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BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF CALIFORNIA

In the Matter of
THE CALIFORNIA FAIR PLAN ASSOCIATION,
Respondent.

ORDER NO. 2021-3

WHEREAS, the California FAIR Plan Association (“FAIR Plan”) is an involuntary association of all admitted insurers licensed to write and engaged in writing Basic Property Insurance in California, governed by Chapter 9 of Part 1, Division 2 of the California Insurance Code,¹ sections 10090 *et seq.* (“Chapter 9”);

WHEREAS, pursuant to section 10095, subdivision (g), administration of the FAIR Plan is subject to the California Insurance Commissioner’s supervision;

WHEREAS, pursuant to section 10095, subdivision (f), the Commissioner may revoke his or her approval of the FAIR Plan’s Plan of Operation if he or she feels it is necessary to carry out the purposes of Chapter 9;

WHEREAS, pursuant to section 10090, the FAIR Plan’s purposes are:

- (a) to assure stability in the property insurance market for property located in the State of California;
- (b) to assure the availability of basic property insurance as defined by [Chapter 9];
- (c) to encourage maximum use, in obtaining basic property insurance, of the normal insurance market provided by admitted insurers and licensed surplus line brokers; and
- (d) to provide for the equitable distribution among admitted insurers of the responsibility for insuring qualified property for which basic property insurance cannot be obtained through the normal insurance market by the establishment of a FAIR Plan...;

WHEREAS, pursuant to section 10091, subdivision (c), basic property insurance means...

...insurance against direct loss to real or tangible personal property at a fixed location in those geographic or urban areas, as designated by the commissioner, from perils insured under the standard fire policy and extended coverage endorsement, from vandalism and malicious mischief, and includes other insurance coverages as may be added with respect to that property by the industry placement facility with the approval of the commissioner or by the commissioner, but shall not include insurance on automobile risks, commercial agricultural commodities or livestock, or equipment used to cultivate or transport agricultural commodities or livestock.²;

¹ All statutory citations are to Chapter 9 of Part 1, Division 2 of the California Insurance Code, section 10090 *et seq.*
² Stats. 2021, c. 128 (S.B.11), § 1, eff. July 23, 2021.)

1 WHEREAS, the FAIR Plan increased coverage limits in 2020 from \$1.5 million to \$3 million for
2 Division I dwelling fire policies pursuant to Order 2019-2;

3 WHEREAS, according to rate filing information submitted by the FAIR Plan and reviewed by the
4 Department, the FAIR Plan has, since 1997, been offering a combined coverage limit of \$4.5 million for
5 Division I standard commercial policies, \$3 million for structures, and \$1.5 million for personal property,
6 and subject to certain conditions, additional coverage available for the personal property of tenants;

7 WHEREAS, according to rate filing information reviewed by the Department (filing 20-2304,
8 request to withdraw submitted in SERFF on September 23, 2021, withdrawal disposition completed in
9 SERFF on October 7, 2021), the FAIR Plan attested that it currently offers a combined coverage limit for
10 commercial property of \$4.5 million with \$3 million for structures and \$1.5 million for personal property;

11 WHEREAS, the Commissioner has determined that the FAIR Plan's current combined coverage
12 limit of \$4.5 million, specifically with \$3 million for building coverage and \$1.5 million for business personal
13 property coverage at one location for its Division I commercial program, is insufficient to address the
14 needs of California's business community;

15 WHEREAS, the Commissioner and the Department have met with businesses and non-profit
16 entities throughout the state over the past two years, including but not limited to agricultural operations,
17 wineries, residential care facilities, affordable housing entities, summer camps, and the timber industry,
18 and such businesses have informed the Commissioner about (1) the lack of availability of commercial
19 property insurance coverage in the normal market, and (2) the fact that the FAIR Plan's current Division I
20 commercial property coverage limits are insufficient to meet the insurance needs of such businesses;

21 WHEREAS, Senate Bill 11 (Rubio) was signed into law by Governor Newsom on July 23, 2021,
22 and amended the definition of basic property insurance in Section 10091, subdivision (c) to clarify that
23 certain farm and agricultural risks are newly eligible for coverage from the FAIR Plan's Division I
24 commercial coverage program;

25 WHEREAS, to adjust the maximum coverage limits for inflation from the maximum coverage limits
26 for Division I standard commercial policies specified in 1997 to equivalent limits in June 2021 dollars would
27 require an increase of 85.3%;

28 WHEREAS, the Commissioner has determined that the Division I commercial property limits
should be increased to \$8.4 million, consisting of \$5.6 million for building coverage and \$2.8 million for
business personal property coverage at one location;

WHEREAS, the Commissioner has determined there is no current rate impact if the FAIR Plan
increases its current Division I commercial property coverage limits to \$8.4 million because the FAIR Plan
has no existing business above the \$4.5 million combined coverage limit currently offered;

WHEREAS, the Commissioner feels it is necessary, in order to carry out the purposes of Chapter
9, to revoke his approval of the FAIR Plan's Plan of Operation (Ed. 12/19/19) to the extent the Plan of
Operation is inconsistent with this Order that the FAIR Plan offer a \$8.4 million combined coverage limit for
the FAIR Plan's Division I commercial property program;

WHEREAS, the FAIR Plan's current Plan of Operation (Ed. 12/19/19) provides combined
coverage limits of \$3.6 million for its Division II Businessowners program ("BOP"), specifically \$2 million for

1 building coverage and \$1 million for business personal property coverage at one location, and
2 \$300,000/\$600,000 per occurrence/aggregate in liability;

3 WHEREAS, the \$3.6 million combined coverage limit for the BOP program has not increased
4 since on or before 1994, and has failed to keep pace with inflation;

5 WHEREAS, to adjust the maximum coverage limits for inflation from the maximum coverage limits
6 specified in 1994 to equivalent limits in June 2021 dollars would require an increase of 96.3%;

7 WHEREAS, the Commissioner has determined that \$7.2 million is an appropriate combined
8 coverage limit for the FAIR Plan's current Division II BOP program, specifically providing \$4 million for
9 building coverage and \$2 million for business personal property coverage at one location, and
10 \$600,000/\$1,200,000 per occurrence/aggregate coverage for liability;

11 WHEREAS, the Commissioner has determined there is no current rate impact if the FAIR Plan
12 increases its current Division II BOP program combined coverage limits to \$7.2 million because the FAIR
13 Plan has no existing business above the \$3.6 million combined coverage limit currently offered; and

14 WHEREAS, the Commissioner feels it is necessary, in order to carry out the purposes of Chapter
15 9, to revoke his approval of the FAIR Plan's Plan of Operation (Ed. 12/19/19) to the extent the Plan of
16 Operation is inconsistent with this Order that the FAIR Plan offer a \$7.2 million combined coverage limit for
17 the FAIR Plan's current Division II BOP program.

18 **NOW THEREFORE, IT IS ORDERED**

- 19 1. The Commissioner revokes his approval of the FAIR Plan's current Plan of Operation (ed.
20 12/19/19) to the extent the Plan of Operation does not require the FAIR Plan to offer a \$8.4
21 million combined coverage limit for the FAIR Plan's Division I commercial property program
22 consisting of \$5.6 million for building coverage and \$2.8 million for business personal property
23 coverage at one location;
 - 24 a. The FAIR Plan shall, within 30 days from the date of this Order, submit for the
25 Commissioner's approval, a revised Plan of Operation that requires the FAIR Plan to
26 offer applicants or policyholders the option of a \$8.4 million combined coverage limit
27 policy for the FAIR Plan's current Division I commercial property program;
 - 28 b. The FAIR Plan shall, no later than 90 days from the date of this Order, submit a
separate rule filing to reflect the increased combined coverage limits for its Division I
commercial property program; and
 - c. The FAIR Plan's revised Plan of Operation shall, no later than 90 days from the date
of the approval of the rule filing referenced in paragraph (1)(b), require the FAIR Plan
to offer to applicants and existing renewing policyholders the \$8.4 million combined
coverage limit for the FAIR Plan's Division I commercial property program; and
2. The Commissioner revokes his approval of the FAIR Plan's current Plan of Operation (ed.
12/19/19) to the extent the Plan of Operation does not require the FAIR Plan to offer a \$7.2
million combined coverage limit for the FAIR Plan's current Division II BOP program;
 - a. The FAIR Plan shall, within 30 days of the date of this Order, submit for the

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Commissioner's approval, a revised Plan of Operation that requires the FAIR Plan to offer applicants and renewing existing policyholders the option of purchasing a \$7.2 million combined coverage limit policy for the FAIR Plan's current Division II BOP program, consisting of \$4 million for building coverage, \$2 million for business personal property coverage at one location, and \$600,000/\$1.2 million per occurrence/aggregate in liability coverage;

- b. The FAIR Plan shall, no later than 90 days from the date of this Order, submit a separate rule filing to reflect the increased combined coverage limits for its current Division II BOP program; and
- c. The FAIR Plan's revised Plan of Operation shall require the FAIR Plan to offer to applicants and renewing existing policyholders the \$7.2 million combined coverage limit for the FAIR Plan's current Division II BOP program no later than 90 days after the approval of the rule filing referenced in paragraph (2)(b); and

3. The Commissioner revokes his approval of the Plan of Operation (Ed. 12/19/19) to the extent that it does not require the FAIR Plan to increase its coverage limits for all Division I and Division II programs to adjust for inflation on at least a biennial basis, beginning 90 days after the date of this Order. The FAIR Plan shall submit a rule filing for each program at the time the inflation adjustment is made pursuant to the preceding sentence. The FAIR Plan may submit subsequent biennial inflation adjustments in either a stand-alone inflation adjustment rule filing or in conjunction with a rate filing, provided an inflation adjustment filing is not made more than two years later than the last such filing was made. Since, pursuant to Order 2019-2, FAIR Plan increased coverage limits in 2020 from \$1.5 million to \$3 million for Division I dwelling fire policies, such program should be the first to receive a biennial coverage limit increase as provided herein.

IT IS SO ORDERED.

Executed this 12 day of October 2021.

RICARDO LARA
Insurance Commissioner



