



# Welcome to the Investigatory Hearing of the California FAIR Plan Association

Convened by:

**RICARDO LARA**

California Insurance Commissioner

# Investigatory Hearing Objectives

Commissioner Lara's investigatory hearing will:

- (1) Address concerns of California consumers, organizations, businesses, and brokers about the FAIR Plan and its critical role as the state's "insurer of last resort"
- (2) Examine how the FAIR Plan can strengthen its daily operations, governance, business practices, and coverage offerings to enable it to meet the changing needs of our California consumers, organizations, businesses, and brokers

# Commissioner Lara Protecting Consumers Since Day One

- **One-year moratoriums** on non-renewals protecting more than 4 million policyholders to date
- **“Safer From Wildfires” Partnership** with the Governor’s Administration
- **Regulation to require transparency for wildfire risk score models** for homes and businesses
- **Executive oversight under Proposition 103** to expand coverage
- **Partnering with Governor and State Legislature** to protect consumers
- **Pushing for FAIR Plan** to provide consistent and reliable coverage

# FAIR Plans Created Nationwide to Protect Insurance Access for All

- Following civil unrest and fires in the 1960s, homeowners could not obtain insurance due to some insurers' discriminatory practices of not writing basic property insurance in high risk urban areas
- Governor and State Legislature established "FAIR Access to Insurance Requirements" (FAIR Plan) to provide basic property insurance which could not be obtained through the traditional (e.g. admitted) insurance market to consumers and businesses
- Under existing law, all traditional market insurers licensed to do business in State of California are required to participate in FAIR Plan

# FAIR Plans Available Nationwide

- 32 states, plus Washington D.C., have a FAIR Plan-type program today



# FAIR Plan's Mission is to Protect Consumers

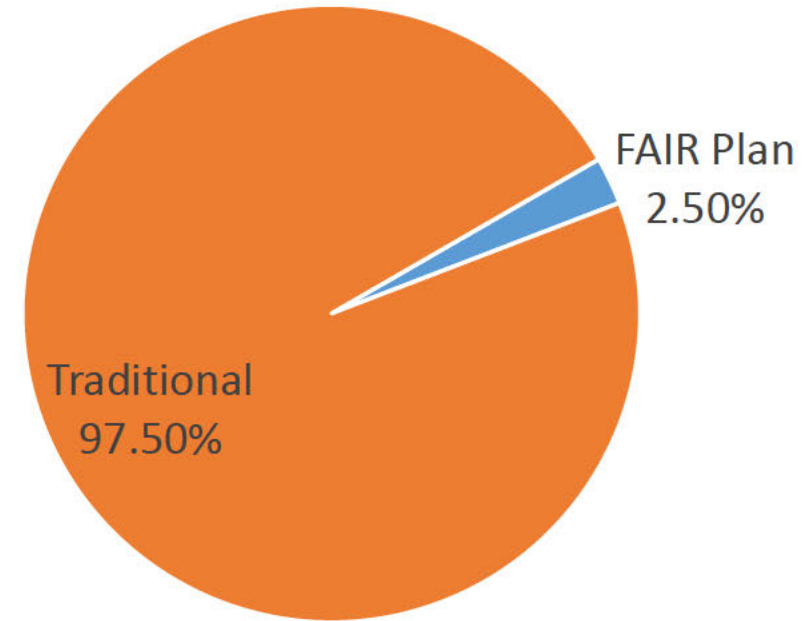
Under California law, FAIR Plan has 4 interrelated purposes:

- 1) **Assure stability** in the property insurance market
- 2) **Assure availability** of property insurance
- 3) **Encourage maximum use** of the traditional insurance market
- 4) **Equitably distribute responsibility** among traditional insurers for providing basic property insurance to all qualified properties

# A Competitive Insurance Marketplace Benefits Consumers

- **98% of Californians obtain residential insurance through a competitive market from traditional insurance companies**

FAIR Plan vs. Traditional Market Exposures  
2020 Homeowners Market



<sup>1</sup> Excludes renters and condominiums



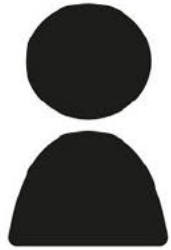
# Yet the Need for the FAIR Plan has Grown

- While most Californians can obtain insurance in the competitive traditional market, some policyholders have been forced to purchase or renew FAIR Plan policies, especially in the Wildland Urban Interface





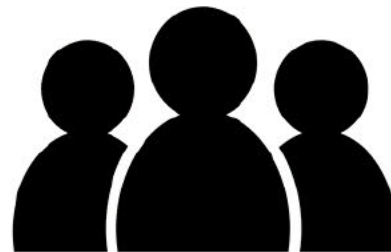
# Insurance Commissioner and Insurance Industry have Distinct Oversight Roles



California Insurance Commissioner



FAIR Plan Governing Committee



California FAIR Plan



# Insurance Commissioner's Oversight Role

- Approves Plan of Operation for FAIR Plan
- May withdraw approval for Plan of Operation, and issue an Order for FAIR Plan to submit a new or revised Plan
- May order additional coverages
- May inspect FAIR Plan at any time

# Commissioner Uses Oversight Tools To Protect Consumers

- Hold Hearings
- Issue Legal Orders
- Sponsors Legislation
- Market Conduct and Operational/Financial Examinations
- Investigate Consumer Complaints

# Commissioner's Oversight Actions

- **Commissioner Lara discontinued FAIR Plan from doling its surplus budget back to insurance member companies without Commissioner's prior approval**
- **Commissioner Lara ordered FAIR Plan to offer a more comprehensive homeowners policy, in addition to its current dwelling fire coverage, with additional coverages for water damage, theft, and additional living expenses**
- **Commissioner Lara expanded FAIR Plan residential and commercial coverage limits for first time in more than two decades**
- **CDI Adopted Market Conduct Exam regarding FAIR Plan's Rating and Underwriting Practices (Report adopted April 27, 2021)**
  - **Focused on non-renewals and termination of residential dwelling policies and use of brush rates on commercial policies in excess of rates filed with CDI**

# Commissioner's Oversight Actions

- **CDI Adopted Operational/Financial Surveillance Exam of FAIR Plan (Operational Report adopted June 15, 2022)**
  - CDI authorized an operational review of FAIR Plan to identify its key areas of operational weaknesses and to recommend corrective actions based upon complaints from policyholders, brokers, and other public officials regarding FAIR Plan's operations
  - CDI also conducted a financial examination to test the effectiveness of FAIR Plan's controls in place and to assess its overall financial condition
- **CDI Investigating FAIR Plan Fire Suppression Discounts**
  - FAIR Plan has not made discounts available to consumers despite approval to offer such in 2011

# Commissioner's Oversight Actions

- **CDI Adopted Market Conduct Exam regarding FAIR Plan's Practices and Procedures Relating to Homeowners/Dwelling Insurance Claims (Adopted May 25, 2022)**
  - Targeted examination in response to complaints received by CDI regarding FAIR Plan's handling of claims for smoke damage
  - CDI received 173 consumer complaints between January 1, 2017 through March 18, 2021 related to FAIR Plan's homeowner/dwelling fire claims
  - Exam focused on FAIR Plan's processing of claims for smoke damage and contract language applied to justify denial of, or reduced payment for smoke damage with respect to wildfires, regular fires and other dwelling claims within the review period
  - Specific focus placed on whether FAIR Plan provided coverage against peril of fire that was equivalent to traditional standard fire policies under Insurance Code section 2071

# Commissioner Lara Works with the Legislature and the Governor for FAIR Plan Reform

**2019**: Commissioner Lara ordered FAIR Plan to offer policyholders with option to pay by monthly installments as well as pay by credit card and EFT with no additional fees

**2020**: Governor signed AB 3012 (Wood and Daly, Ch. 258, Stats. of 2020), which required FAIR Plan to develop Clearinghouse to help reduce the number of existing FAIR Plan policies and provide opportunity for admitted insurers to offer homeowners' insurance policies to FAIR Plan policyholders

**2021**: Governor signed SB 11 (Rubio, Ch. 128, Stats. of 2021), which required FAIR Plan to provide commercial coverage to farms and agribusinesses



# California Needs FAIR Plan to Fulfill Its Intended Purpose

The FAIR Plan needs to:

**Provide insurance** to homeowners and businesses unable to obtain coverage in the traditional insurance market

**Offer more coverage and higher policy limits** to California homeowners and businesses

**Expand FAIR Plan's own personnel and resources** to meet consumers' needs and make structural and operational changes to achieve these goals

# Eliminate Unfair Declinations

## Provide Insurance

- Consumers and businesses are being turned away due to restrictive, vague, and inconsistently applied underwriting criteria
- FAIR Plan must address and eliminate application of unfiled guidelines and unapproved filings to deny coverage
- Work with Department to establish clearer underwriting guidelines
- Californians who are unable to find insurance in the traditional market must be allowed to purchase insurance through FAIR Plan

# Assist Homeowners and Businesses to Secure Coverage Needs

## Provide Insurance

- Brokers have asked FAIR Plan to offer more coverage and at higher limits
- Not all brokers have access to a Difference in Conditions (DIC) policy to sell to add additional coverages
- Brokers are in a tough position of verifying there is FAIR Plan coverage before writing a DIC, which puts consumers at risk of fire losses
- FAIR Plan notices mandate strict eligibility factors, which disincentivizes brokers from writing FAIR Plan business

# Increase Business Coverage Limits Tailored To Specific Needs

Offer More Coverage and Higher Policy Limits

- By working with Department, FAIR Plan can help certain businesses meet their coverage needs
- Similarly, homeowners associations also need higher FAIR Plan commercial coverage limits because of their unique liability exposure concerns

# FAIR Plan Must Provide More Comprehensive Homeowners Insurance

Offer More Coverage and  
Higher Policy Limits

- FAIR Plan's bare bones dwelling fire policy is not enough
- Homeowners need additional coverage such as water damage, theft, liability, and additional living expenses
- FAIR Plan can save consumers from having to purchase additional coverages, which cost more and leave coverage gaps
- No legal barrier to FAIR Plan for complying with Commissioner's Order to offer a more comprehensive homeowners policy

# States that offer a Comprehensive FAIR Plan policy

Offer More Coverage and  
Higher Policy Limits

The Commissioner's Order seeks to follow other jurisdictions that offer comprehensive coverage comparable to the traditional market:

- Kansas
- Illinois
- Louisiana
- Massachusetts
- Michigan
- Rhode Island
- Washington
- Washington, D.C.

# FAIR Plan Must Strengthen Organizational Structure and Operations

## Expand FAIR Plan's Personnel and Resources

- FAIR Plan Governing Committee needs to adopt strategic plan which addresses need for additional capital and resources necessary to function more efficiently, including insurance member assessments
- FAIR Plan needs additional underwriting staff or assistance from contractual resources to meet its customer service goals
- FAIR Plan needs to add additional permanent staffing to address significant increase in consumer complaints involving claims
- FAIR Plan needs to develop multi-year reinsurance strategy



# Next Steps

- Department of Insurance staff will collect verbal and written testimony from today's hearing
- Ensure FAIR Plan handles smoke damages claims in a compliant manner going forward, and engage in further discussion regarding the FAIR Plan's interpretation of its policy language in its standard fire policy
- Ensure FAIR Plan complies with recommendations from Department's Operational Assessment to strengthen operational management practices and address financial challenges
- Identify additional solutions and share with stakeholders and public

Thank you for joining the  
**Investigatory Hearing of the  
California FAIR Plan Association**



**Contact us for assistance with your insurance:  
1-800-927-4357 (HELP) | [insurance.ca.gov](https://insurance.ca.gov)**