

**National Council of Insurance Legislators  
Summer 2021 Meeting  
Property/Casualty Committee**

**Improving disaster recovery  
through insurance reform legislation**

**Speakers:**

**The Honorable Representative Pam Marsh, Oregon House District 05**

**Amy Bach, Executive Director, United Policyholders**

**July 16, 2021**

# Representative Pam Marsh, HD 05



- **Democrat - District 5 - Southern Jackson County**
- **District heavily impacted by 2020 wildfires**
- **Chair, House Committee On Energy and Environment**
- **Vice-Chair, House Special Committee On Wildfire Recovery**

# Curated resources for wildfire-impacted constituents



## Representative Pam Marsh

Democrat - District 5 - Southern Jackson County

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### Fire Recovery Resources for Manufactured/Mobile Housing Residents & Home Park Owners

Recursos de recuperación de incendios para residentes de casas prefabricadas/ móviles y dueños de parques de casas  
móviles

<< *Español a continuación* >>

- [INFORMATION FOR MANUFACTURED HOUSING RESIDENTS AND MANUFACTURED HOME PARK OWNERS AFFECTED BY OREGON WILDFIRES \(PDF\)](#)
- [INFORMACIÓN PARA RESIDENTES DE CASAS MANUFACTURADAS Y DUEÑOS DE PARQUES DE CASAS MANUFACTURADAS AFECTADOS POR LOS INCENDIOS FORESTALES DE OREGON \(PDF\)](#)
- **FORUM VIDEO RECORDING:** [Fire Recovery for Manufactured Home Park Residents & Owners](#)
- **FORUM AUDIO IN SPANISH:** [Fire Recovery for Manufactured Home Park Residents & Owners](#) (Unfortunately, this recording does not include the first several minutes of the forum due to technical difficulties).
- [Manufactured Homes Insurance Issues Meeting, 10-29-20 - Video](#)
- **Manufactured Home Documents Retrieval Instructions** (We hope to have this in Spanish soon)
  - For assistance, contact Warren Jackson at the Building Codes Division: 503-373-7755 or [Warren.D.Jackson@oregon.gov](mailto:Warren.D.Jackson@oregon.gov).
- **Casa Manufacturada Instrucciones para Recuperación de Documentos**
- **Clean-up:**
  - Manufactured home owners are not responsible for cleanup. Please do not start your own clean up. Much of the debris is hazardous and risk assessments are required.
  - The local landfill and transfer stations will not be able to accept much of the debris from the burned areas.
  - Coordinated clean-up efforts among federal, state and local agencies will cover most or all of the costs. Homeowners may be asked to contribute that portion of their insurance benefits that is dedicated to clean-up. However, no one will be required to contribute out of pocket expenses for clean-up.
  - Manufactured homeowners do not need to submit a right of entry form for the first phase of clean-up. We will add information for phase 2 as it becomes available.

# Amy Bach, Esq.



- **A professional insurance consumer advocate since 1984, Co-founder, United Policyholders**
- **Published author, experienced trial and regulatory attorney**
- **Appointed Member, Federal Advisory Committee on Insurance (US Treasury)**
- **Appointed Member, American Bar Assoc. Standing Committee on Disaster Response**
- **Consumer representative and Consumer Participation Program Trustee, Nat'l Ass'n of Insurance Commissioners**

# About United Policyholders (UP)

- 501(c)3 not-for-profit charitable organization, Platinum Guide Star rating
- A trusted information resource and respected voice for insurance consumers in all 50 states
- 30 year track record and expertise in disaster recovery
- Funded by donations and grants
- Through a Roadmap to Recovery™ program, UP educates, supports and routinely surveys disaster-impacted communities and individuals.
- Through an Advocacy and Action program, UP supports legislative and regulatory reforms that improve loss recovery and uphold the indemnification purpose of insurance.

# Context and experience that compelled reforms

- Unlike tornadoes or floods, wildfire creates total loss.
- Widespread losses in a region where construction workforce and building materials were already scarce.
- Debris clean up and permitting logjams further delays construction.
- Constraints in insurance coverage began to emerge within days of the wildfire event.
- Insurers application of depreciation is particularly problematic for manufactured homeowners

# The lay of the post-wildfire land

- Large concentration of damaged and destroyed homes
- Company and independent adjusters are stretched thin, training and experience vary. Some apply excessive and improper depreciation which reduces available funds for repairs and rebuilding.
- Insurers are relying heavily on Xactimate software to estimate dwelling losses but builders price differently
- Underinsurance is very prevalent
- Insurers generally don't voluntarily adopt special rules for disaster claims
- Itemizing contents onerous (total loss, not ph's fault)
- Deadlines in policies are not realistic
  - 12 mos additional living expenses not sufficient
  - 12 mos to replace contents/dwelling not feasible

# Underinsurance

## 2020 Colorado Wildfires (6 months)

- Only 18% of survey respondents reported they have enough insurance to cover the cost of repairing, replacing or rebuilding their home.
- 56% of survey respondents reported they **do not** have enough insurance to cover the cost of repairing, replacing or rebuilding their home.
- 26% of survey respondents reported they do not know yet if they are underinsured.

## 2020 California Wildfires (6 months)

- 23% of survey respondents reported they have enough insurance to cover the cost of repairing, replacing or rebuilding their home.
- 41% of survey respondents reported they **do not** have enough insurance to cover the cost of repairing, replacing or rebuilding their home.
- 36% of survey respondents reported they do not know yet if they are underinsured.

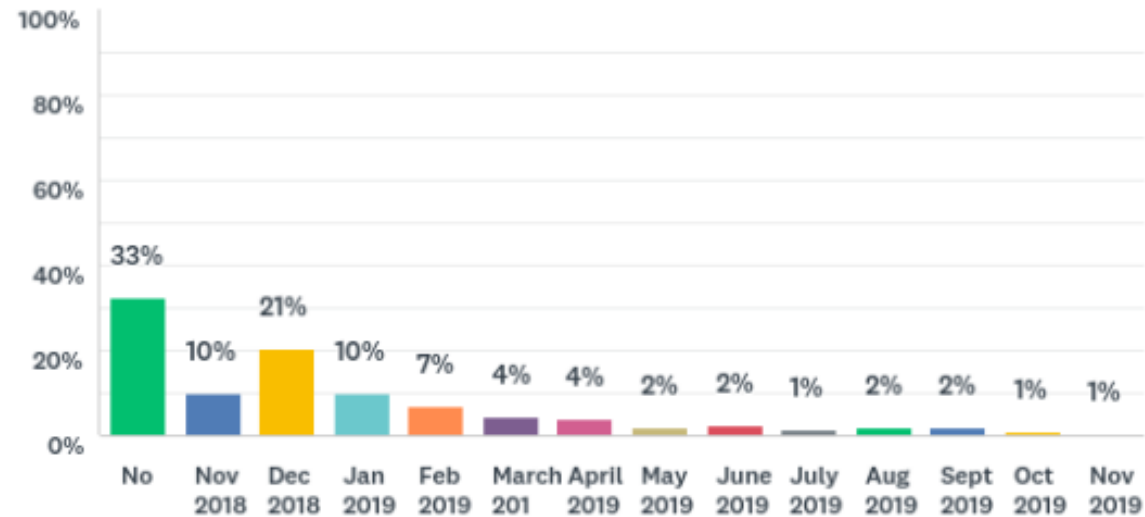


# Underinsurance over the years

- 2018 Camp Fire, Butte County, CA (12 month survey):  
**60%** of survey respondents reported being underinsured
- 2017 North Bay Fires, Napa/Sonoma, County CA (12 month survey)  
**66%** of survey respondents reported being underinsured
- 2015 Valley Fire – Lake County, CA (6 month survey)  
**64%** of survey respondents reported being underinsured
- 2013 Black Forest Fire – El Paso County, CO (12 month survey)  
**46%** of survey respondents reported being underinsured
- 2012 Colorado Wildfires - El Paso/Larimer County (12 month survey)  
**54%** of survey respondents reported being underinsured on their dwelling  
reported being underinsured

# One year after the 2018 Camp wildfire:

Q6 Has your insurance company offered you the full amount of the available "dwelling" benefits? If so, when did you settle on that amount?



[www.uphelp.org/surveyresults](http://www.uphelp.org/surveyresults)

# Post-Disaster Stressors

When asked “what are your biggest sources of post-fire stress”, insured fire survivors responded:

## 2020 Colorado Wildfires (6 months)

- **91% - insurance claim process**
- 66% - rebuilding stress
- 44% - overwhelmed by too many decisions

## 2020 California Wildfires (6 months)

- **67% - insurance claim process**
- 48% - overwhelmed by too many decisions
- 45% - rebuilding stress

# Pragmatic reforms

- Extend policy deadlines to be more realistic and factor in extraordinary circumstances
- Reduce the prevalence and impact of inadequate insurance limits/underinsurance
- Give survivors flexibility to use policy benefits to replace their homes elsewhere (out of WUIs, e.g.)
- Reduce inventory itemization requirements on total losses

## H.B. 3272 Highlights:

- Additional/temporary living expense) *and* Replacement cost benefits must be available for at least 24 months, 36 months if reasonably necessary.
- An underinsured homeowner can use “Other Structures” benefits toward the cost of rebuilding their dwelling. Other Structures benefits are normally available for garages and outbuildings, retaining walls, etc.

# Facilitating home replacement outside WUIs

A homeowner can opt to skip the challenges (and trauma) of rebuilding their home from the ground up at its original location and instead collect the full amount of benefits that would have been available for rebuilding and use those benefits to buy a replacement home elsewhere.

Consistent with law adopted in CA

## Reducing the frequency and severity of underinsurance

Every other year, the homeowner can access their insurer's expertise on construction costs and obtain an estimate for insuring their home to its current replacement cost.

Similar to CA law that mandates a list of cost factors that must be considered when an insurer estimates RCV at the point of sale **Cal. Code Regs. tit. 10 § 2695.183**

# HB 3272 v. Cal Ins. Code 2051.5

- HB 3272
- Additional/temporary living expense) *and* Replacement cost benefits must be available for at least 24 months, 36 months if reasonably necessary.
- Cal Ins. Code 2051.5
- For claims relating to a state declared emergency, insurers must offer Additional Living Expenses (ALE) for a period of at least 24 months. An insurer shall grant an extension of up to 12 additional months, for a **total of 36 months**, if an insured acting in good faith and with reasonable diligence encounters a delay or delays in the reconstruction process that are the result of circumstances beyond the control of the insured. [Cal Ins. Code 2051.5(b)(2)]



# HB 3272 v. Cal Ins. Code 10103.7

- HB 3272
- An underinsured homeowner can use “Other Structures” benefits toward the cost of rebuilding their dwelling. Other Structures benefits are normally available for garages and outbuildings, retaining walls, etc.
- Cal Ins. Code 10103.7
- In the event of a covered loss relating to a state of emergency, as defined in [Section 8558 of the Government Code](#), an insured under a residential property insurance policy shall be permitted to combine payments for claims for losses up to the policy limits for the primary dwelling and other structures, for any of the covered expenses reasonably necessary to rebuild or replace the damaged or destroyed dwelling, if the policy limits for coverage to rebuild or replace the primary dwelling are insufficient.

# HB 3272 v. Cal Ins. Code 2051.5

- HB 3272
- A homeowner can opt to skip the challenges (and trauma) of rebuilding their home from the ground up at its original location and instead access their dwelling, extended dwelling and building code and ordinance benefits toward the purchase of a replacement home.
- Cal Ins. Code 2051.5
- Under an open policy that requires payment of the replacement cost for a loss, the measure of indemnity is the amount that it would cost the insured to repair, rebuild, or replace the thing lost or injured, without a deduction for physical depreciation, or the policy limit, whichever is less. [Cal Code Ins. 2051.5(1)(a)]

# Questions:

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