

AMENDED IN ASSEMBLY MAY 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1131

Introduced by Assembly Member Dababneh

February 27, 2015

An act to amend *and repeal* Section 1633.3 of the Civil Code, ~~and to amend Sections 38.5, 38.8, 663, 678, and 678.1 of~~ *and to add and repeal Section 38.6 of* the Insurance Code, relating to electronic records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1131, as amended, Dababneh. Insurance: electronic transmission.

Existing law generally requires that any required notice related to insurance transactions be made by mail. Existing law authorizes an insurer, under specified conditions, to provide by electronic transmission the required offer of renewal for automobile insurance, the required offer of renewal or conditional renewal for property insurance, the required offer of coverage or renewal or any disclosure required regarding earthquake insurance, and the offer of renewal for a workers' compensation policy.

Existing law also generally requires that, a record, signature, or contract may not be denied legal effect or enforceability because it is in electronic form. Existing law exempts from this requirement disability insurance and life insurance policies and certificates offered for sale to individuals 65 years of age or older, notice of an increase in premiums on an individual life insurance policy, individual life insurance policies with a face value of less than \$10,000, a policy of individual life insurance that is initially delivered or issued for delivery in the state on and after January 1, 1990, applications for life insurance or annuity, and a policy replacement notice.

This bill ~~would~~ *would, for life insurance records*, authorize additional persons to send records by electronic transmission by providing that an insurer, agent, broker, or any other person licensed by the Department of Insurance may send electronic records. This bill would expand the scope of electronic notice provisions by allowing the above licensees to send any written record by electronic transmission if not specifically excluded and if the licensee meets specified requirements. *The bill would also require the commissioner to submit a report, as specified.*

This bill would make conforming changes.

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 3 of Chapter 913 of the Statutes of 2014, 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

1 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
2 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
3 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
4 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,
5 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section
6 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section
7 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)
8 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of
9 Division 3 of, Section 3071.5 of, Part 5 (commencing with Section
10 4000) of Division 4 of, or Part 5.3 (commencing with Section
11 6500) of Division 4 of this code, subdivision (b) of Section 18608
12 or Section 22328 of the Financial Code, Section 1358.15, 1365,
13 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
14 Section 662, paragraph (2) of subdivision (a) of Section 663, 664,
15 667.5, 673, 677, paragraph (2) of subdivision (a) of Section 678,
16 subdivisions (a) and (b) of Section 678.1, *Section 786 as it applies*
17 *to individual and group disability policies*, Section 10192.18,
18 10199.44, 10199.46, 10235.16, 10235.40, 11624.09, or 11624.1
19 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the
20 Public Utilities Code, or Section 9975 or 11738 of the Vehicle
21 Code. An electronic record may not be substituted for any notice
22 that is required to be sent pursuant to Section 1162 of the Code of
23 Civil Procedure. Nothing in this subdivision shall be construed to
24 prohibit the recordation of any document with a county recorder
25 by electronic means.

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

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

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

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

1 SEC. 2. ~~Section 38.5 of the Insurance Code, as amended by~~
2 ~~Section 4 of Chapter 369 of the Statutes of 2013, is amended to~~
3 ~~read:~~

4 ~~38.5. (a) (1) Any written record required to be given or mailed~~
5 ~~to any person by a licensee relating to any insurance on risks or~~
6 ~~on operations in this state not excepted by subdivision (a), (e), (d),~~
7 ~~(e), or (g) of Section 1851 from the coverage of Chapter 9~~
8 ~~(commencing with Section 1850.4) of Part 2 of Division 1 of this~~
9 ~~code may, if not excluded by subdivision (b) or (c) of Section~~
10 ~~1633.3 of the Civil Code, be provided by electronic transmission~~
11 ~~pursuant to Title 2.5 (commencing with Section 1633.1) of Part 2~~
12 ~~of Division 3 of the Civil Code, if each party has agreed to conduct~~
13 ~~the transaction by electronic means pursuant to Section 1633.5 of~~
14 ~~the Civil Code, and if the licensee complies with the provisions~~
15 ~~of this section. A valid electronic signature shall be sufficient for~~
16 ~~any provision of law requiring a written signature.~~

17 ~~(2) For purposes of this section, the definitions set forth in~~
18 ~~Section 1633.2 of the Civil Code shall apply. The term "licensee"~~
19 ~~means an insurer, agent, broker, or any other person who is required~~
20 ~~to be licensed by the department.~~

21 ~~(b) In order to transmit a record electronically, a licensee shall~~
22 ~~comply with all of the following:~~

23 ~~(1) A licensee, or licensee's representative, acquires the consent~~
24 ~~of the person to opt in to receive the record by electronic~~
25 ~~transmission, and the person has not withdrawn that consent, prior~~
26 ~~to providing the record by electronic transmission. A person's~~
27 ~~consent may be acquired verbally, in writing, or electronically. If~~
28 ~~consent is acquired verbally, the licensee shall confirm consent in~~
29 ~~writing or electronically. The licensee shall retain a record of the~~
30 ~~person's consent to receive the record by electronic transmission~~
31 ~~with the policy information so that it is retrievable upon request~~
32 ~~by the department while the policy is in force and for five years~~
33 ~~thereafter.~~

34 ~~(2) A licensee discloses, in writing or electronically, to the~~
35 ~~person all of the following:~~

36 ~~(A) The opt in to receive the record by electronic transmission~~
37 ~~is voluntary.~~

38 ~~(B) That the person may opt out of receiving the record by~~
39 ~~electronic transmission at any time, and the process or system for~~
40 ~~the person to opt out.~~

1 ~~(C) A description of the record that the person will receive by~~
2 ~~electronic transmission.~~
3 ~~(D) The process or system to report a change or correction in~~
4 ~~the person's email address.~~
5 ~~(E) The licensee's contact information, which includes, but is~~
6 ~~not limited to, a toll-free number or the licensee's Internet Web~~
7 ~~site address.~~
8 ~~(3) The disclosure required by paragraph (2) and the opt-in~~
9 ~~consent language may be set forth in the application or in a separate~~
10 ~~document that is part of the policy and shall be bolded or otherwise~~
11 ~~set forth in a conspicuous manner. The person's signature shall be~~
12 ~~set forth immediately below the person's opt-in consent and shall~~
13 ~~be obtained before the application is completed. The licensee shall~~
14 ~~retain a copy of the confirmation and electronic signature, if either~~
15 ~~is required, with the policy information so that each is retrievable~~
16 ~~upon request by the Department of Insurance while the policy is~~
17 ~~in force and for five years thereafter.~~
18 ~~(4) If the transaction specifically involves the insured, the~~
19 ~~licensee shall include the insured's email address on the policy~~
20 ~~declaration page.~~
21 ~~(5) The licensee shall annually provide one free printed copy~~
22 ~~of any record described in this subdivision upon request by the~~
23 ~~person.~~
24 ~~(6) If a provision of this code requires a licensee to transmit a~~
25 ~~record by regular mail, or does not specify a method of delivery,~~
26 ~~and if the licensee is not otherwise prohibited from transmitting~~
27 ~~the record electronically under subdivision (b) of Section 1633.8~~
28 ~~of the Civil Code, then the licensee shall maintain a process or~~
29 ~~system that can demonstrate that the record provided by electronic~~
30 ~~transmission was both sent and received consistent with Section~~
31 ~~1633.15 of the Civil Code. If a different method of sending or~~
32 ~~receiving is agreed upon by the licensee and the person pursuant~~
33 ~~to Section 1633.15 of the Civil Code, a licensee shall comply with~~
34 ~~the provisions of this subdivision. The licensee shall retain and~~
35 ~~document information so that the documentation and information~~
36 ~~is retrievable upon request by the department while the current~~
37 ~~policy is in force and for five years thereafter related to its process~~
38 ~~or system demonstrating that the record provided by electronic~~
39 ~~transmission was sent to the person by the applicable statutory~~
40 ~~regular mail delivery deadlines and received electronically. The~~

1 record provided by electronic transmission shall be treated as if
2 mailed so long as the licensee delivers it to the person in
3 compliance with the applicable statutory regular mail delivery
4 deadlines.

5 (A) Acceptable methods for a licensee to demonstrate that the
6 record was sent to the person include simple mail transfer protocol
7 server log files indicating transmission, or other methodologies
8 indicating sent transmission consistent with the standards set forth
9 in Section 1633.15 of the Civil Code.

10 (B) Acceptable methods for the licensee to demonstrate that the
11 record was received by the person include server log files indicating
12 that the email or application has been received, or log files showing
13 that the person logged into his or her secured account with the
14 licensee or other methodologies indicating received transmission
15 consistent with standards set forth in Section 1633.15 of the Civil
16 Code.

17 (7) Notwithstanding subdivision (b) of Section 1633.8 of the
18 Civil Code, if a provision of this code requires a licensee to
19 transmit a record by return receipt, registered mail, certified mail,
20 signed written receipt of delivery, or other method of delivery
21 evidencing actual receipt by the person, and if the licensee is not
22 otherwise prohibited from transmitting the record electronically
23 under Section 1633.3 of the Civil Code, then the licensee shall
24 maintain a process or system that demonstrates proof of delivery
25 and actual receipt of the record by the person consistent with this
26 paragraph. The licensee shall document and retain information
27 demonstrating delivery and actual receipt so that it is retrievable,
28 upon request, by the department at least five years after the policy
29 is no longer in force. The record provided by electronic
30 transmission shall be treated as if actually received if the licensee
31 delivers it to the person in compliance with applicable statutory
32 delivery deadlines. A licensee may demonstrate actual delivery
33 and receipt by any of the following:

34 (A) The person acknowledges receipt of the electronic
35 transmission of the record by returning an electronic receipt or by
36 executing an electronic signature.

37 (B) The record is made part of, or attached to, an email sent to
38 the email address designated by the person, a confirmation receipt,
39 or some other evidence that the person received the email in his
40 or her email account and opened the email.

1 ~~(C) The record is posted on the licensee's secure Internet Web~~
2 ~~site, evidence demonstrating that the person logged onto the~~
3 ~~licensee's secure Internet Web site and downloaded, printed, or~~
4 ~~otherwise acknowledged receipt of the record.~~

5 ~~(8) Any record required to be transmitted by first-class mail and~~
6 ~~not otherwise prohibited from being transmitted electronically may~~
7 ~~be transmitted under the provisions of paragraph (6), except that~~
8 ~~any notice of nonrenewal, lapse, cancellation, or termination of a~~
9 ~~policy of life insurance that is not prohibited to be transmitted~~
10 ~~electronically by subdivision (a), may be transmitted electronically,~~
11 ~~only if the licensee demonstrates proof of electronic delivery and~~
12 ~~receipt as set forth in paragraph (7). This paragraph applies to any~~
13 ~~law that requires notice of nonrenewal, lapse, cancellation, or~~
14 ~~termination of a policy of life insurance, including, but not limited~~
15 ~~to, subdivision (b) of Section 10113.71 and subdivision (c) of~~
16 ~~Section 10113.72.~~

17 ~~(9) If the record is not delivered directly to the electronic address~~
18 ~~designated by the person but placed at an electronic address~~
19 ~~accessible to the person, a licensee shall notify the person in plain,~~
20 ~~clear, and conspicuous language at the electronic address~~
21 ~~designated by the person that describes the record, informs that~~
22 ~~person that it is available at another location, and provides~~
23 ~~instructions to the person as to how to obtain the record.~~

24 ~~(10) (A) Upon a licensee receiving information indicating that~~
25 ~~the record sent by electronic transmission was not received by the~~
26 ~~person, the licensee shall, within two business days, either clause~~
27 ~~(i) or (ii):~~

28 ~~(i) Contact the person to confirm or update the person's email~~
29 ~~address and resend the record by electronic transmission. If the~~
30 ~~licensee elects to resend the record by electronic transmission, the~~
31 ~~licensee shall demonstrate the transmission was received by the~~
32 ~~person, pursuant to paragraph (6), (7), or (8). If the licensee is~~
33 ~~unable to confirm or update the person's email address, the licensee~~
34 ~~shall resend the record by regular mail to the licensee at the address~~
35 ~~shown on the policy.~~

36 ~~(ii) Resend the record initially provided by electronic~~
37 ~~transmission by regular mail to the insured at the address shown~~
38 ~~on the policy.~~

39 ~~(B) If the licensee sends the first electronic record within the~~
40 ~~time period required by law and the licensee complies with both~~

1 paragraph (5) and subparagraph (A) of this paragraph, the
2 electronic offer, notice, or disclosure sent pursuant to clause (i) or
3 (ii) of subparagraph (A) shall be treated as if mailed in compliance
4 with the applicable statutory regular mail delivery deadlines.

5 (11) The licensee shall not charge any person who declines to
6 opt in to receive a record through electronic transmission from
7 receiving a record electronically. The licensee shall not provide a
8 discount or an incentive to any person to induce or otherwise
9 encourage the person to opt in to receive electronic records.

10 (12) If a person has consented to receive records electronically
11 but a calendar year or more has elapsed since the last required
12 record for which consent was provided was electronically
13 transmitted by the licensee, the licensee shall verify, via paper
14 writing sent by regular mail, the accuracy of the person's email
15 address.

16 (e) On or before January 1, 2018, the commissioner shall submit
17 a report to the Governor and to the committees of the Senate and
18 Assembly having jurisdiction over insurance and the judiciary,
19 regarding the impact and implementation of the authorization of
20 the electronic transmission of certain insurance renewal offers,
21 notices, or disclosures as authorized by this section. The report
22 shall include input from insurers, consumers, and consumer
23 organizations, and shall include an assessment of the department's
24 experience pertaining to the authorization of the electronic
25 transmission of insurance renewals as authorized by this section.

26 (d) Notwithstanding paragraph (4) of subdivision (b) of Section
27 1633.3 of the Civil Code, for any policy of life insurance, any
28 statutory requirement for a separate acknowledgment, signature,
29 or initial, which is not expressly prohibited by subdivision (e) of
30 Section 1633.3 of the Civil Code, may be transacted using an
31 electronic signature, or by electronic transaction, subject to all
32 applicable provisions of this section.

33 (e) The department may suspend a licensee from providing
34 records by electronic transmission if there is a pattern or practices
35 that demonstrate the licensee has failed to comply with the
36 requirements of this section. A licensee may appeal the suspension
37 and resume its electronic transmission of records upon
38 communication from the department that the changes the licensee
39 made to its process or system to comply with the requirements of
40 this section are satisfactory.

1 ~~(f) 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. 3. Section 38.8 of the Insurance Code is amended to read:~~

5 ~~38.8. Licensees shall maintain a system for electronically~~
6 ~~confirming a person's decision to opt in to an agreement to conduct~~
7 ~~transactions electronically and a system that will allow the person~~
8 ~~to electronically opt out of the agreement to conduct business~~
9 ~~electronically as specified in subdivision (c) of Section 1633.5.~~
10 ~~The licensee shall maintain the electronic records for the same~~
11 ~~amount of time the licensee would be required to maintain those~~
12 ~~records if the records were in written form.~~

13 ~~SEC. 4. Section 663 of the Insurance Code, as amended by~~
14 ~~Section 6 of Chapter 369 of the Statutes of 2013, is amended to~~
15 ~~read:~~

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

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

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

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

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

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

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

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

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

17 ~~SEC. 5. Section 678 of the Insurance Code, as amended by~~
18 ~~Section 8 of Chapter 369 of the Statutes of 2013, is amended to~~
19 ~~read:~~

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

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

25 ~~(A) Any reduction of limits or elimination of coverage.~~

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

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

32 ~~(A) The reason or reasons for the nonrenewal.~~

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

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

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

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

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

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

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

21 ~~SEC. 6. Section 678.1 of the Insurance Code, as amended by~~
22 ~~Section 10 of Chapter 369 of the Statutes of 2013, is amended to~~
23 ~~read:~~

24 ~~678.1. (a) This section applies only to policies of insurance~~
25 ~~of commercial insurance that are subject to Sections 675.5 and~~
26 ~~676.6.~~

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

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

39 ~~(d) If an insurer fails to give timely notice required by~~
40 ~~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) This section shall remain in effect only until January 1, 2019,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2019, deletes or extends that date.~~

1 *SEC. 2. Section 1633.3 of the Civil Code, as amended by*
2 *Section 4 of Chapter 913 of the Statutes of 2014, is amended to*
3 *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, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,
31 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section
32 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section
33 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)
34 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of
35 Division 3 of, Section 3071.5 of Part 5 (commencing with Section
36 4000) of Division 4 of, or Part 5.3 (commencing with Section
37 6500) of Division 4 of this code, subdivision (b) of Section 18608
38 or Section 22328 of the Financial Code, Section 1358.15, 1365,
39 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
40 Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, ~~786, 10086,~~

1 ~~10113.7, 10127.7, 10127.9, 10127.10~~, 786 as it applies to
 2 individual and group disability policies, 10192.18, 10199.44,
 3 10199.46, 10235.16, 10235.40, ~~10509.4, 10509.7~~, 11624.09, or
 4 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482
 5 of the Public Utilities Code, or Section 9975 or 11738 of the
 6 Vehicle Code. An electronic record may not be substituted for any
 7 notice that is required to be sent pursuant to Section 1162 of the
 8 Code of Civil Procedure. Nothing in this subdivision shall be
 9 construed to prohibit the recordation of any document with a county
 10 recorder by electronic means.

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

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

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

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

24 (h) *This section shall remain in effect only until January 1, 2021,*
 25 *and as of that date is repealed, unless a later enacted statute, that*
 26 *is enacted before January 1, 2021, deletes or extends that date.*

27 *SEC. 3. Section 1633.3 of the Civil Code, as amended by*
 28 *Section 4 of Chapter 913 of the Statutes of 2014, is amended to*
 29 *read:*

30 1633.3. (a) Except as otherwise provided in subdivisions (b)
 31 and (c), this title applies to electronic records and electronic
 32 signatures relating to a transaction.

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

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

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

39 (3) Divisions 3 (commencing with Section 3101), 4
 40 (commencing with Section 4101), 5 (commencing with Section

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

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

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

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

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

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

9 (g) This section shall become operative on January 1, ~~2019~~
 10 2021.

11 *SEC. 4. Section 38.6 is added to the Insurance Code, to read:*

12 *38.6. (a) (1) Any written record required to be given or mailed*
 13 *to any person by a licensee relating to the business of life*
 14 *insurance, as defined in Section 101 of this code may, if not*
 15 *excluded by subdivision (b) or (c) of Section 1633.3 of the Civil*
 16 *Code, be provided by electronic transmission pursuant to Title 2.5*
 17 *(commencing with Section 1633.1) of Part 2 of Division 3 of the*
 18 *Civil Code, if each party has agreed to conduct the transaction by*
 19 *electronic means pursuant to Section 1633.5 of the Civil Code,*
 20 *and if the licensee complies with the provisions of this section. A*
 21 *valid electronic signature shall be sufficient for any provision of*
 22 *law requiring a written signature.*

23 *(2) For purposes of this section, the definitions set forth in*
 24 *Section 1633.2 of the Civil Code shall apply. The term “licensee”*
 25 *means an insurer, agent, broker, or any other person who is*
 26 *required to be licensed by the department.*

27 *(b) In order to transmit a life insurance record electronically,*
 28 *a licensee shall comply with all of the following:*

29 *(1) A licensee, or licensee’s representative, acquires the consent*
 30 *of the person to opt in to receive the record by electronic*
 31 *transmission, and the person has not withdrawn that consent, prior*
 32 *to providing the record by electronic transmission. A person’s*
 33 *consent may be acquired verbally, in writing, or electronically. If*
 34 *consent is acquired verbally, the licensee shall confirm consent in*
 35 *writing or electronically. The licensee shall retain a record of the*
 36 *person’s consent to receive the record by electronic transmission*
 37 *with the policy information so that it is retrievable upon request*
 38 *by the department while the policy is in force and for five years*
 39 *thereafter.*

1 (2) A licensee discloses, in writing or electronically, to the
2 person all of the following:

3 (A) The opt in to receive the record by electronic transmission
4 is voluntary.

5 (B) That the person may opt out of receiving the record by
6 electronic transmission at any time, and the process or system for
7 the person to opt out.

8 (C) A description of the record that the person will receive by
9 electronic transmission.

10 (D) The process or system to report a change or correction in
11 the person's email address.

12 (E) The licensee's contact information, which includes, but is
13 not limited to, a toll-free number or the licensee's Internet Web
14 site address.

15 (3) The opt-in consent form required by paragraph (2) may be
16 set forth in the application or in a separate document that is part
17 of the policy approved by the commissioner and shall be bolded
18 or otherwise set forth in a conspicuous manner. The person's
19 signature shall be set forth immediately below the person's opt-in
20 consent. If the licensee seeks consent at any time prior to the
21 completion of the application, consent and signature shall be
22 obtained before the application is completed. If the person has not
23 opted in at the time the application is completed, the licensee may
24 receive the opt in consent at any time thereafter, pursuant to the
25 same opt in requirements that apply at the time of the application.
26 The licensee shall retain a copy of the confirmation and electronic
27 signature, if either is required, with the policy information so that
28 each is retrievable upon request by the department while the policy
29 is in force and for five years thereafter.

30 (4) The email address of the person who has consented to
31 electronic transmission shall be set forth on the consent form and
32 on the policy declaration page or annual statement if sent to the
33 person who has consented.

34 (5) The licensee shall annually provide one free printed copy
35 of any record described in this subdivision upon request by the
36 person.

37 (6) If a provision of this code requires a licensee to transmit a
38 record by regular mail, does not specify a method of delivery, or
39 is a record that is required to be provided pursuant to Article 6.6
40 (commencing with Section 791), and if the licensee is not otherwise

1 prohibited from transmitting the record electronically under
2 subdivision (b) of Section 1633.8 of the Civil Code, then the
3 licensee shall maintain a process or system that can demonstrate
4 that the record provided by electronic transmission was both sent
5 and received consistent with Section 1633.15 of the Civil Code. If
6 a different method of sending or receiving is agreed upon by the
7 licensee and the person pursuant to Section 1633.15 of the Civil
8 Code, a licensee shall comply with the provisions of this
9 subdivision. The licensee shall retain and document information
10 so that the documentation and information is retrievable upon
11 request by the department while the current policy is in force and
12 for five years thereafter related to its process or system
13 demonstrating that the record provided by electronic transmission
14 was sent to the person by the applicable statutory regular mail
15 delivery deadlines and received electronically. The record provided
16 by electronic transmission shall be treated as if mailed so long as
17 the licensee delivers the record to the person in compliance with
18 the applicable statutory regular mail delivery deadlines.

19 (A) Acceptable methods for a licensee to demonstrate that the
20 record was sent to the person include simple mail transfer protocol
21 server log files indicating transmission, or other methodologies
22 indicating sent transmission consistent with the standards set forth
23 in Section 1633.15 of the Civil Code.

24 (B) Acceptable methods for the licensee to demonstrate that the
25 record was received by the person include server log files
26 indicating that the email or application has been received, or log
27 files showing that the person logged into his or her secured account
28 with the licensee or other methodologies indicating received
29 transmission consistent with the standards set forth in Section
30 1633.15 of the Civil Code.

31 (7) Notwithstanding subdivision (b) of Section 1633.8 of the
32 Civil Code, if a provision of this code requires a licensee to
33 transmit a record by return receipt, registered mail, certified mail,
34 signed written receipt of delivery, or other method of delivery
35 evidencing actual receipt by the person, and if the licensee is not
36 otherwise prohibited from transmitting the record electronically
37 under Section 1633.3 of the Civil Code and the provisions of this
38 section, then the licensee shall maintain a process or system that
39 demonstrates proof of delivery and actual receipt of the record by
40 the person consistent with this paragraph. The licensee shall

1 document and retain information demonstrating delivery and actual
2 receipt so that it is retrievable, upon request, by the department
3 at least five years after the policy is no longer in force. The record
4 provided by electronic transmission shall be treated as if actually
5 received if the licensee delivers the record to the person in
6 compliance with applicable statutory delivery deadlines. A licensee
7 may demonstrate actual delivery and receipt by any of the
8 following:

9 (A) The person acknowledges receipt of the electronic
10 transmission of the record by returning an electronic receipt or
11 by executing an electronic signature.

12 (B) The record is made part of, or attached to, an email sent to
13 the email address designated by the person, and there is a
14 confirmation receipt, or some other evidence that the person
15 received the email in his or her email account and opened the
16 email.

17 (C) The record is posted on the licensee's secure Internet Web
18 site, and there is evidence demonstrating that the person logged
19 onto the licensee's secure Internet Web site and downloaded,
20 printed, or otherwise acknowledged receipt of the record.

21 (D) If a licensee is unable to demonstrate actual delivery and
22 receipt pursuant to this paragraph, the licensee shall resend the
23 record by regular mail to the person in the manner originally
24 specified by the underlying provision of this code.

25 (8) Any record required to be transmitted by first-class mail
26 and not otherwise prohibited from being transmitted electronically
27 may be transmitted under the provisions of paragraph (6), except
28 that any notice of nonrenewal, lapse, cancellation, or termination
29 of a policy of life insurance, as defined in Section 101, that is not
30 prohibited to be transmitted electronically by subdivision (a), may
31 be transmitted electronically, only if the licensee demonstrates
32 proof of electronic delivery and receipt as set forth in paragraph
33 (7). This paragraph applies to any law that requires notice of
34 nonrenewal, lapse, cancellation, or termination of a policy of life
35 insurance, including, but not limited to, subdivision (b) of Section
36 10113.71 and subdivision (c) of Section 10113.72.

37 (9) If the record is not delivered directly to the electronic
38 address designated by the person but placed at an electronic
39 address accessible to the person, a licensee shall notify the person
40 in plain, clear, and conspicuous language at the electronic address

1 *designated by the person that describes the record, informs that*
2 *person that it is available at another location, and provides*
3 *instructions to the person as to how to obtain the record.*

4 *(10) (A) Upon a licensee receiving information indicating that*
5 *the record sent by electronic transmission was not received by the*
6 *person, the licensee shall, within five business days, comply with*
7 *either clause (i) or (ii):*

8 *(i) Contact the person to confirm or update the person's email*
9 *address and resend the record by electronic transmission. If the*
10 *licensee elects to resend the record by electronic transmission, the*
11 *licensee shall demonstrate the transmission was received by the*
12 *person, pursuant to paragraph (6), (7), or (8). If the licensee is*
13 *unable to confirm or update the person's email address, the*
14 *licensee shall resend the record by regular mail to the licensee at*
15 *the address shown on the policy, or if the underlying statute*
16 *requires delivery in a specified manner, send the record in that*
17 *specified manner.*

18 *(ii) Resend the record initially provided by electronic*
19 *transmission by regular mail to the insured at the address shown*
20 *on the policy, or if the underlying statute requires delivery in a*
21 *specified manner, send the record in that specified manner.*

22 *(B) If the licensee sends the first electronic record within the*
23 *time period required by law and the licensee complies with both*
24 *paragraph (5) and subparagraph (A) of this paragraph, the record*
25 *sent pursuant to clause (i) or (ii) of subparagraph (A) shall be*
26 *treated as if mailed in compliance with the applicable statutory*
27 *regular mail delivery deadlines.*

28 *(11) The licensee shall not charge any person who declines to*
29 *opt in to receive a record through electronic transmission from*
30 *receiving a record electronically. The licensee shall not provide*
31 *a discount or an incentive to any person to opt in to receive*
32 *electronic records.*

33 *(12) The licensee shall verify a person's email address via paper*
34 *writing sent by regular mail when more than 12 months have*
35 *elapsed since the license's last electronic communication.*

36 *(c) On or before January 1, 2020, 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 (d) Notwithstanding paragraph (4) of subdivision (b) of Section
7 1633.3 of the Civil Code, for any policy of life insurance, as defined
8 in Section 101, any statutory requirement for a separate
9 acknowledgment, signature, or initial, which is not expressly
10 prohibited by subdivision (c) of Section 1633.3 of the Civil Code,
11 may be transacted using an electronic signature, or by electronic
12 transaction, subject to all applicable provisions of this section.

13 (e) The department may suspend a licensee from providing
14 records by electronic transmission if there is a pattern or practices
15 that demonstrate the licensee has failed to comply with the
16 requirements of this section. A licensee may appeal the suspension
17 and resume its electronic transmission of records upon
18 communication from the department that the changes the licensee
19 made to its process or system to comply with the requirements of
20 this section are satisfactory.

21 (f) This section shall remain in effect only until January 1, 2021,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2021, deletes or extends that date.