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Date Published: 02/07/2023 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL**NO. 478****Introduced by Assembly Member Connolly****February 07, 2023**

An act to amend Section 675.1 of, and to add Section 1861.056 to, the Insurance Code, relating to wildfires.

LEGISLATIVE COUNSEL'S DIGEST

AB 478, as introduced, Connolly. Wildfires: insurance.

Existing law generally regulates classes of insurance, including residential property insurance. The Insurance Rate Reduction and Reform Act of 1988, an initiative measure enacted by Proposition 103, as approved by the voters at the November 8, 1988, statewide general election, prohibits specified insurance rates from being approved or remaining in effect that are excessive, inadequate, unfairly discriminatory, or otherwise in violation of the act. In considering whether a rate is excessive, inadequate or unfairly discriminatory, existing law requires the Insurance Commissioner to consider whether the rate mathematically reflects the insurance company's investment income. Existing law authorizes the provisions of Proposition 103 to be amended by a statute that furthers the purposes of the act and is enacted by the Legislature with a $\frac{2}{3}$ vote.

For insureds 65 years of age or older, this bill would limit an increase in their yearly premium for a policy of residential property insurance by no more than 25 percent for insured property located in a high or very high fire hazard severity zone, as identified by the State Fire Marshal, as specified, and allow only one premium increase in a 5-year period. The bill would allow the increased premium to be paid over a 3-year period as part of the insured's residential property insurance premium payments.

Because the bill would limit the commissioner's discretion to approve a rate increase, the bill would amend Proposition 103 and thus require a $\frac{2}{3}$ vote. The bill would declare that its provisions further the purposes of the act.

Existing law prohibits an insurer from canceling or refusing to renew a policy of residential property insurance for a property located in a ZIP Code within or adjacent to a fire perimeter for one year after the declaration of a state of emergency if the cancellation or nonrenewal is based solely on the fact that the insured structure is located in an area in which a wildfire has occurred.

This bill would additionally prohibit an insurer from canceling or refusing to renew a policy of residential property insurance based solely on the fact that the insured property is located in a high or very high fire hazard severity zone, as identified by the State Fire Marshal, if the insured is 65 years of age or older.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 675.1 of the Insurance Code is amended to read:

675.1. (a) In the case of a total loss to the primary insured structure under a policy of residential property insurance subject to Section 675, the following provisions apply:

(1) If reconstruction of the primary insured structure has not been completed by the time of policy renewal, the insurer, prior to or at the time of renewal, and after consultation by the insurer or its representative with the insured as to what limits and coverages might or might not be needed, shall adjust the limits and coverages, write an additional policy, or attach an endorsement to the policy that reflects the change, if any, in the insured's exposure to loss. The insurer shall adjust the premium charged to reflect any change in coverage.

(2) The insurer shall not cancel coverage while the primary insured structure is being rebuilt, except for the reasons specified in subdivisions (a) to (e), inclusive, of Section 676. The insurer shall not use the fact that the primary insured structure is in damaged condition as a result of the total loss as the sole basis for a decision to cancel the policy pursuant to subdivision (e) of that section.

(3) Except for the reasons specified in subdivisions (a) to (e), inclusive, of Section 676, the insurer shall offer, for at least the next two annual renewal periods, but no less than 24 months of coverage from the date of the loss, to renew the policy in accordance with paragraph (1) if the total loss to the primary insured structure was caused by a disaster, as defined in subdivision (b) of Section 1689.14 of the Civil Code, the loss was not also due to the negligence of the insured, and losses have not occurred subsequent to the disaster-related total loss that relate to physical or risk changes to the insured property that result in the property becoming uninsurable.

(4) With respect to policies of residential earthquake insurance, the California Earthquake Authority, or any insurer, including a participating insurer, as defined in subdivision (i) of Section 10089.5, may defer its initial implementation of this section until no later than October 1, 2005.

(5) With respect to a residential earthquake insurance policy issued by the California Earthquake Authority, the following provisions apply:

(A) The participating insurer that issued the underlying policy of residential property insurance on the primary insured structure shall consult with the insured as to what limits and coverages might or might not be needed as required by paragraph (1).

(B) The California Earthquake Authority, in lieu of meeting the requirements of paragraph (1), shall establish procedures and practices that allow it to reasonably accommodate the needs and interests of consumers in maintaining appropriate earthquake insurance coverage, within the statutory and regulatory limitations on the types of insurance coverages and the coverage limits of the policies that the authority may issue.

(b) (1) An insurer shall not cancel or refuse to renew a policy of residential property insurance for a property located in any ZIP Code within or adjacent to the fire perimeter, for one year after the declaration of a state of emergency, as defined in Section 8558 of the Government Code, based solely on the fact that the insured structure is located in an area in which a wildfire has occurred. This prohibition applies to all policies of residential property insurance in effect at the time of the declared emergency.

(2) For the purposes of this section, the fire perimeter shall be determined by the Department of Forestry and Fire Protection in consultation with the Office of Emergency Services. The department shall provide the commissioner with data describing the fire perimeter sufficient for the commissioner to determine which ZIP Codes are within or adjacent to the fire perimeter. The commissioner shall then issue a bulletin to inform insurers which ZIP Codes are subject to this subdivision.

(c) Subdivision (b) does not apply in any of the following circumstances:

(1) If willful or grossly negligent acts or omissions by the named insured, or ~~his or her~~ *the named insured's* representatives, are discovered that materially increase any of the risks insured against.

(2) If losses unrelated to the postdisaster loss condition of the property have occurred that would collectively render the risk ineligible for renewal.

(3) If there are physical or risk changes to the insured property beyond the catastrophe-damaged condition of the structures and surface landscape that result in the property becoming uninsurable.

(d) An insurer shall not cancel or refuse to renew a policy of residential property insurance based solely on the fact that the insured property is located in a high or very high fire hazard severity zone, as identified by the State Fire Marshal pursuant to Section 51178 of the Government Code, if the insured is 65 years of age or older.

~~(d)~~

(e) For the purposes of this section, "policy of residential property insurance" has the meaning described in subdivision (a) of Section 10087.

SEC. 2. Section 1861.056 is added to the Insurance Code, to read:

1861.056. (a) An insurer may increase the yearly premium for a policy of residential property insurance, as defined in Section 10087, for insured property located in a high or very high fire hazard severity zone, as identified by the State Fire Marshal pursuant to Section 51178 of the Government Code, by no more than 25 percent and only once in a five-year period if the insured is 65 years of age or older.

(b) Insureds subject to this section may elect to pay the premium increase over a three-year period to be included as part of their residential property insurance premium payments.

SEC. 3. The Legislature finds and declares that Section 2 of this act, which adds Section 1861.056 to the Insurance Code, is consistent with the terms of, and furthers the purposes of, the Insurance Rate Reduction and Reform Act of 1988, approved by the voters as Proposition 103 at the November 8, 1988, statewide general election.