed, and it does not appear that it would be necessary for the Commission to determine other reasonable means of policy delivery.
- The Bureau also pointed out that proposed § 38.2-3301.1 C does not take into account the fact that insurers can back-date life insurance policies to save age, as per § 38.2-3104. The Bureau offered language to address that point.

Beginning on Line 12 of the bill, the Bureau suggested the following revisions:

*A. ~~An insurer that is required to deliver a life insurance policy to the owner of the policy in order to start the period running~~ **For purposes of determining the commencement of the period** during which the owner **of an individual life insurance policy** may exercise any statutory right to examine, surrender, or return ~~a~~ **the** policy for cancellation, ~~shall accomplish the delivery by~~ **the date of delivery of the policy shall be:***

- 1. ~~Registered or certified mail;~~ **The date of the signed receipt of delivery if the life insurance policy is (i) delivered by United States Mail or other postal delivery system; or (ii) physically delivered to the owner by a representative of the insurer; or***
- 2. ~~Personal delivery, with a signed, written receipt of delivery;~~ **The date of electronic transmission of the policy, provided the electronic transmission has been effected in accordance with this title and any other state and federal laws governing the electronic transmission of documents and information. The insurer shall retain evidence of electronic transmittal for the entire period of the life insurance policy.***
- 3. ~~First class mail, with a signed, written receipt of delivery; or~~*
- 4. ~~Other reasonable means, as determined by the Commissioner.~~*

B. If an insurer does not deliver a policy by the means set forth in subsection A, the burden of proof shall be on the insurer to establish that the policy was delivered, in the event of a dispute with the owner of the policy.

*C. Notwithstanding subsections A and B, a policy shall be deemed to have been received six months after the date of issuance ~~if the insured has paid~~ **from which** premiums pursuant to the contract **have been paid.***