

From: [Elliott, Lyn](#)
To: [Rep. Matt Claman](#)
Cc: [REDACTED]
Subject: Follow-up on HB 29 Meeting
Date: Thursday, April 01, 2021 3:15:11 PM
Attachments: [image001.png](#)
[image002.png](#)
[Property Insurance - 2020 The Year in Review v2.1.pdf](#)

Dear Representative Claman,

Thank you for the opportunity to talk to you today about HB 29. American Property Casualty Insurance Association (APCIA) appreciates your willingness to better understand our concerns. We are hopeful we will be able to address them with respect to the legislation. As follow-up to our call today I have provided the information you requested below.

First, the APCIA 2020 Property Report is attached. It reviews catastrophe and wildfire events over the past year and the implication for property insurance. We shared this with the Anchorage Daily News along with the below statement:

2020 resulted in another year of record-breaking weather-related catastrophes, such as hurricanes and wildfires, further straining the property insurance market. Population and housing growth in hazard-prone areas coupled with the effects of climate change are driving higher frequencies of weather-related catastrophes, leading to a perpetually higher than average number of billion-dollar loss events, and in turn increasing insurance costs for consumers. The American Property and Casualty Insurance Association (APCIA) is very concerned climate change will continue to present increasing threats, particularly in western states currently in severe drought, prone to wildfires, and experiencing increased volume of communities built in the wildland urban interface. Building resilient communities to mitigate future losses must become a critical priority for the insurance industry and all other key stakeholders.

APCIA has several concerns with proposed legislation, HB 29.

Any policy action that may potentially afford civil liability immunity should be approached with extreme caution, and establish specific criteria and standards to qualify. The bill as proposed would require utilities to have a "vegetation management plan". However, proposed language is vague as it lacks any clear standard for what requirements should be in a plan, nor does it identify a governing authority or regulator responsible to provide oversight to determine whether a plan is in compliance.

Numerous western states have recently passed legislation, or have bills currently pending to help address the challenges of managing utilities amid growing wildfire exposure. Legislation has mostly focused on the following policy solutions.

- Establishing standards for vegetation management for electric utilities, which may then be used to determine utility liability for alleged negligence.
- Identifying or creating a regulatory body to manage the above, including a robust approval process to ensure vegetation management plans meet standards.

- Standardizing right-of-way (ROW) width to grant utilities appropriate access to implement vegetation management plans, including addressing high-risk vegetation outside of easements / lands not owned, which may present a threat utility equipment and in turn public safety.
- Creating budget funds to help facilitate implementation of vegetation management plans

Insurers do not support limiting or restricting any legal rights to pursue subrogation to recover claim costs, including allowing the courts to determine negligence based on a complete review of the facts. Subrogation is an important tool used by insurers to recoup costs which in turn helps keep insurance premiums affordable. Thus, insurers are particularly concerned of this proposal at a time when claim costs are on the rise and trends showing no sign of easing.

Second, you asked for links of laws that have already been passed. Below are links to CA, CO and UT.

Laws that have been enacted in Prior Years...

CA – SB 901 (omnibus bill, see updates to Section 8386 of PUC)

https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB901

Laws Governing Vegetation Management:

- [California Public Resource Code](#) Sections
 - 4293: Power Line Clearance Required
 - 4292: Power Line Hazard Reduction
 - 4291: Reduction of Fire Hazards Around Buildings
 - 4171: Public Nuisances
- [California Code of Regulations](#), Title 14: Minimum Clearance Provisions, Sections 1250 - 1258
- General Industry Safety Orders, Title 8: Group 3: Articles 12, 13, 36, 37,38
- California Penal Code Section 385
- California Public Utilities Commission, [General Order 95: Rule 35](#)

UT – HB 66 - <https://le.utah.gov/~2020/bills/static/HB0066.html>

Also, this background analysis from a group of CO co-ops is a great resource regarding utility liability, vegetation management plans and right of way access, and we may be able to source some language for a written letter from this. Short answer, changing the liability alone is not enough... you need a more comprehensive strategy, including very clear vegetation management standards and adjusting Right-of-Way policies if needed, to ensure utilities can mitigate all threats to their equipment that pose a public safety hazard.

https://crea.coop/wp-content/uploads/2020/08/CREA_WhitePaper_WildfireMitigationVegMgmt_Web.pdf

This report by CREA outlines three policy options that can be adopted individually or together to address the concerns of Colorado's electric cooperatives about wildfire risk:

1. **Setting Standards for Vegetation Management:** The development of appropriate standards for vegetation management for electric utilities may establish a standard of care that would clarify utility liability for alleged negligence. This section looks at both California and Utah laws that have attempted to standardize vegetation management plans through a regulatory body.
2. **Evaluating Utility Right-of-Way (ROW) Policies:** Standardizing rights-of-way would improve the implementation of vegetation management plans. Policymakers in Missouri were able to address ROW inconsistencies by passing legislation that implements a standard ROW width which standardized ROW contracts, giving utilities the ability to better coordinate and execute their vegetation management plans.
3. **Clarifying Colorado's Wildfire Liability Law When a Wildfire Occurs:** The current liability law suggests that any entity can be held liable if it is found to have acted negligently and caused a fire. However, without clear standards or best practices, it is unclear if a utility's vegetation management plan is sufficient to protect the utility from liability. Due to the limitations on acquiring insurance, it is imperative to address the liability concerns or adopt a policy that would allow for the state to operate an insurance fund for wildfire recovery like California or like Florida's Hurricane Catastrophe Fund.

Third, I will follow up and get an answer to you on your coverage question as it relates to both residential and commercial policies.

Finally, Karen and I will put a hold on our calendars for Friday April 9, at 1 pm AK time for the committee hearing, and wait to hear from Lizzie with dial-in information. Please let me know if I may be of further assistance.

Many thanks,
Lyn

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