

AMENDED IN ASSEMBLY MARCH 29, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1983

Introduced by Assembly Member Kuehl

February 18, 2000

An act to ~~add Section 10094.3 to~~ amend Section 10100.2 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1983, as amended, Kuehl. FAIR Plan: brush hazards.

Existing law provides for the creation of the FAIR Plan, under which all insurers licensed to write basic property insurance participate in an industry placement facility to administer a program for the equitable apportionment among those insurers of basic property insurance for persons who are unable to obtain that coverage through normal channels, as specified. Existing law provides that insurers that voluntarily write basic property insurance in designated brush hazard or inner-city areas will be proportionately relieved of the liability to participate in the FAIR Plan.

This bill would provide that ~~a policyholder under the FAIR Plan shall not be liable for a brush surcharge if the residential property insured by the policy is in compliance with applicable laws, ordinances, and regulations requiring brush clearance with respect to an insured structure. If~~ if the reason for ~~otherwise~~ imposing a brush surcharge *under a FAIR plan policy* is ~~due to~~ *solely because* an adjacent property owner ~~who~~ is not in compliance with *specified* brush clearance

requirements, ~~this bill would provide that a~~ *the* brush surcharge shall instead be imposed on the policy of that adjacent property owner, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 ~~SECTION 1. Section 10094.3 is added to the Insurance~~

2 *SECTION 1. Section 10100.2 of the Insurance Code is*
3 *amended to read:*

4 10100.2. (a) (1) Rates for the FAIR Plan shall not be
5 excessive, inadequate, or unfairly discriminatory, and
6 shall be actuarially sound so that premiums are adequate
7 to cover expected losses, expenses and taxes, and shall
8 reflect investment income of the plan. If the plan returns
9 premiums to members annually, the rates shall not
10 include any component relating to surplus
11 enhancements.

12 (2) *If the FAIR plan policy of a property owner would*
13 *be subject to a brush surcharge solely because of an*
14 *adjacent property owner's failure to comply with*
15 *applicable laws, ordinances, and regulations regarding*
16 *brush clearance requirements, the surcharge shall*
17 *instead be imposed on the policy of the adjacent property*
18 *owner if the adjacent property is also insured through the*
19 *FAIR plan.*

20 (b) Rates for a policy of earthquake property
21 insurance issued by the association shall be established
22 based on the best available scientific information for
23 assessing the risk of earthquake loss. Factors that the
24 association shall consider in adopting rates include, but
25 are not limited to, the following:

26 (1) Location of the insured property and its proximity
27 to earthquake faults and to other geological factors
28 affecting the risk of earthquake.

29 (2) The soil type upon which the insured dwelling is
30 built.

31 (3) Construction type of the insured dwelling.



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

3 (c) Notwithstanding Section 10097, all information
4 considered by the association in establishing rates shall be
5 public records.

6 (d) The classification system established by the
7 association for policies of earthquake property insurance
8 shall not be adjusted or tempered in any manner to
9 provide rates lower than are justified for classifications
10 presenting a high risk of loss, or higher than are justified
11 for classifications presenting a low risk of loss.

12 ~~Code, to read:~~

13 ~~10094.3. A policyholder under the FAIR Plan shall not~~
14 ~~be liable for a brush surcharge if the residential property~~
15 ~~insured by the policy is in compliance with applicable~~
16 ~~laws, ordinances, and regulations requiring brush~~
17 ~~clearance with respect to an insured structure. If the~~
18 ~~FAIR Plan policy of a property owner would otherwise be~~
19 ~~subject to a brush surcharge because of an adjacent~~
20 ~~property's failure to comply with brush clearance~~
21 ~~requirements, a surcharge shall instead be imposed on~~
22 ~~the policy of the adjacent property owner if the property~~
23 ~~of that owner is also insured through the FAIR Plan.~~

