



Roadmap to Recovery®
Advocacy and Action
Roadmap to Preparedness

July 19, 2024

Commissioner Michael Conway
Colorado Division of Insurance
1560 Broadway, Suite 850
Denver, CO 80202

& Sent Via Email: DORA_Ins_RulesandRecords@state.co.us

RE: Comments on HB24-1315 - Concerning A Study Regarding Standards For The Remediation Of Residential Premises After A Property Has Been Damaged In A Fire, And, In Connection Therewith, Studying Properties Damaged By Smoke, Soot, Ash, And Other Contaminants As A Result Of The Fire

Dear Commissioner Conway:

On behalf of United Policyholders,¹ I would like to express our sincere thanks to you and your staff for coordinating with our organization and other stakeholders and appreciate the opportunity to provide comments on this issue.

United Policyholders (UP) has been helping Colorado residents recover from and be prepared for wildfires, floods, wind and hail storms and other adverse events since 2010. Through our Roadmap to Recovery® program, in partnership with local and state officials, other non-profits and business leaders, UP provided services to residents and owners impacted by the Four Mile, Waldo Canyon, Black Forest, High Park wildfires and is currently engaged in Marshall Fire recovery efforts.

Through our Roadmap to Preparedness and Advocacy Action programs, UP is also doing outreach, education and advocacy aimed at helping Colorado property owners grapple with the national homeowners affordability/availability crisis.

¹ United Policyholders (“UP”) is a non-profit organization that has been informing, helping, and speaking for insurance consumers across the United States since 1991. UP is funded by donations, grants and volunteer labor. Through our Roadmap to Preparedness and Roadmap to Recovery programs, UP helps Americans reduce risk, insure their assets, and successfully navigate loss recovery. Through our Advocacy and Action work, we help prevent and solve insurance coverage and claim-related problems.

UP generally supports the bill, appreciates the Division's efforts to implement HB 24-1315, but we have a few specific concerns set forth below to ensure strong protections are in place so property insurance claims get paid in full and on time.

- The division does not specify the process for securing a qualified, impartial consultant for the study, only that one will be secured, and, subsequently, raises the question of how the Department will ensure that the consultant who is selected to do the study is qualified and unbiased in their research (10-1-145 (1)(a)(III)(b)).
- In order to be effective for intended purposes, the study parameters should outline what kind of testing will be provided, when, and how. The study should consider "existing practices[,] "methods[,] and "standards" in the "testing, inspection, and remediation" of damaged property, as well as pre-testing and post-testing (10-1-145 (2)(a-b)).
- Clearance testing should be required and include more than can be seen with the naked eye, including particulates, etc. Mere cleaning is often not sufficient. Experts in the field find unseen gases and airborne particulates that remain after cleaning or are stuck in cavities (such as behind walls) that are not being addressed and should be evaluated in this study. As mentioned during the hearing, there were 2 publications done in 2022 on this topic, showing they are finding cyanide in the walls from the toxic materials that burned.

Further hindering remediation recovery are the lack of available insurance funds for mitigating damage by contamination and insurer practices of hiring unqualified professionals for such cases. We encourage more meetings with past wildfire survivors to share their experiences of navigating the insurance claims process to recover from remediation claims, putting a spotlight on areas of concern and tension between insureds and insurers.

Stories such as the Marshall Fire smoke damage survivor who testified at the hearing on June 27, 2024 are common. Survivors have experienced great difficulty finding remediation experts who can identify and test items such as a concrete foundation, and there's a general lack of expertise in this area. We encourage the

division to require “engage(ment) with relevant stakeholders and experts in connection with remediation studies” (10-1-145 (2)(a)(III)(b), specifically wildfire disaster survivors who experienced a smoke/partial loss insurance claim.

The insurers’ current remediation testing practices are held to be insufficient to address health risk from exposure to these contaminants, requiring only the minimum amount of redress for damages, leaving residents vulnerable. The standards developed through the study should exceed these minimum practices used by the industry and better protect consumers. The standards should also include DORA’s authority (or another regulatory agency, the legislation for the study is unclear on that point) to enforce the standards, penalize insurers who do not follow them, and create avenues to resolve disputes between insurers and insureds.

Thank you for your consideration of these comments.

Sincerely,



Valerie Brown
Deputy Executive Director