Previous Page Next Page

STATE OF CALIFORNIA
DEPARTMENT OF INSURANCE
300 Capitol Mall, 16th Floor
Sacramento, California 95814
REG-2007-00049 September 14, 2007

TEXT OF REGULATIONS

Amend Title 10, California Code of Regulations, Chapter 5, Subchapter 7.7, Sections 2697.6(e) and 2697.61 to read as follows:

Section 2697.6. Earthquake Policies, Coverage Types and Limits.

(a) The Authority must offer, in accordance with the provisions of Division 2, Part 1, Chapter 8.5, of the Insurance Code, a basic residential earthquake insurance policy to any owner of a qualifying residential property, as long as the qualifying residential property meets the eligibility standards of the Authority and the owner has first secured a residential property insurance policy from a participating insurer.

(b) The Authority must renew any basic residential earthquake insurance policy it has written, provided that the Authority receives payment of the applicable renewal premium on or before the expiration date stated in the policy. The Authority must nonrenew, rescind, or cancel a policy on any otherwise ~~the grounds that the~~ qualified residential property whenever the property is no longer covered by an underlying residential property insurance policy issued by a participating insurer.

(c) No policy issued by the Authority will provide coverage in the event there is no underlying residential property insurance policy issued by a Participating Insurer at the time of loss. In that case, any unearned premium shall be returned to the policyholder on a pro rata basis.

(d) The types of policies, base-limits policy ~~and~~ coverage limits, and base-limits policy deductibles of Authority policies shall be as follows:

1.	Dwelling policy:	~~15% Deductible~~
	Coverage A (Dwelling)	Limit of insurance e~~E~~qual to the stated Coverage A limit (~~or its equivalent limit~~ however the limit on liability for the structure may be denominated in the residential property insurance policy, without adjustment of the stated dollar amount for inflation or similar modification) of underlying

		residential property insurance policy; maximum deductible 15% of Coverage A limit
	Coverage B	~~Not available~~ Limited coverage, included in Coverage A limit and subject to Coverage A deductible
	Coverage C (Personal Property/Contents)	No less than $ 5,000 limit of insurance; no payment unless structural loss meets Coverage A deductible
	Coverage D (Loss of Use)	No less than $ 1,500 limit of insurance; no deductible
	~~Coverage E (~~Limited Building Code Upgrade~~)~~	No less than $ 10,000 limit of insurance, subject to Coverage A deductible

~~The CEA may also, at its option, offer dwelling policyholders an additional $ 10,000 in coverage for Limited Building Code Upgrade.~~

2.	Individual condominium or cooperative unit policy:	~~15% Deductible~~
	Coverage A (Real Property)	No less than $ 25,000 limited of insurance; maximum deductible 15% of Coverage A limit; plus no less than $10,000 Limited Building Code Upgrade coverage as additional insurance, subject to Coverage A deductible
	~~Coverage B~~	~~Not available~~
	Coverage C (Personal Property/Contents)	No less than $ 5,000 limit of insurance; maximum deductible 15% of Coverage C limit

	Coverage D (Loss of Use)	No less than $ 1,500 limit of coverage; no deductible
	~~Coverage E (Limited Building Code Upgrade)~~	~~$ 10,000~~
	Coverage ~~F~~E (Loss Assessment ~~(condominium value > $ 135,000)~~)	For condominium units valued at $135,000 or more, no less than $ 50,000 limit of coverage; for condominium units valued at less than $135,000, no less than $25,000 limit of coverage; maximum deductible 15% of Coverage E limit
	~~Coverage G (Loss Assessment (condominium~~	~~$ 25,000 or~~
	~~value </= $ 135,000))~~	~~$ 50,000~~
3.	Renter's policy:	~~15% Deductible~~
	~~Coverage A~~	~~Not applicable~~
	~~Coverage B~~	~~Not applicable~~
	Coverage C (Personal Property)	No less than $ 5,000 limit of insurance; maximum deductible 15% of Coverage C limit
	Coverage D (Loss of Use)	No less than $ 1,500 limit of insurance; no deductible

(e) The Authority may issue basic residential earthquake insurance policies with limits of insurance greater than the required minimum limits of insurance set forth in subdivision (d) or with lower deductibles than the maximum deductibles set forth in subdivision (d), referred to in this Chapter as "optional limits basic residential earthquake insurance." In issuing its optional-limits basic residential earthquake insurance policies, the Authority must provide full financial backing in accordance with a written plan of finance. ~~The plan of finance must operate effectively to protect policyholders of the Authority's base-limits residential earthquake insurance policies from any financial liability arising from any offer of policy limits in excess of the base limits~~. The plan of finance may include the purchase by the Authority of reinsurance and financial guaranty insurance on terms and at the limits that the Authority may find reasonable and appropriate, to secure the payment of claims obligations and expenses that may arise under its optional-limits basic residential earthquake insurance polic~~y~~ies ~~and related contracts of reinsurance~~.

~~Upon the governing board's approval in a written finding of an appropriate plan of finance that will protect policyholders of the Authority's base-limits residential earthquake insurance policies from any financial liability arising from the sale or issuance of a basic residential earthquake insurance policy with limits in excess of the Authority's base-limits policies and which will neither rely on nor impair the Authority's available capital, as available capital is defined in Insurance Code Section 10089.5, subdivision (b), the Authority may offer the optional coverage types and coverage limits in paragraphs 1, 2, and 3, below, subject to the provisions of Section 2697.4. Authorized intra-Authority transfers made pursuant to the provisions of Section 2697.61, subdivision (c) are not and shall not be deemed reliance on or impairment of the Authority's available capital.~~

~~The optional coverage limits for Coverages C and D described in paragraphs 1, 2, and 3, below, are stated as gross limits that include the base limits provided in subdivision (d) of this section, and those portions of the gross limits that exceed the applicable base limits are to be written in excess of the base limits.~~

~~1. Dwelling Policy only: Optional deductible amount for Coverage A, and additional excess contents (Coverage C), and additional living expense (Coverage D) limit options. A dwelling policy that does not carry a 10% deductible must be issued at a 15% deductible. The lowered policy deductible and increased limits for Coverage C and Coverage D may be offered in any of the following amounts:~~

~~(i)~~	~~Optional decreased deductible~~	~~10% of Coverage A limit~~
~~(ii)~~	~~Coverage C (Contents)~~	~~$ 25,000, $ 50,000, $ 75,000, or $ 100,000~~
~~(iii)~~	~~Coverage D (Loss of Use)~~	~~$ 10,000 or $ 15,000~~

~~2. Individual Condominium and Cooperative Unit Policy only: Excess contents (Coverage C), and additional living expense (Coverage D) options may be offered in any of the following amounts:~~

~~(i)~~	~~Coverage C (Contents)~~	~~$ 25,000, $ 50,000, $ 75,000, or $ 100,000~~
~~(ii)~~	~~Coverage D (Loss of Use)~~	~~$ 10,000 or $ 15,000~~

~~3. Renter's Policy only: Excess contents (Coverage C) and additional living expense (Coverage D) options may be offered in any of the following amounts:~~

~~(i)~~	~~Coverage C (Personal Property)~~	~~$ 25,000, $ 50,000, $ 75,000, or~~
		~~$ 100,000~~
~~(ii)~~	~~Coverage D (Loss of Use)~~	~~$ 10,000 or $ 15,000~~

(f) ~~For~~ With respect to individual condominium unit policies, ~~and in accordance with its underwriting or eligibility guidelines, the Authority will issue earthquake loss assessment coverage in connection with its basic residential earthquake insurance policy for condominium owners in the amount of $ 50,000.00 (fifty thousand dollars) for a unit valued at more than $ 135,000.00 (one hundred thirty-five thousand dollars) and in the amount of $ 25,000.00 (twenty-five thousand dollars) or $ 50,000.00 (fifty thousand dollars) for a unit valued at $ 135,000.00 (one hundred thirty-five thousand dollars) or less. T~~the value of the land on which a condominium unit is constructed is to be excluded when determining the value of th~~e~~at condominium unit for the purpose of determining the minimum limit of insurance for Coverage E (Loss Assessment).

AUTHORITY:

Note: Authority cited: Sections 10087, 10089.5(c), 10089.11, 10089.20 and 10089.26(a)(1), Insurance Code. Reference: Sections 10089, 10089.11(a), 10089.28(b) and 12921, Insurance Code.

Section 2697.61. Additional Requirements for Offer of Optional-Limits Basic Residential Earthquake Insurance Policies

(a) Before the Authority ~~can~~ may offer optional-limits basic residential earthquake insurance policies, the governing board must first certify that selling ~~those policies~~ such insurance furthers the Authority's charge in Insurance Code Section 10089.10 to achieve maximum capacity for writing earthquake coverage. The sale by the Authority of any optional-limits basic residential earthquake insurance policies must be actuarially sound ~~and must neither rely on nor impair the Authority's available capital, as available capital is defined in insurance Code Section 10089.5, subdivision (b). The Authority is authorized to sell optional-limits basic residential earthquake insurance policies only to Authority policyholders, and only Authority policyholders are eligible to purchase the Authority's optional-limits basic residential earthquake insurance policies~~.

~~(b) All funds directly attributable to the sale by the Authority of optional-limits basic residential earthquake insurance policies must be maintained in accounts that are separate from the accounts maintained for funds attributable to the sale of base-limits basic residential earthquake insurance policies and must not be used to pay any obligations or expenses arising from the sale of base-limits basic residential earthquake insurance policies. Except as otherwise provided in this section, the Authority must not use funds attributable to the sale of base-limits basic residential earthquake insurance policies to pay any obligations or expenses that arise out of the sale or issuance of optional-limits basic residential earthquake insurance policies.~~

~~(i) If, following the commencement of sales or issuance of optional-limits basic residential earthquake insurance policies, the Authority is unable to gain access to the financial backing for those policies that is outlined in the plan of finance specified in Section 2697.6, subdivision (e), so that it reasonably appears that the continued sale and issuance of those policies might financially burden the fund that provides backing capital for the Authority's base-limits residential earthquake insurance policies, the Commissioner may order the Authority to stop the sale and issuance of the optional-limits basic~~

~~residential earthquake insurance policies until the Authority's access to the financial backing is restored and the Commissioner approves, by further order, a resumption of the sale and issuance of optional-limits basic residential earthquake policies.~~

~~(ii) If, following the commencement of sales or issuance of optional-limits basic residential earthquake insurance policies, the Authority is unable to gain access to the financial backing for those policies that is outlined in the plan of finance specified in Section 2697.6, subdivision (e), so that it is reasonably certain that the continued sale and issuance of those policies will financially burden the fund that provides backing capital for the Authority's base-limits policies of residential earthquake insurance, the Commissioner must order the Authority to stop the sale and issuance of the optional-limits basic residential earthquake insurance policies until the Authority's access to the financial backing is restored and the Commissioner approves, by further order, a resumption of the sale and issuance of optional-limits basic residential earthquake policies.~~

~~(c) Upon a finding by the Governing Board that the Authority's optional-limits program has adequate financial backing, that the program is or reasonably can be made financially sustainable, that the program's continuation in existence is in the best interests of the Authority and its policyholders, that the program has rates in place or applied for that, as verified in writing by a qualified actuary hired by or employed by the Authority, are actuarially sound and reasonably calculated to financially sustain the optional-limits program, and that any such requested transfer will have no material negative impact on the financial stability or capacity of the Authority's base program, the Board may authorize a transfer of funds to any designated account of the Authority's optional-limits program from any designated account of the Authority's base program. Each such authorized base-capital-funds transfer shall be subject to full reimbursement by the optional-limits program within a reasonable period, not to exceed three years from the date of each actual transfer of base-capital funds. As; a condition to any transfer, the Authority's chief financial officer shall certify in writing and provide to the Board at a public meeting the business need for the transfer and, in reasonable detail, the anticipated reimbursement terms and conditions, including a reimbursement schedule. Any known inability or failure to reimburse transferred funds in accordance with the authorized reimbursement terms, conditions, or schedule shall be reported forthwith to the Board by the Authority's; chief executive officer, the chief financial officer, or the general counsel, each of whom shall have an independent duty to so report.~~

~~(i) The funds transfers authorized by this subdivision are subject to an Annual Transfer Cap; as used in this paragraph, the "target calendar year" is the calendar year for which base-capital funds transfers are required to meet financial needs of the optional-limits program. The maximum amount of base-limits capital-funds transfer in or for a single target calendar year pursuant to the authorization for such transfer set forth above in this subdivision is the Annual Transfer Cap, which shall be calculated according to the following formula:~~

~~Annual Transfer Cap = P + (E/3) - (W/2) - C - (UEP/2) - (II/2)~~

~~Where:~~

~~P= Reinsurance premium by contract for the target calendar year~~

~~E= Estimated operating costs, supplemental program, for the target calendar year (includes (allocated) commission and fees payable to participating insurers and capital financing cost)~~

~~W= Estimated written premium, supplemental program, for the target calendar year~~

~~C= Estimated CEA capital attributable to supplemental program at January 1 of the target calendar year~~

~~UEP= Estimated unearned premium at December 31 for the year prior to the target calendar year~~

~~II= Estimated net investment income, supplemental program, for the target calendar year~~

~~All estimated amounts used in the formula must be confirmed by the Authority's chief financial officer as accurately determined and either based on or utilizing the reported, past figures for such costs, premiums, and capital that the Authority uses for its financial-reporting obligations. If so directed by the Board, the Authority during the target calendar year shall adjust the Transfer Cap as derived from application of the formula by the (1) substitution of revised estimates and actual figures, to the extent such actual figures are known, in place of the estimates called for by the formula and (2) recalculation of the resulting Transfer-Cap amount; in such case, the recalculated Transfer Cap shall be and become, for~~

~~all purposes and until any further Transfer-Cap adjustment, the maximum permitted transferred amount of base-limits capital for the calendar year. Any sums transferred in or for a target calendar year shall be limited to amounts reasonably calculated to accomplish the certified purpose(s), and no more, as calculated pursuant to this paragraph, and in no event more than the annual Transfer Cap.~~
~~(ii) If the Board is informed in a public meeting by December 31st that the optional-limits program's gross costs and expenses associated with risk-transfer, such as costs of reinsurance, are reasonably likely to increase in the target calendar year by 50% or more over the present calendar year, the Authority shall make no transfer pursuant to this subdivision. Notwithstanding any other provision of this section, the authority to transfer capital as provided in this subdivision shall expire on December 1, 2008.~~
~~(d) Participating Insurers are permitted to offer their policyholders, or applicants for their policies, the Authority's base-limits basic residential earthquake insurance policy (1) without any optional coverage limits on that policy, if the Authority sells its optional-limits basic residential earthquake insurance policies by way of coverage-limits options on a single policy form, or (2) without making available the Authority's optional-limits basic residential earthquake insurance policy, if the Authority sells optional-limits basic residential earthquake insurance coverage by way of a policy form separate from that available for the Authority's base-limits residential earthquake insurance policy. No Participating Insurer is required to offer to its policyholders the Authority's optional-limits basic residential earthquake insurance policies, as long as the Participating Insurer continues to offer to its policyholders the Authority's base-limits residential earthquake insurance policy.~~
~~(e) An offer by a Participating Insurer of the Authority's base-limits residential earthquake insurance policy constitutes a mode of CEA Participating Insurer compliance with Chapter 8.5 (commencing with Section 10081) of Part 1 of Division 2 of the Insurance Code, and as set forth in Section 10084 of the Insurance Code.~~
(b) The Commissioner finds that integrating the formerly separate optional-limits program that had been in operation from 1999 through 2007 with the base-limits program serves the public interest by permitting the two programs to be financed together at an expected overall saving and by simplifying the program for the Authority, participating insurers, and consumers. This integration renders the former maintenance of separate funds within the Authority unnecessary and inappropriate. Any inter-fund transfer obligation that may exist at the time of integration will cease to exist.
AUTHORITY:

Note: Authority cited: Sections 10087, 10089.5(c), 10089.11, 10089.20 and 10089.26(a)(1), Insurance Code. Reference: Sections 10089, 10089.11(a), 10089.28(b) and 12921, Insurance Code.

Previous Page | Top Of Page | Next Page