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California wants to get fire coverage for burned-out towns. Here's why watchdogs are worried

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After several years of catastrophic burns — and the insurance industry pulling back from some fire-prone communities — many California homeowners will face the upcoming fire season without proper coverage.

California lawmakers are trying to entice insurance carriers to return to fire-prone communities, and are advancing a bill that would allow insurers to request higher rates in exchange for coverage guarantees. It overwhelmingly passed the Assembly this week and is headed to the Senate.

The legislation would change the rate calculation formula, allowing insurance companies to factor in rising reinsurance costs that are not subject to state regulation.

"Existing law limits the options for insurers to find reasonable ways to issue policies in our high fire risk reasons," said Assemblyman Tom Daly, D-Anaheim, the bill's author. "This bill authorizes an insurer to file a plan with the department of insurance that addresses that insurer's practical needs."

But the state insurance commissioner and consumer advocacy groups warn that the legislation — Assembly Bill 2167 and companion bill Senate Bill 292 — threaten to upend decades of consumer protections and fails to address the most pressing issues for property owners facing another daunting season of wildfires.

They say it could subject homeowners to dramatic increases in insurance costs without rewarding them for effective preventative measures like mitigation and home hardening — all during a time of rising financial insecurity.

"This bill couldn't come at a worse time," Insurance Commissioner Ricardo Lara said at a June 8 press conference. "It will only increase costs on communities already under economic stress and with record unemployment levels. It would be devastating."

Here's a look at the new bill:

STEADY RATE INCREASES

Paradise, Santa Rosa, Malibu: The past few years have been particularly painful. Californians filed $25 billion in wildfire insurance claims in 2017 and 2018.

Lara has approved over 200 rate increases since 2018 after carriers petitioned for rate hikes, according to his office.

But insurers are still retreating from fire-prone, high-risk markets. Those that remain are charging double and triple what they did just a few years ago. Richard Harris of Harris Insurance Services, an independent agency in Grass Valley, has quoted $3,600 plans for customers who used to pay just $1,200, he told The Sacramento Bee last year.

With private insurance no longer a viable option, many homeowners are forced to turn to FAIR, the state's lender of last resort. FAIR, which was established by the Legislature but is privately run and funded by insurers, offers only bare-bones coverage to a risky portfolio of customers. Its rates dwarf the private market's, sometimes by three times.

For Renee Asmus in Nevada City, FAIR's figure was $2,950 a year, as compared to her previous, private-market rate of $1,200, she told The Sacramento Bee last year.

Lara has issued a statewide moratorium banning carriers from canceling homeowners' coverage in areas struck by the 2019 wildfires. It doesn't apply to 2017 and 2018 disaster victims.

WHAT'S IN THE NEW BILL?

Under current law — established in 1988 by Proposition 103 — insurance companies must seek prior approval for rate increases over 7 percent by using a predetermined formula. They also have to demonstrate that increases are not excessive, inadequate or unfairly discriminatory and that they don't violate any other Prop 103 provisions.

The insurance commissioner has 180 days to act on an application and can initiate a review of existing rates. If insurance companies can't stay financially solvent with commissioner-approved rates, they can exit high-risk markets, as they have in fire-prone areas over the past several years.

Insurance advocacy groups describe AB 2167 and SB 292 as a compromise that will bring coverage back to these communities. In exchange for rate formulas that reflect the full costs of writing high-risk plans, insurers will reenter abandoned markets at a penetration rate that is 85 percent of their statewide rate, provided that this rate does not make the companies insolvent by over-concentrating plans in high-risk areas.

The new model uses Insurance Market Action Plans (IMAPs), which are county-specific rate proposals that aim to distribute risk across the high-risk pool. The insurance commissioner would have 120 days to approve IMAP applications in a process that separates rate approval from other "contested issues" that don't pertain specifically to excessive or discriminatory increases.

The bills also create new standards to justify rate increases. The Senate bill would replace the current formula with a probabilistic risk assessment model. The Assembly bill allows insurers to seek "cost-based" rates that industry experts say reflect the full costs of coverage.

Those costs include rate hikes — in some cases this year, up to 70 percent — from insurance companies' own carriers, known as re-insurers. Under Prop 103, insurance

companies are not allowed to pass those higher costs, which are not subject to state regulation, onto homeowners.

WHY DO INSURANCE WATCHDOGS OPPOSE IT?

Lara called the proposal moving through the Legislature an "insurance industry wish list."

Lara said in the news conference that the bill significantly reduces oversight by fast-tracking the review process and allowing insurers to justify their increases based on the reinsurance market, over which his department has no control. He also laid into the proposed rate formula, calling the bill an unnecessary "black box" proposal that tries to fix a well-functioning system.

Consumer Federation of California Executive Director Richard Holober said that the expedited review process effectively shuts consumer voices out of the conversation by relegating all non-rate issues to a separate approval process.

But Personal Insurance Federation of California President Rex Frazier countered that consumers still have plenty of opportunity to raise their concerns over a four-month approval process, noting that the bill maintains the commissioner's authority to reject any proposal.

As for whether insurance companies will actually write plans in high-risk areas, Harvey Rosenfield of Consumer Watchdog — which authored Prop 103 — expressed his concerns that the legislation's language has no teeth.

The bill allows insurers to fall short of 85 percent market penetration to prevent insolvency, and Rosenfield worries that companies — which he says would no longer be bound by Prop 103 definitions under the new regulatory system — will be free to define that threshold themselves.

But Frazier argues that insurance companies shouldn't be forced to oversaturate to the point of financial self-destruction. By offering a middle ground — one that requires reentry but adjusts rates accordingly — he says that the legislative package will bring options to consumers who currently face a bleak insurance market.