

**As Introduced**

**134th General Assembly  
Regular Session  
2021-2022**

**S. B. No. 236**

**Senators Wilson, Lang  
Cosponsors: Senators Reineke, Cirino**



**A BILL**

To amend section 3901.41 of the Revised Code to  
enable insurers using an online platform to  
automatically enroll purchasers in digital  
communications.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 3901.41 of the Revised Code be  
amended to read as follows:

**Sec. 3901.41.** (A) As used in this section:

(1) "Automated transaction" has the same meaning as in  
section 1306.01 of the Revised Code, and includes electronic  
transactions between two or more persons conducting business  
pursuant to the laws of this state relating to insurance.

(2) "Contact point" means any electronic identification to  
which messages can be sent, including, but not limited to, any  
of the following:

(a) An electronic mail address;

(b) An instant message identity;

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| (c) A wireless telephone number, or any other personal electronic communication device;  | 17<br>18             |
| (d) A facsimile number.  | 19                   |
| (3) "Insured" means a certificate holder, contract owner, customer, policyholder, or subscriber as those terms are used in the laws of this state relating to insurance.   | 20<br>21<br>22       |
| (4) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.  | 23<br>24             |
| (5) "Laws of this state relating to insurance" has the same meaning as in section 3901.04 of the Revised Code.   | 25<br>26             |
| (6) "Personally identifiable information" means any individually identifiable information gathered in connection with an insurance transaction, including a person's name, address, social security number, and banking information. | 27<br>28<br>29<br>30 |
| (7) "Secure web site" means a web site that meets both of the following criteria:  | 31<br>32             |
| (a) The web site uses the hypertext transfer protocol secure communication protocol or other equally secure communication protocol.  | 33<br>34<br>35       |
| (b) The web site requires a person to enter a unique user credential to access personally identifiable information for which the person has the legal right to access.   | 36<br>37<br>38       |
| (B) Notwithstanding any laws of this state relating to insurance, sections 1306.01 to 1306.23 of the Revised Code, the "Uniform Electronics Transactions Act," apply to the business of insurance in this state.                     | 39<br>40<br>41<br>42 |
| (C) (1) If an insured agrees to conduct the business of  | 43                   |

insurance via an automated transaction, any information issued 44  
or delivered in writing may be issued or delivered 45  
electronically to a contact point provided by the insured, as 46  
long as both of the following apply: 47

(a) The transmission of information is in compliance with 48  
sections 1306.07 and 1306.14 of the Revised Code. 49

(b) The details of the automated transaction are fully 50  
disclosed to the insured in the application, policy, 51  
certificate, contract of insurance, or by another method that 52  
ensures notice to the insured. An insurer's form used only to 53  
notify an insured of and obtain consent for an automated 54  
transaction does not need to be approved or accepted by the 55  
superintendent of insurance. 56

(2) (a) Except for notices of cancellation, nonrenewal, or 57  
termination, an insurer may deliver information via a secure web 58  
site if the insurer sends an electronic notice to a contact 59  
point and the electronic notice includes a hyperlink to the 60  
secure web site. 61

(b) If an insurer uses a secure web site to deliver 62  
changes in terms or conditions in an insured's policy, 63  
certificate, or contract of insurance, including any 64  
endorsements or amendments, the electronic notice to the 65  
insured's contact point shall include all of the following: 66

(i) A list or summary of the changes; 67

(ii) A link to the complete document located on the 68  
insurer's secure web site; 69

(iii) The following or substantially similar statement 70  
displayed in a prominent manner: 71

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| "There are changes in the terms or conditions of your policy, certificate, or contract of insurance."   | 72 |
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| (3) At a minimum, the details of the automated transaction shall include all of the following:  | 74 |
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| (a) A clear and conspicuous statement informing the insured of any right or option of the insured to receive a record on paper;   | 76 |
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| (b) The right of the insured to withdraw the insured's consent, and any consequences or fees if the insured withdraws consent;  | 79 |
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| (c) A description of the procedures the insured must use to withdraw consent and to update the insured's contact point.   | 82 |
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| (4) Agreement to participate in a part of an automated transaction shall not be used to confirm the insured's consent to transact the entire business of insurance pursuant to this section.  | 84 |
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| (5) A withdrawal of consent by an insured shall be effective within a reasonable time period, not to exceed ten business days after the receipt of the withdrawal by the insurer.   | 88 |
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| (D) The insurer shall send all notices of cancellation, nonrenewal, termination, or changes in the terms or conditions of the policy, certificate, or contract of insurance to the last known contact point supplied by the insured. If the insurer has knowledge that the insured's contact point is no longer valid, the insurer shall send the information via regular mail to the last known address furnished to the insurer by the insured. | 92 |
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| (E) Any insurer conducting the business of insurance via  | 99 |

an automated transaction shall allow the insurer's insureds who 100  
agree to participate in an automated transaction the option to 101  
withdraw consent from participating in the automated 102  
transaction. 103

(F) Notwithstanding any laws or regulations of this state 104  
relating to insurance, any policy, certificate, or contract of 105  
insurance, including any endorsements or amendments, that do not 106  
contain personally identifiable information may be posted to the 107  
insurer's web site in lieu of any other method of delivery. If 108  
the insurer elects to post any policy, certificate, or contract 109  
of insurance to the insurer's web site, all of the following 110  
shall apply: 111

(1) The policy, certificate, or contract of insurance is 112  
readily accessible by the insured and, once the policy, 113  
certificate, or contract of insurance is no longer used by the 114  
insurer in this state, it is stored in a readily accessible 115  
archive; 116

(2) The policy, certificate, or contract of insurance is 117  
posted in such a manner that the insured can easily identify the 118  
insured's applicable policy, certificate, or contract and print 119  
or download the insured's documents without charge and without 120  
the use of any special program or application that is not 121  
readily available to the public without charge; 122

(3) The insurer provides written notice at the time of 123  
issuance of the initial policy, certificate, contract, or any 124  
renewal forms of a method by which the insured may obtain upon 125  
request a paper or electronic copy of their policy, certificate, 126  
or contract without charge; 127

(4) The insurer clearly identifies the applicable policy, 128

endorsements, amendments, certificate, or contract of insurance 129  
purchased by the insured on any declaration page, certificate of 130  
insurance, summary of benefits, or other evidence of coverage 131  
issued to the insured; 132

(5) The insurer gives notice, in the manner it customarily 133  
communicates with an insured, of any changes to the policy, 134  
certificate, or contract of insurance, including any 135  
endorsements or amendments, and of the insured's right to obtain 136  
upon request a paper or electronic copy of the policy, 137  
endorsements, or amendments without charge. 138

(G) Notwithstanding any other section of Title XXXIX or 139  
Chapters 1739. or 1751. of the Revised Code or rules adopted 140  
thereunder to the contrary, an insurer may deliver any notices, 141  
documents, or information to an insured via an automated 142  
transaction pursuant to this section. 143

(H) This section does not supersede any time periods, 144  
filing requirements, or content of notices, documents, notices 145  
to insureds' agents required pursuant to sections 3937.25, 146  
3937.26, and 3937.27 of the Revised Code, or information 147  
otherwise required by a law other than this section relating to 148  
insurance. This section does not apply to disclosures through 149  
electronic media of certificates, explanation of benefit 150  
statements, and other mandated materials under the "Employee 151  
Retirement Income Security Act of 1974," 88 Stat. 829, 29 U.S.C. 152  
1001, as amended, and any regulation adopted thereunder. 153

(I) If the consent of an insured to receive certain 154  
notices, documents, or information in an electronic form is on 155  
file with an insurer before ~~the effective date of this section~~ 156  
September 4, 2014, if the consent was not accompanied by the 157  
details of the automated transaction described in division (C) 158

(3) of this section, and if, pursuant to this section, an 159  
insurer intends to deliver additional notices, documents, or 160  
information to that insured in an electronic form, then, prior 161  
to delivering or at the time of delivering such additional 162  
notice, documents, or information electronically, the insurer 163  
shall notify the insured of the details of the automated 164  
transaction in compliance with division (C) (3) of this section. 165

(J) (1) The purchase of a policy of insurance through an 166  
online platform shall be considered an agreement to conduct the 167  
business of insurance via an automated transaction under this 168  
section, and the insured shall be considered to have 169  
affirmatively consented to have all notices and documents 170  
related to the policy delivered to the insured electronically. 171

(2) Notwithstanding division (J) (1) of this section, if an 172  
insured purchasing a policy of insurance via an online platform 173  
requests to receive notices and documents in paper format, the 174  
insurer shall provide all notices and other documents related to 175  
the policy to the insured in paper format. 176

(3) As used in division (J) of this section, "online 177  
platform" means a web site or other digital application designed 178  
to facilitate the purchase of insurance policies by parties from 179  
a licensed insurer. 180

(K) The superintendent of insurance may adopt rules in 181  
accordance with Chapter 119. of the Revised Code as the 182  
superintendent considers necessary to carry out the purposes of 183  
this section. 184

**Section 2.** That existing section 3901.41 of the Revised 185  
Code is hereby repealed. 186