

AMENDED IN ASSEMBLY JUNE 17, 2013

AMENDED IN ASSEMBLY JUNE 5, 2013

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 pertaining to workers' compensation to be provided by electronic transmission. The 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 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 36 of Chapter 181 of the Statutes of 2012, 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.

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

3 (3) Divisions 3 (commencing with Section 3101), 4
4 (commencing with Section 4101), 5 (commencing with Section
5 5101), 8 (commencing with Section 8101), 9 (commencing with
6 Section 9101), and 11 (commencing with Section 11101) of the
7 Uniform Commercial Code.

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

13 (c) This title does not apply to any specific transaction described
14 in Section 17511.5 of the Business and Professions Code, Section
15 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
16 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
17 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
18 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
19 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
20 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f,
21 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with
22 Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of,
23 Section 2954.5 or 2963 of, Chapter 2b (commencing with Section
24 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part
25 4 of Division 3 of, Section 3071.5 of, or Part 5 (commencing with
26 Section 4000) of Division 4 of this code, subdivision (b) of Section
27 18608 or Section 22328 of the Financial Code, Section 1358.15,
28 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety
29 Code, Section 662, paragraph (2) of subdivision (a) of Section
30 663, Section 664, 667.5, 673, 677, paragraph (2) of subdivision
31 (a) of Section 678, subdivisions (a) and (b) of Section 678.1,
32 Section 786, 10113.7, 10127.7, 10127.9, 10127.10, 10192.18,
33 10199.44, 10199.46, 10235.16, 10235.40, 10509.4, 10509.7,
34 11624.09, or 11624.1 of the Insurance Code, Section 779.1,
35 10010.1, or 16482 of the Public Utilities Code, or Section 9975
36 or 11738 of the Vehicle Code. An electronic record may not be
37 substituted for any notice that is required to be sent pursuant to
38 Section 1162 of the Code of Civil Procedure. Nothing in this
39 subdivision shall be construed to prohibit the recordation of any
40 document with a county recorder by electronic means.

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

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

7 (f) The exclusion of a transaction from the application of this
8 title under subdivision (b) or (c) shall be construed only to exclude
9 the transaction from the application of this title, but shall not be
10 construed to prohibit the transaction from being conducted by
11 electronic means if the transaction may be conducted by electronic
12 means under any other applicable law.

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

14 38.5. (a) Any written notice required to be given or mailed to
15 any person by an insurer relating to any insurance on risks or on
16 operations in this state not excepted by subdivision (a), (b), (c),
17 (d), (e), or (g) of Section 1851 from the coverage of Chapter 9
18 (commencing with Section 1850.4) of Part 2 of Division 1 of this
19 code may, if not excluded by subdivision (b) or (c) of Section
20 1633.3 of the Civil Code, be provided by electronic transmission
21 pursuant to Title 2.5 (commencing with Section 1633.1) of Part 2
22 of Division 3 of the Civil Code, if each party has agreed to conduct
23 the transaction by electronic means pursuant to Section 1633.5 of
24 the Civil Code. The affidavit of the person who initiated the
25 electronic transmission, stating the facts of that transmission into
26 an information processing system outside of the control of the
27 sender or of any person that sent the electronic record on behalf
28 of the sender, is prima facie evidence that the notice was
29 transmitted and shall be sufficient proof of notice. Any notice
30 provided by electronic transmission shall be treated as if mailed
31 or given for the purposes of any provision of this code, except as
32 provided by subdivision (g) of Section 1633.15 of the Civil Code.
33 The insurance company shall maintain a system for confirming
34 that any notice or document that is to be provided by electronic
35 means has been sent in a manner consistent with Section 1633.15
36 of the Civil Code. A valid electronic signature shall be sufficient
37 for any provision of law requiring a written signature. The
38 insurance company shall retain a copy of the confirmation and
39 electronic signature, when either is required, with the policy
40 information so that they are retrievable upon request by the

1 Department of Insurance while the policy is in force and for five
2 years thereafter.

3 (b) The offer of renewal required by Sections 663 and 678, the
4 notice of conditional renewal required by Section 678.1, and the
5 offer of coverage or renewal or any disclosure required by Section
6 10086 and the offer of renewal for a workers' compensation policy
7 may be provided by electronic transmission if an insurer complies
8 with all of the following:

9 (1) An insurer, or insurer's representative, acquires the consent
10 of the insured to opt in to receive the offer, notice, or disclosure
11 by electronic transmission, and the insured has not withdrawn that
12 consent, prior to providing the offer, notice, or disclosure by
13 electronic transmission. An insured's consent may be acquired
14 verbally, in writing, or electronically. If consent is acquired
15 verbally, the insurer shall confirm consent in writing or
16 electronically. The insurer shall retain a record of the insured's
17 consent to receive the offer, notice, or disclosure by electronic
18 transmission with the policy information so that it is retrievable
19 upon request by the Department of Insurance while the policy is
20 in force and for five years thereafter.

21 (2) An insurer discloses, in writing or electronically, to the
22 insured all of the following:

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

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

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

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

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

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

37 (4) An insurer shall annually provide one free printed copy of
38 any offer, notice, or disclosure described in subdivision (b) upon
39 request by the insured.

1 (5) An insurer shall maintain a process or system that can
 2 demonstrate that the offer, notice, or disclosure provided by
 3 electronic transmission was both sent and received consistent with
 4 Section 1633.15 of the Civil Code. The insurer shall *document*
 5 *and* retain information so that the information is retrievable upon
 6 request by the Department of Insurance while the current policy
 7 is in force and for five years thereafter related to its process or
 8 system demonstrating that the offer, notice, or disclosure provided
 9 by electronic transmission was sent *to the insured* by the applicable
 10 statutory regular mail delivery deadlines and received
 11 electronically. The offer, notice, or disclosure provided by
 12 electronic transmission shall be treated as if mailed so long as the
 13 insurer delivers it to the insured in compliance with the applicable
 14 statutory regular mail delivery deadlines.

15 (A) *Acceptable methods for an insurer to demonstrate that the*
 16 *offer, notice, or disclosure was sent to the insured include*
 17 *standards set forth in Section 1633.15 of the Civil Code, or simple*
 18 *mail transfer protocol server log files indicating transmission, or*
 19 *other methodologies indicating sent transmission consistent with*
 20 *this section.*

21 (B) *Acceptable methods for an insurer to demonstrate that the*
 22 *offer, notice, or disclosure was received by the insured include*
 23 *standards set forth in Section 1633.15 of the Civil Code, or server*
 24 *log files indicating that the email or application has been received,*
 25 *or log files showing that the insured logged into his or her secured*
 26 *account with the insurer, or other methodologies indicating*
 27 *received transmission consistent with this section.*

28 (6) (A) Upon an insurer receiving information indicating that
 29 the offer, notice, or disclosure sent by electronic transmission was
 30 not received by the insured, the insurer shall, within two business
 31 days, ~~do one of the following:~~ *either clause (i) or (ii):*

32 (A)

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

1 ~~(B)~~

2 (ii) Resend the offer, notice, or disclosure initially provided by
3 electronic transmission by regular mail to the insured at the address
4 shown on the policy.

5 (B) *Communication pursuant to clause (i) or (ii) of*
6 *subparagraph (A) is not subject to otherwise applicable statutory*
7 *regular mail delivery deadlines if the insurer complies with*
8 *paragraph (5).*

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

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

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

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

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

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

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

1 (c) In the event that an insurer fails to give the named insured
2 either an offer of renewal or notice of nonrenewal as required by
3 this section, the existing policy, with no change in its terms and
4 conditions, shall remain in effect for 30 days from the date that
5 either the offer to renew or the notice of nonrenewal is delivered
6 or mailed to the named insured. A notice to this effect shall be
7 provided by the insurer to the named insured with the policy or
8 the notice of renewal or nonrenewal. Notwithstanding the failure
9 of an insurer to comply with this section, the policy shall terminate
10 on the effective date of any other replacement or succeeding
11 automobile insurance policy procured by the insured, or his or her
12 agent or broker, with respect to any automobile designated in both
13 policies.

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

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

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

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

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

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

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

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

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

39 (C) A brief statement indicating that if the consumer has
40 contacted the insurer to discuss the nonrenewal and remains

1 unsatisfied, he or she may have the matter reviewed by the
2 department. The statement shall include the telephone number of
3 the unit within the department that responds to consumer inquiries
4 and complaints.

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

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

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

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

23 SEC. 5. Section 678.1 of the Insurance Code is amended to
24 read:

25 678.1. (a) This section applies only to policies of insurance
26 of commercial insurance that are subject to Sections 675.5 and
27 676.6.

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

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

1 (d) If an insurer fails to give timely notice required by
2 subdivision (c), the policy of insurance shall be continued, with
3 no change in its terms or conditions, for a period of 60 days after
4 the insurer gives the notice.

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

16 (f) A notice of nonrenewal shall not be required in any of the
17 following situations:

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

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

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

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

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

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

39 (g) The notice of conditional renewal described in subdivision
40 (c) may be provided electronically to the email address shown on

1 the policy if the insurer complies with subdivision (b) of Section
2 38.5.

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

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

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

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

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

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

34 (A) AMOUNT OF DWELLING COVERAGE: _____

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

38 YOUR INSURANCE COMPANY OR AGENT WILL
39 PROVIDE WRITTEN NOTICE AS TO HOW THE
40 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. 7. Section 10086 of the Insurance Code is amended to
6 read:

7 10086. (a) If an offer of earthquake coverage is accepted, the
8 coverage shall be continued at the applicable rates and conditions
9 for the policy term, provided the policy of residential property
10 insurance is not terminated by the named insured or insurer.

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

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

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

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

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

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

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

18
19
20
21

CALIFORNIA EARTHQUAKE AUTHORITY POLICY
DISCLOSURE

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

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

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

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

14 SEC. 8. Section 10087 of the Insurance Code is amended to
15 read:

16 10087. (a) As used in this chapter, “policy of residential
17 property insurance” shall mean a policy insuring individually
18 owned residential structures of not more than four dwelling units,
19 individually owned condominium units, or individually owned
20 mobilehomes, and their contents, located in this state and used
21 exclusively for residential purposes or a tenant’s policy insuring
22 personal contents of a residential unit located in this state. “Policy
23 of residential property insurance,” as defined, shall not include
24 insurance for real property or its contents used for any commercial,
25 industrial, or business purpose, except a structure of not more than
26 four dwelling units rented for individual residential purposes. A
27 policy that does not include any of the perils insured against in a
28 standard fire policy shall not be included in the definition of “policy
29 of residential property insurance.”

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

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