United Policyholders
Empowering the Insured

[Can this plan fix California's insurance crisis? What you need to know]

Pleasanton Weekly

Lara-backed deal would allow major insurers to charge more in exchange for requiring coverage in wildfire-prone areas

A week after negotiations to rescue California's floundering home insurance market stalled out in the Legislature, the state's top insurance regulator put out his own rescue plan that effectively amounts to a trade for the state's major insurers.

Under proposed regulations Insurance Commissioner Ricardo Lara announced on Sept. 21, major insurers will be required to cover a certain share of homeowners in the state's most wildfire-prone areas. In exchange, the Department of Insurance will allow companies to charge more to cover the rising costs of doing business in a fire-ravaged state.

Lara called the package of new proposed regulations "the largest insurance reform" since 1988, the year California voters passed a proposition requiring insurance companies to get prior approval before raising premiums.

The plan is meant to reverse what has amounted to a slow-motion exodus of private home insurers from the state. In the last year and a half, seven of the top 12 property insurers operating in California have either placed new restrictions on where they do business or stopped selling new policies here entirely.

The biggest player of all, State Farm, announced a freeze on new policies in May, kicking off a fresh round of panic among homeowners scrambling to find affordable insurance policies and lawmakers eager to tackle the crisis.

For years, insurance companies have complained that current rates and the existing regulatory process

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don't allow them to recoup the cost of doing business in the state's most at-risk regions. By easing some of those restrictions, while requiring the companies to expand their coverage, "it's the department calling the bluff of insurers," said Rex Frazier, president of Personal Insurance Federation of California, a trade group.

In principle, that's a trade-off insurers are willing to make, he added, though it will ultimately depend on how the specific regulations are crafted in the coming months.

Amy Bach, executive director of the consumer group United Policyholders, struck a similar note.

Lara "did not sell out to the industry here, in my opinion, he struck a deal," she said. "Whether it's going to manifest positively overall … the proof will be in the premiums."

But Consumer Watchdog — an advocacy group that Lara all but called out by name during his presentation as "bombastic" and a group "materially benefiting" from the current regulatory system — came away with a difficult conclusion.

"He's basically capitulated to the industry," Jamie Court, the group's president, said of Lara. "There's not really much coming back for the consumer in here."

Picking up where legislators left off

Despite mounting public angst and calls for action from top lawmakers, the politics of addressing the problem in the Legislature proved too thorny this year.

In the final weeks of the legislative session that ended a week ago, lawmakers scrambled to bridge the demands of insurers — who called for higher premiums to cover more of their costs and for a more flexible rate-setting process — and those of consumer groups, who resisted calls to add to the financial burdens of homeowners. After negotiations floundered, Gov. Gavin Newsom hinted that his administration and Lara's Department of Insurance might be willing to act on their own.

In a statement, Sen. Bill Dodd, a Napa Democrat involved in the unsuccessful negotiations, cheered Lara's announcement. "Given that the Legislature is not in session right now, utilizing the commissioner's regulatory authority makes good sense," he said. "I know there is work that still needs to be done and I'll

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be supporting these efforts any way I can."

Insurance companies have pointed to three main reasons that doing business in California is increasingly a losing proposition: Escalating wildfire risk, ever-rising construction costs and the global price of reinsurance — insurance policies that insurance companies, themselves, take out.

While costs have increased, the amount the companies are allowed to charge homeowners is tightly capped and closely regulated in California, making home insurance policies relatively cheap by national standards. In order to raise rates, major insurers need a sign-off from the Department of Insurance.

Currently, insurance companies are not allowed to factor in the cost of reinsurance into those applications. They are also prohibited from using forward-looking models to predict future costs — something insurers say they desperately need as a warming climate and residential development encroaching into fire-prone areas results in fire seasons that are longer and more catastrophic than they have been in the past.

Lara proposed giving companies both of those tools, though companies will apparently only be allowed to itemize the cost of reinsurance as it pertains to California. It's unclear how this calculation will be made.

Bach with United Policyholders said allowing companies to use predictive models isn't inherently a bad idea — "Are these models nefarious tools of Satan? No," she said — but hopes there will be transparency about which models are used and how they work.

In exchange for these new tools, companies will be required to cover homeowners in wildfire-prone parts of the state at 85% of their statewide coverage. For example, if a company provides 10% of the homeowner policies across California, they would be required to provide 8.5% of the coverage in areas deemed "at-risk."

Court, with Consumer Watchdog, said 85% is 15% too little. "It's a really sh—y deal," he said.

California homeowners currently unable to get insurance on the private market can currently turn to the FAIR Plan, a last resort issuer of fire coverage funded through a levy on regulated insurers. Between 2018 and 2022, the number of homeowners covered by the FAIR Plan more than doubled to roughly 3% of all homeowners.

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But the FAIR Plan policies are expensive and limited. And if the FAIR Plan runs out of money, it's legally required to refill its coffers by levying a surcharge on major insurers. The prospect of the FAIR Plan running out of cash and slapping the industry with the bill has also encouraged insurance companies to scale back their coverage.

Consumer Watchdog regularly challenges the applications for higher premiums that insurance companies submit to the state, an intervention allowed for under the 1988 ballot measure. Today, Lara also said he wants to make it easier for the public to see who intervenes and how much they are compensated for doing so.

"One entity is involved in nearly 75% of all interventions for rate approvals, materially benefiting from a process that is meant for a broader public participation," he said, referring to the nonprofit.

Lara also said that "throwing bombs is easy and putting out bombastic statements from entrenched interest groups doesn't benefit anyone."

Court said his organization would continue to fight back as the department drafts the detailed regulations.

"We'll be battling over this stuff for many months to come," he said.

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