2015 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1311

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1311
1/21/2015
22336

☐ Subcommittee
☐ Conference Committee

Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Electronic delivery of insurance notices & documents.

Minutes: Attachments 1-3

Vice Chairman Sukut: Opens the hearing on HB 1311.

Chairman Keiser: Introduces the bill. (Attachment 1) Goes over the amendment. The amendment was an oversight in the drafting in Legislative Council. They missed this in terms of reference on sections page 1, line 1 and line 4. This limits this legislation to the property causality line of insurance. We have moved to the electronic world and as a result, insurance companies on the PNC side, are concerned to be able to use electronic delivery notices and documents. Pat Ward will walk you through it.

Pat Ward~Behalf of State Farm Insurance Company & the Property & Casualty Insurance Association of America: (See attachment 2).

10:25

Representative Kasper: My concern is in the area of notice of cancellation of a policy and the notice is by electronic mail, people are not missing an opportunity to keep an insurance policy in effect because they failed to get the proper notification of cancellation. What assurance can you give this committee even if this bill passes, that won't occur?

Ward: That was one the concerns that was expressed to me in the drafting phase of the bill with regard to bill. The draft that is in front has language that we inserted at their request on lines 21 & 22 on page 1, that electronic may not be the sole method of providing a notice of cancellation, renewal or change of benefits.

Representative Kasper: What would be the alternative notice if it would not be electronic?

Ward: We don't have anything in this bill that changes the current laws that are on the book as far as the mailing time & notifications for non-renewals.

Representative Ruby: Were there any concerns that some of the other companies brought to your attention having to do with limiting it to the property and causality? Was the cancellations one of their concerns also?

Ward: I don't believe there is a lot of heart burn at this point about limiting to just property and causality. The PNC is ready to do it.

Representative Ruby: Subsection 11 allows for a message on a recording to be considered an electronic communication. Sounds like it's acceptable for this type of communication activity?

Ward: You are in that section, if it can be reproduced and stored.

Representative Ruby: Could you briefly explain subsection 12?

Ward: That is one of the provisions that we might consider taking out altogether because we do in North Dakota, already have the uniform electronic transactions act. This is better in terms of what you are allowed to do than under that federal law. I heard from progressive that they would like to see that out of there.

17:15

Steve Becher~Executive Director of the Professional Insurance Agents of ND: (attachment 3)

19:30

Representative Kasper: As we move toward electronic communication, the possibility exists the agents are going to be less needed. Do you see this leading down the road to that potential?

Becher: We have heard the demise of internet purchases and things like that; I think that the insurance is a difficult enough product for the normal consumer that they value that agent relationship. Does that mean that agents are going to have to be involved in this electronic communication, absolutely? We will have to stay on top of it but I don't think sending someone an email is going to take the place of the sit down knowledge of that agent.

Representative Kasper: There are many insurance companies that are marketing direct to the consumer across the country. There are many insurance companies over the years who they forget who the originator of those policies were. There are many insurance companies today who will communicate with the insured, mostly by mail, where the agent no longer gets notifications. It would be very easy for the insurance carrier to forget to cc the agent. Wouldn't you want to put a little protection in this bill for the agents?

Becher: I would totally agree with that. The agent of record should get copies of all of those communications as well. It should be put in the bill.

Chairman Keiser: Cross-country truck driver's wanted to know if they showed proof of insurance on their phone.

Becher: I don't know, guess we would have to talk to highway patrol but it's not a problem from our side.

Jack McDonald~On behave of America's Health Insurance Plans: AHIP is in support of this concept.

Chairman Keiser: Anyone else here to testify in support of HB 1311, opposition, neutral position?

Chrystal Bartuska~Work with the Insurance Department-Division Director of the product filing group: We have been working with Pat on this bill and at this point I can't say if we are for or against until we see the amendments. We will continue to work with Pat.

Representative Kasper: Is there anything in statue right now that would prohibit that this bill be amended to require the agent of record to be provided the copies of email transmissions between the insurance companies and the policy holder?

Bartuska: To my knowledge, no, there is nothing in statue.

Representative Kasper: If we require the insurance carriers to provide the copies to the insurance agent any correspondence with the company and the client, that a copy goes to the agent.

Bartuska: Yes, if it's written in law, it would be required. At this point I don't know of anything in law that requires that.

Chairman Keiser: Closes the hearing. Representative Ruby will chair the subcommittee, Representative Kasper and Representative M Nelson will be on the committee. Anyone who wants to attend the subcommittee, give your information to our committee clerk.

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1311
2/3/2015
23050

☐ Subcommittee
☐ Conference Committee

Ellen LeTang

Explanation or reason for introduction of bill/resolution:

Electronic delivery of insurance notices & documents.

Minutes:

Chairman Keiser: Opens the hearing on HB 1311.

Pat Ward: (Attachment 1). Walks through the amendments.

Representative Kasper: Is there anywhere to notify an agent to keep him in the loop about notification?

Ward: We wouldn't be sending a notification of non-renewal electronically, it would have to be sent by mail which in under a different statue.

Representative Kasper: What about notice of premium due?

Ward: I don't know of agents in the company that do that now.

Representative Kasper: In many cases the agent is cut out, once the insurance policy is on the books, the agent is cut out.

Ward: Most companies work closely with their agents for a working relationship. The agents are not disappearing and companies are moving towards agents.

Representative Laning: We had a previous amendment that needs to be incorporated (attachment 1 of minutes from January 21, 2015).

Ward: That should be included. That is moving it from the general section 26.1-02 and it's making sure that it's going into the property and casualty section.

Representative Ruby: Moves to adopt amendment .02001.

Representative Devlin: Second.

Voice vote, motion carried.

Chairman Keiser: Committee, what are the wishes of Pat Ward's amendments?

Representative Ruby: Move to adopt Pat Ward's amendments.

Vice Chairman Sukut: Second.

Voice vote, motion carried.

Vice Chairman Sukut: Moves a Do Pass as Amended.

Representative Ruby: Second.

Roll call was taken on HB 1311 for a Do Pass as Amended with 14 yes, 0 no, 1 absent and Representative Ruby is the carrier.

15.0404.02001
Title.

Prepared by the Legislative Council staff for
Representative Keiser
January 19, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1311

Page 1, line 1, replace "26.1-02" with "26.1-39"

Page 1, line 4, replace "26.1-02" with "26.1-39"

Renumber accordingly

Proposed Amendments to HB 1311
Version 15.0404.02000

Issues in HB 1311

Page 1, line 1. Replace "26.1-02" with "26.1-39"

Page 1, line 2. Insert "property and casualty" after "delivery of"

Page 1, line 21. Remove comma, add "or" after cancellation

Page 1, line 21. Remove "change in rates or benefits"

Page 2. Remove lines 13-15

Page 2. Remove lines 29-30

Page 3. Remove lines 9-11

Page 3, line 26. After "time" insert "but no more than 5 days"

Page 3. Remove lines 28-30

Renumber accordingly.

15.0404.02002
Title.03000

Adopted by the Industry, Business and Labor Committee

February 3, 2015

2-3-15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1311

Page 1, line 1, replace "26.1-02" with "26.1-39"

Page 1, line 2, after "of" insert "property and casualty"

Page 1, line 4, replace "26.1-02" with "26.1-39"

Page 1, line 22, replace the first underscored comma with "or"

Page 1, line 22, remove ", or change in rates or benefits"

Page 2, line 13, remove "The types of notices and documents to which the party's consent would"

Page 2, remove lines 14 and 15

Page 2, line 16, remove "(3)"

Page 2, line 18, replace "(4)" with "(3)"

Page 2, line 29, remove "The insurer takes measures reasonably calculated to ensure the delivery by"

Page 2, remove line 30

Page 3, line 1, remove "e."

Page 3, line 5, remove the underscored colon

Page 3, line 6, replace "(1) Provides" with ", provides"

Page 3, line 6, remove the underscored colon

Page 3, line 7, replace "(a) The" with "the"

Page 3, line 8, remove the underscored semicolon

Page 3, remove lines 9 through 11

Page 3, line 12, replace "(2) Complies" with "complies"

Page 3, line 26, after "time" insert "not to exceed five days"

Page 3, remove lines 28 through 30

Renumber accordingly

Date: Feb 3, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1311

House Industry, Business & Labor Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: .02001

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Ruby Seconded By Rep Devlin

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Represenative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice vote carried - motion carried

Date: Feb 3, 2015

Roll Call Vote: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1311

House Industry, Business & Labor Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: Pat Ward's

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Ruby Seconded By Rep Sukut

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Lefor		
Vice Chairman Sukut			Representative Louser		
Representative Beadle			Representative Ruby		
Representative Becker			Represenative Amerman		
Representative Devlin			Representative Boschee		
Representative Frantsvog			Representative Hanson		
Representative Kasper			Representative M Nelson		
Representative Laning					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice vote - motion carried

Date: Feb 3, 2015

Roll Call Vote: 3

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1311

House Industry, Business & Labor Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: 15.0404.02002

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Sukut Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Represenative Amerman	X	
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	AB		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	X	
Representative Laning	X				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Ruby

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1311: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1311 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "26.1-02" with "26.1-39"

Page 1, line 2, after "of" insert "property and casualty"

Page 1, line 4, replace "26.1-02" with "26.1-39"

Page 1, line 22, replace the first underscored comma with "or"

Page 1, line 22, remove ", or change in rates or benefits"

Page 2, line 13, remove "The types of notices and documents to which the party's consent would"

Page 2, remove lines 14 and 15

Page 2, line 16, remove "(3)"

Page 2, line 18, replace "(4)" with "(3)"

Page 2, line 29, remove "The insurer takes measures reasonably calculated to ensure the delivery by"

Page 2, remove line 30

Page 3, line 1, remove "e."

Page 3, line 5, remove the underscored colon

Page 3, line 6, replace "(1) Provides" with ", provides"

Page 3, line 6, remove the underscored colon

Page 3, line 7, replace "(a) The" with "the"

Page 3, line 8, remove the underscored semicolon

Page 3, remove lines 9 through 11

Page 3, line 12, replace "(2) Complies" with "complies"

Page 3, line 26, after "time" insert "not to exceed five days"

Page 3, remove lines 28 through 30

Renumber accordingly

2015 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1311

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1311 Engrossed
3/25/2015
Job Number 25388

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to electronic delivery of products and casualty insurance notices and documents

Minutes: Attachment

Chairman Klein: Called the committee to order.

Representative Keiser: In support of the bill. It is somewhat unclear in the insurance section of the statutes whether or not we can use electronic mechanisms to communicate with our customers in terms of notices and documents. This bill simply clarifies in the statute that electronic notices are allowed. However it does a good job at limiting when it is allowed, you do have to formally opt-in. He referred to the bill. (1:25-3:57)

Dean Richter, State Farm Insurance Company: Written Testimony Attached (1). (5:08-12:18)

Chairman Klein: Even with the UETA, Uniformed Electronic Transaction Act, the electronic delivery that we have adopted we still have to clarify it in the code that says it is okay?

Dean Richter: That's how I read it. UETA specifically states if there are other rules in the State it is underneath State regulations like our code there.

Chairman Klein: This does not apply to cancelations?

Dean Richter: Or non-renewals.

Senator Burckhard: If my electronic signature was on file with State Farm and a bad guy hacker got into your system, could he steal my signature?

Dean Richter: I do not know.

Dwight Easton, Government Affairs Manager for North Dakota and Montana Farmers Insurance: Written Testimony Attached (2). (13:42-14:33)

Chairman Klein: I am one of those old school guys that likes a piece of paper and my wife likes to write checks to make sure the check registers just the way she wrote them. What we are doing here is providing that option?

Dwight Easton: That is correct. That is what I think is really good about this bill it does provide the opt in and even if you have opt in there are provisions in there that say you can start getting paper again if I desire that.

Jeff Evink, Professional Insurance Agents of North Dakota: Written Testimony Attached (3). (15:22-17:10)

Chairman Klein: So you don't think the agents are going to get dinged here. Asked if they were more in the loop with paper?

Jeff Evink: I think the agents will be just as well informed as they were prior.

Levi Andrist, Representing Property Casualty Insurance Association of America: Written Testimony Attached (4) & (5). I am handing out testimony from Kenton Brine who is unable to join us today from the PCI. The one sentence I would like to hone in on is the last sentence of the first page of the engrossed bill, (5). This bill essentially codifies a system by which electronic notices can be provided to consumers and that is a completely opt in system. What the engrossed bill doesn't allow for is electronic means emails, e-posting to be used for cancelations notices or non-renewal notices and the PCI position is that the consumer should have the chose to get all notices, not just updates to policies or updates in premiums or rates but also receiving notices, which some might call the bad new notices. The PCI feels that it should be a consumer choice and that the consumer is in the best position to make the determination how they would like to receive the notices of non-renewal and cancelations. The engrossed bill before you does not provide for that. He went on to say that UETA is generally applicable law to the law that refers to transactions. It applies to insurance under current law, it applies to banking and really any business conducted in the State and that solidifies that if you provide a notice by electronic means or a signature by electronic means that has the same legal force and effect as a hard copy. He refers back to the amendment handed out and asked them to compare the sentence he wants removed with the following sentence, he refers to page 2, line 1. He said the applicable law they are referring to is the property and casualty statute and that current law says that notices of non-renewal and cancelation must be provided by mail. If you read section three it says that electronic delivery is the equivalent of mail delivery. So if under this bill, if we deliver something electronically it would be the equivalent of the hard copy notice provided under current law. He said it is inconsistent with the sentence we are trying to have removed. The conflict is a separate issue the committee needs to be aware of and the other is uniformity amongst State's. He said that the driver in this situation is the consumer and they have the chose to opt-in and to withdraw their consent. If the consumer is making the chose to what best protects their interest and information, we feel that removal of this sentence is in the best interest of the insureds. (18:34-24:43)

Senator Poolman: Electronic means may not be the sole method of providing a notice. It still allows them to give electronic notice but it is saying, in addition to that we would like you to send a hard copy. Isn't that in some way almost protecting the insured to not allow

them to say that they accidentally deleted that or to somehow have an excuse that you didn't know that you were not renewed or canceled?

Levi Andrist: I think you are talking about if in fact you need verification that the consumer received the communication. There is an existing provision in UETA as well that provided that if you are already providing electronic delivery there needs to be a way to essentially read receipt in the electronics. Perhaps the question you are asking is should the consumer have the option to choose both and that is certainly an idea that is not included in the engrossed bill. (25:14-26:18)

Chairman Klein: Said that cancelations and non-renewal were sensitive issues and that is where the work has been done to stay away from that because there seems to be buy in on the fact that cancellation or non-renewal are different areas. If we apply these amendments I think we will get some folks that are not as happy with the bill. I also believe that cancelation is more important than a solicitation.

Levi Andrist: Said he couldn't agree with him more. A cancelation and non-renewal are potentially the most significant notices a consumer could receive from an insurance company. That is not the issue at stake it is that the consumer is in the best position to make the determination as to how they should receive notices, good news notices, marketing notices and bad new notices. (27:17-28:19)

Chairman Klein: You are in favor of the bill but the PCI feels it needs some work?

Levi Andrist: Yes we are opposed to the bill as it is but with the removal of that sentence we will be fully supportive. (29:33-30:29)

Chairman Klein: Asked Chrystal Bartuska if the department was in support of the bill as it came across or should they adopt the amendments.

Chrystal Bartuska, North Dakota Insurance Department: Said that PCI came to them with the original draft of this bill and that they worked with them and got to where it is today. She talked about what the bill looked like when PCI first brought the bill to them. They do support the version that they have today. If the amendment that Levi Andrist has proposed would go through they would oppose the bill. They do not want electronic notices to be the sole method for cancelations and non-renewals notices. (32:55-37:29)

Chairman Klein: Said that this whole thing got started with PCI and now we have a bill that PCI doesn't necessarily like what we are doing?

Chrystal Bartuska: That is our understanding. The big part is the cancellation notices.

Senator Miller: Asked if we could give the consumer options on how they want it and let them decide.

Chrystal Bartuska: Said not that we don't think consumers will make the right decision but we deal with it from the insurance department on the backend when we get the complaints that their policy was canceled and they say they didn't get their notice.

Senator Miller: Said people are not getting their notice and are getting cancelled by mail, wouldn't it be better to have an electronic method then? He said he gets both.

Chrystal Bartuska: Said that their biggest concern is you have more risk with emails.

Chairman Klein: Asked Dean if they were on the fence or don't care either way.

Dean Richter: If we took out those two lines we would be happy.

Chairman Klein: Closed the hearing.

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1311 Engrossed
3/25/2015
Job Number 25413

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature Eva Liebelt

Explanation or reason for introduction of bill/resolution:

Relating to electronic delivery of products and casualty insurance notices and documents

Minutes: No Attachment

Chairman Klein: Opened the discussion. There was a lot of interest in 1311 however at the end of the day when the potential amendment was discussed there seemed to be some push back from the Insurance Department. It would seem to me if they worked on this through the interim and it got to this point, it is always tough when someone throws something in at the very end.

Senator Poolman: I would agree with what you said. It does say that it doesn't have to be the sole method of providing notices and so they can still get that email notice that they requested but an additional safeguard of getting it in the mail as well is important not only for the person who is being insured but also for the people that they might crash into or otherwise cause problems when they don't have that insurance anymore. So I like the bill as it is written and I don't think I would be all that supportive of the amendment.

Senator Sinner: Said he stepped out during the testimony but that he assumes the insurance department wanted to leave this language in here and this provides a means that the policy holder will at least get a written notice upon non-renewal or cancellation, correct?

Chairman Klein: Cancelation and non-renewal they would yes.

Senator Sinner: And those were the only two situations?

Chairman Klein: Correct the concern from the insurance department is that cancelation and non-renewal is different and that it is important and that should still be maintained in a written form. The folks that were here representing State Farm and Farmers both spoke in favor of the bill but in the opposition we had someone suggest that PCI wanted that additional language.

Senator Sinner: Does this then allow that the insurer may provide the lost payee with electronic notice or do we get both as well as a banker?

Chairman Klein: It was my understanding with this bill that cancellations and non-renewals would continue to be done exactly as they are today, however with the amendment it would change that.

Dean Richter, State Farm Insurance: As any policy because the bank is the mortgagee they are also insured underneath the contract so based on the way we have the bill right now if the policy holder is going to get that non-renewal or cancellation the bank would also get it in written form. If we add the amendment it would be up to the consumer. I would venture to say the named insurer would have that option to opt-in and that is the way it would come to the bank too. (4:35-5:43)

Senator Sinner: Said he agrees on a mortgagee policy but what about on a farm or auto policy?

Dean Richter: As a lean holder they also get a written notice whenever there is a change in there and it is up to the customer to let us know if there is a lean change and you as a lean holder get that notification of the change. If there is a cancelation of a policy on the auto side I am not sure if the lean holder gets a notification.

Senator Campbell: Asked if with the amendment the consumer decides what they get and with no amendments it means that they send out both electronic and written.

Dean Richter: You still have to opt-in if you want an electronic notice but the two lines the insurance department doesn't want in there is just for non-renewal and cancelation purposes. The reason why that is like that is because another law says that all non-renewal and cancelation needs to be in written form.

Senator Miller: Said he thinks the insurance department should have to offer either mail or electronic or something thereof that has to be options available and then the consumer should select what they prefer.

Chairman Klein: As I see the bill it is a product of some efforts made by the industry to move into the next millennium with electronics. Today we are looking at electronic opt-in for this issue next session we may be looking at that because it is going to come. It isn't going to go away.

Senator Sinner: Moved a do pass.

Senator Poolman: Seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Klein will carry the bill.

Date: 3/25/2015
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
HB 1311 Engrossed

Senate Industry, Business and Labor Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Senator Sinner Seconded By Senator Poolman

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1311, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1311 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

HB 1311

Jan 21, 2015

15.0404.02001
Title.

Prepared by the Legislative Council staff for
Representative Keiser
January 19, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1311

Page 1, line 1, replace "26.1-02" with "26.1-39"

Page 1, line 4, replace "26.1-02" with "26.1-39"

Renumber accordingly

House IBL Committee
January 21, 2015

TESTIMONY OF PATRICK J. WARD IN SUPPORT TO HB 1311

Good afternoon Chairman Keiser and Members of the House IBL Committee.

My name is Pat Ward. I am an attorney with the Zuger Kirmis & Smith law firm in Bismarck. I am here on behalf of State Farm Insurance Company and the Property & Casualty Insurance Association of America in support of HB 1311 regarding electronic delivery of insurance notices and documents.

I am handing out a summary from PCI of what has been happening in the other states with respect to electronic delivery of insurance notices and documents and a posting of insurance policies, forms and endorsements. There are also similar bills pending in other states, Washington and Montana, to name two of them.

We live in an electronic age. We can do our banking online. We can buy and sell stocks online. We can manage our 401(k) and even get a mortgage. We can make expensive purchases by shopping online. We get our news, sports scores and other information online. We can do all this now days with our smartphone.

We have electronic voting and electronic court filing. It is mandatory and it saves trees!

If you will recall, last session we did pass a bill in North Dakota relating to electronic proof of insurance. That bill allows a driver to prove that he has

insurance on his motor vehicle by showing a police officer or highway patrolman an app on a smartphone.

The insurance industry has been passing bills like this one in other states to expand the electronic modernization of insurance to allow delivery of insurance policies, endorsements, and other notices via electronic mail in situations where the customer has requested that form of delivery. It is a consumer choice issue and it makes little sense not to give the modern consumer the option if they want it.

I originally drafted this bill a few weeks before the session at the request of State Farm. I was using a model which had been enacted verbatim in several other states. Last session, in 2014, South Dakota enacted what was their HB 1156 which provided for electronic delivery of insurance documents and which also allowed notice of cancellations and nonrenewals to be sent electronically as well as containing a provision in section 12 of that bill (which begins on page 6), for internet posting of insurance policies. I am handing out a copy of South Dakota HB 1156.

Shortly before session, when I ran my draft of the model bill being used in other states by our Department of Insurance, they expressed concerns about several items in the draft model bill. Those concerns included a desire to have it limited to property and casualty insurance, to prohibit email notification of cancelations and nonrenewals which are currently required to be done by first class or certified mail, and they were opposed to internet posting of policies and endorsements. I made the changes they requested and filed this bill.

In response to those concerns, I revised HB 1311 to limit the application to property and casualty policies only, to require snail mail notifications of renewals and cancellations for changes in rates or benefits. Since I have done so, and since HB 1311 was published on the legislative website, I have received a considerable amount of pushback from various members of the insurance industry on these issues. Also, there were a few oversights in the drafting of HB 1311 which failed to limit the filed bill to property and casualty insurance as was requested. Because of this, and other issues, there will need to be some fixes and some discussions with respect to certain provisions in this version of the bill you have in front of you.

I have been advised that there is a national industry working group which will be addressing and ironing out some of these issues in the next several days and I have asked Chairman Keiser to keep the bill open for further input, or to consider appointing a subcommittee to give us time to bring the various interest groups to the table so that North Dakota can have the most modern and thorough law on the books providing for electronic delivery of insurance notices and documents as possible. [Hand out draft amendments.] I am handing out a memo from Kenton Brine at PCI for your review and consideration.

I would urge your strong consideration for passing legislation in this 64th Legislative Assembly which would permit modernization of electronic delivery of insurance documents. We have no desire to require or force anyone to do business this way. What we are asking is that those consumers who prefer to do

insurance business electronically be given that option. I will try to answer any questions you may have.

P:\PWARD\Legislative 2015\Testimony in Support of HB1311.doc

PCI

Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

e-Commerce – Laws & Regulations Quick Reference*

STATE	E-DELIVERY	E-POSTING
Alabama	No	No
Alaska	No	Yes
Arizona	Yes	Yes
Arkansas	Yes (DOI bulletin)	No
California	Yes	No
Colorado	Yes	Yes
Connecticut	No	No
Delaware	Yes	No
D.C.	No	No
Florida	Yes (commercial only; policy only; opt-out)	Yes
Georgia	Yes	Yes (requires consent)
Hawaii	No	No
Idaho	Yes	No
Illinois	No	Yes
Indiana	Yes	Yes
Iowa	Yes	Yes
Kansas	Yes	Yes
Kentucky	Yes (DOI bulletin)	No
Louisiana	No	No
Maine	No	No
Maryland	Yes	No
Massachusetts	No	No
Michigan	No	Yes
Minnesota	Yes	Yes
Mississippi	No	No

*The laws and regulations included within this chart have been enacted and promulgated specifically in regards to insurance. This chart does not include citation to generally applicable electronic commerce statutes such as E-SIGN and UETA.

Missouri	Yes	Yes
Montana	No	No
Nebraska	No	No
Nevada	No	No
New Hampshire	No	No
New Jersey	No	No
New Mexico	No	No
New York	No	No
North Carolina	Yes (except cancel/nonrenewal of workers comp)	No
North Dakota	No	No
Ohio	Yes	Yes
Oklahoma	No	Yes
Oregon	Yes	No
Pennsylvania	Yes	Yes
Rhode Island	No	No
South Carolina	No	No
South Dakota	Yes	Yes
Tennessee	Yes (DOI bulletin)	No
Texas	Yes	Yes
Utah	Yes	No
Vermont	No	No
Virginia	Yes	Yes
Washington	No	No
West Virginia	Yes (DOI bulletin)	No
Wisconsin	Yes	Yes
Wyoming	Yes	Yes

Total states w/e-Delivery: **27 out of 51**
Total states w/e-Posting: **20 out of 51**

e-Delivery refers broadly to the electronic transmission of any and all insurance documents (including policy, notices, bills) to policyholders who consent (i.e., opt-in) to receive such materials electronically.

e-Posting, or Posting Policies to the Internet, refers to the posting of policy forms and endorsements that do not contain personally identifiable information to the Internet and sending a link to the materials via e-mail to the policyholder in lieu of mailing paper copies to the policyholder. Provision of these materials via this method is made without the consent of the policyholder, and those policyholders wishing to receive paper copies must request such from their insurer (i.e., opt-out).

January 20, 2015

pg 6

PCI

Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

Memo: e-Commerce Summary

Prepared for: **Rep. George Keiser, Chairman**
Members of the North Dakota Industry, Business & Labor Committee

Provided by: **Kenton Brine, Assistant Vice President, State Government Relations**
Date: **January 21, 2015**

Overview

North Dakota and every other state in the nation have enacted the **Uniform Electronic Transactions Act (UETA)** or a law of similar effect allowing consumers to choose to send and receive documents and conduct business transactions electronically in lieu of sending paper documents by mail. However, the applicability of these laws to **insurance transactions** is ambiguous, particularly given that insurance laws in many states – including North Dakota - include specified means of delivering certain documents and notices, including via registered and certified mail.

In an effort to bring clarity to this issue, 27 states have either enacted legislation or published agency guidance to insurers affirmatively allowing insurers to meet policyholder demand and provide access to documents and the ability to conduct insurance business online. So far, 20 have allowed insurers to post generic policy forms and endorsements online, in lieu of mailing documents to consumers.

HB 1311 is a bill that was intended to provide this clarity for North Dakota consumers and insurers, but PCI believes this proposed bill is unclear as written, and we request that this committee consider holding the bill and allowing insurance stakeholders to offer amendments at an additional hearing.

Consumer Convenience, Consumer Choice, Consumer Protection

Electronic commerce laws make it clear that the decision to receive policyholder documents electronically is the **choice of the policyholder**. Policyholders must give prior approval to their insurer to "opt-in" to electronic delivery of policy information, bills and notices, and can opt out if they choose. Similarly, an insurer that chooses to post generic policies online must provide policies directly to the policyholder if the policyholder requests it.

Under these laws, **statutory notice timeframes and other requirements still apply** to electronic delivery, so that:

- If an insurer is required to mail a document 30 days in advance, that insurer must still to electronically deliver that same document 30 days in advance, but may do so via the internet, if the policyholder agrees to receive documents electronically.

- Similarly, if an insurer is required by the insurance code to demonstrate that its customer has received a document (by using certified or registered mail), the insurer using e-delivery must still have on file an electronic record (commonly referred to as a "read receipt") showing that their customer has received and opened the document.

e-Delivery and e-Posting – Similar, but Different

e-Posting may be confused with **e-Delivery**; however, there are distinct differences.

e-Delivery refers broadly to the electronic transmission of any and all insurance documents (including policy declarations (or "dec") pages, billing notices, cancellation or non-renewal notices) to policyholders who consent (i.e., opt-in) to receive such materials electronically. Under the proposed legislation, a policyholder could change his/her mind and "opt out" at a later time if they choose.

e-Posting (also called **Web Posting,** or Posting Policies to the Internet), refers to the posting (stored but available online) of generic policy forms and endorsements that do not contain personally identifiable or policyholder-specific policy information to a publicly-available website, then sending a link to the materials via e-mail to the policyholder, in lieu of mailing paper copies. The policyholder has the option to review these generic forms online, save them to their own computer or to a cloud server (online storage), or print them out on paper and file them in their homes or offices as they might do with paper copies mailed by the insurer.

With **e-Posting**, providing access to these materials electronically would be done without the prior consent of the policyholder. However, under the proposed law, the policyholder would be informed on the declarations page of their insurance policy (1) how to access these generic policy forms, and (2) that they could at any time choose to "opt-out" of e-Posting and obtain their generic policy information on paper, by mail, and the insurer would be required by law to comply.

Recent action

So far, **27 states** have allowed e-Delivery, while **20** have authorized e-Posting. (See PCI's e-Commerce Quick Reference Guide, attached.)

Most laws enacted to clarify the ability for insurers to conduct insurance transactions with policyholders electronically have been considered/passed over the past three years. In 2014, **Oregon and Utah** were among the states that enacted these measures. In 2013, **Alaska** enacted

e-Posting (and is consider e-Delivery by regulation today), while **Idaho** enacted e-Delivery. **South Dakota** has authorized both of these electronic transaction methods. In both **Pennsylvania** and **Wisconsin**, two recent states to act, the legislation received unanimous support in both chambers (and passage in the states where these such measures have been introduced in the past three years has been broadly supported).

North Dakota enacted "e-card" legislation in 2013, allowing a driver to show proof of liability insurance coverage on his or her "smart phone" instead of having to obtain and carry a paper card updated once or twice each year by his or her insurance company. This year, state legislators are considering another "e-card" bill to clarify that an insurer may provide proof of insurance coverage to a policyholder by electronic means (instead of mailing a paper card every six months or annually.

A work in Progress

We believe HB 1311 is a work in progress. It expresses many of the ideas embodied in this correspondence, but it does not fully embrace electronic transactions between insurers and consumers. In fact, in some sections, it conflicts with that idea, by requiring BOTH electronic and paper/mail notifications. If enacted in its current form, the bill will erase any efficiencies that are inherent in the idea of pursuing electronic commerce, and put insurers at a disadvantage compared to other industries in retail and financial services that enjoy the ability to conduct all transactions with their customers by electronic means.

The good news is that our industry is working together to revise an industry "model" developed just over one year ago, and we have also been in discussions with Commissioner Adam Hamm and the North Dakota Insurance Department. We hope that with just a little time, our industry can reach agreement with policymakers at the department and in the Legislature and move forward with legislation in 2015 that benefits and protects insurance consumers as well as insurance companies writing in North Dakota.

With this in mind, PCI respectfully requests that the House Industry, Business & Labor Committee place a hold on SB 1311, to allow time for insurers to recommend appropriate amendments, discuss them with stakeholders and the insurance department and provide them to this committee for your consideration.

PCI promotes and protects the viability of a competitive private insurance market for the benefit of consumers and insurers.

PCI is composed of more than 1,000 member companies, representing the broadest cross section of insurers of any national trade association. PCI members write more than $183 billion in annual premium, 35 percent of the nation's property casualty insurance. Member companies write 42 percent of the U.S. automobile insurance market, 27 percent of the homeowners market, 32 percent of the commercial property and liability market and 34 percent of the private workers compensation market.

2014 Minnesota Statutes

Authenticate

60A.139 ELECTRONIC NOTICES AND DOCUMENTS.

Subdivision 1. **Terms defined.** In this section, the following words have the meanings given them:

(1) "delivered by electronic means" includes:

(i) delivery to an e-mail address at which a party has consented to receive notices or documents; or

(ii) posting on an electronic network or Web site accessible via the Internet, mobile application, computer, mobile device, tablet, or other electronic device, together with separate notice of posting, which must be provided by electronic mail to the address at which the party has consented to receive notice or by any other delivery method that has been consented to by the party; and

(2) "party" means a recipient of a notice or document required as part of an insurance transaction including, but not limited to, an applicant, an insured, a policyholder, or an annuity contract holder.

Subd. 2. **Requirements.** Subject to subdivision 4, a notice to a party or other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means so long as it meets the requirements of the Uniform Electronic Transactions Act, chapter 325L.

Subd. 3. **Equivalent to other required methods.** Delivery of a notice or document in accordance with this section is considered equivalent to a delivery method required under applicable law, including delivery by first class mail; first class mail, postage prepaid; certified mail; certificate of mail; or certificate of mailing.

Subd. 4. **Conditions for electronic delivery.** A notice or document may be delivered by electronic means by an insurer to a party under this section if:

(1) the party has affirmatively consented to that method of delivery and has not withdrawn the consent;

(2) the party, before giving consent, is provided with a clear and conspicuous statement informing the party of:

(i) a right or option of the party to have the notice or document provided or made available in paper or another nonelectronic form;

(ii) the right of the party to withdraw consent to have a notice or document delivered by electronic means and any fees, conditions, or consequences imposed in the event consent is withdrawn;

(iii) whether the party's consent applies:

(A) only to the particular transaction as to which the notice or document must be given; or

(B) to identified categories of notices or documents that may be delivered by electronic means during the course of the parties' relationship;

(iv)(A) the means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means; and

(B) the fee, if any, for the paper copy; and

(v) the procedure a party must follow to withdraw consent to have a notice or document delivered by electronic means and to update information needed to contact the

pg 10

party electronically;

(3) the party:

(i) before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice or document delivered by electronic means; and

(ii) consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices or documents delivered by electronic means to which the party has given consent; and

(4) after consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice or document delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies:

(i) provides the party with a statement of:

(A) the revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means;

(B) the right of the party to withdraw consent without the imposition of a fee, condition, or consequence that was not disclosed under clause (2); and

(ii) complies with clause (2).

Subd. 5. **Content or timing not affected.** This section does not affect requirements related to content or timing of a notice or document required under applicable law.

Subd. 6. **Verification or acknowledgement of receipt.** If a provision of applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgement of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgement of receipt.

Subd. 7. **Failure to obtain consent.** The legal effectiveness, validity, or enforceability of a contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with subdivision 4, clause (3), item (ii).

Subd. 8. **Withdrawal of consent.** (a) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

(b) A withdrawal of consent by a party is effective within a reasonable period of time after receipt of the withdrawal by the insurer.

(c) Failure by an insurer to comply with subdivision 4, clause (4), may be treated, at the election of the party, as a withdrawal of consent for purposes of this section.

Subd. 9. **Prior consent.** If the consent of a party to receive certain notices or documents in an electronic form is on file with an insurer before August 1, 2013, and, pursuant to this section, an insurer intends to deliver additional notices or documents to the party in an electronic form then, before delivering the additional notices or documents electronically, the insurer shall notify the party of:

(1) the notices or documents that may be delivered by electronic means under this section that were not previously delivered electronically; and

(2) the party's right to withdraw consent to have notices or documents delivered by electronic means.

Subd. 10. **Property and casualty policies and endorsements.** Notwithstanding any other provisions of this section and of section 60A.08, subdivision 3, standard property

and casualty insurance policies and endorsements that do not contain personally identifiable information may be mailed, delivered, or posted on the insurer's Web site. If the insurer elects to post insurance policies and endorsements on its Web site in lieu of mailing or delivering them to the insured, it must comply with all of the following conditions:

(1) the policy and endorsements must be accessible and remain that way for as long as the policy is in force;

(2) after the expiration of the policy, the insurer must archive its expired policies and endorsements for a period of five years and make them available upon request;

(3) the policies and endorsements must be posted in a manner that enables the insured to print and save the policy and endorsements using programs or applications that are widely available on the Internet and free to use;

(4) the insurer provides the following information in or simultaneously with each declarations page provided at the time of issuance of the initial policy and any renewals of that policy:

(i) a description of the exact policy and endorsement forms purchased by the insured;

(ii) a method by which the insured may obtain, upon request and without charge, a paper copy of the policy; and

(iii) the Internet address where the policy and endorsements are posted; and

(5) the insurer provides notice, in the manner it customarily communicates with an insured, of any changes to the forms or endorsements, the insured's right to obtain, upon request and without charge, a paper copy of such forms or endorsements, and the Internet address where such forms or endorsements are posted.

Subd. 11. **Oral communications.** Except as otherwise provided by law, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for purposes of this section. If a provision of this title or applicable law requires a signature or notice or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice, or document.

Subd. 12. **Effect or other law.** This section may not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act, Public Law 106-229, as amended.

Subd. 13. **Application.** This section does not apply to:

(1) a nonprofit health service plan corporation licensed under chapter 62C;

(2) a health maintenance organization licensed under chapter 62D; or

(3) a health carrier, as defined under section 62A.011, subdivision 2, that is affiliated with a nonprofit health service plan corporation licensed under chapter 62C or a health maintenance organization licensed under chapter 62D.

History: *2013 c 130 s 2*

Copyright © 2014 by the Revisor of Statutes, State of Minnesota. All rights reserved.

pg 12

Jan 21, 2015

Testimony for HB 1311 – ND House IBL Committee

Chairman Keiser and members of the House Industry, Business, and Labor Committee for the record my name is Steve Becher and I am Executive Director of the Professional Insurance Agents of ND. PIA of ND represents over 300 main street insurance agencies with over 1000 agents across the state of North Dakota. I am providing testimony today and asking you for a Do Pass recommendation on House Bill **1311.**

Our society is changing in the way that consumers want to receive correspondence from people as well as businesses and the insurance industry is no different. I teach a class to agents on agency customer service and one of the main themes of these sessions is that we need to communicate with our clients in the way that the client wants to communicate. While some clients may still want to receive regular mail there are many clients that rarely look at their mail and would rather receive an email or a text if there is information that they need to know and will respond quicker to these types of communications. I do understand that this bill is dealing with the communications that the insurance company has with the policyholder, but allowing insurance companies to use electronic delivery to those insureds that opt-in will also allow our agents to better service the customer by the method that the customer chooses.

In the interest of allowing consumers to choose their preferred method of communication, I would urge a "Do Pass" on House bill 1311.

Feb 3, 2015

1

Proposed Amendments to HB 1311
Version 15.0404.02000

Issues in HB 1311

Page 1, line 1. Replace "26.1-02" with "26.1-39"

Page 1, line 2. Insert "property and casualty" after "delivery of"

Page 1, line 21. Remove comma, add "or" after cancellation

Page 1, line 21. Remove "change in rates or benefits"

Page 2. Remove lines 13-15

Page 2. Remove lines 29-30

Page 3. Remove lines 9-11

Page 3, line 26. After "time" insert "but no more than 5 days"

Page 3. Remove lines 28-30

Renumber accordingly.

3/25/15 #1

TESTIMONY OF DEAN RICHTER IN SUPPORT OF ENGROSSED HB 1311

Good morning Chairman Klein and Members of the Senate IBL Committee.

My name is Dean Richter. I am here on behalf of State Farm Insurance Company in support of Engrossed HB 1311 regarding electronic delivery of insurance notices and documents.

State Farm supports the ability to provide customers choices in how they receive communications from the company. State Farm also supports the ability to utilize electronic signatures and delivery of information via email and other electronic means. In order to help advance these goals, State Farm supports HB1311 as it allows for greater opportunities for customers to decide the best way for insurance companies to communicate with them, while also adding clarity for insurance companies in how they handle delivery of communications. North Dakota recently took action allowing for insureds to be able to present a mobile electronic device as proof of financial responsibility ("E-Id"), and the passage of HB1311 is the next step in making sure the people of this State can choose how they use and receive other insurance documents.

HB1311 is based on model electronic delivery legislation that has gained broad support across the insurance industry. As of early 2015, over 20 states have adopted insurance electronic delivery statutes based on the

model legislation. HB1311 legislation incorporates the following elements from the model legislation:

- Allows an "opt-in" structure where consumers have the ability of deciding to choose to receive communications electronically;
- Allows for the customer's "opt-in" preference and email address to apply to all communications from affiliated companies;
- Also allows for insureds to decide to switch back to written communications if they decide they do not prefer electronic delivery of documents;
- Makes sure that customers receive a clear notice of how communications will be electronically delivered in the event they "opt-in,"
- Provides safeguards in the event an insured is not able to receive electronic communications after they "opt-in" for electronic delivery.

HB1311 properly balances allowing for insureds to receive communications based on their preference and the goal of insurance companies to be able to operate more efficiently and effectively.

Existing North Dakota E-Sign and Uniformed Electronic Transaction ACT

By way of background, there are two main existing bodies of law, encouraging electronic delivery of insurance-related materials. However, the interplay between these laws and existing state insurance rules and regulations sometimes create situations where electronic delivery of certain insurance-related materials is not allowed. HB1311 can help start to address these conflicts by allowing for the creation of an electronic

delivery environment that is beneficial to the insurance industry and its insureds.

The two main existing bodies of law regarding electronic delivery are the federal Electronic Signatures in Global and National Commerce Act (E-Sign) and the model Uniform Electronic Transactions Act (UETA), which were developed and approved by the National Conference of Commissioners on Uniform State Laws. Forty-seven states, Puerto Rico, and the District of Columbia have adopted UETA. Illinois, Washington, and New York did not adopt UETA but have passed similar laws. North Dakota adopted UETA in NDCC 9-16-01 and E-Sign in NDCC 41-01-08

E-Sign and UETA include the following basic principles:

- Each party must consent to conduct business electronically.
- A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- If a law requires a record to be in writing, an electronic record satisfies the law.
- If a law requires a signature, an electronic signature satisfies the law.

Both laws have been helpful in allowing for increased electronic delivery of insurance-related materials. E-Sign specifically states that its provisions apply to insurance. UETA generally applies to insurance

business, but there is a specific provision allowing for some limitations as to when electronic delivery is permissible.

Conflict with UETA and Existing State Insurance Law

A provision in UETA states electronic delivery is not acceptable if another state law or regulation specifically requires an alternative method of delivery. For example, if a state's insurance code requires a notice to be delivered by "first-class mail" and makes no reference to any other method of communication, then electronic delivery is not allowed. As many insurance rules and regulations were drafted before the advent of electronic communications, there are a number of obstacles that exist in allowing for comprehensive electronic delivery of insurance related materials.

In North Dakota, a number of sections in the insurance code specifically reference delivery of insurance documents by mail. These sections primarily focus on cancellation and nonrenewal notices, which HB1311 specifically excludes from electronic delivery. However, in order to best clarify that all other types of insurance documents are acceptable to be delivered in an electronic format, the passage of HB1311 is essential. I would urge your strong consideration on passing engrossed HB1311. I will try to answer any question you may have.

#2

Dwight Easton
Government Affairs Manager for
North Dakota and Montana
Farmers Insurance
1715 S Reserve St Ste K
Missoula, MT 59801
Tel 406-327-7503

FARMERS INSURANCE

3/25/2015

Chairman Klein and Members of the Senate Industry, Business, and Labor Committee:

Farmers Insurance Group of Companies rises in support of HB 1311, electronic delivery of property and casualty insurance notices and documents.

Farmers supports legislation that allows customers the choice to receive communications, notices and documents in the mode of their choosing. Increasingly, we find that customers are opting to receive communications and documents traditionally sent as paper, electronically when given the option. HB 1311 will allows the individual consumer to choose how they wish to communicate with their insurer in a way that is convenient for them.

Farmers believes that HB 1311 provides the statutory framework that protects the consumer as well as giving both insurers and insureds a reasonable expectation of how electronic notices will be recognized and treated in law.

We believe the bill recognizes the increasing amount of business that is transacted electronically while providing reasonable safeguards for North Dakota insureds. We ask for a do pass recommendation.

Sincerely,

Dwight Easton

3/25/15 #3

Testimony for HB 1311 – Senate IBL Committee

Chairman Klein and members of the Senate Industry, Business, and Labor Committee for the record my name is Jeff Evink with Professional Insurance Agents of ND. PIA of ND represents over 300 main street insurance agencies with over 1000 agents across the state of North Dakota. I am providing testimony today and asking you for a Do Pass recommendation on House Bill **1311.**

Our society is changing in the way that consumers want to receive correspondence from people as well as businesses and the insurance industry is no different. PIA teaches a class to agents on agency customer service and one of the main themes of these sessions is that we need to communicate with our clients in the way that the client wants to communicate. While some clients may still want to receive regular mail there are many clients that rarely look at their mail and would rather receive an email or a text if there is information that they need to know and will respond quicker to these types of communications. I do understand that this bill is dealing with the communications that the insurance company has with the policyholder, but allowing insurance companies to use electronic delivery to those insureds that opt-in will also allow our agents to better service the customer by the method that the customer chooses.

In the interest of allowing consumers to choose their preferred method of communication, I would urge a "Do Pass" on House bill 1311.

#4

PCI

Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

Kenton Brine
Assistant Vice President, NW Region

March 25, 2015

TO: The Hon. Jerry Klein, Chairman
Members of the North Dakota Senate Industry, Business & Labor Committee

RE: **HB 1311 – Electronic Delivery of Insurance Policies, Documents & Notices**

Property Casualty Insurers Association of America (PCI) is the nation's most diverse property/casualty insurance trade association, representing nearly 1,000 member insurance companies across the country. In North Dakota, PCI members write 60 percent of all personal lines insurance policies - more than $350 million in direct written premium - including 65 percent of the personal auto policies and nearly 50 percent of all homeowners policies in force in the state today.

PCI and our industry partners have spearheaded efforts to enact legislation across the United States that builds on the Uniform Electronic Transactions Act, or UETA. UETA is legislation that has been enacted or adopted in some form in nearly every state in the nation – statutes that have opened the door to a world of modern electronic commerce for consumers and a variety of businesses. Under UETA, bank statements, credit card applications and statements, online stock investing and the purchase of retail products and services consumers enjoy across the country is made possible.

UETA laws suggest – but do not specifically state - that insurers, like banks, mortgage companies and other financial institutions, can conduct business with customers online. Because insurers rely on contractual relationships with consumers, we have found it important to gain specific statutory authority to conduct business with consumers by electronic means in every state.

HB 1311 is based on an all-insurance industry model that has been enacted or adopted by rule or bulletin in 27 states so far – most of those in the past 3 years. In this model legislation, insurers seek the specific authority to conduct *all* business – from the beginning of a relationship with a consumer to the end – by electronic means. That includes:

- access for consumers to online applications,
- delivery of policy documents and additional endorsements by email,
- (in many states) providing an electronic proof of insurance that can be demonstrated to law enforcement through a smart phone application,
- Online billing and payment options,
- and, when necessary, providing to consumers notices of cancellation or non-renewal of a policy.

PCI would like to support HB 1311, as we have with our industry partners in support of similar bills across the country. However, the bill includes one sentence that makes it different than all the other states that have enacted it so far:

Section 1 (2): Electronic means may not be the sole method of providing a notice of cancellation or nonrenewal.

While we recognize that there are insurers that are supporting HB 1311 even with this prohibitive language, PCI cannot support HB 1311 as written, and we respectfully request the deletion of that single sentence from the bill. Our reasons include:

1. **Conflicting language in HB 1311:** The restriction is in conflict with Sec. 1(3), which amends existing statutes to repeal the requirement that notices of cancellation/non-renewal be sent certified or registered mail:
   Sec. 1(3): Delivery of a notice or document in accordance with this section is equivalent to any

delivery method required under applicable law, including delivery by first class mail; first class mail, postage prepaid; or registered mail.

2. **Uniformity and consistency among states:** The purpose of this legislation is to expressly authorize *all* insurance transactions by electronic means. Under UETA, electronic transactions are already authorized. Enacting HB 1311, but prohibiting notices related to cancellation/non-renewal, essentially leaves the law unchanged for insurers – a disadvantage compared to other financial institutions.

3. **Electronic delivery as authorized in HB 1311 is entirely optional.** An insurer has the *option* to offer to provide policies, documents and notices by electronic means, but it is not required under HB 1311. And only those consumers who *consent* – and demonstrate the ability to receive documents electronically – will be allowed to conduct business online with their insurer.

4. **Consumers are in the driver's seat.** Sec. 1(4) sets forth disclosures an insurer must provide to a consumer prior to consent. The first of these disclosures is this, in **Sec. 1(4)(b)(1):**

   The right of the party at any time to withdraw consent to have a notice or document delivered by electronic means and any conditions or consequences imposed in the event consent is withdrawn.

   Thus, a policyholder who is concerned about not receiving a document or notice may, at any time, withdraw his/her consent with respect to any individual document or notice without affecting electronic access to or delivery of other documents.

   In other words, a consumer can (1) choose to do business with his/her insurer electronically, AND (2) choose to receive some documents or notices by regular mail.

PCI believes these provisions, already enacted in more than two dozen states, empower and protect consumers, while moving the business of insurance transactions fully into the 21st century.

We greatly appreciate the efforts made by the North Dakota Insurance Commissioner's office, state legislators and our industry partners to bring this legislation forward. We urge the Industry, Business & Labor Committee to make this legislation "whole" and effective by allowing *all* documents selected by a consumer to be provided by electronic means.

With the deletion of the last sentence in Sec. 1 (2), PCI supports HB 1311. However, as currently written and before the committee, PCI must oppose HB 1311.

Respectfully submitted,

Kenton Brine

Kenton Brine
Assistant Vice President, State Government Relations
Kenton.brine@pciaa.net

3/25/15 #5

PROPOSED AMENDMENT TO HOUSE BILL NO. 1311
by Property Casualty Insurers Association of America (PIA)

Page 1, line 22 remove "Electronic means may not be the sole method of providing a notice of"

Page 1, line 23 remove "cancellation or nonrenewal."

Renumber accordingly