

Colorado Legislature Establishes Disaster Resilience Rebuilding Program & Fund

As events over the past few years have demonstrated, massive wildfires are an increasingly common occurrence in Colorado—with devastating effects. According to the [state](#), four of the five largest wildfires in Colorado history, in terms of acreage, have occurred since 2018. Urbanized areas are not immune--the 2021 Marshall Fire was the most devastating in Colorado history, with 1,084 homes destroyed and total losses [estimated](#) by some insurance industry experts in excess of \$1 billion.

Much of the focus of wildfire recovery is on replacing destroyed buildings. Fortunately, and in sharp contrast to the enormous losses faced by other property owners, CIRSA members have suffered no losses of buildings from recent wildfires. But, as the Marshall Fire has shown, municipalities can face a variety of significant, unanticipated losses when a wildfire occurs in an urbanized area. These losses can include but are not limited to damages to transportation infrastructure and loss of taxes, utility fees, and other revenue sources that were adversely affected by wildfire.

While property insurance coverages—including CIRSA’s coverage for its members—are specifically designed to address the direct physical loss of or damage to a member’s property, certain other types of properties and losses are excluded either because insurance cannot support their enormous replacement cost, or because the loss is not the result of direct physical loss.

For example, roads and sidewalks are property excluded from CIRSA’s coverage form, though some related improvements, like street lights, may be covered depending on the cause of loss. As another example, “business interruption” or “loss of business income” coverage applies in certain circumstances when direct physical loss or damage to the member’s property, caused by a covered cause of loss, results in a loss of revenue. But, if the revenue loss arises from damage to other property—for example, a sharp decline in utility revenues resulting from destruction of many private homes—the “business interruption” element of the member’s property coverage would not apply.

In the aftermath of the Marshall Fire, the Colorado Legislature has taken note of these complexities, and has adopted new funding mechanisms to potentially help municipalities fill unmet needs not covered by other sources of assistance. Particularly, municipalities affected by state-declared wildfire disasters or other emergency disasters declared by the Governor in or after 2018 will want to take note of the newly-created Colorado Disaster Resilience Rebuilding Program and Fund (the “Program”), which was created by [Senate Bill 22-206](#) (“SB 206”).

Among other provisions, SB 206 authorizes loan or grant funds from the Program to be used to reimburse governmental entities for unmet needs not covered by available federal assistance. These needs may include, but are not limited to: “(I) rebuilding or repairing transportation infrastructure; (II) health and safety improvements or investments related to disaster recovery and resiliency; or (III) replacement of lost revenue from sales taxes, property taxes, public utility or service fees, or other revenue sources that were negatively affected by a declared disaster.” SB 206 also establishes other new funding sources for certain recovery initiatives, including assistance with the costs of “green

building” upgrades and grants or loans to housing authorities to repair or reconstruct housing stock in an area affected by a declared disaster.

There are many details in SB 206 and the Division of Local Government (“DOLA”) will need to develop guidelines for administration of the Program. However, with the enactment of SB 206 and funding of the Program, the Legislature has recognized that municipalities may now and in the future face unique losses from declared disasters that are not eligible or well-suited for funding via federal assistance or typical public entity insurance coverages.

If your entity is interested in learning more about new SB 206 funding programs, DOLA has encouraged you stay in touch with your regional DOLA manager for more information, and you will want to also want to check DOLA’s website, <https://cdola.colorado.gov/local-government> frequently for more information as it is made available.

If your entity has questions about CIRSA’s property coverages, either generally or as related to potential losses from wildfires or other natural disasters, you can contact your entity’s CIRSA Underwriting Representative or Claims Representative. If you are facing a specific loss situation, we may suggest that you file a claim so that specific circumstances can be investigated and a determination made.