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SB-505 Property insurance. (2023-2024)

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Senate Bill No. 505

CHAPTER 180

An act to amend Section 10095 of the Insurance Code, relating to insurance.

[Approved by Governor September 08, 2023. Filed with Secretary of State September 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 505, Rubio. Property insurance.

Under existing law, the California fair access to insurance requirements (FAIR) Plan Association is a joint reinsurance association of state insurers that is established to, among other things, assist persons in securing basic property insurance for qualified property for which insurance cannot be obtained through the normal insurance market.

Existing law requires the association to develop and implement a clearinghouse program to help reduce the number of existing FAIR Plan policies and provide the opportunity for admitted insurers to offer homeowners' insurance policies to FAIR Plan policyholders.

This bill, on or after July 1, 2024, would require the association to develop and implement a similar clearinghouse program for commercial policies. The bill would require the association to comply with privacy statutes and regulations, as specified, pertaining to the information collected in both of the clearinghouse programs.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 10095 of the Insurance Code is amended to read:

10095. (a) Within 30 days following the effective date of this chapter, the association shall submit to the commissioner, for the commissioner's review, a proposed plan of operation, consistent with this chapter, creating an association consisting of 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 homeowners or other dwelling multiperil policies. An insurer described in this subdivision shall be a member of the association and shall remain a member as a condition of its authority to transact those kinds of insurance in this state.

(b) The proposed plan shall authorize the association to assume and cede reinsurance on risks written by insurers in conformity with the program.

(c) Under the plan, an insurer shall participate in the writings, expenses, profits, and losses of the association in the proportion that its premiums written during the second preceding calendar year bear to the aggregate premiums written by all insurers in the

program, excluding that portion of the premiums written attributable to the operation of the association. Premiums written on a policy of basic residential earthquake insurance issued by the California Earthquake Authority pursuant to Section 10089.6 shall be attributed to the insurer that writes the underlying policy of residential property insurance.

(d) The plan shall provide for administration by a governing committee under rules to be adopted by the governing committee with the approval of the commissioner. Voting on administrative questions of the association and facility shall be weighted in accordance with each insurer's premiums written during the second preceding calendar year as disclosed in the reports filed by the insurer with the commissioner.

(e) The plan shall provide for a plan to encourage persons to secure basic property insurance through normal channels from an admitted insurer or a licensed surplus line broker by informing those persons what steps they must take in order to secure the insurance through normal channels.

(f) The plan shall be subject to the approval of the commissioner and shall go into effect upon the tentative approval of the commissioner. The commissioner may, at any time, withdraw tentative approval or the commissioner may, at any time after giving final approval, revoke that approval if the commissioner feels it is necessary to carry out the purposes of the chapter. The withdrawal or revocation of that approval shall not affect the validity of any policies executed before the date of the withdrawal. If the commissioner disapproves or withdraws or revokes their approval to all or any part of the plan of operation, the association shall, within 30 days, submit for review an appropriately revised plan or part of a revised plan, and, if the association fails to do so, or if the revised plan is unacceptable, the commissioner shall promulgate a plan of operation or part of a plan as the commissioner may deem necessary to carry out this chapter.

(g) The association may, on its own initiative or at the request of the commissioner, amend the plan of operation, subject to approval by the commissioner, who shall have supervision of the inspection bureau, the facility, and the association. The commissioner, or any person designated by the commissioner, shall have the power of visitation of and examination into the operation and free access to all the books, records, files, papers, and documents that relate to operation of the facility and association, and may summon, qualify, and examine as witnesses all persons having knowledge of those operations, including officers, agents, or employees thereof.

(h) An insurer member of the plan shall provide to an applicant who is denied coverage, or a policyholder whose policy is canceled or not renewed, the internet website address and statewide toll-free telephone number for the plan established pursuant to Section 10095.5 for the purpose of obtaining information and assistance in obtaining basic property insurance.

(i) To reduce the association's concentration and number of policies, and to encourage maximum use of the normal insurance market consistent with subdivision (c) of Section 10090, the association shall develop and implement a clearinghouse program on or before July 1, 2021, to help reduce the number of existing FAIR Plan policies and provide the opportunity for admitted insurers to offer homeowners' insurance policies to FAIR Plan policyholders. An insurer that participates in the clearinghouse program shall sign an agreement with the association that sets forth the terms and conditions for the insurer to offer homeowners insurance through the policy's listed agent or broker of record, if any. The clearinghouse program may include a provision to include nonadmitted insurers if admitted insurers have the first option.

(j) To reduce the association's concentration and number of commercial policies, and to encourage maximum use of the normal insurance market consistent with subdivision (c) of Section 10090, the association shall develop and implement a commercial insurance policy clearinghouse program on or before July 1, 2024, to help reduce the number of existing FAIR Plan commercial policies and provide the opportunity for admitted insurers to offer commercial insurance policies to FAIR Plan policyholders. An insurer that participates in the commercial policy clearinghouse program shall sign an agreement with the association that sets forth the terms and conditions for the insurer to offer commercial insurance through the policy's listed agent or broker of record, if any. The commercial policy clearinghouse program may include a provision to include nonadmitted insurers if admitted insurers have the first option.

(k) (1) With respect to the clearinghouse programs referenced in subdivisions (i) and (j), the association shall comply with the Insurance Information and Privacy Protection Act (Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1) and regulations on the Privacy of Nonpublic Personal Information (Subchapter 5.9 (commencing with Section 2689.1) of Chapter 5 of Title 10 of the California Code of Regulations).

(2) The association shall provide all policyholders with notice of each of the following:

(A) The manner in which the association shall share policyholders' personal information to facilitate offers of private insurance through the clearinghouse programs.

(B) A method to opt out of the sharing of policyholders' personal information in connection with the clearinghouse programs.