

Date of Hearing: May 1, 2025

Fiscal: Yes

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Rebecca Bauer-Kahan, Chair

AB 75 (Calderon) – As Amended April 22, 2025

SUBJECT: Residential property insurance images

SYNOPSIS

Recently, insurers have increasingly used aerial images of properties to assess risk and determine policy renewals. Insurers argue that this practice improves safety by eliminating the need for evaluators to climb roofs or enter potentially dangerous environments. They also claim it is less intrusive than traditional in-home inspections, as it does not require entry into the policyholder's home.

However, several concerns have been raised. Aerial photos are often taken without notifying the policyholder, amounting to surveillance and an invasion of privacy. Additionally, these images are frequently used in underwriting and nonrenewal decisions without disclosure to the policyholder, leaving them with little agency in the process. This practice has become increasingly common in California, where insurance nonrenewals are on the rise.

This author-sponsored bill seeks to increase transparency around the use of aerial imagery by insurers. It would require insurers to notify policyholders before aerial photos are taken and allow policyholders to request copies of the images. If an adverse underwriting decision or nonrenewal is based on an aerial photo, the insurer must provide the photo to the policyholder. The bill also requires insurers to offer an option for an in-person inspection in cases of adverse decisions and to allow policyholders the opportunity to remediate cited issues, where feasible, before the decision takes effect.

The bill is supported by the California Association of Realtors and California Insurance Commissioner Ricardo Lara. It is opposed, unless amended, by the American Property Casualty Insurance Association, the Consumer Federation of California, and the Privacy Rights Clearinghouse.

This bill was previously heard by the Insurance Committee, where it passed with a 15-0-2 vote.

THIS BILL:

- 1) Defines “aerial image” to mean an image or video collected by aircraft or satellite, whether or not that aircraft or satellite is operated with the possibility of direct human intervention.
- 2) Requires an admitted insurer to notify a residential property insurance policyholder if any aerial images will be taken or obtained of the insured property during the policy period by, on behalf of, or in service of the insurer.
- 3) Requires the notice pursuant to 2) to include certain information and to be provided at least annually, including with the initial policy issuance and upon each renewal, on a separate page from any other notice, information, or disclosure.

- 4) Requires that an admitted insurer to provide any aerial images taken or obtained of the insured property to the policyholder upon request within 30 days of receiving that request.
- 5) Prohibits an admitted insurer from basing an adverse underwriting decision in whole or in part on an aerial image taken more than 45 days prior to sending notice of that adverse underwriting decision to the policyholder unless the conditions pertaining to the adverse underwriting decision have been verified as accurate, persistent, and valid by an in-person physical inspection of the insured property conducted no more than 45 days prior to sending the notice of the adverse underwriting decision.
- 6) Requires that, if an admitted insurer bases an adverse underwriting decision in whole or in part on an aerial image, the aerial image must be provided to the policyholder along with the notice of that adverse underwriting decision
- 7) Permits a policyholder that has been subject to an adverse underwriting decision based in whole or in part on an aerial image to request that the admitted insurer conduct an in-person physical inspection of the property to verify the accuracy, persistence, and validity of the conditions pertaining to the adverse underwriting decision as depicted in the aerial image.
- 8) Requires an admitted insurer that bases an adverse underwriting decision in whole or in part on an aerial image to provide the policyholder with the opportunity to remedy the conditions pertaining to the adverse underwriting decision to the extent possible, and to verify remediation, before the effective date of the adverse underwriting decision. The policyholder may verify remediation by in-person physical inspection pursuant to 7) or by otherwise providing evidence of remediation in a manner set forth by the admitted insurer.

EXISTING LAW:

- 1) Requires an insurer to provide a notice of nonrenewal at least 75 days before policy expiration that includes the specific reason or reasons for the nonrenewal, the telephone number of the insurer's representative who handles consumer inquiries or complaints, and a statement pertaining to availability of review by the Department of Insurance (CDI). (Ins. Code § 678.)
- 2) Provides several rights to natural persons who are the subject of information collected, received, or maintained in connection with insurance transactions, and policyholders who engage in or seek to engage in these transactions (Ins. Code § 791.01(b)); and prescribes standards for the collection, use, and disclosure of personal information gathered in connection with insurance transactions by insurance institutions, agents, or insurance-support organizations (Ins. Code § 791 et seq.)
- 3) Requires an insurance institution or agent to provide a notice of information practices to all applicants or policyholders at the time of delivery of the insurance policy when personal information is collected from the applicant, or at the time the collection of personal information is initiated when personal information is collected from a source other than the applicant. In the case of a policy renewal, requires that the notice be provided no later than the policy renewal date, but provides that no notice is required in connection with a policy renewal if personal information is collected only from the policyholder, an insured under the policy, or public records, or if a notice has been given within the previous 24 months. (Ins. Code § 791.04.)

- 4) Defines “personal information,” for purposes of these rights and standards, to mean, any individually identifiable information gathered in connection with an insurance transaction from which judgements can be made about an individual’s character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristic. (Ins. Code § 791.01(s).)
- 5) Provides that a person is liable for physical invasion of privacy when the person knowingly enters onto the land or into the airspace above the land of another person without permission or otherwise commits a trespass in order to capture any type of visual image, sound recording, or other physical impression of the plaintiff engaging in a private, personal, or familial activity and the invasion occurs in a manner that is offensive to a reasonable person. (Civ. Code § 1708.8.)
- 6) Establishes the CCPA, which grants consumers certain rights with regard to their personal information, including enhanced notice, access, and disclosure; the right to deletion; the right to restrict the sale of information; and protection from discrimination for exercising these rights. Places attendant obligations on businesses to respect those rights. (Civ. Code § 1798.100 et seq.)

COMMENTS:

1) **Author’s statement.** According to the author:

As the California homeowners’ insurance market tightens, insurers are desperate for ways to cut costs and reduce risk exposure. One way insurers are doing so is by conducting aerial inspections of properties using drone, aircraft, and satellite imaging as an alternative to traditional on-site property inspections to evaluate risk and insurability. Unfortunately, this practice has led to a spate of reports of homeowners who were blindsided when their insurance policies were not renewed based on purported evidence from aerial images that they didn’t know were taken, and didn’t have the opportunity to review. In many of these cases, after weeks or months of back-and-forth with insurers to review the evidence underlying their nonrenewal decision, the aerial images turned out to be inaccurate, outdated, or misleading.

AB 75 requires insurers to provide at least 30 days’ notice before collecting aerial images of an insured property, and to provide those images to the homeowner upon request. This would empower homeowners with the transparency necessary to protect their privacy, and to review and contest unjust or unsubstantiated non-renewals.

2) **Aerial Images.** Actuaries have long used a variety of metrics, including location and the history of a home, to assess risk and issue policies and underwriting decisions that reflect that risk. Traditionally, these assessments were performed by an insurance agent conducting an in-person inspection of the property. However, with technological advancements, aerial images captured by flyover planes, drones, or satellites have become commonplace in the home insurance industry’s risk assessment process.

In California, insurers are required to disclose the reason for any adverse underwriting decision, such as a loss of coverage or a nonrenewal of a policy. Yet many policyholders have been caught off-guard by nonrenewals citing issues identified through aerial imagery, a method they were often unaware was being used.

Historically, aerial images were primarily used to assess areas recently impacted by natural disasters, where debris and hazards made it too dangerous for in-person inspections. However, these practices have become routine for many property insurers as a cost-effective way to quickly access vast amounts of information about properties. As *Forbes* notes, aerial imagery provides insurers with a rapid and inexpensive method of evaluating risk at scale:

When used correctly, [aerial images] are less invasive, cost-effective and provide a high degree of consistency. Insurers can use high-resolution aerial imagery to gain a precise, timely view of a property and capture its condition from multiple angles. Some insurers apply AI to that imagery to gain more comprehensive information than a person could provide.¹

In theory, the use of aerial imagery should enable insurers to make better, more accurate decisions regarding policies. However, there have been numerous instances where aerial images have been misused, leading to incorrect nonrenewals. For example, a San Francisco resident received a nonrenewal notice based on an aerial photo showing water pooling on her roof. The image, however, had been taken immediately after a rainstorm, making the pooling unsurprising and not indicative of any structural issue. Despite hiring a roofer who confirmed the roof was in good condition and presenting this evidence to the insurer, her policy was still not renewed.² Similarly, a Monterey County resident received a nonrenewal notice based on aerial images, not of their own property, but of their neighbor's.³ Although this case was ultimately resolved, it caused significant, unnecessary stress in a state already grappling with an insurance crisis. Other similar incidents have been reported in San Francisco and San Carlos.^{4,5}

These decisions are likely further complicated by the use of artificial intelligence, often with minimal human oversight. A report from *The Wall Street Journal* last year detailed how some homeowners were issued nonrenewal notices based on photos that were two to three years old, meaning that even if a homeowner had replaced a roof or corrected an issue, they could still be unfairly penalized.⁶ In another case, an insurer issued an adverse underwriting notice for “hanging tree limbs,” which upon closer inspection, turned out to be mere shadows captured in the photo.⁷ These circumstances have created widespread uneasiness about how aerial images are used in the property insurance process and whether there is clear human intervention in the process, leaving many policyholders uncertain about how to challenge or navigate these opaque practices.

¹ David Tobias, “Understanding Aerial Inspections In The Insurance Space,” *Forbes* (Oct. 14, 2024), <https://www.forbes.com/councils/forbesbusinesscouncil/2024/10/14/understanding-aerial-inspections-in-the-insurance-space/>

² Megan Fan Munce, “Insurers are using satellite images to inspect homes in California — and dropping policies in the process,” *San Francisco Chronicle* (Oct. 26, 2024), <https://www.sfchronicle.com/california/article/home-insurance-satellite-photo-19497336.php>.

³ *Ibid.*

⁴ Stephanie Sierra, “‘Mold, algae’: Insurer drops SF homeowners, citing aerial footage of roof that didn’t exist,” *ABC* (Dec. 12, 2024), <https://abc7news.com/post/mold-algae-moss-insurance-drops-san-francisco-homeowners-citing-aerial-footage-roof-inspector-refutes-report/15641999/>.

⁵ Max Darrow, “San Carlos family says insurer dropped them without warning after aerial photos,” *CBS News* (Aug. 13, 2024), <https://www.cbsnews.com/sanfrancisco/news/san-carlos-family-says-home-insurer-dropped-them-with-no-warning-over-oak-tree/>.

⁶ Jean Eaglesham, “Insurers Are Spying on Your Home From the Sky,” *The Wall Street Journal* (Apr. 6, 2024), <https://www.wsj.com/real-estate/home-insurance-aerial-images-37a18b16>.

⁷ *Ibid.*

3) **What this bill would do.** This bill would require insurers to adopt greater transparency in their use of aerial images for adjusting rates and making nonrenewal decisions. It would also provide policyholders with multiple avenues to ensure recourse in cases of adverse underwriting.

Specifically, the bill would mandate that insurers notify policyholders annually that aerial images may be taken of their property. Insurers would also be required to provide at least 30 days' advance notice before any photos are taken. Policyholders would have the right to request copies of any aerial images captured and used by their insurer. If an aerial image is used to inform an adverse underwriting decision, the photo must be no older than 45 days from the date of the notice, protecting policyholders from decisions based on outdated information. Additionally, insurers must include any such images alongside the notice of the adverse underwriting.

The bill would also require insurers to offer policyholders the option of an in-person inspection to validate information gathered from aerial imagery. This provision aligns with existing California laws, including the California Consumer Privacy Act (CCPA), which grants consumers the right to correct personal information collected by businesses. Furthermore, the bill would require insurers to give policyholders the opportunity to remediate the cited issue, if feasible, and to have the property's risk reevaluated before the adverse underwriting takes effect.

Lastly, the bill mandates an annual notice informing policyholders of the aforementioned rights: the right to request aerial images; the requirement that images used for underwriting be no older than 45 days; the option to request an in-person inspection following an adverse underwriting; and the right to remediate any identified issues.

4) **Policy Considerations.** As the Assembly Insurance Committee's analysis has already evaluated the feasibility of the bill from the insurers' perspective, this analysis will focus on the bill's privacy and consumer protection aspects. As outlined above, the bill provides several mechanisms to ensure that consumers have recourse in the event of an adverse underwriting decision, thereby empowering policyholders with greater agency over their insurance coverage.

Regarding privacy, insurers are governed by the Insurance Information and Privacy Protection Act (IIPPA), which sets standards for how personal information is collected and under what circumstances. Under the IIPPA, personal information is defined as "any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health, or any other personal characteristics." As noted in the Insurance Committee's analysis, it remains unclear whether this definition extends to exterior images of a policyholder's property. However, this bill would align the acquisition of aerial photographs with other types of personal information collection that require consumer notices under the IIPPA.

Providing notice would increase transparency and help maintain consumer privacy during periods when aerial images may be captured. For instance, notice would allow individuals to adjust their behavior to avoid being unintentionally recorded in a compromising situation, such as being nude outdoors. It would also allow policyholders the opportunity to remove any items from their property that they may not wish to have captured in an aerial image.

Nevertheless, the Privacy Rights Clearinghouse, taking an oppose-unless-amended position, argues:

Consumers deserve to have the option to refuse aerial surveillance. Though recent amendments greatly improve the notice language, consumers will likely receive an annual disclosure that provides no opportunity to opt out of the practice. The bill's current language provides consumers with the opportunity to request an in-person physical inspection upon an adverse decision. Consumers who oppose the practice from the outset also deserve a similar option.

[...]

Security concerns are especially relevant for aerial images, which can capture more than property conditions. Such images may inadvertently record home security features and patterns of daily life that exceed what's needed for insurance purposes. Data minimization is the only true defense against data breaches. At a minimum, AB 75 should address:

- Clear maximum retention periods after which images must be deleted.
- Strict purpose limitations restricting the collection and use of aerial images to specified insurance purposes.
- Mandatory blurring of people, neighbors' properties, and other sensitive elements not relevant to the insured property.

As noted above, this bill aligns with the CCPA in that it enables consumers to obtain an in-person validation of aerial information, similar to the CCPA right to correct personal information. A reasonable argument can be made that policyholders should be afforded the full panoply of rights granted to consumers under the CCPA, including the right to opt out of the collection, sale, and distribution of their personal information. However, insurers, including property insurers, are required to collect personal information to conduct risk assessments and adjust rates accordingly. Furthermore, insurers are generally exempt from the CCPA and recent regulations proposed by the California Privacy Protection Agency would explicitly exempt insurers from CCPA compliance.⁸

Additionally, insurers have increasingly turned to aerial images as a cost-effective alternative to in-person assessments, reducing both operational costs and risk to employees. This necessitates a careful balance between privacy concerns and consumer welfare, which the proposed bill addresses through notices, the option to obtain in-person validation of images, and the opportunity to remediate the issue before an adverse underwriting decision takes effect.

The data minimization principle, however, may play an even more crucial role in protecting consumers in this context. There is no reason for insurers to collect or use aerial images for purposes beyond assessing risks and adjusting policies. Insurers should not be allowed to sell or share this information, and if aerial photos are being used for purposes beyond risk assessment, such uses should be disclosed in the notices sent to policyholders. Furthermore, establishing a retention period for the aerial images would be beneficial. While it is important to understand how insurers use these photos to assess changes in risk and prosecute fraud, there is likely a point at which these images no longer serve any purpose and should be discarded.

⁸ Sean P. Nalty, "California Privacy Protection Agency Clarifies Application of the CCPA to Insurance Companies," *Ogletree Deakins* (Feb. 25, 2025), <https://ogletree.com/insights-resources/blog-posts/california-privacy-protection-agency-clarifies-application-of-the-ccpa-to-insurance-companies/>.

Therefore, if this bill passes the Committee, the author may wish to consider incorporating data minimization provisions for aerial photos, as well as ensuring that the annual notice to policyholders explicitly outlines all potential uses of these images. Many of these concerns regarding data use, minimization, and informed consent are also being considered in SB 354 (Limón, 2025).

ARGUMENTS IN SUPPORT: Insurance Commissioner Ricardo Lara writes:

I write in strong SUPPORT of Assembly Bill 75, scheduled to be heard in your committee on Thursday, May 1st. AB 75 would require an admitted insurer to provide notice to a residential property insurance policyholder at least annually if any aerial images will be taken or obtained of the insured property. An admitted insurer would be required to inform policyholders how they might obtain copies of their images.

As widely reported by the media and experienced by insurance consumers, insurance companies are increasingly using aerial imagery to inspect homes in lieu of in-person inspections, including the use of drones, satellite images, manned and unmanned aircraft, and high-altitude balloons. My Department has heard from consumers who are rightly concerned about the use of aerial imaging in home inspections as a basis to refuse to issue a new policy, or to cancel or nonrenew an existing policy. Consumers are also concerned that they are not given prior notice to when their insurer intends on taking or obtaining aerial images of the insured property, which raises significant privacy and transparency issues. While insurance companies have the right to conduct inspections of properties to assess risk based on their underwriting guidelines, consumers also have the right to know what information is used by their insurer and how it may affect their policy.

AB 75 represents a commonsense solution that addresses privacy and transparency issues by requiring notice to the consumer if their insurer intends on taking or obtaining aerial images of the insured property, and establishes that consumers may request copies of those aerial images. As the insurance industry increasingly uses aerial imaging, it is reasonable to expect that policyholders should know if their property is being surveilled and to have access rights to those images. It is my hope that increasing transparency in the property inspection process will result in less adverse underwriting decisions that are sometimes based on outdated or erroneous aerial images.

The California Association of Realtors writes:

The California Association of REALTORS® (C.A.R.) is pleased to support your bill, AB 75 (Calderon), a measure which will require admitted insurance carriers to notify policy holders if aerial images will be taken of the insured property, unless a claim has been submitted on the policy and the images will be used only for evaluating the claim. The bill also requires the insurer to provide the images to the policy holder upon request.

Under current law, there is no specific requirement for admitted insurance carriers to notify property owners that they will be subject to aerial surveillance by their insurer. As drone technology and other aerial surveillance becomes more prevalent, it is essential that safeguards are put into place to protect homeowners' privacy rights. Without proper notification, individuals may be unaware that their property is being monitored, which raises significant concerns about privacy, data security and the potential misuse of images. Furthermore, requiring notification falls in line with California's long history of consumer

protection principles. We feel strongly that this legislation is essential to safeguard basic property rights.

ARGUMENTS IN OPPOSITION: Personal Insurance Federation of California, alongside a coalition of insurers, argues:

Insurance companies must verify the continued maintenance of a property that they have underwritten. Notice of their right to inspect is included in the initial policy issuance documents and in the annual renewal notifications. Historically these inspections have had to be conducted by insurance agents physically visiting a property. In more recent years, companies have been able to utilize the photo inventory collected by third party contractors to verify the state of a property and inform policy holders where there are deficiencies to be righted. The shift to aerial imaging has decreased the physical risk to agents, who previously would have to enter potentially hostile environments as well as inspect roof conditions and has decreased the cost to companies. The cost benefit cannot be dismissed at a time where any cost savings in the industry improves market availability.

While the industry understands and respects the spirit of AB 75 and the goal of providing greater transparency and awareness to consumers, the bill as drafted would be impossible for companies to comply with.

Because insurance companies do not direct the contractor when to take photos, but rather request existing photographs from the contractor's inventory, it is impossible for the insurer to give notice in advance of the photograph being taken. When the insurer requests the photograph it is possible that the contractor collected aerial images up to 18 months prior depending on weather, population density, and other factors specific to the contractor.

The Consumer Federation of California, argues in an oppose unless amended position:

[T]here have been far too many cases in recent years where these images taken by or on behalf of insurance companies have been incorrect or of the wrong property. Generally speaking there has been a lack of transparency and consumer protections in this area. So while CFC is pleased to see some effort being taken to increase the currently low bar in this area, AB 75 falls significantly short of what is necessary to truly begin to protect consumers.

CFC would like to see a number of amendments taken to the bill and would be pleased to work with the author and committee on such amendments. They would include the following:

- 1) Consumers should automatically receive a copy of the image taken without having to request it. This should particularly be true for consumers who live in the WUI, or Wildland Urban Interface, the growing part of California thanks to climate change (made worse in part by insurance industry investments in projects that exacerbate climate change) where fire risk has been significantly increasing in recent years. Having consumers automatically receive a copy of the image or images taken would significantly reduce, if not eliminate, "wrong property" errors.

- 2) The bill ignores the current reality that many Californians are now insured by insurance companies that are not admitted insurers. These "surplus lines" insurers have been growing in size in California, particularly in the homeowner market, as admitted insurers have

increasingly turned their back on their California policyholders as they seek massive rate increases. However, these surplus lines insurers with growing market share in the WUI are unregulated by the state and overwhelmingly do not fall under the jurisdiction of the California Department of Insurance (CDI). AB 75 should attempt to acknowledge and attempt to deal with this sad current reality.

3) While CFC appreciates the 30-day advance notification of a consumer, we worry that insurance companies and their vendors will manipulate this notification provision such that they merely include it in other annual notifications that they provide to consumers. This way those companies have technically met the standard currently set forth in the bill without actually providing any meaningful notification to a consumer. The bill should do a better job of making the advance notification meaningful and actionable by the consumer. For example, an insurance company should be notifying a policyholder in June that there will be an aerial photo taken of their property in August of that year. Under the current language in the bill an insurance company could merely notify all policyholders in January that within the next year (and after 30 days) an aerial image will be taken of the property. That appears to technically meet the current standard in the bill but as a practical matter does not help the policyholder much, if at all. This language should be significantly tightened up.

4) For potential policyholders the provisions of the bill appear not to apply at all, since the language says "a residential property insurance policyholder." However, we believe such images are also used during the underwriting process to help evaluate policyholder applications. This loophole in the bill should be closed.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Realtors
Insurance Commissioner Ricardo Lara / California Department of Insurance

Opposition

American Property Casualty Insurance Association
Consumer Federation of California
National Association of Mutual Insurance Companies
Pacific Association of Domestic Insurance Companies
Personal Insurance Federation of California
Privacy Rights Clearinghouse
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