Date of Hearing: April 30, 2025

ASSEMBLY COMMITTEE ON INSURANCE
Lisa Calderon, Chair
AB 290 (Bauer-Kahan) – As Amended April 21, 2025

SUBJECT: California FAIR Plan Association: automatic payments

SUMMARY: Requires the Fair Access to Insurance Requirements (FAIR) Plan to create an automatic payment system and accept automatic payments for premiums from FAIR Plan policyholders. Specifically, **this bill**:

1) Specifies that an automatic payment charged must be the same as any other payment method.

2) Provides that a policy cannot be canceled or nonrenewed solely because the policyholder is not enrolled in automatic payments.

3) Provides that a policy cannot be canceled or nonrenewed solely because the policyholder failed to confirm a payment when making a one-time payment on the FAIR Plan's internet website.

4) Allows a 15-day grace period to pay any outstanding premium on a policy.

EXISTING LAW:

1) Allows the FAIR Plan, with approval from the Insurance Commissioner, to assess all members in amounts sufficient to operate the facility. (Insurance (Ins.) Code, Section 10094)

2) Requires in the event of a state of emergency, as defined in Section 8558 of the Government Code, that an insurer offer a 60-day grace period for payment of premiums for residential property insurance policies covering a property located within the affected area defined in the state of emergency. This section does not require any change to insurer billing practices regarding billing, automatic payment, or cancellation for nonpayment if the insurer reinstates, without a lapse in coverage or late fees, any policy subject to this section that was canceled for nonpayment of premiums, if requested by the insured and upon reasonably timely payment of all premiums due. (Ins. Code, Section 2062)

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: Unknown

COMMENTS:

1) *Purpose of the bill*: According to the author, "Severe wildfires are becoming more frequent in California, with thousands of homes and millions of acres at risk each year. With this increased risk, it is imperative that stable insurance coverage is accessible for all Californians. AB 290 requires the California FAIR Plan to establish and accept automatic payment systems for policyholders, thus providing safeguards against cancellations or nonrenewals due to missed manual payments. AB 290 further provides grace periods, ensuring policyholders have a chance to fix payment mistakes before coverage is disrupted. By requiring accessible payment options, AB 290 promotes fairness and prevents unintentional lapses in coverage– an essential component in protecting Californians from greater financial distress as the state faces worsening wildfire seasons."

2) *Background*: The California FAIR Plan – "Fair Access to Insurance Requirements" – is an "association" of all insurance companies licensed by the California Department of Insurance (CDI) that provides basic property and casualty insurance in California. It was created in 1968, following urban disturbances from 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. At origination, the FAIR Plan was not intended to compete with the admitted market, but that point is now debatable.

   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. Today, the FAIR Plan covers all parts of California.

   FAIR Plan policies are capped at $3.3 million for residential properties and $20 million per structure for commercial properties. These caps were increased by the Insurance Commissioner in 2020 for residential and in 2023 for commercial. Commercial went from $8.4 million per location in 2021, to $20 million per location in 2023, to $20 million per structure subsequently in 2023.

   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 [wild]fire. Other coverages are readily available in the market (typically through the purchase of a "difference-in-conditions" or "DIC" policy), which provide wraparound coverage that, coupled with a FAIR Plan policy, result 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 necessarily the role of the FAIR Plan to provide DIC policies when there is a healthy market for those policies.

3) *FAIR Plan Growth*: According to the FAIR Plan, as of March 2025, the FAIR Plan's total exposure, or total potential for loss, is $599 billion, reflecting a 31% increase since September 2024 (prior fiscal year-end) and a 259% increase since September 2021 (Fiscal Year End 2021). Furthermore, as of March 2025, the FAIR Plan's total number of dwelling and commercial policies is 573,739, reflecting a 23% increase since September 2024 (prior fiscal year-end) and a 139% increase since September 2021 (Fiscal Year End 2021).

   Following the Palisades and Eaton fires, the FAIR Plan sought approval in February 2025 to assess their member companies. The FAIR Plan previously requested to assess in 1994. The FAIR Plan requested $1 billion from member companies to ensure solvency and claims-paying capacity.

   FAIR Plan growth brings more exposure on several levels, not only more policyholders but also more spotlight. The attention has brought to light many of the weaknesses of the FAIR Plan, one being the outdated payment system. To the FAIR Plan's credit, the association was not created to grow to the size it is today. The FAIR Plan has had to adjust frequently and continuously due to the demands of CDI and the Legislature. Legislation over the last 5 years has expanded the FAIR Plan in order to absorb those policyholders whom are no longer able to find property insurance in the admitted market meanwhile CDI's Sustainable Insurance Strategy intention is to depopulate.

4) *Payment methods and plans*: The FAIR Plan offers several options for policyholders to pay premiums. These include: the policyholder paying the entire annual premium, the policyholder making three payments over the year or paying monthly. Policyholders can pay premium payments via the FAIR Plan website, by mail, by direct deposit or by credit card. The FAIR Plan is not currently set up to allow for automatic payments, which this measure will require.

5) *Grace period*: Under existing law, insurers are required to offer a 60-day grace period for nonpayment of premium for policies on property located in areas affected by a declared state of emergency. Most insurers provide grace periods that vary between each insurer. This measure requires the FAIR Plan to provide a 15 day grace period for all policies if a policyholder fails to a make a premium payment.

6) *Related Legislation:* AB 226 (Calderon & Alvarez) establishes the FAIR Plan Stabilization Act, which authorizes the California Infrastructure and Economic Development Bank (IBank), upon the request of the FAIR Plan, to issue bonds to finance the costs of claims, to increase liquidity and claims-paying capacity of the FAIR Plan, and to refund bonds previously issued for that purpose. Pending referral in Senate.

   AB 234 (Calderon) requires 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 of the FAIR Plan, and would authorize each to name a designee to serve in their place. Pending referral in Senate.

   SB 525 (Jones) expands "basic property insurance" offered through the FAIR Plan to include manufactured homes insurance that is comparable to basic property insurance sold for residential dwellings. Pending on Senate Floor.

7) *Suggested amends*:

   a) Add delayed implementation date of April 1, 2026.

   b) Add clarifying language that automatic payments that are charged by the FAIR Plan.

   c) Add clarifying language that installment payments do not include renewals.

   d) Reduce grace period from 15 days to 10 days.

   e) Delete section 2 of the bill.

REGISTERED SUPPORT / OPPOSITION:

Support

Consumer Attorneys of California

Oppose Unless Amended

California Fair Plan Association

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