

DEPARTMENT OF INSURANCE

CONSUMER SERVICES & MARKET CONDUCT BRANCH
TONY CIGNARALE, Deputy Commissioner
300 SOUTH SPRING STREET-SOUTH TOWER
LOS ANGELES, CA 90013
(213) 346-6360
(213) 897-6041 (FAX)
www.insurance.ca.gov



Date: November 20, 2012

To: Property and Casualty Insurance (C) Committee

From: Tony Cignarale, Deputy Commissioner, Consumer Services & Market Conduct

Subject: California Department of Insurance (CDI)
Public Hearing on Catastrophic Claims
NAIC Fall National Meeting, Washington, D.C.
Sunday, December 2, 2012

Over the past 20 years, California has experienced significant catastrophic losses, resulting in the tragic loss of life and property. In addition to the devastating losses from the 1994 Northridge EQ, several thousand residences, businesses, and other structures were lost due to wildfires, from the 1991 Oakland, CA wildfire to several major firestorms throughout the state. Based on this experience, CDI worked with insurers, consumer groups, local government, and the state Legislature to craft several significant achievements to protect policyholders.

1. Extension of Replacement Cost and ALE Time Limits:

First, after a major event, it is virtually impossible for the homeowner to rebuild the destroyed property in the typical six months or one year to rebuild and replace the structure, contained in most HO policies. We found many homeowners were losing out on both full Replacement Cost and Additional Living Expenses (ALE) since they could not meet these deadlines. California passed legislation to require after a "state of emergency," that these time periods to collect full RC and ALE to at least 24 months, with extensions for good cause. **California Insurance Code (CIC) Section 2051.5(b).**

2. Ability to Replace by buying a new home, rather than rebuild in the current location: After a major event many homeowners will either not be able to rebuild at the current location due to the continuation of the hazard, new zoning limitations, or by their own choosing. In these cases, insureds were losing out on full Replacement Cost (only getting ACV) when they decided to purchase a replacement home rather than rebuild. California passed legislation to require payment of full replacement cost even if the insured purchases another home rather than rebuild. **CIC section 2051.5(c).**

3. Lost Policies After a Loss: Getting a copy of a destroyed insurance policy is an important first step in the claims recovery process. California passed legislation to

require that, after a loss, the insurer provide a copy free of charge within 30 days of the request. **CIC Section 2084(a).**

4. Protection from being Cancelled or Non-Renewed after a Major Loss: After a major loss, some insurers would cancel or non-renew the insurance policy. This caused severe hardship to homeowners, who had to go without any insurance protection or had their lenders force place expensive lenders coverage. California passed legislation to prohibit cancellation or non-renewal of the policy during the period to rebuild. **CIC section 675.1.**

5. Mediation Program Expansion from just EQ to all catastrophic HO Claims: California passed legislation to allow for non-binding mediation, using independent and experienced mediators, between the insurer and the claimant. The cost of the program is paid for by the insurer. This program has resulted in many settlements of disputed claims, thus avoiding costly and time-consuming litigation. **CIC Section 10089.70.**

6. Underinsurance: Underinsurance was certainly prevalent after each and every major event. California's experience reflects that this phenomenon is caused by a combination of demand surge (lack of available contractors and building materials in a certain area) and inadequate insurance coverage or coverage limits under the homeowner's insurance policy. CDI found that certain components of replacement value may not have been considered at all, or have not been considered fully, in determining replacement value estimates, when the policyholder purchased coverage. These omitted components include costs to replace the foundation of the structure; debris removal and demolition expenses, overhead and profit, engineering reports and architects plans. Additionally, full consideration of the type of frame, roof, siding, slope, size, square footage, location, stories, wall heights, materials, and age would provide a more accurate estimated replacement value. In 2011, CDI adopted regulations that provide more comprehensive and reliable estimates of what it might cost to completely rebuild a destroyed home. Such estimates were previously unregulated, and led homeowners to believe they needed less coverage than they truly did in the event of a disaster.

These regulations require all California resident broker-agents to satisfactorily complete one three-hour training course on homeowners' insurance valuation prior to estimating the replacement value of structure and require that all replacement cost estimates communicated to applicants or insureds be complete, based upon specifically enumerated standards.

7. Other Proposed Claims Handling Reforms Adopted by Insurers on a Voluntary Basis:

CDI negotiated with the major insurers, who agreed to implement voluntary claims reforms for post-disaster losses. These reforms included:

Additional Living Expenses: Insurers should adopt a standard ALE advance payment of 4 months for a total loss, upon request. Additional ALE should be available upon proper proof following the advance period, upon request.

Vehicle claims: Upon satisfaction of proof of claim, insurance companies should expedite payment of automobile property damage claims under comprehensive loss coverage.

Contents: Insurers should provide a standard contents advance payment of at least 25% of policy limits for a total loss of the primary residence in a wildfire disaster.

Billing: All insurers should grant billing leniency for 30 days for customers in designated wildfire disaster areas.

Debris removal: Insurers should accept an expedited debris removal process coordinated through city, county and state agencies, with master debris removal vendor contracts under pre-negotiated conditions. In this pre-negotiated environment, insurers would agree to pay debris removal bills promptly.

Inventory Itemization: Insurers should agree to accept reduced itemization of contents in wildfire total losses.

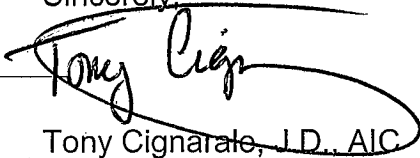
The California Department of Insurance appreciates the opportunity to present testimony on this important issue and extends its full cooperation in any next steps by the NAIC in furthering the goal of protecting policyholders after a catastrophic claim.

Should the committee wish further information on these topics please contact Tony Cignarale or Joel Laucher:

Tony Cignarale, Deputy Commissioner
Consumer Services & Market Conduct Branch
California Department of Insurance
(213) 346-6360 - Office
Tony.Cignarale@insurance.ca.gov

Joel Laucher, Deputy Commissioner
Rate Regulation Branch
California Department of Insurance
(415) 538-4381 - Office
Joel.Laucher@insurance.ca.gov

Sincerely,



Tony Cignarale, J.D., AIC
Deputy Commissioner
Consumer Services & Market Conduct Branch