

Oregon Department of Consumer and Business Services Division of Financial Regulation, Bulletin No. DFR 2021-5

To: All property and casualty insurers

Date: October 26, 2021

RE: Expediting claims handling and other expectations related to wildfires

Purpose

The purpose of this bulletin is to clarify the division's expectations for property and casualty insurers and provide guidance on expediting claims handling for Oregon policyholders affected by wildfires.

Authority

- ORS 731.870
- 2021 OR Laws CH 262 (Enrolled House Bill 3272)

Background

Wildfires in Oregon result in the loss of life and property, create imminent health and safety risks, and cause widespread disruption to the normal course of business in many areas across the state. In recent years, the governor of Oregon has issued executive orders declaring states of emergency due to critical fire danger throughout Oregon pursuant to governor authority under ORS 401.165.¹

Under ORS 731.870, the director of the Department of Consumer and Business Services (DCBS) may order all admitted insurers in Oregon to provide relief to insureds during a declared state of emergency. DCBS issued emergency orders in the past, directing insurers to extend reporting requirements for claims, provide grace periods for payment of insurance premiums and other duties by insureds, and temporarily postpone any cancellations or nonrenewals for policyholders in areas affected by wildfire.²

¹ For example, see Oregon Gov. Kate Brown's executive order declaring a state of emergency (EO No. 20-35), issued Aug. 20, 2020. EO 20-35: https://www.oregon.gov/gov/Documents/executive_orders/eo_20-35.pdf. Also see EO No. 21-17, issued June 29, 2021: https://www.oregon.gov/gov/Documents/executive_orders/eo_21-17.pdf.

² Department of Consumer and Business Services, Wildfire Emergency Order, issued Sept. 18, 2020, can be found at <https://dfr.oregon.gov/insure/home/storm/Documents/wildfire-emergency-order-20200918.pdf>. The accompanying bulletin on affected areas subject to the Wildfire Emergency Order can be found at <https://dfr.oregon.gov/laws-rules/Documents/Bulletins/bulletin2020-16.pdf>.

The Oregon Legislature passed House Bill 3272 in the 2021 legislative session (HB 3272). HB 3272, assigned to 2021 OR Laws CH 262, provides minimum protections for homeowners who suffer a loss as a result of a declared emergency.

The Division of Financial Regulation is providing the following guidance which supersedes bulletin No. DFR 2020-18. It is directed to all property and casualty insurers and describes reasonable measures to provide relief to Oregonians affected by wildfires.

Guidance

All property and casualty insurers should ensure compliance with the requirements set forth in HB 3272, which became effective for policies issued or renewed on or after June 11, 2021. Requirements include, but are not limited to:

- If the property is located in an area subject to a declared state of emergency and the damage or loss is directly related to the declared emergency, allow a homeowner insurance policyholder:
 - Up to 24 months of additional living expenses (ALE), subject to policy limits.
 - At least 24 months to repair, rebuild, or replace damaged property if the insurance policy requires an insured to repair, rebuild, or replace damaged property in order to collect full replacement cost.
 - Additional six-month increments of ALE and time to repair, rebuild, or replace if the homeowner encounters construction delays under certain circumstances (for a total period of not more than either 24 or 36 months, whichever applies).
 - Not limiting or denying payment on the basis that the policyholder chose to rebuild in a new location or to purchase an existing structure in a new location when the insured structure was a total loss, subject to certain limitations.
 - To combine payments for claims for damage to primary dwelling and other structures under certain circumstances if policy limits on the residence are insufficient.
 - Offer policyholders at least every other year at time of renewal an estimated cost to rebuild or replace the covered property, beginning July 1, 2022.

Since some sections of HB 3272 are effective only upon issuance or renewal of a policy, the division encourages insurance carriers to provide these benefits to all insurance customers over the next year, regardless of their renewal status.

In addition to the requirements of HB 3272, the division encourages all property and casualty insurers to take these active measures to help people and businesses affected by wildfires:

- **Advance payments of loss of use, fair rental value, or ALE benefits**

An advance payment of ALE recognizes the immediate need for financial support after a wildfire disaster. Policyholders need access to ALE benefits to cover emergency lodging, food, and other necessities as a result of wildfire damage making a home

uninhabitable or inaccessible.

Insurers should adopt a standard ALE advance payment of at least four months for insureds who experience a total loss or whose property is uninhabitable. Insurers should consider any adverse circumstances that may require maintaining ALE benefits for policyholders whose property remains inaccessible due to damage caused by the wildfires once evacuation orders have been lifted.

Additionally, in areas where access to property is restricted, insurance companies should not terminate ALE benefits until the property is accessible and deemed habitable.

- **Expedite automobile property damage claims**

Insurers should expedite payment of automobile property damage claims under comprehensive coverage, upon satisfaction of proof. Insurers should provide relief to policyholders through rental vehicle benefits or other benefits within the policy for policyholders who are unable to access their property or provide proper documentation for verification due to wildfires.

- **Inventory forms and itemization of certain types of property**

Insurers should allow and accept any inventory form that contains similar information to what would be reported using a company-specific form. Insurers are allowed to request more information from the policyholder upon receipt of the inventory form.

Insurers should agree to accept an inventory form that includes groupings of categories of personal and commercial property, including, but not limited to, clothing, shoes, books, food items, business supplies, livestock supplies, or other categories of items that would be impractical to list each individual item separately.

- **Expedite payments for business interruption claims**

Insurers should expedite payment of business interruption claims related to wildfires upon satisfaction of proof that the business suffered a total loss or is inaccessible.

This bulletin takes effect immediately and supersedes Bulletin No. DFR 2020-18.



Andrew R. Stolfi
Insurance Commissioner and Director
Department of Consumer and Business Services

10/26/2021

Date