

**ASSEMBLY BILL**

**No. 1772**

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**Introduced by Assembly Members Aguiar-Curry and Wood**  
**(Principal coauthors: Assembly Members Levine and Limón)**  
(Principal coauthors: Senators Dodd and McGuire)  
(Coauthor: Senator Jackson)

January 4, 2018

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An act to amend Section 2051.5 of the Insurance Code, relating to fire insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1772, as introduced, Aguiar-Curry. Fire insurance: indemnity.

Existing 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. In the event of a loss relating to a state of emergency, as defined, existing law establishes a minimum time limit of not less than 24 months from the date that the first payment toward the actual cash value is made during which the insured may collect the full replacement cost of the loss, subject to the policy limit, as specified.

This bill would extend 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 would also make technical changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2051.5 of the Insurance Code is amended  
2 to read:

3 2051.5. (a) (1) Under an open policy that requires payment  
4 of the replacement cost for a loss, the measure of indemnity is the  
5 amount that it would cost the insured to repair, rebuild, or replace  
6 the thing lost or injured, without a deduction for physical  
7 depreciation, or the policy limit, whichever is less.

8 ¶  
9 (2) *If* the policy requires the insured to repair, rebuild, or replace  
10 the damaged property in order to collect the full replacement cost,  
11 the insurer shall pay the actual cash value of the damaged property,  
12 as defined in Section 2051, until the damaged property is repaired,  
13 rebuilt, or replaced. Once the property is repaired, rebuilt, or  
14 replaced, the insurer shall pay the difference between the actual  
15 cash value payment made and the full replacement cost reasonably  
16 paid to replace the damaged property, up to the limits stated in the  
17 policy.

18 (b) (1) Except as provided in paragraph (2), no time limit of  
19 less than 12 months from the date that the first payment toward  
20 the actual cash value is made shall be placed upon an insured in  
21 order to collect the full replacement cost of the loss, subject to the  
22 policy limit. Additional extensions of six months shall be provided  
23 to policyholders for good cause. In the event of a loss relating to  
24 a “state of emergency,” as defined in Section 8558 of the  
25 Government Code, no time limit of less than ~~24~~ 36 months from  
26 the date that the first payment toward the actual cash value is made  
27 shall be placed upon the insured in order to collect the full  
28 replacement cost of the loss, subject to the policy limit. ~~Nothing~~  
29 ~~in this section shall prohibit~~ *This section does not prohibit* the  
30 insurer from allowing the insured additional time to collect the  
31 full replacement cost.

32 (2) In the event of a covered loss relating to a state of  
33 emergency, as defined in Section 8558 of the Government Code,  
34 coverage for additional living expenses ~~shall be~~ *is* for a period of  
35 24 months, but ~~shall be~~ *is* subject to other policy provisions,  
36 provided that ~~any~~ *an* extension of time required by this paragraph  
37 beyond the period provided in the policy ~~shall not act to~~ *does not*  
38 increase the additional living expense policy limit in force at the

1 time of the loss. This paragraph shall become operative on January  
2 1, 2007.

3 (c) In the event of a total loss of the insured structure,~~no a~~  
4 policy issued or delivered in this state ~~may~~ *shall not* contain a  
5 provision that limits or denies payment of the replacement cost in  
6 the event the insured decides to rebuild or replace the property at  
7 a location other than the insured premises. However, the measure  
8 of indemnity shall be based upon the replacement cost of the  
9 insured property and shall not be based upon the cost to repair,  
10 rebuild, or replace at a location other than the insured premises.

11 (d) ~~Nothing in this section shall prohibit~~ *This section does not*  
12 *prohibit* an insurer from restricting payment in cases of suspected  
13 fraud.

14 (e) ~~The changes made to this section by the act that added this~~  
15 ~~subdivision shall be implemented by an insurer on and after the~~  
16 ~~effective date of that act, except that an insurer shall not be required~~  
17 ~~to modify policy forms to be consistent with those changes until~~  
18 ~~July 1, 2005.~~ On and after July 1, 2005, all policy forms used by  
19 an insurer shall ~~reflect those changes.~~ *comply with this section.*