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Approved as to Form and Legality

**DRAFT**

City Attorney's Office

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

INTRODUCED BY COUNCILMEMBERS DAN KALB, ANNIE CAMPBELL  
WASHINGTON, & ABEL GUILLÉN

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**RESOLUTION IN SUPPORT OF SENATE BILL 824 (LARA) THAT WOULD PREVENT INSURANCE COMPANIES FROM CANCELING OR NOT RENEWING AN INSURANCE POLICY FOLLOWING A WILDFIRE DISASTER, REQUIRE INSURANCE COMPANIES TO OFFER MITIGATION DISCOUNTS AND CONTINUED COVERAGE FOR HOMEOWNERS WHO MAKE INVESTMENTS IN WILDFIRE SAFETY, AND REQUIRE APPROVAL BY THE DEPARTMENT OF INSURANCE BEFORE INSURANCE COMPANIES CAN REDUCE THE VOLUME OF POLICIES IN HIGH-RISK AREAS**

**WHEREAS**, on October 20, 1991, a firestorm ravaged the Oakland hills, claiming 25 lives and destroying more than 3,500 homes; and

**WHEREAS**, following record temperatures due to climate change in recent years, extreme wildfire is becoming more common and destructive in California, as demonstrated by the recent fires in Los Angeles, Ventura, and Sonoma County, with 13 of California's 20 largest wildfires on record all having occurred since 2000; and

**WHEREAS**, the California Department of Forestry and Fire Protection has initiated a Ready, Set, Go! Campaign detailing actions people can take to be ready for wildfire, including maintaining defensive spaces around homes and making homes more fire resistant; and

**WHEREAS**, while many California homeowners are investing money to protect their homes and minimize damage when wildfires occur, homeowners have experienced non-renewal of their home insurance after a natural disaster; and

**WHEREAS**, Senate Bill (SB) 824 (Lara) would (1) clarify that existing provisions of California law that prohibit insurance cancellation during home reconstruction are applicable to reconstruction for areas where a state of emergency has been declared, (2) extend existing conditions permitting cancellation of policies to include nonrenewal of policies, (3) require insurance companies to obtain the approval of the Insurance Commissioner before they can reduce a large number of policies covering properties in

particular geographic regions, and (4) require insurance companies to provide mitigation discounts and continued coverage to homeowners who make investments in hardening their homes; now, therefore, be it

**RESOLVED:** That the Oakland City Council hereby endorses SB 824 and urges the California State Legislature and Governor Jerry Brown to support its enactment into law.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY, GUILLÉN, KALB, KAPLAN, AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council of  
the City of Oakland, California

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Councilmember Dan Kalb

CITY OF OAKLAND

CITY HALL - ONE FRANK H. OGAWA PLAZA, 2<sup>ND</sup> FLOOR - OAKLAND - CALIFORNIA 94612

## Agenda Memorandum

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To: Rules & Legislation Committee

From: Councilmembers Dan Kalb, Annie Campbell Washington, & Abel Guillén

Date: January 25, 2018

Subject: Support of SB 824: Wildfire Safety & Recovery Act

Colleagues on the City Council and Members of the Public,

With our Resolution of Support for SB 824 (Lara), we are submitting the attached Fact Sheet and text of the bill.

Respectfully submitted,

A handwritten signature in cursive script that reads "Dan Kalb".

Dan Kalb, Councilmember

Annie Campbell Washington, Vice Mayor

Abel Guillén, Councilmember

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SENATOR

**RICARDOLARA**

LEGISLATIVE FACTSHEET



## Senate Bill 824 – The Wildfire Safety and Recovery Act

### Summary:

SB 824 helps California adapt to wildfires and keeps people and homes safe. It prevents insurance companies from dropping customers after a major disaster. SB 824 requires insurance companies to offer discounts to homeowners who have worked to mitigate the risk of wildfire damage to their homes.

### Background:

Extreme wildfire in California is the new normal and fire safety is becoming important for everyone. As shown by the recent fires in Los Angeles, Ventura, and Santa Rosa, what was historically a rural crisis is now also an urban crisis.

Record hot conditions this past summer and fall helped to prime the dry landscape which fueled the Thomas fire in Southern California, along with many of the other major fires across California this year. Fire is now a threat year round and deeply-destructive, catastrophic fire has become more common all across the state.

CAL FIRE recognizes the threats that wildfires pose to communities across the state. Their Ready, Set, Go! campaign details specific actions people can take to be wildfire ready, including maintaining defensible spaces around homes and making homes physically more fire resistant. The Insurance Institute for Business & Home Safety also acknowledges that research and post-fire assessments show that property owners can protect their homes against wildfire by addressing sources of vulnerability such as landscaping vegetation and strategic use of materials and design features in building structures.

13 of California's 20 largest wildfires on record have all burned since 2000. The cost of fighting wildfire in California has exploded over the past few decades. The Sobranes wildfire in Monterey County was the most expensive wildfire fight in U.S. history with firefighting costs of over \$250M. Insurance losses from 2017 fires in Napa and

Sonoma Counties are estimated at \$9.4B. As a result of these massive loses, the California Department of Insurance recently warned of market instability and risk that homeowners may not be able to obtain insurance.

### Problem:

Climate change has contributed to California's longer fire season, the growing destructiveness of fire, and the increasing area of land consumed. Many California homeowners and counties in the wildland urban interface are doing their part to be fire safe. They are investing millions of dollars to protect their homes and minimize damage when wildfires occur.

Homeowners have been non-renewed after a natural disaster because they are considered to be too high risk for wildfire. This impacts even those who have taken steps to mitigate risk.

### Solution:

SB 824 ensures that homeowners are protected following wildfire damage and destruction. Insurance companies cannot cancel or non-renew a policy based on a weather related claim or within a specified time after a disaster. Additionally, insurance companies must provide mitigation discounts and continued coverage to homeowners who make investments in hardening their homes. Finally, insurance companies must obtain approval from the Insurance Commissioner before they can drop a large number of customers in a specified area.

Responsible property owners should be able to obtain affordable home insurance. When wildfires occur, we cannot turn our backs on the impacted residents in our rural and urban communities who bear the brunt of the risk.

### Sponsors:

Placer County

### Contact:

Renée Estoista

(916) 651-4033 | [renee.estoista@sen.ca.gov](mailto:renee.estoista@sen.ca.gov)

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SENATE BILL

No. 824

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Introduced by Senator Lara

January 3, 2018

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An act to amend Sections 675.1 and 676 of, and to add Section 758.8 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 824, as introduced, Lara. Insurance: nonrenewal.

(1) Existing law requires an insurer to comply with certain procedures relating to the cancellation of insurance policies, except as specified, in the case of a total loss to the primary insured structure under a residential policy. Among other requirements, an insurer may not cancel coverage while the primary insured structure is being rebuilt, as specified, nor use the fact that the primary insured structure is in damaged condition as a result of the total loss as the sole basis for a decision to cancel the policy, and must offer, at least once, to renew the policy, as specified, if the total loss to the primary insured structure was caused by a disaster.

This bill would express the intent of the Legislature to clarify that the provision described above is applicable to all insured properties located within a county for which a state of emergency has been declared, as specified.

(2) Existing law prohibits cancellation of a policy that has been in effect for 60 days unless, after the effective date of the policy, one or more specified acts have occurred, including nonpayment of the premium, conviction of the named insured of a crime having as one of its necessary elements an act increasing any hazard insured against, or the discovery of fraud or material misrepresentation, as specified.

This bill would also prohibit the nonrenewal of the policy under those circumstances.

(3) Existing law governs the business of insurance and proscribes certain unlawful practices. Existing law requires the Insurance Commissioner to enforce the laws and regulations governing the business of insurance.

This bill would require an insurer that intends to materially reduce the number of policies written by that insurer covering properties located within a particular geographic region to submit to the commissioner, at least 30 days prior to implementing that action, or 60 days prior to implementing that action if the policies include homeowners' insurance policies, a plan for the orderly reduction of volume of policies written and would specify the information that must be included in the plan. The bill would provide that the commissioner would have 30 days to approve or disapprove the plan submitted. The bill would require the commissioner to approve the plan if the insurer demonstrates that the material reduction would be accomplished in a manner that minimizes market disruption in areas of material reduction. The bill would also require the commissioner to assess the impact of the planned withdrawal from potentially impacted counties.

(4) The bill would also express the intent of the Legislature to enact legislation that would require insurance companies to provide mitigation discounts and continued coverage to homeowners who employ wildlife mitigation techniques.

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

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

1 SECTION 1. Section 675.1 of the Insurance Code is amended  
2 to read:  
3 675.1. In the case of a total loss to the primary insured structure  
4 under a residential policy subject to Section 675, the following  
5 provisions apply:  
6 (a) If reconstruction of the primary insured structure has not  
7 been completed by the time of policy renewal, the insurer, prior  
8 to or at the time of renewal, and after consultation by the insurer  
9 or its representative with the insured as to what limits and  
10 coverages might or might not be needed, shall adjust the limits  
11 and coverages, write an additional policy, or attach an endorsement  
12 to the policy that reflects the change, if any, in the insured's

1 exposure to loss. The insurer shall adjust the premium charged to  
2 reflect any change in coverage.

3 (b) The insurer shall not cancel coverage while the primary  
4 insured structure is being rebuilt, except for the reasons specified  
5 in subdivisions (a) to (e), inclusive, of Section 676. The insurer  
6 shall not use the fact that the primary insured structure is in  
7 damaged condition as a result of the total loss as the sole basis for  
8 a decision to cancel the policy pursuant to subdivision (e) of that  
9 section.

10 (c) Except for the reasons specified in subdivisions (a) to (e),  
11 inclusive, of Section 676, the insurer shall offer to, at least once,  
12 renew the policy in accordance with the provisions of subdivision  
13 (a) if the total loss to the primary insured structure was caused by  
14 a disaster, as defined in subdivision (b) of Section 1689.14 of the  
15 Civil Code, and the loss was not also due to the negligence of the  
16 insured.

17 (d) With respect to policies of residential earthquake insurance,  
18 the California Earthquake Authority, or any insurer, including a  
19 participating insurer, as defined in subdivision (i) of Section  
20 10089.5, may defer its initial implementation of this section until  
21 no later than October 1, 2005.

22 (e) With respect to a residential earthquake insurance policy  
23 issued by the California Earthquake Authority, the following  
24 provisions apply:

25 (1) The participating insurer that issued the underlying policy  
26 of residential property insurance on the primary insured structure  
27 shall consult with the insured as to what limits and coverages might  
28 or might not be needed as required by subdivision (a).

29 (2) The California Earthquake Authority, in lieu of meeting the  
30 requirements of subdivision (a), shall establish procedures and  
31 practices that allow it to reasonably accommodate the needs and  
32 interests of consumers in maintaining appropriate earthquake  
33 insurance coverage, within the statutory and regulatory limitations  
34 on the types of insurance coverages and the coverage limits of the  
35 policies that the authority may issue.

36 (f) *It is the intent of the Legislature to clarify that this section*  
37 *applies, but is not limited to, all insured properties located within*  
38 *a county for which a state of emergency has been declared by the*  
39 *President of the United States or the Governor, or for which a*

1 *local emergency has been declared by the executive officer or*  
2 *governing body of a city, county, or city and county.*

3 SEC. 2. Section 676 of the Insurance Code is amended to read:

4 676. After a policy specified in Section 675 has been in effect  
5 for 60 days, or, if the policy is a renewal, effective immediately,  
6 no notice of cancellation *or nonrenewal* shall be effective unless  
7 it is based on the occurrence, after the effective date of the policy,  
8 of one or more of the following:

9 (a) Nonpayment of premium, including nonpayment of any  
10 additional premiums, calculated in accordance with the current  
11 rating manual of the insurer, justified by a physical change in the  
12 insured property or a change in its occupancy or use.

13 (b) Conviction of the named insured of a crime having as one  
14 of its necessary elements an act increasing any hazard insured  
15 against.

16 (c) Discovery of fraud or material misrepresentation by either  
17 of the following:

18 (1) The insured or his or her representative in obtaining the  
19 insurance.

20 (2) The named insured or his or her representative in pursuing  
21 a claim under the policy.

22 (d) Discovery of grossly negligent acts or omissions by the  
23 insured or his or her representative substantially increasing any of  
24 the hazards insured against.

25 (e) Physical changes in the insured property which result in the  
26 property becoming uninsurable.

27 SEC. 3. Section 758.8 is added to the Insurance Code, to read:

28 758.8. (a) An insurer that intends to materially reduce the  
29 number of policies written by that insurer covering properties  
30 located within a particular geographic region shall submit to the  
31 commissioner, at least 30 days prior to implementing that action,  
32 or 60 days prior to implementing that action if the policies include  
33 homeowners' insurance policies, a plan for the orderly reduction  
34 of the volume of policies written that does all of the following:

35 (1) Describes the contemplated actions.

36 (2) Sets forth the reasons for those actions.

37 (3) Describes the measures the insurer intends to take in order  
38 to minimize market disruption.

39 (4) Provides other information that the commissioner requires.



1 (b) The commissioner shall have 30 days to approve or  
2 disapprove the plan submitted pursuant to subdivision (a). The  
3 commissioner shall approve the plan if the insurer demonstrates  
4 that the material reduction will be accomplished in a manner that  
5 minimizes market disruption in areas of material reduction. In  
6 reviewing each plan submitted, the commissioner shall assess the  
7 impact of the planned withdrawal from potentially impacted  
8 counties.

9 SEC. 4. It is the intent of the Legislature to enact legislation  
10 that would require insurance companies to provide mitigation  
11 discounts and continued coverage to homeowners who employ  
12 wildlife mitigation techniques.

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