Appendix III: Homeowners Insurance and Mitigation Workgroup Report

Commissioner Jones and Commissioner Wara

Staff note: **The executive summary and the workgroup reports have not been reviewed or approved by the full commission prior to being released publicly.** The workgroup reports are the products of the workgroups established at the April 29th commission meeting, and represent consensus thinking of the members of a given workgroup. The executive summary, compiled by commission staff, is an attempt to reconcile the recommendations of the three workgroups into one cohesive set of proposed recommendations for discussion and consideration at the next commission meeting.

I. Context/Findings

Finding 1. Admitted lines home insurance is becoming more difficult and more expensive to obtain in high wildfire risk areas in California.

The Department of Insurance ("Department;" "CDI") and the Personal Insurance Federation of California (PIFC) testified that rate increases have been filed[1] with the Department and will continue to be filed for homes insured in the wildland-urban interface (WUI), which will make insurance more expensive. While most homeowners in the WUI are still able to obtain insurance from admitted carriers, over time more will likely be denied based on the level of wildfire risk and will have to obtain insurance from the surplus lines market or from the state-created Fair Access to Insurance Requirements (FAIR) Plan, which is the fire insurer of last resort available to homeowners who cannot otherwise find home insurance. Under state law, insurers have the discretion to decide where and whether to write home insurance policies and the Insurance Commissioner has no authority to mandate home insurers to write or renew insurance in the WUI. However, insurers are obligated to participate in the FAIR Plan and pay assessments when the FAIR Plan suffers losses that exceed its ability to pay claims.

Insurance Access in the WUI

[1] Personal Insurance Federation of California. Public testimony to the commission, March 13, 2019. California Department of Insurance. Public testimony to the commission, February 25, 2019 and April 3, 2019.

The Department found that there was a 15 percent increase in insurer initiated non-renewals from 2015 to 2016 in the WUI.[2] The Department also found that there has been a significant increase in complaints from homeowners in the WUI regarding non-renewals and premium charge increases, as well as complaints about insurers declining to write new insurance. Current law requires insurers to provide homeowners with a 45-day notice of non-renewal with a reason for that decision.

Insurance Affordability in the WUI

Insurance pricing is also increasing for homes in the WUI. A Rand study found that on average home insurance in two WUI counties was 25 percent higher in price than for homes in non-WUI counties.[3] According to the Department of Insurance, on average home insurance rates in areas of high risk of fire are at least 50% higher than rates for homes outside the WUI.

Further, insurance prices in the WUI are likely to continue to increase significantly. Both the representative of the Personal Insurance Federation of California and the Department of Insurance testified that many insurers have filed for additional rate increases and are likely to do so on a regular basis for the foreseeable future.

Due to insurers' loss experience associated with wildfires, the Department is approving rate increases and will likely approve more rate increases for insurers selling coverage in the WUI.

Finding 2. As more homeowners in the WUI are unable to find home insurance from admitted carriers, more are having to purchase fire insurance from the surplus lines market or from the FAIR Plan, indicating a growing problem. The home insurance market in California is not in crisis yet, although we are marching toward a future where home insurance will be increasingly unavailable and/or unaffordable for many in California's WUI. More destructive fires in the future of the sort we saw in 2017 and 2018 will only accelerate this trend.

Increased Use of Alternatives to Admitted Lines Carriers in the WUI

While the vast majority of home insurance written in California is from traditional "admitted" carriers,[4] insurance from admitted carriers will increasingly become more challenging to find and less affordable for homeowners in the WUI.

---

[2] California Department of Insurance. "The Availability and Affordability of Coverage for Wildfire Loss in Residential Property Insurance in the Wildland-Urban Interface and Other High-Risk Areas of California: CDI Summary and Proposed Solutions" Appendix E and p.1.

[3] RAND. "The Impact of Changing Wildfire Risks on California's Residential Insurance Market," California's Fourth Climate Change Assessment, California Natural Resources Agency. August, 2018.

[4] 97%, according to the Personal Insurance Federation of California.

Homeowners who are unable to find insurance from an admitted insurance carrier can access the "surplus lines" market through a "surplus lines broker."[5] According to CDI, surplus lines writers make up less than one percent of the overall home insurance market overall in California. The Department of Insurance does not have figures for the percentage of homes in the WUI that are insured by the surplus lines market.

Although the surplus lines market share of the overall home market in California is currently very small, it is growing, and the surplus lines market share in the WUI areas is likely disproportionate as compared to the overall market in the state. This growth is likely to accelerate as homeowners find it more difficult to find insurance from admitted insurance carriers.

The FAIR Plan is an insurance program available to California homeowners who cannot find admitted lines homeowners insurance. Created by statute, the plan is not-for-profit, is not subsidized by the State of California or the taxpayers, and is intended to provide fire insurance coverage to homes that the private market refuses to cover.[6]

As more homeowners in the WUI are unable to find home insurance from admitted carriers, more are having to purchase fire insurance from the FAIR Plan. The number of FAIR Plan policies written in the WUI is increasing yearly. It is important to note that while over the last five years the FAIR Plan policies written in the WUI have grown 50%, that the FAIR Plan policies make up only a very small share of the overall number of homes in California generally and in

---

[5] The surplus lines market is one where the insurers offering the insurance and the insurance itself are less regulated by the state – the price of surplus lines insurance is not regulated by the state, for example. Surplus lines insurance is available for most homeowners in the WUI, but the price is higher than that of insurance from admitted carriers and the price of surplus lines insurance will increase in the face of the recent wildfire loss experience of insurers.

[6] The FAIR plan is the fire insurer of last resort for California homeowners. FAIR Plan coverage is subject to multiple limitations that make it less desirable than an admitted lines policy and is also generally more expensive than an admitted insurers' homeowners policy, because the FAIR Plan is taking the homes that the private market refuses to insure due to the risk that those homes face from fires. The FAIR Plan was created by the California Legislature and Governor after inner city riots in the 1960s led to widespread redlining of inner city African-American neighborhoods by insurance carriers. The FAIR Plan by law must set its rates based on risk.

The FAIR Plan is also required by law to have reserves sufficient to pay future claims, so it has to collect enough premium in order to have sufficient reserves to pay future claims. The FAIR Plan is not subsidized by the State of California or the taxpayers. It is also not a state agency; it is a not-for-profit whose board consists of the major home insurers in the state. In the event that the FAIR Plan has insufficient reserves to pay claims, the FAIR Plan can assess all admitted home insurers proportionate to their market share to replenish its reserves. .

FAIR Plan policies are limited to fire insurance. Homeowners who purchase a FAIR Plan policy can also purchase a "differences in conditions" coverage or umbrella policy from an admitted insurer, on top of the FAIR Plan policy, to cover the usual sorts of risks that a traditional home insurance policy covers beyond fire insurance.

the WUI in particular. There are 3.6 to 4.5 million homes in the WUI, of which 1 million are in areas rated high or very high risk. As of January 1, 2018, there are only 33,898 FAIR Plan policies written in the WUI. This means that the large majority of homeowners in the WUI are able to find insurance from admitted carriers or the surplus lines market – at least for now. Even as this report is being written there are reports of more homes in the WUI being denied renewal of or newly written home insurance.

Insurers in recent years are increasingly using wildfire risk models to assign a risk score to each home, and then based on that risk score the insurer decides whether to renew or write new insurance for that home. While pricing of home insurance is regulated by the CDI, the decision to sell (or not to sell) insurance to a particular homeowner is within the purview of the insurers themselves.

The models incorporate factors that are related to the risk of wildfire and the propensity of a home to burn, including fuel, surface composition, slope, aspect, distance to high risk areas and firefighter access. Based on the risk score, insurers are deciding whether to renew or write new insurance for homes and deciding on pricing.

The Department of Insurance, however, has found that there are a number of factors that are not included in the models. Homeowners' efforts to create defensible space around the home and other home fortification and construction measures are not included in the current models. Likewise, many types of community mitigation measures are not considered in the models. But evidence suggests that adherence to more stringent building codes, the use of firebreaks, and other community based efforts can help reduce exposure to wildfire loss and indeed, these are many of the measures suggested by the insurance industry itself to reduce risk.[7]

Moreover, there are issues with regard to how the models treat access – no consideration is given to road width, shoulders, or the availability of multiple access routes for firefighting equipment. Finally, the Department notes that the there is no credible data to support the models' assumptions that the propensity to burn increases with each change in risk score, which also calls into question the level of granularity (individual homes) at which the risk score is being applied by the insurers.[8]

---

[7] See Insurance Institute on Home and Business Safety, https://ibhs.org/wildfire/wildfire-demo-2019/. (Last accessed May 13, 2019)

[8] California Department of Insurance. "The Availability and Affordability of Coverage for Wildfire Loss in Residential Property Insurance in the Wildland-Urban Interface and Other High-Risk Areas of California: CDI Summary and Proposed Solutions." pp 9-10.

Finding 3. California does not currently require a new government created insurance program other than the FAIR Plan to support home insurance availability in the WUI.

There are additional laws that should be enacted to help homeowners in the WUI avoid underinsurance; to make sure that the models that insurers are using capture all risk reduction factors; to give homeowners more time in certain circumstances before their insurance is not renewed; and to align insurance availability with home and community risk reduction. These and other reforms to improve the insurance market are set forth in the Recommendations.

The workgroup concludes that California is not at a point of crisis where an additional government insurance program should be established to write insurance in the WUI when there is already the FAIR Plan for that purpose. There are just under 34,000 FAIR Plan policies written in WUI, versus 1 million homes in areas of high or very high risk. Most homeowners in the WUI and even in high risk areas are still able to find private insurance, and taking the modest step of providing a means tested premium subsidy for low income households currently in the WUI would address the affordability issues more effectively. Additional recommendations to improve the FAIR Plan are found in the Options and Recommendations section below.

II. Issues to Consider with Regard to Potential Policy Responses to Insurance Affordability and Availability

Policymakers need to take into account a number of considerations in developing options and recommendations to address the growing problem of home insurance unavailability and unaffordability in the WUI.

Insurance price and availability is based on underlying risk. California should act to reduce the underlying risk of wildfire to the extent feasible

First it is important to recognize, as the Commission was told repeatedly through expert testimony,[9] reductions in insurance availability and relatively higher pricing in the WUI is based on the underlying risk of wildfires. Insurers are deciding whether to make insurance available or not based on their evaluation of the underlying risk of wildfire for those homes seeking insurance. So too with pricing. Insurers' premium prices are based on their loss experience which in turn reflects the underlying risk of wildfires - including and especially recent loss experience. Insurers are filing rate increases with the Department of Insurance based on the increase in risk faced by homes in the WUI and are likely to continue to do so until pricing reflects their current view of the level of risk.

[9] See Personal Insurance Federation of California. Written comments to the commission. April 22, 2019; Also California Department of Insurance. Public testimony, April 3, 2019.

If the goal is to make insurance both more available *and* more affordable, then the state, first and foremost, needs to invest in taking steps to reduce the risk of wildfires, to the extent that it can do so. Some aspects of the risk of wildfires are outside the control of any one state, such as temperature rise and drier conditions due to climate change. The State of California is an international leader in taking steps to reduce the emission of greenhouse gases which are a major contributor to climate change, but other states, the United States government, and other countries are not taking similar steps fast enough, and so there are some aspects of the increased risk of wildfires that will be outside of California's control.

However, as set forth in the Governor's Strike Force Report, there are steps the state can take to reduce risks through improved forest management, better land use decision-making, improved building code standards, requiring utilities to "harden" their equipment and take other steps to reduce the incidence of utility caused wildfires, and ensuring that local governments take steps to increase community wildfire resilience and to enact and enforce meaningful defensible space and other code requirements for homeowners.

Insurance Price and Availability Sends Important Market Signals about Underlying Wildfire Risk

Second, insurance availability and pricing send important market signals about the underlying risk of living in an area. Policymakers need to consider the potentially significant consequences of taking steps that artificially mask those price signals.

Masking insurance price and availability market signals can create incentives for more people to move to areas where the risk of wildfire is high, further compounding the likelihood of deaths, injuries, and property losses in those areas where wildfire risk is high.

For example, if the state were to require that home insurance for homes in the WUI be priced the same as home insurance for homes outside the WUI, the price of insurance in the WUI would no longer reflect the higher risk and, in ultimate effect, an incentive would be created for people to live in a higher risk area. At the same time, the cost of living for people who make the choice not to live in the WUI would also increase (see below).

In evaluating whether to subsidize homeowners insurance in the WUI, policymakers need to consider whether the state wants to encourage more people to move into the WUI. We believe that doing so will lead to more deaths and injuries of both residents and first responders, destruction of property, loss of homes, more damages to be paid by utilities (if a fire is caused by utility) and consequent costs to shareholders and utility ratepayers, and more costs for local, state and federal governments and taxpayers.

Climate change is a reality and it's having an effect on the frequency and severity of wildfires. Insurance pricing and availability reflect the increase in wildfire risk and send an important signal that the risk is growing substantially. Suppressing that market signal could result in more people and businesses locating in areas of higher risk with consequent increases in deaths, injuries, loss of property, etc. Policymakers should not attempt to suppress the impact of climate change on homeowner and business decision making by artificially suppressing insurance pricing and availability market signals about climate change.

Masking Insurance Price and Availability Signal Shifts Risk/Cost to Those Who Live in Lower Risk Areas

Policymakers also should consider the potential for cost shifting from those who live in the WUI to those who do not live in the WUI.

For example, if that state were to require that insurance in the WUI be priced the same as insurance outside the WUI, the net effect would be to raise prices outside the WUI, in order to collect enough premium to cover the risks in the WUI where the premium would now be lower than needed to cover fire risks. Homeowners in lower risk areas outside the WUI will have to be charged more to make sure insurers collect enough premium to have sufficient reserves to cover higher frequency and severity of wildfire claims in the WUI.

Should people who live in low risk areas subsidize insurance costs of those who live in higher risk areas?

Insurance is a mechanism to pool risk and spread risk over large numbers of people, and thereby obtain the most efficient and lowest actuarially based price for those risks covered by the insurance. Arguably, everyone is benefiting from access to insurance, which in turn relies on spreading risk to a large number of people, so because everyone is benefitting the price should be the same regardless of the risk.

However, some homes present much higher risks than others. There are relatively fewer homes at high risk of wildfire as compared to the overall number of homes in California. Those higher risk homes don't need to be in the general risk pool for the general risk pool to have sufficient numbers of homes over which to spread risk, and to the contrary, those higher risk homes are imposing potentially higher costs on the insurer and raising costs for everyone who purchased the insurance.

States allow insurers to take into consideration risk factors associated with the property being insured in pricing insurance. Homes that are at greater risk of fire due to location in a high risk area, the strength of the fire-fighting capacity of the community, the home's proximity to those services, the materials used and codes to which the home was built, and other considerations are all allowable factors for home insurance pricing and availability in California.

One underlying rationale for this is that what people pay for insurance should be based on the risks that their property and similar properties face, not the risk that other properties with completely different risk profiles face. Constraining pricing artificially for high risk homes would result in unfair cross subsidies or further motivate the insurer to non-renew in high risk areas.

A second rationale for risk-based pricing is to encourage risk reduction measures. If insurance pricing does not take into account risk the home faces, then there is a lesser incentive for the homeowner, or the community in which the home exists, to take steps to reduce the risk.

Requiring those in lower risk areas to subsidize those in higher risk areas by artificially constraining price penalizes those who live in lower risk areas.

Government Provided Insurance

Sometimes government needs to step in to provide insurance where private market participants withdraw entirely, but care in design of a government insurance program is critical because of danger that government response can have negative unintended consequences.

When private insurers withdraw entirely from a market or decline to write certain risks, government may need to step in to provide insurance that the private market is not otherwise providing. We are not at this point yet with regard to the home insurance market for fire risk in the WUI in California.

When the government has stepped in, in other contexts, it has been because private insurers decline to write any insurance for certain risks. Only when the private market has failed entirely have governments stepped in to provide insurance. The concern about doing so before the private market has failed is one of the government supplanting the private market.

Government should only step in where private market won't provide insurance.

Example: California Earthquake Authority

One example of government provided insurance is the California Earthquake Authority. The CEA provides residential earthquake insurance for Californians. Pricing of the CEA residential earthquake insurance is based on risk. The CEA is not supported by the state general fund so there is no taxpayer subsidy.

Prior to the Northridge Earthquake of 1994, home insurers were required by law to include earthquake insurance in their policies. After the enormous losses suffered by home insurers in the Northridge Earthquake, insurers notified policymakers that they could no longer afford to include earthquake insurance in their home insurance policies because the risk and magnitude of the earthquake losses were too great.

Home insurers advised policymakers that they would stop writing home insurance in California if they were required to include earthquake insurance with home insurance. In this case, the private market withdrew entirely from providing residential earthquake insurance after the Northridge Earthquake.

The State of California responded by creating the California Earthquake Authority (CEA), a government agency which issues a residential earthquake insurance policy. Importantly, the Legislature required that the earthquake insurance issued by the CEA is priced based on the underlying risk, so there is no taxpayer or government subsidy. The CEA is required to have sufficient reserves to cover claims from two contemporaneous major earthquakes.

The CEA is an example of the government stepping in when the private market has withdrawn completely from covering a particular risk. That situation is not currently present with regard to wildfire insurance risk in the WUI – insurers have not withdrawn entirely from the market.

Example: The California FAIR Plan

Another example of government intervention in the insurance market is the California FAIR Plan. FAIR Plan pricing is based on risk. The FAIR Plan is the insurer of last resort for fire coverage but does not supplant the private market. Customers can only purchase FAIR Plan policies upon a showing that they have attempted but were unable to purchase a policy from an admitted carrier. The FAIR Plan is not funded by the general fund so there is no taxpayer subsidy. The FAIR Plan has the ability to assess insurers if its capital is exceeded by losses.

The FAIR Plan is another example where the state government intervened when it became impossible for homeowners to obtain fire insurance in certain areas of California – originally the inner city. Importantly, the FAIR Plan is not taxpayer subsidized and must price based on the underlying risk. This means that the FAIR Plan is not able to compete unfairly with the private market insurers and keeps the FAIR Plan from supplanting the private market.

The FAIR Plan works as intended – it is the insurer of last resort for those who cannot otherwise find fire insurance in the WUI or elsewhere.

Below we will discuss what might be done to assist lower income homeowners who cannot afford the FAIR Plan in a way that does not put the FAIR Plan itself at an unfair competitive advantage against the private market insurers or artificially reduce the FAIR Plan price so that it does not reflect the underlying risk of wildfire.

Example: Florida Hurricane insurance

Subsequent to Hurricane Andrew in 1993, Florida took a number of actions to shore up private residential insurance because carriers declined to write policies covering wind damage. First, Florida established a Scientific Commission to model Hurricane catastrophe risk in a transparent and accountable manner. Second, Florida established a catastrophic risk reinsurance fund known as the Florida Hurricane Catastrophe Fund. Third, Florida established a public insurance provider of last resort called Florida Citizens Insurance Corp (FCIC) as an insurer of last resort. FCIC has the ability to assess insurers if its capital is exceeded by losses.

Both the Catastrophe Fund and FCIC are required to use the Commission's catastrophic risk model.

This example was a response to a total market failure. The Commission asked the witness who testified about the Florida example whether California was in the same market failure condition as Florida when it created Florida Citizens Insurance Corporation; the witness answered in the negative.[10]

Example: The National Flood Insurance Program

The National Flood Insurance Program (NFIP) was established in 1968 in response to the unwillingness of insurers to cover flood perils. The NFIP does not price entirely based on risk - it is subsidized by federal taxpayer dollars. Thus it is an example of lower risk taxpayers subsidizing higher risk taxpayers. Over its history, the NFIP has proven to be very expensive in part because it has masked price signals that otherwise would incentivize avoidance of flood risks.

The NFIP is not a good example for California to look to address the home insurance pricing and availability challenge in the WUI, as this would distort the market pricing of risk.

California already has the FAIR Plan

As mentioned, California already has an insurer of last resort for fire - both inside and outside of the WUI - the California FAIR Plan. The not-for-profit FAIR Plan draws upon the lessons learned from prior government interventions in private insurance markets – it is priced based on the actual risk so it is not masking the price signal associated with the fire risk, nor is the price subsidized by taxpayers. It is an insurer of last resort and it is not supplanting the private market through unfair pricing or taxpayer subsidies. It is required to have sufficient reserves to cover future claims, but in the event those reserves are exceeded it can assess the private home insurers to replenish its reserves to pay claims.

California FAIR Plan Affordability

The Wildfire Commission heard testimony that FAIR Plan policies can be difficult to afford for low-income homeowners in certain high-risk locations. For those homeowners who are of limited means, the FAIR Plan can be quite expensive, particularly as rates rise to reflect the recent loss experience. The solution is not to artificially suppress the FAIR Plan price. The workgroup recommends alternative solutions below (See Recommendation #3).

[10] See John Rollins, public testimony to the commission, April 3 2019

Benefits of Aligning insurance availability and pricing with risk reduction efforts

Another issue considered by the Wildfire Commission is the benefit of aligning insurance pricing and availability with risk reduction efforts. Ideally, insurance should be available and priced to reflect meaningful risk reduction steps taken by homeowners and communities in the WUI. Such is not the case currently.

Current home insurer fire risk underwriting models are inadequate

As discussed above, the fire risk models used by insurers to decide whether to renew or write insurance in the WUI do not take into account home and community fire mitigation efforts. Whether it is defensible space, following modern fire building codes (post-2008), hardening the roof of a home, protecting the eaves of the home, using heat resistant glass in windows, etc, insurers' models do not consider these risk reduction efforts. Current fire risk underwriting models for homes also fail to take into account the actions fire officials are asking homeowners take to reduce fire risk to their homes.

Under current law, the risk score models utilized to decide whether or not to write insurance for homeowners do not have to be filed with CDI, let alone approved by CDI. Moreover, the models are not required to be publicly vetted. The workgroup recommend a process to publicly vet these models and to require their approval by the CDI.

Positive benefits of incentivizing homeowners and communities to reduce fire risk

There are large positive benefits to be gained in risk reduction from aligning insurance availability and pricing with homeowner and community risk reduction efforts, as long as those efforts demonstrably reduce risk.

Currently, the underwriting risk models most utilized by insurers fail to incentivize homeowners to make improvements to homes, because the models do not account for those improvements.

An example where risk reduction standard set for homeowners drives availability of insurance

An important successful example where home insurance availability was aligned with homeowner risk reduction is that of the Wildfire Partners project in Boulder Colorado. Homeowners in Boulder County, Colorado live in the WUI. They were facing increasing instances of home insurers declining to renew or write new home insurance because of wildfire risk. To address this problem, Wildfire Partners was established. This non-profit worked with the county and insurers to develop, based on the best available science, a standard for home defensibility and wildfire risk reduction. Insurers agreed that if a third party verified that the homeowner met this risk reduction standard the insurer would write insurance for the home. This is a successful example where homeowner risk reduction actions were aligned with insurance being made available. The workgroup recommends that California establish a similar program statewide in the WUI.

III. Recommendations

Finding 1. **Doing nothing to improve insurance conditions in the state is not a good option.**

The workgroup strongly believes that doing nothing to improve access and affordability of homeowners' insurance is not a good option. We believe that doing nothing will lead to continued deterioration of insurance availability and pricing in the WUI.

Finding 2. **California should preserve its risk based approach to pricing home insurance.**

The workgroup strongly recommends that California maintain incentives created through risk-based pricing of insurance for all stakeholders to avoid and mitigate risk. Furthermore, the state should not act to suppress prices in high-wildfire risk areas by increased cross-subsidy from low-risk areas.

Finding 3. **Improve the California FAIR Plan.**

FAIR Plan coverage limits have not increased in several decades even as the cost of housing in California has increased dramatically. The FAIR Plan coverage limits should be increased to reflect current construction costs for dwellings in the WUI. The workgroup believes that FAIR Plan policies should follow CDI recommendations to allow for an increase in coverage limits to $3,000,000 and then allow increases by an inflation factor at specified intervals.

The workgroup believes that a targeted premium subsidy for existing homeowners in the WUI who are very low income and for whom the FAIR Plan is the only option for insurance is potentially justified. This subsidy should be available only to homeowners who currently live in high risk areas and are currently insured by the FAIR Plan or become insured by the FAIR Plan in the future. It should be unavailable to homeowners who move into high fire risk areas in future. This premium subsidy could be funded out of general fund revenues. The FAIR Plan itself should not be subsidized nor should pricing in the FAIR Plan be artificially constrained. Price should continue to be based on risk.

Finding 4. **Improve the California Insurance Guarantee Association.**

California law establishes a "California Insurance Guarantee Association" (CIGA) to pay claims for property insurers who are unable to pay claims due to insolvency. The CIGA is made up of the property and casualty insurers writing insurance in the state and is capitalized through assessments on them. The CIGA is an important safety net for insureds when they are faced with the insolvency of their insurer. Current state law establishes a cap on the dollar value of claims that can be paid from the CIGA to a homeowner whose insurer has become insolvent. That cap is currently $500,000.[11] The workgroup recommends, based on input from the Department of Insurance, that the cap be raised to $1,000,000 and then increased by an inflation factor on an annual basis. The cap needs to be lifted because there are many homes in the WUI whose replacement value and insurance coverage exceeds the cap and so the existing cap would result in a payment from the CIGA which is far below that which the homeowner would have otherwise received from their insurer. In addition, the CIGA cap has not been increased since its inception in the 1960s.

Finding 5. **Require Fire Risk Underwriting Models used by insurers to be filed and approved by CDI.**

As discussed above, the Department of Insurance has found a number of limitations with the fire risk models used by insurers. Given the reliance and importance of those models in determining whether home insurance will be renewed or written, the workgroup recommends that, like other critical aspects of home insurance, the models ought to be filed with and approved by the California Department of Insurance, and that the Department of Insurance should be provided with the necessary resources and expertise to review and approve the models based on the best available science. The Department's review and approval of the models should be based on the best available science regarding inclusion of factors that contribute or diminish the risk to a home from wildfire.

Finding 6. **Set standards for home fire risk reduction and community risk reduction, with input from insurers, and require insurers to write insurance where the home owner and the community both meet standards.**

Widespread home hardening upgrades are an important strategy to reducing wildfire risks to homeowners. A McClatchy analysis of impact of the post-2008 wildfire building codes in the Camp Fire footprint shows that homes meeting these more stringent defensibility codes had much higher survivability rates than those without. This was true even where ember cast was a major driver of fire and setbacks were sometimes relatively tight. Meeting the higher standard appeared to matter a great deal in Paradise. The Insurance Institute for Business and Home Safety (IBHS)'s empirical tests of home meeting the post-2008 wildfire building code standard also indicates higher survivability. On the other hand, many homes meeting post-2008 code burned in the Tubbs Fire, indicating that more than home hardening is essential to defensibility during a fire with high ember cast.

---

[11] (Ins Code §1063.1)

Consistent with conceptual recommendations by the Department of Insurance, the workgroup recommends that CAL FIRE be directed by statute to establish a wildfire risk reduction standard for homes and, separately, for communities, which reduces the risk of loss due to wildfires. . CAL FIRE, in consultation with the Department of Insurance, may include all factors that are material to reducing the risks at both the individual home and the community level. The workgroup recommends that state law require insurers to write an insurance policy for a home when *both* that home and the community where the home is located meet CAL FIRE's wildfire risk reduction standard. This recommendation builds on the successful Wildfire Partners example in Boulder Colorado, where a risk reduction standard was set and if a homeowner met it, the insurer would write insurance for the home. Such a scenario aligns risk reduction actions by both the homeowner and community with the availability of insurance, and could be enhanced by the grants or loans proposed in Recommendation 16. It uses insurance availability to incentivize risk reduction, and makes sure that the risk reduction demonstrably reduces risk. This recommendation addresses the understandable frustration felt by homeowners in the WUI who follow the directions of local fire officials by hardening their homes, only to be unable to find private insurance, and acknowledges that community level mitigation actions can be taken to reduce risk.

CAL FIRE and the IBHS are already working on developing a three-tiered approach to improving a home's survivability in the face of wildfire.[12] This effort is modelled on the "Fortified Home" program for hurricane and high wind events, and may serve as a useful framework for the requirement to write insurance for a hardened home.

Finding 7. **Require insurers to implement a tiered mitigation credit based on the level of home hardening.**

This alternative recommendation, proposed by the California Department of Insurance, would be less effective than Recommendation 6, but could rely on the same CAL FIRE standards. Mitigation credits may provide a signal to homeowners as to the actions that would reduce their risk, but such an incentive may not be that helpful to the consumer nor provide enough of a push to make upgrades to one's home. Moreover, a mitigation credit does not address the unavailability of insurance in the first instance. Insurers would still be free to decline to renew or write insurance for homes that meet the CAL FIRE Standard. A mitigation credit does a homeowner no good if they cannot find insurance.

---

[12] California Department of Insurance. "The Availability and Affordability of Coverage for Wildfire Loss in Residential Property Insurance in the Wildland-Urban Interface and Other High-Risk Areas of California: CDI Summary and Proposed Solutions." pp 5-6.

Finding 8. **Require insurers to calculate and provide a replacement housing estimate in writing to insureds annually and before entering into an insurance contract.**

A significant number of fire survivors are underinsured, according to testimony received by the Commission. They have insurance, but their insurance coverage is not sufficient to cover the full cost of replacing their homes.

State law does not place a duty on insurers to make sure that the insured has sufficient coverage to replace their home. However, insurers have the construction cost data not only from their replacement cost tools but also from the many total losses that they settle after approving the construction cost.

In the wake of multiple fires in the last two decades and the Oakland Hills/Tunnel Fire in 1991, the Department of Insurance found that many homeowners were underinsured. The Department also found that where insurers had provided a home replacement cost estimate to insureds, the estimates varied widely and often failed to incorporate all the cost components associated with replacing the home.

In 2011, then Insurance Commissioner Dave Jones issued a regulation requiring insurers to use a complete, consistent and comprehensive method of calculating the replacement cost of a home, so that consumers would have the best possible information about the cost of replacing their home upon which to make their decision about the amount of insurance coverage. The insurance industry sued to challenge the regulation which, after seven years of litigation, was upheld by the California Supreme Court.

However, state law only requires that homeowners be given notice of their right to request a replacement cost estimate every two years.

The workgroup agrees with the original legislation sponsored by CDI in 2018 calling for insurers to provide a replacement cost estimate annually and recommends that a state law should be enacted to require insurers to provide a complete replacement cost estimate annually to their insureds before renewal and before writing a new home insurance policy. Such an estimate should prominently indicate if the replacement cost estimate is above the current level of coverage. The insurers should also be required to annually validate their replacement cost estimates against actual construction costs in the market where the home is located.

Requiring that the replacement cost estimate be provided annually will give consumers better information to decide how much insurance to purchase.

Finding 9. **Require insurers to file annually with CDI for review and approval the insurers' replacement cost estimating models/tools and the inputs they are using as well as a comparison of recent loss experience to estimates based on these tools.**

Consistent with comments from the Department of Insurance, the workgroup also recommends that state law be enacted to require insurers to file for review and approval their home replacement cost estimating models and the inputs they are using for those models as well as a comparison of recent loss experience compared to the estimated based on those models.

The estimates of replacement cost are critically important to making sure that homeowners have the information they need to decide how much insurance they should have. Given the importance of the models, the Department should be allowed to review and approve them to better protect consumers.

Finding 10. **Require CDI to undertake a data call on the insurers' subrogation claims.**

There is insufficient information available to decision makers about the extent of insurer subrogation claims. The Department of Insurance should be required by law to annually undertake a data call of insurers with regard to their subrogation claims associated with wildfires.

Finding 11. **Require CDI to undertake a data call on the insurers reinsurance cost and availability.**

More information on the cost of reinsurance and its availability would be useful, so that the Department and policymakers are able to have better insight into the home reinsurance market trends in pricing and availability. The Department should be required by newly enacted state law to undertake an annual data call of insurers with regard to the limits, attachment points, breadth of coverage, and price of reinsurance they are purchasing.

Finding 12. **Require homeowners insurers to offer a one-year notice of non-renewal, in addition to the existing 45-day notice, when there is no change in the risk presented at the insured property within the homeowners' control, or if the insured has been with the same insurer for 5 years or more.**

Consistent with comments made by the Department of Insurance, the workgroup recommends that state law be enacted to require home insures to provide a one year notice of non-renewal to homeowners before non-renewing, where there has been no change in the risk presented at the insured property within the homeowners control or where the insured has been with the insurer for at least 5 years.

Homeowners are frustrated that they are being non-renewed despite having no change at their property that would raise the risk of wildfire and despite having been a long standing customer. A one year notice will give these homeowners a chance to look for and obtain other insurance.

Finding 13. **Mandate all homeowners insurers offer a "Difference in Conditions" policy or a Comprehensive Personal Liability/Residential Workers' Compensation coverage.**

The FAIR Plan insurance covers only fire risk. It does not cover the other sorts of liability risks that one would find in a standard home insurance policy. A number of insurers have begun offering "Differences in Conditions" coverage or "Comprehensive Personal Liability/Residential Workers Compensation" coverage to those who have purchased FAIR Plan coverage to cover the other risks that would be found in a standard home insurance policy.

Consistent with comments made by the Department of Insurance, the workgroup recommends that state law be enacted to require all home insurers to offer these additional coverages, so that FAIR Plan policy purchasers have the opportunity to augment their FAIR Plan coverage with these additional coverages.

Finding 14. **Require that there be a valid quote for insurance coverage before any real estate offer is accepted.**

The workgroup recommends that state law be amended to require the buyer of real estate in the WUI to obtain a valid quote for insurance before an offer in a real estate transaction can be accepted. A quote from the FAIR Plan would be sufficient to meet this requirement.

This recommendation provides a risk communication tool to potential home buyers. The rationale for this requirement is to make sure that the buyer understands the cost to insure the property before entering a contract to purchase the property rather than discovering too late that the cost of insurance exceeds their ability to pay and then having to breach the contract and forfeit the deposit. Although there is already an insurance requirement related to receiving a mortgage, that part of the real estate transaction occurs too late in the home-buying process to be informative to the home buyer.

Reduction of Wildfire Risk in California

Wildfire risk mitigation efforts are occurring at an unprecedented scale both by private actors and State and local governments. Nevertheless, the workgroup received abundant testimony and written comments indicating that actions may still be inadequate and lack sufficient coordination to be maximally effective and cost-effective. Moreover, there is a clear lack of coordination between different actors in their mitigation efforts.

Finding 15. **Establish a Wildfire Vulnerability Risk and Reduction Coordinator within the Governor's Office of Planning and Research. The Risk Reduction Coordinator would be charged with conducting research and providing regular recommendations to the legislature, governor, CPUC, Insurance Commissioner, and local governments on optimal levels of risk mitigation spending within the state by various parties.**

To address the lack of coordination the workgroup recommends creation of a Wildfire Vulnerability Risk and Reduction Coordinator within the Office of Planning and Research. The Risk Reduction Coordinator would be charged with conducting research and providing regular recommendations to the legislature, governor, CPUC, Insurance Commissioner, and local governments on optimal levels of risk mitigation spending within the state by various parties.

There is currently no single actor considering how best to mitigate risks from wildfire in California. Instead, there are multiple parties acting to control risk within their area of authority, each with unique expertise, different levels of funding, and operating with unique biases. The Risk Reduction Coordinator would be charged with developing risk based metrics for various wildfire risk reduction activities that could then be utilized to ensure that the most effective and cost-effective measures are being taken to reduce risk. The Risk Reduction Coordinator could also play a role of watchdog – alerting all parties to areas where underinvestment in cost-effective risk reduction is occurring.

Publicly vetted risk-based metrics developed by the Risk Reduction Coordinator could also be useful in determining whether Wildfire Mitigation Plans filed by utilities with the CPUC are adequate or require additional mitigation measures. These risk-based metrics should be developed in collaboration with the Department of Insurance, the insurance and reinsurance industries, and with the benefit of their collaboration and input.

Finding 16. **Additional Risk Mitigation Recommendations**

The workgroup recommends significant additional investments in prevention and mitigation efforts, whether funded by a state tax and a specific fund in the state budget for direct mitigation or small grants for home hardening. Sustained funding for such mitigation actions could be enhanced by the state engaging in a risk transfer mechanism related to some of the state costs related to wildfires and their aftermath, freeing up funds for pre-disaster mitigation.

The workgroup further recommends that the state, perhaps via the Risk Reduction Coordinator (see Recommendation 15), take action to significantly increase consistency of private property maintenance laws by developing best practices or minimum standards for fire risk and minimum allowed penalties for non-compliance.

Finding 17. **Clarifying the responsibility of local fire-fighting capacity when local governments are approving new developments.**

The workgroup recommends that the state require that any municipality or government body that approves new development, including new construction on vacant land, is able to provide firefighting service to that property within a certain maximum time. This would increase the proportion of firefighting responsibility to the municipality that is approving developments.

Finding 18. **Development fee for new construction in the WUI.**

New development of housing and commercial structures in the WUI faces high risk of wildfire that in turn creates costs for the State. The State needs to invest substantially in reducing the risk of wildfire. New development that will put more lives and property at risk, ought to pay a development impact fee to the State of California to help find risk reduction efforts that will benefit the new development.

The rebuilding of existing properties that were completely or partially destroyed by earlier wildfires should be exempt from paying the fee.