BULLIVANTHOUSER

WHAT DID SANTA LEAVE FOR PROPERTY INSURERS? New California Laws Affecting Property Claims in 2021

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Every year, it seems, the California state government leaves "gifts" for property and casualty industry. The 2020 legislative session was no exception. Most new legislation takes effect on January 1, some takes effect immediately, and some does not become operative until July 1, 2021.

This year's "gifts" included new statutory language applicable when a policyholder opts to replace a dwelling at a different location. For declared disaster claims the new language includes an expansion of the time limits for recovery of additional living expenses, a requirement for a minimum four month-advance of additional living expenses, and a relaxation of the requirements for personal property inventories.

Residential Property Insurance

Senate Bill 872 made a number of changes to the laws governing the adjustment and payment of residential and commercial property insurance claims.

- New subsection C(2) of Insurance Code § 2051.5 provides "the measure of damages available" to a policyholder to rebuild or replace shall be the amount that would have been recoverable at the original location, but a deduction of the value of the land at the new location cannot be taken.
- Insurance Code § 2060 was amended to include for declared states of emergency, such as wildfires, additional living expense coverage for at least 24 months, with an additional 12 months if the policyholder acting in good faith and with reasonable diligence encounters delays beyond the policyholder's control, such as permit delays and lack of available contractors.
- Insurance Code § 2060 was also amended to require for declared states of emergency, such as wildfires, that insurers provide at least two weeks of additional living expense coverage when there is an order of civil authority restricting access to the home related to a covered peril.
- New Insurance Code § 2061 requires, for losses due to declared states of emergency, insurers to advance a minimum of four months of Additional Living Expenses. It also prohibits insurers from requiring use of a company-specific form for contents inventories, and for total losses, permits policyholders to group categories of personal property, rather than itemizing each item.

Assembly Bill 2756 affects the underwriting and disclosure process for policies issued on or after July 1, 2021. In particular, it requires a minimum of 10% "building code upgrade coverage" in addition to limits on any residential property insurance policy providing replacement cost valuation. It also revises the mandatory disclosures which must accompany residential property policies as well as the statutes governing renewal offers and nonrenewal notices.

These new and amended statutes follow the trend in California over the past several years of expanding coverage and relaxing documentation requirements for policyholders who sustain losses due to an event which is a governmentally declared disaster, usually a wildfire. Insurers should watch the amendment to Insurance Code § 2051.5 closely because prior versions of that statute have been fertile soil for policyholder challenges to well-established adjustment procedures. The most significant of those changes is the ability for the policyholder to obtain reimbursement for the cost of land for a dwelling purchased elsewhere, so long as the total paid does not exceed the cost of replacement at the insured location.