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## Assembly Insurance Committee Oversight Hearing

**The California FAIR Plan**  
Wednesday, January 28, 2026  
10:00 am  
State Capitol, Room 437

### **Introduction**

The California FAIR Plan is California's property insurance "safety net". This entity, created by the Legislature, has the significant role of ensuring that California's housing market stays afloat while California's voluntary insurance market struggles to timely rebound. Created in 1968 and intended to be "the insurer of last resort," this now well-known, household name absorbs almost 6% of California's property insurance market. As we begin 2026, a year after the devastating wildfires in Southern California, it is time to consider regrouping, reforming, and rebooting. This oversight hearing will dive deeper into the FAIR Plan's strengths and weaknesses to determine if more changes are needed to ensure Californians are properly protected and covered.

### **What is the California FAIR Plan?**

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 response to urban disturbances, notably the Watts Riots in Los Angeles.

### **California FAIR Plan History**

*"To assure stability in the property insurance market.....  
To assure the availability of basic property insurance.....  
To encourage maximum use [...] of the normal insurance market....."*

*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.” (CA Ins. Code 10090)*

The purpose of the FAIR Plan is to provide “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 such insurance “cannot be obtained” in the normal manner in the 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.

### **FAIR Plan Policies & Rates**

*“Rates for the FAIR Plan shall not be excessive, inadequate, or unfairly discriminatory, and shall be actuarially sound so that premiums are adequate to cover expected losses, expenses and taxes, and shall reflect investment income of the plan.” (CA Ins. Code 10100.2)*

FAIR Plan policies are capped at limits of \$3.3 million for residential properties, and \$20 million per structure (up to \$100 million) for commercial properties. These caps were increased by the Insurance Commissioner in 2020 for residential and 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 with a \$100 million max, finalized in July 2025 and set to sunset in 2028.

Under recent legislation, FAIR Plan residential dwelling policies now cover manufactured homes and mobile homes. FAIR Plan commercial policies can also cover homeowners’ associations, condo associations, farms, and businesses.

By statute, the FAIR Plan policy is not as broad as traditional homeowners’ policies. Nonetheless, it is a fully sound and guaranteed policy that satisfies lenders’ security requirements and protects the property against the primary risk factor faced by homeowners: [wild]fire. Other coverages should be 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, results in the same protection provided by a standard homeowner’s policy.

Over the last 5 years, CDI has attempted to address homeowners' need to seek a DIC in addition to a FAIR Plan policy by requiring the FAIR Plan to expand the coverage it offers beyond just fire insurance. CDI would like the FAIR Plan to offer additional homeowners coverage, including but not limited to: theft, on-property liability, water damage, and snow damage.

The last 5 years has been consumed by back-and-forth litigation between CDI and the FAIR Plan. In late 2023, a Los Angeles Superior Court Judge ruled (again) in favor of CDI, that the Insurance Commissioner does have the authority to order the FAIR Plan to expand the coverage it offers. The FAIR Plan appealed the ruling in February 2024, and in December 2025, the California Court of Appeal issued a decision against CDI, finding that due to legislative intent and ambiguity, the FAIR Plan is not required to offer expanded liability coverage.

### **FAIR Plan Market Activity**

According to the FAIR Plan, as of December 2025, the FAIR Plan's total exposure in California is \$724 billion, reflecting a 4% increase since September 2025 and a 230% increase since September 2022.

As of December 2025, the FAIR Plan's policies in force reached 668,609, a 4% increase since September 2025, and a 146% increase since September 2022. The FAIR Plan updates these statistics quarterly, on their website.

Homeowners are required to conduct a diligent search of the private market for new coverage before resorting to the FAIR Plan. After receiving a non-renewal notice, some homeowners will find coverage from the admitted market in the course of that diligent search. However, where there are significant increases in FAIR Plan policy counts, it is a sound assumption that there has been an increase in the number of non-renewal notices sent to homeowners.

According to the FAIR Plan, they handled approximately 5,400 claims from the Pacific Palisades and Eaton wildfires and paid nearly \$3.5 billion to policyholders.

### **The Sustainable Insurance Strategy (SIS) and FAIR Plan Modernization Plan**

On September 21, 2023, Governor Newsom issued an Executive Order that directed the Insurance Commissioner to "take prompt regulatory action to strengthen and stabilize California's marketplace for homeowner's insurance and commercial property insurance, and to consider whether the recent sudden deterioration of the private insurance market presents facts that support emergency regulatory action."

A part of the executive order included: to maintain the solvency of the FAIR Plan to protect its policyholders and promote long-term resiliency in the face of climate change, including

identifying mechanisms to reduce its share of the overall market in underserved areas and move its customers into the admitted insurance market.

The Insurance Commissioner promptly responded by announcing the SIS. Provisions of the SIS specific to the FAIR Plan include:

- Transitioning homeowners and businesses from the FAIR Plan back into the normal insurance market with commitments from insurance companies to cover all parts of California by writing no less than 85% of their statewide market share in high wildfire risk communities;
- Giving FAIR Plan policyholders who comply with the new Safer from Wildfires regulation first priority for transition to the normal market;
- Directing the FAIR Plan to further expand commercial coverage to \$20 million per building to close insurance gaps for homeowners' associations and condominium developments in order to help meet the state's housing goals and to provide required coverage to other large businesses in the state;
- Increasing data reporting by the FAIR Plan to CDI, the Legislature, and the Governor to monitor progress toward reducing its policyholders; and,
- Ordering changes to the FAIR Plan to prevent it from going bankrupt in the case of an extraordinary catastrophic event, including building its reserves and financial safeguards.

On July 26, 2024, the Insurance Commissioner announced the FAIR Plan Modernization Plan as part of the SIS. This plan was negotiated and agreed upon between CDI and the FAIR Plan via a binding stipulation. Within 30 days of July 26, the FAIR Plan agreed to submit a new Plan of Operation that addressed the following:

- Expand Coverage: Establishing a new "high value" commercial coverage option with limits up to \$20 million per building, with a total maximum limit of \$100 million per location.
- Create a financial formula in case the FAIR Plan needs to assess. Under the agreement, when all FAIR Plan reserve funds are exhausted and reinsurance and catastrophic bonds have been triggered, insurance companies will be required to pay half the cost of losses up to \$2 billion in total FAIR Plan claims — \$1 billion for residential claims and \$1 billion for commercial claims. The other half could be recouped from policyholders — only with the prior approval of the Insurance Commissioner.
- Improved Transparency: Requiring increased public reporting on FAIR Plan activity and customer service metrics which includes posting data on the number of residential and commercial policies written in high-wildfire risk areas and progress reports on claims-handling practices and customer service. The data must be shared with the Insurance

Commissioner, the Governor, and the Legislature, as well as publicly posted on its Internet website.

### **FAIR Plan Assessing**

As the number of FAIR Plan policyholders grows, so does the threat of the FAIR Plan assessing the admitted market. A factor that contributed to many insurers from pressing pause or restricting new business (or leaving entirely) in California. As it works right now, if there is a catastrophic event in an area where the FAIR Plan is heavily concentrated, and if the FAIR Plan is unable to pay claims, with prior approval from the Insurance Commissioner, the FAIR Plan can assess the admitted market. The admitted market is the financial backstop to the FAIR Plan in case of an “emergency.” The amount of the assessment from each insurer is based on the insurer’s market share, with a 2 year look back.

Between 1993 and 1995 for roughly \$260 million total, notably due to the Northridge earthquake. It should be noted that the FAIR Plan inherits the riskiest properties: those that were presumably non-renewed by the admitted market.

On February 11, 2025, due to FAIR Plan exposure and damage caused by the Pacific Palisades and Eaton fires, the FAIR Plan requested and received approval to assess its member companies for \$1 billion to meet their obligations, which include the promise to pay claims. Some would argue that the July 2024 unveiling of the Insurance Commissioner’s FAIR Plan Modernization Plan couldn’t have come at a better time to salvage the health of California’s insurance market, considering the January 7<sup>th</sup> disasters. The FAIR Plan Modernization Plan allows FAIR Plan member insurers to recoup part of the \$1 billion assessment from non-FAIR Plan policyholders. Recoupments show as a temporary supplemental fee to policyholders and could be recouped over a 24-month period.

### **FAIR Plan Residential and Commercial Clearinghouse Programs**

The FAIR Plan residential clearinghouse program was created via legislation in 2021. Statute places the responsibility on the FAIR Plan to develop the clearinghouse program with the following goals: reduce the concentration of policies and push the use of the voluntary insurance market; lower the quantity of policies in the FAIR Plan; and provide the insurers the ability to take on additional business. The intent of the program is to get FAIR Plan policyholders back into the admitted market. The policies in the clearinghouse are initially limited to the admitted market for the first 30 days, at which point nonadmitted insurers may also participate by offering a homeowners policy to someone in the FAIR Plan.

The FAIR Plan commercial clearinghouse program was established via 2023 legislation that required the FAIR Plan to develop and implement a commercial clearinghouse program identical to the residential clearinghouse program on or before July 1, 2024.

## **FAIR Plan and Smoke Claims**

In 2017, the FAIR Plan redefined “direct physical loss” to require “permanent physical changes” to the property, which leads us to today. On June 27, 2025, after 4 years of litigation, the Los Angeles Superior Court ruled in the case of *Alif v. California Fair Plan Association* that several key aspects of a FAIR Plan policy unlawfully restricted coverage compared to the standard fire policy requirements under California Insurance Codes. (Insurance Codes Sections 2070 and 2071)

The issue at hand was the FAIR Plan handling of smoke claims policies, for which "direct physical loss" meant coverage was only available to damage that was perceptible by sight or smell. FAIR Plan policies provide coverage for "direct physical loss," defined as "any actual loss or physical damage evidenced by permanent physical damages or changes to the covered property caused by smoke damage." The definition of smoke damage includes sudden and accidental physical loss from smoke, including airborne particles like soot, ash, or char debris that are visible to the "unaided human eye", or "odors detectable by the unaided human nose." The policy specifically excludes reliance on laboratory testing or individual subjective senses.

The FAIR Plan policy also contains a unique dispute resolution process for smoke damage claims. Homeowners may choose between two methods. Under Method 1, both sides appoint a neutral party, who jointly select a third person to serve as an umpire. This three-person panel inspects the property and determines by majority vote whether evidence of smoke damage exists. The decision is binding. Alternatively, Method 2 allows for a sole neutral umpire to make the determination, with the parties sharing the cost. If the smoke damage is confirmed through either method but the parties dispute the amount of loss, the claim proceeds to a separate appraisal process governed by the policy's appraisal provision.

The court issued a formal declaration holding that the FAIR Plan policy's definition of "direct physical loss" violated the Insurance Code section 2070 because it provided coverage less favorable than, and not substantially equivalent to, the coverage required by the standard form fire policy.

Following this case, CDI brought action against the FAIR Plan in July 2025 for denying smoke damage claims in the response to the Pacific Palisades and Eaton wildfires. According to CDI data, the Department received approximately 220 smoke claims complaints related to the FAIR Plan. A number of smoke claims cases were filed in 2025, and have yet to be decided.

## **Recent Laws Impacting the FAIR Plan**

AB 1816 (Daly) Chapter 833, Statutes of 2019, expands the regions of the state in which an insurer can accrue "writeout credits" to include areas designated by CalFire as high or very high fire risk. Also, requires the FAIR Plan to periodically provide data regarding the use of writeout credits by insurers to the Legislature, the Governor, and CDI.

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 11 (Rubio) Chapter 128, Statutes of 2021, authorizes the FAIR Plan to sell commercial coverage to farms.

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

AB 226 (Calderon & Alvarez) Chapter 473, Statutes of 2025, creates the FAIR Plan Stabilization Act, which authorizes the California Infrastructure and Economic Development Bank, upon the request of the California Fair Access to Insurance Requirements 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.

AB 234 (Calderon) Chapter 474, Statutes of 2025, 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, and would authorize each to name a designee to serve in their place.

AB 290 (Bauer-Kahan) Chapter 475, Statutes of 2025, requires the FAIR Plan to accept automatic payments for policyholder premiums and provides a policyholder with a 10-day grace period to pay an outstanding installment premium.

SB 525 (Jones) Chapter 476, Statutes of 2025, 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.

## **Conclusion**

The California FAIR Plan needs to work for all Californians who otherwise cannot find insurance anywhere else. Working for all Californians as California's safety net could mean a number of things: better customer service, more coverage options, more transparency, smoother claims processing; all practical needs and expectations.

None of these expectations should come as a surprise. In 2022, before the Palisades and Eaton wildfires, CDI completed an operational assessment of the FAIR Plan. This assessment included 32 findings, recommendations, and best practices. CDI found in late 2025 that the FAIR Plan did not address entirely 17 out of the 32 recommendations, which include:

- No adoption of strategic plan
- No formal governance assessment
- No property inspection reporting as required by the Plan of Operation
- Insufficient corporate governance transparency
- Insufficient internal audit function
- No adoption of members' equity management plan
- No climate-related financial risk reporting
- Minimal claims subcommittee oversight
- No multi-year reinsurance strategy

While it is appropriate to extend some deference to an entity that expanded beyond expectations and was compelled to pivot in response to a major catastrophe, the FAIR Plan must nonetheless remedy existing inadequacies and continue evolving to meet the needs of Californians and California's insurance market until the voluntary market stabilizes.