



Outline of key points: Speaker, Amy Bach, Executive Director
Buy or Rebuild? July 23, 2009, Santa Barbara Museum of Natural History

1. CA. law offers a specific protection for those who want to buy, not rebuild after losing a home:

Ins. Code § 2051.5 (c) was passed after the 2003 Cedar fire:

In the event of a total loss of the insured structure, no policy issued or delivered in this state may contain a provision that limits or denies payment of the replacement cost in the event the insured decides to rebuild or replace the property at a location other than the insured premises. However, the measure of indemnity shall be based upon the replacement cost of the insured property and shall not be based upon the cost to repair, rebuild, or replace at a location other than the insured premises.

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2. Regardless of whether you want to buy or rebuild, it's important to document the full extent of your dwelling loss and the cost of replacing it with a home of like kind and quality up to current building codes.

Document and “prove up” the cost of rebuilding your destroyed home with one of like kind and quality, according to current building codes, via a well-prepared scope of loss and rebuilding cost estimate, regardless of whether you intend to rebuild or buy a replacement home. Try to negotiate a settlement with your insurer for the amount it would cost if – in theory – you were going to rebuild. That’s the best starting point for rebuilding or buying.

NOTES:

- 3. In United Policyholders' view, the law requires insurers to pay an amount equal to the full replacement cost of the original, destroyed dwelling (up to policy limits, including all code upgrades and extended limits provided in endorsements/riders) upon reasonable proof of the policyholder's intent to rebuild or replace their dwelling, without deducting lot value or realtor commissions.**

It can't be that simple...right? Right. This is a new, untested law, and insurance companies are taking differing positions on what and how they will pay those who want to buy, not rebuild.

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- 4. Your insurance company may make it easy or they may make it hard:**

Common problem areas include:

- Inadequate coverage/underinsurance
- Lack of agreement on the replacement cost of your destroyed home
- Insurer wants to deduct the value of land under the home you want to buy
- Timing of payments
- Lender releases

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- 5. The California Department of Insurance wanted to help homeowners so it issued a legal opinion stating its view on buy versus rebuild:**

- Extended replacement cost provisions apply even if you buy, not rebuild
- You can't buy a smaller/cheaper home and pocket the difference
- Silent on land value

At least one insurer has said it will not comply with the CDI opinion, so the law will be tested in court. UP has been working to help homeowners use the flexibility and protection this law offers. Hiring a qualified policyholder attorney may be the best option for those who want to buy not rebuild without being penalized financially.

6. Can my insurer deduct the value of the land @ the new location?

If your insurer has put wording in your policy that specifically states it will deduct land value if you replace by buying elsewhere, consult with a qualified attorney to get his or her view on whether your insurer can enforce the deduction given the wording of Ins. Code 2051.5(c) Argue that it's not "unjust enrichment" to allow you to keep the old (devalued due to fire damage) lot plus a new one b/c the new home is by definition lesser than the old one b/c the new home plus a lot cost the same amount as my old house cost on its own without a lot.

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7. Are there any other arguments I can make to convince my insurer to commit to pay my full replacement cost benefits so I can replace my home with an existing one?

- *A cash-out settlement will be in everyone's best interest*
- The insurer's reps unreasonably delayed payments, responding to calls, letters
- Document in writing and alert insurer to:
 - Any abusive behavior by adjusters/company personnel
 - Lowball offers, lowball estimates
 - Company's failure to advance ALE or contents funds
 - Any misrepresentations of policy provisions or limits
 - Failure to explain the process or provide necessary forms, instructions, etc.
 - Unreasonable requests for info/EUO/recorded statement

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8. What does the word "replacement" mean on Planet Earth"?

"A person or thing that takes the place of another" Source: Webster's New Universal Unabridged Dictionary

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9. What Does "Replacement Cost" Mean on Planet Insurance Industry?

REPLACEMENT COST INSURANCE: DEFINITION Insurance which replaces lost, stolen or destroyed [property](#) by paying [current market](#) prices, rather than depreciated [value](#). [www.investorwords.com](#). The term "replacement cost" should be defined or explained in the policy. Simply stated, it means the cost to replace the property on the same premises with other property of comparable material and quality used for the same purpose. This applies unless the limit of insurance or the cost actually spent to repair or replace the damaged property is less. Refer to your policy for the exact definition and explanation of replacement cost. Source: Allen Financial Group, [www.egggroup.com](#)

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10. Underinsurance RX “to do”:

- Network with others insured with your same company
- Visit “Underinsurance Help” at [www.uphelp.org](#)
- Try all avenues to get the insurance company to cooperate informally, including mediation.
- Use the “Find Help” section of [www.uphelp.org](#) to find professional help
- If an experienced lawyer tells you you have a strong case, consider hiring an attorney on a contingent fee basis and using our civil justice system. If you do not have a strong case, pursue alternatives for financing your replacement home including loans, contents money, etc.

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United Policyholders is a national non-profit consumer organization helping solve insurance problems and advocating for insurance fairness since 1991. Visit our website at [www.uphelp.org](#) to access the full range of support resources we offer, including the Disaster Recovery Mentor program, the confidential online “Ask an Expert” program, and tips, sample forms, information, articles and links in our extensive library.

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