



Ohio Revised Code

Section 3901.41 Applicability of Uniform Electronics Transactions Act; automated transactions.

Effective: September 4, 2014

Legislation: Senate Bill 140 - 130th General Assembly

(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;

(d) A facsimile number.

(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.

(4) "Insurer" has the same meaning as in section 3901.32 of the Revised Code.

(5) "Laws of this state relating to insurance" has the same meaning as in section 3901.04 of the Revised Code.

(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.

(7) "Secure web site" means a web site that meets both of the following criteria:

(a) The web site uses the hypertext transfer protocol secure communication protocol or other equally secure communication protocol.

(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.

(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.

(C)(1) If an insured agrees to conduct the business of insurance via an automated transaction, any information issued or delivered in writing may be issued or delivered electronically to a contact point provided by the insured, as long as both of the following apply:

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

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

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

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



(i) A list or summary of the changes;

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

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

"There are changes in the terms or conditions of your policy, certificate, or contract of insurance."

(3) At a minimum, the details of the automated transaction shall include all of the following:

(a) A clear and conspicuous statement informing the insured of any right or option of the insured to receive a record on paper;

(b) The right of the insured to withdraw the insured's consent, and any consequences or fees if the insured withdraws consent;

(c) A description of the procedures the insured must use to withdraw consent and to update the insured's contact point.

(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.

(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.

(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.

(E) Any insurer conducting the business of insurance via an automated transaction shall allow the



insurer's insureds who agree to participate in an automated transaction the option to withdraw consent from participating in the automated transaction.

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

- (1) The policy, certificate, or contract of insurance is readily accessible by the insured and, once the policy, certificate, or contract of insurance is no longer used by the insurer in this state, it is stored in a readily accessible archive;
- (2) The policy, certificate, or contract of insurance is posted in such a manner that the insured can easily identify the insured's applicable policy, certificate, or contract and print or download the insured's documents without charge and without the use of any special program or application that is not readily available to the public without charge;
- (3) The insurer provides written notice at the time of issuance of the initial policy, certificate, contract, or any renewal forms of a method by which the insured may obtain upon request a paper or electronic copy of their policy, certificate, or contract without charge;
- (4) The insurer clearly identifies the applicable policy, endorsements, amendments, certificate, or contract of insurance 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, 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 information to that insured in an electronic form, then, prior to delivering or at the time of delivering such additional notice, documents, or information electronically, the insurer shall notify the insured of the details of the automated transaction in compliance with division (C)(3) of this section.

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