A.B. 437

ASSEMBLY BILL NO. 437–ASSEMBLYMEMBERS DICKMAN, GRAY, GURR; DELONG AND GALLANT

MARCH 17, 2025

Referred to Committee on Commerce and Labor

SUMMARY—Provides for the establishment of the Fair Access to Insurance Requirements Plan. (BDR 57-103)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to property insurance; creating the Fair Access to Insurance Requirements Plan Association; requiring the membership of certain authorized insurers in the Association; creating the Board of Directors of the Association and prescribing the duties of the Board; requiring the Board to establish the Fair Access to Insurance Requirements (FAIR) Plan; establishing the requirements of the FAIR Plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 2-18 of this bill provide for the establishment of the Fair Access to Insurance Requirements (FAIR) Plan to provide property insurance coverage and commercial property insurance coverage which results from the perils of fire or certain other perils when such coverage is not otherwise available from an authorized insurer in this State. **Sections 2-8** define certain terms relating to the FAIR Plan. **Section 9** creates the Fair Access to Insurance Requirements Plan Association to establish, offer and maintain the FAIR Plan. **Section 9** requires any authorized insurer that offers or sells certain property insurance or commercial property insurance in this State to be a member of the Association. **Sections 10-12** create the Board of Directors for the Association and prescribe the duties of the Board, which include establishing the FAIR Plan, developing a plan of operation for the FAIR Plan and making amendments to the plan of operation, subject to approval of the Commissioner of Insurance. **Section 12** establishes the required contents of the plan of operation for the FAIR Plan. **Sections 12 and 17** authorize the Commissioner to adopt regulations relating to the FAIR Plan. **Section 13** authorizes the Commissioner to revoke approval of all or part of the plan of operation and make changes to the plan of operation if the plan of operation is insufficient. **Sections 14 and 15** establish provisions governing the issuance of

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policies and collecting certain fees from Association members. **Section 16** authorizes the Commissioner to take certain actions against an Association member who fails to pay certain fees or otherwise comply with the plan of operation for the FAIR Plan. **Section 18** makes a final action or order of the Commissioner relating to the FAIR Plan subject to judicial review.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 691A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 18, inclusive, of this act.

Sec. 2. ***As used in sections 2 to 18, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 3. ***"Association" means the Fair Access to Insurance Requirements Plan Association created by section 9 of this act.***

Sec. 4. ***"Association member" means any authorized insurer that offers or sells any property insurance or commercial property insurance in this State.***

Sec. 5. ***"Board" means the Board of Directors of the Association created by section 10 of this act.***

Sec. 6. ***"Commercial property insurance" means insurance against direct loss to commercial property, including, without limitation, buildings and the contents of buildings, which results from the perils of fire or perils covered under extended coverage insurance, vandalism or malicious mischief. The term does not include commercial vehicle insurance or farm insurance.***

Sec. 7. ***"FAIR Plan" means the Fair Access to Insurance Requirements Plan established by the Board pursuant to section 11 of this act.***

Sec. 8. ***"Property insurance" means insurance against direct loss to residential property, including, without limitation, buildings and the contents of buildings, which results from the perils of fire or perils covered under extended coverage insurance, vandalism or malicious mischief. The term does not include vehicle insurance or farm insurance.***

Sec. 9. ***1. There is hereby created the Fair Access to Insurance Requirements Plan Association, which is a nonprofit unincorporated public entity. All Association members are and remain members of the Association as a condition of the authority of each Association member to transact insurance or reinsurance in this State.***

2. The Association shall:

(a) Exercise its powers through the Board; and

(b) Perform its functions under a plan of operation established and approved pursuant to section 12 of this act.

3. The Association is established to provide property insurance coverage and commercial property insurance coverage when such coverage is not otherwise available from an authorized insurer. The Association:

(a) Shall establish, offer and maintain a policy of property insurance and a policy of commercial property insurance in accordance with the requirements of the FAIR Plan.

(b) Shall assess and share among Association members, on a fair and equitable basis, all expenses, income and losses based on the written premium of each Association member for property insurance and commercial property insurance consistent with sections 2 to 18, inclusive, of this act.

(c) May issue policies of property insurance and commercial property insurance, reinsure any such policies in whole or in part, cede any such reinsurance or transfer risk to other capital markets.

(d) Shall establish an Internet website available to the public which includes information about the FAIR Plan. The Internet website must include a toll-free telephone number that a person may use to obtain information about the FAIR Plan.

Sec. 10. *1. There is hereby created the Board of Directors of the Association, as the governing body of the Association and to administer the FAIR Plan, consisting of the following nine members appointed by the Governor:*

(a) Two members representing mutual insurers that write property insurance in this State;

(b) Two members representing stock insurers that write property insurance in this State;

(c) One member representing a trade association based in this State that represents insurers of various property interests;

(d) One member representing a trade association based in this State that represents independent agents who are licensed to write property and casualty insurance in this State;

(e) One member who is a producer of insurance licensed to write property and casualty insurance in this State; and

(f) Two members, one of whom resides in Northern Nevada and one of which resides in Southern Nevada, representing the interests of consumers and, to the extent practicable, representing consumer advocacy organizations.

2. The term of each member of the Board appointed pursuant to paragraphs (a) to (f), inclusive, of subsection 1 is 3 years. A member may be reappointed for up to three additional terms of 3 *years in the same manner as the original appointment. A vacancy occurring in the membership of the Board must be filled in the same manner as the original appointment.*

3. The Board shall annually elect a Chair from among its members.

4. The Board shall meet at least annually and may meet at such further times as deemed necessary by the Chair. The Board shall adopt rules for its own management and governance.

5. The Board may, on its own initiative or at the request of the Commissioner, and subject to the approval of the Commissioner, amend the FAIR Plan.

6. On or before April 1, 2027, and on or before each April 1 thereafter, the Board shall submit to the Commissioner, in the form and manner determined by the Commissioner, a report concerning the FAIR Plan during the preceding calendar year. The report must include information concerning:

(a) The financial condition of the FAIR Plan;

(b) The number of policies and the coverage available through the FAIR Plan;

(c) The number and types of claims made under the FAIR Plan; and

(d) A description of the sufficiency of coverage under the FAIR Plan and the sufficiency of finances of the FAIR Plan.

7. In addition to the requirements of subsection 6, the Commissioner may require the Board to submit quarterly reports or may examine the affairs of the Association if the Commissioner determines that such action is necessary to ensure the continued solvency of the FAIR Plan.

Sec. 11. *1. The Board shall establish the Fair Access to Insurance Requirements Plan, in accordance with the requirements of sections 2 to 18, inclusive, of this act, and any regulations adopted pursuant thereto.*

2. Rates for the FAIR Plan must:

(a) Not be excessive, inadequate or unfairly discriminatory;

(b) Be actuarially sound so that revenue generated from premiums is adequate to pay for expected losses, expenses and taxes;

(c) Reflect the investment income of the FAIR Plan; and

(d) Reflect the cost of reinsurance or other capital risk transfer markets.

3. All rate filing documentation and review requirements set forth in this title apply to the FAIR Plan.

Sec. 12. *1. On or before July 1, 2026, the Board shall establish and submit to the Commissioner a plan of operation for the FAIR Plan which satisfies the requirements of sections 2 to 18,* *inclusive, of this act. The plan of operation and any amendments to the plan of operation become effective upon written approval of the Commissioner.*

2. The plan of operation for the FAIR Plan must provide for:

(a) The lines of insurance coverage which are to be written.

(b) Coverage limits for:

(1) Property insurance, in an amount which must be $750,000 or less; and

(2) Commercial property insurance, in an amount which must be $5,000,000 or less.

(c) The policy forms which are to be used.

(d) The perils which are to be covered.

(e) The establishment of reasonable standards for underwriting to determine the eligibility of a risk, including requirements for mitigation and inspection of property.

(f) Any compensation or commission which is to be paid to a producer of insurance who offers the FAIR Plan.

(g) Procedures for the collection of fees, including the times at which fees will be collected, from Association members.

(h) Assessments against Association members, which must be in the proportion that the premiums received by each assessed Association member bear to premiums received for all assessed Association members, for the 3 most recent calendar years for which such information is available. As used in this paragraph, "premiums received" means premiums received on property insurance lines and commercial property insurance lines in this State.

(i) Administration of the FAIR Plan by the Board, including any servicing agreements into which the Board may enter to support the operations of the Association.

(j) Any other matter necessary or convenient for the purpose of assuring fair access to the FAIR Plan.

3. If the Board fails to submit a plan of operation in compliance with the requirements of this section, or fails to timely submit suitable amendments to the plan of operation, the Commissioner shall adopt regulations that are necessary to effectuate the provisions of sections 2 to 18, inclusive, of this act. Any regulation adopted pursuant to this subsection must, if the Board subsequently submits a suitable plan of operation or suitable amendments, allow the subsequent plan of operation or amendments, if approved by the Commissioner, to supersede regulations adopted by the Commissioner pursuant to this subsection.

Sec. 13. *1. The Commissioner may revoke approval of all or part of an approved plan of operation for the FAIR Plan, in* *compliance with the requirements of this section, if the Commissioner determines that the approved plan of operation is insufficient to satisfy the requirements of sections 2 to 18, inclusive, of this act.*

2. The Commissioner shall give notice to the Board not less than 30 days before the date on which the Commissioner intends to revoke all or part of the plan of operation. Not later than 30 days after the date on which the Board receives notice from the Commissioner, the Board may submit a revised plan of operation or a revised part of a plan for operation to the Commissioner for review and approval.

3. If the Board fails to timely submit a revised plan of operation pursuant to subsection 2, the Commissioner may make changes to the existing plan of operation to ensure the plan of operation satisfies the requirements of sections 2 to 18, inclusive, of this act. Any changes made pursuant to this subsection do not affect the validity of a policy executed before the date on which the changes are effective.

4. If the Board subsequently submits a suitable plan of operation which satisfies the requirements of sections 2 to 18, inclusive, of this act and is approved by the Commissioner, that subsequent plan of operation must supersede any changes made by the Commissioner pursuant to subsection 3.

Sec. 14. *The Association shall not sell a policy subject to sections 2 to 18, inclusive, of this act directly to any person or entity. A policy of the Association may only be issued through a producer of insurance, who shall, on behalf of a person or entity and as part of the submittal of an application for a policy, include evidence of not less than three declinations of coverage for the property at issue.*

Sec. 15. *1. The Association may collect fees from Association members to ensure sufficient revenue to start the Association. An Association member:*

(a) Who pays a fee pursuant to this subsection may recoup the amount of the fee directly from policyholders; and

(b) Shall not increase premiums based on a fee which is assessed pursuant to this subsection.

2. The Association may collect fees from Association members as needed, subject to the approval of the Commissioner, to meet the financial obligations of the Association. An Association member:

(a) Who pays a fee pursuant to this subsection may recoup the amount of the fee over a reasonable amount of time in the form of a surcharge on policyholders; and

(b) Shall not increase premiums based on a fee which is assessed pursuant to this subsection.

3. A fee collected pursuant to subsection 1 or 2 must not be considered a premium for any purpose, including, without limitation, for the computation of any tax on gross premium income or any commission of a producer of insurance.

4. If the Commissioner determines at any time that the Association is or may become unable to meet the financial obligations of the association, the Commissioner shall direct the Board to assess and collect fees pursuant to subsection 2 in an amount which is sufficient to restore the ability of the Association to meet its obligations.

5. The Association may abate or defer, in whole or in part, a fee assessed to an Association member if, in the opinion of the Board, payment of the fee would endanger the solvency of the Association member. The Association may assess the amount of any fee or part of a fee which is abated or deferred pursuant to this subsection against other Association members.

Sec. 16. *If an Association member fails to timely pay a fee or comply with the plan of operation pursuant to sections 2 to 18, inclusive, of this act, the Commissioner may:*

1. After notice and a hearing, suspend or revoke the certificate of authority to transact insurance or reinsurance in this State of the Association member.

2. Impose a fine on the Association member, in an amount which must be the greater of $5,000 or the amount of the fee plus interest and the costs of enforcement by the Commissioner.

Sec. 17. *The Commissioner may adopt regulations to carry out the provisions of sections 2 to 18, inclusive, of this act.*

Sec. 18. *A final action or order of the Commissioner issued pursuant to sections 2 to 18, inclusive, of this act is subject to judicial review in a court of competent jurisdiction pursuant to the procedure provided in chapter 233B of NRS for contested cases.*

Sec. 19. Notwithstanding the provisions of section 10 of this act, as soon as practicable on or after October 1, 2025, the Governor shall appoint the members of the Board of Directors of the Fair Access to Insurance Requirements Plan Association as follows:

1. For the members identified in paragraph (a) of subsection 1 of section 10 of this act, one member to an initial term of 1 year and one member to an initial term of 3 years;

2. For the members identified in paragraph (b) of subsection 1 of section 10 of this act, one member to an initial term of 1 year and one member to an initial term of 3 years;

3. For the member identified in paragraph (c) of subsection 1 of section 10 of this act, to an initial term of 2 years;

4. For the members identified in paragraphs (d) and (e) of subsection 1 of section 10 of this act, to initial terms of 1 year; and

5. For the members identified in paragraph (f) of subsection 1 of section 10 of this act, one member to an initial term of 2 years and one member to an initial term of 3 years.

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