

**PROPOSED REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R026-17

August 7, 2017

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §1, NRS 679B.130 and 679B.136 and section 7 of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017, at page 612.

A REGULATION relating to insurance; setting forth requirements for the verification or acknowledgement of receipt for certain notices that are delivered by electronic means; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Commissioner of Insurance to adopt reasonable regulations for the administration of the Nevada Insurance Code and as required to ensure compliance with federal law relating to insurance. (NRS 679B.130) Existing law further requires the Commissioner to adopt regulations governing the: (1) use of electronic signatures, and the acceptance and transmission of electronic records and payments, including transactions relating to insurance; and (2) electronic filing of forms and payment of fees, and the storage and reproduction of records, filed with the Division of Insurance of the Department of Business and Industry. (NRS 679B.136)

During the 2017 Legislative Session, the Legislature enacted Assembly Bill No. 455, which authorizes a notice to a party or any other document that is required to be provided as part of an insurance transaction to be delivered by electronic means in certain circumstances. That bill further authorizes certain notices that require verification or acknowledgement of receipt of such a notice to be delivered by electronic means only if the electronic form used for delivery provides for verification or acknowledgement of receipt. (Sections 2-12 of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017, at page 611)

This regulation requires an insurer to obtain from an insured a verification or acknowledgement of receipt for certain notices if such a notice is delivered by electronic means. Such verification or acknowledgement of receipt must be obtained by: (1) the insured using an electronic signature to verify or acknowledge receipt of the notice; (2) the notice being posted on the Internet website of the insurer with there being evidence that the insured downloaded, printed or otherwise verified or acknowledged receipt of the notice; or (3) the notice is transmitted to the insured through an application on a personal electronic device with there being evidence that the insured logged into the application and viewed or otherwise verified or acknowledged receipt of the notice. If such a verification or acknowledgement of receipt is not obtained within 3 days

after a notice to an insured is delivered by electronic means, the notice must be personally delivered to the insured or mailed first class or certified to the insured.

Section 1. NAC 679B.0409 is hereby amended to read as follows:

679B.0409 1. Except as otherwise provided in NRS 691D.330 and NAC 691D.300, an insurer shall not conduct a transaction by electronic means, including, without limitation, transactions involving claims, electronic signatures, electronic payments or other insurance-related records in electronic form, unless each person who is a party to the transaction agrees to conduct the transaction by electronic means.

2. If a person who is a party to a transaction agrees to conduct the transaction by electronic means, the insurer shall document the agreement, including, without limitation:

- (a) The name of the person agreeing to conduct the transaction by electronic means;
- (b) The type of transaction that the person has agreed to conduct by electronic means; and
- (c) The date and time of the agreement.

3. A person who agrees to conduct a transaction by electronic means may limit the types of transactions which he or she agrees to conduct by electronic means.

4. If an insurer is required to retain a record, the insurer may retain the record electronically if the insurer is able accurately to reproduce the record upon the request of a person who is entitled to a copy of the record, including, without limitation, an insured, a claimant and the Commissioner.

5. ~~Except as otherwise provided in NRS 691D.330 and NAC 691D.300, an insurer shall not provide a notice which terminates a policy of insurance, including, without limitation, a notice of cancellation or nonrenewal, solely by electronic means.~~ *If a notice to an insured required pursuant to NRS 687B.310 to 687B.420, inclusive, is delivered by electronic means pursuant to sections 2 to 12, inclusive, of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017,*

at page 611, the insurer shall obtain from the insured a verification or acknowledgement of receipt of the notice in one of the following ways:

(a) The insured uses an electronic signature to verify or acknowledge receipt of the notice;

(b) The notice is posted on the Internet website of the insurer in such a manner that it is secured by a password, biometric identifier or other technology and there is evidence demonstrating that the insured:

(1) Used the password, biometric identifier or other technology to access the notice posted on the Internet website of the insurer; and

(2) Downloaded, printed or otherwise verified or acknowledged receipt of the notice; or

(c) The notice is transmitted to the insured through an application on a personal electronic device that is secured by a password, biometric identifier or other technology and there is evidence demonstrating that the insured:

(1) Used the password, biometric identifier or other technology to access the notice transmitted to the insured through the application; and

(2) Viewed or otherwise verified or acknowledged receipt of the notice.

6. If the insurer does not receive verification or acknowledgement of receipt of the notice pursuant to subsection 5 within 3 days after a notice to an insured required pursuant to NRS 687B.310 to 687B.420, inclusive, is delivered by electronic means pursuant to sections 2 to 12, inclusive, of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017, at page 611, the notice must be personally delivered to the insured or mailed first class or certified to the insured at the address of the insured last known by the insurer pursuant to subsection 6 of NRS 687B.310.

7. As used in this section:

(a) “Deliver by electronic means” has the meaning ascribed to it in section 3 of Assembly Bill No. 455, chapter 134, Statutes of Nevada 2017, at page 611.

(b) “Electronic signature” has the meaning ascribed to it in NRS 679B.136.