

What Insurers Need to Know About California's FAIR Plan Assessment Recoupment Guidance

Court Rejects Consumer Group Challenge to the Guidance

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On June 30, 2026, the Los Angeles County Superior Court denied Consumer Watchdog's petition for writ of mandate and related claims challenging California Insurance Commissioner Ricardo Lara's Fair Access to Insurance Requirements (FAIR) Plan assessment recoupment guidance.

The decision, issued by Judge Tiana J. Murillo, upheld the Commissioner's authority to issue Bulletins 2024-8 and 2025-4, which establish procedures for FAIR Plan member insurers to seek prior approval before collecting temporary supplemental fees from policyholders to recoup certain FAIR Plan assessments.

In a [July 1, 2026, press release](#), the California Department of Insurance characterized the ruling as a significant victory for the Commissioner's effort to stabilize California's insurance market and maintain consumer access to property insurance.

Background: The Commissioner's Bulletins

The dispute arose from the following two Commissioner bulletins addressing how admitted property and casualty insurers may seek approval to recover portions of assessments levied by the California FAIR Plan Association:

- **Bulletin 2024-8**, issued September 3, 2024, announced procedures for member insurers to request prior approval under Proposition 103 to recoup FAIR Plan assessments if the FAIR Plan levied an assessment, an event the Department stated had not occurred since 1994.
- **Bulletin 2025-4**, issued February 11, 2025, provided updated guidance after the January 2025 Southern California wildfires triggered what the Department described as the first FAIR Plan member assessment in

more than 30 years.

The FAIR Plan had received 4,794 claims from the Palisades and Eaton fires, paid \$914 million to policyholders, and estimated total losses of approximately \$4 billion.

The Court's Ruling on a Legal Challenge to Section 10095(c)

- **Consumer Watchdog challenged the bulletins on multiple grounds**, including alleged violations of the Administrative Procedure Act (APA), asserted limits on the Commissioner's regulatory authority, and alleged inconsistency with Insurance Code section 10095(c).
- **The court previously sustained demurrers without leave to amend** as to Consumer Watchdog's first and second causes of action, leaving for decision the claim that the bulletins violated section 10095(c). The court also noted that it had already determined at the demurrer stage that the bulletins fell within an exception to APA rulemaking requirements and that the Commissioner had authority under Proposition 103 for the pass-throughs addressed in the bulletins.
- **The court rejected Consumer Watchdog's remaining statutory argument**, holding that section 10095(c) governs how FAIR Plan writings, expenses, profits, and losses are allocated among FAIR Plan member insurers, not how an insurer may later handle assessment costs in its relationship with policyholders.
- **The court reasoned that nothing in the statutory text requires an insurer to ultimately absorb its proportional share of FAIR Plan expenses** rather than paying the assessment initially and later seeking approved recoupment. The court further concluded that the Commissioner's authority under Proposition 103 to issue the bulletins does not violate section 10095(c).

Practical Effect: Recoupment Framework Remains in Place

The practical effect of the ruling is that the Department's recoupment framework remains in place unless and until altered through further proceedings or regulatory action.

Under Bulletin 2025-4, a FAIR Plan member insurer that paid the \$1 billion assessment approved in Order 2025-1 may request approval to recoup 50 percent of the assessment it paid, provided it demonstrates that the amount was not reimbursed through reinsurance or another source. Applications must be submitted as rule-change applications subject to the Commissioner's prior review and approval under Proposition 103.

For the 2025 assessment, insurers seeking recoupment must file within six months of the FAIR Plan's assessment notice and include specified information, including documentation of the assessment, confirmation of payment, policyholder fee calculations, and a plan to recover the approved amount over two years.

Disclosure and Consumer Protections

For policyholders, the ruling does not mean that insurers may automatically impose unrestricted charges. The Department's guidance in Bulletin 2024-8 and Bulletin 2025-4 requires any approved temporary supplemental fee to be separately stated on a notice, bill, or policy declaration, and the fee must be accompanied by explanatory language describing the FAIR Plan and the purpose of the charge.

Bulletin 2025-4 further states that the temporary supplemental fee should be calculated as a percentage of the policyholder's premium, that applications must be revenue-neutral, and that amounts collected through the fee are not considered premiums or losses for later rate-change applications. The Department also stated that it would collect information from insurers in the future to ensure that insurers did not collect more in temporary supplemental fees than permitted.

Takeaways for the California Insurance Market

Insurers and businesses operating in or monitoring the California property insurance market should view the decision as a meaningful development in the state's broader effort to address insurance availability, FAIR Plan solvency, and wildfire-related market stress.

- **For admitted insurers**, the decision supports the legal footing of the Commissioner's current recoupment process and highlights the need for careful compliance with Proposition 103 filing requirements, documentation obligations, and fee limitations.
- **For policyholders and consumer-facing businesses**, the ruling makes it more likely that approved FAIR Plan assessment-related temporary supplemental fees may appear on bills or declarations, although the Department's framework continues to require prior approval, disclosure, and limits on recoverable amounts.

[View the court's decision here](#)


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