

AMENDED IN SENATE JUNE 22, 2004  
AMENDED IN ASSEMBLY MAY 12, 2004  
AMENDED IN ASSEMBLY MAY 6, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2962**

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**Introduced by Assembly Member Pavley  
(Coauthors: Assembly Members Koretz, Lieber, and Maze)**

February 20, 2004

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An act to amend Section 2051 of, *and to add Section 675.1 to*, the Insurance Code, relating to fire insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2962, as amended, Pavley. Fire insurance: valuation of loss.

*Existing law generally regulates homeowners' insurance rates. Existing law prohibits an insurer from canceling a homeowners' insurance policy after it has been in effect for a specified period unless the cancellation is based on the occurrence of certain events.*

*This bill would provide that, in the case of a total loss to the insured structure under a homeowners' policy, if the structure has not been rebuilt by the time of policy renewal, the insurer, upon renewal, after consultation with the insured, shall charge a rate that reflects the change, if any, in the insurer's exposure to loss. The bill would require insurers with current rate filings that do not allow for rate adjustments to reflect changes in exposure to loss to file the necessary amendments with the Insurance Commissioner by a specified date. The bill would prohibit an insurer in these circumstances from canceling coverage while the destroyed structure is being rebuilt, except for specified*

*reasons, and would require the insurer to offer to renew the policy at least once in certain circumstances.*

Under existing law, under an open policy, the measure of indemnity in fire insurance is the expense to the insured of replacing the thing lost or injured in its condition at the time of the injury, the expense being computed as of the time of the commencement of the fire.

This bill would provide, in addition, that under an open policy that requires payment of actual cash value, the measure of the actual cash value recovery shall be determined as follows: (1) in case of total loss to the structure, the policy limit or the fair market value of the structure, whichever is less, or (2) in case of a partial loss to the structure, or the total loss to its contents, the amount it would cost the insured to repair, rebuild, or replace the thing lost or injured less a fair and reasonable deduction for physical depreciation, as specified, based upon its condition at the time of the injury or the policy limit, whichever is less.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. *Section 675.1 is added to the Insurance Code,*
- 2 *to read:*
- 3 *675.1. In the case of a total loss to the primary insured*
- 4 *structure under a residential policy subject to Section 675, the*
- 5 *following provisions apply:*
- 6 *(a) If the structure has not been rebuilt by the time of policy*
- 7 *renewal, the insurer, upon renewal, after consultation with the*
- 8 *insured as to what coverages might be needed, shall charge a rate*
- 9 *that reflects the change, if any, in the insurer's exposure to loss.*
- 10 *Insurers with current rate filings that do not allow for rate*
- 11 *adjustments to reflect changes in exposure to loss shall file the*
- 12 *necessary amendments with the commissioner within 90 days of*
- 13 *the effective date of this section.*
- 14 *(b) The insurer shall not cancel coverage while the primary*
- 15 *insured structure is being rebuilt, except for the reasons specified*
- 16 *in subdivisions (a) to (e), inclusive, of Section 676. The insurer*
- 17 *shall not use the fact that the primary insured structure is in*
- 18 *damaged condition as a result of the total loss as the sole basis for*
- 19 *a decision to cancel the policy pursuant to subdivision (e) of that*
- 20 *section. The insurer shall offer to, at least once, renew the policy*



1 *if the total loss to the primary insured structure was caused by a*  
2 *disaster, as defined in subdivision (b) of Section 1689.14 of the*  
3 *Civil Code, and the loss was not also due to the negligence of the*  
4 *insured.*

5 SEC. 2. Section 2051 of the Insurance Code is amended to  
6 read:

7 2051. (a) Under an open policy, the measure of indemnity in  
8 fire insurance is the expense to the insured of replacing the thing  
9 lost or injured in its condition at the time of the injury, the expense  
10 being computed as of the time of the commencement of the fire.

11 (b) Under an open policy that requires payment of actual cash  
12 value, the measure of the actual cash value recovery, *in whole or*  
13 *partial settlement of the claim*, shall be determined as follows:

14 (1) In case of total loss to the structure, the policy limit or the  
15 fair market value of the structure, whichever is less.

16 (2) In case of a partial loss to the structure, or loss to its  
17 contents, the amount it would cost the insured to repair, rebuild,  
18 or replace the thing lost or injured less a fair and reasonable  
19 deduction for physical depreciation based upon its condition at the  
20 time of the injury or the policy limit, whichever is less. In case of  
21 a partial loss to the structure, a deduction for physical depreciation  
22 shall apply only to components of a structure that are normally  
23 subject to repair and replacement during the useful life of that  
24 structure. ~~If the insured expresses his or her intent to repair,~~  
25 ~~rebuild, or replace the thing lost or injured, a deduction for~~  
26 ~~physical loss depreciation shall not apply to the labor necessary to~~  
27 ~~repair or replace the thing lost or injured, unless this is fully~~  
28 ~~disclosed in the California Residential Property Insurance~~  
29 ~~Disclosure required pursuant to Section 10102, and in the~~  
30 ~~insured's homeowners' insurance policy.~~ *structure.*

