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2 BEFORE THE INSURANCE COMMISSIONER

3 OF THE STATE OF CALIFORNIA

4
5 In the Matter of
6 THE CALIFORNIA FAIR PLAN ASSOCIATION,
7
8 Respondent.

ORDER NO. 2019-3

9
10 WHEREAS, the California FAIR Plan Association ("FAIR Plan") is an involuntary association of all
11 admitted insurers licensed to write and engaged in writing *Basic Property Insurance* in California,
12 governed by Chapter 9 of Part 1, Division 2 of the California Insurance Code¹, sections 10090 et seq.
13 ("Chapter 9");

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

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

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

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

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 designated by the commissioner, from perils insured
under the standard fire policy and extended coverage endorsement and vandalism and
malicious mischief *and such other insurance coverages as may be added with respect to
such property* by the industry placement facility with the approval of the commissioner or
by the commissioner, but shall not include insurance on automobile or farm risks;
(Italics added.)

WHEREAS, to ensure the availability of *basic property insurance*, the FAIR Plan's current Plan of

1 Operation (Ed. 05/31/19) requires the FAIR Plan to offer, under its Division I program, dwelling fire and
2 allied lines policies containing, *inter alia*, the coverages set forth in section 10091, subdivision (c), but such
3 policies do not include the majority of coverages included in a typical homeowners' policy available in the
4 voluntary market;

5 WHEREAS, the data compiled and released publicly by the Commissioner in August 2019 shows
6 that the FAIR Plan's market share has increased significantly as the voluntary market non-renewed
7 significant numbers of homeowners policies in areas throughout the State of California exposed to
8 wildfire²;

9 WHEREAS, the Commissioner has determined that the coverages offered in the FAIR Plan's
10 Division I dwelling fire and allied lines policies as required by the FAIR Plan's current Plan of Operation are
11 insufficient to meet the growing demand for comprehensive homeowners' insurance in wildfire prone areas
12 and other areas of the state where the voluntary market has and likely will continue to non-renew
13 significant numbers of homeowners policies;

14 WHEREAS, certain homeowners' insurers in the voluntary market offer a version of the Insurance
15 Services Office, Inc. HO-3 policy with certain California amendatory endorsements (collectively referred to
16 herein as "HO-3") that includes the coverages specified in section 10091, subdivision (c) [perils insured
17 under the standard fire policy; extended coverage endorsement; vandalism and malicious mischief]; as
18 well as accidental discharge or overflow of water or steam, personal liability; incidental worker's
19 compensation; medical payments to others; damage to property of others; theft; falling objects; weight of
20 ice, snow, or sleet; freezing; and loss of use, including additional living expenses and fair rental value;

21 WHEREAS, under the FAIR Plan's current Plan of Operation, the FAIR Plan is required to use
22 standard forms such as an HO-3, except as modified with the Commissioner's permission;

23 WHEREAS, the Commissioner felt it was it is necessary, in order to carry out the purposes of
24 Chapter 9, to revoke his approval of the FAIR Plan's current Plan of Operation (Ed. 05/31/19) by Order
25 2019-2 dated November 14, 2019 (attached hereto as Exhibit A), to the extent the current Plan of
26 Operation is inconsistent with Order 2019-2 to add additional coverages to the definition of *basic property*
27 *insurance* and to the extent that it does not require the FAIR Plan to offer the option to purchase an HO-3
28 policy or a policy with coverages equivalent to those included in an HO-3 policy not later than June 1,
2020, in addition to the Division I dwelling fire and allied lines policies the FAIR Plan offers as of the date
of that Order, to respond to the unmet demand for homeowners insurance in the state;

WHEREAS, the FAIR Plan's current Plan of Operation currently provides combined coverage
limits of \$1.5 million for Division I dwelling fire and allied lines;

WHEREAS, a significant number of FAIR Plan's Division I policyholders have purchased the
combined coverage limit of \$1.5 million, and certain of such policyholders have allocated all or a portion of
such limit to Coverage A for the dwelling, resulting in those policyholders being uninsured or underinsured
for other coverages;

¹ All statutory citations are to Chapter 9 of Part 1, Division 2 of the California Insurance Code, section 10090 *et seq.*

1 WHEREAS, the Commissioner has determined an increasing and significant number of
2 homeowners in the state of California will be required to purchase a FAIR Plan dwelling fire or allied lines
3 policy, or the HO-3 policy or a policy with coverages equivalent to those included in an HO-3 policy, at
4 combined coverage limits in excess of \$1.5 million;

5 WHEREAS, the combined \$1.5 million combined coverage limit has not increased since on or
6 about 1993, so it has failed to keep pace with inflation;

7 WHEREAS, the Commissioner has determined that \$3 million is an appropriate combined
8 coverage limit for the FAIR Plan's current Division I dwelling fire and allied lines policies;

9 WHEREAS, the Commissioner has determined there is no immediate rate impact if the FAIR Plan
10 increases its current Division I dwelling fire and allied lines combined coverage limits to \$3 million because
11 the FAIR Plan has no existing business above the \$1.5 million combined coverage limit currently offered;

12 WHEREAS, the Commissioner has determined that the liability coverage in the HO-3 or a policy
13 with coverages equivalent to those included in an HO-3 policy required by this Order, requires up to an
14 additional \$300,000 in excess of the \$3 million in combined coverage required by this Order for Division I
15 dwelling fire and allied lines to be available for the HO-3 or equivalent policy required by Order 2019-2;

16 WHEREAS, the Commissioner felt it was necessary, in order to carry out the purposes of Chapter
17 9, to revoke his approval of the FAIR Plan's Plan of Operation (Ed. 05/31/19) by Order 2019-2 to the
18 extent the Plan of Operation is inconsistent with Order 2019-2 that the FAIR Plan offer, not later than April
19 1, 2020, a \$3 million combined coverage limit for its current Division I dwelling fire and allied lines policies
20 it offers as of the date of Order 2019-2, and, not later than June 1, 2020, a \$3.3 million combined coverage
21 limit for the HO-3 or equivalent policy required by Order 2019-2;

22 WHEREAS, the FAIR Plan currently only permits applicants and policyholders to pay in quarterly
23 installments and does not offer applicants or policyholders the ability to pay their insurance premiums for
24 Division I in monthly installments or to remit payment by credit card and electronic funds transfer, thus
25 creating a financial burden on applicants and reducing insureds' ability to afford and obtain *basic property*
26 *insurance*, contrary to the purposes of Chapter 9;

27 WHEREAS, the Commissioner felt it was necessary to revoke the FAIR Plan's Plan of Operation
28 (Ed. 05/31/09) to the extent that was inconsistent with Order 2019-2 in that it does not require the FAIR
Plan to, not later than February 1, 2020, offer Division I policyholders the option to pay their insurance
premiums for *basic property insurance* in monthly installments with no additional fees and/or to remit
payment by credit card and electronic funds transfer with no additional fees;

 WHEREAS, the FAIR Plan failed to submit an appropriately revised Plan of Operation consistent
with Order 2019-2 within 30 days as required by Insurance Code section 10095, subdivision (f); and

 WHEREAS, the Commissioner has drafted a Plan of Operation (Ed. 12/19/2019) consistent with
Order 2019-2 (attached hereto as Exhibit B).

NOW THEREFORE, IT IS ORDERED

² See: http://www.insurance.ca.gov/0400-news/0100-press-releases/2019/upload/nr063_nonrenewalcountydata.pdf.

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The Commissioner's Plan of Operation is hereby promulgated pursuant to Insurance Code section 10095, subdivision (f).

IT IS SO ORDERED.

Executed this 19th day of December, 2019.

RICARDO LARA
Insurance Commissioner

