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INSURANCE CODE - INS

DIVISION 2. CLASSES OF INSURANCE [1880 - 12880.8] (*Division 2 enacted by Stats. 1935, Ch. 145.*)

PART 1. FIRE AND MARINE INSURANCE [1880 - 10108.1] (*Part 1 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 2. The Fire Insurance Contract [2030 - 2085] (*Chapter 2 enacted by Stats. 1935, Ch. 145.*)

ARTICLE 2. Measure of Indemnity [2050 - 2062] (*Article 2 enacted by Stats. 1935, Ch. 145.*)

2050. The effect of a valuation in a fire policy is the same as in a marine policy.

(Enacted by Stats. 1935, Ch. 145.)

2051. (a) Under an open policy, the measure of indemnity in fire insurance is the expense to the insured of replacing the thing lost or injured in its condition at the time of the injury, the expense being computed as of the time of the commencement of the fire.

(b) Under an open policy that requires payment of actual cash value, the measure of the actual cash value recovery, in whole or partial settlement of the claim, for either a total or partial loss to the structure or its contents, shall be the amount it would cost the insured to repair, rebuild, or replace the thing lost or injured less a fair and reasonable deduction for physical depreciation based upon its condition at the time of the injury or the policy limit, whichever is less. A deduction for physical depreciation shall apply only to components of a structure that are normally subject to repair and replacement during the useful life of that structure.

(Amended by Stats. 2019, Ch. 59, Sec. 1. (AB 188) Effective January 1, 2020.)

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

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

(b) (1) (A) A time limit of less than 12 months from the date that the first payment toward the actual cash value is made shall not be placed upon an insured in order to collect the full replacement cost of the loss, subject to the policy limit.

(B) In the event of a loss relating to a "state of emergency," as defined in Section 8558 of the Government Code, a time limit of less than 36 months from the date that the first payment toward the actual cash value is made shall not be placed upon the insured in order to collect the full replacement cost of the loss, subject to the policy limit.

(C) This section does not prohibit an insurer from allowing the insured additional time to collect the full replacement cost.

(2) An insurer shall provide to a policyholder one or more additional extensions of six months for good cause pursuant to subparagraph (A) or (B) of paragraph (1) if the insured, acting in good faith and with reasonable diligence, encounters a delay or delays in approval for, or reconstruction of, the home or residence that are beyond the control of the insured. Circumstances beyond the control of the insured include, but are not limited to, unavoidable construction permit delays, the lack of necessary construction materials, or the unavailability of contractors to perform the necessary work.

(c) (1) In the event of a total loss of the insured structure, a policy issued or delivered in this state shall not contain a provision that limits or denies, on the basis that the insured has decided to rebuild at a new location or to purchase an already built home at a new location, payment of the building code upgrade cost or the replacement cost, including any extended replacement cost coverage, to the extent those costs are otherwise covered by the terms of the policy or any policy endorsement. However, the measure of

indemnity 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.

(2) Notwithstanding any other law, for a residential property insurance policy, the measure of damages available to a policyholder to use to rebuild or replace the insured home at another location shall be the amount that would have been recoverable had the insured dwelling been rebuilt at its original location, and a deduction for the value of land at the new location shall not be permitted from that measure of damages. However, the measure of indemnity shall not exceed the cost, including the building code upgrade cost and any extended replacement cost coverage, if applicable, to rebuild the insured structure at its original location.

(d) This section does not prohibit an insurer from restricting payment in cases of suspected fraud.

(e) (1) On and after July 1, 2005, and only until July 1, 2019, all policy forms used by an insurer shall be in compliance with this section, except for the changes made to this section by the act that added paragraph (2).

(2) On and after July 1, 2019, all policy forms issued or renewed by an insurer shall comply with this section in its entirety, including the changes made to this section by the act that added this paragraph.

(Amended by Stats. 2020, Ch. 261, Sec. 1. (SB 872) Effective January 1, 2021.)

2052. Whenever the insured desires to have a valuation named in his policy insuring any building or structure against fire, he may require such building or structure to be examined by the insurer and the value of the insured's interest therein shall be fixed at that time by the parties. The cost of the examination shall be paid by the insured.

(Enacted by Stats. 1935, Ch. 145.)

2053. A clause shall be inserted in such a valued policy, stating substantially that the value of the insured's interest in the insured building or structure has been thus fixed.

(Enacted by Stats. 1935, Ch. 145.)

2054. In the absence of any change increasing the risk without the consent of the insurer or of fraud on the part of the insured, and except as provided in Sections 2056 and 2058, the insurer under such a valued policy shall pay losses as follows:

(a) In case of a total loss, the whole amount insured upon the insured's interest in such building or structure, as stated in the policy and upon which the insurers have received a premium.

(b) In case of a partial loss the full amount of the partial loss.

(c) In case there are two or more policies covering the insured's interest, each policy shall contribute pro rata to the payment of such whole or partial loss.

(Amended by Stats. 1991, Ch. 602, Sec. 5.)

2055. Except as provided by section 2056, the insurer shall not be required to pay more than the amount stated in such a valued policy.

(Enacted by Stats. 1935, Ch. 145.)

2056. Stipulations in a valued policy concerning the repairing, rebuilding or replacing of buildings or structures wholly or partially damaged or destroyed shall prevail over the provisions of sections 2054 and 2055.

(Enacted by Stats. 1935, Ch. 145.)

2057. Under a contract of fire insurance, payment to the insured shall be made within 30 days after the amount of the loss and the liability of the company have been agreed upon or settled by the insured and the company in writing.

If the company fails to pay within the 30 days, the payment shall bear interest, beginning the 31st day, at the prevailing legal rate. The company also shall be liable for all costs of collection, including reasonable attorneys' fees, if legal action is necessary to obtain payment after the company has willfully failed to pay within the 30 days.

(Added by Stats. 1979, Ch. 1165.)

2058. Notwithstanding any other provision of law, if a loss arising out of fire is rebuilt or replaced, an insured covered by a valued policy shall receive full payment for the loss up to the face amount of the policy. If the loss is not rebuilt or replaced, an insured covered by a valued policy shall receive either the replacement value of the loss or the face amount of the policy, whichever is less. As used in this section, "valued policy" has the meaning set forth in Section 412.

This section applies only to valued policies issued or renewed on and after July 1, 1992.

2060. (a) In the event of a loss under a homeowners' insurance policy for which the insured has made a claim for additional living expenses, the insurer shall provide the insured with a list of items that the insurer believes may be covered under the policy as additional living expenses. The list may include a statement that the list is not intended to include all items covered under the policy, but only those that are commonly claimed, if this is the case. If the department develops a list for use by insurers, the insurer may use that list.

(b) (1) In the event of a covered loss relating to a state of emergency, as defined in Section 8558 of the Government Code, coverage for additional living expenses shall be for a period of no less than 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.

(2) A policy that provides coverage for additional living expenses subject to this subdivision shall not limit the policyholder's right to recovery if the insured home is rendered uninhabitable by a covered peril. However, an insurer may, in lieu of making living expense payments required by this subdivision, provide a reasonable alternative remedy that addresses the property condition that precludes reasonable habitation of the insured premises. The additional living expense coverage subject to this section does not include a utility public safety power shut off event, which is the deenergization of a portion of the electrical distribution or transmission system to reduce the risk of wildfire ignition.

(c) For a loss that is otherwise not subject to paragraph (1) or (2) of subdivision (b), in the event of a state of emergency, as defined in Section 8558 of the Government Code, that is accompanied by an order of civil authority restricting access to the home, related to a covered peril, additional living expense coverage shall be provided for at least two weeks. Additional extensions of two weeks shall be provided to a policyholder for good cause, but shall be subject to other policy provisions.

(d) The amendments made by the act that added this subdivision shall be operative on July 1, 2021.

(Amended by Stats. 2020, Ch. 261, Sec. 2. (SB 872) Effective January 1, 2021. Operative July 1, 2021, by its own provisions.)

2061. (a) In the event of a covered loss relating to a state of emergency, as defined in Section 8558 of the Government Code, the following special provisions shall apply under a residential property insurance policy:

(1) If an insured has made a claim for additional living expenses related to a total loss, an insurer shall, upon request by an insured, render an advance payment of no less than four months of living expenses. Additional payment for additional living expenses shall be payable upon proper proof following the advance period.

(2) If an insured has made a claim for contents related to a total loss of a primary residence, an insurer shall not require that the insured use a company-specific inventory form if the insured can provide an inventory using a form that contains substantially the same information. This subdivision does not limit the authority of an insurer to seek additional reasonable information from an insured upon receipt of an inventory form submitted by an insured.

(3) If an insured has made a claim for contents related to a total loss of a primary residence, an insurer shall accept an inventory that includes groupings of categories of personal property, including clothing, shoes, books, food items, CDs, DVDs, or other categories of items for which it would be impractical to separately list each individual item claimed.

(b) This section applies to a claim that arises on or after January 1, 2021.

(Added by Stats. 2020, Ch. 261, Sec. 3. (SB 872) Effective January 1, 2021.)

2062. In the event of a state of emergency, as defined in Section 8558 of the Government Code, an insurer shall offer a 60-day grace period for payment of premiums for residential property insurance policies covering a property located within the affected area defined in the state of emergency for a period of 60 days after the emergency. This section does not require any change to insurer billing practices regarding billing, automatic payment, or cancellation for nonpayment if the insurer reinstates, without a lapse in coverage or late fees, any policy subject to this section that was canceled for nonpayment of premiums, if requested by the insured and upon reasonably timely payment of all premiums due.

(Added by Stats. 2020, Ch. 261, Sec. 4. (SB 872) Effective January 1, 2021.)