[‘Prompt action’ on fire insurance has yet to help California homeowners]

Press Democrat

While state regulators craft new regulations and consult with the insurance industry, many Californians are paying extra-high premiums — or going without insurance entirely.

In September, Gov. Gavin Newsom issued an executive order for “prompt regulatory action” to address the plight of California homeowners facing availability and affordability problems in home and fire insurance.

But at its present pace — and with doubts from consumers, lawmakers and insurers about the Department of Insurance’s proposals to alleviate the crisis — help for residents may not arrive until 2026, at least according to the most pessimistic outlook by the insurance industry.

Those waiting are Californians like the Smithlines, a retired couple in Forest Hill in Placer County, who actually saw their fire insurance premium balloon to the point that they’ve decided they will have to do without it.

Bobbi Smithline said their premium this year tripled to almost $6,000 from $1,800 in 2020. They were on the FAIR Plan — the last resort for residents who can’t find traditional insurance — because Farmers would not renew their previous policy three years ago.

“Our property taxes and homeowner insurance came at the same time as the FAIR Plan (bill),” Smithline said. “We can’t afford to do all three… that’s going to leave us with no savings.”

The FAIR Plan is run by the state but financed by insurers. Premiums under the plan are usually more expensive, and they’re only getting higher. In September, California’s Department of Insurance approved a rate increase long sought by the insurers that finance the plan, for an average 15.7% rate hike. As more and more people turn to the FAIR Plan because the biggest insurance providers in the state have either paused new policies or left the state altogether, the plan's total number of policies climbed to more than 330,000 as of September, an almost 21% rise since the beginning of the year.

The Smithlines have lived in their three-bedroom, one-and-a-half-bathroom house for 45 years and raised most of their eight children there. They never had a wildfire until last year, when the Mosquito Fire burned more than 76,000 acres in their county and nearby El Dorado County, Smithline said. Now she and her husband, Mike, have told their children — who will inherit the house — about their decision. If a fire destroys their house, their plan is to put a mobile home on their 7.2-acre property, or maybe live with one of their kids.

The Smithlines are among the many Californians affected by the insurance mess. But at least they have a choice. Because their home is paid off, they are not required to carry fire insurance like homeowners with a mortgage must do.

Another California homeowner, Donna Yutzy in Magalia in Butte County, told CalMatters that she will pay higher premiums — almost $7,000 a year for both fire and home insurance — because she doesn't want to risk having no fire insurance. And Rebecca Reis, another homeowner who recently received a non-renewal notice because her San Francisco building was built before 1925, said her homeowners association will have to raise its dues to cover the increase in premiums for their building, from $7,000 to almost $30,000.

Newsom's September order followed the failure of proposed legislation to address the crisis, and now California's Department of Insurance is working on new regulations to try to fix the problems. The insurance industry cites a combination of inflation, climate change and several devastating and deadly wildfires since 2017, as well as what it calls outdated state regulations, as factors in carriers' pulling back or pulling out of California.

There were a total of 8.73 million homeowners policies in 2021, and non-renewals of home and fire insurance policies climbed from 11% in 2018 to 13% in 2021, according to the state insurance department's most recent data. FAIR Plan policies over that same period jumped from 1.6% of the total market to 3%. Since 2021, though, most of the top insurers in the state have either stopped writing or restricted new policies here; the insurance department is finalizing data for 2022.

Insurance Commissioner Ricardo Lara isn't expected to finalize new rules until next year. Then insurers and consumer groups will react and possibly object, so they say regulations may not be enacted until the following year, or even 2026 — meaning more of the same in the meantime.

"We're going to move at the speed of good policy," said Michael Soller, spokesperson for Lara. "We're going to be judged by the impact we have over the long term. There's no magic solution to this."

Soller also said the department disagrees with the forecasts that things won't change until 2026, saying the department is moving as quickly as possible. "For instance, by enforcing existing rules we incentivize insurance companies to reduce delays caused by incomplete rate filings," he said. Soller also said that in October, Lara expanded insurance discounts for wildfire mitigation, and that the move will have "a long-lasting impact on the survivability of homes."

Two members of Congress from California, Reps. Katie Porter and Doug LaMalfa, may also try to help. They recently sent a letter to the chief executives of some of the big insurers that have paused, limited or are no longer issuing new policies in the state, asking for briefings and discussions on possible solutions. Porter and LaMalfa asked the CEOs of Farmers, Allstate, USAA, State Farm and CSE Insurance to respond by Nov. 17.

Porter, the Democratic lawmaker from Orange County who is running for U.S. Senate, plans to write legislation and "conduct oversight as appropriate" on this issue, she said in an emailed statement.

The staff of LaMalfa, the Republican lawmaker from Butte County, did not return a request for comment. The companies did not respond to CalMatters' requests for comment about the letter.

Insurers want models

The insurance industry has been "grousing" about California's regulations for years, said Rex Frazier, president of the industry group Personal Insurance Federation of California. Among the industry's complaints: California is the only state in the nation that does not allow insurers to use forward-looking catastrophe models that take into account the increased risks from climate change; the state's insurance-department reviews of proposed rates take too long; and the state won't allow insurers to factor reinsurance costs into their rates.

"If we want a different outcome, we're going to need different rules," Frazier added.

The state is poised to adopt rules that appear to give insurers what they want as long as they write at least 85% of their statewide market share in wildfire-distressed areas. For example, a company that provides 10% of homeowner policies in the state would need to provide 8.5% of the coverage in such areas.

Also, insurers will be allowed to factor reinsurance costs into their premiums as long as they can show that California homeowners wouldn't be bearing the cost of disasters outside the state.

The public will get a chance to weigh in as the insurance department works to finalize the regulations, said Soller, Lara's spokesperson.

One consumer group is already slamming Lara's strategy as presented, saying it amounts to deregulation and warning the governor and state legislators that the plan will not benefit the state's consumers.

"We know what deregulation has done," Jamie Court, president of Consumer Watchdog, said in an interview with CalMatters. Court said hurricane-prone Florida doesn't have a "rigorous rate process," which is why he said premiums in that state are much higher than in California. In 2020, the average California homeowners insurance premium was $1,241 a year, while Florida's was $2,165, according to the National Association of Insurance Commissioners.

Court added that so far, Lara's plan, unveiled in September, is short on specifics and that there has been "nothing in writing" in terms of an agreement between the state and the insurers.

Another consumer advocate, Amy Bach, executive director of United Policyholders, said she was concerned about that part, too. "An actual agreement on paper" would have been nice, she said. But Bach added that she believes the insurance department is doing its best.

"I feel like they're trying to fix the problem right alongside us," she said. Bach also said it's impossible for California to be the "outlier" when every other state in the country allows insurers to pass along reinsurance rates, and to use catastrophe models. Besides, she said, the insurance department will still have power over rate changes.

But the state's Democratic lawmakers are concerned about the plan, too. Thirty-two of them, including Rep. John Garamendi, a former insurance commissioner, sent a letter to Lara on Monday. They wrote that his proposal “may result in a diminution of the authority granted by California voters,” and “could threaten the important consumer protections established in Proposition 103 and in place since 1988.” Among other things, Proposition 103 gives the state’s insurance department the authority to review rate changes.

In response, Lara sent a letter addressed to Rep. Zoe Lofgren, chair of the California Democratic Congressional Delegation, on Tuesday. In it, the insurance commissioner, who CC’d the rest of the signatories of the letter, said “Proposition 103 does not grant unlimited power.” He added that his plan is supported by residents including “wildfire survivors, ranchers and farmers… and other insurance consumers who are experiencing the impact of outdated regulatory rules and growing climate threats.” Lara also asked the Congressional members for federal help including “better management of federal forests and watersheds” and more funding for community grants to help with home hardening.

‘Too important’ to leave?
Yutzy, the Butte County resident, said she and her husband are lucky to be able to afford the higher insurance costs. It’s the price they have to pay for retiring in that area, she said: “We wanted to live our vacation, wake up to the trees.”

She predicted that the increased costs will change the demographics of the area, which she said people used to move to because it was affordable. That all changed after the Camp Fire in 2018, the deadliest and most destructive wildfire in the state, which killed at least 85 people and almost completely destroyed the town of Paradise and the unincorporated area of Concow.

Yutzy said residents of the area have been doing a lot of work since then, and that insurers should take that into account as they set rates. “One thing I would ask insurers: Take a look at what the communities are doing generally in terms of fuel reduction and wildfire mitigation. We have so many things going on that insurers should be looking at.”

Those in the industry say insurers don’t want to leave the biggest market in the nation, and that urgent action is needed for the sake of all stakeholders.

Vanessa Wells, a Silicon Valley-based attorney who represents insurance companies, said that prior to 2020, the carriers would have felt that California was “too important a market to leave behind.” But the massive wildfires were followed by billions of dollars in payouts.

“Since that time, it’s too big in a different way — that you can go out of business here,” Wells said.