

HOUSE BILL NO. 6157

June 01, 2022, Introduced by Reps. Wendzel, Posthumus, Green, Martin, Steenland, Coleman and Young and referred to the Committee on Regulatory Reform.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 2266 (MCL 500.2266), as amended by 2018 PA 429.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2266. (1) Subject to the requirements of this section, a
2 notice to a party or any other document that is required in an
3 insurance transaction or that is to serve as evidence of insurance
4 coverage may be delivered, stored, and presented by electronic
5 means if it meets the requirements of the uniform electronic
6 transactions act, 2000 PA 305, MCL 450.831 to 450.849.

7 (2) Electronic delivery of a notice or document as provided in

1 this section is equivalent to any delivery method otherwise
2 required by law, including delivery by first-class mail, first-
3 class mail postage prepaid, certified mail, or certificate of
4 mailing.

5 (3) If an insurer has reason to believe that a party is not
6 receiving notices or documents that the insurer attempts to deliver
7 by electronic means, including if the insurer attempts delivery by
8 electronic means and receives a notice that the delivery by
9 electronic means has failed, the insurer shall deliver the notices
10 or documents by first-class mail or by any other delivery method
11 required for the notices or documents.

12 (4) An insurer may use electronic delivery of a notice or a
13 document to a party under this section if the insurer meets the
14 requirements of subsection (5) and if all of the following
15 requirements are met:

16 (a) The party has affirmatively consented to the electronic
17 delivery method and has not withdrawn consent.

18 (b) Before obtaining consent, the insurer provides the party
19 with a clear and conspicuous statement informing the party of all
20 of the following:

21 (i) The right of the party at any time to have the notice or
22 the document provided or made available in paper form or by another
23 nonelectronic form.

24 (ii) The right of the party at any time to withdraw consent to
25 have a notice or document delivered by electronic means and any
26 conditions or consequences imposed if consent is withdrawn.

27 (iii) The specific notice or document or categories of notices
28 or documents that may be delivered by electronic means during the
29 course of the relationship between the insurer and the party.

1 (iv) The means, after consent is given, by which the party may
2 obtain a paper copy of a notice or document delivered by electronic
3 means.

4 (v) The procedures for the party to follow to update
5 information needed to contact the party electronically and to
6 withdraw consent to have a notice or a document delivered by
7 electronic means.

8 (c) Before obtaining consent, the insurer provides the party
9 with a statement of the hardware and software requirements for
10 access to and retention of a notice or document delivered by
11 electronic means. The party shall provide electronic consent to the
12 hardware and software requirements or confirm consent
13 electronically in a manner that reasonably demonstrates that the
14 party can access information in the electronic form that will be
15 used for notices or documents delivered by electronic means.

16 (5) After the party consents as provided in subsection (4), if
17 a change occurs in hardware or software needed to access or retain
18 a notice or document delivered by electronic means that creates a
19 material risk that the party will not be able to access or retain a
20 notice or document to which consent applies, the insurer shall
21 provide the party with a statement that includes all of the
22 following:

23 (a) Information regarding the revised hardware or software
24 requirements for access to and retention of a notice or document
25 delivered by electronic means.

26 (b) A description of the right of the party to withdraw
27 consent without the imposition of any condition or consequence that
28 was not disclosed under subsection (4) (b) (ii) .

29 (6) Withdrawal of consent to electronic delivery does not

1 affect the legal effectiveness, validity, or enforceability of a
2 notice or a document that is delivered by electronic means to a
3 party before the withdrawal of consent is effective.

4 (7) Except as otherwise provided in this subsection,
5 withdrawal of consent by a party becomes effective 30 days after
6 the insurer receives notice of the withdrawal. Consent is
7 automatically withdrawn if the insurer learns that the electronic
8 delivery method currently used is no longer an effective delivery
9 mechanism.

10 (8) Failure by an insurer to comply with subsection (5) may be
11 treated, at the election of the party, as a withdrawal of consent.

12 (9) This section must not be construed to modify, limit, or
13 supersede the federal electronic signatures in global national
14 commerce act, 15 USC 7001 to 7031.

15 (10) An insurance producer is not subject to civil liability
16 for any harm or injury to a party that occurs as a result of either
17 of the following:

18 (a) The party's consent under subsection (4) to receive a
19 notice or a document delivered by electronic means under this
20 section.

21 (b) An insurer's failure to deliver a notice or document by
22 electronic means unless the insurance producer causes the harm or
23 injury.

24 (11) This section does not apply to ~~a health~~ **either of the**
25 **following:**

26 (a) **A health** insurer or health maintenance organization.

27 (b) **Chapter 12C.**

28 (12) As used in this section:

29 (a) "Delivered by electronic means", "delivery by electronic

1 means", ~~or~~ **and** "electronic delivery" mean delivery by either of the
 2 following methods:

3 (i) Delivery to an ~~electronic mail~~ **email** address at which a
 4 party has consented to receive notices or documents.

5 (ii) Both of the following:

6 (A) Posting on an electronic network or site accessible by the
 7 internet through use of a mobile application, computer, mobile
 8 device, tablet, or any other electronic device.

9 (B) Sending separate notice of the posting described in sub-
 10 subparagraph (A) to the ~~electronic mail~~ **email** address at which the
 11 party consented to receive notice of the posting or using any other
 12 delivery method to which the party has consented.

13 (b) "Party" means a recipient of a notice or document required
 14 as part of an insurance transaction and includes an applicant,
 15 insured, policy holder, or annuity contract holder.

16 Enacting section 1. This amendatory act does not take effect
 17 unless all of the following bills of the 101st Legislature are
 18 enacted into law:

19 (a) Senate Bill No. ____ or House Bill No. 6158 (request no.
 20 04981'21).

21 (b) Senate Bill No. ____ or House Bill No. 6155 (request no.
 22 04982'21).

23 (c) Senate Bill No. ____ or House Bill No. 6162 (request no.
 24 04983'21).

25 (d) Senate Bill No. ____ or House Bill No. 6156 (request no.
 26 04984'21).

27 (e) Senate Bill No. ____ or House Bill No. 6163 (request no.
 28 05087'21).

29 (f) Senate Bill No. ____ or House Bill No. 6159 (request no.

1 05088'21).

2 (g) Senate Bill No. _____ or House Bill No. 6160 (request no.
3 05089'21).

4 (h) Senate Bill No. _____ or House Bill No. _____ (request no.
5 05090'21).

6 (i) Senate Bill No. _____ or House Bill No. 6161 (request no.
7 05091'21).