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SB-11 The California FAIR Plan Association: basic property insurance: exclusions. (2021-2022)

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Senate Bill No. 11

CHAPTER 128

An act to amend Sections 10091 and 10094 of, and to add Section 10094.5 to, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 23, 2021. Filed with Secretary of State July 23, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 11, Rubio. The California FAIR Plan Association: basic property insurance: exclusions.

Under existing law, the California FAIR Plan Association is a joint reinsurance association in which all insurers licensed to write basic property insurance participate in administering a program for the equitable apportionment of basic property insurance for persons who are unable to obtain that coverage through normal channels. Existing law defines "basic property insurance" for these purposes, and excludes from that definition insurance on automobile or farm risks. Existing law authorizes the governing committee of the association to establish separate classifications of written premiums for the purpose of equitable distribution of basic property insurance, but prohibits those classifications from including premiums from automobile or farm risks.

This bill would instead exclude insurance on automobile risks, commercial agricultural commodities or livestock, or equipment used to cultivate or transport agricultural commodities or livestock from the definition of "basic property insurance," and would require the association, within 90 days of the bill's operative date, to file a new or amended rate application with the Insurance Commissioner consistent with these exclusions. The bill would prohibit the governing committee from including premiums from automobile risks, commercial agricultural commodities or livestock, or equipment used to cultivate or transport agricultural commodities or livestock from the above-described separate classifications.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 10091 of the Insurance Code is amended to read:

10091. Unless the provision or context otherwise requires, the following definitions govern the construction of this chapter:

(a) "Association," "industry placement facility," or "facility," means a joint reinsurance association, the California FAIR Plan Association, formed by insurers licensed to write and engaged in writing basic property insurance within this state to assist persons in securing basic property insurance and to formulate and administer a program for the equitable apportionment among insurers of basic property insurance.

(b) "Commissioner" means the Insurance Commissioner of this state.

(c) (1) "Basic property insurance" means insurance against direct loss to real or tangible personal property at a fixed location in those geographic or urban areas, as designated by the commissioner, from perils insured under the standard fire policy and extended coverage endorsement, from vandalism and malicious mischief, and includes other insurance coverages as may be added with respect to that property by the industry placement facility with the approval of the commissioner or by the commissioner, but shall not include insurance on automobile risks, commercial agricultural commodities or livestock, or equipment used to cultivate or transport agricultural commodities or livestock.

(2) For the purposes of earthquake coverage that is provided as a component of basic property insurance, the association shall sell only the policy described in Section 10089. In force policies of basic property insurance that include earthquake coverage shall be renewed with the coverage specified in Section 10089, and the association shall comply with the notice requirements of paragraph (2) of subdivision (a) of Section 10086.

(d) "Inspection bureau" means the organization or organizations designated by the association with the approval of the commissioner to make inspections to determine the condition of the properties for which basic property insurance is sought and to perform other duties as may be authorized by the association.

(e) "Premiums written" means gross direct premiums charged with respect to property in this state on all policies of basic property insurance and the basic property insurance premium components of all multiperil policies, less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits.

(f) "Insurer" means a person who undertakes to indemnify another against loss, damage, or liability arising from a contingent or unknown event, and shall include reciprocals and interinsurance exchanges.

SEC. 2. Section 10094 of the Insurance Code is amended to read:

10094. (a) Within 30 days after the effective date of this chapter, with the approval of the commissioner, all insurers licensed to write and engaged in writing in this state, on a direct basis, basic property insurance or any component of basic property insurance in multiperil policies, shall establish an industry placement facility, the California FAIR Plan Association, to formulate and administer a program for the equitable apportionment among insurers of basic property insurance that may be afforded to persons having an interest in real or tangible personal property who, after diligent effort, as specified in subdivision (a) of Section 10093, are unable to procure insurance through normal channels from an admitted insurer or a surplus line broker. Each insurer, as a condition of its authority to transact those kinds of insurance in this state, shall participate in an industry placement facility program in accordance with rules to be established by a governing committee, composed of nine insurers annually elected in the manner to be provided in the program. The governing committee shall also have 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 to be appointed by the Governor.

(b) The governing committee may establish separate classifications of written premiums for the purpose of equitable distribution, but shall not include premiums from automobile risks, commercial agricultural commodities or livestock, or equipment used to cultivate or transport agricultural commodities or livestock.

(c) The program may provide, with the approval of the commissioner, for assessment of all members in amounts sufficient to operate the facility, and may establish maximum limits of liability to be placed through the program, reasonable underwriting standards for determining insurability of a risk, and commission to be paid to the licensed producer designated by the applicant.

SEC. 3. Section 10094.5 is added to the Insurance Code, to read:

10094.5. Within 90 days following the effective date of this section, the association shall file a new or amended rate application with the commissioner consistent with paragraph (1) of subdivision (c) of Section 10091.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

Many farmers, growers, and ranchers rely on insurance in order to secure loans used for operation. The Legislature finds that commercial insurance for farmers has become increasingly unavailable and that, as such, the farms, farmworkers, and Californians as a whole may suffer because of this unavailability. Consequences from that unavailability may include the closure of farms unable to find insurance, employment struggles for the affected farm workers, and higher food costs. In order for farmers, growers, and ranchers to obtain coverage from the FAIR Plan approved by California Department of Insurance as soon as possible, it is necessary that this measure go into effect immediately.