

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 639
Committee Substitute Favorable 5/15/13

Short Title: WC Ins. Cancellation/Elec. Communications.

(Public)

Sponsors:

Referred to:

April 10, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE INSURANCE LAWS CONCERNING THE CANCELLATION
3 OF WORKERS' COMPENSATION INSURANCE AND TO ALLOW ELECTRONIC
4 COMMUNICATIONS BETWEEN AN INSURER AND THE INSURED IN PLACE OF
5 WRITTEN COMMUNICATIONS.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 58-36-105(b) reads as rewritten:

8 "(b) Any cancellation permitted by subsection (a) of this section is not effective unless
9 written notice of cancellation has been given ~~by registered or certified mail, return receipt~~
10 ~~requested,~~ to the insured not less than 15 days before the proposed effective date of
11 cancellation. The notice ~~shall~~ may be given by registered or certified mail, return receipt
12 requested, to the insured and any other person designated in the policy to receive notice of
13 cancellation at their addresses shown in the policy or, if not indicated in the policy, at their last
14 known addresses. The notice shall state the precise reason for cancellation. Whenever notice of
15 intention to cancel is ~~required to be given~~ by registered or certified mail, no cancellation by the
16 insurer shall be effective unless and until such method is employed and completed. Notice of
17 cancellation may also be given by any method permitted for service of process pursuant to Rule
18 4 of the North Carolina Rules of Civil Procedure. Failure to send this notice, as provided in this
19 section, to any other person designated in the policy to receive notice of cancellation
20 invalidates the cancellation only as to that other person's interest."

21 **SECTION 2.** Article 2 of Chapter 58 of the General Statutes is amended by adding
22 a new section to read:

23 **"§ 58-2-255. Electronic insurance communications and records.**

24 (a) Definitions. – As used in this section:

25 (1) "Communications" means notices, offers, disclosures, documents, forms,
26 information, and correspondence required or permitted to be provided to a
27 party in writing under the insurance laws and regulations of this State or that
28 are otherwise provided by an insurer, including, but not limited to, notices
29 pertaining to the cancellation, termination, or nonrenewal of insurance.

30 (2) "Delivered by electronic means" includes:

- 31 a. Delivery to an electronic mail address or an electronic account at
32 which a party has consented to receive electronic communications;
33 b. Displaying information, or a link to information, as an essential step
34 to completing the transaction to which such information relates; or



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1 c. Providing notice to a party at the electronic mail address or an
2 electronic account at which the party has consented to receive notice
3 of the posting of a communication on an electronic network or site.

4 (3) "Insurer" has the same meaning as in G.S. 58-1-5(3).

5 (4) "Party" means a recipient of any communications defined in this section.
6 "Party" includes, but is not limited to, an applicant, policyholder, insured,
7 claimant, member, provider, or beneficiary.

8 (b) When any insurance law or regulation of this State, except for laws in Chapter 97 of
9 the General Statutes or regulations adopted pursuant to Chapter 97 of the General Statutes,
10 requires a communication to be provided to a party in writing, signed by a party, provided by
11 means of a specific delivery method, or retained by an insurer, those requirements are satisfied
12 if the insurer complies with Article 40 of Chapter 66 of the General Statutes. This applies to
13 notices pertaining to the cancellation, termination, or nonrenewal of insurance, offers of
14 coverage, the selection and rejection of coverage, and any other communication required or
15 permitted under the insurance laws and regulations of this State or otherwise provided by an
16 insurer in conducting its insurance business in this State. Notwithstanding any requirements in
17 the insurance laws and regulations of this State, (i) all communications required under the
18 insurance laws and regulations of this State to be delivered by a specific delivery method may
19 be delivered by electronic means, (ii) all records that an insurer is required to maintain under
20 the insurance laws and regulations of this State, including any for which the original must be
21 retained, may be retained in electronic form, and (iii) any communication that under the
22 insurance laws and regulations of this State which must be signed may be signed electronically.

23 (c) Delivery of any communication in accordance with subsection (b) of this section
24 shall be considered equivalent to any delivery method required under the insurance laws and
25 regulations of this State, including, but not limited to, delivery by the United States Postal
26 Service, first-class mail, certified mail, certificate of mail, certificate of mailing, registered
27 mail, prepaid postage, in person, or by any other nonelectronic method.

28 (d) Verification of communications delivered by electronic means shall constitute proof
29 of mailing in civil and administrative proceedings and under the insurance laws and regulations
30 of this State.

31 (e) Nothing in this section affects requirements related to the content or timing of any
32 communication required under the insurance laws and regulations of this State.

33 (f) A recording of an oral communication between an insurer and a party that can be
34 reliably stored and reproduced by an insurer shall constitute an electronic communication or
35 record. When a communication is required under the insurance laws and regulations of this
36 State to be provided in writing, the communication may be provided in accordance with this
37 subsection and shall satisfy the requirement in such law or regulation that the communication
38 be in writing. When a communication is required under the insurance laws and regulations of
39 this State to be signed, an oral statement obtained in accordance with this subsection shall
40 satisfy the requirement of such law or regulation for the communication to be signed."

41 **SECTION 3.** This act is effective when it becomes law.