

Introduced by Senators Dodd and McGuire
(Coauthor: Assembly Member Levine)

January 12, 2018

An act to amend Sections 675.1 and 2051.5 of, and to add Section 10103.7 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 894, as introduced, Dodd. Property insurance.

Existing law requires an insurer, in the case of a total loss to the primary insured structure under a policy of residential property insurance, to offer to renew the policy at least once if the loss to the primary insured structure was caused by a disaster, as defined, and was not also due to the negligence of the insured, except as specified.

This bill would instead require the insurer to offer to renew the policy for at least the next 2 annual renewal periods or 24 months, whichever is greater. The bill would require an insurer who decides not to offer to renew a policy after the expiration of that period to report the decision to not offer to renew the policy to the Insurance Commissioner. The bill would require an insurer who, within 5 years after the declaration of a disaster, decides that it will not offer, or offer to renew, any residential policies described above for coverage of loss to structures located in the declared disaster area, to report that decision to the commissioner.

Existing law defines the measure of indemnity for a loss under a property insurance policy and specifies time limits under which an insured must collect the full replacement cost of the loss. Existing law prohibits a property insurance policy issued or delivered in the state from limiting or denying payment of the replacement cost of property

in the event the insured decides to rebuild or replace the property at a location other than the insured premises.

This bill would increase from 24 months to 36 months the minimum time limit an insurer may place on an insured to collect the full replacement cost of a loss relating to a state of emergency.

This bill would require an insurer to allow an insured that has suffered a loss relating to a declared state of emergency to combine the policy limits for primary dwelling, other structures, contents, and additional living expenses, and to use the combined amount for any of the covered purposes.

The bill would make other technical, nonsubstantive 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 675.1 of the Insurance Code is amended
2 to read:

3 675.1. In the case of a total loss to the primary insured structure
4 under a residential policy subject to Section 675, the following
5 provisions apply:

6 (a) If reconstruction of the primary insured structure has not
7 been completed by the time of policy renewal, the insurer, prior
8 to or at the time of renewal, and after consultation by the insurer
9 or its representative with the insured as to what limits and
10 coverages might or might not be needed, shall adjust the limits
11 and coverages, write an additional policy, or attach an endorsement
12 to the policy that reflects the change, if any, in the insured's
13 exposure to loss. The insurer shall adjust the premium charged to
14 reflect any change in coverage.

15 (b) The insurer shall not cancel coverage while the primary
16 insured structure is being rebuilt, except for the reasons specified
17 in subdivisions (a) to (e), inclusive, of Section 676. The insurer
18 shall not use the fact that the primary insured structure is in
19 damaged condition as a result of the total loss as the sole basis for
20 a decision to cancel the policy pursuant to subdivision (e) of that
21 section.

22 (c) (1) Except for the reasons specified in subdivisions (a) to
23 (e), inclusive, of Section 676, the insurer shall ~~offer to, at least~~
24 ~~once, offer, for at least the next two annual renewal periods or 24~~

1 *months, whichever is greater, to renew the policy in accordance*
2 *with the provisions of subdivision (a) if the total loss to the primary*
3 *insured structure was caused by a disaster, as defined in subdivision*
4 *(b) of Section 1689.14 of the Civil Code, and the loss was not also*
5 *due to the negligence of the insured.*

6 *(2) If an insurer does not offer to renew a policy after the*
7 *expiration of the period described in paragraph (1), the insurer*
8 *shall report the decision to not offer to renew the policy to the*
9 *commissioner.*

10 *(3) If an insurer, within five years after the declaration of a*
11 *disaster, as defined in subdivision (b) of Section 1689.14 of the*
12 *Civil Code, decides that it will not offer, or offer to renew, any*
13 *residential policies described in this section for coverage of loss*
14 *to structures located in the declared disaster area, the insurer*
15 *shall report that decision to the commissioner.*

16 (d) With respect to policies of residential earthquake insurance,
17 the California Earthquake Authority, or any insurer, including a
18 participating insurer, as defined in subdivision (i) of Section
19 10089.5, may defer its initial implementation of this section until
20 no later than October 1, 2005.

21 (e) With respect to a residential earthquake insurance policy
22 issued by the California Earthquake Authority, the following
23 provisions apply:

24 (1) The participating insurer that issued the underlying policy
25 of residential property insurance on the primary insured structure
26 shall consult with the insured as to what limits and coverages might
27 or might not be needed as required by subdivision (a).

28 (2) The California Earthquake Authority, in lieu of meeting the
29 requirements of subdivision (a), shall establish procedures and
30 practices that allow it to reasonably accommodate the needs and
31 interests of consumers in maintaining appropriate earthquake
32 insurance coverage, within the statutory and regulatory limitations
33 on the types of insurance coverages and the coverage limits of the
34 policies that the authority may issue.

35 SEC. 2. Section 2051.5 of the Insurance Code is amended to
36 read:

37 2051.5. (a) Under an open policy that requires payment of the
38 replacement cost for a loss, the measure of indemnity is the amount
39 that it would cost the insured to repair, rebuild, or replace the thing

1 lost or injured, without a deduction for physical depreciation, or
2 the policy limit, whichever is less.

3 If the policy requires the insured to repair, rebuild, or replace
4 the damaged property in order to collect the full replacement cost,
5 the insurer shall pay the actual cash value of the damaged property,
6 as defined in Section 2051, until the damaged property is repaired,
7 rebuilt, or replaced. Once the property is repaired, rebuilt, or
8 replaced, the insurer shall pay the difference between the actual
9 cash value payment made and the full replacement cost reasonably
10 paid to replace the damaged property, up to the limits stated in the
11 policy.

12 (b) (1) Except as provided in paragraph (2), no time limit of
13 less than 12 months from the date that the first payment toward
14 the actual cash value is made shall be placed upon an insured in
15 order to collect the full replacement cost of the loss, subject to the
16 policy limit. Additional extensions of six months shall be provided
17 to policyholders for good cause. In the event of a loss relating to
18 a “state of emergency,” as defined in Section 8558 of the
19 Government Code, no time limit of less than ~~24~~ 36 months from
20 the date that the first payment toward the actual cash value is made
21 shall be placed upon the insured in order to collect the full
22 replacement cost of the loss, subject to the policy limit. Nothing
23 in this section shall prohibit the insurer from allowing the insured
24 additional time to collect the full replacement cost.

25 (2) In the event of a covered loss relating to a state of
26 emergency, as defined in Section 8558 of the Government Code,
27 coverage for additional living expenses shall be for a period of 24
28 months, but shall be subject to other policy provisions, provided
29 that any extension of time required by this paragraph beyond the
30 period provided in the policy shall not act to increase the additional
31 living expense policy limit in force at the time of the loss. This
32 paragraph shall become operative on January 1, 2007.

33 (c) In the event of a total loss of the insured structure, no policy
34 issued or delivered in this state may contain a provision that limits
35 or denies payment of the replacement cost in the event the insured
36 decides to rebuild or replace the property at a location other than
37 the insured premises. However, the measure of indemnity shall be
38 based upon the replacement cost of the insured property and shall
39 not be based upon the cost to repair, rebuild, or replace at a location
40 other than the insured premises.

1 (d) Nothing in this section shall prohibit an insurer from
2 restricting payment in cases of suspected fraud.

3 ~~(e) The changes made to this section by the act that added this~~
4 ~~subdivision shall be implemented by an insurer on and after the~~
5 ~~effective date of that act, except that an insurer shall not be required~~
6 ~~to modify policy forms to be consistent with those changes until~~
7 ~~July 1, 2005. On and after July 1, 2005, all policy forms used by~~
8 ~~an insurer shall reflect those changes.~~

9 SEC. 3. Section 10103.7 is added to the Insurance Code, to
10 read:

11 10103.7. In the event of a covered loss relating to a state of
12 emergency, as defined in Section 8558 of the Government Code,
13 an insured under a residential property insurance policy shall be
14 permitted to combine the policy limits for the primary dwelling,
15 other structures, contents, and additional living expenses. If the
16 insured chooses this option, the insured may use these combined
17 limits for any of the covered expenses reasonably necessary to
18 rebuild or replace the damaged or destroyed dwelling, other
19 structures, or contents, or for additional living expenses.

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