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INSURANCE **DEDUCTION OF LAND** **VALUE**

**Notice dated May 28, 2019 from Ricardo Lara - CA
Insurance Commissioner - regarding the deduction of
land value**

How to manage the deduction of land value after wildfires when the insured replaces the destroyed home with an already built home at a new location.



RICARDO LARA
CALIFORNIA INSURANCE COMMISSIONER

May 28, 2019

TO: All Residential Property Insurance Companies and Other Interested Parties

FROM: Insurance Commissioner Ricardo Lara

SUBJECT: Deduction of Land Value after Wildfires When the Insured Replaces the Destroyed Home with an Already Built Home at a New Location

In November 2018, California experienced the most devastating wildfires in the last 100 years, destroying thousands of homes and businesses, causing multiple fatalities, and leaving thousands homeless. In the Camp Fire alone, more than 18,000 structures were destroyed. Recovery for residents in certain wildfire areas is expected to take several years because of significant damage to infrastructure and public services, the closing of schools, medical facilities and businesses, and the expected length of time to clear debris from the affected fire areas. Residents also continue to encounter severely limited housing options in the affected fire areas. Additionally, many locations in the affected fire areas lost substantial market value due to the devastation of certain neighborhoods and the destruction of essential infrastructure.

In several workshops that I have held this year for wildfire survivors to help them during the rebuilding and recovery process, I was made aware that many residents affected by the recent wildfires were and continue to be overwhelmed by the prospect of rebuilding their destroyed homes in the areas devastated by wild fires. In particular, they are considering purchasing an existing home at a new location or rebuilding the destroyed home at a new location rather than rebuilding at the original location of their destroyed home.

Last year, the Governor signed AB 1800 (Levine, Chapter 628, Statutes of 2018), which sought to address rebuilding and recovery for wildfire survivors who suffer a total loss to their insured home.

In particular, California Insurance Code section 2051.5(c), states:

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

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All Residential Property Insurance Companies and Other Interested Parties

Page 2

May 28, 2019

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.

In the case of a total loss of a home, Insurance Code section 2051.5(c) sets the measure of indemnity to be the same regardless of whether the insured replaces the home at the original location, purchases an existing home at a new location, or rebuilds a replacement home at a new location. In addition, the insured is entitled to receive the replacement cost of the destroyed home at the original location, including any extended replacement cost and building code upgrade coverage, to the extent those costs are otherwise covered by the terms of the applicable policy, up to the insured's applicable policy limits, regardless of whether the insured rebuilds at the original location, rebuilds at a new location or purchases an existing home at a different location.

Unfortunately, many policyholders who suffered a total loss to their insured home have raised concerns to the California Department of Insurance (CDI) that their insurer deducted the estimated value of the land under the purchased replacement home at a new location from their overall replacement cost payment. In certain circumstances, by deducting the value of the land under a purchased replacement home at a new location, the insurer paid less than the full replacement cost of the destroyed home than the insurer would have paid if the destroyed home was rebuilt at the original location. Policyholders should not be penalized for exercising their right to replace their destroyed home by purchasing an existing home at a new location.

Accordingly, in the case of a total loss to an insured's home, I am requesting all residential property insurers not apply a deduction for the value of the land from the purchase price of a replacement home.

For example, consistent with my request, if the insured's home was fully destroyed and it is determined that the cost to rebuild at its original location (up to policy limits) is \$400,000, and the cost to purchase the new property (including the home and the land) at a new location is at least \$400,000, the insured would receive \$400,000 to purchase an existing home at the new location. However, if the cost to purchase the new property is \$400,000 (including the home and the land and assuming the land value is \$200,000), some insurers would only pay \$200,000.

I applaud those insurers that are providing flexibility to their insureds by not deducting the land value from the replacement cost payment. I further request remaining insurers to follow suit and agree with my request. By this request, I am not suggesting that insurers pay more than the applicable policy limits or more than the amount the insured actually spends to purchase the replacement home.

All Residential Property Insurance Companies and Other Interested Parties

Page 3

May 28, 2019

In many cases, by complying with my request, policyholders could purchase an existing home at a new location for less than the cost of rebuilding the destroyed home at its original location. Additionally, if a policyholder is able to replace their destroyed home more quickly by purchasing an existing home at a new location, an insurer may be able to reduce the total cost of certain claims by decreasing the length of time the policyholder will require payments under their "Loss of Use" or "Additional Living Expense" coverages.

Lastly, in the aftermath of the 2018 California wildfires, many policyholders discovered that their property coverage policy limits are inadequate to rebuild their destroyed home under any circumstances. In many cases, by complying with this request, a policyholder could purchase an existing home at a new location for less than the cost to rebuild the destroyed home at the original location, thereby mitigating the effects of widespread underinsurance.

I believe allowing insureds to purchase an already existing home and not having the value of land deducted will greatly help wildfire survivors throughout California rebuild their homes and lives.

If an insurer has questions regarding this Notice, please contact:

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