

DEPARTMENT OF INSURANCE

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**NOTICE**

To: All Admitted Property & Casualty Insurers, Licensed Independent Insurance Adjusters, Insurance Agent/Brokers, and other Interested Parties

Subject: Important California Laws that Pertain to Property Insurance Policies after a Declared Disaster

Date: November 14, 2018

On November 8, 2018 and November 9, 2018, California Acting Governor Gavin Newsom proclaimed a state of emergency in several counties in California due to the numerous wildfires that began in November 2018, and that continue to impact the state. On November 14, 2018, California Insurance Commissioner Dave Jones declared an emergency situation in connection with those wildfires. He therein authorized out-of-state non-California licensed claims adjusters to adjust claims in the fire areas as reasonably necessary and in conformity with the requirements of California Insurance Code section 14022.5 and all other insurance laws.

Permitting out-of-state non-California licensed claims adjusters to adjust claims has resulted in a more effective response by insurers to expedite initial payments to those impacted by the wildfires.

Notice is hereby given that all claims adjusters, whether California-licensed or not, who are assigned to wildfire claims must be properly trained on the California Unfair Practices Act, Fair Claims Settlement Practices Regulations, and all laws relating to property and casualty insurance claims handling. Some insurance laws are specifically triggered by a declared disaster and impact how claims are paid and the various timeframes for payment of claims that supersede policy provisions to the contrary. Further, insurance companies and agent-brokers should also take steps to ensure that underwriting transactions (i.e. cancellations, non-renewals), and representations made on underwriting issues, comply with laws in place to protect insureds after a total loss or declared disaster. All property and casualty licensees must be knowledgeable about these laws and provide guidance to insureds that is consistent with these laws. The laws referenced include but are not limited to the following:

Important Note: As stated below, a few new laws were enacted in 2018, as Urgency bills, and therefore are effective for claims that result from these recent wildfires.

CLAIMS AND COVERAGE RELATED LAWS

ISSUE	INSURANCE CODE SECTION	SUMMARY
Time Limit to Collect Full Replacement Cost	§2051.5 (b)(1)	No time limit of less than 12 months from the date that the first payment toward the actual cash value is made shall be placed upon an insured in order to collect the full replacement cost of the loss, subject to the policy limit. Additional extensions of six months shall be provided to policyholders for good cause. In the event of a loss relating to a “state of emergency,” as defined in Section 8558 of the Government Code, no time limit of less than 36 months from the date that the first payment toward the actual cash value is made shall be placed upon the insured in order to collect the full replacement cost of the loss, subject to the policy limit. Nothing in this section shall prohibit the insurer from allowing the insured additional time to collect the full replacement cost. Note: AB 1772 which extended the time to rebuild and collect full replacement cost from 24 to 36 months after a declared disaster has an urgency clause and is currently in effect for the new fires.
Time Limit to Collect Additional Living Expenses (ALE)	§2051.5 (b)(2)	In the event of a covered loss relating to a state of emergency, as defined in Section 8558 of the Government Code, coverage for additional living expenses shall be for a period of 36 months, but shall be subject to other policy provisions, provided that any extension of time required by this paragraph beyond the period provided in the policy shall not act to increase the additional living expense policy limit in force at the time of the loss.
Rebuilding in Current Location or Rebuilding or Replacing in a New Location	§2051.5 (c)	Homeowners may use their replacement cost insurance coverage to (1) rebuild at the current location, (2) rebuild on a new location, or (3) purchase an already built home at a new location.

		<p>In the event of a total loss of the insured structure, a policy issued or delivered in this state shall not contain a provision that limits or denies, on the basis that the insured has decided to rebuild at a new location or to purchase an already built home at a new location, payment of the building code upgrade cost or the replacement cost, including any extended replacement cost coverage, to the extent those costs are otherwise covered by the terms of the policy or any policy endorsement. However, the measure of indemnity shall not exceed the replacement cost, including the building code upgrade cost and any extended replacement cost coverage, if applicable, to repair, rebuild, or replace the insured structure at its original location.</p> <p>Homeowners are entitled to the "extended" or "guaranteed" portion of their replacement cost policies and any building code upgrade costs (if applicable) even if they rebuild or replace in a new location.</p> <p>Note: AB 1800 clarified an insured's right to collect the full replacement cost of their home in the event of a total loss, whether they decide to rebuild, replace at another location, or purchase an already built home at a new location. This bill has an urgency clause and is currently in effect for the new fires.</p>
<p>Changing Claims Adjusters</p>	<p>§2071</p>	<p>If, within a six-month period, the company assigns a third or subsequent adjuster to be primarily responsible for a claim, the insurer shall provide the insured with a written status report. The written status report must include a summary of any decisions or actions that are substantially related to the disposition of a claim, including, but not limited to, the amount of losses to structures or contents, the retention or consultation of design or construction professionals, the amount of coverage for losses to structures or contents and all items of dispute.</p>

Appraisal	§2071	In the event of a government-declared disaster, as defined in the Government Code, appraisal may be requested by either the insured or the insurance company but shall not be compelled.
Suits	§2071	No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after inception of the loss. If the loss is related to a state of emergency, as defined in subdivision (b) of Section 8558 of the Government Code, the time limit to bring suit is extended to 24 months after inception of the loss. Note: AB 2594 which extended a consumer's right to sue from 12 to 24 months has an urgency clause and is currently in effect for the new fires.
Copy of Complete Policy After a Loss	§2084	After a covered loss under a policy covered by Section 2071, an insurer shall provide to the insured, free of charge, a complete, current copy of his or her policy within 30 calendar days of receipt of a request from the insured.

UNDERWRITING RELATED LAWS

ISSUE	INSURANCE CODE SECTION	SUMMARY
Cancellation after Total Loss to Primary Structure	§675.1(b)	The insurer shall not cancel coverage while the primary insured structure is being rebuilt, except for the reasons specified in subdivisions (a) to (e), inclusive, of Section 676. The insurer shall not use the fact that the primary insured structure is in damaged condition as a result of the total loss as the sole basis for a decision to cancel the policy pursuant to subdivision (e) of that section.
Adjustment of Policy Limits on Renewal	§675.1(a)	If reconstruction of the primary insured structure has not been completed by the time of policy renewal, the insurer, prior to or at the time of renewal, and after consultation by the insurer or its representative with the insured as to what limits and coverages might or might not be needed, shall adjust the limits and coverages, write an additional policy, or attach an

		endorsement to the policy that reflects the change, if any, in the insured's exposure to loss. The insurer shall adjust the premium charged to reflect any change in coverage.
Non-Renewal After a Declared Disaster	§675.1(c)	Except for the reasons specified in subdivisions (a) to (e), inclusive, of Section 676, the insurer shall offer to, at least once, renew the policy in accordance with the provisions of subdivision (a) if the total loss to the primary insured structure was caused by a disaster, as defined in subdivision (b) of Section 1689.14 of the Civil Code, and the loss was not also due to the negligence of the insured.

Questions regarding this Notice should be directed to:

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