# PUBLIC POLICY POSITION PAPER



**Lead Committee: Transaction and Regulatory Committee** 

Information Committee: Land Use and Environmental Committee

Level of Government Committee: Legislative Committee

09/24/13

# FIRE INSURANCE AVAILABILITY IN HIGH RISK AREAS

## THE QUESTION

What can REALTORS® and homebuyers/consumers do to locate fire insurance in fire hazard severity zones throughout the state?

#### **ACTION REQUIRED**

No: Information only.

### **POSSIBLE POSITIONS**

- 1. Request C.A.R. Legal create a Q&A regarding Fire Insurance Options and Availability
- 2. Request C.A.R. Communications develop a Consumer Advisory on "How to Shop for Insurance" with emphasis on FAIR Plan applications
- 3. Other

#### DISCUSSION

In the Spring 2013 meeting of the committee, at least two members reported difficulties in obtaining fire coverage for rural properties. Anecdotal reports from the field of occasional problems have continued.

There seems to be some increased difficulty for consumers seeking to locate fire insurance in "fire hazard severity zones", a lot of confusion regarding how insurance premiums are determined and a lot of confusion about the options available to a homeowner faced with unaffordable or refused insurance. C.A.R. has historically maintained a "hands off" approach to setting other industry fees, however, C.A.R. does have established policy to oppose the imposition of the state's "fire fee", which may be the source of some confusion amongst consumers.

\*The Question: How come my buyers can't get (affordable) fire coverage?

- Your company doesn't write there.
- Local government isn't providing fire protection coverage.
- Your property is in an SRA High Fire Hazard Zone.
- The property is too close to a fire hazard.
- There is a fire in the area now (or too recently).
- 1. <u>Fire Prevention Fee (Fire Fee)</u> CalFire acts as first responder and expends resources protecting homes in the State Responsibility Areas (SRA), which contain approximately 31 million acres and an estimated 860,000 homes. In 2011, the state enacted an annual fire <u>prevention</u> fee not to exceed \$150 on structures located in SRAs to pay for fire prevention activities. In early 2012, the state Board of Forestry promulgated regulations that set out a fee structure and provided for several reductions or exemptions from the fee. C.A.R. Legal has a prepared a Q&A on this issue that may be found at: <a href="http://www.car.org/legal/taxfolder/FirePreventionFee/">http://www.car.org/legal/taxfolder/FirePreventionFee/</a>

In the Fall of 2011, C.A.R. took a position to support legislation to repeal the state Fire Fee, but to date, not such legislation has passed.

2. State Responsibility Areas (SRA) and Wildland Urban Interface - CalFire is required to maintain official SRA maps showing, generally, where the state has a financial responsibility for preventing and suppressing fires. SRAs were originally mapped in 1985, and while they have not been comprehensively updated, the boundaries are not "set in stone" and have changed over the years based on risk and the availability of resources in Local Responsibility Areas. CalFire conducts an SRA map review every five years in an effort to capture changes in land use, like conversions in/out of agriculture and development. When re-zoning SRAs in already built-out areas, CalFire has to consider the relative density of fuels that can serve as receptive sites for new spot fires to initiate within the urban core, which can spread to adjacent structures. CalFire must also consider the resources available at the local level and the ongoing budget constrains have resulted in the closure of many local fire stations, resulting in an increase in SRA territory. A prior example of an urban high fire hazard area was the Oakland Hills Fire Storm in 1991, which was a devastating fire that inspired the required mapping of hazard areas.

The Fire Fee has recently provided CalFire an opportunity to look at SRAs and allowed for a

more focused review of SRA boundaries. Effective July 1, 2013, CalFire implemented the revised the SRA maps which are now being used to determine those structures subject to the Fire Fee.

SRAs and Urban High Fire Hazard Areas are required to be disclosed as a part of a Natural Hazard Disclosure Report (NHD).

- determining Fire Risk v. Fire Hazard for Insurance Purposes Insurance rates are determined by a variety of factors, vary by insurance company, and are generally based on potential risk to the property. Fire hazards are based on factors such as fuel, land slope and fire weather frequency (ex. Santa Anna Wind). Fire risk considers the potential for damage based on factors such as the ability of a fire to ignite the structure, the flammability of the construction material, and mitigation measures that reduce the risk. Mitigation measures include defensible space, building design, fire resistant building materials and construction techniques. Both of these factors will play a significant role in determining the level of risk associated with the property and will be factored into the cost of insurance coverage required by lenders.
- 4. <u>Fire Hazard Severity Zones</u> CalFire has mapped areas of significant fire hazards, referred to as Fire Hazard Severity Zones (FHSZ). These zones define the application of various mitigation strategies to reduce risk associated with wildland fires and provide specific designations for application of defensible space and building standards. Zoning assignments are based on probability predicated on frequency of fire weather, ignition patterns, expected rate-of spread, fire history, existing and potential fuels, flame length, blowing embers, terrain, weather, the likelihood of buildings igniting and other relevant factors. Owners of real property are required to make a natural hazard disclosure as part of a real estate transfer that include, among other things, issues related to FHSZs.

C.A.R's legal department has prepared a Q&A on firestorms in order to address questions raised by property owners and residents who have suffered a loss, or for buyers who are in escrow to purchase property involved a disaster. The Q&A can be found at: <a href="http://www.car.org/legal/disasters-folder/firestorms/">http://www.car.org/legal/disasters-folder/firestorms/</a>

CalFire has also made available a Homeowners Check List to assist consumers in making their homes fire safe. The check list can be found at:

5. Shopping for Insurance - Particularly in Wildland Interface Areas, homeowners, or prospective homeowners, should begin shopping for insurance the day that escrow opens or even earlier. The premiums charged for insurance vary widely from company to company, so it pays to take the time to shop around, especially when trying to obtain insurance on properties prior to the close of escrow. The cost of fire insurance depends on a number of factors such as location, local fire protection, age and construction of building, choice of deductibles and the scope and amount of insurance coverage. Under California law, insurance companies calculate their own rates, which are subject to California Department of Insurance (CDI) approval. Since each company's loss experience differs, the rates differ as well. Insurance companies are given broad discretion when writing insurance policies and underwriting risk. They must apply their standards equally and fairly to all policies and reasons for denial of coverage need to be equated with their potential risk of loss.

Insurance companies also compete for business and have different businesses models. Some insurance companies are direct writers that use only their own employees, while others may hire independent agents who can represent more than one licensed insurance companies. Property owners that have been denied fire insurance coverage at least three times can obtain coverage through California's FAIR Access to Insurance Requirements (FAIR) Plan.

6. The California FAIR Plan - The FAIR Plan is a private association comprised of all insurers licensed to write property insurance in California. It is the fire insurance analog to the assigned risk pool for high risk drivers that need auto coverage. The FAIR Plan will only issue insurance as a last resort after a diligent effort to obtain coverage in the voluntary market has been made. Any licensed insurance broker can assist a property owner in obtaining coverage through the FAIR Plan. The FIAR Plan offers coverage for both residential and commercial properties, and even provides for loss of fair rental value. Applications and forms needed to obtain insurance through the FAIR Plan may be found at:

https://www.cfpnet.com/FormsForDownload.html

Because FAIR Plan coverage is minimal, most homeowners will want to purchase additional supplemental coverage (AKA: wraparound policy) for contents or equity in excess of the mortgage.

<u>Eligibility</u> - The FAIR Plan coverage is available to ALL California property owners. ALL locations within California are eligible for coverage; however, homeowners are generally required to have been <u>declined three times</u> from other insurance carriers before applications to the FAIR Plan can be made.

Rates and Premiums - The FAIR Plan's rates are approved by the Department of Insurance and must be actuarially sound, like with all other insures. These rates cannot be excessive or discriminatory, and must be sufficient to reflect the risk exposure and historical loss experience. The maximum combined coverage limit for any one residential property insured by the FAIR Plan is \$1.5 million and \$4.5 million for commercial properties.

High Risk Fire Zones - The FAIR Plan insures both residential and commercial properties located in brush and wildfire areas. Due to the increased risk of loss, properties in brush and wildfire areas may receive a premium higher than one for a property in an urban, non-brush/wildfire area. This increased risk of loss is included in the overall premium for policies. The FAIR Plan brush/wildfire charge varies according to the Protection Class of the geographic area and the distance from any structure to the nearest brush/wildfire exposure. There are 10 Protection Classes, the maximum brush/wildfire charge is made where the brush/wildfire exposure is less than 30 feet from the structure and reduces in graduated steps for clearance of 30, 60, 100, or 200 feet. Brush/wildfire charges are removed at 200 feet or more.

Insurance Brokers and Applications to the FIAR Plan - Homeowners that are unable to locate an insurance representative in their area may contact the Independent Insurance Agents and Brokers of California (IIABCAL) at <a href="www.iiabcal.com">www.iiabcal.com</a> for a listing of independent insurance agents/brokers in their area. Homeowners may obtain an Applicant's Kit by calling (800) 339-4099 or (213) 487-0111 if they continue to be unable to secure the services of an insurance agent or broker.