# The Availability and Affordability of Coverage for Wildfire Loss in Residential Property Insurance in the Wildland-Urban Interface and Other High-Risk Areas of California: CDI Summary and Proposed Solutions

California Department of Insurance

# California Department of Insurance

## The Availability and Affordability of Coverage for

Prepared by:
California Department of Insurance's Availability and Affordability of Residential Property Insurance Task Force

Primary authors:
Tony Cignarale, Deputy Commissioner, Consumers Services & Market Conduct
Joel Laucher, Chief Deputy Insurance Commissioner
Kenneth Allen, Deputy Commissioner, Rate Regulation
Lisbeth Landsman-Smith, Senior Staff Attorney

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# I. Executive Summary

## A. Background

Why has the availability and affordability of insurance coverage in certain regions of California become an issue in the last few years? Consider these recent events and developments that have led to this situation.

In September 2015, the Valley Fire (Lake County) and Butte Fire (Calaveras County) were (at the time) the third and seventh most damaging California wildfires in terms of the number of structures destroyed. Combined, these fires resulted in more than 3,000 destroyed structures, including more than 1,700 homes. These fires caused several fatalities and more than one billion dollars in insured damages, with additional damage to uninsured properties and public infrastructure.

Then disaster struck again as the October 2017 wildfires resulted in the most destructive fires in the history of the state in terms of the number of structures destroyed. While claims data is still being received, the latest information is that this widespread destruction resulted in damaging or destroying more than 14,700 homes and 728 businesses, causing more than nine billion dollars in insured damages so far.

Over the past two decades, many wildfires have caused significant insurance damage in the wildland-urban interface (WUI). (Appendix A.) Based on a 2010 U.S.D.A. report (*The Wildland-Urban Interface of the Conterminous United States*), there are an estimated 3.6 million California homes in the WUI. (Appendix B.) Also, based on the primary wildfire-risk models and CALFIRE data, more than one million homes in the WUI are in a high or very high risk-of-fire area. (Appendix C.) As a result, wildfire risk mitigation and insurance related issues in the WUI have a significant impact on the overall economy, government resources and infrastructure, and the safety and financial security of individual homeowners located in the WUI.

Since the Valley and Butte wildfires, the California Department of Insurance (CDI) has received increased complaints, evidence, and feedback from consumers, consumer groups, public officials, and other stakeholders that homeowners' insurance coverage in the WUI is increasingly difficult to obtain and, if available, is unaffordable to many that need it. Complaints for both renewal issues and premium increases rose significantly from 2010 to 2016, both statewide and in the USPS ZIP Codes designated by CALFIRE as having the greatest risk of wildfire. However, complaints received from the CALFIRE designated ZIP Codes made up more than 60% of these complaints, even though the population in these ZIP Codes is only 38% of the overall state population. (Appendix D.)

Based upon a survey of all residential property insurers over a two-year period, there has been a significant increase in insurer-initiated non-renewals in the California counties with the highest proportion of homes located in high-risk-for-wildfire areas. (Appendix E.)

As part of CDI's participation in the Governor's Tree Mortality Task Force (TMTF) Insurance Subgroup, stakeholders have expressed concern that wildfire-risk models (used by insurers to underwrite and rate residential properties) are not accurate and do not take into account mitigation done by the homeowner or the community. The TMTF has been meeting now for more than two years. During this time, several problems have been identified and some solutions have been proposed. Implementation remains a challenge, however, and insurance problems persist in the WUI. Now, with the recent 2017 wildfires that have caused many fatalities and destruction of thousands more structures, we can expect that the insurance issues will only worsen.

Many of the currently proposed solutions are based on the expectation that the insurance industry will voluntarily agree to change some of its current business practices and how it uses certain decision-making tools. The major insurance trade groups, responding on behalf of their members in a September 25, 2017 letter to the TMTF, cited various reasons why there isn't much likelihood of insurers changing the current course of market contraction. (Appendix F.) The groups noted that some changes are needed, which will be addressed below in the Recommendation section (section I.C.). Relying on voluntary industry changes (while a worthwhile goal) is unlikely to lead to long-term solutions that the affected stakeholders seek.

This paper provides a summary of the major issues and offers CDI's recommendations to the Legislature and other stakeholders as to how these problems can be addressed through a cooperative effort from all levels of government, the insurance industry, consumers groups, and other stakeholders.

### B. Summary of Findings

To identify the issues and proposed solutions, CDI extensively reviewed consumer complaints and feedback from stakeholders, including the TMTF, and conducted an in-depth analysis of the two major wildfire-risk models. Our findings include the following:

1. Several major insurers have been pulling back from writing new business and, in many cases, renewals in certain parts of the WUI. While some of these risks are being picked up by other admitted insurers, many of these consumers are being forced to purchase coverage through the FAIR Plan and/or the surplus-lines market.

2. Premiums and wildfire surcharges have increased significantly in the WUI.

3. Most insurers do not take into consideration wildfire mitigation conducted by homeowners or the community, either for underwriting or for offering a premium credit for mitigation efforts.

4. Third-party wildfire-risk models are not specifically regulated by CDI or any other entity. While actuarial standards are in place to guide actuaries in the

general use of models from third-party vendors, there are no specific statutory standards in place to ensure the models' accuracy or reliability in rating and underwriting of homeowners' insurance. There is no mechanism in place for consumers to appeal a wildfire-risk model score.

5. CDI does not have the necessary authority to regulate how insurers underwrite residential property insurance.

6. Since any single insurer does not have sufficient loss experience in the WUI to validate the rates and premiums charged for each wildfire-risk-model score, there is a need to create a credible database for wildfire loss experience in the WUI in order for insurers to use rating plans that impact rates in the WUI.

### C. Recommendation

The Legislature should create a framework within which insurers will, under certain conditions: (1) offer homeowners' insurance in the WUI if the insured conducts specific wildfire mitigation, but also permit the insurer to avoid the requirement of offering homeowners' insurance in the WUI if the insurer instead offers a "difference in conditions" policy or a "premises liability" policy; (2) offer a mitigation premium credit for those property owners that conduct proper mitigation; (3) obtain approval for wildfire-risk models used in rating or underwriting; (4) allow for an appeal process before an adverse decision is finalized; and (5) stabilize the rating structure in order to ensure that homeowners' insurance rates and premiums are adequate, but not excessive, for the true wildfire risk.

While there are still areas of disagreement with insurers on the degree of the problem and how to solve it, based upon our interaction with them, there appears to be some areas where insurers, consumers, and stakeholders agree. For instance, in the insurance industry trade group letter to the TMTF, insurers agreed that: (1) mitigation/risk-reduction activities should be factored into wildfire risk models, and (2) a tiered-risk analysis/assessment would also be appropriate, and (3) a legislative-based mitigation insurance framework would also be appropriate. (Appendix F.)

## II. Discussion

### A. Previous Actions Taken by CDI to Address Availability and Affordability Problem of Wildfire Insurance Coverage

CDI does not possess the necessary statutory authority from the Legislature to fully address many of the problems identified in this area. Notwithstanding, CDI is doing all it can to make those improvements that are within our existing authority. Some of the recent changes CDI has implemented include:

- Improvements to the FAIR Plan: The Insurance Commissioner, using his authority over the FAIR Plan, enhanced the coverages offered, including adding

optional replacement cost coverage for contents and debris removal, adding free replacement cost coverage to all eligible FAIR Plan policies, removing the 3-Declination Rule so that the applicant does not have to receive three declinations from admitted insurers in order to apply for FAIR Plan coverage, and requiring the FAIR Plan to create a searchable database of registered brokers authorized to sell FAIR Plan policies. (Appendix G.) Also, in 2016, Commissioner Jones sponsored SB 1302 (McGuire), which broadened requirements on insurers to notify cancelled and non-renewed policyholders of the FAIR Plan, including information on the toll-free telephone number and the FAIR Plan's website. The law, which became effective in 2017, also mandated all qualified brokers to provide greater assistance to applicants in applying for the FAIR Plan. Since FAIR Plan is the insurer of last resort established by the legislature, it is important that it be readily available to those who need it.

- Outreach to Insurance Companies: CDI has encouraged homeowners' insurance companies to continue to offer homeowners' insurance in high-risk fire areas and to also offer difference-in-conditions (DIC) coverage, which consists of all coverage other than fire (and other perils covered by the FAIR Plan) that can supplement a FAIR Plan fire policy, and posted a list of those insurers that offer DIC coverage on the CDI's website to aid consumers.

- Outreach to Agents and Brokers: CDI issued a notice to all agents and brokers licensed to transact homeowners' insurance to increase awareness about surplus lines and the FAIR Plan, and to urge them to assist consumers with finding and applying for homeowners' insurance through the FAIR Plan. CDI also added FAIR Plan registration information to all agent and broker-license renewals, and requested all agents and brokers to register with the FAIR Plan. These actions increased the number of brokers registered to assist consumers in obtaining FAIR Plan coverage.

- Outreach to Public Officials: Immediately after the 2015 Valley and Butte wildfires and continuing to the present, CDI sent information about homeowners' insurance (including the FAIR Plan and surplus-lines insurers) to state legislators, county supervisors, city councils, sheriffs, mayors, and local-government executives. This information included a draft web page that could be placed on public websites linked to CDI's vast consumer information on homeowners' insurance, with lists of all insurance companies admitted to sell homeowners' insurance and DIC coverage, coverage-comparison tools, premium surveys, and other information to assist consumers shop around for the best coverage to meet their needs.

- Proposed Legislation in 2017: CDI suggested legislation requiring insurers to offer quotes to homeowners who meet defensible space guidelines. This suggestion, which was intended to commence a stakeholder conversation on this issue, was not introduced.

- Authorizing New Insurers to Enter the Market: CDI is open to approving innovative products and allowing new insurers to enter the market in an effort to increase availability in the WUI. For example, CDI recently approved a new program for Spinnaker Insurance Company that would allow this company to underwrite more properties in the WUI.

While these actions have created greater awareness of the FAIR Plan and provided consumers with more options in shopping for insurance, they did not solve the overarching problem of the lack of available and affordable coverage in the traditional homeowners' insurance market in the WUI. CDI continues to receive complaints from consumers and public officials that the homeowners' insurance market in the WUI is constricting while premiums are increasing due to the real and perceived higher risk of wildfire. While CDI has resolved some of these individual complaints, many of the issues raised by them fall outside our regulatory authority to resolve. Only voluntary action by insurers or changes in the law by the Legislature can begin to solve these persistent problems.

The lack of available and affordable coverage in the WUI is a unique and significant problem in insurance. Over the past several decades, climate change, forest-management issues, lack of development controls in wildfire-prone areas, and bark-beetle infestation have all contributed to an increased risk of wildfire in the WUI. Having property insurance is vital in order to protect a homeowner's most important asset.

CDI has been meeting with, advising, and assisting the TMTF Insurance Subgroup members with developing possible solutions that involve homeowners' insurance companies voluntarily agreeing to take on more risk under certain conditions. Some of these voluntary solutions include:

- Creation of an Aggregator Tool: Yapacopia is an online service that would connect homeowners who need insurance with insurers and insurance agents and brokers. The brokers and agents who sign up are required to donate a share of their commissions to charities that are chosen by the insureds. Each county may have its own web page. A website is already operating for Placer County as a pilot project.

- Aligning CALFIRE and IBHS Risk-Mitigation Standards: The TMTF received a recent presentation put together by CALFIRE and the Insurance Institute for Building & Home Safety (IBHS). This proposal is to create a program similar to that used for hurricane and high-wind event disasters currently being used in other parts of the country. A program known as "Fortified Home," which uses a three-tiered approach, provides recognized standards of construction that can improve a structure's survivability during a hurricane and high-wind events. Using this same methodology, CALFIRE and IBHS are developing a three-tiered system related to wildfire mitigation. Each tier represents a certain level of

mitigation performed on any given structure in the WUI environment, allowing insurance providers to consider underwriting according to their risk tolerance and to potentially provide discounts for mitigation.

- Implementing a Wildfire Partners (Boulder) Model in California: This model is a partnership between insurers, non-profits, and communities where, if the homeowner obtains a certificate that they completed certain mitigation standards, the participating insurers would agree to write the coverage. This program is partially funded by FEMA and the State of Colorado. Each homeowner pays $100 for an assessment. Allstate, State Farm (for existing customers), and USAA have agreed to accept the Wildfire Partners Certificate for underwriting purposes. In addition to being underwritten by an insurer, the homeowner benefits from going through the program because a well-mitigated home gives firefighters the opportunity to do their job more safely. Firefighters will not risk their lives to defend an unmitigated home. Even if firefighters are unable to directly protect the home during a wildfire, there is still an increased chance of the home's survival as a result of having implemented effective wildfire mitigation. For more information, visit http://www.wildfirepartners.org/.

While CDI and the TMTF will continue to work with the insurance industry to pursue these voluntary solutions, it is unclear whether these actions will persuade insurance companies to take on more risk or otherwise improve availability.

In light of this, CDI has been asked to clarify what authority it has or might require in order to address this insurance problem. In order to achieve measurable, long-term improvement in this area, the Legislature would need to enact new laws.

## B. Highlights of Proposed Legislative Framework

The section provides a summary of the major insurance issues identified by CDI and the legislative concepts we believe are necessary to achieve long-term success in addressing these problems. While CDI is not recommending that every part of this proposal be implemented, some of the proposed solutions will work effectively only if other parts of the proposal are also included. CDI is not sponsoring the proposed legislation, but is offering to provide technical and policy support to the Legislature and to work collaboratively with all stakeholders.

### 1. Offering, Issuing, and Renewing Homeowners' Insurance Coverage

The Problem: Homeowners have filed a significant number of complaints alleging that their insurer has non-renewed their policy or refused to insure them due to the real or perceived wildfire risk. Many of these homeowners have conducted extensive and costly defensible space and other mitigation efforts, but these actions have not resulted in any significant change. Some of these homeowners are employees of CALFIRE or

other fire-protection organizations and believe they have conducted reasonable mitigation that warrants reconsideration by their insurer.

Legislative Proposal: An insurer admitted to transact fire insurance would agree to offer, issue, or renew a "policy of residential property insurance" for reasons relating to the risk of fire loss on property located within "state responsibility areas," as defined in Public Resources Code section 4102, or a "very high fire severity zone," as defined in Government Code section 51177, if the property meets specific mitigation and defensible-space criteria and any other underwriting guidelines relating to the peril of fire that have a substantial relationship to the risk of fire loss, which guidelines would be approved by the Insurance Commissioner.

An applicant or insured can provide a certification that the property complies with the provisions of Public Resources Code section 4291. The certification may be issued by either: (1) a not-for-profit wildfire-mitigation program designated to inspect properties and issue certifications by the Insurance Commissioner and the CALFIRE Director or (2) a local or state fire official. The certification would be required to be updated every three years.

Exception: An insurer admitted to transact fire insurance may refuse to offer, issue, or renew a "policy of residential property insurance" for reasons relating to the risk of fire loss on property located within "state responsibility areas," as defined in Public Resources Code section 4102, or a "very high fire severity zone," as defined in Government Code section 51177, if the insurer instead offers the applicant or insured a "difference in conditions" insurance policy and/or a "premises liability" insurance policy. As explained above, a DIC policy is a policy of residential property insurance covering all risks currently offered by the insurer except for the coverages and perils offered by a basic property insurance policy issued by the California FAIR Plan Association pursuant to Insurance Code sections 10090-10100.2. A "premises liability" policy is one that covers bodily injury and property damage suffered by others in connection with the property, including personal liability coverage and medical-payment coverage. The premises-liability policy offered by the insurer must be at least as broad as the liability portion of coverage offered by that insurer under its homeowners' insurance coverage.

This proposal would resolve the availability problem, as a homeowner would have access to purchase either a homeowners' insurance policy or two complementary policies (DIC and FAIR Plan), which, together, would cover what a current homeowners' policy covers. Also, for those homeowners who wish to purchase less coverage, the option of purchasing a FAIR Plan policy along with a premises-liability policy would be a reasonable alternative.

This proposal does not, however, address the affordability problem. Given the inherent risk of wildfires and related claims exposure for insurers in certain areas, the cost of the homeowners' insurance policy or the combination (FAIR Plan/DIC) policy may still be unaffordable for some.

### 2. Premium Credit for Wildfire Risk Mitigation

The Problem: Similar to the availability issue above, homeowners have filed a significant number of complaints alleging that their insurer has increased their premiums due to the real or perceived wildfire risk. CDI has seen cases where homeowners were paying an annual premium of $800-$1,000 but, upon renewal, saw increases to as high as $2,500-$5,000. Some of these homeowners have conducted extensive and costly defensible-space and other mitigation, but these actions did not lower premiums. While the inherent risk of wildfires in certain areas increases the cost of a homeowners' insurance policy, CDI believes there are legislative changes that can be enacted to lessen the severity of these high-premium increases.

Legislative Proposal: A property insured under a policy of residential property insurance is eligible for a premium credit, as compared to other similarly situated properties, if the property meets specific mitigation and defensible-space criteria, as described above, for offering, issuing, and renewing homeowners' insurance coverage.

Note: The TMTF recently received a presentation put together by CALFIRE and the IBHS setting forth a proposal to create a program similar to that used for hurricane and high-wind event disasters currently being used in other parts of the country. The program is known as "Fortified Home," which, as explained above, uses a three-tiered approach to improve a structure's survivability for wind events. Using this same methodology, a three-tiered system could also be developed related to wildfire damage prevention levels of structures in the WUI environment, allowing insurance providers a higher level of confidence in risk management. If such a program is developed, then mitigation-premium credits could be pegged to these criteria.

### 3. Wildfire-Risk Models

The Problem: Based upon complaints received from homeowners and members of the Legislature, the majority of non-renewals, refusals to insure, and increased premiums in these rural areas were the result of insurers' greater use and emphasis on wildfire-risk models, which are used to underwrite and rate residential properties. Legislators, other public officials, and their constituents have expressed concern that wildfire-risk models are not accurate, do not provide satellite imagery that is granular enough to objectively identify fuel sources and other physical characteristics, and do not take into account mitigation done by the homeowner or the community. Since the wildfire-risk tools that insurers use have a measure of objectivity and a relationship to the risk of loss, CDI lacks the statutory authority under current law to prohibit an insurer from using these tools to determine whether it will issue or renew a homeowners' insurance policy. While CDI has authority over how an insurer uses a wildfire-risk tool to classify and rate individual properties in a homeowners' insurance program, we have no authority over the development and construction of the models.

Over the past year, CDI has reviewed a number of prevalent wildfire-risk models used by insurers, which has raised questions on certain aspects of these models.

The models provide a scoring mechanism that attempts to recognize the likelihood of a property being at risk of damage or destruction due to wildfire. These models incorporate factors that are related to the risk of wildfire and the propensity of a property to burn. These factors include fuel, surface composition, slope, aspect, distance to high risk areas, and access.

- **Fuel** is used to identify the various types and location of vegetation (e.g., chapparal, grass, trees, dense brush). Different fuels burn at different rates and intensities, resulting in different levels of wildfire risk.

- **Surface composition** recognizes vegetation patterns that have been linked to cyclical historic fires.

- Steeper **slopes** tend to increase the speed and intensity of the wildfire.

- **Aspect** reflects the direction of the slope face upon which the property resides. In California, south-facing slopes are typically drier and have a greater propensity to burn than north-facing slopes.

- When the property is not in a higher risk area, the **distance to the nearest higher risk area** can increase or decrease a property's exposure to wildfire. This factor reflects the potential for wind-borne embers to migrate to and ignite fires in lower-risk areas.

- **Access** reflects the ease or difficulty with which firefighting personnel and equipment can reach properties at risk of wildfire.

While the above factors appropriately relate to the risk of wildfire, there are issues with the models reviewed.

- Individual homeowners' efforts to include **defensible space** (brush clearance) and other **home fortification and construction measures** are not considered in the current models.

- **Community mitigation efforts** are not considered in the models. The adherence to more stringent building codes in wildfire-prone areas, the use of firebreaks, and fire-watch efforts are all factors that can reduce individual exposure to wildfire loss.

- Certain issues with regard to **access** are not considered in the models. No consideration is given to road width, shoulders, and availability of multiple access routes.

Still other problems with the use of models by insurers include:

- The use of the risk score to support the level of granularity used by insurers remains in question, since the propensity to burn does not increase with each individual change in score.

- Individual insurers lack sufficient claims data to support the rating differentials being filed in support of their rate segmentation.

CDI Action on Wildfire-Risk Models: CDI is addressing the concerns identified from our review of these models directly with insurers that have submitted rate filings that use them. However, because these tools only generally describe segments of the homeowners' risk pool that have a higher risk of wildfire, CDI is unable to greatly impact whether and how insurers use the tools to underwrite and rate homeowners' insurance in the state. Progress in this regard can be achieved with direct and broader authority over wildfire-risk models granted by the Legislature.

Legislative Proposal: Insurers will be permitted to use a "wildfire-risk model" (to determine eligibility for, or the premium of, a policy of residential property insurance) only if it has been filed with and approved by the Insurance Commissioner. Under this proposal, a "wildfire-risk model" is defined as any computer-based, map-based, or other measurement or simulation tool used by an insurer to rate, underwrite, or otherwise assess or evaluate the risk of wildfire and/or consequence of wildfire to residential structures. The Insurance Commissioner shall not approve a wildfire-risk model used by an insurer to determine eligibility for, or the premium of, a policy of residential property insurance unless the model takes into account the amount and density of fuel surrounding the structure, slope and slope aspect (direction) of the property, accessibility to the property by emergency responders, and any community-level or property-level mitigation efforts, if that data is provided by state or local fire officials or is otherwise available to the insurer by way of an inspection of the property. The Insurance Commissioner may promulgate regulations setting forth standards for wildfire-risk models used by an insurer to determine eligibility for, or the premium of, a policy of residential property insurance, as well as what level of support insurers must provide to validate the underwriting decisions or rate filings that use wildfire-risk models.

### 4. Right of Homeowner to Appeal a Score or Factor Determined by a Wildfire-Risk Model

The Problem: CDI has received a significant number of complaints from homeowners alleging that after an insurer has non-renewed, refused to insure, or increased premiums due to a change in score or new use of a wildfire-risk model, there is no mechanism in place to appeal the score determined by the model.

Legislative Proposal: An insured or applicant for a policy of residential property insurance who disagrees with the score or other factors determined by a wildfire-risk model used by an insurer shall be permitted to appeal such score or other determined factor directly with the insurer. The insurer shall respond to any appeal within 30 calendar days. If the person appealing the score or other determined factor is insured

with the insurer with whom the appeal is made, the insurer shall make no "adverse underwriting decision," as defined in Insurance Code section 791.02, during the pendency of the appeal, including, but not limited to, cancellation, non-renewal, or charging a premium increase on the policy.

If the appeal results in an adverse-underwriting decision, the insurer shall provide notice to the insured or applicant giving the specific reasons, including for each reason the factual and legal basis known at that time by the insurer for the adverse-underwriting decision. The notice shall also advise the insured or applicant that they may seek review by CDI of the adverse-underwriting decision and the notice shall include the address, internet website address, and telephone number of the unit within CDI that performs this review function. The Insurance Commissioner shall issue a bulletin to insurers advising them of the current unit in CDI that performs this function.

#### 5. California Wildfire Exposure Manual

The Problem: On an individual basis, insurers within California's admitted market do not write large numbers of risks situated in California's WUI areas. Each individual insurer's premium and loss-experience data within WUI areas is minimal and lacks rate credibility. As a result, many insurers opt to use external vendor wildfire risk models that are not specifically designed for rating purposes in their rate-development process. These models, when used for rating, deliver crude pricing estimations that can lead to overpricing or underpricing of risks. Further, many insurers opt to either significantly restrict or simply forego writing risks in WUI areas given the lack of a credible data source to use in pricing risk.

Legislative Proposal: CDI will be granted authority to obtain data from insurers in order to examine the aggregated California premium-and-loss data by wildfire risk (e.g., the data used by CALFIRE's model) to create a wildfire-exposure-risk manual similar in concept to the frequency and severity bands manual used by auto insurers in developing private passenger auto rates. Insurers could rely on the aggregated wildfire-exposure-risk data to develop credible wildfire-risk rates that would allow them to more accurately price the few risks currently being written as well as loosen their current underwriting restrictions and write more risks that are currently being turned down for coverage.

## III. Other Considerations

### A. Similar Legislative Proposal from United Policyholders

CDI has been made aware of other legislative approaches to the issue of availability and affordability of insurance in the WUI. For example, CDI was recently advised of an approach offered by United Policyholders, a non-profit consumer advocacy group based in California and also a member of the Governor's TMTF Insurance Subgroup. (Appendix H.) While CDI is still evaluating this recent information, the concepts

expressed by United Policyholders generally align with or complement the proposals recommended by CDI.

### B. Including Reinsurance Costs in Rating Residential Property Insurance

Insurers have publicly stated to the Legislature, the media, and other stakeholders that that rates for residential property insurance are inadequate because they are not permitted to factor reinsurance expenses into the rates. Insurers assert that if they were permitted to factor reinsurance expenses into the rates, they would write more properties in the WUI and other high-risk areas. After careful consideration, CDI sees no evidentiary support for this assertion.

Currently, the prior-approval ratemaking-formula regulations for property-casualty coverages do not include a reinsurance expense loading for residential property insurance coverages. CDI does not dispute that there are benefits to the insurer from the purchase of reinsurance. In fact, CDI is not aware of any residential property insurer that does not already have some kind of reinsurance or pooling structure in place. However, there are several reasons that the cost of reinsurance is not included in the regulations as an allowable-expense loading for residential property insurance.

First, reinsurance rates are not regulated through the prior-approval process. As has been proven through the enforcement of Proposition 103, unregulated rates are frequently much higher than those evaluated through an objective regulatory process. Often, insurers purchase their reinsurance coverage from non-admitted carriers and from their own affiliates for what may or may not be market pricing. To allow insurers to load unregulated reinsurance costs into the consumer's premium rate potentially undermines the entire prior-approval process and would increase costs for <u>all</u> insurance consumers.

Second, there is no guarantee that an insurer would adopt a more liberal underwriting approach even if there was a direct loading in the rates for reinsurance costs. In states where insurers are not subject to prior approval, there is no evidence that insurers are writing a higher proportion of homes in high-risk areas than in California. In those states, insurers still adopt strict underwriting and eligibility guidelines that are designed to sort out risks deemed acceptable by the insurer from those that are declined because they pose a greater risk than that which the insurer is willing to write.

Third, there is the obvious complexity of establishing a baseline for the reasonableness of reinsurance coverage levels. Reinsurance can be purchased for separate perils (such as fire or wind) for multiple states in a single reinsurance contract, at different attachment points, such as, for example, "all losses exceeding $100,000" or "all losses exceeding $1,000,000 from a single event." There are also "quota-share" or "surplus-share" contract arrangements that are even more complex.

Current regulations actually allow for development of a catastrophe loading that is applied to the rates for lines that have a catastrophe exposure, such as residential

property insurance. This loading is based on the individual insurer's loss experience over at least a 20-year period to allow the insurer additional income every year in order to pay for those years where there are higher losses due to catastrophes. Residential property insurance rates are also loaded for fire-following-earthquake exposure.

Finally, and importantly, the prior-approval formula includes all losses in the calculation, not just those that are net of reinsurance, and, further, does not offset the commissions the insurer receives from the reinsurer. This is referred to as "pricing on a direct basis." The benefits of reinsurance (claim payments from the reinsurer to the insurer) are not removed or adjusted for in the regulatory formula. Therefore, while the formula does not compensate for reinsurance costs, it also does not reduce approved rates to reflect the payments and claim reimbursements the insurers obtain from reinsurance.

## IV. Conclusion

It is clear that legislative action is necessary to address this issue that is so important to many Californians. With an estimated 3.6 million California homes in the WUI, and more than one million of those homes in a high or very high risk-of-fire area, the time to act is now. Maintaining the status quo will only aggravate the problem and its impact. More and more homeowners who cannot afford insurance may decide to go uninsured, risking their life savings and ultimately seeking relief from the state and federal governments. While the proposals in this paper may not completely resolve all WUI-related insurance issues, they will go a long way in creating a more engaged homeowner who will be more likely to complete defensible-space and other mitigation efforts. While CDI and all the TMTF partners will continue to work towards solutions, these common sense and reasonable legislative approaches are the best hope for more immediate action and long-term resolution of these perennial insurance problems.

As noted, CDI does not possess the requisite legislative authority over the issues raised in this paper. CDI is ready, willing, and able to assist the Legislature is providing us with this authority on any and all of the issues described above, as well as discuss other possible solutions. We recommend that any members of the Legislature interested in learning more about this proposal please contact Robert Herrell, CDI's Deputy Commissioner for Legislative Affairs, at (916) 492-3573.

Other interested parties should contact Lisbeth Landsman-Smith, Senior Staff Attorney, at (916) 492-3561 or Lisbeth.Landsman@insurance.ca.gov.

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# Appendix A

# Top 20 Most Destructive California Wildfires

| | FIRE NAME *(CAUSE)* | DATE | COUNTY | ACRES | *STRUCTURES* | DEATHS |
|---|---|---|---|---|---|---|
| 1 | **TUBBS** *(Under Investigation)* | October 2017 | Sonoma | 36,807 | **5,643** | 21 |
| 2 | **TUNNEL - Oakland Hills** *(Rekindle)* | October 1991 | Alameda | 1,600 | **2,900** | 25 |
| 3 | **CEDAR** *(Human Related)* | October 2003 | San Diego | 273,246 | **2,820** | 15 |
| 4 | **VALLEY***(Electrical)* | September 2015 | Lake, Napa & Sonoma | 76,067 | **1,955** | 4 |
| 5 | **WITCH** *(Powerlines)* | October 2007 | San Diego | 197,990 | **1,650** | 2 |
| 6 | **NUNS** *(Under Investigation)* | October 2017 | Sonoma | 54,382 | **1,355** | 2 |
| 7 | **OLD** *(Human Related)* | October 2003 | San Bernardino | 91,281 | **1,003** | 6 |
| 8 | **JONES** *(Undetermined)* | October 1999 | Shasta | 26,200 | **954** | 1 |
| 9 | **BUTTE** *(Powerlines)* | September 2015 | Amador & Calaveras | 70,868 | **921** | 2 |
| 10 | **ATLAS** *(Under Investigation)* | October 2017 | Napa & Solano | 51,624 | **781** | 6 |
| 11 | **PAINT** *(Arson)* | June 1990 | Santa Barbara | 4,900 | **641** | 1 |
| 12 | **FOUNTAIN** *(Arson)* | August 1992 | Shasta | 63,960 | **636** | 0 |
| 13 | **SAYRE** *(Misc.)* | November 2008 | Los Angeles | 11,262 | **604** | 0 |
| 14 | **CITY OF BERKELEY** *(Powerlines)* | September 1923 | Alameda | 130 | **584** | 0 |
| 15 | **HARRIS** *(Under Investigation)* | October 2007 | San Diego | 90,440 | **548** | 8 |
| 16 | **REDWOOD VALLEY** *( Under Investigation)* | October 2017 | Mendocino | 36,523 | **544** | 9 |
| 17 | **BEL AIR** *(Undetermined)* | November 1961 | Los Angeles | 6,090 | **484** | 0 |
| 18 | **LAGUNA** *(Arson)* | October 1993 | Orange | 14,437 | **441** | 0 |
| 19 | **ERSKINE** *(Under Investigation)* | June 2016 | Kern | 46,684 | **386** | 2 |
| 20 | **LAGUNA** *(Powerlines)* | September 1970 | San Diego | 175,425 | **382** | 0 |

**"Structures" include homes, outbuildings (barns, garages, sheds, etc) and commercial properties destroyed.

***This list does not include fire jurisdiction. These are the Top 20 regardless of whether they were state, federal, or local responsibility.

**11/1/2017**

The Availability and Affordability of Coverage for Wildfire Loss
in Residential Property Insurance in the Wildland-Urban Interface
and Other High-Risk Areas of California:
CDI Summary and Proposed Solutions

# Appendix B

# The 2010 Wildland-Urban Interface of the Conterminous United States

**Sebastián Martinuzzi, Susan I. Stewart, David P. Helmers, Miranda H. Mockrin, Roger B. Hammer, and Volker C. Radeloff**

Sebastián Martinuzzi, David P. Helmers, and Volker C. Radeloff, University of Wisconsin-Madison, Department of Forest and Wildlife Ecology, SILVIS Lab, 1630 Linden Drive, Madison, WI 53706

Susan I. Stewart, University of Wisconsin-Madison, Department of Forest and Wildlife Ecology, SILVIS Lab, 1630 Linden Drive, Madison, WI 53706, and formerly with U.S. Forest Service, Northern Research Station in Evanston, IL.

Miranda H. Mockrin, U.S. Forest Service, Rocky Mountain Research Station, 5523 Research Park Dr., Suite 350, Baltimore, MD 21228

Roger B. Hammer, Oregon State University, School of Public Policy, Corvallis, OR 97331

Sebastián Martinuzzi is corresponding author; contact him at martinuzzi@wisc.edu
phone: +1/608 890 3160
fax: +1/608 262 9922

Waldo Canyon Fire, Colorado Springs, CO, July, 2012. Aerial photograph of the wildland-urban interface. Note the fire scars (brown/gray color) reaching the limits of the neighborhood, and the roads and water storage tank potentially threatened by wildfire. Photo by Kari Greer, used with permission.

## The Wildland-Urban Interface Defined

Although the idea of a wildland-urban interface is easily understood and the term widely used, a specific definition is needed to determine where it occurs and map its location. The definition we use here, as in earlier map projects, is designed to inform fire policy and management. It is based on a report prepared for the Council of Western State Foresters on WUI fire risk (Teie and Weatherford 2000) and was later published in the Federal Register. [1]

The WUI is composed of both *interface* and *intermix* communities. The distinction between these is based on the characteristics and distribution of houses and wildland vegetation across the landscape. Intermix WUI refers to areas where housing and wildland vegetation intermingle, while interface WUI refers to areas where housing is in the vicinity of a large area of dense wildland vegetation. For more detail, see Box 1.

**Box 1.**—Definition of WUI and non-WUI land-use classes.

| **WUI** Definition | |
|---|---|
| Intermix | Areas with ≥6.18 houses per km$^2$ and ≥50 percent cover of wildland vegetation |
| Interface | Areas with ≥6.18 houses per km$^2$ and <50 percent cover of vegetation located <2.4 km of an area ≥5 km$^2$ in size that is ≥75 percent vegetated |
| **Non-WUI, Vegetated** | |
| No housing | Areas with ≥50 percent cover of wildland vegetation and no houses (e.g., protected areas, steep slopes, mountain tops) |
| Very low housing density | Areas with ≥50 percent cover of wildland vegetation and <6.18 houses per km$^2$ (e.g., dispersed rural housing outside neighborhoods) |
| **Non-Vegetated or Agriculture** | |
| Low and very low housing density | Areas with <50 percent cover of wildland vegetation and <49.42 houses per km$^2$ (e.g., agricultural lands and pasturelands) |
| Medium and high housing density | Areas with <50 percent cover of wildland vegetation and ≥49.42 houses per km$^2$ (e.g., urban and suburban areas, which may have vegetation, but not dense vegetation) |

1 "Urban wildland interface communities within the vicinity of federal lands that are at high risk from wildfire. Notice." 66. Federal Register 3(2001 January 4): 751-777.

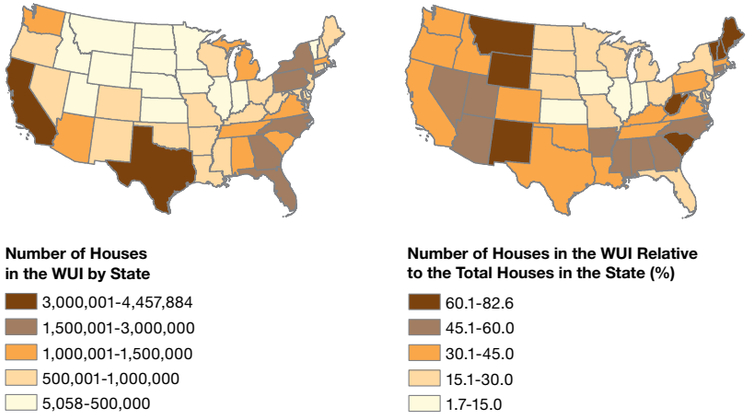



**Figure 3.**—Houses in the WUI by State.

**Table 3.**—Houses in the WUI by State and by Forest Service Region. A map with the Forest Service Regions used in this study can be found on page 23.

| Region/ State | All houses | Houses in the WUI | | In the Interface | | In the Intermix | |
|---|---|---|---|---|---|---|---|
| | Number | Number | % | Number | % | Number | % |
| *Northern Region* | | | | | | | |
| ID | 667,796 | 280,217 | 42.0 | 200,815 | 30.1 | 79,402 | 11.9 |
| MT | 482,825 | 309,447 | 64.1 | 220,985 | 45.8 | 88,462 | 18.3 |
| ND | 317,498 | 59,153 | 18.6 | 44,949 | 14.2 | 14,204 | 4.5 |
| **Total** | **1,468,119** | **648,817** | **44.2** | **466,749** | **31.8** | **182,068** | **12.4** |
| *Rocky Mountain Region* | | | | | | | |
| CO | 2,212,898 | 937,460 | 42.4 | 666,448 | 30.1 | 271,012 | 12.2 |
| KS | 1,233,215 | 184,206 | 14.9 | 129,124 | 10.5 | 55,082 | 4.5 |
| NE | 796,793 | 121,419 | 15.2 | 85,959 | 10.8 | 35,460 | 4.5 |
| SD | 363,438 | 99,195 | 27.3 | 68,176 | 18.8 | 31,019 | 8.5 |
| WY | 261,868 | 215,317 | 82.2 | 168,691 | 64.4 | 46,626 | 17.8 |
| **Total** | **4,868,212** | **1,557,597** | **32.0** | **1,118,398** | **23.0** | **439,199** | **9.0** |
| *Southwestern Region* | | | | | | | |
| AZ | 2,844,526 | 1,365,916 | 48.0 | 970,076 | 34.1 | 395,840 | 13.9 |
| NM | 901,388 | 628,055 | 69.7 | 386,018 | 42.8 | 242,037 | 26.9 |
| **Total** | **3,745,914** | **1,993,971** | **53.2** | **1,356,094** | **36.2** | **637,877** | **17.0** |
| *Intermountain Region* | | | | | | | |
| NV | 1,173,814 | 539,837 | 46.0 | 448,552 | 38.2 | 91,285 | 7.8 |
| UT | 979,709 | 469,375 | 47.9 | 387,437 | 39.5 | 81,938 | 8.4 |
| **Total** | **2,153,523** | **1,009,212** | **46.9** | **835,989** | **38.8** | **173,223** | **8.0** |
| *Pacific Southwest Region* | | | | | | | |
| CA | 13,680,081 | 4,457,884 | 32.6 | 3,669,459 | 26.8 | 788,425 | 5.8 |
| *Pacific Northwest Region* | | | | | | | |
| OR | 1,675,562 | 603,293 | 36.0 | 418,204 | 25.0 | 185,089 | 11.0 |
| WA | 2,885,677 | 1,047,438 | 36.3 | 652,015 | 22.6 | 395,423 | 13.7 |
| **Total** | **4,561,239** | **1,650,731** | **36.2** | **1,070,219** | **23.5** | **580,512** | **12.7** |
| *Southern Region* | | | | | | | |
| AL | 2,171,853 | 1,277,511 | 58.8 | 679,688 | 31.3 | 597,823 | 27.5 |
| AR | 1,316,299 | 601,983 | 45.7 | 303,769 | 23.1 | 298,214 | 22.7 |
| FL | 8,989,580 | 2,568,569 | 28.6 | 1,763,014 | 19.6 | 805,555 | 9.0 |
| GA | 4,088,801 | 1,948,644 | 47.7 | 828,783 | 20.3 | 1,119,861 | 27.4 |
| KY | 1,927,164 | 669,646 | 34.7 | 292,025 | 15.2 | 377,621 | 19.6 |
| LA | 1,964,981 | 858,067 | 43.7 | 550,578 | 28.0 | 307,489 | 15.6 |
| MS | 1,274,719 | 736,785 | 57.8 | 355,795 | 27.9 | 380,990 | 29.9 |
| NC | 4,327,528 | 2,247,317 | 51.9 | 968,824 | 22.4 | 1,278,493 | 29.5 |
| OK | 1,664,378 | 647,082 | 38.9 | 386,372 | 23.2 | 260,710 | 15.7 |
| SC | 2,137,683 | 1,359,610 | 63.6 | 664,534 | 31.1 | 695,076 | 32.5 |
| TN | 2,812,133 | 1,065,410 | 37.9 | 505,532 | 18.0 | 559,878 | 19.9 |
| TX | 9,977,436 | 3,224,465 | 32.3 | 2,047,277 | 20.5 | 1,177,188 | 11.8 |
| VA | 3,364,939 | 1,417,596 | 42.1 | 714,551 | 21.2 | 703,045 | 20.9 |
| **Total** | **46,017,494** | **18,622,686** | **40.5** | **10,060,743** | **21.9** | **8,561,943** | **18.6** |
| *Eastern Region* | | | | | | | |
| CT | 1,487,891 | 800,475 | 53.8 | 441,695 | 29.7 | 358,780 | 24.1 |
| DC | 296,719 | 5,058 | 1.7 | 0 | 0.0 | 5,058 | 1.7 |
| DE | 405,885 | 44,125 | 10.9 | 12,688 | 3.1 | 31,437 | 7.7 |
| IA | 1,336,417 | 96,659 | 7.2 | 56,727 | 4.2 | 39,932 | 3.0 |
| IL | 5,296,715 | 382,650 | 7.2 | 282,969 | 5.3 | 99,681 | 1.9 |
| IN | 2,795,541 | 363,192 | 13.0 | 169,621 | 6.1 | 193,571 | 6.9 |
| MA | 2,808,254 | 1,190,126 | 42.4 | 714,525 | 25.4 | 475,601 | 16.9 |
| MD | 2,378,814 | 710,556 | 29.9 | 422,309 | 17.8 | 288,247 | 12.1 |
| ME | 721,830 | 581,853 | 80.6 | 205,971 | 28.5 | 375,882 | 52.1 |
| MI | 4,532,233 | 1,047,800 | 23.1 | 433,291 | 9.6 | 614,509 | 13.6 |
| MN | 2,347,201 | 436,622 | 18.6 | 178,291 | 7.6 | 258,331 | 11.0 |
| MO | 2,712,729 | 575,766 | 21.2 | 251,066 | 9.3 | 324,700 | 12.0 |
| NH | 614,754 | 507,781 | 82.6 | 223,508 | 36.4 | 284,273 | 46.2 |
| NJ | 3,553,562 | 894,580 | 25.2 | 578,543 | 16.3 | 316,037 | 8.9 |
| NY | 8,108,103 | 1,809,098 | 22.3 | 951,803 | 11.7 | 857,295 | 10.6 |
| OH | 5,127,508 | 831,269 | 16.2 | 432,405 | 8.4 | 398,864 | 7.8 |
| PA | 5,567,315 | 2,054,697 | 36.9 | 1,213,689 | 21.8 | 841,008 | 15.1 |
| RI | 463,388 | 130,058 | 28.1 | 69,611 | 15.0 | 60,447 | 13.0 |
| VT | 322,539 | 228,490 | 70.8 | 95,213 | 29.5 | 133,277 | 41.3 |
| WI | 2,624,358 | 511,330 | 19.5 | 205,704 | 7.8 | 305,626 | 11.6 |
| WV | 881,917 | 688,921 | 78.1 | 394,300 | 44.7 | 294,621 | 33.4 |
| **Total** | **54,383,673** | **13,891,109** | **25.5** | **7,333,932** | **13.5** | **6,557,177** | **12.1** |
| **Grand Total** | **130,878,255** | **43,832,007** | **33.5** | **25,911,583** | **19.8** | **17,920,424** | **13.7** |

# California

Pacific Southwest Region


**Wildland-Urban Interface (WUI)**

- Interface
- Intermix

**Non-WUI Vegetated**

- No housing
- Very low housing density

**Non-vegetated or Agriculture**

- Low and very low housing density
- Medium and high housing density
- Water

- County border
- Highway

0 100 200 km

For more information on the maps and data presented here, please refer to page 20.

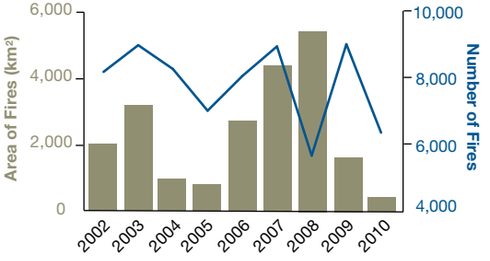
**Population and Geography Overview**

| Census Data | Number | % |
|---|---|---|
| Population | 37,253,956 | |
| Housing units | 13,680,081 | |
| Seasonal use | 302,815 | 2 |

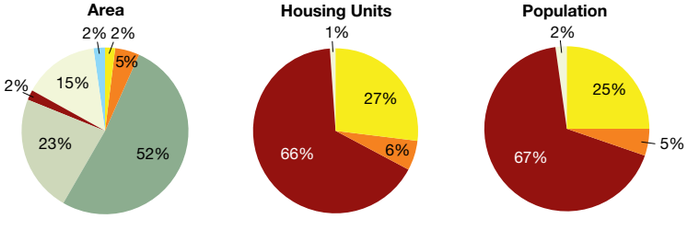
| Land Ownership | Area (km²) | % |
|---|---|---|
| Public-Federal | 198,970 | 48 |
| Public-State | 10,147 | 2 |
| Public-Local | 5,803 | 1 |
| Private | 195,902 | 48 |

| Land Cover | Area (km²) | % |
|---|---|---|
| Forest | 96,349 | 23 |
| Shrubland/herbaceous | 216,461 | 53 |
| Planted/cultivated | 40,782 | 10 |
| Developed | 27,325 | 7 |
| Water/wetland | 9,580 | 2 |
| Others | 20,324 | 5 |
| Total area | 410,821 | |

**Wildfire History**




**WUI in Numbers (see legend)**



The Availability and Affordability of Coverage for Wildfire Loss
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# Appendix C

# CALIFORNIA DEPARTMENT OF INSURANCE

## Modelers Weighted Average Risk Score

| County Name | Weighted Average Risk Score | | |
|---|---|---|---|
| | Dwelling Units [1] | High / Very High | % in High Very High [2] |
| Tuolumne | 29,978 | 24,607 | 82.1% |
| Trinity | 8,481 | 6,270 | 73.9% |
| Nevada | 50,271 | 35,282 | 70.2% |
| Mariposa | 10,117 | 6,766 | 66.9% |
| Plumas | 15,082 | 9,948 | 66.0% |
| Alpine | 1,143 | 711 | 62.2% |
| Calaveras | 27,907 | 17,059 | 61.1% |
| Sierra | 2,264 | 1,384 | 61.1% |
| Amador | 17,473 | 10,358 | 59.3% |
| El Dorado | 83,563 | 47,715 | 57.1% |
| Mono | 9,457 | 4,893 | 51.7% |
| Lake | 34,110 | 17,116 | 50.2% |
| Mendocino | 37,998 | 18,438 | 48.5% |
| Siskiyou | 22,267 | 10,227 | 45.9% |
| Butte | 87,242 | 36,644 | 42.0% |
| Lassen | 11,999 | 4,805 | 40.0% |
| Shasta | 71,352 | 24,645 | 34.5% |
| Tehama | 25,616 | 8,602 | 33.6% |
| Santa Cruz | 92,392 | 28,889 | 31.3% |
| Humboldt | 56,727 | 16,786 | 29.6% |
| Napa | 48,677 | 14,210 | 29.2% |
| Del Norte | 10,465 | 2,767 | 26.4% |
| Modoc | 5,088 | 1,290 | 25.4% |
| Placer | 140,309 | 34,571 | 24.6% |
| Monterey | 114,945 | 24,872 | 21.6% |
| Marin | 90,040 | 18,943 | 21.0% |
| San Luis Obispo | 107,552 | 22,368 | 20.8% |
| Ventura | 241,918 | 49,865 | 20.6% |
| Madera | 47,138 | 9,200 | 19.5% |
| Yuba | 25,597 | 4,913 | 19.2% |
| Santa Barbara | 124,442 | 22,643 | 18.2% |
| Sonoma | 181,094 | 29,825 | 16.5% |
| San Diego | 849,189 | 137,786 | 16.2% |
| San Benito | 17,112 | 2,461 | 14.4% |
| San Bernardino | 618,761 | 84,096 | 13.6% |
| San Mateo | 201,602 | 22,293 | 11.1% |
| Los Angeles | 2,295,246 | 232,886 | 10.1% |
| Colusa | 7,591 | 704 | 9.3% |
| Alameda | 432,155 | 38,647 | 8.9% |
| Riverside | 728,856 | 60,079 | 8.2% |
| Kern | 267,772 | 21,988 | 8.2% |
| Contra Costa | 339,443 | 24,022 | 7.1% |
| Glenn | 10,295 | 722 | 7.0% |
| Inyo | 9,021 | 617 | 6.8% |
| Santa Clara | 478,939 | 29,440 | 6.1% |
| Orange | 796,844 | 45,389 | 5.7% |
| Tulare | 136,797 | 6,394 | 4.7% |
| Fresno | 274,781 | 11,348 | 4.1% |
| Solano | 133,925 | 2,374 | 1.8% |
| San Francisco | 207,028 | 3,324 | 1.6% |
| Stanislaus | 163,080 | 1,734 | 1.1% |
| Sacramento | 457,240 | 2,750 | 0.6% |
| Yolo | 59,668 | 306 | 0.5% |
| Merced | 76,884 | 311 | 0.4% |
| Sutter | 29,554 | 61 | 0.2% |
| Imperial | 49,604 | 95 | 0.2% |
| Kings | 40,626 | 63 | 0.2% |
| San Joaquin | 208,741 | 214 | 0.1% |
| California | **10,723,458** | **1,296,716** | **12.1%** |

Footnote 1: Dwelling Units is provided by the Department of Finance's Demographic Research Unit. Dwelling units include single family dwellings, condomium units, residential dwelling complexes of 2 to 4, and mobile homes. Data is as of January 1, 2015. Dwelling units exclude residential dwelling complexes of 5 or more units that are normally written under a commercial policy.

Footnote 2: The % in High / Very High is a weighted average of the modelers' risk scores.

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# Appendix D

**Appendix D: Consumer Complaints Filed with the California Department of Insurance (CDI) in the USPS Zip Codes Designated by CALFIRE as Having the Greatest Risk of Wildfire 2010 - 2016 on the Issues of Renewals and Premium Increases for Homeowners' Insurance Policies:**

| Type of Consumer Complaint | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | Increase From 2010 – 2016 (%) |
|---|---|---|---|---|---|---|---|---|
| Renewal Complaints From Designated Zip Codes | 41 | 99 | 122 | 116 | 138 | 133 | 143 | 249% Increase |
| Percentage Of Statewide Renewal Complaints From Designated Zip Codes | 59% | 56% | 55% | 52% | 55% | 61% | 60% | |
| Premium Increase Complaints From Designated Zip Codes | 54 | 120 | 62 | 117 | 137 | 116 | 171 | 217% Increase |
| Percentage Of Statewide Premium Increase Complaints From Designated Zip Codes | 64% | 62% | 48% | 69% | 65% | 57% | 61% | |

Notes:

(1) Complaints for both Renewal Issues and Premium Increases in the designated Zip Codes increased significantly over the 6-year period (both statewide and in the designated Zip Codes). Complaints received from the USPS Zip Codes designated by CALFIRE as having the greatest risk of wildfire now make up more than 60% of the statewide complaints, even though the population in these Zip Codes is only 38% of the overall state population.

(2) Most Renewal issues identified in complaints to the CDI involve the insurance company's decision to non-renew the policy due to the insurer's determination that the property is in a high wildfire risk area.

(3) Most Premium Increase issues identified in complaints to the CDI involve a rate change related to an insurance company's high loss ratios, a change in the modeled risk score for the property, or a change in the fire protection class rating for the community.

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# Appendix E

CALIFORNIA DEPARTMENT OF INSURANCE

Number of New, Renewed, and Non-Renewed Homeowners' Policies

in Selected Counties with the Highest Percentage of Homes in High Fire Areas

for the Voluntary Market

| County | Year | New | Renewed | Non-renewed (Insured-Initiated) | Non-renewed (Insurer-Initiated) |
|---|---|---|---|---|---|
| **Subtotal** | **2015** | **73,065** | **644,654** | **36,349** | **8,796** |
| | **2016** | **75,171** | **639,376** | **36,591** | **10,151** |
| Tuolumne | 2015 | 1,592 | 21,131 | 1,169 | 288 |
| | 2016 | 2,039 | 19,935 | 1,123 | 402 |
| Trinity | 2015 | 361 | 4,489 | 315 | 55 |
| | 2016 | 374 | 4,393 | 312 | 86 |
| Nevada | 2015 | 3,786 | 39,308 | 2,077 | 556 |
| | 2016 | 3,972 | 38,407 | 1,936 | 646 |
| Mariposa | 2015 | 433 | 5,312 | 267 | 87 |
| | 2016 | 511 | 5,150 | 289 | 133 |
| Plumas | 2015 | 744 | 8,203 | 453 | 110 |
| | 2016 | 775 | 8,030 | 458 | 178 |
| Alpine | 2015 | 52 | 600 | 27 | 18 |
| | 2016 | 39 | 591 | 29 | 13 |
| Calaveras | 2015 | 1,996 | 21,263 | 1,276 | 393 |
| | 2016 | 2,065 | 20,609 | 1,275 | 375 |
| Sierra | 2015 | 93 | 1,309 | 54 | 23 |
| | 2016 | 122 | 1,268 | 56 | 38 |
| Amador | 2015 | 1,184 | 13,007 | 687 | 217 |
| | 2016 | 1,206 | 12,732 | 685 | 354 |
| El Dorado | 2015 | 7,081 | 64,246 | 3,358 | 1,010 |
| | 2016 | 7,593 | 63,386 | 3,345 | 1,093 |
| Mono | 2015 | 344 | 4,333 | 235 | 41 |
| | 2016 | 401 | 4,234 | 235 | 57 |
| Lake | 2015 | 2,942 | 22,134 | 1,481 | 313 |
| | 2016 | 3,021 | 21,652 | 1,657 | 428 |
| Mendocino | 2015 | 2,560 | 23,570 | 1,334 | 283 |
| | 2016 | 2,494 | 23,484 | 1,347 | 388 |
| Siskiyou | 2015 | 1,561 | 14,500 | 882 | 205 |
| | 2016 | 1,592 | 14,399 | 962 | 252 |
| Butte | 2015 | 7,022 | 58,724 | 3,359 | 683 |
| | 2016 | 7,442 | 58,356 | 3,388 | 823 |
| Lassen | 2015 | 1,093 | 10,042 | 565 | 120 |
| | 2016 | 1,166 | 9,942 | 585 | 147 |
| Shasta | 2015 | 6,769 | 54,650 | 2,970 | 780 |
| | 2016 | 7,179 | 54,414 | 3,046 | 887 |
| Tehama | 2015 | 1,710 | 13,692 | 929 | 170 |
| | 2016 | 1,774 | 13,539 | 879 | 272 |
| Santa Cruz | 2015 | 6,987 | 68,915 | 3,415 | 815 |
| | 2016 | 6,576 | 68,912 | 3,242 | 920 |
| Humboldt | 2015 | 3,649 | 37,057 | 1,983 | 421 |
| | 2016 | 3,601 | 36,947 | 2,036 | 483 |
| Napa | 2015 | 3,896 | 35,739 | 1,852 | 514 |
| | 2016 | 3,843 | 35,605 | 2,009 | 556 |
| Del Norte | 2015 | 826 | 6,521 | 448 | 118 |
| | 2016 | 863 | 6,457 | 416 | 82 |
| Modoc | 2015 | 231 | 2,364 | 212 | 40 |
| | 2016 | 226 | 2,365 | 187 | 23 |
| Placer | 2015 | 16,153 | 113,545 | 7,001 | 1,536 |
| | 2016 | 16,297 | 114,569 | 7,094 | 1,515 |

It includes aggregated counts on the following: homeowners coverage forms similar to HO-2, HO-3, HO-5 & HO-8, etc., dwelling fire forms (excluding dwelling fire contents only coverage), landlord business owner policies (residential policies of 4 units or less), and mobile homes, representing 99% of the market. It excludes HO-4 and HO-6 data.

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# Appendix F




September 25, 2017

John McEldowney
Program Manager, Placer County Office of Emergency Services
175 Fulweiler Ave #205
Auburn, CA 95603

RE: Response to TMTF 10 County Request for Input on Risk Mitigation Efforts

Dear Mr. McEldowney:

We continue to appreciate the opportunity to participate in the TMTF Insurance Subgroup. As the subgroup delves more into complex insurance issues, we hope to be a continued resource to you.

We write to respond to your request for feedback on certain mitigation efforts. Anti-trust law and proprietary information concerns prevent us from discussing company specific underwriting practices, but we can provide insight into the mitigation factors you listed in your July letter.

The Bigger Picture

Insurers support individual home and community environmental mitigation efforts. For individuals, homeowners' insurers regularly recognize the impact of mitigation. Further community mitigation efforts, which insurers oftentimes fund, may have a beneficial long-term impact on individual premiums because of lower loss experience over time.

Individuals and communities understandably desire lower insurance rates following mitigation efforts and more ways to control whether an insurer will offer a renewal contract. However, we urge the Insurance Subgroup to place individual and community mitigation efforts in the proper context: decades of over-suppression of forest fires and years of drought have conspired to increase beetle infestation and tree mortality, increase the density of trees and other fuel on the forest floor, and so in turn increase the number, size, and movement of explosive fire events. The last few years have seen more explosive fire events which go higher into the tree canopy, burn hotter and faster, and travel faster and farther. These fires have the potential to destroy everything in their path, regardless of an individual property's defensible space. This all makes it more difficult for stronger trees to thrive and the forests to be more resilient. While mitigation matters, we cannot lose sight of this much bigger, and influential, picture.

Insurers have different practices and risk appetites due to their current business strategies, exposure, and financial capacities. Companies that are over-saturated in WUI areas will likely have tighter underwriting rules and concerns than those that do not. Furthermore, because of State of California rate approval limitations, such as ignoring the cost of catastrophe reinsurance, many companies cannot obtain adequate rates to responsibly write (or increase their writing) in high risk areas.

Insurers do take different types of mitigation into account. But, how they weigh factors and how they consider or determine them will, again, depend on the individual insurer.

Below is some insight into the mitigation topics for which you asked for feedback:

Defensible Space:

While insurers do consider, and encourage, defensible space, it is appropriate to place such efforts in the proper context of the larger (and harder to control) dynamics of a wildfire-prone environment. Insurers must weigh defensible space efforts while considering other factors which also impact the risk level of any particular property, such as the density of the wildland surrounding the defensible space, the accessibility to the property (road access), and whether a home is isolated.

- **Properly completed defensible space work by homeowners/passed PRC 4291 inspections**: We are supportive of the PRC 4291 inspection process, while recognizing its limitations. Because it primarily addresses vegetation management, it does not address issues with the built environment and potential structural deficiencies that may allow embers to enter the structure. The challenge with relying on vegetation management inspections is that the vegetation is constantly changing and management must be maintained. Further, such efforts can be negated by a neighbor's actions (or inaction).

  Enforcement and resources also impact the weight an insurer will give PRC 4291 inspections. There is currently little, if any, enforcement in place. As we learned from CalFire at a past Insurance Subgroup meeting, they are not currently citing homeowners for issues identified during their inspections. Also, CalFire inspects a limited number of homes per year and has a goal of reaching all homes once every three years.

- **Compliance with standardized defensible space guidelines as established by IBHS and/or Cal Fire:**
  As discussed above with respect to the PRC 4291, due to ongoing vegetation growth over short time periods, and the lack of enforcement mechanisms, many insurers can, and do, give credit for defensible space efforts but, because defensible space is no guard against wind-blown embers from large fires, this credit may not be as much as a homeowner would hope for.

Fire Stations:

Insurers consider fire stations in their risk assessment. Almost all insurers rely on the expertise of the Insurance Services Office (ISO) and its public protection classifications (PPCs). All other factors being equal, communities with better PPC scores tend to have access to better rates. Communities can work with ISO to appropriately update PPC scores when mitigation projects are successfully completed.

Several factors go into determining these PPCs, including the staffing and training for a fire station, distance of properties to a station, accessibility, and water supply.

- **Seasonal fire stations open and staffed during fire seasons:**
  With respect to seasonal fire stations, insurers have a difficult time assessing their impact on risk, as seasonal fire stations do not guarantee the availability of resources at the time a fire starts. Fire seasons are growing in length and, under mutual aid agreements, crews may already be diverted to fight other large fires.

  Another challenge is that seasonal fires stations are often staffed with volunteers who may not have the same training as permanent stations.

- **Boundary drop/auto or mutual aid agreements on fire stations:**
  Mutual aid agreements on fire stations are not a guarantee of protection; in fact, due to these agreements, a local station may already be diverted to another fire. Further, ISO has questioned whether such agreements have a significant impact on their PPCs.

  We are not clear on what is meant by "boundary drops" and would appreciate clarification so we can provide you a response.

<u>Large Scale Mitigation Projects</u>

- **Large scale mitigation project such as shaded/non-shaded fuel breaks**
  Many insurers use satellite imagery tools that already take into account large scale mitigation projects. Such projects, however, cannot be given undue weight. Communities routinely succumb to wind carried embers. As we learned at the Sagehen tour, this is becoming more prevalent because fires now burn hotter due to the mismanagement of our forests.

- **Following the USAA Firewise Communities Model**
  It is our understanding that the designation as a Firewise Community is not used to guarantee availability. With respect to discounts, although some companies have determined that Firewise communities merit discounts for their business purposes, many companies already struggle with rate adequacy – this is a real issue for companies already over-exposed in WUI areas. Insurers cannot provide discounts on top of already inadequate rates. Insurers have a responsibility to all of their policyholders, statewide, to remain financially stable so they can pay claims. Each company must make its own determination of what it can offer based on its current mix of business and access to adequate rates.

- **Using high resolution (1 meter) satellite imagery that shows defensible space efforts:**
  Most commercially available wildfire data is at 30-meter resolution. Moving to 1 meter resolution would increase the data processing and storage costs substantially because the data set would be 900 times larger than today. (A 30-meter by 30-meter area requires 900 images at 30-meters resolution. Covering the same area at 1-meter resolution requires 810,000 images.)

The additional data costs and infrastructure needs to handle such data would be reflected in rates, which homeowners already think are too high, but that many insurers believe are insufficient. The Insurance Subgroup may not be aware that the state's largest insurer, State Farm, is in litigation with the California Department of Insurance because the CDI ordered a homeowners' insurance decrease in response to a request from State Farm to increase its rates. While the public may cheer when the State suppresses prices, it becomes difficult to embrace further calls for insurers to increase their costs of doing business, expand offerings in even more hazardous areas, not be allowed to pass along the actual cost of catastrophic reinsurance, and then lower rates for mitigation efforts which are important but do not fundamentally alter today's wildfire environment.

Aside from the inherent costs, the benefits of increasing resolution of satellite imagery used for assessing wildfire risk would be marginal at best. This is because the risk being measured goes beyond the micro-characteristics of an individual property to the macro-characteristics of the surrounding area. One-meter resolution will not materially improve the ability to see what 30-meter resolution amply demonstrates for this purpose.

- **Request mitigation/risk reduction activities be factored into modeling companies to design models that meet on the grounds needs:**
  Insurance companies strongly agree that our modeling tools should be "state of the art." We will continue to press the various vendors to continue improving their products and look forward to collaborating with the Insurance Subgroup on this issue.

Pilot Projects:

- **Develop a county wide pilot project to develop a tiered risk analysis/assessment**
  Insurers would be interested to see the results of a pilot. We have begun searching for experts who could help in this matter, including discussions with leading academics in the field. We are open to the Insurance Subgroup's further thoughts about this matter.

Legislation:

- **Consider moving towards a legislative based mitigation insurance framework such as other states have done for natural disasters:**
  The California legislature has already established the California FAIR Plan, which offers insurance at rates pre-approved by the Department of Insurance. The FAIR Plan serves as an important backstop for the public by making insurance available in all high risk areas.

  The insurance industry would strongly oppose efforts to force them to "take all comers" or grant unsubstantiated price discounts. Insurers did not cause the tree mortality crisis or the other factors increasing the frequency, size, and volatility of wildfires and have attempted to continue serving wildfire-prone communities despite the risk. Meanwhile, the State places downward pressure on insurance rates, despite actual costs.

Responding to the tree mortality crisis and dangerous wildfire conditions by depriving insurers of the freedom of contract and the ability to adequately maintain their financial stability will only lead to market dysfunction. We have a case study already that illustrates the complexity of attempting to mandate particular behavior. Prior to the Northridge earthquake in 1994, the State of California required insurers to offer earthquake coverage every time they sold a homeowner's insurance policy. Following the Northridge earthquake, most insurers stopped writing new homeowners' insurance policies in the state because they could not responsibly continue to write earthquake insurance policies. As the problem wore on, the real estate industry began to experience difficulties with escrows. The California economy was affected. After creating the largest earthquake insurance facility in the world, the California Earthquake Authority, homeowners' insurance availability returned with full force. The lesson is that the State of California cannot mandate particular behavior that is not grounded in fundamentally sound public policy and economics – and which would ignore the existence of a mechanism (the FAIR Plan) that already provides guaranteed access to fire insurance.

We hope the above comments provide the Insurance Subgroup with more insight into how insurers consider mitigation. We also hope this adds to your appreciation of some of the challenges insurers face in assessing risk, controlling exposure, and obtaining adequate rates in order to write insurance in high risk areas. Unfortunately, the reality is that higher risks cost more to insure.

Furthermore, as we learned at Sagehen, the problem of the wildfire risk goes back to our treatment of the forests for over a hundred years, and our lack of understanding on how to fix the problem. Not only has the fire season increased, but as we learned from Dr. Jeff Brown at Sagehen, fires now burn hotter, and as a result, mitigation – even defensible space – will not always save a community or home.

The insurance industry will continue to support legislation to improve the health of our forests and reduce the risk in WUI areas. We will also continue to participate in the TMTF subgroup, and to provide support where we can.

cc: Richard M. Forster, Supervisor, Amador County Tree Mortality Representative
Michael C. Oliveira, Supervisor, Calaveras County Tree Mortality Representative
Michael Ranalli, Supervisor, El Dorado County Tree Mortality Representative
David Pomaville, Fresno County Tree Mortality Representative
Brent Moon, Kern County Tree Mortality Representative
Tom Wheeler, Supervisor, Madera County Tree Mortality Representative
Kevin Cann, Supervisor, Mariposa County Tree Mortality Representative
John McEldowney, Program Manager, OES, Placer County Tree Mortality Representative
Eric Coyne, Project Manager, Tulare County Tree Mortality Representative
Randy Hanvelt, Supervisor, Tuolumne County Tree Mortality Representative
Saul Gomez, Deputy Cabinet Secretary, Governor's Office

The Availability and Affordability of Coverage for Wildfire Loss
in Residential Property Insurance in the Wildland-Urban Interface
and Other High-Risk Areas of California:
CDI Summary and Proposed Solutions

# Appendix G

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California FAIR Plan Association

# INSURANCE POLICY COMPARISON CFP DWELLING POLICY TO ISO HO-3

## IMPORTANT NOTICE

This chart summarizes some of the significant differences between the coverage provided by the FAIR Plan's basic dwelling policy and the coverage provided by insurance advisory organization Insurance Service Office, Inc. (ISO) more comprehensive California homeowners (HO-3) policy form. You should consider purchasing a companion policy, commonly known as a Difference in Conditions (DIC) policy to supplement what the FAIR Plan policy provides. For a complete, specific understanding of all of the similarities and differences between the FAIR Plan dwelling policy and the insurance available in the standard market, you should consult with a licensed insurance broker. In all cases, the specific language of the policy shall constitute the terms and conditions of the coverage provided. **THIS CHART IS NOT ALL-INCLUSIVE.**

| PERILS INSURED AGAINST (not all-inclusive) | CFP POLICY | ISO HO-3 |
|---|---|---|
| **DWELLING** | | |
| All physical loss unless specifically excluded (including water damage) | | ✓ |
| Fire or Lightning | ✓ | ✓ |
| Smoke | **Limited** | ✓ |
| Internal Explosion | ✓ | ✓ |
| Extended Coverage (winstorm or hail, explosion, riot, aircraft, vehicles) | **Optional** | ✓ |
| Vandalism or Malicious Mischief | **Optional** | ✓ |
| **CONTENTS** | | |
| Fire or Lightning | ✓ | ✓ |
| Smoke | **Limited** | ✓ |
| Internal Explosion | ✓ | ✓ |
| Extended Coverage (winstorm or hail, explosion, riot, aircraft, vehicles) | **Optional** | ✓ |
| Vandalism or Malicious Mischief | **Optional** | ✓ |
| Theft | | ✓ |
| Falling Objects | | ✓ |
| Weight of Ice, Snow or Sleet | | ✓ |
| Accidental Discharge or Overflow of Water or Steam | | ✓ |
| Freezing | | ✓ |
| Sudden Accidental Damage from Artificially Generated Electrical Current | | ✓ |
| **LIABILITY COVERAGES** | | |
| Personal Liability | | ✓ |
| Medical Payments to Others | | ✓ |
| Damage to Property of Others | | $1,000 Limit |

| OTHER COVERAGES, LIMITS AND CONDITIONS (not all inclusive) | | |
|---|---|---|
| | CFP POLICY | ISO HO-3 |
| Replacement Cost | **Optional** | ✓ |
| Other Structures | Use up to 10% of Dwelling Limit (reduces dwelling limit), or **Optional** - you may buy additional Other Structures coverage | 10% of Dwelling Limit (does not reduce Dwelling Limit, and you may buy additional Other Structures coverage) |
| Additional Living Expense | | ✓ |
| Fair Rental Value | Use up to 10% of Dwelling Limit (reduces dwelling limit), or **Optional** - you may buy up to 20% of Dwelling Limit in additional Fair Rental Value coverage | ✓ |
| Ordinance or Law | **Optional** - you may buy up to 10% of Dwelling Limit in Ordinance or Law Coverage | 10% of Dwelling Limit (does not reduce Dwelling Limit, and you may buy additional Ordinance or Law coverage) |
| Debris Removal | Included in Limit of Liability applying to damaged property (reduces applicable limit), or **Optional** - you may buy up to 5% of Dwelling, Other Structures and Personal Property Combined Limits in additional Debris Removal coverage | Included in Limit of Liability applying to damaged property, but adds 5% to that limit, if necessary, for debris removal |

The Availability and Affordability of Coverage for Wildfire Loss
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# Appendix H

United Policyholders
Advocacy and Action Program

*Legislative Approaches to Prevent Insurance Market Dislocations*

In response to insurance market contraction in higher risk areas, such as the wildland urban interface zone (WUI) and rural areas with dense forests and brush in California, or in southern states, coastal areas that are susceptible to high winds and flooding from hurricanes, state legislatures have enacted various statutes that aim to prevent market dislocation. The goal of such statues is to keep homeowners in the admitted insurance market, where they will often find better prices and coverage. In coastal states that face risk of hurricanes and flooding, states have had to confront the issue of widespread non-renewals and surcharges, leaving their constituents with limited options for insuring their home.

This memo will highlight the four main categories in which these statutes fall: (1) insurance companies may not cancel or non-renew a policy based on a weather related claims or a certain number of claims in a specified time period or following a declared disaster; (2) insurance companies may not cancel or non-renew a policy that has been in effect for a certain time period unless a strict rescission standard is met; (3) insurance companies must obtain approval from the state insurance commissioner before they can materially reduce the volume of policies in a given area; and (4) insurance companies must provide mitigation discounts and continued coverage to homeowners who make investments in hardening their home, offsetting the impact of computer-based risk models on rating and underwriting.

I. Insurance companies may not cancel or non-renew a policy based on a weather related claims, a certain number of claims in a specified time period, or following a declared disaster

Arkansas, South Carolina, and Texas are examples of states that prohibit an insurance company from cancelling or non- renewing an insurance policy due to weather-related events, catastrophes, "natural causes" and "Acts of God."[1] Arkansas Code Ann. § 23-63-109, provides:

> *(a) (1) No insurance policy or contract covering damages to property shall be cancelled nor the renewal thereof denied solely as a result of claims arising from natural causes.*
>
> *(2) "Natural cause" is defined as an act occasioned exclusively by the violence of nature where all human agency is excluded from creating or entering into the cause of the damage or injury.*
>
> *(b) Any insurer which violates the provisions of this section shall be subject to the procedures and penalties provided under the Trade Practices Act, 23-66-201 et seq*.

Rhode Island, New York, and Florida are examples of states that have enacted statutes that limit an insurance company's ability to cancel or non-renew an insurance policy following a disaster.[2] In these states, an insurance company may not cancel or non-renew policies within 90 days of a "natural

[1]Ark. Code Ann. § 23-63-109: (a)(1); S. C. Code 1976 § 38-75-790; Texas Ins. Code § 551.107; See also: http://www.tdi.texas.gov/bulletins/2017/b-0026-17.html

[2] R.I. Gen. Laws §§ 27- 76-1 27-29-4(7), 27-29-4.1 42-14-17; N.Y. ISC. LAW § 3425: (p); Fla. Stat. Ann. § 627.4133 (d).

disaster," as defined by each statute (differing slightly, *e.g.*, state or federally declared disaster, Insurance Services Office [ISO][3] "catastrophe" designation).

In California, Ins. Code. §675.1 (AB 2962 Ch. 605 (2004)) provides:

*In the case of a total loss to the primary insured structure under a residential policy subject to Section 675, the following provisions apply:*

*(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.*

*(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)…of ISC 676.[4] 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.*

*(c) Except for the reasons specified in subdivisions (a) to (e), inclusive, of Sec. 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 subd. (b) of [Civil Code] Sec. 1689.14[5], and the loss was not also due to the negligence of the insured.*

Prohibiting non-renewals for homeowners who do not suffer a loss but whose property is located within a county covered by a state, local, or federal disaster declaration would be a welcome addition to this statute, ensuring continuity in the insurance marketplace following catastrophic events.

II. <u>Insurance companies may not cancel or non-renew a policy that has been in effect for a certain time period unless a strict rescission standard is met</u>

[3] ISO is also the vendor of the much-discussed FireLine model, seen as partly responsible for California's market crisis.

[4] After a policy specified in Section 675 has been in effect for 60 days, or, if the policy is a renewal, effective immediately, no notice of cancellation shall be effective unless it is based on the occurrence, after the effective date of the policy, of one or more of the following: (a) Nonpayment of premium, including nonpayment of any additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property or a change in its occupancy or use. (b) Conviction of the named insured of a crime having as one of its necessary elements an act increasing any hazard insured against. (c) Discovery of fraud or material misrepresentation by either of the following: (1) The insured or his or her representative in obtaining the insurance. (2) The named insured or his or her representative in pursuing a claim under the policy. (d) Discovery of grossly negligent acts or omissions by the insured or his or her representative substantially increasing any of the hazards insured against. (e) Physical changes in the insured property which result in the property becoming uninsurable. (Amended by Stats. 1986, Ch. 1321, Sec. 2.)

[5] As used in this section and Section 1689.6, "disaster" means an earthquake, flood, fire, hurricane, riot, storm, tidal wave, or other similar sudden or catastrophic occurrence for which a state of emergency has been declared by the President of the United States or the Governor or for which a local emergency has been declared by the executive officer or governing body of any city, county, or city and county. (A.B. 1610, July 18, 1995).

Pennsylvania sets perhaps the highest bar in the country in terms of what an insurer must allege in order to cancel or non-renew a policy. Penn. Stat, Tit. 40 P.S. Ins. § 1171.5 provides:

> *Cancelling any policy of insurance covering owner-occupied private residential properties or personal property of individuals that has been in force for sixty days or more* ***or refusing to renew any such policy*** *unless the policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by the company; or there has been a substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued; or there is a substantial increase in hazards insured against by reason of willful or negligent acts or omissions by the insured; or the insured has failed to pay any premium when due whether such premium is payable directly to the company or its agent or indirectly under any premium finance plan or extension of credit; or for any other reasons approved by the commissioner pursuant to rules and regulations promulgated by the commissioner.* (emphasis added).

A potential loophole is the language that allows non-renewal if there has been a "*substantial change or increase in hazard in the risk assumed by the company subsequent to the date the policy was issued*."

III. Insurance companies must obtain approval from the state insurance commissioner before they can materially reduce the volume of policies in a given area

New York presents a unique regulatory regime, wherein an insurance company that desires to "materially reduce its volume of such policies written" must seek approval from the Insurance Commissioner.[6] New York Ins. Law 3425, provides, in relevant part:[7]

> *(5) with respect to homeowners' insurance, in the event that an insurer intends to materially reduce the volume of policies written pursuant to paragraph two of subsection (o) of this section, any commissions payable pursuant to an agent contract shall be mandatory for an additional one year period beyond the completion of the required policy period specified in paragraph seven of subsection (a) of this section….*[8]
>
> *(o) (1) An insurer that intends to materially reduce its volume of policies written, covered by this section, shall submit to the superintendent, at least thirty days in advance of implementing such actions, a plan for orderly reduction that: (i) describes the contemplated actions; (ii) sets forth the reasons…; (iii) describes the measures such insurer intends to take in order to minimize market disruption; and (iv) provides such other information as the superintendent may require.*
>
> *(2) (A) An insurer that writes homeowners insurance policies as defined in subsection (a) of section two thousand three hundred fifty-one of this chapter,*[9] *who intends to materially reduce*

[6] Id. (N.Y. ISC. LAW § 3425).

[7] See also: http://www.dfs.ny.gov/insurance/ogco2006/rg060416.htm

[8] (7) With respect to personal lines insurance, " required policy period " means a period of three years from the date as of which a covered policy is first issued or is voluntarily renewed.

[9] (a) For the purposes of this section, "homeowners insurance" means a contract of insurance insuring against the contingencies described in subparagraphs (A), (B) and (C) or (B) and (C) of paragraph two of subsection (a) of section three thousand four

*its volume of such policies written, shall submit to the superintendent, at least sixty days in advance of implementing such actions, a plan for the orderly reduction of the number of policies written. Such plan shall: (i) describe the contemplated actions; (ii) set forth the reasons for such actions; (iii) describe the measures such insurer intends to take in order to minimize market disruption; and (iv) provide such other information as the superintendent may require.*

*(B) The superintendent after receiving such plan shall have thirty days in which to approve it or disapprove it. The superintendent shall approve such plan if the applicant demonstrates that such material reduction is accomplished in a manner that minimizes market disruption in areas of material reduction. In the review of each plan submitted prior to the submission of the report required by subparagraph (E) of this paragraph, the superintendent shall assess the impact of the planned withdrawal in the counties of Nassau and Suffolk; areas within one mile of a saltwater shoreline, canal or bay in the counties of Queens, Kings, Richmond, Bronx or Westchester; and areas where policies issued by the New York property insurance underwriting association have increased by an amount deemed significant by the superintendent since January first, nineteen hundred ninety-two. For plans filed subsequent to the submission of the report required by subparagraph (E) of this paragraph, the superintendent shall assess the impact of the planned withdrawal on such areas as the superintendent may identify pursuant to subparagraph (E) of this paragraph.*

If California were adopt such a statute, it may have the effect of slowing down the pace of non-renewals in high-risk areas. Cal. Code Regs. 2641.1 et seq (Proposition 103) already requires insurers to file the rates with the Department of Insurance. A possible amendment to the statute could require insurers to re-file their rates when they cancel or non-renew a certain number of policies in a given zip code.[10]

IV. <u>Insurance companies must provide mitigation discounts and continued coverage to homeowners who make investments in hardening their home.</u>

A significant number of states have enacted statutes that require insurance companies to offer discounts to homeowners that harden their homes. In Alabama, insurance companies must provide a premium discount to property owners who construct or retrofit their insurable properties to resist loss due to hurricane or windstorm events.[11] Ala. Code § 27-31D-1, provides as follows:

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hundred twenty-five of this chapter and which is a "covered policy" of personal lines insurance as defined in such paragraph; provided, however, that the coverage's provided under such subparagraphs (B) and (C) shall not apply where the natural person does not have an insurable interest in the real property, or a portion thereof, or the residential unit in which such person resides. N.Y. Ins. Law § 3425(a)(2)(A), (B) and (C) includes as covered personal lines insurance policies those policies "insuring any of the following contingencies: (A) loss of or damage to real property used predominantly for residential purposes and which consists of not more than four dwelling units, other than hotels and motels; (B) loss of or damage to personal property in which natural persons have an insurable interest, except personal property used in the conduct of a business; and (C) other liabilities for loss of, damage to, or injury to persons or property, not arising from the conduct of a business, when a natural person is the named insured under the policy.

[10] § 2644.50. Refiling of Approved Rates. As a means to determine whether a rate previously approved remains in compliance with the statutory standard set forth in California Insurance Code Section 1861.05(a), for an insurer operating with a rate approved three years ago or longer in the homeowners multiple peril and private passenger auto liability and physical damage lines, the Commissioner may require an insurer to file a rate application.

[11] Ala. Code § 27-31D-1, *et seq*; See also: http://www.aldoi.gov/pdf/legal/2016-07%20-%20Modification%20to%20Ala.%20Bulletins%202013-07,%202010-03%20and2009-07.pdf.

*(a) Commencing on May 14, 2009, insurance companies shall provide a premium discount or insurance rate reduction in an amount and manner as established in subsection (d) and pursuant to Section 27-31D-3. In addition, insurance companies may also offer additional adjustments in deductible, other credit rate differentials, or a combination thereof, collectively referred to as adjustments. These adjustments shall be available under the terms specified in this section to any owner who builds or locates a new insurable property, in the State of Alabama, to resist loss due to hurricane or other catastrophic windstorm events.*

The discounts are tied the Fortified For Safer Living standards, a set of criteria promulgated by the Institute for Home and Business Safety, an insurance industry funded organization.[12] The International Residential Code ("IRC") is another source of standards. As shown in the chart below, there are multiple levels that correspond to the amount of investment the homeowner makes. Generally speaking, the Bronze level requires the homeowner to ensure the roof does not leak (with or without a new roof); Silver requires gable end walls, pressure-tested garage doors and skylight openings; and Gold requires chimney retrofitting, additional pressure-testing, a continuous load path, and thicker wall sheathing.[13]

| Mitigation Category | Existing Home with a Roof > 5 Years | Existing Home with a Roof ≤ 5 Years | New Home ≤ 5 Years |
|---|---|---|---|
| **Fortified for Safer Living** | 50% | 60% | 60% |
| **Fortified Home: GOLD** | 40% | 50% | 50% |
| **Fortified Home: SILVER** | 35% | 45% | 45% |
| **Fortified Home: BRONZE** | 20% | 35% | 35% |
| **2006 IRC or later** | 10% | 20% | 20% |

A legislative proposal in California should also take into account compliance with Pub. Res. Code sec. 4291,[14] local firefighting resources, community firebreaks, and other factors that mitigate risk.

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[12] See: https://disastersafety.org/fortified/fortified-home/.

[13] Ala. Code § 27-31E: Alabama offers a $10,000 grant to coastal homeowners who wish to mitigate their homes to the Bronze or Silver standard and maintain wind/hurricane insurance on the property.

[14] (1) Maintain defensible space of 100 feet from each side and from the front and rear of the structure, but not beyond the property line except as provided in paragraph (2). The amount of fuel modification necessary shall take into account the flammability of the structure as affected by building material, building standards, location, and type of vegetation. Fuels shall be maintained in a condition so that a wildfire burning under average weather conditions would be unlikely to ignite the structure. This paragraph does not apply to single specimens of trees or other vegetation that are well-pruned and maintained so as to effectively manage fuels and not form a means of rapidly transmitting fire from other nearby vegetation to a structure or from a structure to other nearby vegetation. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Consistent with fuels management objectives, steps should be taken to minimize erosion. For the purposes of this paragraph, "fuel" means any combustible material, including petroleum-based products and wildland fuels. (2) A greater distance than that required under paragraph (1) may be required by state law, local ordinance, rule, or regulation. Clearance beyond the property line may only be required if the state law, local ordinance, rule, or regulation includes findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. Clearance on adjacent property shall only be conducted following written consent by the adjacent landowner. (3) An insurance company that insures an occupied dwelling or occupied structure may require a greater distance than that required under paragraph (1) if a fire expert, designated by the director, provides findings that the clearing is necessary to significantly reduce the risk of transmission of flame or heat sufficient to ignite the structure, and there is no other feasible mitigation measure possible to reduce the risk of ignition or spread of wildfire to the structure. The greater distance may not be beyond the property line unless allowed by state law, local ordinance, rule, or regulation. (4) Remove that portion of a tree that extends within 10 feet of the outlet of a chimney or stovepipe. (5) Maintain a tree, shrub, or other plant adjacent to or overhanging a building free of dead or dying wood.
(6) Maintain the roof of a structure free of leaves, needles, or other vegetative materials.