

AMENDED IN ASSEMBLY APRIL 22, 2024

AMENDED IN ASSEMBLY APRIL 10, 2024

AMENDED IN ASSEMBLY MARCH 21, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 2416

Introduced by Assembly Member Connolly

February 13, 2024

An act to add Article 5 (commencing with Section 2095) to Chapter 2 of Part 1 of Division 2 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL’S DIGEST

AB 2416, as amended, Connolly. Residential property insurance: wildfire risk.

Existing law generally regulates classes of insurance, including property and fire insurance. Existing law creates the Department of Insurance, headed by the Insurance Commissioner, and prescribes the department’s powers and duties. Existing department regulations prohibit an insurer from using a rating plan that does not take into account and reflect specified wildfire risk mitigation, including property-level building hardening measures.

This bill would require the department, on or before ~~January 1, 2026~~, *December 31, 2027*, and every 3 years thereafter, to evaluate whether or not to update its regulations to include additional building hardening measures for property-level mitigation efforts and communitywide wildfire mitigation programs. For its first evaluation, the bill would require the department to consult with specified agencies to identify additional building hardening measures to consider, as well as to develop and implement a public participation process during the evaluation.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 5 (commencing with Section 2095) is added to Chapter 2 of Part 1 of Division 2 of the Insurance Code, to read:

Article 5. Reduced Wildfire Risk

2095. The Legislature finds and declares all of the following:

(a) More than 2,000,000 California households, or approximately one in four residential structures in California, are located within or near “high” or “very high” fire hazard severity zones. These households are particularly vulnerable to increasingly catastrophic wildfires that pose urgent threats to lives, property, and resources in California.

(b) The state has invested nearly three billion dollars (\$3,000,000,000) since the Budget Act of 2019 into programs and projects to improve forest health and resilience, create fuel breaks, harden homes and communities, and build resilient lifeline infrastructure to withstand wildfire disasters when they do occur.

(c) Chapter 391 of the Statutes of 2019, which created the California Wildfire Mitigation Program jointly administered by the Office of Emergency Services and the Department of Forestry and Fire Protection, recognized that “California must develop statewide options to encourage cost-effective structure hardening to create fire-resistant homes, businesses, and public buildings within wildfire hazard areas and with a focus on vulnerable communities.”

(d) State support for home hardening incentive programs is especially critical now. California residents are finding homeowners’ insurance in very high risk fire areas to be increasingly difficult and costly to obtain, if coverage is even available. The Department of Insurance determined that the majority of nonrenewals, refusals to insure, and increased premiums resulted from insurers’ use of wildfire risk models that do not account for wildfire risk reduction or home hardening measures completed by the homeowner or community.

1 (e) On September 21, 2023, Governor Newsom issued Executive
2 Order No. N-13-23 asking the Insurance Commissioner to take
3 “prompt regulatory action to strengthen and stabilize California’s
4 marketplace for homeowners insurance and commercial property
5 insurance,” including maintaining “the long-term availability of
6 homeowners and commercial property insurance coverage.”

7 (f) Regular review of and updates to the Department of
8 Insurance’s Safer from Wildfires regulations will advance these
9 goals. The Safer from Wildfires regulations incentivize
10 homeowners to invest in specified wildfire risk reduction and home
11 hardening measures by requiring admitted insurers to reflect and
12 take into account these measures in their ratings plans. The
13 voluntary home hardening measures included in the Safer from
14 Wildfires regulations provide a higher level of fire protection than
15 what is otherwise required by state law and help contain the spread
16 of wildfires, reduce property damage, save lives, and encourage
17 insurance companies to remain committed to the California
18 insurance market.

19 (g) It is the intent of the Legislature to further incentivize
20 homeowners to invest in demonstrably effective home hardening
21 measures by requiring the Department of Insurance to periodically
22 review its Safer from Wildfires regulations and evaluate whether
23 or not to amend the regulations to include additional
24 communitywide mitigation programs and building hardening
25 measures, including use of specified noncombustible construction
26 materials that are included by the Office of the State Fire Marshal
27 on the Building Materials Listing. Noncombustible construction
28 materials, as defined by the California Building Standards Code
29 (Title 24 of the California Code of Regulations), provide the
30 highest level of fire safety among materials included on the
31 Building Materials Listing because these materials do not ignite,
32 even when exposed to high temperatures for extended periods of
33 time. Use of noncombustible construction materials is an effective
34 means of reducing fire-related property damage and the
35 contribution of structures to the spread of wildfires.

36 (h) The Building Materials Listing includes construction
37 materials that have been tested and analyzed by a laboratory
38 accredited by the Office of the State Fire Marshal to confirm the
39 materials meet established performance and reliability features.
40 For example:

(1) Insulation products identified on the Building Materials Listing in SFM Listing Category 2440 have been tested in accordance with either ASTM International Standard (ASTM) E84 or Underwriters Laboratories, Inc. Standard 723 UL (Standard Test Methods for Surface Burning Characteristics of Building Materials) for flame spread and smoke development, and have a flame spread rating of 0–25 and a smoke developed index of 0–450, also defined as a Class A rating. In addition, select products identified in Category 2440 have been tested for noncombustibility in accordance with ASTM E136 (Standard Test Method for Assessing Combustibility of Materials Using a Vertical Tube Furnace at 750 degrees Celsius) and have achieved a passing result.

(2) Exterior wall siding and sheathing for Wildland Urban Interface fire areas identified on the Building Materials Listing in SFM Listing Category 8140 comply with Chapter 7A of the California Building Standards Code and have been tested in accordance with State Fire Marshal Standard 12-7A-1, achieving a passing result. Standard 12-7A-1 evaluates the ability of an exterior wall assembly to resist fire penetration from an exterior fire exposure and consists of a 150-kilowatt intensity direct flame exposed to the exterior surface of the assembly for a 10-minute duration.

(3) Non-wood roof covering/assemblies for wildland urban interface fire areas identified on the Building Materials Listing in SFM Listing Category 8180 comply with Chapter 7A of the California Building Standards Code and have been tested in accordance with ASTM E108. ASTM E108 is a fire-test-response standard used to measure the relative fire characteristics of roof coverings, as part of a complete roof assembly, when exposed to external fire sources. It evaluates the spread of flame across the roof covering when exposed to direct flame impingement and classifies the covering by class, with Class A being the highest achievable class.

2096. For purposes of this article:

(a) “Building Materials Listing” means the list of construction materials and equipment biennially prepared by the Office of the State Fire Marshal pursuant to Section 13144.1 of the Health and Safety Code as part of the Office of the State Fire Marshal’s Building Materials Listing Program.

1 (b) “Noncombustible” has the same meaning as set forth in
2 Section 202 of Title 24 of the California Code of Regulations.

3 (c) “Safer from Wildfires regulations” means the regulations
4 set forth in Section 2644.9 of Title 10 of California Code of
5 Regulations.

6 2097. (a) (1) On or before ~~January 1, 2026~~, *December 31,*
7 2027, and every three years thereafter, the department shall evaluate
8 whether to update the Safer from Wildfires regulations to include
9 additional building hardening measures for property-level
10 mitigation efforts and communitywide wildfire mitigation
11 programs.

12 (2) ~~(A)~~ The department shall, as part of its first evaluation,
13 evaluate whether to update the Safer from Wildfires regulations
14 to include in the regulations the installation of noncombustible
15 construction materials included by the Office of the State Fire
16 Marshal on the Building Materials Listing in any of the following
17 categories: *Listing*.

18 (i) ~~Insulation (SFM Listing Category 2440).~~

19 (ii) ~~Exterior Wall Siding and Sheathing for Wildland Urban~~
20 ~~Interface (SFM Listing Category 8140).~~

21 (iii) ~~Non-Wood Roof Covering/Assemblies for Wildland Urban~~
22 ~~Interface (SFM Listing Category 8180).~~

23 ~~(B) In its first evaluation, the department may, in its discretion,~~
24 ~~evaluate whether to include the installation of additional~~
25 ~~construction materials included by the Office of the State Fire~~
26 ~~Marshal on the Building Materials Listing that meet the~~
27 ~~requirements of paragraph (1) of subdivision (b).~~

28 (b) As part of its evaluation pursuant to subdivision (a), the
29 department shall do both of the following:

30 (1) Consult with the Office of Emergency Services, the
31 Department of Forestry and Fire Protection, the Public Utilities
32 Commission, and the Office of Planning and Research to identify
33 additional building hardening measures for property-level
34 mitigation efforts and communitywide wildfire mitigation programs
35 to consider as part of its evaluation.

36 (2) Consult with relevant stakeholders to consider as part of its
37 evaluation any potential revisions to the Safer from Wildfires
38 Regulations, including all of the following: *Regulations*.

39 (A) ~~The property insurance industry.~~

40 (B) ~~Fire service professionals.~~

1 ~~(C) Fire-resistant building material manufacturers.~~

2 ~~(D) Organizations representing California property insurance~~
3 ~~policy holders.~~

4 (3) Develop and implement a process that allows for meaningful
5 public participation that includes, at a minimum, all of the
6 following:

7 (A) Holding at least one public meeting to allow interested
8 persons to submit suggestions for additional building hardening
9 measures for property-level mitigation efforts and communitywide
10 wildfire mitigation programs for the department to consider as part
11 of its evaluation.

12 (B) Making available for public review and comment, including
13 during at least one public meeting, a preliminary list of building
14 hardening measures for property-level mitigation efforts and
15 communitywide wildfire mitigation programs being considered
16 by the department for inclusion in the Safer from Wildfires
17 regulations.

18 (C) Making available to the public a final list of building
19 hardening measures for property-level mitigation efforts and
20 communitywide wildfire mitigation programs the department
21 proposes to include in the list of building hardening measures
22 identified in the Safer from Wildfires regulations before amending
23 the regulations pursuant to the rulemaking provisions of the
24 Administrative Procedure Act (Chapter 3.5 (commencing with
25 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
26 Code).

27 (c) If the department makes public a final list of building
28 hardening measures for property-level mitigation efforts and
29 communitywide wildfire mitigation programs to be included in
30 the list of building hardening measures identified in the Safer from
31 Wildfires regulations pursuant to subparagraph (C) of paragraph
32 (3) of subdivision (b), the department shall initiate the
33 Administrative Procedure Act rulemaking process to amend the
34 Safer from Wildfires regulations within 30 days of publishing the
35 final list.