

Homeowner's Insurance

# New Rules Aim to 'Fix' Availability Crisis

**W**ITH THE California homeowner's market increasingly stressed with fewer and fewer insurers willing to write policies in the Golden State, the state insurance commissioner has floated a plan aimed at easing the crisis.

The main thrust of the new proposal is to make it easier for insurers to get their rate-hike requests approved, efforts that have been stifled due to laws that have been on the books since the early 1990s from a law known as Prop. 103. As well, insurers are limited in the types of data they can use to justify rate increases, which has constrained them from being able to ask for hikes that are adequate to cover their potential liabilities.

The proposed rule changes, along with others that are coming this year, are aimed at luring insurers back into the marketplace after one carrier after another has either stopped writing homeowner's insurance in the state altogether, or restricted how many policies they will write in California, and where.

While insurers are still writing policies in California, their numbers are shrinking, making renewals a difficult process for many homeowners. Insurers have also gotten pickier about properties they are willing to cover, with some setting limits on the age of a building and taking into consideration whether the property owner has filed any claims in the last three years.

## The commissioner's plan

Insurance Commissioner Ricardo Lara's proposed regulations, one of those prongs, would allow insurers to use catastrophe models to better predict insurance rates for wildfire, terrorism and flooding. Currently, they are only allowed to use historical claims data, which is backward-looking and does not account for the surge in risk and costs that's occurred during the last five to 10 years.

As well, they are not allowed to consider the growing risk caused by climate change, or wildfire risk mitigation measures taken by communities or regionally as a result of local, state and federal investments.

Mark Sektnan, vice president for state government relations for the American Property Casualty Insurance Association, said this change would go a long way towards addressing the insurance crisis in the state.

"As Californians grapple with record inflation and become increasingly vulnerable to climate-driven extreme weather, including catastrophic wildfires, this is a critically needed tool to help identify future risks more accurately and set rates that reflect our new reality," he said. "More accurate ratemaking will help restore balance to the insurance market and ensure all Californians have access to the coverage they need."

The trade-off for consumers will be the likelihood of more insurers coming back into

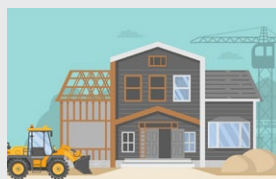
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## FOUR FACTORS BEHIND INSURANCE CRISIS



Massive wildfire insurance claim losses, which have increased exponentially

as wildfires have grown more destructive and in number.



The cost of rebuilding, which has surged as construction and material

costs have exploded.



The rising cost of reinsurance, which carriers buy to cover themselves if they have

catastrophic claims.



Difficulties in getting rate hikes approved.



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# Renting an E-scooter? Liability Coverage Gaps Lurk

**R**ENTAL ELECTRIC scooters have been sweeping across cities all over the country, and they are popular for taking quick jaunts around town without having to walk or drive a car.

Unfortunately, emergency rooms are seeing an increase in the number of people who have been injured in accidents when riding these scooters, or injured in accidents a rider causes.

And if you are riding one and you crash into a person's car or injure someone, it can present an insurance coverage dilemma that may leave you paying out of pocket.



## If a car hits you

If a car hits you when you are using an e-scooter and the motorist is at fault, their auto insurance would likely cover some or all of the accident-related costs, including medical costs you incur.

## If you are at fault

If you cause the accident and either injure a third party or cause property damage, you could be held liable for damages. There are three insurance policies that you may think will handle the claim:

**Auto insurance.** The standard auto insurance policy excludes liability coverage for vehicles with fewer than four wheels.

In fact, the agreement you sign for most e-scooters includes a warning that "your automotive insurance policies may not provide coverage for accidents involving damage to this vehicle."

**Homeowner's insurance.** This likely won't cover it either under the liability portion of the policy. The standard homeowner's form used by most insurance carriers excludes liability claims for "motor vehicle liability," an exclusion that is broad and encompasses e-scooters since they are "self-propelled land vehicles."

**Umbrella insurance.** These policies typically only provide protection for liability risks that are first covered by your auto or homeowner's insurance policy. In those cases, if the underlying policy excludes coverage for e-scooters, so would the umbrella policy.

However, not all umbrella policies have the same language. Some provide broader coverage. Call us to check if your policy contains exclusions that may bar coverage for e-scooter incidents.

## E-scooter companies' insurance

E-scooter rental companies offer limited liability policies in a few states. Lime, for example, provides every rider in California and Cincinnati, Ohio, with \$10,000 in liability coverage for damage or injuries caused by the rider.

Competitor Bird does not provide this type of coverage anywhere in the U.S., according to its website.

## A possible solution

In response to this coverage gap, the Insurance Services Office, which creates model insurance policy forms, recently updated one policy endorsement for recreational motor vehicle liability that removed the specific exclusions for electric scooters and electric bikes.

This policy rider is known as the Incidental Low Power Recreational Motor Vehicle Liability Coverage endorsement. Eliminating this exclusion means the endorsement may provide coverage for any recreational vehicle that meets the speed requirements of the endorsement and is not specifically excluded. ❖

## PROTECT YOURSELF

Always wear a helmet when riding an e-scooter.



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## Rate Hike Requests Can Take Years to Be Considered

the market to write homeowner's insurance in exchange for them asking for large rate hikes.

The latest proposed regulation follows another that was introduced in late February that would speed up approvals of rate-increase requests. These can sometimes take years if the Department of Insurance asks for more supporting documentation, which can reset the rate approval process, delaying final approval. Some insurers have waited more than two years to get their rate hikes even considered.

Current rules "lack clarity and fail to specify the exact materials and information required in a complete rate filing application given the change in times and increased complexity of filing," according to the Department.

This proposed rule codifies clearer instructions for what

supporting documentation insurers must submit when filing for rate increases.

## The takeaway

A public hearing on the proposed catastrophe-modeling regulations will be held on April 23 and it's the department's plan to get these new rules implemented by the end of 2024, along with the rules on speeding up rate-increase requests.

In the coming months, the department plans to propose additional regulations as well as legislation in order to get insurers to write business in the state again.

If enacted, it's hoped that the various planned changes will provide some relief to homeowners in the state.

We'll keep you posted as this develops. ❖

# Do Your Homework Before Buying Solar Panels

**A**S MORE people add solar panels to their homes, some are finding out after the fact that their insurer has exclusions for them or in some cases refuses to insure a home with them.

Homeowners that encounter these problems typically live in areas at increased risk of hailstorms and windstorms. In some cases, they may see their rates skyrocket if an insurer is willing to take on the risk.

Even homeowners in areas not susceptible to hail and windstorms should prepare for higher premiums if they are considering solar panels, since the overall replacement cost of the house will increase.

The bottom line: Check with us about your insurance before you sign on the dotted line on a solar panel contract.

## How they are covered

Homeowner's insurance policies may cover solar panels in two ways (barring any exclusions):

**Attached:** If the panels are attached to your roof, they are usually covered under the policy's "dwelling" coverage. This means that the insurer will pay to replace them up to the full value of your policy in the event of a covered event.

**Detached:** If the panels are mounted to the ground or to a detached garage or other structure, they may be covered under your policy's "other structures" coverage. This is typically set as a percentage of your overall coverage. So, if your dwelling coverage limit is \$600,000 and the percentage is 10%, your other structures coverage would be \$60,000. ❖

## TIPS TO CONSIDER BEFORE BUYING

- **Call us first.** Prior to signing a contract for solar panels, call us to see if your current insurance company will accept them. If they don't, we can look for a replacement carrier. If they do, we'll get a quote for your premium that includes the solar panels.
- **Increase your dwelling coverage.** You may need to increase your policy's dwelling coverage limit. Solar panels may raise the replacement cost of your home.
- **Prepare for rate increases.** Solar panels are expensive, and they will increase your premium.
- **Do the math.** If you find that your homeowner's insurance premium is going to significantly increase after installing the solar panels, you should calculate whether the lower energy bills will adequately offset your rate hike. Also, consider the cost of installing the solar panels.
- **Different approach for leased panels.** If you lease your solar panels or use a power purchase agreement, the solar company may insure the panels themselves. Some but not all. Others will require that you add them to your homeowner's policy.
- **Additional coverage option.** Some insurers offer coverage specific to solar panels. This is usually provided as an endorsement to your homeowner's policy or as a separate policy. These policies will offer additional coverage of damage to panels or loss of panels due to theft.





## Personal Safety

# Pedestrian Deaths Surge to 42-Year High

**W**E'VE TOLD you before about the increasing number of car accidents and vehicular injuries – many of them resulting in deaths – that many observers attribute to distracted driving. But what you may not know is that pedestrian fatalities are now at a 42-year high and seem to be continuing to increase unabated.

A recent report by the Governors Highway Safety Association (GHSA) found that 7,508 pedestrians were killed in traffic crashes in 2022, the highest number of pedestrian deaths since 1981.

Many large cities have seen pedestrian deaths soar. In Los Angeles, such fatalities have jumped 80% in the last three years.

The problem is largely in cities, and often the deaths occur when a driver isn't paying attention and turns right into a crosswalk as people are crossing the street.

And while you may feel that since you're not out walking much, or that the chances of being hit are small in your neighborhood, remember that everyone is a pedestrian at some point. Even if you drive a car, ride a bike or take public transit, your journey always begins and ends on foot.

Also, as we become more fitness-conscious and with the growing use of fitness trackers like FitBit, more people are walking. Many people also have opted to walk for environmental reasons.

With all this in mind, pedestrian safety needs to be a top priority for everybody.

## SHOCKING STATISTICS

- Speeding was involved in 8.8% of pedestrian deaths.
- 19% of pedestrian fatalities in 2021 involved a driver with a BAC of 0.08 or higher.
- 77.1% of deaths occurred after darkness.
- 1.2% of fatalities after dark occurred in conditions with artificial lighting.
- 68 % of pedestrian fatalities are happening where no sidewalk was noted on the crash report.

Source: *Governors Highway Safety Association*

## TIPS FOR PEDESTRIANS

- If you are out walking, don't do so while listening to music with earbuds or headphones.
- Always be aware of what the vehicles driving near you are doing.
- If there are no sidewalks, always walk against the flow of traffic on the side of the road so you can see any erratic drivers coming.
- At crosswalks, check for cars before walking.
- Look both ways when crossing the street.

## TIPS FOR DRIVERS

- Don't use your smartphone at all when driving (no texting, chatting or talking).
- Always be aware of the other vehicles you share the road with, as well as pedestrians.
- Be especially careful and reduce your speed when driving at dusk and at night in residential areas.
- Remember, pedestrians have the right of way. Yield for them at crosswalks and zebra crossings.

## Distractions

One rising danger is distracted driving. Deaths from distracted driving account for 10% of all fatal crashes. About 12% of people killed due to distracted driving are pedestrians.

What remains unknown is how many pedestrians who were killed in a crash involving a distracted driver may have been distracted themselves. Recent research shows that many people are also engaging in distracted walking, usually typing on their smartphones or engaging in chats while walking.

Researchers at The Ohio State University found that between 2004 and 2010 the number of pedestrians killed while using a cell phone increased from less than 1% to 3.6%.

Additionally, the GHSA report found that 30% of pedestrians who were killed by vehicles were under the influence of alcohol. ❖