

ASSEMBLY BILL

No. 188

Introduced by Assembly Member Daly

January 10, 2019

An act to amend Section 2051 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 188, as introduced, Daly. Fire insurance: valuation of loss.

Existing law generally regulates classes of insurance, including fire insurance. Existing law provides that the measure of indemnity in fire insurance under an open policy is the expense to replace the thing lost or injured in its condition at the time of the injury, with the expense computed as of the start of the fire. Existing law also provides that under an open policy that requires payment of actual cash value, the measure of the actual cash value recovery is the policy limit or the fair market value of the structure, whichever is less, in the case of a total loss to the structure. In the case of a partial loss to the structure or loss to its contents, the actual cash value recovery under existing law is the amount it would cost the insured to repair, rebuild, or replace the thing lost or injured less a fair and reasonable deduction for physical depreciation based upon its condition at the time of the injury or the policy limit, whichever is less.

This bill would delete the provisions regarding the actual cash value of the claim of total loss to the structure and would instead require that the actual cash value of the claim, for either a total or partial loss to the structure or its contents, be the amount it would cost the insured to repair, rebuild, or replace the thing lost or injured less a fair and

reasonable deduction for physical depreciation based upon its condition at the time of the injury or the policy limit, whichever is less.

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

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

1 SECTION 1. Section 2051 of the Insurance Code is amended
2 to read:

3 2051. (a) Under an open policy, the measure of indemnity in
4 fire insurance is the expense to the insured of replacing the thing
5 lost or injured in its condition at the time of the injury, the expense
6 being computed as of the time of the commencement of the fire.

7 (b) Under an open policy that requires payment of actual cash
8 value, the measure of the actual cash value recovery, in whole or
9 partial settlement of the claim, shall be determined as follows:

10 ~~(1) In case of total loss to the structure, the policy limit or the~~
11 ~~fair market value of the structure, whichever is less.~~

12 ~~(2) In case of a partial loss to the structure, or loss to its contents,~~
13 ~~claim, for either a total or partial loss to the structure or its~~
14 ~~contents, shall be~~ the amount it would cost the insured to repair,
15 rebuild, or replace the thing lost or injured less a fair and reasonable
16 deduction for physical depreciation based upon its condition at the
17 time of the injury or the policy limit, whichever is less. In case of
18 a partial loss to the structure, a deduction for physical depreciation
19 shall apply only to components of a structure that are normally
20 subject to repair and replacement during the useful life of that
21 structure.