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From the Los Angeles Times

INSURANCE**Wildfires heat up debate on inadequate insurance coverage**

Homeowners and companies disagree as rebuilding costs climb
By Marc Lifsher
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Stan Newman figures it will cost him close to \$400,000 to rebuild his three-bedroom home, which burned to the ground in the fall when a wildfire swept through his neighborhood in the San Diego County community of Rancho Bernardo.

But he was stunned when he discovered that his insurer, Amica Mutual Insurance Co., planned to pay him \$240,000 for the 1,500-square-foot structure, and no more. That is less than the \$304,000 he said he was due, and he is negotiating.

Like many other fire victims across California in recent years, Newman found out that the value of his insurance had failed to keep pace with the rising cost of home construction. He learned too late that he was underinsured.

Just how widespread this problem has become was highlighted in a survey scheduled to be released today by a consumer group that showed Newman's anger and frustration is far from unique.

He is one of 274 victims of last fall's Southern California fires who took part in a study about their losses. Three-quarters of respondents complained that they didn't have enough insurance to pay their rebuilding costs.

Sponsored by United Policyholders, a San Francisco consumer organization, the analysis noted that only 46% of the fire victims contacted settled claims with their insurance companies, and only a third of those said they were offered enough money to cover increased construction costs.

But who is to blame? Is it a homeowner's responsibility to make sure the policy limits are high enough? Or is it the insurer's duty to inform policyholders when coverage limits might be inadequate?

Insurance companies and consumers disagree. Insurers argue that they can't force people, who want to keep their premiums as low as possible, to pay for more coverage.

"Insurance companies do provide information and options and analysis about rebuilding costs," said Sam Sorich, president of the Assn. of California Insurance Cos. "But ultimately the decision about how much insurance to buy is the homeowner's. That's the practical explanation and also the legal explanation."

Consumer advocates counter that agents offer cut-rate policies to earn quick commissions and fail to alert customers about the shortcomings of such policies.

State Insurance Commissioner Steve Poizner says his department believes that both the homeowner and insurer are responsible for making sure a home has sufficient coverage. The courts are starting to weigh in on the issue.

Companies that underinsure homes give homeowners "a false sense of security," said United Policyholders Executive Director Amy Bach. "Underinsurance remains a severe problem."

In most cases, homeowners are not to blame for not carrying enough insurance, she said, because they don't have the knowledge of building practices, materials costs and local government codes to accurately figure out what it would cost to rebuild a destroyed dwelling.

Newman's insurer, Amica Mutual, did not respond to calls asking about Newman's complaint or United Policyholders survey findings. But officials at several major insurance companies and trade groups as well as industry experts questioned the survey's statistical validity. No California homeowner is being deliberately underinsured, they said.

Homeowners have an obligation to keep insurers informed about additions, remodeling and other upgrades that increase property values, industry spokesmen said. Customers also need to evaluate their coverage limits periodically when policies are up for renewal.

California courts, for now, are backing insurance companies. In a recent case stemming from the 2003 Southern California wildfires, a panel of judges from the 4th District Court of Appeal ruled that State Farm General Insurance Co. did not misrepresent its coverage limits when it declined to pay full replacement value to a San Bernardino woman, who lost her home in an October 2003 blaze.

Poizner said he disagreed with the appeals court and planned to ask the judges to "depublish" their April 29 decision so that it would not be considered legal precedent.

Though conceding that "underinsurance is a very common problem," Poizner noted that most insurers appear to have done the right thing by their customers in handling claims from the fires in San Bernardino and San Diego counties. Out of a total of 39,000 claims, 36,000 were verified by state

regulators as being completely paid off, the commissioner said. Companies paid close to \$2 billion in claims, he said.

Nevertheless, Poizner said he was concerned about outstanding complaints. Department of Insurance staff members are investigating every case, looking for patterns that might indicate company wrongdoing, he said. "We've launched market conduct exams of many major homeowners insurers in Southern California, and we're looking for violations of claims processing rules. If we find them, the companies will be penalized."

Poizner said his department was guided by a new doctrine that clearly made both the homeowner and insurance company responsible for making sure that the full cost of rebuilding a destroyed home was covered.

"The homeowner is responsible for keeping the insurance company up to date about additions and purchasing of new assets," he said. "If the homeowner does his job, then the responsibility completely shifts to the insurance company. They are experts in construction costs. Their job is to calculate how much you need to pay for a loss."

Brian Sullivan, an insurance analyst who publishes the Property Insurance Report, a national trade newsletter, said insurers had an economic incentive to sell customers as much insurance as possible. "Why in the world would they want to sell less insurance and take less premiums?" he argued.

That said, Sullivan noted that sometimes properties wind up being underinsured when overzealous agents undercut the competition to snag a new customer with a low premium that may not provide all the coverage necessary.

In the end, homeowners, particularly those in wildfire zones, need to be smart about protecting themselves in the unlikely event their house burns down. "Consumers have to be better educated about their own responsibilities," Sullivan said. "If insurers are going to sell you a policy that doesn't do the job, it's bad they did that. But, it's your house."

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