

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH LEGISLATURE

S.F. No. 1088

(SENATE AUTHORS: JENSEN, Metzen and Gazelka)

DATE	D-PG	OFFICIAL STATUS
03/05/2013	575	Introduction and first reading Referred to Commerce
03/14/2013	1016 1021	Comm report: To pass Second reading
04/11/2013	1777	HF substituted on General Orders HF1587

1.1

A bill for an act

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relating to insurance; regulating foreign language policies and advertising;

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authorizing electronic notices and documents; amending Minnesota Statutes

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2012, sections 60A.08, by adding a subdivision; 65A.01, subdivision 3;

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proposing coding for new law in Minnesota Statutes, chapter 60A; repealing

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Minnesota Rules, part 2700.0200.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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Section 1. Minnesota Statutes 2012, section 60A.08, is amended by adding a

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subdivision to read:

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Subd. 16. Foreign language policies and advertising. (a) Insurance policies,

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endorsements, riders, and any explanatory or advertising material may be issued in a

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language other than English. In the event of a dispute or complaint regarding the insurance

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or advertising material, the English language version of the insurance coverage shall

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control the resolution of the dispute or complaint. Any insurance policy, endorsement,

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rider, or advertising material required by law to be filed with the commissioner that is

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prepared in a language other than English must be accompanied by an English language

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translation certifying that the English version is substantively identical to the filed version.

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(b) This subdivision does not limit the application of chapter 72A.

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Sec. 2. [60A.139] ELECTRONIC NOTICES AND DOCUMENTS.

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Subdivision 1. Terms defined. In this section, the following words have the

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meanings given them:

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(1) "delivered by electronic means" includes:

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(i) delivery to an e-mail address at which a party has consented to receive notices or

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documents; or

(ii) posting on an electronic network or Web site accessible via the Internet, mobile application, computer, mobile device, tablet, or other electronic device, together with separate notice of posting, which must be provided by electronic mail to the address at which the party has consented to receive notice or by any other delivery method that has been consented to by the party; and

(2) "party" means a recipient of a notice or document required as part of an insurance transaction including, but not limited to, an applicant, an insured, a policyholder, or an annuity contract holder.

Subd. 2. **Requirements.** Subject to subdivision 4, a notice to a party or other document required under applicable law in an insurance transaction or that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means so long as it meets the requirements of the Uniform Electronic Transactions Act, chapter 325L.

Subd. 3. **Equivalent to other required methods.** Delivery of a notice or document in accordance with this section is considered equivalent to a delivery method required under applicable law, including delivery by first class mail; first class mail, postage prepaid; certified mail; certificate of mail; or certificate of mailing.

Subd. 4. **Conditions for electronic delivery.** A notice or document may be delivered by electronic means by an insurer to a party under this section if:

(1) the party has affirmatively consented to that method of delivery and has not withdrawn the consent;

(2) the party, before giving consent, is provided with a clear and conspicuous statement informing the party of:

(i) a right or option of the party to have the notice or document provided or made available in paper or another nonelectronic form;

(ii) the right of the party to withdraw consent to have a notice or document delivered by electronic means and any fees, conditions, or consequences imposed in the event consent is withdrawn;

(iii) whether the party's consent applies:

(A) only to the particular transaction as to which the notice or document must be given; or

(B) to identified categories of notices or documents that may be delivered by electronic means during the course of the parties' relationship;

(iv)(A) the means, after consent is given, by which a party may obtain a paper copy of a notice or document delivered by electronic means; and

(B) the fee, if any, for the paper copy; and

(v) the procedure a party must follow to withdraw consent to have a notice or document delivered by electronic means and to update information needed to contact the party electronically;

(3) the party:

(i) before giving consent, is provided with a statement of the hardware and software requirements for access to and retention of a notice or document delivered by electronic means; and

(ii) consents electronically, or confirms consent electronically, in a manner that reasonably demonstrates that the party can access information in the electronic form that will be used for notices or documents delivered by electronic means to which the party has given consent; and

(4) after consent of the party is given, the insurer, in the event a change in the hardware or software requirements needed to access or retain a notice or document delivered by electronic means creates a material risk that the party will not be able to access or retain a subsequent notice or document to which the consent applies:

(i) provides the party with a statement of:

(A) the revised hardware and software requirements for access to and retention of a notice or document delivered by electronic means;

(B) the right of the party to withdraw consent without the imposition of a fee, condition, or consequence that was not disclosed under clause (2); and

(ii) complies with clause (2).

Subd. 5. **Content or timing not affected.** This section does not affect requirements related to content or timing of a notice or document required under applicable law.

Subd. 6. **Verification or acknowledgement of receipt.** If a provision of applicable law requiring a notice or document to be provided to a party expressly requires verification or acknowledgement of receipt of the notice or document, the notice or document may be delivered by electronic means only if the method used provides for verification or acknowledgement of receipt.

Subd. 7. **Failure to obtain consent.** The legal effectiveness, validity, or enforceability of a contract or policy of insurance executed by a party may not be denied solely because of the failure to obtain electronic consent or confirmation of consent of the party in accordance with subdivision 4, clause (3), item (ii).

Subd. 8. **Withdrawal of consent.** (a) A withdrawal of consent by a party does not affect the legal effectiveness, validity, or enforceability of a notice or document delivered by electronic means to the party before the withdrawal of consent is effective.

4.1 (b) A withdrawal of consent by a party is effective within a reasonable period of
4.2 time after receipt of the withdrawal by the insurer.

4.3 (c) Failure by an insurer to comply with subdivision 4, clause (4), may be treated, at
4.4 the election of the party, as a withdrawal of consent for purposes of this section.

4.5 Subd. 9. **Prior consent.** If the consent of a party to receive certain notices or
4.6 documents in an electronic form is on file with an insurer before the effective date of
4.7 this act and, pursuant to this section, an insurer intends to deliver additional notices or
4.8 documents to the party in an electronic form then, before delivering the additional notices
4.9 or documents electronically, the insurer shall notify the party of:

4.10 (1) the notices or documents that may be delivered by electronic means under this
4.11 section that were not previously delivered electronically; and

4.12 (2) the party's right to withdraw consent to have notices or documents delivered
4.13 by electronic means.

4.14 Subd. 10. **Property and casualty policies and endorsements.** Notwithstanding any
4.15 other provisions of this section and of section 60A.08, subdivision 3, standard property and
4.16 casualty insurance policies and endorsements that do not contain personally identifiable
4.17 information may be mailed, delivered, or posted on the insurer's Web site. If the insurer
4.18 elects to post insurance policies and endorsements on its Web site in lieu of mailing or
4.19 delivering them to the insured, it must comply with all of the following conditions:

4.20 (1) the policy and endorsements must be accessible and remain that way for as long
4.21 as the policy is in force;

4.22 (2) after the expiration of the policy, the insurer must archive its expired policies and
4.23 endorsements for a period of five years and make them available upon request;

4.24 (3) the policies and endorsements must be posted in a manner that enables the
4.25 insured to print and save the policy and endorsements using programs or applications that
4.26 are widely available on the Internet and free to use;

4.27 (4) the insurer provides the following information in each declarations page provided
4.28 at the time of issuance of the initial policy and any renewals of that policy:

4.29 (i) a description of the exact policy and endorsement forms purchased by the insured;

4.30 (ii) a method by which the insured may obtain, upon request and without charge,
4.31 a paper copy of the policy; and

4.32 (iii) the Internet address where the policy and endorsements are posted; and

4.33 (5) the insurer provides notice, in the format preferred by the insured, of any changes
4.34 to the forms or endorsements, the insured's right to obtain, upon request and without
4.35 charge, a paper copy of such forms or endorsements, and the Internet address where
4.36 such forms or endorsements are posted.

Subd. 11. **Oral communications.** Except as otherwise provided by law, if an oral communication or a recording of an oral communication from a party can be reliably stored and reproduced by an insurer, the oral communication or recording may qualify as a notice or document delivered by electronic means for purposes of this section. If a provision of this title or applicable law requires a signature or notice or document to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by the provision, is attached to or logically associated with the signature, notice, or document.

Subd. 12. **Effect or other law.** This section may not be construed to modify, limit, or supersede the provisions of the federal Electronic Signatures in Global and National Commerce Act, Public Law 106-229, as amended.

EFFECTIVE DATE; NONAPPLICATION. This section is effective August 1, 2013, and does not apply to a notice or document delivered by an insurer in an electronic form before that date to a party who, before that date, has consented to receive a notice or document in an electronic form otherwise allowed by law.

Sec. 3. Minnesota Statutes 2012, section 65A.01, subdivision 3, is amended to read:

Subd. 3. **Policy provisions.** On said policy following such matter as provided in subdivisions 1 and 2, printed ~~in the English language~~ in type of such size or sizes and arranged in such manner, as is approved by the commissioner of commerce, the following provisions and subject matter shall be stated in the following words and in the following sequence, but with the convenient placing, if desired, of such matter as will act as a cover or back for such policy when folded, with the blanks below indicated being left to be filled in at the time of the issuing of the policy, to wit:

(Space for listing the amounts of insurance, rates and premiums for the basic coverages provided under the standard form of policy and for additional coverages or perils provided under endorsements attached. The description and location of the property covered and the insurable value(s) of any building(s) or structure(s) covered by the policy or its attached endorsements; also in the above space may be stated whether other insurance is limited and if limited the total amount permitted.)

In consideration of the provisions and stipulations herein or added hereto and of the premium above specified this company, for a term of from (At 12:01 a.m. Standard Time) to (At 12:01 a.m. Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified does insure and legal representatives

(In above space may be stated whether other insurance is limited.) (And if limited the total amount permitted.)

Subject to form No.(s) attached hereto.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such provisions, stipulations and agreements as may be added hereto as provided in this policy.

The insurance effected above is granted against all loss or damage by fire originating from any cause, except as hereinafter provided, also any damage by lightning and by removal from premises endangered by the perils insured against in this policy, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

The amount of said loss or damage, except in case of total loss on buildings, to be estimated according to the actual value of the insured property at the time when such loss or damage happens.

If the insured property shall be exposed to loss or damage from the perils insured against, the insured shall make all reasonable exertions to save and protect same.

This entire policy shall be void if, whether before a loss, the insured has willfully, or after a loss, the insured has willfully and with intent to defraud, concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interests of the insured therein.

This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion, or manuscripts.

This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, providing that such fire did not originate from any of the perils excluded by this policy.

This company shall not be liable for loss by fire or other perils insured against in a commercial policy caused, directly or indirectly, by terrorism, unless an endorsement specifically assuming coverage for loss or damage caused by terrorism is attached to the policy.

Other insurance may be prohibited or the amount of insurance may be limited by so providing in the policy or an endorsement, rider or form attached thereto.

7.1 Unless otherwise provided in writing added hereto this company shall not be liable
7.2 for loss occurring:

7.3 (a) while the hazard is increased by any means within the control or knowledge of
7.4 the insured; or

7.5 (b) while the described premises, whether intended for occupancy by owner or
7.6 tenant, are vacant or unoccupied beyond a period of 60 consecutive days; or

7.7 (c) as a result of explosion or riot, unless fire ensue, and in that event for loss by
7.8 fire only.

7.9 Any other peril to be insured against or subject of insurance to be covered in this
7.10 policy shall be by endorsement in writing hereon or added hereto.

7.11 The extent of the application of insurance under this policy and the contributions to be
7.12 made by this company in case of loss, and any other provision or agreement not inconsistent
7.13 with the provisions of this policy, may be provided for in writing added hereto, but no
7.14 provision may be waived except such as by the terms of this policy is subject to change.

7.15 No permission affecting this insurance shall exist, or waiver of any provision be
7.16 valid, unless granted herein or expressed in writing added hereto. No provision, stipulation
7.17 or forfeiture shall be held to be waived by any requirements or proceeding on the part of
7.18 this company relating to appraisal or to any examination provided for herein.

7.19 This policy shall be canceled at any time at the request of the insured, in which case
7.20 this company shall, upon demand and surrender of this policy, refund the excess of paid
7.21 premium above the customary short rates for the expired time. This policy may be canceled
7.22 at any time by this company by giving to the insured a written notice of cancellation with
7.23 or without tender of the excess of paid premium above the pro rata premium for the expired
7.24 time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation
7.25 shall state that said excess premium (if not tendered) will be refunded on demand.

7.26 If loss hereunder is made payable, in whole or in part, to a designated mortgagee or
7.27 contract for deed vendor not named herein as insured, such interest in this policy may be
7.28 canceled by giving to such mortgagee or vendor a ten days' written notice of cancellation.

7.29 Notwithstanding any other provisions of this policy, if this policy shall be made
7.30 payable to a mortgagee or contract for deed vendor of the covered real estate, no act or
7.31 default of any person other than such mortgagee or vendor or the mortgagee's or vendor's
7.32 agent or those claiming under the mortgagee or vendor, whether the same occurs before or
7.33 during the term of this policy, shall render this policy void as to such mortgagee or vendor
7.34 nor affect such mortgagee's or vendor's right to recover in case of loss on such real estate;
7.35 provided, that the mortgagee or vendor shall on demand pay according to the established
7.36 scale of rates for any increase of risks not paid for by the insured; and whenever this

company shall be liable to a mortgagee or vendor for any sum for loss under this policy for which no liability exists as to the mortgagor, vendee, or owner, and this company shall elect by itself, or with others, to pay the mortgagee or vendor the full amount secured by such mortgage or contract for deed, then the mortgagee or vendor shall assign and transfer to the company the mortgagee's or vendor's interest, upon such payment, in the said mortgage or contract for deed together with the note and debts thereby secured.

This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved.

In case of any loss under this policy the insured shall give immediate written notice to this company of any loss, protect the property from further damage, and a statement in writing, signed and sworn to by the insured, shall within 60 days be rendered to the company, setting forth the value of the property insured, except in case of total loss on buildings the value of said buildings need not be stated, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used, and the time at which and manner in which the fire originated, so far as known to the insured.

The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and, after being informed of the right to counsel and that any answers may be used against the insured in later civil or criminal proceedings, the insured shall, within a reasonable period after demand by this company, submit to examinations under oath by any person named by this company, and subscribe the oath. The insured, as often as may be reasonably required, shall produce for examination all records and documents reasonably related to the loss, or certified copies thereof if originals are lost, at a reasonable time and place designated by this company or its representatives, and shall permit extracts and copies thereof to be made.

In case the insured and this company, except in case of total loss on buildings, shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. In case either fails to select an appraiser within the time provided, then a presiding judge of the district court of the county wherein the loss occurs may appoint such appraiser for such party upon application of the other party in writing by giving five days' notice thereof in writing to the party failing to appoint. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then a presiding judge of the above mentioned court may appoint such an umpire upon application of party in writing

by giving five days' notice thereof in writing to the other party. The appraisers shall then appraise the loss, stating separately actual value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual value and loss. Each appraiser shall be paid by the selecting party, or the party for whom selected, and the expense of the appraisal and umpire shall be paid by the parties equally.

It shall be optional with this company to take all of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

There can be no abandonment to this company of any property.

The amount of loss for which this company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided. It is moreover understood that there can be no abandonment of the property insured to the company, and that the company will not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy have been complied with, and unless commenced within two years after inception of the loss.

This company is subrogated to, and may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company; and the insurer may prosecute therefor in the name of the insured retaining such amount as the insurer has paid.

Assignment of this policy shall not be valid except with the written consent of this company.

IN WITNESS WHEREOF, this company has executed and attested these presents.

.....

(Signature)

.....

(Name of office)

.....

(Signature)

.....

(Name of office)

Sec. 4. **REPEALER.**
Minnesota Rules, part 2700.0200, is repealed.

APPENDIX
Repealed Minnesota Rule: 13-2198

2700.0200 LANGUAGE REQUIREMENTS.

The English language shall be used in the printing of all policies of insurance covering property in this state and also in the keeping of the records of the insurance company.

Bylaws shall be printed in the English language, but they may be printed in a foreign language as well. Any company affected by this ruling shall comply with it immediately.