

AMENDED IN ASSEMBLY SEPTEMBER 3, 2013

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

(Coauthors: Assembly Members Bocanegra, Bonta, Fong, Hall, and Pan)

February 12, 2013

An act to amend, *repeal, and add* Section 1633.3 of the Civil Code, and to amend, *repeal, and add* 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, *until January 1, 2019*, authorize certain notices pertaining to ~~workers' compensation~~ *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. *The bill would require the Insurance Commissioner to submit a report, on or before January 1, 2018, to the Governor and to the committees of the Senate and Assembly having jurisdiction over insurance and the judiciary, regarding the impact and implementation of the authorization of the electronic transmission of certain insurance renewal offers, notices, or disclosures, as specified.*

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, *until January 1, 2019*, 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, *until January 1, 2019*, 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.

This bill would incorporate additional changes to Section 1633.3 of the Civil Code proposed by SB 752 that would become operative if this bill and SB 752 are both chaptered and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
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.

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

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

23 (c) This title does not apply to any specific transaction described
24 in Section 17511.5 of the Business and Professions Code, Section
25 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
26 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
27 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
28 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
29 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
30 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f,
31 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with
32 Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of,
33 Section 2954.5 or 2963 of, Chapter 2b (commencing with Section
34 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part
35 4 of Division 3 of, Section 3071.5 of, or Part 5 (commencing with
36 Section 4000) of Division 4 of this code, subdivision (b) of Section
37 18608 or Section 22328 of the Financial Code, Section 1358.15,
38 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety

1 Code, Section 662, paragraph (2) of subdivision (a) of Section
2 663, Section 664, 667.5, 673, 677, paragraph (2) of subdivision
3 (a) of Section 678, subdivisions (a) and (b) of Section 678.1,
4 Section 786, 10113.7, 10127.7, 10127.9, 10127.10, 10192.18,
5 10199.44, 10199.46, 10235.16, 10235.40, 10509.4, 10509.7,
6 11624.09, or 11624.1 of the Insurance Code, Section 779.1,
7 10010.1, or 16482 of the Public Utilities Code, or Section 9975
8 or 11738 of the Vehicle Code. An electronic record may not be
9 substituted for any notice that is required to be sent pursuant to
10 Section 1162 of the Code of Civil Procedure. Nothing in this
11 subdivision shall be construed to prohibit the recordation of any
12 document with a county recorder by electronic means.

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

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

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

25 (g) *This section shall remain in effect only until January 1, 2019,*
26 *and as of that date is repealed, unless a later enacted statute, that*
27 *is enacted before January 1, 2019, deletes or extends that date.*

28 *SEC. 1.5. Section 1633.3 of the Civil Code, as amended by*
29 *Section 36 of Chapter 181 of the Statutes of 2012, is amended to*
30 *read:*

31 1633.3. (a) Except as otherwise provided in subdivisions (b)
32 and (c), this title applies to electronic records and electronic
33 signatures relating to a transaction.

34 (b) This title does not apply to transactions subject to the
35 following laws:

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

38 (2) Division 1 (commencing with Section 1101) of the Uniform
39 Commercial Code, except Sections ~~1107~~ 1206 and ~~1206~~ 1306.

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

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

11 (c) This title does not apply to any specific transaction described
12 in Section 17511.5 of the Business and Professions Code, Section
13 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
14 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
15 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
16 1789.16, ~~1789.33~~, or 1793.23 of, Chapter 1 (commencing with
17 Section 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24,
18 1862.5, 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c,
19 2924f, 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing
20 with Section 2945) of Chapter 2 of Title 14 of Part 4 of Division
21 3 of, Section 2954.5 or 2963 of, Chapter 2b (commencing with
22 Section 2981) or 2d (commencing with Section 2985.7) of Title
23 14 of Part 4 of Division 3 of, Section 3071.5 of, ~~or~~ Part 5
24 (commencing with Section 4000) of Division 4 of, ~~the Civil Code~~
25 *or Part 5.3 (commencing with Section 6500) of Division 4 of this*
26 *code*, subdivision (b) of Section 18608 or Section 22328 of the
27 Financial Code, Section 1358.15, 1365, 1368.01, 1368.1, 1371, or
28 18035.5 of the Health and Safety Code, Section 662, *paragraph*
29 *(2) of subdivision (a) of Section 663, 664, 667.5, 673, 677,*
30 *paragraph (2) of subdivision (a) of Section 678, subdivisions (a)*
31 *and (b) of Section 678.1, Section 786, ~~10086~~, 10113.7, 10127.7,*
32 *10127.9, 10127.10, ~~10197~~, 10192.18, 10199.44, 10199.46,*
33 *10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or 11624.1 of*
34 *the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public*
35 *Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An*
36 *electronic record may not be substituted for any notice that is*
37 *required to be sent pursuant to Section 1162 of the Code of Civil*
38 *Procedure. Nothing in this subdivision shall be construed to*
39 *prohibit the recordation of any document with a county recorder*
40 *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 (g) *This section shall remain in effect only until January 1, 2019,*
14 *and as of that date is repealed, unless a later enacted statute, that*
15 *is enacted before January 1, 2019, deletes or extends that date.*

16 SEC. 2. Section 1633.3 is added to the Civil Code, to read:

17 1633.3. (a) *Except as otherwise provided in subdivisions (b)*
18 *and (c), this title applies to electronic records and electronic*
19 *signatures relating to a transaction.*

20 (b) *This title does not apply to transactions subject to the*
21 *following laws:*

22 (1) *A law governing the creation and execution of wills, codicils,*
23 *or testamentary trusts.*

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

26 (3) *Divisions 3 (commencing with Section 3101), 4 (commencing*
27 *with Section 4101), 5 (commencing with Section 5101), 8*
28 *(commencing with Section 8101), 9 (commencing with Section*
29 *9101), and 11 (commencing with Section 11101) of the Uniform*
30 *Commercial Code.*

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

36 (c) *This title does not apply to any specific transaction described*
37 *in Section 17511.5 of the Business and Professions Code, Section*
38 *56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,*
39 *or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of*
40 *Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,*

1 1789.16, or 1793.23 of, Chapter 1 (commencing with Section 1801)
2 of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
3 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f,
4 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with
5 Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of,
6 Section 2954.5 or 2963 of, Chapter 2b (commencing with Section
7 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part
8 4 of Division 3 of, Section 3071.5 of, or Part 5 (commencing with
9 Section 4000) of Division 4 of, this code, subdivision (b) of Section
10 18608 or Section 22328 of the Financial Code, Section 1358.15,
11 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety
12 Code, Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786,
13 10086, 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44,
14 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or
15 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482
16 of the Public Utilities Code, or Section 9975 or 11738 of the
17 Vehicle Code. An electronic record may not be substituted for any
18 notice that is required to be sent pursuant to Section 1162 of the
19 Code of Civil Procedure. Nothing in this subdivision shall be
20 construed to prohibit the recordation of any document with a
21 county recorder by electronic means.

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

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

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

34 (g) This section shall become operative on January 1, 2019.

35 SEC. 3. Section 1633.3 is added to the Civil Code, to read:

36 1633.3. (a) Except as otherwise provided in subdivisions (b)
37 and (c), this title applies to electronic records and electronic
38 signatures relating to a transaction.

39 (b) This title does not apply to transactions subject to the
40 following laws:

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

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

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

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

15 (c) This title does not apply to any specific transaction described
16 in Section 17511.5 of the Business and Professions Code, Section
17 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
18 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
19 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
20 1789.16, or 1793.23 of, Chapter 1 (commencing with Section 1801)
21 of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
22 1917.712, 1917.713, 1950.5, 1950.6, 1983, 2924b, 2924c, 2924f,
23 2924i, 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with
24 Section 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of,
25 Section 2954.5 or 2963 of, Chapter 2b (commencing with Section
26 2981) or 2d (commencing with Section 2985.7) of Title 14 of Part
27 4 of Division 3 of, Section 3071.5 of Part 5 (commencing with
28 Section 4000) of Division 4 of, or Part 5.3 (commencing with
29 Section 6500) of Division 4 of this code, subdivision (b) of Section
30 18608 or Section 22328 of the Financial Code, Section 1358.15,
31 1365, 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety
32 Code, Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786,
33 10086, 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44,
34 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or
35 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482
36 of the Public Utilities Code, or Section 9975 or 11738 of the
37 Vehicle Code. An electronic record may not be substituted for any
38 notice that is required to be sent pursuant to Section 1162 of the
39 Code of Civil Procedure. Nothing in this subdivision shall be

1 *construed to prohibit the recordation of any document with a*
2 *county recorder by electronic means.*

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

7 *(e) A transaction subject to this title is also subject to other*
8 *applicable substantive law.*

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

15 *(g) This section shall become operative on January 1, 2019.*

16 ~~SEC. 2.~~

17 *SEC. 4.* Section 38.5 of the Insurance Code is amended to read:

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

1 for any provision of law requiring a written signature. The
2 insurance company shall retain a copy of the confirmation and
3 electronic signature, when either is required, with the policy
4 information so that they are retrievable upon request by the
5 Department of Insurance while the policy is in force and for five
6 years thereafter.

7 (b) The offer of renewal required by Sections 663 and 678, the
8 notice of conditional renewal required by Section 678.1, and the
9 offer of coverage or renewal or any disclosure required by Section
10 10086 and the offer of renewal for a workers' compensation policy
11 may be provided by electronic transmission if an insurer complies
12 with all of the following:

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

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

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

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

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

34 (D) The process or system to report a change or correction in
35 the insured's ~~email~~ *e-mail* address.

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

39 (3) An insurer shall include the insured's ~~email~~ *e-mail* address
40 on the policy declaration page.

1 (4) An insurer shall annually provide one free printed copy of
2 any offer, notice, or disclosure described in *this* subdivision ~~(b)~~
3 upon request by the insured.

4 (5) An insurer shall maintain a process or system that can
5 demonstrate that the offer, notice, or disclosure provided by
6 electronic transmission was both sent and received consistent with
7 Section 1633.15 of the Civil Code. *If a different method of sending*
8 *or receiving is agreed upon by the insurer and the insured pursuant*
9 *to Section 1633.15 of the Civil Code, an insurer shall comply with*
10 *the provisions of this subdivision.* The insurer shall ~~document and~~
11 ~~retain and document~~ information so that the *documentation and*
12 information is retrievable upon request by the Department of
13 Insurance while the current policy is in force and for five years
14 thereafter related to its process or system demonstrating that the
15 offer, notice, or disclosure provided by electronic transmission
16 was sent to the insured by the applicable statutory regular mail
17 delivery deadlines and received electronically. The offer, notice,
18 or disclosure provided by electronic transmission shall be treated
19 as if mailed so long as the insurer delivers it to the insured in
20 compliance with the applicable statutory regular mail delivery
21 deadlines.

22 (A) Acceptable methods for an insurer to demonstrate that the
23 offer, notice, or disclosure was sent to the insured include *simple*
24 *mail transfer protocol server log files indicating transmission, or*
25 *other methodologies indicating sent transmission consistent with*
26 standards set forth in Section 1633.15 of the Civil Code, ~~or simple~~
27 ~~mail transfer protocol server log files indicating transmission, or~~
28 ~~other methodologies indicating sent transmission consistent with~~
29 ~~this section Code.~~

30 (B) Acceptable methods for an insurer to demonstrate that the
31 offer, notice, or disclosure was received by the insured include
32 *server log files indicating that the e-mail or application has been*
33 *received, or log files showing that the insured logged into his or*
34 *her secured account with the insurer, or other methodologies*
35 *indicating received transmission consistent with* standards set
36 forth in Section 1633.15 of the Civil Code, ~~or server log files~~
37 ~~indicating that the email or application has been received, or log~~
38 ~~files showing that the insured logged into his or her secured account~~
39 ~~with the insurer, or other methodologies indicating received~~
40 ~~transmission consistent with this section Code.~~

1 (6) *If the offer, notice, or disclosure is not delivered directly to*
 2 *the electronic address designated by the insured, but placed at an*
 3 *electronic address accessible to the insured, an insurer shall notify*
 4 *the insured in plain, clear, and conspicuous language at the*
 5 *electronic address designated by the insured that describes the*
 6 *offer, notice, or disclosure, informs that insured that it is available*
 7 *at another location, and provides instructions to the insured as to*
 8 *how to obtain the offer, notice, or disclosure.*

9 ~~(6)~~

10 (7) (A) Upon an insurer receiving information indicating that
 11 the offer, notice, or disclosure sent by electronic transmission was
 12 not received by the insured, the insurer shall, within two business
 13 days, either clause (i) or (ii):

14 (i) Contact the insured to confirm or update the insured's ~~email~~
 15 *e-mail* address and resend the offer, notice, or disclosure by
 16 electronic transmission. If the insurer elects to resend the offer,
 17 notice, or disclosure by electronic transmission, the insurer shall
 18 demonstrate the transmission was received by the insured, pursuant
 19 to paragraph (5). If the insurer is unable to confirm or update the
 20 insured's ~~email~~ *e-mail* address, the insurer shall resend the offer,
 21 notice, or disclosure by regular mail to the insured at the address
 22 shown on the policy.

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

26 ~~(B) Communication pursuant to clause (i) or (ii) of subparagraph~~
 27 ~~(A) is not subject to otherwise applicable statutory regular mail~~
 28 ~~delivery deadlines if the insurer complies with paragraph (5):~~

29 (B) *If the insurer sends the first electronic offer, notice, or*
 30 *disclosure within the time period required by law and the insurer*
 31 *complies with both paragraph (5) and subparagraph (A) of this*
 32 *paragraph, the electronic offer, notice, or disclosure sent pursuant*
 33 *to clause (i) or (ii) of subparagraph (A) shall be treated as if mailed*
 34 *in compliance with the applicable statutory regular mail delivery*
 35 *deadlines.*

36 (8) *On or before January 1, 2018, the commissioner shall submit*
 37 *a report to the Governor and to the committees of the Senate and*
 38 *Assembly having jurisdiction over insurance and the judiciary,*
 39 *regarding the impact and implementation of the authorization of*
 40 *the electronic transmission of certain insurance renewal offers,*

1 notices, or disclosures as authorized by this section. The report
2 shall include input from insurers, consumers, and consumer
3 organizations, and shall include an assessment of the department's
4 experience pertaining to the authorization of the electronic
5 transmission of insurance renewals as authorized by this section.

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

15 (d) This section shall remain in effect only until January 1, 2019,
16 and as of that date is repealed, unless a later enacted statute, that
17 is enacted before January 1, 2019, deletes or extends that date.

18 SEC. 5. Section 38.5 is added to the Insurance Code, to read:

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

1 *sufficient for any provision of law requiring a written signature.*
2 *The insurance company shall retain a copy of the confirmation*
3 *and electronic signature, when either is required, with the policy*
4 *information so that they are retrievable upon request by the*
5 *Department of Insurance while the policy is in force and for five*
6 *years thereafter.*

7 *(b) This section shall become operative on January 1, 2019.*

8 ~~SEC. 3.~~

9 SEC. 6. Section 663 of the Insurance Code is amended to read:

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

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

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

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

24 (2) An insurer that attempts to satisfy subdivision (a) with a
25 verbal offer to renew, but is unable to contact the named insured
26 directly at least 20 days before policy expiration, shall, at least 20
27 days before policy expiration, deliver to or mail to the named
28 insured, at the address shown on the policy, a written offer to renew
29 the policy, contingent upon payment of premium as stated in the
30 offer.

31 (c) In the event that an insurer fails to give the named insured
32 either an offer of renewal or notice of nonrenewal as required by
33 this section, the existing policy, with no change in its terms and
34 conditions, shall remain in effect for 30 days from the date that
35 either the offer to renew or the notice of nonrenewal is delivered
36 or mailed to the named insured. A notice to this effect shall be
37 provided by the insurer to the named insured with the policy or
38 the notice of renewal or nonrenewal. Notwithstanding the failure
39 of an insurer to comply with this section, the policy shall terminate
40 on the effective date of any other replacement or succeeding

1 automobile insurance policy procured by the insured, or his or her
2 agent or broker, with respect to any automobile designated in both
3 policies.

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

8 (e) The offer of renewal pursuant to this section may be provided
9 electronically to the ~~email~~ *e-mail* address shown on the policy if
10 the insurer complies with subdivision (b) of Section 38.5.

11 (f) *This section shall remain in effect only until January 1, 2019,*
12 *and as of that date is repealed, unless a later enacted statute, that*
13 *is enacted before January 1, 2019, deletes or extends that date.*

14 *SEC. 7. Section 663 is added to the Insurance Code, to read:*

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

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

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

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

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

36 *(c) In the event that an insurer fails to give the named insured*
37 *either an offer of renewal or notice of nonrenewal as required by*
38 *this section, the existing policy, with no change in its terms and*
39 *conditions, shall remain in effect for 30 days from the date that*
40 *either the offer to renew or the notice of nonrenewal is delivered*

1 or mailed to the named insured. A notice to this effect shall be
 2 provided by the insurer to the named insured with the policy or
 3 the notice of renewal or nonrenewal. Notwithstanding the failure
 4 of an insurer to comply with this section, the policy shall terminate
 5 on the effective date of any other replacement or succeeding
 6 automobile insurance policy procured by the insured, or his agent
 7 or broker, with respect to any automobile designated in both
 8 policies.

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

13 (e) This section shall become operative on January 1, 2019.

14 ~~SEC. 4.~~

15 SEC. 8. Section 678 of the Insurance Code is amended to read:

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

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

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

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

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

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

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

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

39 (b) In the event an insurer fails to give the named insured either
 40 an offer of renewal or notice of nonrenewal as required by this

1 section, the existing policy, with no change in its terms and
2 conditions, shall remain in effect for 45 days from the date that
3 either the offer to renew or the notice of nonrenewal is delivered
4 or mailed to the named insured. A notice to this effect shall be
5 provided by the insurer to the named insured with the policy or
6 the notice of renewal or nonrenewal.

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

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

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

17 (f) *This section shall remain in effect only until January 1, 2019,*
18 *and as of that date is repealed, unless a later enacted statute, that*
19 *is enacted before January 1, 2019, deletes or extends that date.*

20 *SEC. 9. Section 678 is added to the Insurance Code, to read:*

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

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

26 *(A) Any reduction of limits or elimination of coverage.*

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

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

33 *(A) The reason or reasons for the nonrenewal.*

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

38 *(C) A brief statement indicating that if the consumer has*
39 *contacted the insurer to discuss the nonrenewal and remains*
40 *unsatisfied, he or she may have the matter reviewed by the*

1 department. The statement shall include the telephone number of
2 the unit within the department that responds to consumer inquiries
3 and complaints.

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

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

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

19 (e) This section shall become operative on January 1, 2019.

20 ~~SEC. 5:~~

21 *SEC. 10.* 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~~ *e-mail* address
39 shown on the policy if the insurer complies with subdivision (b)
40 of Section 38.5.

1 *(h) This section shall remain in effect only until January 1, 2019,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2019, deletes or extends that date.*

4 *SEC. 11. Section 678.1 is added to the Insurance Code, to*
5 *read:*

6 *678.1. (a) This section applies only to policies of insurance*
7 *of commercial insurance that are subject to Sections 675.5 and*
8 *676.6.*

9 *(b) A notice of nonrenewal shall be in writing and shall be*
10 *delivered or mailed to the producer of record and to the named*
11 *insured at the mailing address shown on the policy. Subdivision*
12 *(a) of Section 1013 of the Code of Civil Procedure shall be*
13 *applicable if the notice is mailed.*

14 *(c) An insurer, at least 60 days, but not more than 120 days, in*
15 *advance of the end of the policy period, shall give notice of*
16 *nonrenewal, and the reasons for the nonrenewal, if the insurer*
17 *intends not to renew the policy, or to condition renewal upon*
18 *reduction of limits, elimination of coverages, increase in*
19 *deductibles, or increase of more than 25 percent in the rate upon*
20 *which the premium is based.*

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

25 *(e) With respect to policies defined in subdivision (b) of Section*
26 *676.6, in addition to the bases for conditional renewal set forth in*
27 *subdivision (c), an insurer may also condition renewal upon*
28 *requirements relating to the underlying policy or policies. If the*
29 *requirements are not satisfied as of (1) the expiration date of the*
30 *policy, or (2) 30 days after mailing or delivery of such notice,*
31 *whichever is later, the conditional renewal notice shall be treated*
32 *as an effective notice of nonrenewal, provided the insurer has sent*
33 *written confirmation to the first named insured and the producer*
34 *of record that the conditions were not met and that coverage ceased*
35 *at the expiration date shown in the expiring policy.*

36 *(f) A notice of nonrenewal shall not be required in any of the*
37 *following situations.*

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

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

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

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

9 (5) *The named insured requests a change in the terms or*
10 *conditions or risks covered by the policy within 60 days prior to*
11 *the end of the policy period.*

12 (6) *The insurer has made a written offer to the insured, within*
13 *the time period specified in subdivision (c), to renew the policy*
14 *under changed terms or conditions or at a changed premium rate.*
15 *As used herein, “terms or conditions” includes, but is not limited*
16 *to, a reduction in limits, elimination of coverages, or an increase*
17 *in deductibles.*

18 (g) *This section shall become operative on January 1, 2019.*

19 ~~SEC. 6.~~

20 SEC. 12. Section 10083 of the Insurance Code is amended to
21 read:

22 10083. (a) The offer of coverage required by Section 10081
23 may be made prior to, concurrent with, or within 60 days following
24 the issuance or renewal of a residential property insurance policy.
25 If the offer of coverage is mailed to the named insured or applicant,
26 it shall be mailed to the mailing address shown on the policy of
27 residential property insurance or on the application. The offer may
28 be made electronically pursuant to Section 38.5. The offer of
29 earthquake coverage shall contain the following language in at
30 least 10-point boldface type:

31 YOUR POLICY DOES NOT PROVIDE COVERAGE
32 AGAINST THE PERIL OF EARTHQUAKE.

33 CALIFORNIA LAW REQUIRES THAT EARTHQUAKE
34 COVERAGE BE OFFERED TO YOU AT YOUR OPTION.

35 WARNING: THESE COVERAGES MAY DIFFER
36 SUBSTANTIALLY FROM AND PROVIDE LESS
37 PROTECTION THAN THE COVERAGE PROVIDED BY YOUR
38 HOMEOWNERS’ INSURANCE POLICY. THERE ARE
39 EXCLUSIONS AND LIMITATIONS SUCH AS
40 OUTBUILDINGS, SWIMMING POOLS, MASONRY FENCES,

1 AND MASONRY CHIMNEYS. THIS DISCLOSURE FORM
2 CONTAINS ONLY A GENERAL DESCRIPTION OF
3 COVERAGES AND IS NOT PART OF YOUR EARTHQUAKE
4 INSURANCE POLICY. ONLY THE SPECIFIC PROVISIONS
5 OF YOUR POLICY WILL DETERMINE WHETHER A
6 PARTICULAR LOSS IS COVERED AND, IF SO, THE
7 AMOUNT PAYABLE.

8 THE COVERAGE, SUBJECT TO POLICY PROVISIONS,
9 MAY BE PURCHASED AT ADDITIONAL COST ON THE
10 FOLLOWING TERMS:

11 (A) AMOUNT OF DWELLING COVERAGE: _____
12 (B) APPLICABLE DEDUCTIBLE: _____ IF YOUR LOSS IS
13 BELOW THIS AMOUNT, YOU MAY NOT RECEIVE ANY
14 PAYMENT FROM YOUR COVERAGE.

15 YOUR INSURANCE COMPANY OR AGENT WILL
16 PROVIDE WRITTEN NOTICE AS TO HOW THE
17 DEDUCTIBLE APPLIES TO THE MARKET VALUE OF YOUR
18 COVERAGE, THE INSURED VALUE OF YOUR COVERAGE,
19 OR THE REPLACEMENT VALUE OF YOUR COVERAGE.

20 (C) CONTENTS COVERAGE: _____
21 IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE
22 FOR THE DWELLING, YOU WILL NOT RECEIVE ANY
23 PAYMENT FOR THIS COVERAGE.

24 YOUR INSURANCE COMPANY OR AGENT WILL
25 PROVIDE WRITTEN NOTICE AS TO HOW THE
26 DEDUCTIBLE APPLIES TO THE AMOUNT YOU RECEIVE
27 PURSUANT TO THIS COVERAGE.

28 (D) ADDITIONAL LIVING EXPENSES: _____

29 (E) RATE OR PREMIUM: _____
30 YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE
31 COVERAGE WITHIN 30 DAYS FROM THE DATE OF
32 MAILING OF THIS NOTICE OR IT SHALL BE
33 CONCLUSIVELY PRESUMED THAT YOU HAVE NOT
34 ACCEPTED THIS OFFER.

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

37 (b) When the insurer, agent, or broker establishes delivery of
38 the disclosure form by obtaining the signature of the applicant or
39 insured, or when an insurer, agent, or broker provides the applicant
40 with the disclosure form and the applicant does not return a signed

1 acknowledgment of receipt within 60 days of the date it was
2 provided, there shall be a conclusive presumption that the insurer,
3 agent, or broker has complied with the disclosure requirements of
4 this section.

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

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

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

12 (2) The modifications are necessary to ensure that the disclosure
13 statement accurately reflects the coverage actually provided by
14 the policy being offered.

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

18 (e) Use of the language prescribed by this section, or modified
19 language approved pursuant to subdivision (d), shall constitute
20 compliance with the requirements of Section 10081 by an insurer
21 subject thereto.

22 (f) *This section shall remain in effect only until January 1, 2019,*
23 *and as of that date is repealed, unless a later enacted statute, that*
24 *is enacted before January 1, 2019, deletes or extends that date.*

25 *SEC. 13. Section 10083 is added to the Insurance Code, to*
26 *read:*

27 *10083. (a) The offer of coverage required by Section 10081*
28 *may be made prior to, concurrent with, or within 60 days following*
29 *the issuance or renewal of a residential property insurance policy.*
30 *If the offer of coverage is mailed to the named insured or applicant,*
31 *it shall be mailed to the mailing address shown on the policy of*
32 *residential property insurance or on the application. The offer of*
33 *earthquake coverage shall contain the following language in at*
34 *least 10-point boldface type:*

35 ***YOUR POLICY DOES NOT PROVIDE COVERAGE AGAINST***
36 ***THE PERIL OF EARTHQUAKE.***

37 ***CALIFORNIA LAW REQUIRES THAT EARTHQUAKE***
38 ***COVERAGE BE OFFERED TO YOU AT YOUR OPTION.***

39 ***WARNING: THESE COVERAGES MAY DIFFER***
40 ***SUBSTANTIALLY FROM AND PROVIDE LESS PROTECTION***

1 THAN THE COVERAGE PROVIDED BY YOUR HOMEOWNERS'
2 INSURANCE POLICY. THERE ARE EXCLUSIONS AND
3 LIMITATIONS SUCH AS OUTBUILDINGS, SWIMMING POOLS,
4 MASONRY FENCES, AND MASONRY CHIMNEYS. THIS
5 DISCLOSURE FORM CONTAINS ONLY A GENERAL
6 DESCRIPTION OF COVERAGES AND IS NOT PART OF YOUR
7 EARTHQUAKE INSURANCE POLICY. ONLY THE SPECIFIC
8 PROVISIONS OF YOUR POLICY WILL DETERMINE WHETHER
9 A PARTICULAR LOSS IS COVERED AND, IF SO, THE AMOUNT
10 PAYABLE.

11 THE COVERAGE, SUBJECT TO POLICY PROVISIONS, MAY
12 BE PURCHASED AT ADDITIONAL COST ON THE FOLLOWING
13 TERMS:

14 (A) AMOUNT OF DWELLING COVERAGE: _____

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

18 YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE
19 WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES
20 TO THE MARKET VALUE OF YOUR COVERAGE, THE
21 INSURED VALUE OF YOUR COVERAGE, OR THE
22 REPLACEMENT VALUE OF YOUR COVERAGE.

23 (C) CONTENTS COVERAGE: _____

24 IF YOUR LOSS DOES NOT EXCEED THE DEDUCTIBLE FOR
25 THE DWELLING, YOU WILL NOT RECEIVE ANY PAYMENT
26 FOR THIS COVERAGE.

27 YOUR INSURANCE COMPANY OR AGENT WILL PROVIDE
28 WRITTEN NOTICE AS TO HOW THE DEDUCTIBLE APPLIES
29 TO THE AMOUNT YOU RECEIVE PURSUANT TO THIS
30 COVERAGE.

31 (D) ADDITIONAL LIVING EXPENSES: _____

32 (E) RATE OR PREMIUM: _____

33 YOU MUST ASK THE COMPANY TO ADD EARTHQUAKE
34 COVERAGE WITHIN 30 DAYS FROM THE DATE OF MAILING
35 OF THIS NOTICE OR IT SHALL BE CONCLUSIVELY
36 PRESUMED THAT YOU HAVE NOT ACCEPTED THIS OFFER.

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

39 (b) When the insurer, agent, or broker establishes delivery of
40 the disclosure form by obtaining the signature of the applicant or

1 *insured, or when an insurer, agent, or broker provides the*
2 *applicant with the disclosure form and the applicant does not*
3 *return a signed acknowledgment of receipt within 60 days of the*
4 *date it was provided, there shall be a conclusive presumption that*
5 *the insurer, agent, or broker has complied with the disclosure*
6 *requirements of this section.*

7 *(c) The offer may contain additional provisions not in conflict*
8 *with or in derogation of this section.*

9 *(d) The commissioner may only approve modifications to the*
10 *language prescribed in subdivision (a) if all of the following*
11 *conditions are met:*

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

14 *(2) The modifications are necessary to ensure that the disclosure*
15 *statement accurately reflects the coverage actually provided by*
16 *the policy being offered.*

17 *(3) The modifications are strictly limited to necessary changes*
18 *so that the modified disclosure statement is otherwise identical to*
19 *the disclosure statement prescribed in this section.*

20 *(e) Use of the language prescribed by this section, or modified*
21 *language approved pursuant to subdivision (d), shall constitute*
22 *compliance with the requirements of Section 10081 by an insurer*
23 *subject thereto.*

24 *(f) This section shall become operative on January 1, 2019.*

25 ~~SEC. 7.~~

26 *SEC. 14.* Section 10086 of the Insurance Code is amended to
27 read:

28 10086. (a) If an offer of earthquake coverage is accepted, the
29 coverage shall be continued at the applicable rates and conditions
30 for the policy term, provided the policy of residential property
31 insurance is not terminated by the named insured or insurer.

32 (1) At any renewal, an insurer may modify the terms and
33 conditions of an existing policy, rider, or endorsement providing
34 coverage against loss or damage caused by the peril of earthquake
35 if the modified terms and conditions provide the minimum
36 coverages required by Section 10089.

37 (2) An insurer that modifies the terms and conditions of an
38 existing policy, rider, or endorsement shall provide the insured
39 with the renewal notice in a stand-alone disclosure document
40 stating the changes in the terms and conditions of the insured's

1 existing policy, rider, or endorsement. The offer of renewal may
2 be made electronically pursuant to Section 38.5. Proof of mailing
3 of the disclosure document by first-class mail to a named insured
4 at the mailing address shown on the policy or application, or proof
5 consistent with Section 38.5 that the offer of renewal of coverage
6 was sent to the named insured or applicant by electronic
7 transmission, creates a conclusive presumption that the disclosure
8 document was provided. The disclosure shall include the following
9 statement in 14-point boldface type:

10 THE COVERAGE IN THE POLICY WE ARE OFFERING
11 YOU WITH THIS RENEWAL HAS BEEN REDUCED, AND
12 SUBSTANTIALLY DIFFERS FROM THE COVERAGES
13 PROVIDED BY YOUR HOMEOWNERS' POLICY.
14 INSURANCE COMPANIES ARE ALLOWED TO RENEW
15 EARTHQUAKE INSURANCE POLICIES WITH COVERAGE
16 THAT IS REDUCED FROM THE COVERAGE YOU
17 PREVIOUSLY PURCHASED. YOU MAY REQUEST A
18 SAMPLE COPY OF THIS NEW POLICY TO REVIEW PRIOR
19 TO MAKING A DECISION TO ACCEPT THIS RENEWAL,
20 AND WE WILL MAIL OR DELIVER IT TO YOU WITHIN 14
21 DAYS OF YOUR REQUEST. A REQUEST FOR THE SAMPLE
22 COPY SHALL NOT CHANGE OR EXTEND THE POLICY
23 EXPIRATION DATE SPECIFIED IN THE RENEWAL NOTICE.
24 A SUMMARY OF THE CHANGES IS INCLUDED WITH THIS
25 NOTICE.

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

30 The commissioner may approve substantially similar disclosure
31 forms if necessary to accurately disclose relevant information to
32 the policyholder. The commissioner may also approve disclosure
33 forms substantially similar to the disclosure statement required by
34 Section 10083 if necessary to accurately disclose relevant
35 information to the policyholder.

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

1 CALIFORNIA EARTHQUAKE AUTHORITY POLICY
2 DISCLOSURE
3

4 THIS POLICY IS BEING PURCHASED FROM THE
5 CALIFORNIA EARTHQUAKE AUTHORITY (“CEA”). THE
6 COVERAGE IN THIS CEA POLICY SUBSTANTIALLY
7 DIFFERS FROM THE COVERAGES PROVIDED IN YOUR
8 HOMEOWNER’S POLICY. THE CEA IS NOT PART OF OR
9 ASSOCIATED WITH YOUR HOMEOWNER’S INSURANCE
10 COMPANY. IF LOSSES AS A RESULT OF AN EARTHQUAKE
11 OR A SERIES OF EARTHQUAKES EXCEED THE
12 AVAILABLE RESOURCES OF THE CEA, THIS POLICY IS
13 NOT COVERED BY THE CALIFORNIA INSURANCE
14 GUARANTY ASSOCIATION. THEREFORE, THE
15 CALIFORNIA INSURANCE GUARANTY ASSOCIATION
16 WILL NOT PAY YOUR CLAIMS OR PROTECT YOUR
17 ASSETS IF THE CEA BECOMES INSOLVENT AND IS
18 UNABLE TO MAKE PAYMENTS AS PROMISED. IN
19 ADDITION, YOUR CEA POLICY MAY BE SUBJECT TO
20 FUTURE SURCHARGES OF THE POLICY PREMIUM IN
21 CERTAIN CASES WHERE AN EARTHQUAKE OR SERIES
22 OF EARTHQUAKES HAS EXCEEDED AVAILABLE
23 RESOURCES TO PAY CLAIMS. IN THAT CASE, THIS
24 MEANS THAT IN ADDITION TO THE ANNUAL PREMIUM,
25 YOU MAY BE CHARGED UP TO AN ADDITIONAL 20% OF
26 THE PREMIUM.

27 (b) If the offer is not accepted, the insurer or any affiliated
28 insurer shall be required on an every other year basis to offer
29 earthquake coverage in connection with any continuation, renewal,
30 or reinstatement of the policy following any lapse thereof, or with
31 respect to any other policy that extends, changes, supersedes, or
32 replaces the policy of residential property insurance. The offer
33 may be made electronically pursuant to Section 38.5.

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

36 (d) *This section shall remain in effect only until January 1, 2019,*
37 *and as of that date is repealed, unless a later enacted statute, that*
38 *is enacted before January 1, 2019, deletes or extends that date.*

39 SEC. 15. *Section 10086 is added to the Insurance Code, to*
40 *read:*

1 10086. (a) If an offer of earthquake coverage is accepted, the
2 coverage shall be continued at the applicable rates and conditions
3 for the policy term, provided the policy of residential property
4 insurance is not terminated by the named insured or insurer.

5 (1) At any renewal, an insurer may modify the terms and
6 conditions of an existing policy, rider, or endorsement providing
7 coverage against loss or damage caused by the peril of earthquake
8 if the modified terms and conditions provide the minimum
9 coverages required by Section 10089.

10 (2) An insurer that modifies the terms and conditions of an
11 existing policy, rider, or endorsement shall provide the insured
12 with the renewal notice in a stand-alone disclosure document
13 stating the changes in the terms and conditions of the insured's
14 existing policy, rider, or endorsement. Proof of mailing of the
15 disclosure document by first-class mail to a named insured at the
16 mailing address shown on the policy or application creates a
17 conclusive presumption that the disclosure document was provided.
18 The disclosure shall include the following statement in 14-point
19 boldface type:

20 **THE COVERAGE IN THE POLICY WE ARE OFFERING YOU**
21 **WITH THIS RENEWAL HAS BEEN REDUCED, AND**
22 **SUBSTANTIALLY DIFFERS FROM THE COVERAGES**
23 **PROVIDED BY YOUR HOMEOWNERS' POLICY. INSURANCE**
24 **COMPANIES ARE ALLOWED TO RENEW EARTHQUAKE**
25 **INSURANCE POLICIES WITH COVERAGE THAT IS REDUCED**
26 **FROM THE COVERAGE YOU PREVIOUSLY PURCHASED.**
27 **YOU MAY REQUEST A SAMPLE COPY OF THIS NEW POLICY**
28 **TO REVIEW PRIOR TO MAKING A DECISION TO ACCEPT**
29 **THIS RENEWAL, AND WE WILL MAIL OR DELIVER IT TO YOU**
30 **WITHIN 14 DAYS OF YOUR REQUEST. A REQUEST FOR THE**
31 **SAMPLE COPY SHALL NOT CHANGE OR EXTEND THE**
32 **POLICY EXPIRATION DATE SPECIFIED IN THE RENEWAL**
33 **NOTICE. A SUMMARY OF THE CHANGES IS INCLUDED WITH**
34 **THIS NOTICE.**

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

39 The commissioner may approve substantially similar disclosure
40 forms if necessary to accurately disclose relevant information to

1 *the policyholder. The commissioner may also approve disclosure*
2 *forms substantially similar to the disclosure statement required*
3 *by Section 10083 if necessary to accurately disclose relevant*
4 *information to the policyholder.*

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

8 **CALIFORNIA EARTHQUAKE AUTHORITY POLICY**
9 **DISCLOSURE**

10 **THIS POLICY IS BEING PURCHASED FROM THE**
11 **CALIFORNIA EARTHQUAKE AUTHORITY (“CEA”). THE**
12 **COVERAGE IN THIS CEA POLICY SUBSTANTIALLY DIFFERS**
13 **FROM THE COVERAGES PROVIDED IN YOUR**
14 **HOMEOWNER’S POLICY. THE CEA IS NOT PART OF OR**
15 **ASSOCIATED WITH YOUR HOMEOWNER’S INSURANCE**
16 **COMPANY. IF LOSSES AS A RESULT OF AN EARTHQUAKE**
17 **OR A SERIES OF EARTHQUAKES EXCEED THE AVAILABLE**
18 **RESOURCES OF THE CEA, THIS POLICY IS NOT COVERED**
19 **BY THE CALIFORNIA INSURANCE GUARANTY ASSOCIATION.**
20 **THEREFORE, THE CALIFORNIA INSURANCE GUARANTY**
21 **ASSOCIATION WILL NOT PAY YOUR CLAIMS OR PROTECT**
22 **YOUR ASSETS IF THE CEA BECOMES INSOLVENT AND IS**
23 **UNABLE TO MAKE PAYMENTS AS PROMISED. IN ADDITION,**
24 **YOUR CEA POLICY MAY BE SUBJECT TO FUTURE**
25 **SURCHARGES OF THE POLICY PREMIUM IN CERTAIN CASES**
26 **WHERE AN EARTHQUAKE OR SERIES OF EARTHQUAKES**
27 **HAS EXCEEDED AVAILABLE RESOURCES TO PAY CLAIMS.**
28 **IN THAT CASE, THIS MEANS THAT IN ADDITION TO THE**
29 **ANNUAL PREMIUM, YOU MAY BE CHARGED UP TO AN**
30 **ADDITIONAL 20% OF THE PREMIUM.**

31 *(b) If the offer is not accepted, the insurer or any affiliated*
32 *insurer shall be required on an every other year basis to offer*
33 *earthquake coverage in connection with any continuation, renewal,*
34 *or reinstatement of the policy following any lapse thereof, or with*
35 *respect to any other policy that extends, changes, supersedes, or*
36 *replaces the policy of residential property insurance.*

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

39 *(d) This section shall become operative on January 1, 2019.*

1 ~~SEC. 8.~~

2 ~~SEC. 16.~~ Section 10087 of the Insurance Code is amended to
3 read:

4 10087. (a) As used in this chapter, “policy of residential
5 property insurance” shall mean a policy insuring individually
6 owned residential structures of not more than four dwelling units,
7 individually owned condominium units, or individually owned
8 mobilehomes, and their contents, located in this state and used
9 exclusively for residential purposes or a tenant’s policy insuring
10 personal contents of a residential unit located in this state. “Policy
11 of residential property insurance,” as defined, shall not include
12 insurance for real property or its contents used for any commercial,
13 industrial, or business purpose, except a structure of not more than
14 four dwelling units rented for individual residential purposes. A
15 policy that does not include any of the perils insured against in a
16 standard fire policy shall not be included in the definition of “policy
17 of residential property insurance.”

18 (b) Proof of mailing of the offer by first-class mail addressed
19 to a named insured or applicant at the mailing address shown on
20 the policy or application, or proof consistent with Section 38.5
21 that the offer of coverage was sent to the named insured or
22 applicant by electronic transmission, shall create a conclusive
23 presumption that the offer was made.

24 (c) *This section shall remain in effect only until January 1, 2019,*
25 *and as of that date is repealed, unless a later enacted statute, that*
26 *is enacted before January 1, 2019, deletes or extends that date.*

27 ~~SEC. 17.~~ Section 10087 is added to the Insurance Code, to
28 read:

29 10087. (a) As used in this chapter “policy of residential
30 property insurance” shall mean a policy insuring individually
31 owned residential structures of not more than four dwelling units,
32 individually owned condominium units, or individually owned
33 mobilehomes, and their contents, located in this state and used
34 exclusively for residential purposes or a tenant’s policy insuring
35 personal contents of a residential unit located in this state. “Policy
36 of residential property insurance,” as defined, shall not include
37 insurance for real property or its contents used for any commercial,
38 industrial or business purpose, except a structure of not more than
39 four dwelling units rented for individual residential purposes. A
40 policy that does not include any of the perils insured against in a

1 *standard fire policy shall not be included in the definition of*
2 *“policy of residential property insurance.”*

3 *(b) Proof of mailing of the offer by first-class mail addressed*
4 *to a named insured or applicant at the mailing address shown on*
5 *the policy or application shall create a conclusive presumption*
6 *that the offer was made.*

7 *(c) This section shall become operative on January 1, 2019.*

8 *SEC. 18. Section 1.5 of this bill incorporates amendments to*
9 *Section 1633.3 of the Civil Code proposed by both this bill and*
10 *Senate Bill 752. It shall only become operative if (1) both bills are*
11 *enacted and become effective on or before January 1, 2014, (2)*
12 *each bill amends Section 1633.3 of the Civil Code, and (3) this*
13 *bill is enacted after Senate Bill 752, in which case Section 1 of this*
14 *bill shall not become operative.*

15 *SEC. 19. Section 2 of this bill shall only become operative if*
16 *(1) this bill is enacted and becomes effective on or before January*
17 *1, 2014, (2) this bill amends Section 1633.3 of the Civil Code, and*
18 *(3) Senate Bill 752 is not enacted, or if enacted on or before*
19 *January 1, 2014, does not amend Section 1633.3 of the Civil Code,*
20 *in which case Section 3 of this bill shall not become operative.*

21 *SEC. 20. Section 3 of this bill shall only become operative if*
22 *(1) both this bill and Senate Bill 752 are enacted and become*
23 *effective on or before January 1, 2014, and (2) each bill amends*
24 *Section 1633.3 of the Civil Code, in which case Section 2 of this*
25 *bill shall not become operative.*