

Date of Hearing: July 15, 2025

ASSEMBLY COMMITTEE ON JUDICIARY

Ash Kalra, Chair

SB 495 (Allen) – As Amended July 10, 2025

PROPOSED CONSENT (As Proposed to be Amended)

SENATE VOTE: 28-10

SUBJECT: INSURANCE

KEY ISSUE: SHOULD CERTAIN INSURERS BE REQUIRED TO SUBMIT A REPORT TO THE INSURANCE COMMISSIONER ON ITS REINSURANCE PROGRAM PLACEMENT DATA AND USE OF PROBABILISTIC CATASTROPHIC MODELS FOR THE PREVIOUS YEAR; SHOULD THAT INFORMATION BE CONFIDENTIAL; AND SHOULD THE COMMISSIONER BE ABLE TO IMPOSE CIVIL PENALTIES ON AN INSURER, INCLUDING BY MEANS OF A CIVIL ACTION, FOR ITS FAILURE TO SUBMIT THE REPORT?

SYNOPSIS

This bill, like a number of others introduced this year, was introduced in response to the January 2025 Los Angeles wildfires. The most significant provision of the bill, sponsored by Insurance Commissioner Ricardo Lara, increases the percentage of the personal property policy coverage limit without an itemized claim from the policyholder in the event of a covered total loss of a dwelling resulting from a state of emergency. The Assembly Committee on Insurance recently approved the bill by a vote of 15-0. The provisions of the bill that are in this Committee's jurisdiction are related to the confidentiality of information submitted to the Insurance Commissioner; and the authority of the Commissioner to impose new civil penalties that are enforceable by an administrative proceeding and, if necessary, a civil action.

The bill requires certain insurers to submit a report to the Commissioner that only includes "data and information necessary to understand their reinsurance program placement data and use of catastrophe models for the previous policy year." The bill specifies that information submitted to the Insurance Commissioner is confidential and exempt from public disclosure pursuant to the CPRA. While the language substantially limits public access to records in the possession of CDI, it is identical to other provisions of the Insurance Code. The bill provides that failure of an insurer to submit a report as required by the bill shall subject the insurer to a civil penalty to be fixed by the Commissioner. Importantly, the bill authorizes the Commissioner to collect the amount payable and bring an action in the name of the people of the State of California to enforce collection. This authority is consistent with a number of other existing sections of the Insurance Code.

The author has agreed to a minor clarifying amendment to address an internal inconsistency about whether the bill's civil penalty provisions are the sole means of enforcement by the Commissioner. The amendment is incorporated into the bill SUMMARY, below, and explained in the analysis. The bill is supported by Consumer Watchdog (and the Insurance Commissioner) and has no opposition on file.

SUMMARY: Requires certain insurers to submit a report to the Insurance Commissioner on its reinsurance program placement data and use of probabilistic catastrophic models for the previous year; states that the information submitted is confidential; and imposes civil penalties – enforceable by the Commissioner by means of administrative or civil action - for failure to submit the report. Specifically, **this bill**:

- 1) Makes findings and declarations related to the state’s interest in understanding the trends in insurance markets and the reinsurance strategies and catastrophe models used by insurance companies, to expand the writing of insurance policies, and understand the systemic risk to the solvency of insurance companies that write policies in wildfire-distressed areas.
- 2) Requires that on or before March 1, 2026 and by every March 1 thereafter, admitted insurers with premiums from specified lines of \$50,000,000 or more, must submit a report to the Insurance Commissioner, in a specified manner, that shall only include data and information necessary to understand their reinsurance program placement data and use of catastrophe models for the previous policy year. Reinsurance placement data can include the details of those policies, including the amount of coverage, the risks covered, and the terms of the agreement.
- 3) Specifies that such reports filed on or before March 1, 2026, shall include data from the latest available reinsurance treaty year. Subsequent reports must also include data available from the latest reinsurance treaty year when the report is due.
- 4) Stipulates that insurers must promptly respond to inquiries from the Insurance Commissioner or their representative regarding the report.
- 5) States that the Commissioner must annually post an aggregated report of this data, which does not identify specific insurers, on the Department of Insurance’s website.
- 6) Specifies that in the event of a loss relating to a state of emergency, an insurer shall not require the insured to provide proof of loss sooner than 100 days after the loss.
- 7) Stipulates that in the event of a covered total loss of a dwelling resulting from a state of emergency, insurers must offer 60 percent of the personal property policy coverage limit, up to a maximum of three hundred fifty thousand dollars (\$350,000), without requiring the insured to file an itemized claim.
- 8) Makes findings stating that in order to protect consumers, avoid unfair competitive advantages or disadvantages, and protect proprietary information received by the state under the bill’s provisions, that information reported as such must be treated in a confidential manner.
- 9) Specifies that the above information submitted to the Insurance Commissioner is exempt from the California Public Records Act; that the information is not subject to subpoena or subpoena duces tecum; and that testimony by the Commissioner, the Commissioner’s staff, an employee of the Department of Insurance (CDI), or a person to whom the reporting was disclosed, regarding the contents of any report submitted is inadmissible as evidence in a civil proceeding.

- 10) Requires the Commissioner to post to the department's internet website an aggregated report based on the data collected pursuant to the bill.
 - a) Specifies that the report shall include only data and indices aggregated sufficiently to avoid identification of individual company reinsurance practices.
 - b) Specifies that the aggregated report shall not identify an individual respondent or insurer and shall may be updated every year to reflect new data submitted by admitted insurers as required by the bill.
- 11) Subjects, upon failure to submit the required report mentioned above, an admitted insurer to a civil penalty to be fixed by the Commissioner in an amount not to exceed \$5,000 for each 30-day period that the insurer is not in compliance. If the failure to comply is willful, the civil penalty is to be fixed in an amount not to exceed \$10,000 for each 30-day period that the insurer is not in compliance, but cannot exceed an aggregate amount of \$100,000.
 - a) Requires the Commissioner to collect the amount payable and authorizes the Commission to bring an action in the name of the people of the State of California to enforce collection.
 - b) Specifies these penalties are in addition to other penalties provided by law.
 - c) Authorizes a penalty to be appealed in a court of competent jurisdiction or through a formal hearing under administrative adjudication provisions of the Administrative Procedure Act.
 - d) Provides these provisions are the sole means for enforcement of the Act.
- 12) Authorizes an insurer to request, and the Commissioner to grant, a 30-day extension to submit a report if needed due to unintended or unforeseen delays. If the insurer fails to submit a report after the granted 30-day extension has passed, the Insurance Commissioner may find that the failure to submit the report was willful, and increase the civil penalty to an amount not to exceed \$10,000 for each 30-day period that the insurer is not in compliance, but not to exceed an aggregate amount of \$100,000.
- 13) Specifies that the penalty imposed may be appealed as specified.
- 14) Provides that in the event of a loss relating to a state of emergency, an insurer shall not require the insured to provide proof of loss less than 100 days after the loss; and requires the insurer to provide to the insured one or more additional extensions of three months for submission of proof of loss for good cause if the insured, acting in good faith and with reasonable diligence, encounters a delay in providing proof of loss that is beyond the control of the insured. Circumstances beyond the control of the insured include, but are not limited to specified facts and circumstances, where applicable to the specific claim.

EXISTING LAW:

- 1) Provides that the people have the right of access to information concerning the conduct of the people's business and, therefore, the writings of public officials and agencies shall be open to public scrutiny. Specifies that any law or rule that limits the public right of access shall be

adopted with findings demonstrating the interest protected by the limitation. (California Constitution, art. I, Section 3.)

- 2) Provides that, in enacting the California Public Records Act (CPRA), the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Government Code Section 7921.000.)
- 3) Provides that public records are open to inspection at all times during the office hours of a state or local agency and every person has a right to inspect any public record, exempted as otherwise provided; and that any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law. (Government Code Section 7922.525.)
- 4) Requires a public agency to justify withholding any record by demonstrating that the record in question is exempt under express provisions of this division, or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (Government Code Section 7922.000.)
- 5) Provides that a public agency's disclosure of confidential information or records to another governmental agency that agrees to treat the disclosed material as confidential does not constitute a waiver of any exemptions or privileges when the receiving government agency agrees to maintain confidentiality of the information. (Government Code Section 7921.505 (c).)
- 6) Provides for the regulation of insurance by the California Department of Insurance (CDI), which is under the control of the Insurance Commissioner (Commissioner). (Insurance Code Section 12921.)
- 7) Authorizes the Commissioner to issue subpoenas and subpoenas duces tecum for witnesses to attend, testify, and produce documents before the Insurance Commissioner, on any subject touching the insurance business, or in aid of their duties. (Insurance Code Section 12924.)
- 8) Provides that the acts and orders of the Commissioner are subject to such review, or other action by a court of competent jurisdiction, as is permitted or authorized by law. (Insurance Code Section 12940.)
- 9) Requires an admitted insurer with written California premiums totaling \$10,000,000 or more to submit a report to the Commissioner on its residential property experience data for the previous two years for policies written in California, including information on fire or wildfire-incurred losses. (Insurance Code Section 929.)
- 10) Specifies that the above information described in 9) is confidential and exempt from the California Public Records Act (CPRA); that information is not subject to subpoena or subpoena duces tecum; and that testimony by the Commissioner, the Commissioner's staff, an employee of CDI, or a person to whom the reporting was disclosed, regarding the contents of any report submitted is inadmissible as evidence in a civil proceeding. (Insurance Code Section 929.1.)

- 11) Requires the Commissioner to post a report on wildfire risk compiled from the data on the CDI's website. (Insurance Code Section 929.2.)
- 12) Requires an insurer to offer a payment under the contents coverage, generally referred to as personal property coverage, in an amount no less than 30 percent of the policy limit of the covered dwelling structure, up to \$250,000, without requiring the insured to file an itemized claim in the event of a covered total loss of a primary dwelling resulting from a state of emergency under a residential property insurance policy. (Insurance Code Section 10103.7 (b).)
- 13) Defines "state of emergency" as the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attack, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission. (Insurance Code Section 2051.5; Government Code Section 8558.)
- 14) Requires the insured to provide the insurer a written proof of loss within 60 days following the loss, unless this timeframe is extended by the insurer. (Insurance Code Section 6010.)

FISCAL EFFECT: As currently in print this bill is keyed fiscal.

COMMENTS: This bill, like a number of others introduced this year, was introduced in response to the January 2025 Los Angeles wildfires. The most significant provision of the bill, sponsored by Insurance Commissioner Ricardo Lara, increases the percentage of the personal property policy coverage limit without an itemized claim from the policyholder in the event of a covered total loss of a dwelling resulting from a state of emergency. The Assembly Committee on Insurance recently approved the bill by a vote of 15-0.

The provisions of the bill that are in this Committee's jurisdiction are related to the confidentiality of information submitted to the Insurance Commissioner; and the authority of the Commissioner to impose new civil penalties that are enforceable by an administrative proceeding and, if necessary, a civil action. According to the author:

Under current law, a homeowner experiencing a total loss from a declared emergency may recover an advance payment of 30%, or up to \$250,000, of the coverage limits of the insurance policy without an itemized claim. To receive the remainder of their policy payouts, homeowners are required to undergo the tedious and traumatizing task of creating an itemized list that includes the estimated value, age, and condition of every single item lost in the disaster. Even after policyholders complete a detailed inventory, many insurers only pay the depreciated value of these items unless the policyholder re-purchases and submits receipts for each and every item.

Due to the large scale of the January wildfires, many policyholders have been overwhelmed with the tasks of dealing with housing, family, employment, reconstruction, and other major adverse changes in their lives. SB 495 will ensure victims of future disasters receive expedited relief by removing the burdensome requirement to inventory home contents when filing insurance claims and provide more time for victims to submit proof of loss to their insurers.

Public Access to Public Records. Access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state. (Section 7921.000.) In 2004, the right of public access was enshrined in the California Constitution with the passage of Proposition 59 (Nov. 3, 2004, statewide general election), placed on the ballot by a unanimous vote of both houses of the Legislature. SCA 1 (Burton, Ch. 1, Stats. 2004) amended the California Constitution to specifically protect the right of the public to access and obtain government records: "The people have the right of access to information concerning the conduct of the people's business, and therefore . . . the writings of public officials and agencies shall be open to public scrutiny." (Cal. Const., art. I, sec. 3 (b)(1).) In 2014, voters approved Proposition 42 (Jun. 3, 2014, statewide direct primary election), placed on the ballot by a unanimous vote of both houses of the Legislature, (SCA 3 (Leno, Ch. 123, Stats. 2013), to further increase public access to government records by requiring local agencies to comply with the CPRA and the Ralph M. Brown Act, and with any subsequent statutory enactment amending either act, as provided. (Cal. Const., art. I, sec. 3 (b)(7).)

Under the California Public Records Act (CPRA), public records are open at all times during the office hours of a public agency for inspection by the public, unless exempted. (Section 7922.525.) A public record is defined as any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any public agency regardless of physical form or characteristics. (Section 7920.530.) Despite the CPRA's general rule that public records are open to inspection and subject to disclosure, the CPRA provides exceptions providing that a document, or a portion thereof, is not subject to public disclosure. An exemption can be explicit in the CPRA itself, pursuant to another law, or justified by the agency's determination that, based on the facts of the particular case, the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. (See Sections 7922.000, 7922.525, 7922.530.)

Existing law, Section 929 of the Insurance Code, requires certain insurers to "submit a report to the commissioner on its residential property experience data for the previous two years for policies written in California." Section 929.1 exempts such reports from disclosure to the public (even in response to a subpoena). Section 929.1 reads as follow:

929.1. Information submitted to the commissioner, as required by Section 929, shall be confidential pursuant to Section 7929.000 of the Government Code and exempt from the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code). Additionally, that information shall not be subject to subpoena or subpoena duces tecum. Testimony by the commissioner, the commissioner's staff, an employee of the department, or a person to whom the report required by Section 929 was disclosed, regarding the contents of any report submitted pursuant to Section 929, shall be inadmissible as evidence in a civil proceeding.

The Ability of the Insurance Commissioner to File Civil Enforcement Actions. While most state agencies are represented by the Attorney General in civil actions, the Insurance Commissioner has independent authority to bring (and defend) such actions. Under existing law, whenever the Commissioner believes, from evidence satisfactory to the Commissioner, that a person is violating or about to violate the Insurance Code -- or an order or requirement of the Commissioner issued or promulgated pursuant to authority expressly granted the Commissioner by the Insurance Code or by law--the Commissioner may do the following:

[B]ring an action in the name of the people of the State of California in the superior court of the State of California against the person to enjoin that person from continuing the violation or engaging therein or doing any act in furtherance thereof. In that action, an order or judgment may be entered awarding the preliminary or final injunction as is proper. (Insurance Code Section 12928.6 (a).)

In terms of authority to enforce a prior order, or penalty assessed by, the Commissioner:

The commissioner may apply to the clerk of the superior court for a judgment to enforce an order requiring a person to pay restitution, a monetary penalty, or reimburse the department for costs incurred by the department in prosecuting a matter. The commissioner's application shall include a certified copy of the order and any associated decision. (Insurance Code Section 12928.6 (b)(1).)

As a result of 2022 legislation, SB 1040 (Rubio), Chap. 540, Stats. 2022, the Commissioner may seek restitution, in addition to other penalties, from individuals found to have been selling insurance products without a license. (Insurance Code Section 12928.7.) SB 1040 additionally authorized the Commissioner to seek recovery of the Department of Insurance's costs related to investigating and prosecuting an action against unlicensed insurance sellers; and authorized the Commissioner to enforce an administrative judgment in court if the offender does not pay restitution and related penalties.

The bill. As mentioned above, the only provisions of the bill that are in this Committee's jurisdiction are related to the confidentiality of information submitted to the Insurance Commissioner; the limitation on public access to those records; and the authority of the Commissioner to impose new civil penalties that are enforceable by an administrative proceeding and, if necessary, a civil action. The bill requires admitted insurers with premiums from specified lines of \$50,000,000 or more to submit a report to the Commissioner that shall only include "data and information necessary to understand their reinsurance program placement data and use of catastrophe models for the previous policy year." According to the Commissioner:

A key element of my Sustainable Insurance Strategy is to expand the writing of insurance policies for consumers in wildfire areas and protect the long-term strength of the California insurance market. Having clear, point-in-time data on reinsurance and catastrophe modeling associated with wildfire risk will help protect the strength of the California insurance market and help address availability concerns. With this data, the Department will publicly aggregate results, evaluating short- and long-term market trends and scenarios.

Confidentiality of records and limits on their disclosure. The bill specifies that information submitted to the Insurance Commissioner is confidential and exempt from public disclosure pursuant to the CPRA. Additionally, the bill provides that this information is not to be subject to subpoena or subpoena duces tecum, and that testimony by the Insurance Commissioner, the

Insurance Commissioner’s staff, an employee of CDI, or a person to whom the reporting was disclosed regarding the contents of any report submitted under the Act is inadmissible as evidence in a civil proceeding. While the language substantially limits public access to records in the possession of CDI, it is identical to Section 929.1 of the Insurance Code in relation to information submitted by insurers regarding residential property experience data.

The terms for the information that is exempt from public disclosure under the bill—an insurer’s “reinsurance program placement data” and use of “probabilistic catastrophic models” for the previous year—are not defined in the bill. According to CDI, the terms are defined, at least for catastrophic loss modeling, in CDI regulations (reinsurance and catastrophe modeling are described in 10 C.C.R §§ 2644.25.2(h) and 2644.4.5(f), respectively). The bill’s legislative findings cast some light on what the information is, and why its disclosure could be contrary to an insurance company’s competitive business interests:

(a) Since 2006, the state of California has funded and undertaken four comprehensive climate change assessments designed to assess the impacts and risks from climate change. The most recent, California’s Fourth Climate Change Assessment, identified that if greenhouse gas emissions continue to increase, the frequency of extreme wildfires will increase.

(b) The Department of Insurance’s review of the multistate Climate Risk Disclosure Survey in 2023 showed that insurance companies commonly identified that the purchase of reinsurance is a primary strategy for addressing increased risks from catastrophic events such as wildfires and the use of catastrophe modeling is a prominent risk assessment tool.

...

(d) It is in the state’s interest to understand the trends in the insurance markets and the reinsurance strategies and models used by insurance companies, not only to expand the writing of insurance policies, but to understand the systemic risk to the solvency of insurance companies that write policies in wildfire-distressed areas.

(e) Regularly updated information will support the ability of the department to further understand the California residential and commercial property insurance market by providing point-in-time information so the department can evaluate reinsurance trends across the market.

Given that “reinsurance program placement data” and “probabilistic catastrophic models” are not defined in the bill, and the fact that the terms do not have a plain meaning and are not in common use (outside of the insurance industry), as the bill moves forward, the author may wish to amend the bill to define these terms.

Civil enforcement authority. The bill provides that the failure of an insurer to submit a report as required by the bill subjects the insurer to a civil penalty to be fixed by the Commissioner, not to exceed five thousand dollars (\$5,000) for each 30-day period that the insurer is not in compliance, unless the failure to comply is willful, in which case the civil penalty shall be in an amount not to exceed ten thousand dollars (\$10,000) for each 30-day period that the insurer is not in compliance, but not to exceed an aggregate amount of one hundred thousand dollars (\$100,000).

Importantly, the bill authorizes the Commissioner to collect the amount payable by the insurer and bring an action in the name of the people of the State of California to enforce collection.

This authority is consistent with a number of other existing sections of the Insurance Code, including the general power of the Commissioner described in Section 12928.6, and statutes that deal with specific types of violations and enforcement, such as the authority to collect losses caused by unlicensed individuals enacted by SB 1040, described above. (See Insurance Code Section 12928.7.)

Author's clarifying amendment. The bill in print is somewhat confusing because it says both that its civil penalties are “in addition to other penalties provided by law” and that its civil penalty provisions are “the sole means for enforcement of this article.” In order to address this internal conflict, the author proposes the following minor clarifying amendment to Insurance Code Section 937.4 (c) to read as follows:

(c) The penalty imposed by this section may be appealed by means of a remedy provided by Section 12940, or by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. ~~This section is the sole means for enforcement of this article.~~

(d) The commissioner may consider an insurer's violation of this section or article as the basis for other enforcement action against an insurer, as authorized by law.

ARGUMENTS IN SUPPORT: Consumer Watchdog writes that it is “in strong support of SB 495 to protect consumers from the onerous, traumatic and unnecessary burden of creating an itemized list of personal property for reimbursement under an insurance policy when a homeowner or renter suffers the total loss of their home.” It continues:

Having to submit an itemized list of belongings is an extreme hardship for someone who has just lost everything. The practice has been called re-traumatizing by disaster survivors who are forced to relive their loss in excruciating detail during the lengthy process of identifying room by room each belonging and memory that no longer exists.

REGISTERED SUPPORT / OPPOSITION:

Support

Department of Insurance (sponsor)
Consumer Watchdog

Opposition

None on file

Analysis Prepared by: Alison Merrilees / JUD. / (916) 319-2334