

CHAPTER 305

INSURANCE

HOUSE BILL 22-1111

BY REPRESENTATIVE(S) Amabile, Benavidez, Bernett, Bird, Boesenecker, Caraveo, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Hooton, Jodeh, Kipp, Lindsay, Lontine, Lynch, McCluskie, McCormick, McLachlan, Roberts, Sirota, Snyder, Titone, Valdez A., Valdez D., Weissman, Young, Garnett, Bacon, Daugherty, Herod, Michaelson Jenet, Ortiz, Ricks, Sullivan;

also SENATOR(S) Rankin and Fenberg, Bridges, Buckner, Coleman, Coram, Danielson, Donovan, Fields, Ginal, Gonzales, Hansen, Hinrichsen, Hisey, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Priola, Simpson, Sonnenberg, Story, Winter, Woodward, Zenzinger.

AN ACT

CONCERNING INSURANCE COVERAGE FOR INSURED LOSSES INCURRED AS A RESULT OF A DECLARED FIRE DISASTER, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 10-4-110.8, **amend** (3) introductory portion and (3)(g); and **add** (3)(h), (3)(i), (13), (14), and (15) as follows:

10-4-110.8. Homeowner's insurance - prohibited and required practices - estimates of replacement value - additional living expense coverage - copies of policies - personal property contents coverage - inventory of personal property - requirements concerning total loss scenarios resulting from wildfire disasters - definitions - rules. (3) ~~For the purposes of AS USED in this section, unless the context otherwise requires:~~

(g) ~~"Recoverable depreciation" means the difference between the cost to replace insured property and the actual cash value of the property.~~ (I) "OWNER-OCCUPIED RESIDENCE" MEANS A RESIDENCE THAT IS OCCUPIED PRIMARILY FOR THE USE OF THE OWNER AND THE OWNER'S DESIGNEES.

(II) "OWNER-OCCUPIED RESIDENCE" INCLUDES, BUT IS NOT LIMITED TO, AN OWNER-OCCUPIED PRIMARY RESIDENCE.

(III) "OWNER-OCCUPIED RESIDENCE" DOES NOT INCLUDE ANY PROPERTY THAT IS

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

INSURED UNDER A COMMERCIAL INSURANCE OR AGRIBUSINESS POLICY.

(h) "RECOVERABLE DEPRECIATION" MEANS THE DIFFERENCE BETWEEN THE COST TO REPLACE INSURED PROPERTY AND THE ACTUAL CASH VALUE OF THE PROPERTY.

(i) "WILDFIRE" MEANS A RAPIDLY SPREADING FIRE THAT IS DIFFICULT TO BRING UNDER CONTROL IN AN AREA THAT INCLUDES COMBUSTIBLE VEGETATION, SUCH AS TREES, GRASS, BRUSH, OR BUSHES, WHICH FIRE CAUSES WIDESPREAD OR SEVERE DAMAGE TO PROPERTY, REGARDLESS OF THE ORIGINAL SOURCE OF IGNITION OF THE FIRE.

(13) IN OFFERING, ISSUING, OR RENEWING A HOMEOWNERS INSURANCE POLICY IN THIS STATE, AN INSURER SHALL COMPLY WITH THE FOLLOWING MINIMUM REQUIREMENTS CONCERNING COVERAGE PROVIDED UNDER THE POLICY TO POLICYHOLDERS TO PROTECT THEM FROM DAMAGES THAT OCCUR IN THE EVENT OF A TOTAL LOSS OF AN OWNER-OCCUPIED RESIDENCE, INCLUDING THE CONTENTS OF THE OWNER-OCCUPIED RESIDENCE, WHICH LOSS OCCURS AS A RESULT OF A WILDFIRE DISASTER THAT THE GOVERNOR DECLARES PURSUANT TO SECTION 24-33.5-704:

(a) A POLICY OF HOMEOWNERS INSURANCE MAY NOT LIMIT OR DENY A PAYMENT OF THE BUILDING CODE UPGRADE COST OR A PAYMENT OF ANY EXTENDED REPLACEMENT COST AVAILABLE UNDER THE POLICY COVERAGE FOR A POLICYHOLDER'S STRUCTURE THAT WAS A TOTAL LOSS ON THE BASIS THAT THE POLICYHOLDER DECIDED TO REBUILD IN A NEW LOCATION OR TO PURCHASE AN EXISTING STRUCTURE IN A NEW LOCATION IF THE POLICY OTHERWISE COVERS THE REPLACEMENT COST OR BUILDING CODE UPGRADE COST; EXCEPT THAT THE MEASURE OF INDEMNITY MAY NOT EXCEED THE REPLACEMENT COST, INCLUDING THE UPGRADE COSTS AND EXTENDED REPLACEMENT COST FOR REPAIRING, REBUILDING, OR REPLACING THE STRUCTURE AT THE ORIGINAL LOCATION OF THE LOSS.

(b) IF A POLICY OF HOMEOWNERS INSURANCE REQUIRES A POLICYHOLDER TO REPAIR, REBUILD, OR REPLACE DAMAGED OR LOST PROPERTY IN ORDER TO COLLECT THE FULL REPLACEMENT COST FOR THE PROPERTY, THE INSURER, SUBJECT TO THE POLICY LIMITS, SHALL:

(I) ALLOW THE POLICYHOLDER AT LEAST THIRTY-SIX MONTHS TO SUBMIT RECEIPTS AND INVOICES FOR THE REPLACEMENT COSTS OF THE INSURED OWNER-OCCUPIED RESIDENCE, WHICH PERIOD BEGINS ON THE DATE UPON WHICH THE INSURER PROVIDES THE INITIAL PAYMENT TOWARD THE ACTUAL CASH VALUE OF THE DAMAGE OR LOSS; AND

(II) PROVIDE THAT, IN ADDITION TO THE PERIOD DESCRIBED IN SUBSECTION (13)(b)(I) OF THIS SECTION, THE POLICYHOLDER HAS THE OPTION TO TWICE EXTEND SUCH PERIOD BY SIX MONTHS IF THE POLICYHOLDER, ACTING IN GOOD FAITH AND WITH REASONABLE DILIGENCE, ENCOUNTERS UNAVOIDABLE DELAYS IN OBTAINING A CONSTRUCTION PERMIT, LACKS NECESSARY CONSTRUCTION MATERIALS, LACKS AVAILABLE CONTRACTORS TO PERFORM NECESSARY WORK, OR ENCOUNTERS OTHER CIRCUMSTANCES BEYOND THE POLICYHOLDER'S CONTROL. THIS SUBSECTION (13)(b)(II) DOES NOT PROHIBIT AN INSURER FROM ALLOWING A POLICYHOLDER ADDITIONAL TIME TO COLLECT THE FULL REPLACEMENT COST FOR LOST OR DAMAGED PROPERTY OR FOR ADDITIONAL LIVING EXPENSES.

(c) THE POLICY MUST INCLUDE ADDITIONAL LIVING EXPENSE COVERAGE TO APPLY IN THE EVENT OF SUCH A LOSS. NOTWITHSTANDING SUBSECTION (6)(b) OF THIS SECTION, ADDITIONAL LIVING EXPENSE COVERAGE MUST BE AVAILABLE FOR A PERIOD OF AT LEAST TWENTY-FOUR MONTHS, AND THE INSURER SHALL OFFER THE POLICYHOLDER THE OPPORTUNITY TO TWICE EXTEND SUCH PERIOD BY SIX MONTHS IF THE POLICYHOLDER, ACTING IN GOOD FAITH AND WITH REASONABLE DILIGENCE, ENCOUNTERS A DELAY OR DELAYS IN RECEIVING NECESSARY PERMIT APPROVALS FOR, OR RECONSTRUCTION OF, THE INSURED OWNER-OCCUPIED RESIDENCE, WHICH DELAYS ARE BEYOND THE CONTROL OF THE POLICYHOLDER.

(d) THE POLICY MUST PROVIDE THAT, NOTWITHSTANDING SUBSECTION (11)(c) OF THIS SECTION, TO REPLACE PERSONAL PROPERTY AND RECEIVE RECOVERABLE DEPRECIATION ON THAT PROPERTY, AN INSURER SHALL ALLOW THE POLICYHOLDER THE GREATER OF:

(I) AT LEAST THREE HUNDRED SIXTY-FIVE DAYS AFTER THE EXPIRATION OF ALE;
OR

(II) THIRTY-SIX MONTHS AFTER THE INSURER PROVIDES THE POLICYHOLDER THE FIRST PAYMENT TOWARD THE ACTUAL CASH VALUE OF SUCH LOSS.

(e) THE POLICY MUST PROVIDE THAT THE INSURER WILL PAY THE POLICYHOLDER FOR THE LOSS OF USE OF THE INSURED PROPERTY WITHIN TWENTY DAYS AFTER THE INSURER RECEIVES DOCUMENTATION OF SUCH LOSS, WHICH DOCUMENTATION MAY INCLUDE A SIGNED LEASE THAT OBLIGATES THE POLICYHOLDER TO PAY FOR TEMPORARY REPLACEMENT HOUSING; EXCEPT THAT:

(I) IF A POLICYHOLDER PROVIDES A SIGNED LEASE AS DOCUMENTATION, THE INSURER MAY PAY THE POLICYHOLDER IN MONTHLY OR OTHER INCREMENTS, IN ACCORDANCE WITH THE TERMS OF THE LEASE; AND

(II) ALTERNATIVELY, AN INSURER MAY PROVIDE ADVANCE RENT PAYMENTS FOR HOUSING FOR THE POLICYHOLDER, FAMILY MEMBERS, LIVESTOCK, AND PETS, AS NECESSARY.

(f) THE POLICY MUST PROVIDE THAT THE POLICYHOLDER MAY EITHER:

(I) REPLACE THE INSURED OWNER-OCCUPIED RESIDENCE AT THE CURRENT LOCATION OR ANOTHER LOCATION, IN EITHER OF WHICH CASE THE CALCULATION OF THE REPLACEMENT COST OF THE INSURED OWNER-OCCUPIED RESIDENCE SHALL NOT INCLUDE CONSIDERATION OF THE VALUE OF THE LAND UPON WHICH THE REPLACEMENT RESIDENCE IS LOCATED; OR

(II) USE THE PROCEEDS FROM THE POLICY TO PURCHASE AN EXISTING RESIDENCE AT A NEW LOCATION, IN WHICH CASE THE CALCULATION OF THE REPLACEMENT COST OF THE INSURED OWNER-OCCUPIED RESIDENCE SHALL NOT INCLUDE CONSIDERATION OF THE VALUE OF THE LAND UPON WHICH THE EXISTING RESIDENCE IS LOCATED.

(g) THE POLICY MUST ALLOW A POLICYHOLDER TO USE CLAIMS PAYMENTS RESULTING FROM COVERAGE AGAINST THE LOSS OF OUTBUILDINGS, DWELLING EXTENSIONS, AND OTHER STRUCTURES TO PAY THE COSTS OF A REPLACEMENT

RESIDENCE IF THE COVERAGE LIMIT THAT APPLIES TO THE POLICYHOLDER'S OWNER-OCCUPIED RESIDENCE IS INSUFFICIENT TO PAY FOR REBUILDING OR REPLACING THE OWNER-OCCUPIED RESIDENCE. ANY CLAIMS PAYMENTS FOR LOSSES PURSUANT TO THIS SUBSECTION (13)(g) FOR WHICH REPLACEMENT COST COVERAGE IS APPLICABLE SHALL BE FOR THE FULL REPLACEMENT VALUE OF THE LOSS WITHOUT REQUIRING ACTUAL REPLACEMENT OF THE OTHER STRUCTURES. CLAIMS PAYMENTS FOR OTHER STRUCTURES IN EXCESS OF THE AMOUNT APPLIED TOWARD THE NECESSARY COST TO REBUILD OR REPLACE THE DAMAGED OR DESTROYED DWELLING SHALL BE PAID ACCORDING TO THE TERMS OF THE POLICY.

(h) WITHIN A REASONABLE AMOUNT OF TIME AFTER RECEIVING A CLAIM UNDER AN ISSUED POLICY, AN INSURER SHALL PROVIDE TO THE POLICYHOLDER:

(I) APPROPRIATE CONTACT INFORMATION THAT ALLOWS FOR DIRECT CONTACT WITH EITHER AN EMPLOYEE OF THE INSURER OR A REPRESENTATIVE WHO IS CAPABLE OF ELEVATING COMPLAINTS OR INQUIRIES TO AN EMPLOYEE OF THE INSURER;

(II) AT LEAST ONE MEANS OF COMMUNICATION DURING REGULAR BUSINESS HOURS; AND

(III) A WRITTEN STATUS REPORT IF, WITHIN A SIX-MONTH PERIOD, THE POLICYHOLDER IS ASSIGNED A THIRD OR SUBSEQUENT ADJUSTER TO BE PRIMARILY RESPONSIBLE FOR A CLAIM. THE WRITTEN STATUS REPORT MUST INCLUDE A SUMMARY OF ANY DECISIONS OR ACTIONS THAT ARE SUBSTANTIALLY RELATED TO THE DISPOSITION OF A CLAIM, INCLUDING THE AMOUNT OF LOSSES TO STRUCTURES OR CONTENTS, THE RETENTION OF CONSULTATION OF DESIGN OR CONSTRUCTION PROFESSIONALS, THE AMOUNT OF COVERAGE FOR LOSSES TO STRUCTURES OR CONTENTS, AND ALL ITEMS OF DISPUTE.

(14) IF A HOMEOWNERS INSURANCE POLICYHOLDER EXPERIENCES A TOTAL LOSS OF THE CONTENTS OF AN OWNER-OCCUPIED RESIDENCE THAT WAS DOCUMENTED AS BEING FURNISHED AT THE TIME OF LOSS AS A RESULT OF A WILDFIRE DISASTER THAT IS DECLARED BY THE GOVERNOR PURSUANT TO SECTION 24-33.5-704, THE INSURER SHALL:

(a) NOTWITHSTANDING SUBSECTION (11)(a) OF THIS SECTION, OFFER THE POLICYHOLDER A MINIMUM OF SIXTY-FIVE PERCENT, OR A LARGER PERCENT BY MUTUAL AGREEMENT OF THE POLICYHOLDER AND INSURER, OF THE LIMIT OF THE CONTENTS COVERAGE INDICATED IN THE DECLARATION PAGE OF THE POLICY WITHOUT REQUIRING THE POLICYHOLDER TO SUBMIT A WRITTEN INVENTORY OF THE CONTENTS;

(b) NOTIFY THE POLICYHOLDER THAT:

(I) ACCEPTANCE OF THE MONEY DESCRIBED IN SUBSECTION (14)(a) OF THIS SECTION DOES NOT CHANGE THE BENEFITS AVAILABLE UNDER THE POLICY;

(II) ADDITIONAL MONEY MAY BE AVAILABLE IF THE POLICYHOLDER SUBMITS AN INVENTORY; AND

(III) THE INSURER IS REQUIRED, PURSUANT TO SUBSECTION (11)(b) OF THIS

SECTION, TO DISCLOSE ITS METHODOLOGY FOR DETERMINING THE DEPRECIATED VALUE OF THE CONTENTS OF INSURED PROPERTY;

(c) (I) IF THE POLICYHOLDER SUBMITS AN INVENTORY OF PERSONAL PROPERTY LOSSES IN AN AMOUNT THAT EXCEEDS THE AMOUNT PAID TO THE POLICYHOLDER PURSUANT TO SUBSECTION (14)(a) OF THIS SECTION:

(A) REQUEST ANY ADDITIONAL INFORMATION CONCERNING THE INVENTORY NO LATER THAN THIRTY DAYS AFTER RECEIVING THE INVENTORY; AND

(B) PROVIDE PAYMENT FOR ANY COVERED AND UNDISPUTED ITEMS WITHIN THIRTY DAYS AFTER RECEIVING THE INVENTORY.

(II) THE COMMISSIONER SHALL ADOPT RULES TO SIMPLIFY THE PROCESS FOR POLICYHOLDERS TO SUBMIT AN INVENTORY FOR PERSONAL PROPERTY LOSSES AND EXPEDITE REIMBURSEMENT FOR SUCH LOSSES.

(d) PROVIDE PAYMENT FOR COVERED COSTS ASSOCIATED WITH THE REMOVAL OF DEBRIS WITHIN SIXTY DAYS AFTER RECEIVING AN INVOICE, RECEIPT, OR OTHER DOCUMENTATION INDICATING THE DATE AND COST OF THE REMOVAL OF THE DEBRIS; EXCEPT THAT, IN CASES WHERE DEBRIS REMOVAL IS CONDUCTED BY, OR IN COORDINATION WITH, GOVERNMENTAL ENTITIES, PAYMENT FOR COVERED COSTS FOR REMOVAL OF DEBRIS WILL BE PROVIDED WITHIN A REASONABLE AMOUNT OF TIME; AND

(e) PROVIDE PAYMENT FOR ANY COVERED LOSS OF TREES, SHRUBS, AND LANDSCAPING WITHIN THIRTY DAYS AFTER THE INSURER RECEIVES DOCUMENTATION OF SUCH LOSS, SUCH AS DOCUMENTATION FROM A REPUTABLE LANDSCAPING COMPANY, SHOWING THE NUMBER AND NATURE OF TREES, SHRUBS, AND LANDSCAPING FEATURES DAMAGED OR DESTROYED.

(15) THE COMMISSIONER MAY ADOPT RULES AS NECESSARY FOR WILDFIRE DISASTERS THAT THE GOVERNOR DECLARES PURSUANT TO SECTION 24-33.5-704 AND FOR THE IMPLEMENTATION OF SUBSECTIONS (13) AND (14) OF THIS SECTION.

SECTION 2. Appropriation. (1) For the 2022-23 state fiscal year, \$66,781 is appropriated to the department of regulatory agencies for use by the division of insurance. This appropriation is from the division of insurance cash fund created in section 10-1-103 (3), C.R.S. To implement this act, the division may use this appropriation as follows:

(a) \$59,231 for personal services, which amount is based on an assumption that the division will require an additional 1.0 FTE; and

(b) \$7,550 for operating expenses.

SECTION 3. Act subject to petition - effective date - applicability. (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item,

section, or part will not take effect unless approved by the people at the general election to be held in November 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to the offer, issuance, and renewal of property and casualty insurance policies in the state and to the administration of claims pursuant to such policies on and after the applicable effective date of this act.

Approved: June 2, 2022