

Date of Hearing: June 2, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 2167 (Daly) – As Amended May 4, 2020

Policy Committee: Insurance Vote: 14 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

**SUMMARY:**

This bill and its companion measure, SB 292 (Rubio) create a mechanism for market-based incentives for insurers to offer residential coverage in geographic areas at high risk for catastrophic property loss. Specifically, this bill:

- 1) Creates a construct called “the Insurance Market Action Plan (IMAP)” whereby insurers may propose policies for homeowners’ insurance in specified counties at rates expected to be higher than allowed under current parameters.
- 2) Specifies that rates may include reinsurance costs and be based on a “complex catastrophe model,” as specified in SB 292 (Rubio), and that rates must account for mitigation measures, including community and home hardening.
- 3) Specifies insurers may only submit IMAP rates for policies in a county that qualifies under formulas included in SB 292 (Rubio)—essentially, a county that has a significant presence of California FAIR Plan policies (the state’s insurer of last resort), which indicates unavailability of private residential coverage.
- 4) Specifies requirements for an IMAP filing and provides that, if the commissioner approves an IMAP filing, the insurer accepts a legal mandate to write more insurance in high risk locations in the state, as specified.
- 5) Provides that the bill shall take effect only if SB 292 (Rubio) is also signed into law.

**FISCAL EFFECT:**

Based on California Department of Insurance’s (CDI’s) recent experiences with Proposition 103-related civil litigation, rulemakings and administrative proceedings, the department anticipates increased staffing costs in the low millions of dollars annually over the next several years from increased outside civil litigation, the need to promulgate new regulations and amend existing regulations in order to implement and comply with new statutory provisions, and increased administrative rate proceedings. This cost estimate also encompasses costs associated with the processes created by SB 292 (Rubio), as the bills work in tandem to establish the IMAP program and its parameters (Insurance Fund). The department estimates a need to increase assessments to support the new workload from the Insurance Fund.

**COMMENTS:**

- 1) **Purpose.** This bill is intended to address the problem of insurance unavailability in fire-prone wildland-urban interface (WUI) areas by creating a market-based approach to pricing and

product offering. The author indicates current rules make it difficult for insurers to voluntarily write policies in high-risk areas. The bill is intended to provide alternatives to insurance companies non-renewing coverage altogether because the premiums they are able to charge pursuant to normal rules are insufficient to cover their projected risk. It contains a mechanism for insurers to make “IMAP” filings with the Insurance Commissioner that the Commissioner may approve or deny. These filings specify the terms and conditions upon which the insurer will accept a legal mandate to issue more policies in high risk areas.

- 2) **Background.** Insurance premium rates are governed by a process enshrined in law by Proposition 103 of 1988. Proposition 103 requires prior approval from CDI before insurance companies can implement property and casualty insurance rates.

A succession of devastating wildfire seasons and property damage has led many private insurers to conclude that a) they are too concentrated in certain regions of the state, and b) rates are inadequate across the board, but especially in the high risk regions of the state. As a consequence, even though the availability of private residential insurance coverage is fairly robust across the state, there have been increasing numbers of non-renewals in certain high-risk areas. Under Proposition 103 rules, insurers are increasingly unlikely to write policies in certain areas at rates that can pass a prior approval process because the insurers perceive the rates are inadequate to compensate for the financial risk.

This leaves homeowners in these WUI areas reliant on the California Fair Access to Insurance Requirements (“FAIR”) Plan for insurance against wildfire. The FAIR Plan is a private association comprised of all insurers authorized to transact basic property insurance in California. The FAIR Plan provides insurance as a last resort, generally covering fire and related hazards. It does not offer comprehensive coverage for many other types of damage; generally policyholders must couple a FAIR Plan policy with a separate policy to procure comprehensive coverage.

This bill attempts to offer the IMAP, a market-based solution, as an alternative to the insurer leaving the area entirely, which would allow insurers to write comprehensive residential policies that may be more favorable to consumers than the FAIR Plan coupled with a separate policy for other hazards. In return, insurers would be obligated to offer coverage in specified areas.

- 3) **Support and Opposition.** The insurance industry and the CA Fire Safe Council (CFSC) support this bill as a reasoned private-sector solution to the problem of insurance unavailability. Consumer Watchdog, Consumer Federation, and Insurance Commissioner Ricardo Lara oppose this bill, citing their belief it will harm consumers and that it represents an end-run around long-standing consumer protections enshrined in Proposition 103.