

AMENDED IN ASSEMBLY MAY 27, 2016  
AMENDED IN ASSEMBLY MAY 10, 2016  
AMENDED IN ASSEMBLY APRIL 13, 2016  
AMENDED IN ASSEMBLY MARCH 31, 2016  
AMENDED IN ASSEMBLY MARCH 17, 2016  
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2591**

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**Introduced by Assembly Member Dababneh**  
**(Coauthors: Assembly Members Travis Allen, Cristina Garcia,**  
**O'Donnell, Olsen, and Wilk)**  
(Coauthor: Senator Bates)

February 19, 2016

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An act to *repeal and* amend Section 1633.3 of the Civil Code, and to amend *and add* Section 38.6 of, and to repeal Section 38.5 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2591, as amended, Dababneh. Insurance: electronic transmission. Existing law generally requires, with exceptions, that specified provisions of the Civil Code apply to electronic records and electronic signatures relating to a transaction. This bill would remove various notices, including a policy cancellation notice by the named insured and a written notice of nonrenewal of the policy from the above exemptions, making those notices subject to the specified provisions of the Civil Code. The bill, commencing January

1, 2021, would reinstate ~~the~~ *certain* exemptions of those notices from the specified provisions of the Civil Code.

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 notice of~~ conditional renewal for ~~property commercial~~ 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.

The bill would, *until January 1, 2021*, for the above-specified records, authorize persons in addition to the insurer to send those records by electronic transmission by providing that an agent, broker, or any other person licensed by the Department of Insurance may send those records electronically, as specified. *The bill, as of January 1, 2021, would no longer authorize the notice of conditional renewal for commercial insurance to be sent electronically.*

Existing law prohibits an insurer, relating to any insurance on risks or on operations in this state, including reinsurance, life insurance, insurance of vessels or craft, title insurance, and disability insurance, from sending a written notice by electronic transmission.

This bill would repeal the above prohibition, thereby allowing an insurer, relating to any insurance on risks or on operations in this state, including reinsurance, life insurance, insurance of vessels or craft, title insurance, and disability insurance, to send a written notice by electronic transmission.

Vote: majority. Appropriation: no. Fiscal committee: no.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 1633.3 of the Civil Code, as amended~~
- 2     ~~by Section 1.5 of Chapter 638 of the Statutes of 2015, 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:~~

- 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) ~~Division 3 (commencing with Section 3101), Division 4~~  
6 ~~(commencing with Section 4101), Division 5 (commencing with~~  
7 ~~Section 5101), Division 8 (commencing with Section 8101),~~  
8 ~~Division 9 (commencing with Section 9101), and Division 11~~  
9 ~~(commencing with Section 11101) of the Uniform Commercial~~  
10 ~~Code.~~
- 11 (4) ~~A law that requires that specifically identifiable text or~~  
12 ~~disclosures in a record or a portion of a record be separately signed,~~  
13 ~~including initialed, from the record. However, this paragraph does~~  
14 ~~not apply to Section 1677 or 1678 of this code or Section 1298 of~~  
15 ~~the Code of Civil Procedure.~~
- 16 (e) ~~This title does not apply to any specific transaction described~~  
17 ~~in Section 17511.5 of the Business and Professions Code, Section~~  
18 ~~56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,~~  
19 ~~or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of~~  
20 ~~Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,~~  
21 ~~1789.16, or 1793.23 of, Chapter 1 (commencing with Section~~  
22 ~~1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,~~  
23 ~~1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,~~  
24 ~~2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section~~  
25 ~~2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section~~  
26 ~~2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)~~  
27 ~~or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of~~  
28 ~~Division 3 of, Section 3071.5 of, Part 5 (commencing with Section~~  
29 ~~4000) of Division 4 of, or Part 5.3 (commencing with Section~~  
30 ~~6500) of Division 4 of this code, subdivision (b) of Section 18608~~  
31 ~~or Section 22328 of the Financial Code, Section 1358.15, 1365,~~  
32 ~~1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,~~  
33 ~~Section 786 as it applies to individual and group disability policies,~~  
34 ~~Section 10192.18, 10199.44, 10199.46, 10235.16, 10235.40,~~  
35 ~~11624.09, or 11624.1 of the Insurance Code, Section 779.1,~~  
36 ~~10010.1, or 16482 of the Public Utilities Code, or Section 9975~~  
37 ~~or 11738 of the Vehicle Code. An electronic record may not be~~  
38 ~~substituted for any notice that is required to be sent pursuant to~~  
39 ~~Section 1162 of the Code of Civil Procedure. Nothing in this~~

1 ~~subdivision shall be construed to prohibit the recordation of any~~  
2 ~~document with a 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 under~~  
5 ~~subdivision (b) when used for a transaction subject to a law other~~  
6 ~~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) Notwithstanding subdivisions (b) and (c), this title shall~~  
16 ~~apply to electronic records and electronic signatures relating to~~  
17 ~~transactions conducted by a person licensed, certified, or registered~~  
18 ~~pursuant to the Alarm Company Act (Chapter 11.6 (commencing~~  
19 ~~with Section 7590) of Division 3 of the Business and Professions~~  
20 ~~Code) for purposes of activities authorized by Section 7599.54 of~~  
21 ~~the Business and Professions Code.~~

22 ~~(h) 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 *SECTION 1. Section 1633.3 of the Civil Code, as amended by*  
26 *Section 1.5 of Chapter 638 of the Statutes of 2015, is repealed.*

27 ~~1633.3. (a) Except as otherwise provided in subdivisions (b)~~  
28 ~~and (c), this title applies to electronic records and electronic~~  
29 ~~signatures relating to a transaction.~~

30 ~~(b) This title does not apply to transactions subject to the~~  
31 ~~following laws:~~

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

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

36 ~~(3) Divisions 3 (commencing with Section 3101), 4~~  
37 ~~(commencing with Section 4101), 5 (commencing with Section~~  
38 ~~5101), 8 (commencing with Section 8101), 9 (commencing with~~  
39 ~~Section 9101), and 11 (commencing with Section 11101) of the~~  
40 ~~Uniform Commercial Code.~~

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

6 ~~(e) This title does not apply to any specific transaction described~~  
7 ~~in Section 17511.5 of the Business and Professions Code, Section~~  
8 ~~56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,~~  
9 ~~or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of~~  
10 ~~Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,~~  
11 ~~1789.16, or 1793.23 of, Chapter 1 (commencing with Section~~  
12 ~~1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,~~  
13 ~~1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,~~  
14 ~~2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section~~  
15 ~~2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section~~  
16 ~~2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)~~  
17 ~~or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of~~  
18 ~~Division 3 of, Section 3071.5 of, Part 5 (commencing with Section~~  
19 ~~4000) of Division 4 of, or Part 5.3 (commencing with Section~~  
20 ~~6500) of Division 4 of this code, subdivision (b) of Section 18608~~  
21 ~~or Section 22328 of the Financial Code, Section 1358.15, 1365,~~  
22 ~~1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,~~  
23 ~~Section 662, paragraph (2) of subdivision (a) of Section 663, 664,~~  
24 ~~667.5, 673, 677, paragraph (2) of subdivision (a) of Section 678,~~  
25 ~~subdivisions (a) and (b) of Section 678.1, Section 786 as it applies~~  
26 ~~to individual and group disability policies, Section 10192.18,~~  
27 ~~10199.44, 10199.46, 10235.16, 10235.40, 11624.09, or 11624.1~~  
28 ~~of the Insurance Code, Section 779.1, 10010.1, or 16482 of the~~  
29 ~~Public Utilities Code, or Section 9975 or 11738 of the Vehicle~~  
30 ~~Code. An electronic record may not be substituted for any notice~~  
31 ~~that is required to be sent pursuant to Section 1162 of the Code of~~  
32 ~~Civil Procedure. Nothing in this subdivision shall be construed to~~  
33 ~~prohibit the recordation of any document with a county recorder~~  
34 ~~by electronic means.~~

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

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

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

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

14 ~~(h) 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. 2. Section 1633.3 of the Civil Code, as amended by  
18 Section 2.5 of Chapter 638 of the Statutes of 2015, is amended to  
19 read:

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

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

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

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

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

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

39 (c) This title does not apply to any specific transaction described  
40 in Section 17511.5 of the Business and Professions Code, Section

1 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,  
2 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of  
3 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,  
4 1789.16, or 1793.23 of, Chapter 1 (commencing with Section  
5 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,  
6 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,  
7 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section  
8 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section  
9 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)  
10 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of  
11 Division 3 of, Section 3071.5 of Part 5 (commencing with Section  
12 4000) of Division 4 of, or Part 5.3 (commencing with Section  
13 6500) of Division 4 of this code, subdivision (b) of Section 18608  
14 or Section 22328 of the Financial Code, Section 1358.15, 1365,  
15 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,  
16 Section 786 as it applies to individual and group disability policies,  
17 10192.18, 10199.44, 10199.46, 10235.16, 10235.40, 11624.09, or  
18 11624.1 of the Insurance Code, Section 779.1, 10010.1, or 16482  
19 of the Public Utilities Code, or Section 9975 or 11738 of the  
20 Vehicle Code. An electronic record may not be substituted for any  
21 notice that is required to be sent pursuant to Section 1162 of the  
22 Code of Civil Procedure. Nothing in this subdivision shall be  
23 construed to prohibit the recordation of any document with a county  
24 recorder by electronic means.

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

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

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

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

1 with Section 7590) of Division 3 of the Business and Professions  
2 Code) for purposes of activities authorized by Section 7599.54 of  
3 the Business and Professions Code.

4 ~~(h) This section shall become operative on January 1, 2019:~~

5 ~~(i)~~

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

9 *SEC. 3. Section 1633.3 of the Civil Code, as added by Section*  
10 *3.5 of Chapter 638 of the Statutes of 2015, is amended to read:*

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

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

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

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

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

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

30 (c) This title does not apply to any specific transaction described  
31 in Section 17511.5 of the Business and Professions Code, Section  
32 56.11, 56.17, 798.14, 1133, or 1134 of, Section 1689.6, 1689.7,  
33 or 1689.13 of, Chapter 2.5 (commencing with Section 1695) of  
34 Title 5 of Part 2 of Division 3 of, Section 1720, 1785.15, 1789.14,  
35 1789.16, or 1793.23 of, Chapter 1 (commencing with Section  
36 1801) of Title 2 of Part 4 of Division 3 of, Section 1861.24, 1862.5,  
37 1917.712, 1917.713, 1950.6, 1983, 2924b, 2924c, 2924f, 2924i,  
38 2924j, 2924.3, or 2937 of, Article 1.5 (commencing with Section  
39 2945) of Chapter 2 of Title 14 of Part 4 of Division 3 of, Section  
40 2954.5 or 2963 of, Chapter 2b (commencing with Section 2981)

1 or 2d (commencing with Section 2985.7) of Title 14 of Part 4 of  
2 Division 3 of, Section 3071.5 of Part 5 (commencing with Section  
3 4000) of Division 4 of, or Part 5.3 (commencing with Section  
4 6500) of Division 4 of this code, subdivision (b) of Section 18608  
5 or Section 22328 of the Financial Code, Section 1358.15, 1365,  
6 1368.01, 1368.1, 1371, or 18035.5 of the Health and Safety Code,  
7 Section 662, *paragraph (2) of subdivision (a) of Section 663*, 664,  
8 ~~667.5~~, 673, 677, ~~678~~, 678.1, 786, *paragraph (2) of subdivision (a)*  
9 *of Section 10086*, ~~10113.7~~, ~~10127.7~~, ~~10127.9~~, ~~10127.10~~, 10192.18,  
10 10199.44, 10199.46, 10235.16, 10235.40, ~~10509.4~~, ~~10509.7~~,  
11 11624.09, or 11624.1 of the Insurance Code, Section 779.1,  
12 10010.1, or 16482 of the Public Utilities Code, or Section 9975  
13 or 11738 of the Vehicle Code. An electronic record may not be  
14 substituted for any notice that is required to be sent pursuant to  
15 Section 1162 of the Code of Civil Procedure. Nothing in this  
16 subdivision shall be construed to prohibit the recordation of any  
17 document with a county recorder by electronic means.

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

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

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

30 (g) Notwithstanding subdivisions (b) and (c), this title shall  
31 apply to electronic records and electronic signatures relating to  
32 transactions conducted by a person licensed, certified, or registered  
33 pursuant to the Alarm Company Act (Chapter 11.6 (commencing  
34 with Section 7590) of Division 3 of the Business and Professions  
35 Code) for purposes of activities authorized by Section 7599.54 of  
36 the Business and Professions Code.

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

38 ~~SEC. 3.~~

39 *SEC. 4.* Section 38.5 of the Insurance Code, as amended by  
40 Section 4 of Chapter 369 of the Statutes of 2013, is repealed.

1     ~~SEC. 4.~~

2     ~~SEC. 5.~~ Section 38.5 of the Insurance Code, as added by  
3 Section 5 of Chapter 369 of the Statutes of 2013, is repealed.

4     ~~SEC. 5.~~

5     ~~SEC. 6.~~ Section 38.6 of the Insurance Code is amended to read:

6     38.6. (a) (1) Any written record required to be given or mailed  
7 to any person by a licensee, including an offer of renewal required  
8 by Sections 663 and 678, the notice of policy change or  
9 cancellation requested by the insured as required by Section 667.5,  
10 the notice of conditional renewal required by Section 678.1, the  
11 offer of coverage or renewal or any disclosure required by Section  
12 10086, the offer of renewal for a workers' compensation policy,  
13 Section 662, paragraph (2) of subdivision (a) of Section 663,  
14 Section 664, 667.5, 673, 677, paragraph (2) of subdivision (a) of  
15 Section 678, subdivisions (a) and (b) of Section 678.1, or any  
16 written record required to be given or mailed to any person by a  
17 licensee relating to the business of life insurance, as defined in  
18 Section 101 of this code may, if not excluded by subdivision (b)  
19 or (c) of Section 1633.3 of the Civil Code, be provided by  
20 electronic transmission pursuant to Title 2.5 (commencing with  
21 Section 1633.1) of Part 2 of Division 3 of the Civil Code, if each  
22 party has agreed to conduct the transaction by electronic means  
23 pursuant to Section 1633.5 of the Civil Code, and if the licensee  
24 complies with the provisions of this section. A valid electronic  
25 signature shall be sufficient for any provision of law requiring a  
26 written signature.

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

31     (3) Notwithstanding subdivision (1) of Section 1633.2 of the  
32 Civil Code, for purposes of this section, "person" includes, but is  
33 not limited to, the policy owner, policyholder, applicant, insured,  
34 or assignee or designee of an insured.

35     (b) In order to transmit a record listed in subdivision (a)  
36 electronically, a licensee shall comply with all of the following:

37     (1) A licensee, or licensee's representative, acquires the consent  
38 of the person to opt in to receive the record by electronic  
39 transmission, and the person has not withdrawn that consent, prior  
40 to providing the record by electronic transmission. A person's

1 consent may be acquired verbally, in writing, or electronically. If  
2 consent is acquired verbally, the licensee shall confirm consent in  
3 writing or electronically. The licensee shall retain a record of the  
4 person's consent to receive the record by electronic transmission  
5 with the policy information so that it is retrievable upon request  
6 by the department while the policy is in force and for five years  
7 thereafter.

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

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

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

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

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

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

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

37 (4) The email address of the person who has consented to  
38 electronic transmission shall be set forth on the consent disclosure.  
39 In addition, if the person who consented receives an annual

1 statement, the email address of the person who has consented shall  
2 be set forth on that record.

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

6 (6) If a provision of this code requires a licensee to transmit a  
7 record by first-class mail, regular mail, does not specify a method  
8 of delivery, or is a record that is required to be provided pursuant  
9 to Article 6.6 (commencing with Section 791), and if the licensee  
10 is not otherwise prohibited from transmitting the record  
11 electronically under subdivision (b) of Section 1633.8 of the Civil  
12 Code, then the record may be transmitted by electronic transmission  
13 if the licensee complies with all of the requirements of Sections  
14 1633.15 and 1633.16 of the Civil Code.

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

33 (A) The person acknowledges receipt of the electronic  
34 transmission of the record by executing an electronic signature.

35 (B) The record is posted on the licensee's secure Internet Web  
36 site, and there is evidence demonstrating that the person logged  
37 onto the licensee's secure Internet Web site and downloaded,  
38 printed, or otherwise acknowledged receipt of the record.

39 (C) If a licensee is unable to demonstrate actual delivery and  
40 receipt pursuant to this paragraph, the licensee shall resend the

1 record by regular mail to the person in the manner originally  
2 specified by the underlying provision of this code.

3 (8) Notwithstanding any other law, a notice of lapse,  
4 nonrenewal, cancellation, or termination of any product subject to  
5 this section may be transmitted electronically if the licensee  
6 demonstrates proof of delivery as set forth in paragraph (7) and  
7 complies with the other provisions in this section.

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

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

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

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

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

38 (11) The licensee shall not charge any person who declines to  
39 opt in to receive a record through electronic transmission from  
40 receiving a record electronically. The licensee shall not provide a

1 discount or an incentive to any person to opt in to receive electronic  
2 records.

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

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

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

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

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

17 (d) (1) On or before January 1, 2019, the commissioner shall  
18 submit a report to the Governor and to the committees of the Senate  
19 and Assembly having jurisdiction over insurance and the judiciary,  
20 regarding the impact and implementation of the authorization of  
21 the electronic transmission of certain insurance renewal offers,  
22 notices, or disclosures, relating to the business of life insurance,  
23 as authorized by this section. The report shall include input from  
24 insurers, consumers, and consumer organizations, and shall include  
25 an assessment of the department’s experience pertaining to the  
26 authorization of the electronic transmission of insurance renewals,  
27 relating to the business of life insurance, as authorized by this  
28 section.

29 (2) On or before January 1, 2019, the commissioner shall submit  
30 a report to the Governor and to the committees of the Senate and  
31 Assembly having jurisdiction over insurance and the judiciary,  
32 regarding the impact and implementation of the authorization of  
33 the electronic transmission of certain insurance renewal offers,  
34 notices, or disclosures including an offer of renewal required by  
35 Sections 663 and 678, the notice of conditional renewal required  
36 by Section 678.1, the offer of coverage or renewal or any disclosure  
37 required by Section 10086, and the offer of renewal for a workers’  
38 compensation policy, as authorized by this section. The report  
39 shall include input from insurers, consumers, and consumer  
40 organizations, and shall include an assessment of the department’s

1 experience pertaining to the authorization of the electronic  
2 transmission of insurance renewals, including, an offer of renewal  
3 required by Sections 663 and 678, the notice of conditional renewal  
4 required by Section 678.1, the offer of coverage or renewal or any  
5 disclosure required by Section 10086, and the offer of renewal for  
6 a workers' compensation policy, as authorized by this section.

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

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

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

25 ~~SEC. 6.~~

26 *SEC. 7.* Section 38.6 is added to the Insurance Code, to read:

27 38.6. (a) (1) Any written record required to be given or mailed  
28 to any person by a licensee, including an offer of renewal required  
29 by ~~Sections 663 and paragraph (1) of subdivision (a) of Section~~  
30 ~~663 and Section 678~~, the notice of policy change or cancellation  
31 requested by the insured as required by Section 667.5, ~~the notice~~  
32 ~~of conditional renewal required by Section 678.1~~, the offer of  
33 coverage or renewal or any disclosure required by ~~Section~~  
34 ~~paragraph (1) of subdivision (a) of Section~~ 10086, the offer of  
35 renewal for a workers' compensation policy, or any written record  
36 required to be given or mailed to any person by a licensee relating  
37 to the business of life insurance, as defined in Section 101 of this  
38 code may, if not excluded by subdivision (b) or (c) of Section  
39 1633.3 of the Civil Code, be provided by electronic transmission  
40 pursuant to Title 2.5 (commencing with Section 1633.1) of Part 2

1 of Division 3 of the Civil Code, if each party has agreed to conduct  
2 the transaction by electronic means pursuant to Section 1633.5 of  
3 the Civil Code, and if the licensee complies with the provisions  
4 of this section. A valid electronic signature shall be sufficient for  
5 any provision of law requiring a written signature.

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

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

14 (b) In order to transmit a record listed in subdivision (a)  
15 electronically, a licensee shall comply with all of the following:

16 (1) A licensee, or licensee’s representative, acquires the consent  
17 of the person to opt in to receive the record by electronic  
18 transmission, and the person has not withdrawn that consent, prior  
19 to providing the record by electronic transmission. A person’s  
20 consent may be acquired verbally, in writing, or electronically. If  
21 consent is acquired verbally, the licensee shall confirm consent in  
22 writing or electronically. The licensee shall retain a record of the  
23 person’s consent to receive the record by electronic transmission  
24 with the policy information so that it is retrievable upon request  
25 by the department while the policy is in force and for five years  
26 thereafter.

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

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

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

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

36 (D) The process or system to report a change or correction in  
37 the person’s email address.

38 (E) The licensee’s contact information, which includes, but is  
39 not limited to, a toll-free number or the licensee’s Internet Web  
40 site address.

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

16 (4) The email address of the person who has consented to  
17 electronic transmission shall be set forth on the consent disclosure.  
18 In addition, if the person who consented receives an annual  
19 statement, the email address of the person who has consented shall  
20 be set forth on that record.

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 first-class mail, regular mail, does not specify a method  
26 of delivery, or is a record that is required to be provided pursuant  
27 to Article 6.6 (commencing with Section 791), and if the licensee  
28 is not otherwise prohibited from transmitting the record  
29 electronically under subdivision (b) of Section 1633.8 of the Civil  
30 Code, then the record may be transmitted by electronic transmission  
31 if the licensee complies with all of the requirements of Sections  
32 1633.15 and 1633.16 of the Civil Code.

33 (7) If the record is not delivered directly to the electronic address  
34 designated by the person but placed at an electronic address  
35 accessible to the person, a licensee shall notify the person in plain,  
36 clear, and conspicuous language at the electronic address  
37 designated by the person that describes the record, informs that  
38 person that it is available at another location, and provides  
39 instructions to the person as to how to obtain the record.

1 (8) (A) Upon a licensee receiving information indicating that  
2 the record sent by electronic transmission was not received by the  
3 person, the licensee shall, within five business days, comply with  
4 either clause (i) or (ii):

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

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

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

24 (9) The licensee shall not charge any person who declines to  
25 opt in to receive a record through electronic transmission from  
26 receiving a record electronically. The licensee shall not provide a  
27 discount or an incentive to any person to opt in to receive electronic  
28 records.

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

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

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

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

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

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

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

18 (f) This section shall become operative on January 1, 2021.