

**Introduced by Senator Calderon**

February 12, 2013

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An act to amend Section 38.5 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 251, as introduced, Calderon. Insurance: notice: electronic transmission.

Existing law authorizes any written notice required to be given or mailed to any person by an insurer relating to any insurance on risks or on operations in this state, with exceptions, to be provided by electronic transmission if each party has agreed to conduct the transaction by electronic means, as provided.

This bill would make technical, nonsubstantive changes to those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 38.5 of the Insurance Code is amended
- 2 to read:
- 3 38.5. (a) Any written notice required to be given or mailed
- 4 to any person by an insurer relating to any insurance on risks or
- 5 on operations in this state not excepted by Section 1851 from the
- 6 coverage of Chapter 9 (commencing with Section 1850.4) of Part
- 7 2 of Division 1 ~~of this code~~ may, if not excluded by subdivision
- 8 (b) or (c) of Section 1633.3 of the Civil Code, be provided by
- 9 electronic transmission pursuant to Title 2.5 (commencing with

1 Section 1633.1) of Part 2 of Division 3 of the Civil Code, if each  
2 party has agreed to conduct the transaction by electronic means  
3 pursuant to Section 1633.5 of the Civil Code. ~~The~~

4 (b) *The* affidavit of the person who initiated the electronic  
5 transmission, stating the facts of that transmission into an  
6 information processing system outside of the control of the sender  
7 or of any person that sent the electronic record on behalf of the  
8 sender, is prima facie evidence that the notice was transmitted and  
9 shall be sufficient proof of notice. Any notice provided by  
10 electronic transmission shall be treated as if mailed or given for  
11 the purposes of any provision of this code, except as provided by  
12 subdivision (g) of Section 1633.15 of the Civil Code. ~~The~~

13 (c) *The* insurance company shall maintain a system for  
14 confirming that any notice or document that is to be provided by  
15 electronic means has been sent in a manner consistent with Section  
16 1633.15 of the Civil Code. A valid electronic signature shall be  
17 sufficient for any provision of law requiring a written signature.  
18 The insurance company shall retain a copy of the confirmation  
19 and electronic signature, when either is required, with the policy  
20 information so that they are retrievable upon request by the  
21 Department of Insurance while the policy is in force and for five  
22 years thereafter.