

Colo. Insurance Bills Offer Promise But Uncertain Costs

By **Eli Flesch**

Law360 (April 17, 2025, 8:48 PM EDT) -- Colorado lawmakers are contemplating insurance bills that experts say could help improve the state's market by boosting home resilience, but there are still cost concerns and skepticism that other proposals are workable, like a state reinsurance program.

House bills 1182 and 1302 are being regarded as twin approaches to helping consumers in a state beset by major wildfires and damaging hailstorms. They include provisions for a home hardening grant program, and requirements that insurers offer premium discounts if their policyholders take measures to protect their homes.

The legislation is being considered against the backdrop of another insurance development: the launch of the **Colorado FAIR Plan**, a last-resort insurance pool. The program aims to insure some of the highest-risk properties in Colorado, belonging to property owners who have been declined coverage from at least three carriers.

"When I take a look at the FAIR Plan, and H.B. 1182 and 1302 — each one of them has costs that are imposed upon homeowners," said Christopher R. Mosley, a Denver-based policyholder attorney with Reed Smith LLP.

That's because the FAIR Plan is funded by insurers, which could pass costs back to policyholders, Mosley told Law360. Meanwhile, H.B. 1182 would require homeowners to incur costs to make their properties more resilient — though Mosley said those costs could potentially be offset depending on the size of the premium discounts. Experts say H.B. 1182 gives insurers a good degree of latitude on the discounts they could offer.

Under the bill — currently before Gov. Jared Polis' desk — insurance companies would be required to offer discounts if they don't incorporate property-specific and communitywide mitigation measures into the models they use to help price policies.

The costs included in H.B. 1302 are more straightforward, Mosley said. The bill, currently before the House finance and appropriations committees, would create a home hardening grant program and a reinsurance program funded by fees placed on homeowners insurance policies. Under the current bill language, there would be a 0.5% fee on premiums collected by insurers on homeowners' insurance policies.

Experts also say home hardening measures would eventually help bring down costs by reducing losses that could be passed back to consumers.

The fee supporting the grant program wouldn't apply to certain properties with resilient roofs, but experts say that roofs in Colorado often aren't built to the best standards. One insurance company — State Farm — reported in March that Colorado was the fourth costliest state in reported hail damage to the insurer, with \$521 million in damage in 2024.

Rep. Brianna Titone, a Democrat representing a Denver-area district and a prime sponsor of H.B. 1182, told Law360 that many homeowners aren't aware they can obtain insurers' wildfire risk scores for their property, and said they deserved access to that information, along with clear guidance on how to lower their risk.

"This bill will help refine wildfire risk models by incorporating more accurate and detailed data, while also ensuring that community-wide, statewide, and electric utility mitigation efforts are reflected in those models," she said in emailed comments. "The result will be better-protected communities and lower insurance premiums."

Titone added that communities are also often left guessing as to what mitigation actions insurers view as effective. As a result, she said, some homeowners may spend money on projects that don't align with insurers' expectations or don't lead to a reduction in their perceived risk. Sometimes extensive mitigation work fails to meet certification standards and provides no insurance benefit, she said.

"I've heard stories where homeowners received notices of policy cancellation due to an alleged risk — such as having too many trees near their homes — only to discover that the GPS data used by the insurer pointed to a nearby forest, not their actual property," she said. "In reality, there were no trees close to the home."

Both bills have been reworked to help address insurer concerns, according to Carole Walker, executive director at the Rocky Mountain Insurance Information Association.

For example, she said H.B. 1182 was revised to specify that property-specific mitigation actions reflect standards established by the Insurance Institute for Building and Home Safety, an industry-supported nonprofit that researches strong construction practices.

Walker also said that H.B. 1302, with its proposed reinsurance and mitigation programs, could take time to have an effect if passed. She noted that a natural disaster mitigation enterprise established by a 2021 bill, H.B. 1208, has only just started to give out grants.

"In our experience, these enterprises take years to set up," Walker told Law360.

Experts have expressed skepticism before with respect to state-run reinsurance programs. The global private market for insurers' coverage is robust, they argue, while the money governments could hope to bring in to backstop carrier losses could be insufficient, given the massive losses associated with climate change and increased repair costs — a problem that could only get worse as tariffs disrupt supply chains.

Still, there is support for government reinsurance programs, particularly from consumer groups who view the possibility of competition in the reinsurance market as positive, and a potential answer to a global market that is largely out of U.S. regulators' purview.

Under H.B. 1302, the reinsurance enterprise would be funded by a combination of premium fees, bonds issued by the enterprise, insurer fees, and bond investments.

Together, experts said the bills could improve insurance availability in Colorado, especially if carriers accept any enhanced regulatory measures.

"All this is, I think, complimentary," said Susan Minamizono, a policyholder attorney with Levin Sitcoff PC who represents Marshall Fire victims. "It's crucial moving forward."

Expressing empathy for victims of climate change-related disasters, Minamizono said there's a strong interest in Colorado in dissuading carriers from fleeing the state, as they have in others like California, where major insurers still aren't selling new homeowners policies.

Minamizono also said she's seeing language in policies incentivizing rebuilding to stronger standards to protect against hail risks. Policies for properties in high fire-risk areas might incentivize the use of fire-resistant materials, but the language is more common for hail, she said, adding she expected to see more of that kind of language.

The efficacy of mitigation measures can vary significantly by community, according to Hussam Mahmoud, an engineering professor at Colorado State University. Modeling fire risk should consider two key factors, he said: the probability of an ignition, and the ensuing likelihood that a structure will burn as the fire spreads, or propagates.

"Existing models developed by insurance companies do not model the propagation," Mahmoud told Law360. "They're not meant to do that. They are developed to give a score to each building based on what surrounds it and what's nearby."

Mahmoud said collecting data to refine models and make better assessments of fire risks can also be challenging and a source of uncertainty. High wind speeds, for example, made fires like those in Los Angeles earlier this year even more destructive, and hindered efforts to extinguish the blazes. And something that's "absolutely missing" in fire modeling, Mahmoud said, is information on how buildings affect the behavior of wind.

Methods for measuring that behavior on a small scale is very tedious and community-specific, he said, but advancements in artificial intelligence could help, as would more devices that help measure wind speed, he said in an interview.

A spokesperson for the Department of Insurance didn't respond to requests for comment. Colorado insurance commissioner Michael Conway supports H.B. 1302, according to testimony to the Legislature.

Coloradans have been experiencing a difficult market with high premiums, as disasters like the 2021 Marshall Fire revealed that many homeowners — almost two-thirds by the state regulators' estimate — didn't have adequate coverage to defray their loss.

Legislators took steps to alleviate insurance issues by approving bills in 2023 to create the FAIR Plan, and increase coverage limits for certain policies. Still, those measures were watered down in the legislative process, insurance experts said at the time.

The coverage limit bill, for example, initially contained a provision that would have required insurance companies to offer guaranteed replacement cost coverage, a type of policy that covers full reconstruction costs, even if the loss exceeds policy limits.

The final bill, approved by Polis, set higher limits for extended replacement coverage, which

is added on to homeowners policies, and law and ordinance coverage, which helps pay for costs associated with rebuilding a damaged structure to code.

--Editing by Bruce Goldman and Leah Bennett.