

Date of Hearing: April 2, 2025

ASSEMBLY COMMITTEE ON INSURANCE
Lisa Calderon, Chair
AB 234 (Calderon) – As Introduced January 13, 2025

SUBJECT: California FAIR Plan Association governing committee

SUMMARY: Allows the Speaker of the Assembly and the Chairperson of the Senate Committee on Rules to serve as nonvoting, ex officio members of the Fair Access to Insurance Requirements (FAIR) Plan Governing Committee. Specifically, **this bill:**

- 1) Authorizes the Speaker of the Assembly and the Chairperson of the Senate Committee on Rules to name a designee to serve in their place.
- 2) Contains an urgency clause.

EXISTING LAW:

- 1) Specifies that the Governing Committee includes nine insurers, as well as, as nonvoting members, one representative of insurance agents, one representative of insurance brokers, one representative of surplus line brokers, and one representative of the public, each appointed by the Governor. (Insurance (Ins.) Code, Section 10094)
- 2) Allows the FAIR Plan, with approval from the Insurance Commissioner, to assess all members in amounts sufficient to operate the facility. (Ins. Code, Section 10094)
- 3) States that the FAIR Plan was established to assure stability, to assure the availability, to encourage maximum use, and to provide for equitable distribution among admitted insurers of the responsibility for insuring qualified property for which basic property insurance cannot be obtained through the normal insurance market. (Ins. Code, Section 10090)
- 4) Specifies that rates for the FAIR Plan shall not be excessive, inadequate, or unfairly discriminatory, shall be actuarially sound so that premiums are adequate to cover expected losses, expenses and taxes, and shall reflect investment income of the plan. (Ins. Code, Section 10100.2)

FISCAL EFFECT: None

COMMENTS:

- 1) *Purpose:* According to the author, “Increased transparency is vital. The FAIR Plan is no longer California’s insurers of last resort. The recent devastating wildfires highlighted the exposure of the FAIR Plan, which caused them to seek approval from the Insurance Commissioner to assess their members companies for \$1 billion. The Speaker and the Pro Tem need a seat at the FAIR Plan table.”
- 2) *Background:* The FAIR Plan is an “association” of all insurance companies licensed by the California Department of Insurance (CDI) that provides basic property insurance in

California. It was created in 1968, following urban disturbances after the Watts Riots in Los Angeles.

Simply stated, the purpose of the FAIR Plan is to be the “insurer of last resort” for “basic” property insurance in the event of a market failure. At inception, that was essentially urban commercial property. Ultimately, it has expanded to include homeowners’ insurance anywhere in the state, provided that the insurance “cannot be obtained” in the normal manner in the market. The FAIR Plan is not intended to compete with the voluntary market.

The FAIR Plan was established to ensure that urban property owners, mostly businesses, would have “fair access” to the property insurance necessary to continue to operate in a market that insurers viewed as too risky to cover. That risk evaluation resulted in a substantial market withdrawal by insurers from the urban property market. Despite its initial creation as an urban/business “insurer of last resort,” the FAIR Plan expanded to provide coverage in “designated” brush fire regions of the state. It operated fairly well in this manner until the mid-1990’s, when, as a consequence of the genuine homeowners’ insurance crisis that followed the Northridge earthquake in 1994, the entire state was designated as the appropriate FAIR Plan coverage region.

By statute, the FAIR Plan policy is not as broad as traditional homeowners’ policies. It is, nonetheless, a fully sound and guaranteed policy that satisfies lenders’ security requirements and protects the property against the primary risk factor faced by homeowners, which is fire. Other coverages are readily available in the market (typically through the purchase of a “difference-in-conditions” or “DIC” policy), which provides wraparound coverage that, coupled with a FAIR Plan policy, results in the same protection provided by a standard homeowner’s policy. Because the FAIR plan’s role is to provide coverage when the regular market won’t, it is not the role of the FAIR Plan to provide DIC policies when there is a healthy market for those policies.

According to the FAIR Plan, as of December 2024, the FAIR Plan’s total policies in force stands at 516,313, reflecting an 11.1% increase since September 2024 and a 115% increase since September 2021. The FAIR Plan’s total exposure is \$529 billion, reflecting a 15.5% increase since September 2024 and a 217% increase since September 2021. Following the Palisades and Eaton fires, the FAIR Plan sought approval to assess their member companies. It had been over 30 years since the FAIR Plan requested to assess. The FAIR Plan requested \$1 billion from member companies to ensure solvency and claims-paying capacity.

- 3) *The FAIR Plan Governing Committee:* The FAIR Plan is administered by a Governing Committee, and subject to the supervision of the Insurance Commissioner. The Governing Committee consists of nine voting insurers and four non-voting members appointed by the Governor, which include one representative of insurance agents, one representative of insurance brokers, one representative of the public, and one representative of surplus line brokers. The purpose of the Governing Committee is to ensure the requirements laid out in California Insurance Code 10090 are followed (referenced under existing law). Legislation (signed by the Governor) or a rule, regulation or administrative determination by the Insurance Commissioner can require the FAIR Plan Governing Committee to amend its plan of operation.

A point of reference is the CEA, which is governed by a three-member governing board consisting of the Governor, the Treasurer, and the Insurance Commissioner, each of whom may name designees to serve as board members in their place. The Speaker of the Assembly and the Chairperson of the Senate Committee on Rules serve as nonvoting, ex officio members of the board, and may name designees to serve in their place.

- 4) *FAIR Plan Transformation:* In the last five years, primarily in response to catastrophic wildfires and admitted market withdrawal, legislation and actions taken by CDI has resulted in the FAIR Plan going through a complete transformation. To summarize, these actions include:
 - Increasing FAIR Plan residential limits to \$3.3 million;
 - Increasing FAIR Plan commercial limits to \$8.4 million per location to \$20 million per structure;
 - Potential expansion and requirement to offer homeowners a more comprehensive coverage aka HO-3 light policy (pending litigation);
 - Expanding commercial coverage to farms, ranches and other agricultural businesses;
 - Developing residential and commercial clearinghouse programs; and,
 - Implementing “Safer from Wildfire” discounts to FAIR Plan policyholders.
- 5) *Related Legislation:* AB 69 (Calderon) requires a broker of record to determine if a FAIR Plan policy can be moved to the voluntary market before the policy is renewed. Pending before the Assembly Insurance Committee.
- 6) *Previous legislation:* AB 1844 ((Calderon) 2024 Legislative Year) would have required the Speaker of the Assembly and the Chairperson of the Senate Committee on Rules to serve as nonvoting, ex officio members of the governing committee, and would have authorized each to name a designee to serve in their place. (Pulled from committee hearing by the Senate Insurance Committee)

AB 2260 (Calderon) would have required the FAIR Plan, until December 31, 2027, to quarterly provide specified information about policies and clearinghouse program progress to the relevant policy committees of the Legislature and to post the information on the association’s public internet website. (Never set for a hearing in the Senate Insurance Committee.)

AB 3012 (Daly & Wood) Chapter 258, Statutes of 2020, directs the FAIR Plan to implement a clearinghouse program whereby property insurers will be provided information about FAIR Plan policies for the purpose of encouraging those insurers to offer regular private insurance to FAIR Plan policyholders.

SB 505 (Rubio) Chapter 180, Statutes of 2023, required the FAIR Plan to establish a clearinghouse program for commercial insurance policies by July 1, 2024.

REGISTERED SUPPORT / OPPOSITION:

Support

Insurance Commissioner Ricardo Lara / California Department of Insurance

Oppose Unless Amended

Consumer Federation of California

Analysis Prepared by: Kathleen O'Malley / INS. / (916) 319-2086