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SB-872 Residential property insurance: state of emergency. (2019-2020)

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Senate Bill No. 872

CHAPTER 261

An act to amend Sections 2051.5 and 2060 of, and to add Sections 2061 and 2062 to, the Insurance Code, relating to insurance.

[Approved by Governor September 29, 2020. Filed with Secretary of State September 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 872, Dodd. Residential property insurance: state of emergency.

Existing law generally regulates classes of insurance, including residential property insurance. Existing law requires coverage for additional living expenses incurred due to a covered loss relating to a state of emergency to be for a period of no less than 24 months. Existing law prohibits, in the event of a total loss of the insured structure, a policy from limiting or denying payment of the building code upgrade cost or the replacement cost 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.

For a covered loss relating to a state of emergency, on and after July 1, 2021, this bill would prohibit a policy that provides coverage for additional living expenses from limiting the policyholder's right to recovery if the insured home is rendered uninhabitable by a covered peril, but would authorize an insurer to provide a reasonable alternative remedy that addresses the property condition that precludes reasonable habitation of the insured premises. The bill would require additional living expense coverage to be provided for at least 2 weeks, with additional 2-week extensions, in the event of a state of emergency and an order of civil authority restricting access to the home, as specified. The bill would require the measure of damages available to a policyholder to use to rebuild or replace the insured home at another location to be the amount that would have been recoverable had the insured dwelling been rebuilt at its original location, without deduction for the value of land at the new location. The bill would, for losses related to a declared state of emergency and for which an insured makes a claim on or after January 1, 2021, require the insurer to provide an advance payment for living expenses and to accept an inventory of contents in any reasonable form. The bill would require an insurer to offer a 60-day grace period for payments of premiums for policies on property located within an area defined in a declared state of emergency for a period of 60 days after the emergency. The bill would also declare the severability of its provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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.

SEC. 2. Section 2060 of the Insurance Code is amended to read:

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.

SEC. 3. Section 2061 is added to the Insurance Code, to read:

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.

SEC. 4. Section 2062 is added to the Insurance Code, to read:

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.

SEC. 5. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.