



The Surplus Line  
Association of California

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To the Members and Staff of the Assembly Insurance Committee:

I write on behalf of the Surplus Line Association of California, the appointed advisory organization for surplus lines to the California Department of Insurance. We function both as a stamping office, reviewing nearly 1 million surplus lines policies filed each year to ensure compliance with all state laws and regulations, and a member association comprised of more than 8,000 California-licensed surplus line brokers. Our role is to help foster a healthy, fair and competitive insurance marketplace in this state.

The role of surplus lines in the insurance marketplace is to provide a safety valve, taking on high-risk business that admitted insurers choose not to cover. Our brokers, except in cases where a line of coverage has been deemed unavailable by the Insurance Commissioner through the Export List, must obtain three declinations from admitted carriers before exporting a risk to a surplus line insurer.

California law envisions a progression, in which a risk must first be considered by the admitted market, and then by the surplus line market, before it can go into the FAIR Plan, the insurer of last resort. California Insurance Code Section 10090(d) limits FAIR Plan coverage to property insurance that cannot be obtained through the normal insurance market. California Insurance Code Section 10090(c) defines the normal insurance market as “provided by admitted insurers and licensed surplus line brokers,” which the FAIR Plan reiterated in a [memo to registered FAIR Plan brokers on November 23, 2021](#).

It is our understanding, from conversations we have had with agent and broker groups, that many of their members on the admitted side are either unaware of the legal mandate to approach the surplus lines market before placing business with the FAIR Plan, or that they simply may not know how to access our market. Discussions we have had with individual agents and brokers have lent support to what we have heard from associations representing those producers. As a result, a number of these risks are going directly to the FAIR Plan without exhausting all available normal insurance options, contributing to the FAIR Plan’s crush of business.

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We have talked with agent and broker groups about how we can help educate their members, and with the FAIR Plan about participating in its personal lines and commercial lines clearinghouses, to help relieve the FAIR Plan's burden and ensure a well-functioning insurance marketplace.

We want to reiterate today that we are ready, willing and able to work with anyone to help facilitate solutions and make marketplace participants aware of their full range of options before going to the FAIR Plan.

Sincerely,



**Benjamin J. McKay, J.D., M.P.A.**  
CEO and Executive Director  
Surplus Line Association of California

