

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 418

INTRODUCER: Senator Detert

SUBJECT: Insurance

DATE: April 6, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	Favorable
2.	_____	_____	CM	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 418 allows insurers to post insurance policies not containing policyholder personal identifiable information for certain types of insurance on the insurer’s website instead of mailing or delivering the policy to the insured.

This bill substantially amends the following section of the Florida Statutes: 627.421.

II. Present Situation:

Section 627.421, F.S., requires every insurance policy¹ to be mailed or delivered to the insured (policyholder) within 60 days after the insurance takes effect. Insurance policies are typically only delivered when the policy is issued and are not delivered each time the policy is renewed.

The Federal Electronic Signatures in Global and National Commerce Act (E-SIGN)

The Federal Electronic Signatures in Global and National Commerce Act (E-SIGN) applies to electronic transactions involving interstate commerce.² Insurance is specifically included in E-SIGN.³ E-SIGN provides contracts formed using electronic signatures on electronic records will not be denied legal effect only because they are electronic. However, E-SIGN requires consumer

¹ s. 627.402, F.S., defines policy to include endorsements, riders, and clauses. Reinsurance, wet marine and transportation insurance, title insurance, and credit life or credit disability insurance policies do not have to be mailed or delivered. (see s. 627.401, F.S.)

² Section 101, Electronic Signatures in Global and National Commerce Act, Pub. L. no. 106-229, 114 Stat 464 (2000). Many of the provisions of E-SIGN took effective October 1, 2000.

³ *Id.*

disclosure and consent to electronic records in certain instances before electronic records will be given legal effect. Under E-SIGN, if a statute requires information to be provided or made available to a consumer in writing, the use of an electronic record to provide or make the information available to the consumer will satisfy the statute's requirement of writing if the consumer affirmatively consents to use of an electronic record. The consumer must also be provided with a statement notifying the consumer of the right to have the electronic information made available in a paper format and of the right to withdraw consent to electronic records, among other notifications. Arguably, the affirmative consent and notification requirements of E-SIGN apply to the delivery of insurance policies in Florida because Florida law currently requires insurance policies to be delivered to the policyholder by mail or other delivery means.

Florida's Uniform Electronic Transaction Act (UETA)

Section 668.50, F.S., Florida's Uniform Electronic Transaction Act (UETA), is similar to the federal E-SIGN law. UETA specifically applies to insurance and provides a requirement in statute that information that must be delivered in writing to another person can be satisfied by delivering the information electronically if the parties have agreed to conduct a transaction by electronic means.

III. Effect of Proposed Changes:

The bill allows insurers to post insurance policies not containing policyholder personal identifiable information for certain types of insurance on the insurer's website instead of mailing or delivering the policy to the insured. Only policies for commercial motor vehicles, casualty insurance, and personal lines property insurance are allowed to be posted online. Commercial motor vehicle insurance policies are generally automobile policies covering vehicles used for occupational, professional, or business purposes. Casualty insurance includes automobile policies, workers' compensation policies, liability policies, and malpractice policies, among others.⁴ Personal lines property insurance policies include homeowner's, tenant's, condominium unit owner's, and mobile home owner's property insurance policies.⁵ The policy information posted online would be more general in nature. The policy declarations page which contains personal information about the policyholder and the policy would not be posted online and would be provided to the policyholder in another manner, usually by mail.

If an insurer opts to post an insurance policy online instead of mailing it, the policy must be easily accessible and posted in a format that allows the policy to be printed by the policyholder free of charge. Even for policies posted online, the insurer will deliver a policy declarations page to the policyholder setting out the specific coverage included in the policy. The declarations page must also identify the exact policy form purchased by the policyholder so the policyholder can find the policy on the insurer's website. Insurers posting policies on their website must notify each policyholder of their right to request and obtain a paper or electronic copy of the policy without charge, but policyholder consent is not required for an insurer to post an insurance policy online. Insurers must also notify policyholders of this right if the insurer changes a policy. Insurers posting policies online must archive expired policies for 5 years and archived policies must be available to policyholders at their request.

⁴ s. 624.605, F.S.

⁵ s. 627.4025(1), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Insurers posting policies online will save costs associated with printing and mailing insurance policies to policyholders. The exact amount of savings cannot be calculated as it is unknown how many insurers will opt to post policies online and how many policyholders will choose to obtain their policies online rather than by mail.

Insurers may incur computer reprogramming costs associated with posting policies online and any increased costs will be passed through to policyholders.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill specifies it applies to commercial motor vehicle or personal lines property and casualty insurance. Commercial motor vehicle is a type of casualty insurance, thus, separately specifying the bill applies to commercial motor vehicle insurance is not needed.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
