United Policyholders
Empowering the Insured

Most California insurers don’t incentivize fire prevention. A bill would change that

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A group of state lawmakers, regulators and consumer advocates hope the insurance industry can encourage homeowners and communities to harden their homes and neighborhoods against wildfires.

That’s the intent behind a newly introduced bill that would set statewide standards for fire-hardened homes and communities. It would then require state-licensed insurance companies to offer and renew policies for homeowners who have met the standards, as long as they live in a community that has also met them. It also would let the state insurance commissioner require insurers to offer “incentives” such as discounts for homeowners who have taken these steps.

AB2367, dubbed the Renew California bill, is a response to data showing that insurance is getting harder to find and keep in wildfire-prone areas.

Between 2017 and 2018, there was a 3% increase in nonrenewals statewide. While the nonrenewal rate actually declined in about half of the state’s counties, in seven counties it was in the teens and it reached 38% in Nevada County, according to the insurance department. Some nonrenewed customers were able to find insurance with other state-regulated companies, carriers that are not state-licensed like Lloyd’s of London) or the Fair Plan, the state’s insurer of last resort.

“We are trying to make sure homeowners who have done nothing wrong and in fact did everything right in terms of home hardening) can still insure their house,” said the bill’s co-author, Lorena Gonzalez, D-San Diego. The bill is also backed by Insurance Commissioner Ricardo Lara, consumer group United Policyholders and co-author Monique Limón, D-Santa Barbara.

The plan faces a number of obstacles. One would be getting five agencies to agree on statewide standards. They would be developed by the insurance commissioner, the Office of Emergency Services and the State Fire Marshal, with input from Cal Fire and the Office of Planning and Research.

Another difficulty would be getting communities to adopt the standards. Close to 300 neighborhoods in California have taken fire-prevention efforts that let them be designated as “Firewise” communities by the National Fire Protection Association. More than a dozen of them are in Mill Valley. But when the Mill Valley City Council tried last year to require homeowners in high-hazard areas to create a 3-foot noncombustible zone around their structures, resistance from a vocal group of homeowners was so intense, it retreated.

The bill must first overcome opposition from the insurance industry. After paying out $26 billion in claims for the 2017 and 2018 wildfires, many large insurance companies began cutting back their exposure to high-risk areas, especially where they felt they had too many policies.

One problem the industry has with the bill is that the science around wildfire mitigation “is very new,” said Mark Sektnan, a vice president of the American Property Casualty Insurance Association. “We do not have a good understanding of what types of mitigation standards work on an individual parcel level, and more importantly on a community level,” he said. The industry understands hurricane mitigation, because there have been so many big ones to study, and even earthquake mitigation.

Insurers are quick to point out that most of Santa Rosa’s Fountaingrove neighborhood was a Firewise community, before it was nearly destroyed in the 2017 Tubbs Fire.

Any bill based on “some unproven mitigation efforts that would lead to an involuntary, indefinite contract, without any consideration of whether the price allowed) is appropriate, that’s not a complete solution,” said Rex Frazier, president of the Personal Insurance Federation of California.

Today, the insurance department does not require the companies it licenses to sell policies in any particular area, although it does approve rates and regulates other parts of their business. In the past, when states tried to force companies to sell insurance, it ended badly.

In the wake of record hurricane losses in 2004-05, insurers in Florida attempted to raise rates, but the state largely prohibited them from doing so, said Robert Hartwig, director for the Center for Risk and

Uncertainty Management at the University of South Carolina. When insurers threatened to leave, the state threatened to prohibit them from selling auto insurance. “Cooler heads prevailed after they realized they already had a homeowners crisis and were at risk of having an auto crisis as well,” said Hartwig.

Something similar happened after the 1994 Northridge earthquake in California. Since the 1980s, California has required insurance companies selling homeowner policies to also offer earthquake insurance. After Northridge, insurers feared they wouldn’t have enough money to pay claims if another quake that big hit, and started withdrawing from the market en masse.

“By January of 1995, companies representing 93 percent of the California homeowners insurance market had either restricted or stopped writing homeowners policies altogether, sending the California housing market into a tailspin,” according to the California Earthquake Authority. The state created the authority as a not-for-profit, publicly managed, privately funded entity to sell earthquake insurance. Companies selling homeowners insurance can offer a CEA policy or their own but they don’t take on the risk of the CEA policy.

Companies that sell homeowners insurance also must offer fire insurance, directly or through the Fair Plan, an association backed by licensed carriers based on their market shares. It must offer a basic fire policy to people who can’t get one from a licensed carrier.

The Fair Plan’s basic policy covers fire and some smoke damage but excludes other coverages found in a standard homeowners policy such as liability, theft, water damage and additional living expenses. It also limits coverage to $1.5 million per policy. Fair Plan customers typically buy a supplemental or “wraparound” policy from another company for those missing pieces.

In November, Lara ordered the Fair Plan to double its coverage limit to $3 million by April 1, allow monthly and credit card payments, and begin offering a comprehensive homeowners policy, known as an HO-3, alongside its existing policy by June 1. The Fair Plan filed a suit in December seeking to block the order.

On Tuesday, the Los Angeles County Superior Court issued a preliminary injunction preventing the department from forcing the Fair Plan to issue an HO-3 policy. Fair Plan President Anneliese Jivan said the injunction does not delay the parts of Lara’s order it was already working to implement, including increasing the coverage limit.

If the new legislation passes as is, “I think companies will have a very hard decision about do they want to stay in the market where they have no control over their price but also no control over the risk they face,” Frazier said.

Amy Bach, executive director of United Policyholders, called the bill “a starting point for negotiations that will go on in the Legislature. We have to incentivize people and engage people in making their homes less likely to burn.”

Insurers are already charging more where they perceive the risk to be higher. “What we need is a mandate for them to go both ways. If this is a mitigated home, they have to consider that. Now they don’t have to,” Bach said.

Except for USAA, which offers homeowners in California a discount if they live in a Firewise community, insurers are not offering incentives for fire prevention efforts.

Frazier says some discounts are already “baked into” premiums. If your home was constructed under 2008 building codes “you pay a lot less. What companies struggle with is, will a $100 discount get someone to pay $1,500 to put a roof on.”

Proponents of the bill say that without a guarantee of even keeping insurance, homeowners might not be willing to pay anything for risk reduction.

“The only way to stabilize and reduce risk is to promote mitigation in a systematic way,” said Michael Peterson, a deputy insurance commissioner.