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State Senate

State Assembly

Department of
Insurance

Secretary of State

As we mentioned last week, over the coming weeks, we will be providing summaries of bills signed or vetoed by the Governor by subject matter in *This Week In Sacramento*. This week we are featuring legislation concerning homeowners' and fire insurance.

Homeowners & Fire Insurance Legislation

AB 1772 (Aguiar-Curry, Dem-Napa) Fire Insurance Replacement Cost Recovery

This legislation extends the minimum time limit during which an insured may collect the full replacement cost of a loss relating to a state of emergency to 36 months. The bill requires that additional extensions of 6 months be provided to policyholders for good cause under that circumstance. The bill also requires that policy forms issued by an insurer be in compliance with these changes on and after July 1, 2019.

After losing a home or business in a fire resulting in a state of emergency, current law provides a policyholder with at least 2 years to rebuild their property and receive the full replacement cost coverage. Proponents of the bill argue 2 years is sometimes insufficient time for families to rebuild the insured property. The property insurance marketplace already provides for more than 2 years to rebuild as long as insured is showing it is acting in good faith.

Assembly Vote: 80-0

Senate Vote: 38-0

Status: This bill was signed by the Governor. Chapter 627, Statutes of 2018

AB 1797 (Levine, Dem-Marin) Homeowners' Insurance Replacement Cost Coverage

This bill requires an insurer that provides replacement cost coverage to provide, on an every other year basis, at the time an offer to renew a policy of residential property insurance is made to the policyholder, an estimate of the cost necessary to rebuild or replace the insured structure that complies with specified existing regulations. The bill exempts an insurer from this requirement if either the policyholder has requested, within the 2 years prior to the offer to renew the policy, and the insurer has provided, coverage limits greater than the previous limits that the policyholder had selected, or if the insurer has made offers to the policyholder.

Insurers are not currently required by law to provide a replacement cost estimate after the issuance of the policy. Many policies already include an automatic inflation adjuster, though. Nevertheless, the insurance industry did not file registered opposition to the measure.

Official Legislative Information

Assembly Vote: 77-0

Senate Vote: 35-0

Status: This bill was signed by the Governor. Chapter 205, Statutes of 2018

AB 1799 (Levine, Dem-Marin) Insurance Policy Document Furnishing

Current law requires an insurer, after a covered loss under a fire insurance policy, to provide the insured with a free copy of his or her policy within 30 calendar days of receiving a request from the insured, but allows the Insurance Commissioner to extend this period. Current law also provides that an insured who does not experience a covered loss is entitled to one free copy of his or her policy annually. This bill specifies that the copy of the policy provided be a complete copy of the policy in effect at the time of the loss and include the full policy, any endorsements to the policy, and the policy declarations page.

Until recently, and unlike other financial services, it was not lawful for an insurer to offer policyholders the opportunity to conduct all or most of their transactions electronically. However, over the past few years, the law has incrementally developed to the point where most communications between an insurer and a policyholder can be conducted electronically. This bill provides a narrow, specific exception to the electronic transactions law so that a policyholder can request an email copy of their policy.

Assembly Vote: 74-0

Senate Vote: 36-0

Status: This bill was signed by the Governor. Chapter 69, Statutes of 2018

AB 1800 (Levine, Dem-Marin) Fire Insurance Replacement Coverage

Current law defines the measure of indemnity for a loss under an open fire insurance policy and specifies time limits under which an insured must collect the full replacement cost of the loss. Current law prohibits, in the event of a total loss of the insured structure, a fire insurance policy from limiting payment of the replacement cost of property if the insured decides to rebuild at a location other than the insured premises. Current law also requires the measure of indemnity to be based upon the replacement cost of the insured property and prohibits it from being based upon the cost to repair or replace at a location other than the insured premises.

This bill prohibits, in the event of a total loss of an insured structure, a fire insurance policy from containing a provision that limits, on the basis that the insured has decided to rebuild at a new location or to purchase an already built home at a new location, payment of the building code upgrade cost or the replacement cost, including any extended replacement cost coverage, to the extent those costs are otherwise covered by the terms of the policy or any policy endorsement.

Assembly Vote: 79-0

Senate Vote: 37-0

Status: This bill was signed by the Governor. Chapter 628, Statutes of 2018

AB 1857 (Nazarian, Dem-Van Nuys) Building Codes Earthquake Safety

The California Building Standards Law provides for the adoption of building standards by state agencies by requiring all state agencies that adopt any building standard to submit the building standard to the California Building Standards Commission for approval. This bill requires the

Commission to assemble a functional recovery working group comprised of state entities and members of the construction and insurance industries. The bill requires the working group, by July 1, 2022, to consider whether a “functional recovery” standard is warranted for all or some building occupancy classifications and to investigate the practical means of implementing that standard.

Analyses of earthquakes anticipated in southern California and the Bay Area predict that a significant number of structures built to the current code will suffer enough damage to be flagged as dangerous by local building departments. With expected damage to existing, older buildings, this represents more than \$100 billion in damage, displacement of people from their homes, and a significant disruption to the regional economy.

Assembly Vote: 77-0

Senate Vote: 38-0

Status: This bill was signed by the Governor. Chapter 629, Statutes of 2018

AB 1875 (Wood, Dem-Santa Rosa) Home Insurance Finder

This legislation requires the Department of Insurance (DOI) to establish the California Home Insurance Finder on its website to help homeowners connect with an insurance agent or broker for residential property insurance. The bill requires the Department to annually survey agents, brokers, and insurers about inclusion in the finder, and post participants’ names, addresses, phone numbers, and websites, if available, to the finder on or before July 1, 2020. The bill requires the DOI to use social media and other tools to promote the finder, and to create materials in the most common languages used in California.

Most insurance companies offer extended replacement cost policies that are designed to provide the extra coverage needed by victims of large-scale disasters. For those that do not, this bill provides a resource for locating carriers that provide this coverage and requires those insurers who do not offer extended replacement coverage at 150% to provide this information to applicants for insurance.

Assembly Vote: 78-0

Senate Vote: 39-0

Status: This bill was signed by the Governor. Chapter 629, Statutes of 2018

AB 1919 (Wood, Dem-Santa Rosa) State of Emergency Rental Housing Price Gouging

This bill, upon the proclamation or declaration of an emergency, makes it a misdemeanor for a person or business to increase the rental price advertised, offered, or charged for housing to an existing or prospective tenant by more than 10%. The bill extends the prohibition with regard to housing for any period that the proclamation or declaration is extended. The bill additionally makes it a misdemeanor for a person, business, or entity to evict a housing tenant after the proclamation of a state of emergency and then rent or offer to rent to another person at a rental price higher than the evicted tenant could be charged.

According to various media reports, in the 7 days that followed the 2017 North Bay Firestorm, the median rent in some affected counties increased over 35% and local newspapers reported

anecdotal stories of homes coming onto the rental market at nearly double the price of other similar rentals in the same neighborhood.

Assembly Vote: 68-4

Senate Vote: 37-1

Status: This bill was signed by the Governor. Chapter 631, Statutes of 2018

AB 1956 (Limon, Dem-Santa Barbara) Fire Prevention Local Assistance Grant Program

Current law requires the Department of Forestry and Fire Protection to establish a working group to identify potential incentives for landowners to implement pre-fire activities in state responsibility areas and urban wildland communities and to identify all federal, state, or local programs, private programs, and any other programs requiring a cost share that involves pre-fire activities. This bill would repeal this law.

This bill establishes a local assistance grant program and ensures that fire prevention activities occur year-round.

Assembly Vote: 79-0

Senate Vote: 39-0

Status: This bill was signed by the Governor. Chapter 632, Statutes of 2018

AB 2091 (Grayson, Dem-Concord) Prescribed Fire Burns Insurance Pool

This bill requires, on or before January 1, 2020, and until January 1, 2025, the Department of Forestry and Fire Protection, in consultation with the Department of Insurance, to develop an insurance pool for prescribed burn managers. The measure requires only certified prescribed burn managers to have access to the insurance pool. The goal of the insurance pool is to increase the use of prescribed fire; reduce the cost of insurance for certified prescribed burn managers and landowners; and, provide adequate liability protection for lives and property when conducting prescribed burns.

According to the author, liability and the cost of insurance are often cited as significant impediments to the expanded use of prescribed fire. Many states have taken steps to adjust liability standards and insurance regulations to encourage the use of prescribed fire.

Assembly Vote: 80-0

Senate Vote: 39-0

Status: This bill was signed by the Governor. Chapter 634, Statutes of 2018

AB 2229 (Wood, Dem-Santa Rosa) Residential Property Insurance Disclosures

This bill requires a Residential Property Insurance Disclosure that is provided on and after January 1, 2020 to include any fire safety-related discounts offered by the insurer.

Homeowners who take proactive steps to reduce their homes' vulnerability have a greater chance of having their homes withstand a wildfire. These include removing brush and vegetation to create significant defensible space, having access to sufficient water supply, installing noncombustible roofing and siding, improving attic and crawl space vent screens, enclosing

eaves, and upgrading windows. Some insurers offer fire safety discounts to homeowners with specific fire safe features.

Assembly Vote: 74-0

Senate Vote: 36-0

Status: This bill was signed by the Governor. Chapter 75, Statutes of 2018

AB 2346 (Quirk, Dem-Hayward) Electric Utility Wildfire Expense Accounts

This bill authorizes the Public Utilities Commission (PUC) to permit each electric and gas corporation to establish wildfire expense accounts for costs relating to wildfires that occur on or after January 1, 2015, and to record costs in those accounts. The bill requires the recovery in rates of those costs to be subject to review by, and the determination of, the Commission. The bill also requires an electric or gas company to notify the PUC within 30 days after recording costs in its wildfire expense account.

This bill permits electric utilities to pass on the cost of wildfire damage caused by energy facilities, such as downed powerlines, to ratepayers rather than company shareholders. These costs include liability around the cost of destroyed residential and commercial property. By way of PUC rate cases, the Commission already considers passing electric utility costs to ratepayers.

Assembly Vote: 80-0

Senate Vote: 39-0

Status: This bill was vetoed by the Governor. The veto message can be found in Appendix J.

AB 2594 (Friedman, Dem-Los Angeles) Fire Insurance Lawsuit Filing Period

Current law imposes a 12-month statute of limitations in which to bring suit under a fire insurance policy or a county fire insurance policy after a loss. Current law makes it a misdemeanor for an insurer or agent to countersign or issue a fire policy that varies from the California standard form of policy. This bill revises the standard forms of policy and extends the period in which to bring a lawsuit to 24 months after the inception of the loss if the loss is related to a state of emergency.

This bill addresses a potential conflict between two sections of the Insurance Code relating to homeowners' insurance claims. One provision in the required contract language for homeowners' policies in California establishes a 12-month statute of limitations for a policyholder with a claim dispute to sue their insurer. A second provision permits a homeowner up to 24 months to complete the repair of the home and collect the full replacement value. This bill aligns the statute of limitations with the 24-month period to complete repairs and collect full replacement value.

Assembly Vote: 80-0

Senate Vote: 37-0

Status: This bill was signed by the Governor. Chapter 639, Statutes of 2018

AB 2911 (Friedman, Dem-Los Angeles) County Fire Safety Ordinance Requirement

Current law authorizes a local agency, at its discretion, to exclude from specified requirements governing fire risk reduction an area identified as a very high fire hazard severity zone by the

Department of Forestry and Fire Protection within the jurisdiction of the local agency, following a finding supported by substantial evidence that those requirements are not necessary for effective fire protection within the area. This bill eliminates this exemption and requires a local agency to transmit a copy of any ordinance adopted relative to these provisions to the Board of Forestry and Fire Protection within 30 days of adoption.

This bill is in response to the 2017 wildfire season. More than 40% of California is considered a high fire risk severity zone. Landowners in these areas are required to follow fire prevention practices. Cities within these areas are also required to adopt a safety element in their general plans to reduce risk and prevent wildfires. AB 2911 attempts to improve the fire safety of communities in high fire risk severity zones by updating past fire safety legislation to reflect the severe nature of the year-round wildfire season.

Assembly Vote: 80-0

Senate Vote: 37-0

Status: This bill was signed by the Governor. Chapter 639, Statutes of 2018

SB 824 (Lara, Dem-Bell Gardens) Homeowners' Insurance Renewal

This bill prohibits an insurer from canceling or refusing to renew a policy of residential property insurance for at least the next 2 annual renewal periods, but no less than 24 months of coverage from the date of the loss, after the declaration of a state of emergency based solely on the fact that the insured structure is located in an area in which a wildfire has occurred, with respect to an insured property located within or adjacent to the fire perimeter. An insurer cannot cancel or refuse to renew a policy of residential property insurance for a property located in any ZIP Code within or adjacent to the fire perimeter.

Original concern by insurers about this bill is that it contained renewal mandate language that would have a chilling effect on the entire insurance market, but now it contains exceptions, such as allowing insurers to cancel in the case of fraud, making it more palatable to insurers.

Assembly Vote: 79-0

Senate Vote: 39-0

Status: This bill was signed by the Governor. Chapter 616, Statutes of 2018

SB 894 (Dodd, Dem-Napa) Homeowners Insurance Combined Coverage

SB 894 provides wildfire victims the option to combine some coverages within their homeowner policy to offset the underinsured amount in their home. Consumers qualify for this provision if they meet 3 tests: 1) it is following a declared disaster; 2) they suffer a total loss; and, 3) they are underinsured in their primary dwelling. SB 894 also provides homeowners suffering a total loss from a fire 2 years of renewal offers, instead of the current one year of renewal.

The Department of Insurance claims many survivors after a major disaster or catastrophic event, such as the 2017 wildfires, do not rebuild or replace the total loss property in the period of only one renewal. Most are not able to rebuild for a period of 24 months or longer. In some losses, the survivor may be underinsured for the primary structure coverage, but may have unused coverage in other structures coverage. By allowing them to combine their coverages they may be able to offset the underinsured amount, which in some cases might allow them to rebuild their

home. Insurers already largely allow policyholders an extended period of time to rebuild beyond what the law requires.

Assembly Vote: 51-25

Senate Vote: 26-12

Status: This bill was signed by the Governor. Chapter 618, Statutes of 2018

SB 901 (Dodd, Dem-Fairfield) Electric Utility Wildfire Mitigation Plans

This legislation provides \$1 billion to clear fire-prone trees and brush from across the state over the next 5 years. The bill establishes new wildfire prevention policies, including a streamlining of government approval to remove trees in heavy growth forests and exceptions to existing rules on the sizes of trees that can be removed, as well as new vegetation management grants for owners of smaller parcels of land to do the necessary work. The \$1 billion is to be collected by the sale of greenhouse gas emission credits through California's cap-and-trade climate program. SB 901 allows electric utilities to impose a surcharge on its customers to be used to then sell longterm bonds to cover wildfire liability and mitigation costs. It requires an independent assessment of how much money a utility could afford to spend, otherwise known as a "stress test," before any additional costs are covered in a borrowing effort that is underwritten by a fee on ratepayers. For future fires, utility companies have their share of fault determined by the Public Utilities Commission.

Fundamentally, the bill pays for clearing fire-prone trees and brush from across the state, while providing new relief for utility companies that have said wildfire costs could lead them to bankruptcy. Senator Bill Dodd (Dem-Napa), Co-Chair of the Joint Wildfire Preparedness Conference Committee called the plan not perfect, but compromise was necessary to take steps to address the fact that California is on fire and to find a way to mitigate wildfire risks. The agreement on SB 901 provisions came only hours before a legal deadline for the proposal's final language to be available for public review. Electric utilities argued the proposal did not do enough to address their fire-related costs. However, their opposition was not floor fight worthy. The most contentious financial discussions on SB 901 centered around the distress call sounded by investor owned electric utilities of possible bankruptcy over wildfire liability costs. Pacific Gas & Electric Company led that charge, warning analysts that it faces up to \$2.5 billion in costs related to deadly fires that burned through Northern California in 2017. Last year alone, California insurers paid \$15 billion in claims for the North Bay Firestorm and Thomas Fire.

Assembly Vote: 49-14

Senate Vote: 29-4

Status: This bill was signed by the Governor. Chapter 626, Statutes of 2018

SB 917 (Jackson, Dem-Santa Barbara) Landslide Insurance

Under current law, an insurer is liable for a loss of which a peril insured against was the proximate cause, although a peril not contemplated by the contract may have been a remote cause of the loss. Under current law, an insurer is not liable for a loss of which the peril insured was only the remote cause. This bill requires coverage to be provided if a loss or damage results from a combination of perils, one of which is a landslide, mudslide, mudflow, or debris flow, if an insured peril is the efficient proximate cause of the loss or damage and coverage would otherwise be provided for the insured peril.

This legislation was introduced in reaction to the Montecito Mudslide that took 17 lives and 100 homes, costing insurers \$421 million.

Assembly Vote: 47-22

Senate Vote: 27-12

Status: This bill was signed by the Governor. Chapter 620, Statutes of 2018

SB 1260 (Jackson, Dem-Santa Barbara) Prescribed Fire Burns

This bill is an omnibus fire prevention and forestry management bill that promotes longterm forest health and wildfire resiliency. The bill authorizes federal, state, and local agencies to engage in collaborative forestry management, creates new opportunities for public and private land managers to mitigate wildfire risks, and enhances the Department of Forestry and Fire Protection's (CalFire) role in identifying wildfire hazards as local governments plan for new housing and neighborhoods. It also expands the flexibility of CalFire to establish proportionate liability in advance of prescribed burns including an option to purchase insurance.

Poor management policies that interrupted natural forest lifecycles have left forests vulnerable to catastrophic wildfires. This bill reorients California's forest management policies toward longterm forest health and fire resiliency by helping promote longterm forest health, increasing support to local entities with experience in forest management, prescribed fire, and public safety, and enhances CalFire's role in identifying wildfire hazards in the planning process undertaken by local governments.

Assembly Vote: 80-0

Senate Vote: 39-0

Status: This bill was signed by the Governor. Chapter 624, Statutes of 2018

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