

AMENDED IN SENATE JULY 1, 1996
AMENDED IN SENATE JUNE 3, 1996
AMENDED IN ASSEMBLY JANUARY 8, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1754

Introduced by Assembly Member Knowles

February 24, 1995

An act to amend Section 10087 of, and to add Sections 10100.2 and 10100.3 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1754, as amended, Knowles. Insurance: FAIR Plan.

Existing law, for purposes of earthquake coverage, defines “policy of residential property insurance,” as specified.

This bill would require that policy to, at a minimum, insure against direct loss from the perils insured against in the standard fire policy.

Under existing law, the California FAIR Plan Association is a joint reinsurance 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.

This bill would require the Insurance Commissioner to annually determine the percentage of the earthquake property insurance market that is written by the association

for purposes of determining the association’s authority to write new policies of earthquake property insurance, as specified.

The bill would require ~~all~~ rates established by the association to be ~~actuarially sound and to not be excessive, inadequate, or unfairly discriminatory~~ *125% of the highest rate of the 10 largest insurers, as specified.* The bill would specify those factors that the association shall consider in adopting rates.

Existing law provides that reports and communications of the association are not considered public documents.

The bill would provide that all information considered by the association in establishing rates would be public records.

Vote: majority. 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 10087 of the Insurance Code is
2 amended to read:

3 10087. (a) As used in this chapter “policy of
4 residential property insurance” shall mean a policy
5 insuring individually owned residential structures of not
6 more than four dwelling units, individually owned
7 condominium units, or individually owned mobilehomes,
8 and their contents, located in this state and used
9 exclusively for residential purposes or a tenant’s policy
10 insuring personal contents of a residential unit located in
11 this state. “Policy of residential property insurance,” as
12 defined, shall not include insurance for real property or
13 its contents used for any commercial, industrial or
14 business purpose, except a structure of not more than four
15 dwelling units rented for individual residential purposes.
16 Such a policy, at a minimum, shall insure against direct
17 loss from the perils insured against in the standard fire
18 policy. Policies that do not do so shall not be included in
19 the definition of “policy of residential property
20 insurance.”

21 (b) Proof of mailing of the offer by first-class mail
22 addressed to a named insured or applicant at the mailing



1 address shown on the policy or application shall create a
2 conclusive presumption that the offer was made.

3 SEC. 2. Section 10100.2 is added to the Insurance
4 Code, to read:

5 10100.2. The commissioner shall annually determine
6 that percentage of the earthquake property insurance
7 market that is written by the association. If the
8 commissioner determines that the association is writing
9 more than 6 percent of the earthquake property
10 insurance market then the association shall have no
11 authority to write new policies of earthquake property
12 insurance until the commissioner certifies that the
13 association is writing less than 5 percent of the earthquake
14 property insurance market.

15 SEC. 3. Section 10100.3 is added to the Insurance
16 Code, to read:

17 ~~10100.3. (a) All rates established by the association
18 shall be actuarially sound and shall not be excessive,
19 inadequate, or unfairly discriminatory.~~

20 *10100.3. (a) (1) In establishing rates for the
21 association, the commissioner shall compare the rates of
22 the 10 largest writers of residential property insurance in
23 California, and rates shall be established as 125 percent of
24 the highest rate of any of these insurers.*

25 *(2) If Assembly Bill 2086 and Senate Bill 1993 of the
26 1995–96 Regular Session are enacted and the California
27 Earthquake Authority becomes operational, then for the
28 purposes of this section, the rate charged by the
29 California Earthquake Authority shall be included in
30 determining the rates of the 10 largest writers of
31 residential property insurance in the state.*

32 *(3) For the purposes of this section, “125 percent of the
33 highest rate” shall take into account the rates for similarly
34 situated risks in both the FAIR Plan and with private
35 residential property insurers, including, but not limited
36 to, rate differentials based on geographic location and
37 type of construction.*

38 (b) Rates for a policy of earthquake property
39 insurance issued by the association shall be established
40 based on the best available scientific information for



1 assessing the risk of earthquake loss. Factors that the
2 association shall consider in adopting rates include, but
3 are not limited to, the following:

4 (1) Location of the insured property and its proximity
5 to earthquake faults and to other geological factors
6 affecting the risk of earthquake.

7 (2) The soil type upon which the insured dwelling is
8 built.

9 (3) Construction type of the insured dwelling.

10 (4) The presence of earthquake hazard reduction
11 factors as defined in Section 10089.2.

12 (c) Notwithstanding Section 10097, all information
13 considered by the association in establishing rates shall be
14 public records.

15 (d) The classification system established by the
16 association for policies of earthquake property insurance
17 shall not be adjusted or tempered in any manner to
18 provide rates lower than are justified for classifications
19 presenting a high risk of loss, or higher than are justified
20 for classifications presenting a low risk of loss.

