

AMENDED IN SENATE SEPTEMBER 1, 2015

AMENDED IN SENATE AUGUST 18, 2015

AMENDED IN SENATE JUNE 29, 2015

AMENDED IN ASSEMBLY MAY 14, 2015

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~~ *amend, add, and repeal* Section 1633.3 of the Civil Code, 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, 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. The bill would exempt an insurance agent or broker from civil liability for any deficiency in the electronic procedures agreed to by the parties if *the* insurance agent or broker meets various requirements, as specified.

This bill would make conforming changes.

This bill would incorporate changes to Section 1633.3 of the Civil Code proposed by both this bill and AB 1097, which would become operative only if both bills are enacted and become effective on or before January 1, 2016, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: 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.

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, or 1793.23 of, Chapter 1 (commencing with Section
17 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
18 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,
19 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section
20 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section
21 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)
22 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of
23 Division 3 of, Section 3071.5 of, Part 5 (commencing with Section
24 4000) of Division 4 of, or Part 5.3 (commencing with Section
25 6500) of Division 4 of this code, subdivision (b) of Section 18608
26 or Section 22328 of the Financial Code, Section 1358.15, 1365,
27 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
28 Section 662, paragraph (2) of subdivision (a) of Section 663, 664,
29 667.5, 673, 677, paragraph (2) of subdivision (a) of Section 678,
30 subdivisions (a) and (b) of Section 678.1, Section 786 as it applies
31 to individual and group disability policies, Section 10192.18,
32 10199.44, 10199.46, 10235.16, 10235.40, 11624.09, or 11624.1
33 of the Insurance Code, Section 779.1, 10010.1, or 16482 of the
34 Public Utilities Code, or Section 9975 or 11738 of the Vehicle
35 Code. An electronic record may not be substituted for any notice
36 that is required to be sent pursuant to Section 1162 of the Code of
37 Civil Procedure. Nothing in this subdivision shall be construed to
38 prohibit the recordation of any document with a county recorder
39 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. 1.5. Section 1633.3 of the Civil Code, as amended by*
17 *Section 3 of Chapter 913 of the Statutes of 2014, is amended to*
18 *read:*

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

22 (b) This title does not apply to transactions subject to the
23 following laws:

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

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

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

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

38 (c) This title does not apply to any specific transaction described
39 in Section 17511.5 of the Business and Professions Code, Section
40 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,

1 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
2 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
3 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
4 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
5 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,
6 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section
7 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section
8 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)
9 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of
10 Division 3 of, Section 3071.5 of, Part 5 (commencing with Section
11 4000) of Division 4 of, or Part 5.3 (commencing with Section
12 6500) of Division 4 of this code, subdivision (b) of Section 18608
13 or Section 22328 of the Financial Code, Section 1358.15, 1365,
14 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
15 Section 662, paragraph (2) of subdivision (a) of Section 663, 664,
16 667.5, 673, 677, paragraph (2) of subdivision (a) of Section 678,
17 subdivisions (a) and (b) of Section 678.1, Section ~~786, 10113.7,~~
18 ~~10127.7, 10127.9, 10127.10,~~ *786 as it applies to individual and*
19 *group disability policies*, Section 10192.18, 10199.44, 10199.46,
20 10235.16, 10235.40, ~~10509.4, 10509.7,~~ 11624.09, or 11624.1 of
21 the Insurance Code, Section 779.1, 10010.1, or 16482 of the Public
22 Utilities Code, or Section 9975 or 11738 of the Vehicle Code. An
23 electronic record may not be substituted for any notice that is
24 required to be sent pursuant to Section 1162 of the Code of Civil
25 Procedure. Nothing in this subdivision shall be construed to
26 prohibit the recordation of any document with a county recorder
27 by electronic means.

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

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

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

1 (g) Notwithstanding subdivisions (b) and (c), this title shall
2 apply to electronic records and electronic signatures relating to
3 transactions conducted by a person licensed, certified, or registered
4 pursuant to the Alarm Company Act (Chapter 11.6 (commencing
5 with Section 7590) of Division 3 of the Business and Professions
6 Code) for purposes of activities authorized by Section 7599.54 of
7 the Business and Professions Code.

8 ~~(g)~~

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

12 SEC. 2. Section 1633.3 of the Civil Code, as amended by
13 Section 4 of Chapter 913 of the Statutes of 2014, is amended to
14 read:

15 1633.3. (a) Except as otherwise provided in subdivisions (b)
16 and (c), this title applies to electronic records and electronic
17 signatures relating to a transaction.

18 (b) This title does not apply to transactions subject to the
19 following laws:

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

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

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

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

34 (c) This title does not apply to any specific transaction described
35 in Section 17511.5 of the Business and Professions Code, Section
36 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
37 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
38 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
39 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
40 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,

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

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

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

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

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

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

37 *SEC. 2.5. Section 1633.3 of the Civil Code, as amended by*
38 *Section 4 of Chapter 913 of the Statutes of 2014, is amended to*
39 *read:*

1 1633.3. (a) Except as otherwise provided in subdivisions (b)
 2 and (c), this title applies to electronic records and electronic
 3 signatures relating to a transaction.

4 (b) This title does not apply to transactions subject to the
 5 following laws:

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

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

10 (3) Divisions 3 (commencing with Section 3101), 4
 11 (commencing with Section 4101), 5 (commencing with Section
 12 5101), 8 (commencing with Section 8101), 9 (commencing with
 13 Section 9101), and 11 (commencing with Section 11101) of the
 14 Uniform Commercial Code.

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

20 (c) This title does not apply to any specific transaction described
 21 in Section 17511.5 of the Business and Professions Code, Section
 22 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
 23 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
 24 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
 25 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
 26 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
 27 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,
 28 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section
 29 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section
 30 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)
 31 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of
 32 Division 3 of, Section 3071.5 of Part 5 (commencing with Section
 33 4000) of Division 4 of, or Part 5.3 (commencing with Section
 34 6500) of Division 4 of this code, subdivision (b) of Section 18608
 35 or Section 22328 of the Financial Code, Section 1358.15, 1365,
 36 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
 37 Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, ~~786, 10086,~~
 38 ~~10113.7, 10127.7, 10127.9, 10127.10,~~ *786 as it applies to*
 39 *individual and group disability policies*, 10192.18, 10199.44,
 40 10199.46, 10235.16, 10235.40, ~~10509.4, 10509.7,~~ 11624.09, or

1 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482
2 of the Public Utilities Code, or Section 9975 or 11738 of the
3 Vehicle Code. An electronic record may not be substituted for any
4 notice that is required to be sent pursuant to Section 1162 of the
5 Code of Civil Procedure. Nothing in this subdivision shall be
6 construed to prohibit the recordation of any document with a county
7 recorder by electronic means.

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

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

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

20 (g) *Notwithstanding subdivisions (b) and (c), this title shall*
21 *apply to electronic records and electronic signatures relating to*
22 *transactions conducted by a person licensed, certified, or registered*
23 *pursuant to the Alarm Company Act (Chapter 11.6 (commencing*
24 *with Section 7590) of Division 3 of the Business and Professions*
25 *Code) for purposes of activities authorized by Section 7599.54 of*
26 *the Business and Professions Code.*

27 ~~(g)~~

28 (h) This section shall become operative on January 1, 2019.

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

32 ~~SEC. 3. Section 1633.3 of the Civil Code, as amended by~~
33 ~~Section 4 of Chapter 913 of the Statutes of 2014, is amended to~~
34 ~~read:~~

35 ~~1633.3.—~~

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

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

1 (b) This title does not apply to transactions subject to the
 2 following laws:

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

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

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

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

17 (c) This title does not apply to any specific transaction described
 18 in Section 17511.5 of the Business and Professions Code, Section
 19 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,
 20 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of
 21 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,
 22 1789.16, or 1793.23 of, Chapter 1 (commencing with Section
 23 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,
 24 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,
 25 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section
 26 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section
 27 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)
 28 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of
 29 Division 3 of, Section 3071.5 of Part 5 (commencing with Section
 30 4000) of Division 4 of, or Part 5.3 (commencing with Section
 31 6500) of Division 4 of this code, subdivision (b) of Section 18608
 32 or Section 22328 of the Financial Code, Section 1358.15, 1365,
 33 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,
 34 Section 662, 663, 664, 667.5, 673, 677, 678, 678.1, 786, 10086,
 35 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44,
 36 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or
 37 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482
 38 of the Public Utilities Code, or Section 9975 or 11738 of the
 39 Vehicle Code. An electronic record may not be substituted for any
 40 notice that is required to be sent pursuant to Section 1162 of the

1 Code of Civil Procedure. Nothing in this subdivision shall be
2 construed to prohibit the recordation of any document with a county
3 recorder by electronic means.

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

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

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

16 (g) This section shall become operative on January 1, 2021.

17 *SEC. 3.5. Section 1633.3 is added to the Civil Code, to read:*

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

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

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

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

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

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

37 *(c) This title does not apply to any specific transaction described*
38 *in Section 17511.5 of the Business and Professions Code, Section*
39 *56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,*
40 *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 1801)
3 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 6500)
11 of Division 4 of this code, subdivision (b) of Section 18608 or
12 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, 663, 664, 667.5, 673, 677, 678, 678.1, 786, 10086,
15 10113.7, 10127.7, 10127.9, 10127.10, 10192.18, 10199.44,
16 10199.46, 10235.16, 10235.40, 10509.4, 10509.7, 11624.09, or
17 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482
18 of the Public Utilities Code, or Section 9975 or 11738 of the
19 Vehicle Code. An electronic record may not be substituted for any
20 notice that is required to be sent pursuant to Section 1162 of the
21 Code of Civil Procedure. Nothing in this subdivision shall be
22 construed to prohibit the recordation of any document with a
23 county recorder by electronic means.

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

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

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

36 (g) Notwithstanding subdivisions (b) and (c), this title shall
37 apply to electronic records and electronic signatures relating to
38 transactions conducted by a person licensed, certified, or registered
39 pursuant to the Alarm Company Act (Chapter 11.6 (commencing
40 with Section 7590) of Division 3 of the Business and Professions

1 *Code) for purposes of activities authorized by Section 7599.54 of*
2 *the Business and Professions Code.*

3 *(h) This section shall become operative on January 1, 2021.*

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

5 38.6. (a) (1) Any written record required to be given or mailed
6 to any person by a licensee relating to the business of life insurance,
7 as defined in Section 101 of this code may, if not excluded by
8 subdivision (b) or (c) of Section 1633.3 of the Civil Code, be
9 provided by electronic transmission pursuant to Title 2.5
10 (commencing with Section 1633.1) of Part 2 of Division 3 of the
11 Civil Code, if each party has agreed to conduct the transaction by
12 electronic means pursuant to Section 1633.5 of the Civil Code,
13 and if the licensee complies with the provisions of this section. A
14 valid electronic signature shall be sufficient for any provision of
15 law requiring a written signature.

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

20 (3) Notwithstanding subdivision (l) of Section 1633.2 of the
21 Civil Code, for purposes of this section, “person” includes, but is
22 not limited to, the policy owner, policyholder, applicant, insured,
23 or assignee or designee of an insured.

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

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

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

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

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

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

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

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

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

26 (4) The email address of the person who has consented to
27 electronic transmission shall be set forth on the consent disclosure.
28 In addition, if the person who consented receives an annual
29 statement, the email address of the person who has consented shall
30 be set forth on that record.

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

34 (6) If a provision of this code requires a licensee to transmit a
35 record by first class mail, regular mail, does not specify a method
36 of delivery, or is a record that is required to be provided pursuant
37 to Article 6.6 (commencing with Section 791), and if the licensee
38 is not otherwise prohibited from transmitting the record
39 electronically under subdivision (b) of Section 1633.8 of the Civil
40 Code, then the record may be transmitted by electronic transmission

1 if the licensee complies with all of the requirements of Sections
2 1633.15 and 1633.16 of the Civil Code.

3 (7) Notwithstanding subdivision (b) of Section 1633.8 of the
4 Civil Code, if a provision of this code requires a licensee to
5 transmit a record by return receipt, registered mail, certified mail,
6 signed written receipt of delivery, or other method of delivery
7 evidencing actual receipt by the person, and if the licensee is not
8 otherwise prohibited from transmitting the record electronically
9 under Section 1633.3 of the Civil Code and the provisions of this
10 section, then the licensee shall maintain a process or system that
11 demonstrates proof of delivery and actual receipt of the record by
12 the person consistent with this paragraph. The licensee shall
13 document and retain information demonstrating delivery and actual
14 receipt so that it is retrievable, upon request, by the department at
15 least five years after the policy is no longer in force. The record
16 provided by electronic transmission shall be treated as if actually
17 received if the licensee delivers the record to the person in
18 compliance with applicable statutory delivery deadlines. A licensee
19 may demonstrate actual delivery and receipt by any of the
20 following:

21 (A) The person acknowledges receipt of the electronic
22 transmission of the record by returning an electronic receipt or by
23 executing an electronic signature.

24 (B) The record is made part of, or attached to, an email sent to
25 the email address designated by the person, and there is a
26 confirmation receipt, or some other evidence that the person
27 received the email in his or her email account and opened the
28 email.

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

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

37 (8) Notwithstanding any other law, a notice of lapse,
38 nonrenewal, cancellation, or termination of any product subject to
39 this section may be transmitted electronically if the licensee

1 demonstrates proof of delivery as set forth in paragraph (7) and
2 complies with the other provisions in this section.

3 (9) If the record is not delivered directly to the electronic address
4 designated by the person but placed at an electronic address
5 accessible to the person, a licensee shall notify the person in plain,
6 clear, and conspicuous language at the electronic address
7 designated by the person that describes the record, informs that
8 person that it is available at another location, and provides
9 instructions to the person as to how to obtain the record.

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

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

23 (ii) Resend the record initially provided by electronic
24 transmission by regular mail to the insured at the address shown
25 on the policy, or, if the underlying statute requires delivery in a
26 specified manner, send the record in that specified manner.

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

33 (11) The licensee shall not charge any person who declines to
34 opt in to receive a record through electronic transmission from
35 receiving a record electronically. The licensee shall not provide a
36 discount or an incentive to any person to opt in to receive electronic
37 records.

38 (12) The licensee shall verify a person’s email address via paper
39 writing sent by regular mail when more than 12 months have
40 elapsed since the license’s last electronic communication.

1 (c) An insurance agent or broker acting under the direction of
2 a party that enters into a contract by means of an electronic record
3 or electronic signature shall not be held liable for any deficiency
4 in the electronic procedures agreed to by the parties under that
5 contract if all of the following are met:

6 (1) The insurance agent or broker has not engaged in negligent,
7 reckless, or intentional tortious conduct.

8 (2) The insurance agent or broker was not involved in the
9 development or establishment of the electronic procedures.

10 (3) The insurance agent or broker did not deviate from the
11 electronic procedures.

12 (d) On or before January 1, 2020, the commissioner shall submit
13 a report to the Governor and to the committees of the Senate and
14 Assembly having jurisdiction over insurance and the judiciary,
15 regarding the impact and implementation of the authorization of
16 the electronic transmission of certain insurance renewal offers,
17 notices, or disclosures as authorized by this section. The report
18 shall include input from insurers, consumers, and consumer
19 organizations, and shall include an assessment of the department's
20 experience pertaining to the authorization of the electronic
21 transmission of insurance renewals as authorized by this section.

22 (e) Notwithstanding paragraph (4) of subdivision (b) of Section
23 1633.3 of the Civil Code, for any policy of life insurance, as
24 defined in Section 101, any statutory requirement for a separate
25 acknowledgment, signature, or initial, which is not expressly
26 prohibited by subdivision (c) of Section 1633.3 of the Civil Code,
27 may be transacted using an electronic signature, or by electronic
28 transaction, subject to all applicable provisions of this section.

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

37 (g) This section shall remain in effect only until January 1, 2021,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2021, deletes or extends that date.

1 *SEC. 5. Sections 1.5, 2.5, and 3.5 of this bill incorporate*
2 *statutory changes to Section 1633.3 of the Civil Code proposed*
3 *by both this bill and Assembly Bill 1097. Those sections shall only*
4 *become operative if (1) both bills are enacted and become effective*
5 *on or before January 1, 2016, (2) each bill amends or adds Section*
6 *1633.3 of the Civil Code, and (3) this bill is enacted after Assembly*
7 *Bill 1097, in which case Sections 1, 2, and 3 of this bill shall not*
8 *become operative.*

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