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CALIFORNIA INSURANCE COMMISSIONER

NOTICE

TO: All Residential Property Insurance Companies, Licensed Independent Insurance Adjusters, Insurance Agents/Brokers, and Other Interested Parties

DATE: November 5, 2019

RE: Significant California Laws Effective as of the Date of this Notice that Pertain to Residential Property Insurance Policies, including those related to a Declared State of Emergency (SB 240)

Since at least 2007, the California Department of Insurance (CDI) has been distributing notices to insurers, agents/brokers, and adjusters, after major wildfire events, regarding the significant California laws that pertain to residential property insurance policies. These notices focus on wildfire claims. This and prior notices can be found on CDI's website at: <http://www.insurance.ca.gov/01-consumers/140-catastrophes/WildfireResources.cfm>. Consult the notice applicable to the date of the pertinent fire or other declared emergency to determine which laws were applicable at that time.

On October 3, 2019, Governor Gavin Newsom signed Senate Bill (SB) 240 (Dodd, Chapter 502, Statutes of 2019) enacting amendments to the Insurance Adjuster Act. This bill was an urgency bill, meaning its provisions were effective immediately. Among other things, SB 240 adds a new California Insurance Code (Cal. Ins. Code) Section 14046(a)(1), which codifies CDI's practice of preparing a notice after major events describing the most significant California laws pertaining to property insurance policies, including those related to a declared state of emergency. To implement this section of SB 240, CDI intends to issue a notice in January of each year. However, given the recent and current wildfires that were declared a state of emergency, CDI is issuing this year's notice now. CDI may issue interim updates if significant legal changes occur during a particular year. Those too will be available at the website above.

For a claim under a policy of residential property insurance arising as a result of a declared state of emergency, every residential property insurance company shall provide the claimant with a copy of the most recent notice no later than 15 calendar days from the date on which the insurer received notice of the claim. It is expected that all residential property insurers and insurance adjusters shall comply with these new laws for any residential property insurance claims related to a state of emergency.

SIGNIFICANT CLAIMS AND COVERAGE RELATED LAWS

ISSUE	INSURANCE CODE SECTION	SUMMARY
Time Limit to Collect Full Replacement Cost	§2051.5 (b)(1)	An insured will have no less than 12 months (from the date that the first payment toward the actual cash value is made) to collect the full replacement cost of the loss, subject to the policy limit. Additional extensions of six months shall be provided to policyholders for good cause. In the event of a loss relating to a “state of emergency,” as defined in Section 8558 of the Government Code, an insured will have no less than 36 months (from the date that the first payment toward the actual cash value is made) in order to collect the full replacement cost of the loss, subject to the policy limit.
Time Limit to Collect Additional Living Expenses (ALE)	§2051.5 (b)(2)	In the event of a covered loss relating to a state of emergency, coverage for additional living expenses (or loss of use) shall be for at least 24 months from the inception of the loss, but shall be subject to other policy provisions. An insurer shall grant an extension of up to 12 additional months, for a total of 36 months, if an insured acting in good faith and with reasonable diligence encounters a delay or delays in the reconstruction process that are the result of circumstances beyond the control of the insured. Circumstances beyond the control of the insured include, but are not limited to, unavoidable construction permit delays, lack of necessary construction materials, and lack of available contractors to perform the necessary work. Additional extensions of six months shall be provided to policyholders for good cause.
Rebuilding in Current Location or Rebuilding or Replacing in a New Location	§2051.5 (c)	An insured may use their replacement cost insurance coverage to (1) rebuild at the current location, (2) rebuild at a new location, or (3) purchase an already built home at a new location. Replacement cost coverage shall include payment of the building code upgrade coverage, even if the insured does not incur building code upgrade costs if the insured chooses to purchase an already built property in another location. However, the payment shall not exceed the replacement cost, including the building code upgrade cost, and any extended replacement cost coverage, if applicable, to repair, rebuild, or replace the insured structure at its original location.

SIGNIFICANT CLAIMS AND COVERAGE RELATED LAWS

ISSUE	INSURANCE CODE SECTION	SUMMARY
Changing Claims Adjusters	§2071 & 14047	<p>If, within a six-month period, the company assigns a third or subsequent adjuster to be primarily responsible for a claim, the insurer shall provide the insured with a written status report. The written status report must include a summary of any decisions or actions that are substantially related to the disposition of a claim, including, but not limited to, the amount of losses to structures or contents, the retention or consultation of design or construction professionals, the amount of coverage for losses to structures or contents and all items of dispute.</p> <p><u>Note:</u> In addition to the above, Cal. Ins. Code §14047 requires that for a claim arising from a state of emergency, if, within a six-month period, an insurer assigns a third or subsequent first-party real or personal property claims adjuster, the insurer shall establish a primary point of contact for the insured and provide the insured one or more direct means of communication with the primary point of contact.</p>
Appraisal	§2071	In the event of a government-declared disaster, as defined in the Government Code, appraisal may be requested by either the insured or the insurance company but shall not be compelled.
Suits	§2071	No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after inception of the loss. If the loss is related to a state of emergency, the time limit to bring suit is extended to 24 months after inception of the loss.
Copy of Complete Policy After a Loss	§2084	After a covered loss under a policy covered by Section 2071, an insurer shall provide to the insured, free of charge, a complete, current copy of his or her policy within 30 calendar days of receipt of a request from the insured. The policy must include the full insurance policy, any endorsements, and the declarations page.

SIGNIFICANT CLAIMS AND COVERAGE RELATED LAWS

ISSUE	INSURANCE CODE SECTION	SUMMARY
Ability to Combine Coverages	§10103.7	In the event of a claim relating to a state of emergency, an insured under a residential property insurance policy shall be permitted to combine payments for claims for losses up to the policy limits for the primary dwelling and other structures, for any of the covered expenses reasonably necessary to rebuild or replace the damaged or destroyed dwelling, if the policy limits for coverage to rebuild or replace the primary dwelling are insufficient.

SIGNIFICANT UNDERWRITING RELATED LAWS

ISSUE	INSURANCE CODE SECTION	SUMMARY
Adjustment of Policy Limits on Renewal	§675.1(a)(1)	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.
Cancellation after Total Loss to Primary Structure	§675.1(a)(2)	The insurer shall not cancel coverage while the primary insured structure is being rebuilt, except for the reasons specified in subdivisions (a) to (e), inclusive, of Section 676. The insurer shall not use the fact that the primary insured structure is in damaged condition as a result of the total loss as the sole basis for a decision to cancel the policy pursuant to subdivision (e) of that section.
Non-Renewal After a Declared Disaster	§675.1(a)(3)	The insurer shall offer to, for at least the next two annual renewal periods, but no less than 24 months of coverage from the date of the loss, to renew the policy in accordance with paragraph (1) if the total loss to the primary insured structure was caused by a disaster, as defined in subdivision (b) of Section 1689.14 of the Civil Code, the loss was not also due to the negligence of the insured, and losses have not occurred subsequent to the disaster-related total loss that relate to physical or risk changes to the insured property that result in the property becoming uninsurable.

SIGNIFICANT UNDERWRITING RELATED LAWS

ISSUE	INSURANCE CODE	SUMMARY
Non-Renewal or Cancellation within Fire Perimeter	§675.1(b)(1)	An insurer shall not 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, for one year 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. This prohibition applies to all policies of residential property insurance in effect at the time of the declared state of emergency.

Note: The above laws are the most significant laws pertaining to property insurance policies, including those related to a declared state of emergency. In addition, all insurers and claims adjusters, whether California-licensed or not, must be properly trained on the California Unfair Insurance Practices Act (Cal. Ins. Code Sections 790 - 790.15), Fair Claims Settlement Practices Regulations (Title 10, California Code of Regulations, Sections 2695.1 – 2695.12), Insurance Mediation laws (Cal. Ins. Code Sections 10089.70 – 10089.83) and all other laws relating to property and casualty insurance claims handling, coverage, and eligibility.

Disclaimer: The above laws are significant laws effective as of the date of this notice. Some of the above laws may not pertain to prior disaster claims.