[Home replacement costs at center of California insurance dispute](https://uphelp.org/home-replacement-costs-at-center-of-california-insurance-dispute/)

In a move to prevent homeowners from being underinsured after disasters, the California insurance commissioner has imposed new regulations for estimating a home's replacement value for insurance purposes. Some insurers have sued in response, saying the regulations overstep the commissioner's legal boundaries and could harm consumers in the long run.

"In the wake of the terrible firestorms in California, which destroyed quite a few homes, many homeowners complained to the Department of Insurance that they had been provided less-than-accurate and, in some cases, misleading information about the replacement value of their home at the time that they purchased or renewed their homeowner's insurance," Insurance Commissioner Dave Jones says.
'Extraordinary' inconsistency in replacement values

Consumer advocates and insurance companies are feuding over California regulations regarding how to set the value of a home for insurance purposes.

A Department of Insurance investigation found "an extraordinary amount" of inconsistency in how insurers, agents and brokers were figuring the replacement value of a home. For example, one insurer might not include the cost of debris removal in the estimate for replacement costs, Jones says, while another might provide a labor cost that's below the going rate.

To combat those contradictions, the Department of Insurance came up with the regulations as a way to ensure homeowners were given basic information from insurance agents or brokers.

For example, information needed to estimate replacement costs now must include the type of foundation, roofing materials and roof; cost of demolition and debris removal; and expense of permits and architect's plans. The regulations also set training standards for agents and brokers who sell home insurance, and establish new recordkeeping requirements.

United Policyholders, a California-based nonprofit organization that advocates for insurance customers, has applauded the state Department of Insurance "for taking action to stop the industry from underinsuring consumers when their home is damaged or destroyed in a natural disaster."

However, a number of insurers and industry groups have taken issue with the regulations.

A question of rights

"We challenge the commissioner's authority to dictate how we do underwriting," says Mark Sektnan, president of the Association of California Insurance Companies, a trade group representing property and casualty insurance companies in the Golden State. The regulations require insurers to use a state-mandated formula to determine a home's replacement value even if insurers have better tools to do so, Sektnan says.

The Association of California Insurance Companies and the Personal Insurance Federation of California — whose members include Farmers Insurance, Liberty Mutual, Progressive, State Farm, Allstate Insurance and Mercury Insurance — have filed a lawsuit over the regulations. The suit seeks to halt the portion of the regulations instructing insurers on how to determine home replacement value, as well as parts of the regulations requiring insurers to use specific language when talking to consumers about replacement value.

Kimberley Dellinger Dunn, general counsel for the Personal Insurance Federation of California, points out that the insurance industry supports most of the new regulations, including the call for additional training for agents and the new recordkeeping requirements. "But they don't have the authority to dictate one specific way that the replacement-cost estimate must be done," she says.

A boon for consumers?

Calling the lawsuit "unfortunate and disappointing," Jones insists the regulations are designed to provide consumers with a minimum amount of information. "The insurers can go beyond what we've set as a minimum," he says, "and provide additional information if they so choose."

But insurers say consumers may be on the losing end. According to a statement issued by the two insurance groups that filed the suit, the regulations provide "a mandated formula and particular words they must use when talking with a customer" who's interested in home insurance and punishes any insurer that strays from the state-required formula.

Under the regulations, the groups say, any such change to the formula — however beneficial that change may be — automatically is treated by the state as a deceptive sales practice that could lead to an insurer being penalized. To avoid being hit with a charge of engaging in deceptive sales practices, some agents may decide to stick to the state-mandated guidelines and avoid giving consumers information that could help them, which Sektnan says “isn’t in the policyholder’s best interest.”

The Association of California Insurance Companies and the Personal Insurance Federation of California emphasize that the regulations do nothing to address one of the biggest factors leading to underinsurance after major disasters – higher prices for construction and materials because of high demand.

As the lawsuit makes its way through the legal system, insurers will comply with the regulations, according to the Association of California Insurance Companies and the Personal Insurance Federation of California.

The effectiveness of the regulations will be seen over time, Jones says, with transparency as well as “comprehensive and accurate information” being early benefits. “If consumers don’t have that,” Jones says, “they don’t have a fighting chance to make sure they get the proper amount of insurance.”