

Senate Bill No. 858

CHAPTER 688

An act to amend Sections 10094.2 and 10095 of the Insurance Code, relating to insurance.

[Approved by Governor September 21, 1998. Filed
with Secretary of State September 22, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 858, Lewis. California FAIR Plan.

Under existing law, the California FAIR Plan Association is a joint reinsurance association formed by state 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. Existing law requires each insurer to participate in the writings, expenses, profits, and losses of the association, based on premiums written, as specified, but requires the plan to provide for a method whereby insurers who voluntarily write certain insurance on risks in brush hazard or inner-city areas are proportionately relieved of the liability to participate in the plan.

This bill, for the purposes of determining each insurer's participation in the association, would provide that premiums written on a policy of basic residential earthquake insurance issued by the California Earthquake Authority are attributable to the insurer that writes the underlying policy of residential property insurance.

The bill would also make a technical change and declare that the change is declaratory of existing law.

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

SECTION 1. Section 10094.2 of the Insurance Code is amended to read:

10094.2. Notwithstanding subdivision (c) of Section 10095, the facility shall, pursuant to regulations adopted by the commissioner, provide for a method whereby insurers who voluntarily write basic property insurance on risks located in areas designated as brush hazard areas by the Insurance Services Office (ISO) will, to that extent, be proportionately relieved of the liability to participate in a plan adopted pursuant to this chapter. Furthermore, notwithstanding subdivision (c) of Section 10095, the facility shall, pursuant to regulations adopted by the commissioner, provide for a method whereby insurers who voluntarily write basic property

insurance or business owners package insurance on risks located in areas designated as inner-city areas by the commissioner will, to that extent, be proportionately relieved of the liability to participate in a plan adopted pursuant to this chapter. Nothing in this chapter shall preclude adoption of a plan or plans to allow proportionate credit for voluntary writings in other areas or for other classes of insurance.

SEC. 2. 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 his or her review, a proposed plan of operation, consistent with the provisions of 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 thereof in homeowners or other dwelling multiperil policies. Every insurer so described 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, each 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 it 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 his or her tentative approval or he or she may, at any time after he or she has given his or her final approval revoke that approval if he or she feels it is necessary to carry out the purposes of the chapter. The



withdrawal or revocation of such approval shall not affect the validity of any policies executed prior to the date of the withdrawal. If the commissioner disapproves or withdraws or revokes his or her 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 thereof, and, if the association fails to do so, or if the revised plan so filed is unacceptable, the commissioner shall promulgate a plan of operation or part thereof as he or she may deem necessary to carry out the purpose of 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 him or her, 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) Every insurer member of the plan shall provide to applicants who are denied coverage the statewide toll-free "800" number for the plan established pursuant to Section 10095.5 for the purpose of obtaining information and assistance in obtaining basic property insurance.

SEC. 3. The amendment of Section 10094.2 of the Insurance Code made by this act does not constitute a change in, but is declaratory of, existing law.

