

As Reported by the Senate Insurance Committee

134th General Assembly

Regular Session

2021-2022

Am. S. B. No. 236

Senators Wilson, Lang

Cosponsors: Senators Reineke, Cirino, Brenner

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;

(c) A wireless telephone number, or any other personal

electronic communication device;	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 21 22
(4) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.	23 24
(5) "Laws of this state relating to insurance" has the same meaning as in section 3901.04 of the Revised Code.	25 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 28 29 30
(7) "Secure web site" means a web site that meets both of the following criteria:	31 32
(a) The web site uses the hypertext transfer protocol secure communication protocol or other equally secure communication protocol.	33 34 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 37 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 40 41 42
(C) (1) If an insured agrees to conduct the business of insurance via an automated transaction, any information issued	43 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

"There are changes in the terms or conditions of your 72

policy, certificate, or contract of insurance."	73
(3) At a minimum, the details of the automated transaction shall include all of the following:	74
(a) A clear and conspicuous statement informing the insured of any right or option of the insured to receive a record on paper;	75
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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
(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.	93
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(E) Any insurer conducting the business of insurance via an automated transaction shall allow the insurer's insureds who	99
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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 insurance, summary of benefits, or other evidence of coverage issued to the insured;

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

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

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

(I) If the consent of an insured to receive certain notices, documents, or information in an electronic form is on file with an insurer before ~~the effective date of this section~~ September 4, 2014, if the consent was not accompanied by the details of the automated transaction described in division (C) (3) of this section, and if, pursuant to this section, an

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 all notices and documents in paper format, 174
the insurer shall provide all notices and other documents 175
related to the policy to the insured in paper format. 176

(3) Nothing in division (J) of this section requires an 177
insurer to offer or otherwise provide an online platform to 178
conduct the business of insurance. 179

(4) As used in division (J) of this section, "online 180
platform" means a web site or other digital application designed 181
to facilitate the purchase of insurance policies by parties from 182
a licensed insurer. 183

(K) The superintendent of insurance may adopt rules in 184
accordance with Chapter 119. of the Revised Code as the 185
superintendent considers necessary to carry out the purposes of 186
this section. 187

Section 2. That existing section 3901.41 of the Revised 188

Code is hereby repealed.

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