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The Honorable Gavin Newsom, Governor of California
1021 O Street, Suite 9000
Sacramento, CA 95814
Sent via email and US Mail Delivery

RE: How does the Wildfire Insurance Crisis affect the lack of Housing Growth in California Wildfire Insurance Crises and Growth in California housing do have a Common Interest

Dear Governor Newsom,

As an independent Insurance Agent/Broker in California, I have read Commissioner Ricardo Lara's last two agency alerts[1] with increasing disappointment and concern for the future of California's insurance industry, as well as California's continued growth in housing. Since these alerts were issued, another major admitted insurance carrier has pulled out of California.

I sent Commissioner Lara the attached letter on December 20, 2023, with no response. In the previous three years, I have written several similar letters and a white paper requested by a member of the Federal Wildfire Committee on what is necessary to fix California's current insurance crisis. The commissioner is aware of the need to change the state's outdated fire policy legislation. However, he does not want to "appear" as if he is taking away from the insurance consumer; however, you cannot stabilize the current insurance market without starting with the outdated 1943 California Standard Fire policy wording.

In September 2023, Commissioner Lara announced that major insurers would be required to cover a certain share of homeowners in the state's most wildfire-prone areas. In exchange, the Department of Insurance will allow companies to charge more to cover the rising costs of doing business in a fire-ravaged state. Commissioner Lara called the package of new proposed regulations "the largest insurance reform" since 1988.[2]

Price alone cannot fix the state's wildfire insurance crisis.

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[1] Agent Alerts California's Sustainable Insurance Strategy and Commissioner Lara gives a progress report on Sustainable Insurance Strategy at Assembly hearing

[2] Can this plan fix California's insurance crisis? What you need to know

Until the Wildfire Insurance Crisis is resolved, the ability for developers to continue to build in open areas is going to remain difficult at best and stationary at worst. Disclosing a wildfire risk or score, even in areas that have never had a wildfire, is forcing California real estate prices down due to the inability to buy quality insurance.

Statewide, the number of single-family homes fell in December 2023, down 7.4% from October 2023 and 5.8% compared to the same time a year earlier. According to the California Association of Realtors, this drop was the most significant monthly decline in the past year and dropped to its lowest level since the Great Recession. [3]

There are many factors in this drop, and wildfire is only one part of the problem; interest rates and limited supply also play a role. Wildfire disclosures affect both the reduced sales and the price of the home.

The State needs to build 2.5 million housing units by 2030.[4] Cities now have to zone for more than double the housing they did in previous years, and it has to be on sites where housing could actually be built. Where is the largest percentage of growth likely to occur? Certainly, it will be in the wildland-urban interface (WUI) area.

WUI is where structures and other human development intermingle with wildland vegetation or where housing is in the vicinity of large areas of wildland vegetation. It is the line, area, or zone where structures and other human development transition or intermingle with undeveloped wildlands or vegetative fuels. This line continually moves as more developments are planned and permitted.

The WUI in the United States grew rapidly from 1990 to 2010 in terms of both number of new houses (from 30.8 to 43.4 million; 41% growth) and land area (from 581,000 to 770,000 km2; 33% growth), making it the fastest-growing land use type in the contiguous United States. The vast majority of new WUI areas are the result of new housing (97%), not related to an increase in wildland vegetation.[5]

The total number of housing units in the WUI is highest in California, with 5.1M Housing units as of 2020. From 1990 to 2020, Riverside County grew 74% in WUI housing and 23% in the WUI area. As of 2020, 11.5% of Riverside County land area was in WUI areas. WUI and non-WUI housing units increased over time, but most housing stock remained in the WUI each decade. This trend is not limited to California; it is nationwide.

WUI is also referred to as Wildfire Territory, bringing both Wildfire Insurance Issues and Growth in California housing together as a common interest.

You recently signed 56 bills into law that are aimed to streamline, incentivize, and reduce barriers to housing and support the development of more affordable homes. However, you missed an important barrier. While SB423 re-ups and expands on laws to speed up the planning approval,

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[3] California home California home sales down to Great Recession level

[4] Governor Newsom's Newly Created Housing Accountability Unit Marks First Year

[5] Rapid growth of the US wildland-urban interface raises wildfire risk

SB4 is aimed at affordable housing on property owned by religious institutions and nonprofit colleges. AB1287 gives developers permission to go denser and taller if they set aside additional units for middle-income earners; SB684 will make it easier to divide up the large parcels to make room for clusters of multi-unit homes.[6] However, nothing was done to address the wildfire issues holding back—developers in open areas. Almost all of these bills need additional help with the state's wildfire insurance crises in both availability and competitive pricing.

The Builder's Remedy in California states that if a city does not plan for the number of homes required by the state, the city has to approve any housing project as long as at least 20% of the homes are low-income or 100% of them are moderate-income.

California's Housing Element Law acknowledges that for the private market to address Californians' housing needs and demands adequately, ***local governments must adopt plans and regulatory systems that provide opportunities for (and do not unduly constrain) housing development***.

Dealing with California's wildfire insurance crisis ***will allow the state regulatory system to provide opportunities for housing development as well as assist in meeting low- and moderate-income housing needs*** by bringing back our admitted markets that have already left the State of California as well as the Surplus Lines Markets that have always balanced out the Private Insurance Marketplace.

The California FAIR Plan Association (CA FAIR Plan) cannot be the only market.

Thousands of properties in very risky areas have moved to the CA FAIR Plan with billions of insured values in the last 14 months, largely due to lack of availability, high premiums, and now higher limits PER location. The CA FAIR Plan operates as the market of last resort to ensure that insurance remains accessible to all. All admitted insurers licensed to write and engaged in writing Basic Property Insurance in California are involuntary members of the CA FAIR Plan. In the last five years, The CA FAIR Plan grew by $47B insured value in 2017 to an in-force-insured value of $210B in 2022. This was before the CA FAIR Plan increased its values to $20M PER Location.

In 2018, The CA FAIR plan had 126,709 policies in force. As of December 31, 2021, according to the President's Report to the Governing Committee dated February 10, 2022, the CA Fair Plan had 248,361 property policies in force. Data obtained by the NBC4 I-Team from the CA Fair Plan shows that the total policies in 2022 increased to 272,846. As of October 2023, there were 341,245 policies in force.[7] The Fair Plan says it has written 68,399 new policies so far this year in January 2024 alone—a 323% increase in the five-year period since 1988.

This is in line with a recent report dated December 5, 2023, and released this week, A Survey of Residual Market Plan Assessment and Recoupment Mechanisms, written by Milliman, Inc. and *commissioned by the Personal Insurance Federation of California, t*hat states the FAIR Plan grew over 339% in 5 years. [8]

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[6] Governor Newsom Signs Package to Streamline Housing and Expand Tenant Protections in California

[7] United Policyholders

[8] A Survey of Residual Market Plan Assessment and Recoupment Mechanisms

Extrapolating from this data to an average insured value per policy, it is not unreasonable to assume that the CA FAIR Plan now has in excess of $315B in insured values without accounting for the new $20M per Location increase in 2023.

As a result of the growth in insurance policies in force with the CA Fair Plan and as they experienced much higher claims, Commissioner Lara ordered an operational assessment of the CA FAIR Plan to assess the challenges created by its sudden growth.[9] The report was completed and directed to Commissioner Lara on June 15, 2022, before his order to increase the CA Fair Plan Limits to an unprecedented $20M per location.

In June 2021, The FAIR Plan implemented an initial clearinghouse program, and a month later, it went into law. Among the legal requirements of California Insurance Code (CIC) § 10095 (i) are to 1. Reduce the concentration of policies and promote the use of the regular insurance market; 2. Lower the number of policies in the CA FAIR Plan; and 3. Allow Insurers to take on additional business.[10]

In November 2023, Commissioner Lara approved the CA FAIR Plan Division I Commercial Property Program, an increase of $8.4 million to $20 million per location and, under its Division II Businessowners Program, from $7.2 million to $20 million per location, which goes completely against CIC 0095(i).

In addition, the $20 million increase in CA FAIR Plan Limits per location went into effect five months after the DOI's own report was issued, which stated that The CA FAIR Plan's most recent Year End (2021) showed it had a surplus Deficit of $332,280,000 and a 276% Liquidity Ratio (Liability to Liquid Assets). The report recommended that the FAIR Plan continue to enhance and expand the clearinghouse program to assist in depopulating risks as required by CIC 0095(i), among many other recommendations.

The rapid growth in the policies in force is inevitable more now than ever since the CA FAIR Plan has a $20M Maximum Insured limit PER Location. This will continue to result in much higher claims and transaction volumes as the current CA FAIR Plan operation struggles to respond to this massive increase in growth.

Can anyone know the full scope of the FAIR Plan's ability to manage such increases when there is no transparency, no public access, or available information on Financial Results, Auditor's Reports, Operational and Statistical Data, or Reinsurance Coverage, not to mention a Strategic/ Depopulation Plan, Governing Committee Meeting or Minutes which the operational assessment of the California FAIR Plan Association report addressed as lacking in transparency.

Although there are many factors at play in today's insurance crisis, among them in no particular order, climate change, inflation, undervalued insurance by property owners, Invasive animals and plants, the wildland-urban interface landscape (WUI), failure to manage our forests adequately, and the California Department of Insurance continual interference and overreach in changing insurance policy language to suit their pollical agenda.

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[9] California Department Of Insurance Operational Assessment Report California FAIR Plan Association June 15, 2022,

[10] The FAIR Clearinghouse Program. What is the FAIR Clearinghouse Program?

According to Commissioner Lara's testimony on December 13, 2023, he is "clear" that increasing insurance availability is how we will protect affordability. We need to focus on getting insurance companies back to writing policies in California and to a point where they compete for your business."[11]

Opening the CA Fair Plan to more risk is not how one gets the market back to competition.

The only way to accomplish this is to amend the outdated Standard Fire wording to allow insurance carriers to treat "wildfire" as the catastrophe peril that it is and "non-wildfire" as a standard peril.

Our inability to separate the peril of wildfire from the peril of non-wildfire is the issue.

This includes any catastrophe (CAT) peril following a fire, such as a flood, which can go beyond a single policy term in which the fire event actually occurred. Example: A wildfire occurred in late 2020 in an area, and the terrain was damaged; however, the real property in the area was not damaged by the wildfire. Then, in mid-2021, heavy rain with flood waters damaged that area, causing mudslides. This is "Flood Damage" and should be covered under a "CAT" flood policy, not a fire policy. FEMA states that a Flood Risk remains significantly higher until vegetation is restored – up to 5 years after a wildfire.[12]

If flood, mudslides, subsidence, and landslides can be traced to a prior fire, such as Montecito, CA, in 2018, when Commissioner Lara overreached, requiring private insurance carriers to cover the "Flood" peril under the "Fire" peril, all new carriers have a much higher risk than ever anticipated.

Forcing all carriers, admitted markets, and non-admitted markets that write the peril of fire in the State of California to cover all fires and any subsequent "CAT" loss under the fire peril must be changed. A wildfire is clearly different than a non-wildfire event, and a flood is not a fire.

It simply is not sustainable.

In the Dec 2023 Agent Alert, Commissioner Lara states, "There is no question that the risks that existed when voters passed Proposition 103 are not the same risks we face today. The insurance market we are dealing with today necessitates urgent measures that even our Governor recognizes. It is clear that insurance reforms are long overdue, and the current system does not address the insurance challenges of today." [13]

Just like Prop 103 in 1988, there is no question that the risks that existed when California adopted the Standard Fire Policy have changed. The Standard Fire Policy, also known as the Standard Fire Form and the 165-line endorsement, originated in 1873 when Massachusetts became the first state to introduce a standard fire insurance scheme. In 1886, New York passed similar

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[11] Insurance Commissioner Ricardo Lara Testimony On Sustainable Insurance Strategy Before Assembly Committee On Insurance Wednesday, December 13, 2023, at 1 pm

[12] Flood Risks Increase After Fires

[13] Commissioner Lara gives a progress report on Sustainable Insurance Strategy at Assembly hearing.

legislation. The standard fire policy was revised in 1918 and then in 1943. A broadened 1943 New York Model Fire Policy is still used in California today.
If you are dedicated to serious insurance reform and growing new housing units in California, It must involve amending the outdated California Standard Fire Policy to allow an exception to the peril of fire along the lines of the following:

ARTICLE 3. California Standard Form Fire Insurance Policy [2070 - 2085]

CURRENT: 2070.
All fire policies on subject matter in California shall be on the standard form, and, except as provided by this article shall not contain additions thereto. No part of the standard form shall be omitted therefrom except that any policy providing coverage against the peril of fire only, or in combination with coverage against other perils, need not comply with the provisions of the standard form of fire insurance policy or Section 2080; provided, that coverage with respect to the peril of fire, when viewed in its entirety, is substantially equivalent to or more favorable to the insured than that contained in such standard form fire insurance policy.

PROPOSED CHANGE: 2070.
All fire policies on subject matter in California shall be on the standard form, and, except as provided by this article shall not contain additions thereto. No part of the standard form shall be omitted therefrom except that any policy providing coverage against the peril of fire only, or in combination with coverage against other perils, need not comply with the provisions of the standard form of fire insurance policy or Section 2080; provided, that coverage with respect to the peril of fire, when viewed in its entirety, is substantially equivalent to or more favorable to the insured than that contained in such standard form fire insurance policy **with the exception of the catastrophe single peril of wildfire**

Wildfire is defined as any wildfire, wildland fire, forest fire, brush fire, vegetation fire, grass fire, peat fire, bushfire, hill fire, desert fire, veldfire, escaped prescribed fire, escaped wildland fire or any other uncontrolled or unplanned fire, which may (but not required to) also consume houses, buildings or other structures and agricultural resources. A rapidly spreading fire that is difficult to bring under control, whether controlled or uncontrolled, in an area of combustible vegetation (such as trees, grass, brush, or bush) causing property damage, wherever located and of any type and kind, regardless of the original source of ignition of the fire.

"**Wildfire**" includes all risks associated with or resulting from such fire(s), such as smoke, heat, soot, or fumes.

I hope you can consider a bill to make this important amendment and obtain Commissioner Lara's assistance for a viable change. Please feel free to call me at my cell: 818-913-1497; Office 805-646-0821

Respectfully Submitted

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CC: The Sacramento Bee 1601 Alhambra Boulevard, Suite 100. Sacramento, CA, 95816, Letter to the Editor