
SENATE COMMITTEE ON INSURANCE

Senator Susan Rubio, Chair

2023 - 2024 Regular

Bill No:	SB 505	Hearing Date:	April 12, 2023
Author:	Rubio		
Version:	March 20, 2023		
Urgency:	No	Fiscal:	Yes
Consultant:	Jill Rice		

SUBJECT: Property insurance

DIGEST: Requires the Fair Access to Insurance Requirements (FAIR) Plan to develop a clearinghouse program that connects voluntary market insurers to FAIR Plan commercial policyholders.

ANALYSIS:

Existing law:

- 1) Establishes the FAIR Plan residential property owner's clearinghouse program to help residential homeowners locate homeowner insurers who may provide an alternative to FAIR Plan fire insurance policies.
- 2) Requires an insurance company that participates in the clearinghouse program to sign an agreement with the FAIR Plan that sets forth the terms and conditions for the insurance company to offer homeowners' insurance through the policy's listed agent or broker of record, if any,

This bill:

- 1) Expands the FAIR Plan clearinghouse program to include commercial insurance policyholders.
- 2) Requires the FAIR Plan Association to comply with the Insurance Information and Privacy Protection Act.
- 3) Requires the FAIR Plan to provide all policyholders with notice of specified privacy rights.

Background

According to the Author

Currently, California only allows residential property insurance policies in the FAIR Plan to be reviewed online by the admitted market insurance companies, which has been able to facilitate the movement of some residential property insurance policies out of the FAIR Plan and back into the admitted market. Without any statutory requirement for the FAIR Plan to provide a plan to encourage commercial policies in the admitted marketplace, this may leave commercial insurance policyholders, including farm policies, in the FAIR Plan for potential perpetuity.

While coverage for farms by the admitted carriers would typically be covered by one policy, coverage for farms under the FAIR Plan will sometimes require separate policies: one residential policy covering the farmhouse, and another commercial plan for the business structures. The requirement of two separate policies creates confusion and could drive up costs and management issues for agricultural businesses. We must ensure that there is a proper structure to allow FAIR Plan policies, and others, to be moved back into the admitted market, thereby helping ease the confusion and costs for insureds. SB 505 addresses these shortfalls by expanding the FAIR Plan's existing clearinghouse program to include commercial insurance policyholders, thereby encouraging more policies to transition back to the admitted commercial market which will making insurance more affordable for consumers and businesses.

In 1968, California created the FAIR Plan to ensure basic home insurance coverage was available to individuals who otherwise were unable to obtain a policy in the private, voluntary market. In July of 2021, with the enactment of AB 3012 (Ch. 258, Stats. of 2020), the FAIR Plan developed and implemented a clearinghouse program to help reduce the number of existing FAIR Plan policies. The FAIR Plan also provided the opportunity for admitted insurance companies to offer homeowners insurance policies to policyholders. This program included multiple benefits and served as a critical resource for insurance companies and consumers alike.

In order to respond to growing concerns from farm owners, vintners, and other outdoor businesses about insurance availability following major wildfires, the California Department of Insurance (CDI) for the first time directed insurance companies to provide data in 2021 related to outdoor businesses and insurance availability following major wildfires. This data includes claims, losses, and non-renewals for calendar years 2017 to 2020. The data shows that while wildfire risk and losses occur in many agricultural regions of the state, a few areas have borne the brunt of recent wildfire losses. CDI data shows that, in 2019, there were an estimated total of 8,343 commercial structures insured statewide by the FAIR Plan, which jumped to 10,468 structures by 2020. Addressing current insurance coverage issues for businesses in these areas will help address future issues in other parts of the state. Commercial policies in the FAIR Plan continue to grow year after year without any structured pathway for these policyholders to get back into the admitted market.

Related/Prior Legislation

AB 3012 (Wood, Chapter 258, Stat. of 2020) developed a clearinghouse program that connected voluntary market insurers to FAIR Plan residential property policyholders.

ARGUMENTS IN SUPPORT:

California Association of REALTORS contends that the creation of a clearinghouse for commercial policies, which include the master policies for Homeowner's Associations (HOAs), just makes sense as over 14 million Californians live in HOA communities. These communities are losing coverage or being non-renewed and/or forced on the FAIR plan at alarming rates. The clearinghouse will be used as a tool by the insurance

industry to help bring these policy holders back into the traditional marketplace. This will encourage a healthy insurance marketplace for all.

California Department of Insurance points out that the numbers of structures covered in the FAIR Plan have increased over the past few years. SB 505 will ensure that there is a pathway for commercial policies to move from the FAIR Plan back into the admitted insurance market and help make insurance coverage more affordable for consumers and businesses.

When commercial policyholders transition to the voluntary market it will help reduce the FAIR Plan's risk concentration. According to the FAIR Plan, this is an approach that should be encouraged because it is a step toward restoring the necessary balance in the California insurance market that is needed today.

According to the California Farm Bureau Federation, thousands of Farm Bureau members have had insurance policies non-renewed over the past five years, resulting in their need to be insured through the FAIR Plan. Accessing comprehensive and affordable insurance ensures that farmers can focus on the business of supplying the state and nation with a healthy abundance of fresh fruits, vegetables, and nuts. SB 505 takes an important step to help move commercial insurance policies out of the FAIR Plan and back to the competitive market.

The Independent Insurance Agents and Brokers of California (IIABCal) argue that the FAIR plan is under immense pressure in the current insurance marketplace and as such, insurers have withdrawn from or stopped writing insurance in the voluntary market, forcing more and more consumers to rely on the FAIR Plan for their residential and commercial property protection. Any potential reduction to the FAIR Plan's risk concentration would benefit the current insurance crisis.

Personal Insurance Federation of California (PIFC) argues that as a result of FAIR Plan's low level of capital and liquidity, and reinsurance coverage that is far below that of similar entities, California insurers are increasingly concerned that they are exposed to an unlimited assessment to fund FAIR Plan losses that could be in the billions of dollars. Thus, expanding the clearinghouse program to reduce the FAIR Plan's concentration and number of commercial policies could help improve its financial stability. PIFC believes expanding the purpose and goals to apply similarly to commercial insurance policies is an appropriate step to address the growth in FAIR Plan commercial policies and related concentration risks that contribute to FAIR Plan's financial challenges.

SUPPORT:

American Property Casualty Insurance Association
California Association of REALTORS
California Department of Insurance
California FAIR Plan
California Farm Bureau Federation
Independent Insurance Agents and Brokers of California
Personal Insurance Federation of California

OPPOSITION:

None received

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