

[The New and Improved California Residential Property Disclosure Form: A Harbinger of More Significant Reforms in Replacement Cost Estimating](#)

Posted on October 8, 2010 by [Marina Karvelas](#)

On September 30, 2010, Governor Schwarzenegger signed [AB 2022](#) into law (Chaptered copy).

Introduced by [Assembly Member Ted Gaines](#) (R), AB 2022 revamps [California's Residential Property Disclosure Form](#) (current page 3; new page 10) and the accompanied [California Residential Property Insurance Bill of Rights](#) (current page 13; new page 15). The new disclosure form, drafted in plain and simple language, significantly improves the current form and makes understandable the differences in residential insurance coverages available to California insurance consumers. The changes, however, are much more than stylistic.

[Commissioner Poizner](#), whose office helped craft AB 2022, has also drafted comprehensive regulations in an effort to respond to the under-insurance problems caused by the 2003, 2007 and 2008 California wildfires.

The [Proposed Regulations](#) establish standards for accurate replacement cost estimating, broker agent training on replacement cost estimating, and new record keeping requirements. The Proposed Regulations place the burden of accurately estimating replacement value of a home squarely on the insurance industry. The new disclosure form, the first step towards this regulatory reform, removes critical language found in the current disclosure form that obligates the consumer to determine and maintain the proper policy limits on their home.

PART 1

California Residential Property Disclosure Form (July 1, 2011)

Effective **July 1, 2011**, insurance companies must use the new disclosure form. The new form eliminates the legalese that plagues the current form and presents the different coverage levels in a reader friendly manner. The new form calls specific attention to the fact that "actual cash value" coverage is "the most limited level of coverage listed," while "guaranteed replacement cost" coverage is "the broadest level of coverage." The new coverage definitions are as follows:

- **ACTUAL CASH VALUE COVERAGE** pays the costs to repair the damaged dwelling minus a deduction for physical depreciation. If the dwelling is completely destroyed, this coverage pays the fair market value of the dwelling at the time of loss. In either case, coverage only pays for costs up to the limits specified in your policy.
- **REPLACEMENT COST COVERAGE** is intended to provide for the cost to repair or replace the damaged or destroyed dwelling, without a deduction for physical depreciation. Many policies pay only the dwelling's actual cash value until the insured has actually begun or completed repairs or reconstruction on the dwelling. Coverage only pays for replacement costs up to the limits specified in your policy.
- **EXTENDED REPLACEMENT COST COVERAGE** is intended to provide for the cost to repair or replace the damaged or destroyed dwelling without a deduction for physical depreciation. Many policies pay only the dwelling's actual cash value until the insured has actually begun or completed repairs or reconstruction on the

dwelling. Extended Replacement Cost provides additional coverage above the dwelling limits up to a stated percentage or specific dollar amount. See your policy for the additional coverage that applies.

- **GUARANTEED REPLACEMENT COST COVERAGE** covers the full cost to repair or replace the damaged or destroyed dwelling for a covered peril regardless of the dwelling limits shown on the policy declarations page.
- **BUILDING CODE UPGRADE COVERAGE**, also called Ordinance and Law coverage, is an important option that covers additional costs to repair or replace a dwelling to comply with the building codes and zoning laws in effect at the time of loss or rebuilding. These costs may otherwise be excluded by your policy. Meeting current building code requirements can add significant costs to rebuilding your home. Refer to your policy or endorsement for the specific coverage provided and coverage limits that apply.

In addition, the new disclosure form removes the following statements from the replacement cost coverage definitions in the current disclosure form:

To be eligible for [this coverage], you must insure the dwelling to its full replacement cost at the time the policy is issued, with possible periodic increases in the amount of coverage to adjust for inflation and increases in building costs; you must permit inspections of the dwelling by the insurance company; and you must notify the insurance company about any alterations that increase the value of the insured dwelling by a certain amount (see your policy for that amount).” To be eligible to recover this benefit, you must insure the dwelling to [company shall denote percentage] [] percent of its replacement cost at the time of loss.”

California Residential Property Insurance Bill of Rights (July 1, 2011)

The revised bill of rights that must accompany the new disclosure form eliminates the first 16 lines of the current disclosure form. The omitted lines include statements concerning the applicant’s/policyholder’s burden to determine and maintain proper policy limits such as: “Take time to determine the cost to rebuild or replace your property in today’s market.” “Once the policy is in force, contact your agent or insurance company immediately if you believe your policy limits may be inadequate.”

The language deleted from the current versions of the disclosure form and bill of rights marks a significant change in California public policy. In [*Everett v. State Farm General Ins. Co.*](#), 162 Cal. App. 4th 649 (2008), the court held that the homeowner, rather than the property insurer, had the duty to maintain insurance policy limits equal to replacement costs. In reaching this conclusion, the court relied on the current version of the residential property disclosure which places the burden of determining whether a higher policy limit is needed on the homeowner.

AB 2022 and Commissioner Poizner’s proposed regulations effectively nullify *Everett*.