



COLORADO GENERAL ASSEMBLY PASSES BILL ESTABLISHING NEW INSURANCE COVERAGE BENEFITS FOR THE TOTAL LOSS OF A RESIDENCE DUE TO A WILDFIRE

The threat of wildfires poses a terrifying but growing hazard for residents throughout Colorado. While fears of fast-spreading wildfires used to be limited to those living in mountain communities, the unfortunate reality is that all Coloradans now face a unique threat. Where wildfires ignite, human development is close to or within natural terrain and flammable grasslands. On December 30, 2021, the Marshall Fire tore through suburban communities in Boulder County, destroying more than 1,000 primary residences and devastating the communities of Superior, Louisville, Broomfield, and unincorporated Boulder County. The Marshall Fire was the most destructive wildfire in Colorado history to date in terms of property damage, and recovery efforts will be underway for some time to come.

Legislators at the Colorado General Assembly immediately began working to respond to the Marshall Fire upon convening the legislative session in January 2022. In fact, Representative Judith Amabile of Boulder had already begun working on a bill to address certain issues, a goal that only became more urgent after the Marshall Fire. While the new bill will not be retroactive, it will prompt change for future wildfire victims in Colorado.

On January 21, 2022, Representative Amabile introduced [HB 22-1111](#). The bill establishes new coverage requirements for homeowners' insurance

policies issued or renewed in Colorado in the event of a total loss of an owner-occupied residence as a result of a declared wildfire disaster. The legislation also sets new requirements around an insurer's handling of policy claims after such a loss occurs.

HB 22-1111 moved through the General Assembly over the course of a few months and underwent several changes, which prompted numerous iterations of the bill to be considered. Ultimately, the General Assembly passed the bill and Governor Jared Polis signed the bill into law on June 2, 2022.

The new law requires property & casualty insurance companies that do business in Colorado to make several changes, including the following major updates:

- **Policyholders are not required to rebuild in the same location.** Under this legislation, the policyholder may decide to rebuild in a new location or purchase an existing structure in a new location. A policy may not limit or deny a payment of extended replacement cost for a total loss in this case. If a policyholder decides to move to a new location, the company must still cover the amount of the total loss. In addition, insurers must allow the policyholder to either replace the insured owner-occupied residence at the current location or another location (which



in either case the calculation of the replacement cost shall not include consideration of the value of the land upon which the replacement residence is located); or use the proceeds from the policy to purchase an existing residence at a new location (which also shall not include consideration of the value of the land).

- **Insurers must give wildfire victims at least 36 months to submit receipts and invoices for replacement and rebuilding costs.** This time period begins on the date the insurer provides the initial payment towards the actual cash value of the damage or loss. The policyholder also has the option to extend the period by six months twice, or twelve months' total extension, if he or she acts in good faith and encounters unavoidable construction delays.
- **Insurers must provide wildfire victims with additional living expenses for at least 24 months, up from 12 months previously,** again with the option to extend the period by six months twice for delays beyond the policyholder's control.
- **Insurers must provide wildfire victims additional time to replace personal property.** A policyholder will be given at least 365 days after the expiration of the additional living expense coverage or 36 months after the insurer provides the first payment towards the actual cash value of the policyholder's loss to replace personal property and receive recoverable depreciation on that property.
- **Insurers must establish clearer communication**

with policyholders. Within a reasonable amount of time after receiving a claim, an insurer must provide the policyholder with appropriate contact information that allows for direct contact with an employee or capable representative of the insurance company, including a means of communication during regular business hours. Insurers also must provide a written status report if, within a six-month period, the policyholder is assigned a third or subsequent adjuster to be primarily responsible for the claim.

- **In the event of total loss of contents of an owner-occupied residence, insurers must pay at least 65% of the limit of the contents coverage without requiring the policyholder to submit a written inventory of the contents.** The process of listing the contents of one's home after a devastating fire is time-consuming and emotionally difficult. While the bill still allows policyholders to inventory their lost items, this change provides a simpler option as well.

As Colorado residents, along with property and casualty insurance companies, continue to deal with the growing threat posed by wildfires, the terms outlined in HB 22-1111 will govern any situation where a total loss of an owner-occupied residence occurs as a result of a declared wildfire disaster. Hall & Evans is committed to keeping our clients up to date on changes such as this to Colorado law. If you have questions about this bill or other legislation, please contact Daniel Furman at furmand@hallevans.com or Erin Snow at snowe@hallevans.com.