

AMENDED IN SENATE APRIL 17, 2013
AMENDED IN SENATE MARCH 18, 2013

SENATE BILL

No. 251

Introduced by Senator Calderon

February 12, 2013

An act to amend Section 1633.3 of the Civil Code, and to amend Sections 38.5, 663, 678, 678.1, 10083, 10086, and 10087 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 251, as amended, 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 authorize certain notices and disclosures relating to renewal and conditional renewal of an offer of coverage for automobile and specified property insurance to be provided by electronic transmission if an insurer complies with certain requirements.

Existing law prohibits residential property ~~insurer's~~ *insurers* from issuing or delivering property insurance without offering earthquake coverage. The offer of coverage is authorized to be made prior to, concurrent with, or within 60 days following the issuance or renewal of a residential property insurance policy. If the offer of coverage is mailed to the named insured or applicant, it is required to be mailed to the mailing address shown on the policy of residential property insurance or on the application.

This bill would authorize the offer of earthquake coverage to be made electronically, as provided.

Existing law authorizes an earthquake insurer, at any renewal, to modify the terms and conditions of an existing policy, rider, or endorsement, and that if the insurer modifies the terms and conditions of an existing policy, rider, or endorsement, the insurer is required to provide the insured with the renewal notice in a stand-alone disclosure document stating the changes in the terms and conditions of the insured's existing policy, rider, or endorsement. Existing law also provides that, if an offer of earthquake coverage is not accepted, the insurer or any affiliated insurer is required to offer earthquake coverage every other year in connection with any continuation, renewal, or reinstatement of the policy following any lapse, or with respect to any other policy that extends, changes, supersedes, or replaces the policy of residential property insurance.

This bill would authorize the renewal notice for earthquake coverage and the offer of earthquake coverage required to be made every other year to be made electronically, as provided.

This bill would also delete obsolete cross-references and make conforming changes.

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 1633.3 of the Civil Code, as amended~~
 2 ~~by Section 1 of Chapter 433 of the Statutes of 2009, is amended~~
 3 ~~to read:~~
 4 ~~1633.3. (a) Except as otherwise provided in subdivisions (b)~~
 5 ~~and (c), this title applies to electronic records and electronic~~
 6 ~~signatures relating to a transaction.~~
 7 ~~(b) This title does not apply to transactions subject to the~~
 8 ~~following laws:~~
 9 ~~(1) A law governing the creation and execution of wills, codicils,~~
 10 ~~or testamentary trusts.~~
 11 ~~(2) Division 1 (commencing with Section 1101) of the Uniform~~
 12 ~~Commercial Code, except Sections 1206 and 1306.~~
 13 ~~(3) Divisions 3 (commencing with Section 3101), 4~~
 14 ~~(commencing with Section 4101), 5 (commencing with Section~~
 15 ~~5101), 8 (commencing with Section 8101), 9 (commencing with~~

1 Section 9101), and 11 (commencing with Section 11101) of the
2 Uniform Commercial Code.

3 (4) A law that requires that specifically identifiable text or
4 disclosures in a record or a portion of a record be separately signed,
5 including initialed, from the record. However, this paragraph does
6 not apply to Section 1677 or 1678 of this code or Section 1298 of
7 the Code of Civil Procedure.

8 (e) This title does not apply to any specific transaction described
9 in Section 17511.5 of the Business and Professions Code, Section
10 56.11, 56.17, 798.14, 1133, or 1134 of, Sections 1350 to 1376,
11 inclusive, of, Section 1689.6, 1689.7, or 1689.13 of, Chapter 2.5
12 (commencing with Section 1695) of Title 5 of Part 2 of Division
13 3 of, Section 1720, 1785.15, 1789.14, 1789.16, or 1793.23 of,
14 Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of
15 Division 3 of, Section 1861.24, 1862.5, 1917.712, 1917.713,
16 1950.5, 1950.6, 1983, 2924b, 2924e, 2924f, 2924i, 2924j, 2924.3,
17 or 2937 of, Article 1.5 (commencing with Section 2945) of Chapter
18 2 of Title 14 of Part 4 of Division 3 of, Section 2954.5 or 2963 of,
19 Chapter 2b (commencing with Section 2981) or 2d (commencing
20 with Section 2985.7) of Title 14 of Part 4 of Division 3 of, or
21 Section 3071.5 of, the Civil Code, subdivision (b) of Section 18608
22 or Section 22328 of the Financial Code, Section 1358.15, 1365,
23 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
24 Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786, 10113.7,
25 10127.7, 10127.9, 10127.10, 10199.44, 10199.46, 10235.16,
26 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of the Insurance
27 Code, Section 779.1, 10010.1, or 16482 of the Public Utilities
28 Code, or Section 9975 or 11738 of the Vehicle Code. An electronic
29 record may not be substituted for any notice that is required to be
30 sent pursuant to Section 1162 of the Code of Civil Procedure.
31 Nothing in this subdivision shall be construed to prohibit the
32 recordation of any document with a county recorder by electronic
33 means.

34 (d) This title applies to an electronic record or electronic
35 signature otherwise excluded from the application of this title under
36 subdivision (b) when used for a transaction subject to a law other
37 than those specified in subdivision (b).

38 (e) A transaction subject to this title is also subject to other
39 applicable substantive law.

1 ~~(f) The exclusion of a transaction from the application of this~~
2 ~~title under subdivision (b) or (c) shall be construed only to exclude~~
3 ~~the transaction from the application of this title, but shall not be~~
4 ~~construed to prohibit the transaction from being conducted by~~
5 ~~electronic means if the transaction may be conducted by electronic~~
6 ~~means under any other applicable law.~~

7 ~~SEC. 2.~~

8 *SECTION 1.* Section 1633.3 of the Civil Code, as amended by
9 Section 36 of Chapter 181 of the Statutes of 2012, is amended to
10 read:

11 1633.3. (a) Except as otherwise provided in subdivisions (b)
12 and (c), this title applies to electronic records and electronic
13 signatures relating to a transaction.

14 (b) This title does not apply to transactions subject to the
15 following laws:

16 (1) A law governing the creation and execution of wills, codicils,
17 or testamentary trusts.

18 (2) Division 1 (commencing with Section 1101) of the Uniform
19 Commercial Code, except Sections 1206 and 1306.

20 (3) Divisions 3 (commencing with Section 3101), 4
21 (commencing with Section 4101), 5 (commencing with Section
22 5101), 8 (commencing with Section 8101), 9 (commencing with
23 Section 9101), and 11 (commencing with Section 11101) of the
24 Uniform Commercial Code.

25 (4) A law that requires that specifically identifiable text or
26 disclosures in a record or a portion of a record be separately signed,
27 including initialed, from the record. However, this paragraph does
28 not apply to Section 1677 or 1678 of this code or Section 1298 of
29 the Code of Civil Procedure.

30 (c) This title does not apply to any specific transaction described
31 in Section 17511.5 of the Business and Professions Code, Section
32 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
33 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
34 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
35 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
36 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
37 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f,
38 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with
39 Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of,
40 Section 2954.5 or 2963 of, Chapter 2b (commencing with Section

1 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part
2 4 of Division 3 of, Section 3071.5 of, or Part 5 (commencing with
3 Section 4000) of Division 4 of, the Civil Code, subdivision (b) of
4 Section 18608 or Section 22328 of the Financial Code, Section
5 1358.15, 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health
6 and Safety Code, Section 662, ~~663~~, *paragraph (2) of subdivision*
7 *(a) of Section 663*, Section 664, 667.5, 673, 677, ~~678~~, ~~678.1~~,
8 *paragraph (2) of subdivision (a) of Section 678*, *subdivisions (a)*
9 *and (b) of Section 678.1*, Section 786, 10113.7, 10127.7, 10127.9,
10 10127.10, 10199.44, 10199.46, 10235.16, 10235.40, 10509.4,
11 10509.7, 11624.09, or 11624.1 of the Insurance Code, Section
12 779.1, 10010.1, or 16482 of the Public Utilities Code, or Section
13 9975 or 11738 of the Vehicle Code. An electronic record may not
14 be substituted for any notice that is required to be sent pursuant to
15 Section 1162 of the Code of Civil Procedure. Nothing in this
16 subdivision shall be construed to prohibit the recordation of any
17 document with a county recorder by electronic means.

18 (d) This title applies to an electronic record or electronic
19 signature otherwise excluded from the application of this title under
20 subdivision (b) when used for a transaction subject to a law other
21 than those specified in subdivision (b).

22 (e) A transaction subject to this title is also subject to other
23 applicable substantive law.

24 (f) The exclusion of a transaction from the application of this
25 title under subdivision (b) or (c) shall be construed only to exclude
26 the transaction from the application of this title, but shall not be
27 construed to prohibit the transaction from being conducted by
28 electronic means if the transaction may be conducted by electronic
29 means under any other applicable law.

30 *SEC. 2. Section 38.5 of the Insurance Code is amended to read:*

31 38.5. (a) Any written notice required to be given or mailed to
32 any person by an insurer relating to any insurance on risks or on
33 operations in this state not excepted by Section 1851 from the
34 coverage of Chapter 9 (commencing with Section 1850.4) of Part
35 2 of Division 1 of this code may, if not excluded by subdivision
36 (b) or (c) of Section 1633.3 of the Civil Code, be provided by
37 electronic transmission pursuant to Title 2.5 (commencing with
38 Section 1633.1) of Part 2 of Division 3 of the Civil Code, if each
39 party has agreed to conduct the transaction by electronic means
40 pursuant to Section 1633.5 of the Civil Code. The affidavit of the

1 person who initiated the electronic transmission, stating the facts
2 of that transmission into an information processing system outside
3 of the control of the sender or of any person that sent the electronic
4 record on behalf of the sender, is prima facie evidence that the
5 notice was transmitted and shall be sufficient proof of notice. Any
6 notice provided by electronic transmission shall be treated as if
7 mailed or given for the purposes of any provision of this code,
8 except as provided by subdivision (g) of Section 1633.15 of the
9 Civil Code. The insurance company shall maintain a system for
10 confirming that any notice or document that is to be provided by
11 electronic means has been sent in a manner consistent with Section
12 1633.15 of the Civil Code. A valid electronic signature shall be
13 sufficient for any provision of law requiring a written signature.
14 The insurance company shall retain a copy of the confirmation
15 and electronic signature, when either is required, with the policy
16 information so that they are retrievable upon request by the
17 Department of Insurance while the policy is in force and for five
18 years thereafter.

19 *(b) The offer of renewal required by Sections 663 and 678, the*
20 *notice of conditional renewal required by Section 678.1, and the*
21 *offer of coverage or renewal or any disclosure required by Section*
22 *10086 may be provided by electronic transmission if an insurer*
23 *complies with all of the following:*

24 *(1) An insurer, or insurer's representative, acquires the consent*
25 *of the insured to opt in to receive the offer, notice, or disclosure*
26 *by electronic transmission, and the insured has not withdrawn*
27 *that consent, prior to providing the offer, notice, or disclosure by*
28 *electronic transmission. An insured's consent may be acquired*
29 *verbally, in writing, or electronically. If consent is acquired*
30 *verbally, the insurer shall confirm consent in writing or*
31 *electronically. The insurer shall retain a record of the insured's*
32 *consent to receive the offer, notice, or disclosure by electronic*
33 *transmission with the policy information so that it is retrievable*
34 *upon request by the Department of Insurance while the policy is*
35 *in force and for five years thereafter.*

36 *(2) An insurer discloses, in writing or electronically, to the*
37 *insured all of the following:*

38 *(A) The opt in to receive the offer, notice, or disclosure by*
39 *electronic transmission is voluntary.*

1 (B) That the insured may opt out of receiving the offer, notice,
2 or disclosure by electronic transmission at any time, and the
3 process or system for the insured to opt out.

4 (C) A description of the offer, notice, or disclosure that the
5 insured will receive by electronic transmission.

6 (D) The process or system to report a change or correction in
7 the insured's email address.

8 (E) The insurer's contact information, which includes, but is
9 not limited to, a toll-free number or an insurer's Internet Web site
10 address.

11 (3) An insurer shall include the insured's email address on the
12 policy declaration page.

13 (4) An insurer shall provide one free printed copy of the notices
14 or documents described in subdivision (b) and provide the notices
15 or documents by electronic transmission annually upon request
16 by the insured.

17 (5) An insurer shall maintain a process or system that can
18 demonstrate that the offer, notice, or disclosure provided by
19 electronic transmission was both sent and received consistent with
20 Section 1633.15 of the Civil Code. The insurer shall retain
21 information so that the information is retrievable upon request by
22 the Department of Insurance while the policy is in force and for
23 five years thereafter related to its process or system demonstrating
24 that the offer, notice, or disclosure provided by electronic
25 transmission was sent by the applicable statutory regular mail
26 delivery deadlines and received electronically. The offer, notice,
27 or disclosure provided by electronic transmission shall be treated
28 as if mailed so long as the insurer delivers it to the insured in
29 compliance with the applicable statutory regular mail delivery
30 deadlines.

31 (6) Upon an insurer receiving information indicating that the
32 offer, notice, or disclosure sent by electronic transmission was not
33 received by the insured, the insurer shall, within two business days,
34 do one of the following:

35 (A) Contact the insured to confirm or update the insured's email
36 address and resend the offer, notice, or disclosure by electronic
37 transmission. If the insurer elects to resend the offer, notice, or
38 disclosure by electronic transmission, the insurer shall demonstrate
39 the transmission was received by the insured, pursuant to
40 paragraph (5). If the insurer is unable to confirm or update the

1 *insured's email address, the insurer shall resend the offer, notice,*
2 *or disclosure by regular mail to the insured at the address shown*
3 *on the policy.*

4 *(B) Resend the offer, notice, or disclosure initially provided by*
5 *electronic transmission by regular mail to the insured at the*
6 *address shown on the policy.*

7 *(c) The department may suspend an insurer from providing*
8 *offers, notices, or disclosures by electronic transmission if there*
9 *is a pattern or practices that demonstrate the insurer has failed*
10 *to comply with the requirements of this section. An insurer may*
11 *appeal the suspension and resume its electronic transmission of*
12 *offers, notices, or disclosures upon communication from the*
13 *department that the changes the insurer made to its process or*
14 *system to comply with the requirements of this section are*
15 *satisfactory.*

16 *SEC. 3. Section 663 of the Insurance Code is amended to read:*

17 663. (a) Before policy expiration, an insurer shall deliver to
18 or mail to the named insured, at the address shown on the policy,
19 one of the following:

20 (1) At least 20 days before expiration, a written or verbal offer
21 of renewal of the policy, contingent upon payment of premium as
22 stated in the offer.

23 (2) At least 30 days before expiration, a written notice of
24 nonrenewal of the policy, including the statement required by
25 Section 666.

26 (b) (1) An insurer that delivers a verbal offer to renew that is
27 declined by an insured shall, at least 20 days before expiration of
28 the policy, deliver to or mail to the named insured, at the address
29 shown on the policy, a written confirmation of the offer and
30 rejection.

31 (2) An insurer that attempts to satisfy subdivision (a) with a
32 verbal offer to renew, but is unable to contact the named insured
33 directly at least 20 days before policy expiration, shall, at least 20
34 days before policy expiration, deliver to or mail to the named
35 insured, at the address shown on the policy, a written offer to renew
36 the policy, contingent upon payment of premium as stated in the
37 offer.

38 (c) In the event that an insurer fails to give the named insured
39 either an offer of renewal or notice of nonrenewal as required by
40 this section, the existing policy, with no change in its terms and

1 conditions, shall remain in effect for 30 days from the date that
2 either the offer to renew or the notice of nonrenewal is delivered
3 or mailed to the named insured. A notice to this effect shall be
4 provided by the insurer to the named insured with the policy or
5 the notice of renewal or nonrenewal. Notwithstanding the failure
6 of an insurer to comply with this section, the policy shall terminate
7 on the effective date of any other replacement or succeeding
8 automobile insurance policy procured by the insured, or his agent
9 or broker, with respect to any automobile designated in both
10 policies.

11 (d) The insurer shall not be required to notify the named insured,
12 or any other insured, of nonrenewal of the policy if the insurer has
13 mailed or delivered a notice of expiration or cancellation, on or
14 prior to the 30th day preceding expiration of the policy period.

15 (e) *The offer of renewal pursuant to this section may be provided*
16 *electronically to the email address shown on the policy if the*
17 *insurer complies with subdivision (b) of Section 38.5.*

18 *SEC. 4. Section 678 of the Insurance Code is amended to read:*

19 678. (a) At least 45 days prior to policy expiration, an insurer
20 shall deliver to the named insured or mail to the named insured at
21 the address shown in the policy, either of the following:

22 (1) An offer of renewal of the policy contingent upon payment
23 of premium as stated in the offer, stating each of the following:

24 (A) Any reduction of limits or elimination of coverage.

25 (B) The telephone number of the insurer's representatives who
26 handle consumer inquiries or complaints. The telephone number
27 shall be displayed prominently in a font size consistent with the
28 other text of the renewal offer.

29 (2) A notice of nonrenewal of the policy. That notice shall
30 contain each of the following:

31 (A) The reason or reasons for the nonrenewal.

32 (B) The telephone number of the insurer's representatives who
33 handle consumer inquiries or complaints. The telephone number
34 shall be displayed prominently in a font size consistent with the
35 other text of the notice of nonrenewal.

36 (C) A brief statement indicating that if the consumer has
37 contacted the insurer to discuss the nonrenewal and remains
38 unsatisfied, he or she may have the matter reviewed by the
39 department. The statement shall include the telephone number of

1 the unit within the department that responds to consumer inquiries
2 and complaints.

3 (b) In the event an insurer fails to give the named insured either
4 an offer of renewal or notice of nonrenewal as required by this
5 section, the existing policy, with no change in its terms and
6 conditions, shall remain in effect for 45 days from the date that
7 either the offer to renew or the notice of nonrenewal is delivered
8 or mailed to the named insured. A notice to this effect shall be
9 provided by the insurer to the named insured with the policy or
10 the notice of renewal or nonrenewal.

11 (c) Any policy written for a term of less than one year shall be
12 considered as if written for a term of one year. Any policy written
13 for a term longer than one year, or any policy with no fixed
14 expiration date, shall be considered as if written for successive
15 policy periods or terms of one year.

16 (d) This section applies only to policies of insurance specified
17 in Section 675.

18 (e) *The offer of renewal pursuant to this section may be provided*
19 *electronically to the email address shown on the policy if the*
20 *insurer complies with subdivision (b) of Section 38.5.*

21 *SEC. 5. Section 678.1 of the Insurance Code is amended to*
22 *read:*

23 678.1. (a) This section applies only to policies of insurance
24 of commercial insurance that are subject to Sections 675.5 and
25 676.6.

26 (b) A notice of nonrenewal shall be in writing and shall be
27 delivered or mailed to the producer of record and to the named
28 insured at the mailing address shown on the policy. Subdivision
29 (a) of Section 1013 of the Code of Civil Procedure shall be
30 applicable if the notice is mailed.

31 (c) An insurer, at least 60 days, but not more than 120 days, in
32 advance of the end of the policy period, shall give notice of
33 nonrenewal, and the reasons for the nonrenewal, if the insurer
34 intends not to renew the policy, or to condition renewal upon
35 reduction of limits, elimination of coverages, increase in
36 deductibles, or increase of more than 25 percent in the rate upon
37 which the premium is based.

38 (d) If an insurer fails to give timely notice required by
39 subdivision (c), the policy of insurance shall be continued, with

1 no change in its terms or conditions, for a period of 60 days after
2 the insurer gives the notice.

3 (e) With respect to policies defined in subdivision (b) of Section
4 676.6, in addition to the bases for conditional renewal set forth in
5 subdivision (c), an insurer may also condition renewal upon
6 requirements relating to the underlying policy or policies. If the
7 requirements are not satisfied as of (1) the expiration date of the
8 policy, or (2) 30 days after mailing or delivery of such notice,
9 whichever is later, the conditional renewal notice shall be treated
10 as an effective notice of nonrenewal, provided the insurer has sent
11 written confirmation to the first named insured and the producer
12 of record that the conditions were not met and that coverage ceased
13 at the expiration date shown in the expiring policy.

14 (f) A notice of nonrenewal shall not be required in any of the
15 following situations.

16 (1) The transfer of, or renewal of, a policy without a change in
17 its terms or conditions or the rate on which the premium is based
18 between insurers that are members of the same insurance group.

19 (2) The policy has been extended for 90 days or less, if the
20 notice required in subdivision (c) has been given prior to the
21 extension.

22 (3) The named insured has obtained replacement coverage or
23 has agreed, in writing, within 60 days of the termination of the
24 policy, to obtain that coverage.

25 (4) The policy is for a period of no more than 60 days and the
26 insured is notified at the time of issuance that it may not be
27 renewed.

28 (5) The named insured requests a change in the terms or
29 conditions or risks covered by the policy within 60 days prior to
30 the end of the policy period.

31 (6) The insurer has made a written offer to the insured, within
32 the time period specified in subdivision (c), to renew the policy
33 under changed terms or conditions or at a changed premium rate.
34 As used herein, “terms or conditions” includes, but is not limited
35 to, a reduction in limits, elimination of coverages, or an increase
36 in deductibles.

37 (g) *The notice of conditional renewal described in subdivision*
38 *(c) may be provided electronically to the email address shown on*
39 *the policy if the insurer complies with subdivision (b) of Section*
40 *38.5.*

1 ~~SEC. 3.~~

2 SEC. 6. Section 10083 of the Insurance Code is amended to
3 read:

4 10083. (a) The offer of coverage required by Section 10081
5 may be made prior to, concurrent with, or within 60 days following
6 the issuance or renewal of a residential property insurance policy.
7 If the offer of coverage is mailed to the named insured or applicant,
8 it shall be mailed to the mailing address shown on the policy of
9 residential property insurance or on the application. The offer may
10 be made electronically pursuant to Section 38.5. The offer of
11 earthquake coverage shall contain the following language in at
12 least 10-point boldface type:

13 YOUR POLICY DOES NOT PROVIDE COVERAGE
14 AGAINST THE PERIL OF EARTHQUAKE.

15 CALIFORNIA LAW REQUIRES THAT EARTHQUAKE
16 COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

17 WARNING: THESE COVERAGES MAY DIFFER
18 SUBSTANTIALLY FROM AND PROVIDE LESS
19 PROTECTION THAN THE COVERAGE PROVIDED BY YOUR
20 HOMEOWNERS' INSURANCE POLICY. THERE ARE
21 EXCLUSIONS AND LIMITATIONS SUCH AS
22 OUTBUILDINGS, SWIMMING POOLS, MASONRY FENCES,
23 AND MASONRY CHIMNEYS. THIS DISCLOSURE FORM
24 CONTAINS ONLY A GENERAL DESCRIPTION OF
25 COVERAGES AND IS NOT PART OF YOUR EARTHQUAKE
26 INSURANCE POLICY. ONLY THE SPECIFIC PROVISIONS
27 OF YOUR POLICY WILL DETERMINE WHETHER A
28 PARTICULAR LOSS IS COVERED AND, IF SO, THE
29 AMOUNT PAYABLE.

30 THE COVERAGE, SUBJECT TO POLICY PROVISIONS,
31 MAY BE PURCHASED AT ADDITIONAL COST ON THE
32 FOLLOWING TERMS:

33 (A) AMOUNT OF DWELLING COVERAGE: _____

34 (B) APPLICABLE DEDUCTIBLE: _____ IF YOUR LOSS IS
35 BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY
36 PAYMENT FROM YOUR COVERAGE.

37 YOUR INSURANCE COMPANY OR AGENT WILL
38 PROVIDE WRITTEN NOTICE AS TO HOW THE
39 DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR

1 COVERAGE, THE INSURED VALUE OF YOUR COVERAGE,
2 OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

3 (C) CONTENTS COVERAGE: _____

4 IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE
5 FOR THE DWELLING, YOU WILL NOT RECEIVE ANY
6 PAYMENT FOR THIS COVERAGE.

7 YOUR INSURANCE COMPANY OR AGENT WILL
8 PROVIDE WRITTEN NOTICE AS TO HOW THE
9 DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE
10 PURSUANT TO THIS COVERAGE.

11 (D) ADDITIONAL LIVING EXPENSES: _____

12 (E) RATE OR PREMIUM: _____

13 YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE
14 COVERAGE WITHIN 30 DAYS FROM THE DATE OF
15 MAILING OF THIS NOTICE OR IT SHALL BE
16 CONCLUSIVELY PRESUMED THAT YOU HAVE NOT
17 ACCEPTED THIS OFFER.

18 THIS COVERAGE SHALL BE EFFECTIVE ON THE DAY
19 YOUR ACCEPTANCE OF THIS OFFER IS RECEIVED BY US.

20 (b) When the insurer, agent, or broker establishes delivery of
21 the disclosure form by obtaining the signature of the applicant or
22 insured, or when an insurer, agent, or broker provides the applicant
23 with the disclosure form and the applicant does not return a signed
24 acknowledgment of receipt within 60 days of the date it was
25 provided, there shall be a conclusive presumption that the insurer,
26 agent, or broker has complied with the disclosure requirements of
27 this section.

28 (c) The offer may contain additional provisions not in conflict
29 with or in derogation of this section.

30 (d) The commissioner may only approve modifications to the
31 language prescribed in subdivision (a) if all of the following
32 conditions are met:

33 (1) The modifications are not in conflict with or in derogation
34 of any provision of this section or Section 10089.

35 (2) The modifications are necessary to ensure that the disclosure
36 statement accurately reflects the coverage actually provided by
37 the policy being offered.

38 (3) The modifications are strictly limited to necessary changes
39 so that the modified disclosure statement is otherwise identical to
40 the disclosure statement prescribed in this section.

1 (e) Use of the language prescribed by this section, or modified
2 language approved pursuant to subdivision (d), shall constitute
3 compliance with the requirements of Section 10081 by an insurer
4 subject thereto.

5 ~~SEC. 4.~~

6 *SEC. 7.* Section 10086 of the Insurance Code is amended to
7 read:

8 10086. (a) If an offer of earthquake coverage is accepted, the
9 coverage shall be continued at the applicable rates and conditions
10 for the policy term, provided the policy of residential property
11 insurance is not terminated by the named insured or insurer.

12 (1) At any renewal, an insurer may modify the terms and
13 conditions of an existing policy, rider, or endorsement providing
14 coverage against loss or damage caused by the peril of earthquake
15 if the modified terms and conditions provide the minimum
16 coverages required by Section 10089.

17 (2) An insurer that modifies the terms and conditions of an
18 existing policy, rider, or endorsement shall provide the insured
19 with the renewal notice in a stand-alone disclosure document
20 stating the changes in the terms and conditions of the insured’s
21 existing policy, rider, or endorsement. The offer of renewal may
22 be made electronically pursuant to Section 38.5. Proof of mailing
23 of the disclosure document by first-class mail to a named insured
24 at the mailing address shown on the policy or application, or proof
25 consistent with Section 38.5 that the offer of renewal of coverage
26 was sent to the named insured or applicant by electronic
27 transmission, creates a conclusive presumption that the disclosure
28 document was provided. The disclosure shall include the following
29 statement in 14-point boldface type:

30 THE COVERAGE IN THE POLICY WE ARE OFFERING
31 YOU WITH THIS RENEWAL HAS BEEN REDUCED, AND
32 SUBSTANTIALLY DIFFERS FROM THE COVERAGES
33 PROVIDED BY YOUR HOMEOWNERS’ POLICY.
34 INSURANCE COMPANIES ARE ALLOWED TO RENEW
35 EARTHQUAKE INSURANCE POLICIES WITH COVERAGE
36 THAT IS REDUCED FROM THE COVERAGE YOU
37 PREVIOUSLY PURCHASED. YOU MAY REQUEST A
38 SAMPLE COPY OF THIS NEW POLICY TO REVIEW PRIOR
39 TO MAKING A DECISION TO ACCEPT THIS RENEWAL,
40 AND WE WILL MAIL OR DELIVER IT TO YOU WITHIN 14

1 DAYS OF YOUR REQUEST. A REQUEST FOR THE SAMPLE
 2 COPY SHALL NOT CHANGE OR EXTEND THE POLICY
 3 EXPIRATION DATE SPECIFIED IN THE RENEWAL NOTICE.
 4 A SUMMARY OF THE CHANGES IS INCLUDED WITH THIS
 5 NOTICE.

6 The commissioner shall approve the form of the summary at the
 7 time he or she approves the policy. The summary shall include the
 8 information contained in subdivision (a) of Section 10083, and
 9 may be included with the renewal notice in standard type.

10 The commissioner may approve substantially similar disclosure
 11 forms if necessary to accurately disclose relevant information to
 12 the policyholder. The commissioner may also approve disclosure
 13 forms substantially similar to the disclosure statement required by
 14 Section 10083 if necessary to accurately disclose relevant
 15 information to the policyholder.

16 (3) If the earthquake coverage is provided by a policy issued
 17 by the California Earthquake Authority, the following disclosure
 18 shall be provided in 14-point boldface type:

19

20 CALIFORNIA EARTHQUAKE AUTHORITY POLICY
 21 DISCLOSURE

22

23 THIS POLICY IS BEING PURCHASED FROM THE
 24 CALIFORNIA EARTHQUAKE AUTHORITY (“CEA”). THE
 25 COVERAGE IN THIS CEA POLICY SUBSTANTIALLY
 26 DIFFERS FROM THE COVERAGES PROVIDED IN YOUR
 27 HOMEOWNER’S POLICY. THE CEA IS NOT PART OF OR
 28 ASSOCIATED WITH YOUR HOMEOWNER’S INSURANCE
 29 COMPANY. IF LOSSES AS A RESULT OF AN EARTHQUAKE
 30 OR A SERIES OF EARTHQUAKES EXCEED THE
 31 AVAILABLE RESOURCES OF THE CEA, THIS POLICY IS
 32 NOT COVERED BY THE CALIFORNIA INSURANCE
 33 GUARANTY ASSOCIATION. THEREFORE, THE
 34 CALIFORNIA INSURANCE GUARANTY ASSOCIATION
 35 WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR
 36 ASSETS IF THE CEA BECOMES INSOLVENT AND IS
 37 UNABLE TO MAKE PAYMENTS AS PROMISED. IN
 38 ADDITION, YOUR CEA POLICY MAY BE SUBJECT TO
 39 FUTURE SURCHARGES OF THE POLICY PREMIUM IN
 40 CERTAIN CASES WHERE AN EARTHQUAKE OR SERIES

1 OF EARTHQUAKES HAS EXCEEDED AVAILABLE
 2 RESOURCES TO PAY CLAIMS. IN THAT CASE, THIS
 3 MEANS THAT IN ADDITION TO THE ANNUAL PREMIUM,
 4 YOU MAY BE CHARGED UP TO AN ADDITIONAL 20% OF
 5 THE PREMIUM.

6 (b) If the offer is not accepted, the insurer or any affiliated
 7 insurer shall be required on an every other year basis to offer
 8 earthquake coverage in connection with any continuation, renewal,
 9 or reinstatement of the policy following any lapse thereof, or with
 10 respect to any other policy that extends, changes, supersedes, or
 11 replaces the policy of residential property insurance. The offer
 12 may be made electronically pursuant to Section 38.5.

13 (c) Nothing in this section shall preclude the named insured
 14 from terminating the earthquake coverage at any time.

15 ~~SEC. 5.~~

16 *SEC. 8.* Section 10087 of the Insurance Code is amended to
 17 read:

18 10087. (a) As used in this chapter, “policy of residential
 19 property insurance” shall mean a policy insuring individually
 20 owned residential structures of not more than four dwelling units,
 21 individually owned condominium units, or individually owned
 22 mobilehomes, and their contents, located in this state and used
 23 exclusively for residential purposes or a tenant’s policy insuring
 24 personal contents of a residential unit located in this state. “Policy
 25 of residential property insurance,” as defined, shall not include
 26 insurance for real property or its contents used for any commercial,
 27 industrial, or business purpose, except a structure of not more than
 28 four dwelling units rented for individual residential purposes. A
 29 policy that does not include any of the perils insured against in a
 30 standard fire policy shall not be included in the definition of “policy
 31 of residential property insurance.”

32 (b) Proof of mailing of the offer by first-class mail addressed
 33 to a named insured or applicant at the mailing address shown on
 34 the policy or application, or proof consistent with Section 38.5
 35 that the offer of coverage was sent to the named insured or
 36 applicant by electronic transmission, shall create a conclusive
 37 presumption that the offer was made.

O