

AMENDED IN SENATE APRIL 19, 2016

SENATE BILL

No. 1302

Introduced by Senator McGuire

(Coauthors: Senators Berryhill and Roth)

~~(Coauthor: Coauthors: Assembly Member Dodd~~ *Members Bigelow,
Dodd, and Maienschein)*

February 19, 2016

An act to amend ~~Sections 10095 and~~ *Section 10095.5 of, and to amend, repeal, and add Section 10095 of,* the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1302, as amended, McGuire. Basic property insurance: California FAIR Plan.

Under existing law, the California FAIR (fair access to insurance requirements) 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 establish and maintain a toll-free telephone number through which a person may receive assistance in applying for basic property insurance. Existing law requires an insurer member of the plan to provide to an applicant who is denied coverage the toll-free *telephone* number for the plan for information and assistance in obtaining basic property insurance. Existing law requires an agent or broker transacting basic property insurance to either assist a person in making an application for insurance through the plan or to provide the person with that toll-free telephone number.

This bill would additionally require the association to establish and maintain an Internet Web site at which a person may receive information and assistance in applying for insurance through the ~~plan~~. *plan and would require the association to include the toll-free telephone number and the Internet Web site address on all communications with an applicant or an insured.* The bill, beginning March 1, 2017, would require an insurer member to provide an applicant denied coverage or a policyholder whose policy is canceled or not renewed both that Internet Web site address and toll-free telephone number. ~~The bill would require the association to cause that toll-free telephone number and Internet Web site address to be included in all communications with an applicant or insured. The bill would require an insurance agent or broker transacting basic property insurance to assist a person in making an application for insurance through the plan, and would delete the provision that permitted the agent or broker, as an alternative, to provide the person the toll-free telephone number. The bill would delete the provision permitting an agent or broker to provide the toll-free telephone number of the plan as an alternative to assisting a person in making an application for insurance through the plan, and would instead require an agent or broker to assist a person in making an application through the plan by submitting an application at the person's request or by providing the person with the California FAIR Plan's Internet Web site address and the toll-free telephone number.~~

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

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10095 of the Insurance Code is amended
2 to read:
3 10095. (a) Within 30 days following the effective date of this
4 chapter, the association shall submit to the commissioner, for his
5 or her review, a proposed plan of operation, consistent with the
6 provisions of this chapter, creating an association consisting of all
7 insurers licensed to write and engaged in writing in this state, on
8 a direct basis, basic property insurance or any component of basic
9 property insurance in homeowners or other dwelling multiperil
10 policies. An insurer described in this subdivision shall be a member

1 of the association and shall remain a member as a condition of its
2 authority to transact those kinds of insurance in this state.

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

6 (c) Under the plan, an insurer shall participate in the writings,
7 expenses, *and* profits and losses of the association in the proportion
8 that its premiums written during the second preceding calendar
9 year bear to the aggregate premiums written by all insurers in the
10 program, excluding that portion of the premiums written
11 attributable to the operation of the association. Premiums written
12 on a policy of basic residential earthquake insurance issued by the
13 California Earthquake Authority pursuant to Section 10089.6 shall
14 be attributed to the insurer that writes the underlying policy of
15 residential property insurance.

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

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

28 (f) The plan shall be subject to the approval of the commissioner
29 and shall go into effect upon the tentative approval of the
30 commissioner. The commissioner may, at any time, withdraw his
31 or her tentative approval or he or she may, at any time after he or
32 she has given his or her final approval, revoke that approval if he
33 or she feels it is necessary to carry out the purposes of the chapter.
34 The withdrawal or revocation of that approval shall not affect the
35 validity of any policies executed prior to the date of the withdrawal.
36 If the commissioner disapproves or withdraws or revokes his or
37 her approval to all or any part of the plan of operation, the
38 association shall, within 30 days, submit for review an
39 appropriately revised plan or part of a revised plan, and, if the
40 association fails to do so, or if the revised plan is unacceptable,

1 the commissioner shall promulgate a plan of operation or part of
2 a plan as he or she may deem necessary to carry out the purposes
3 of this chapter.

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

15 ~~(h) An insurer member of the plan shall provide to an applicant
16 who is denied coverage, or a policyholder whose policy is canceled
17 or not renewed, the Internet Web site address and statewide toll-free
18 telephone number for the plan established pursuant to Section
19 10095.5 for the purpose of obtaining information and assistance
20 in obtaining basic property insurance.~~

21 *(h) Every insurer member of the plan shall provide to applicants
22 who are denied coverage the statewide toll-free telephone number
23 for the plan established pursuant to Section 10095.5 for the
24 purpose of obtaining information and assistance in obtaining basic
25 property insurance.*

26 *(i) This section shall remain in effect only until March 1, 2017,
27 and as of that date is repealed, unless a later enacted statute, that
28 is enacted before March 1, 2017, deletes or extends that date.*

29 *SEC. 2. Section 10095 is added to the Insurance Code, to read:*

30 *10095. (a) Within 30 days following the effective date of this
31 chapter, the association shall submit to the commissioner, for his
32 or her review, a proposed plan of operation, consistent with the
33 provisions of this chapter, creating an association consisting of
34 all insurers licensed to write and engaged in writing in this state,
35 on a direct basis, basic property insurance or any component of
36 basic property insurance in homeowners or other dwelling
37 multiperil policies. An insurer described in this subdivision shall
38 be a member of the association and shall remain a member as a
39 condition of its authority to transact those kinds of insurance in
40 this state.*

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

4 ***(c) Under the plan, an insurer shall participate in the writings,***
5 ***expenses, and profits and losses of the association in the proportion***
6 ***that its premiums written during the second preceding calendar***
7 ***year bear to the aggregate premiums written by all insurers in the***
8 ***program, excluding that portion of the premiums written***
9 ***attributable to the operation of the association. Premiums written***
10 ***on a policy of basic residential earthquake insurance issued by***
11 ***the California Earthquake Authority pursuant to Section 10089.6***
12 ***shall be attributed to the insurer that writes the underlying policy***
13 ***of residential property insurance.***

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

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

26 ***(f) The plan shall be subject to the approval of the commissioner***
27 ***and shall go into effect upon the tentative approval of the***
28 ***commissioner. The commissioner may, at any time, withdraw his***
29 ***or her tentative approval or he or she may, at any time after he or***
30 ***she has given his or her final approval, revoke that approval if he***
31 ***or she feels it is necessary to carry out the purposes of the chapter.***
32 ***The withdrawal or revocation of that approval shall not affect the***
33 ***validity of any policies executed prior to the date of the withdrawal.***
34 ***If the commissioner disapproves or withdraws or revokes his or***
35 ***her approval to all or any part of the plan of operation, the***
36 ***association shall, within 30 days, submit for review an***
37 ***appropriately revised plan or part of a revised plan, and, if the***
38 ***association fails to do so, or if the revised plan is unacceptable,***
39 ***the commissioner shall promulgate a plan of operation or part of***

1 *a plan as he or she may deem necessary to carry out the purposes*
2 *of this chapter.*

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

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

20 *(i) This section shall become operative March 1, 2017.*

21 ~~SEC. 2.~~

22 *SEC. 3.* Section 10095.5 of the Insurance Code is amended to
23 read:

24 10095.5. (a) The association shall establish and maintain an
25 Internet Web site and a statewide toll-free telephone number
26 through which a person may receive information and assistance
27 in applying for insurance through the plan. The association shall
28 cause the toll-free telephone number to be published in all general
29 distribution telephone directories in the state and shall include the
30 toll-free telephone *number* and Internet Web site address on all
31 communications with an applicant or insured.

32 (b) An insurance agent or broker transacting basic property
33 insurance shall assist a person in making an application for
34 insurance through the ~~plan.~~ *plan by submitting an application at*
35 *the person's request or by providing the person with the California*
36 *FAIR Plan's Internet Web site address and the toll-free telephone*
37 *number.*

38 ~~SEC. 3.~~

39 *SEC. 4.* This act is an urgency statute necessary for the
40 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the Constitution and shall go into
2 immediate effect. The facts constituting the necessity are:

3 In order to have the consumer protections proposed in this act
4 become operative as soon as possible for homeowners who are
5 having difficulty obtaining insurance coverage for their property
6 because they are located in high-risk brush and wildfire areas, and
7 to provide insurers adequate time to amend and prepare their
8 required notices to customers about the availability of coverage
9 through the *California* FAIR (fair access to insurance requirements)
10 Plan, it is necessary for this act to take effect immediately.

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