

## Trial by fire: Testing California's new insurance protections

By Stacy Monahan Tucker

The current wildfires throughout the Los Angeles area have drawn attention again to California's insurance landscape. From 2021 to 2023, the California Department of Insurance passed a number of regulations to protect insureds who lose their homes in wildfires. The Los Angeles fires are the first large-scale wildfire disaster since most of the regulations were passed, and many insureds and even many insurers may not be familiar with them all. Important wildfire claim regulations are discussed below to help educate wildfire victims about their rights.

An insurer must advance four months of additional living expenses (also called loss of use or fair rental value) immediately when an insured loses her home in a declared state of emergency. Insurance Code Section 2061 (a)(1). Insureds are entitled to the fair market value of their property if it had been on the rental market.

An insurer must offer an immediate payment of at least 30% of a Coverage A dwelling policy limit (up to \$250,000) for a personal property advance, but does not have to exceed the personal property coverage limit. Insurance Code Section 10103.7.

An insured making a claim does not need to use the insurer's inventory form, insurers must accept the information any way the insured provides it. Insureds no longer need to itemize every item, claimants can now bulk-list items. Insurance Code Section 2061 (a) (2) (3).

Even if an insured's property was unharmed, an insurer must pay ad-



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ditional living expenses for up to 2 weeks if the insured is restricted from accessing his property by a civil authority due to evacuation orders, with additional two-week extensions available for good cause. Insurance Code Section 2060[c].

There are specific rules insurers must follow when processing a claim. Insurers must acknowledge a claim, provide claim forms, and begin investigating a claim within 15 days of receiving notice of the claim. 10 CCR 2695.5(e). They must provide the insured with a copy of the policy upon request. Insurance Code Sections 2071, 2084. They also must provide on request to the insured a copy of all claims-related documents created or relied upon during the adjustment of the claim.

Insurance Code Section 2071. They must respond to any questions, letters, calls and emails from the insured within 15 days of receipt. 10 CCR 2695.5(b). The insurer is supposed to accept or reject a claim within 40 days of receiving proof of claim. If the insurer denies the claim, it must provide all factual and legal bases for the refusal. 10 CCR 2695.7(b). If it accepts the claim, it must pay all undisputed portions within 30 days. 10 CCR 2695.7h. However, the regulations provide insurers an easy way around these timeframes. Insurers can request more time to review if they put the request in writing, specify what else they need to resolve the claim, and provide an estimated time frame to make a decision. 10 CCR 2695.7(c)(1).

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During disasters, claims adjusters are often overwhelmed with their workload and insurers frequently adjust those workloads. This resulted in insureds never having a consistent point of contact or continuity in their claims. To combat this, California now requires any insurer who assigns an insured to 3 or more claims adjusters in a six-month period to provide a written status report summarizing the status of the claim, and must provide the insured an ongoing person to be a stable point of contact with a direct means of communication to that person. Insurance Code Sections 2071, 14047.

Rebuilding can be a long and difficult process, and often involves disputes between the insured and insurer about building delays outside of the control of the insured, such as finding an available contrac-

tor, obtaining permits, and sourcing materials. Regardless of the time limits in the policy, when a loss is due to a state of emergency the insured has 24 months to use additional living expenses regardless of any limits in the policy, plus an additional 12-month extension if the insured encounters delay beyond his control. Insurance Code Section 2060(b)(1). Similarly, regardless of the time limits in the policy, in a state of emergency an insured has 36 months to rebuild from the date of the first payment made. Additional six-month extensions may be provided for good cause. Insurance Code Sections 2051.5[b][1] and [2]. Many policies require an appraisal process if either party seeks to invoke it due to a dispute about the cost of repairs. If the damage is due to a government-declared disaster, however, appraisal cannot

be compelled. Insurance Code Section 2071.

Not every wildfire victim will want to rebuild. Insureds can use all of their building coverages, including extended replacement coverage, separate structure coverage and building code upgrade coverage, to put towards the purchase of a new home if the insured can demonstrate that those coverages would have been needed to rebuild. Insurance Code Sections 2051.5 (c), 10103.7(a). If an insured chooses to buy a new home, the insurer cannot deduct the value of the land from a replacement home purchase. Insurance Code Section 2051.5 (c)(2).

Many wildfire victims are understandably concerned about their insurance status after a fire claim. An insurer cannot cancel an insured's insurance while a home is being rebuilt. The insurer cannot

charge premiums on renewal for the cost of the non-existent home, but can only charge for what is actually on the property. Insurers must offer to renew for at least 24 months after a loss caused by a disaster. Insurance Code Section 675.1[a]. Additionally, a one-year moratorium was put in place for zip codes in or adjoining the Palisades and Eaton fires on Jan. 9, 2025. No insurer can cancel or non-renew policies in those areas for one year.

The California Insurance Commissioner instituted the above regulations to help wildfire victims access their insurance benefits and to expedite their recoveries, and the Los Angeles wildfires will be the first test of how well insurers comply with these regulations. Anyone who encounters issues with insurer compliance should contact the Department of Insurance.

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