



To: The Honorable Elaine H. Marzola, Chair
The Honorable Sandra Jauregui, Vice Chair
Assembly Commerce and Labor Committee

From: Mark Sektnan, Vice President

Re: **AB 437 -- Fair Access to Insurance Requirements Plan.**
APCIA Position: OPPOSE

Date: Monday, April 7, 2025
5:00 p.m., Room 4100

Dear Chair Marzola, Vice Chair Jauregui and Members of the Committee:

The American Property Casualty Insurance Association (APCIA) is **opposed to AB 437** which would create a Fair Access to Insurance Requirements Plan. The American Property Casualty Insurance Association is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.

AB 437, and the government created program envisioned by the bill, should be considered only as a temporary mechanism to address the existing **availability** issues Nevada homeowners are currently experiencing. If this program is looked to as a solution to the **affordability** crisis, the plan runs the risk of being undercapitalized and oversubscribed which will inhibit its ability to pay claims and further cause a deterioration of the private market due to the threat of assessments. The expansion of policies in residual market plans weighs heavily on admitted insurance companies, as the concentration of high-risk properties could result in substantial losses in any given year.

Establishing new government programs like AB 437 fails to address the underlying issues that result in less affordable or available coverage. Following multiple years of record losses, insurance premiums are rising across the U.S. because of the simple economic fact that the cost of the things that insurance pays for has been rising faster than premiums. These costs have been exacerbated by inflation trends, legal system abuse, and regulatory uncertainty, amongst other factors. In states that constrain the ability of insurers to adjust rates to reflect current economic realities, insurance coverage may become less available. To help make insurance coverage more affordable for consumers, legislators should focus on the issues driving up insurance costs and stress the need for community mitigation.

A government created program such as a FAIR Plan must focus on addressing perceived issues related to the availability of insurance, not the affordability of insurance. A FAIR Plan must remain the insurer of last resort, not the insurer of first resort. A FAIR Plan should never be price competitive with private insurance. Rates should be 20% to 50% higher than in the standard market because to ensure the plan does not become the preferred option. The California FAIR Plan does compete with the private market which often leads homeowners to stay in the FAIR Plan even though better coverage in the private market is available. Inadequate rates have also led the California FAIR Plan to be undercapitalized. Before the Los Angeles wildfires, the [FAIR Plan](#) had \$377 million in capital with \$5 billion in reinsurance with total exposure of \$577 billion.

A recent APCIA study, [Market of Last Resort An overview of residual market plans in the U.S. and factors contributing to their growth](#) covers the challenges faced by the private market and by residual market plans. The study found that the key factors contributing to the challenges in the insurance market are “economic growth, accumulation of asset values in exposed areas, urbanization and rising populations. Added to these cost drivers are continuing other man-made factors such as legal system abuse and regulatory challenges.” The study also found that over the last year, “property insurance markets in severely challenged states like California, Florida, and Louisiana are beginning to show some promising signs of reform. These developments are largely because lawmakers and insurance regulators are acting to reign in abusive litigation practices and address regulatory constraints preventing insurers from charging actuarially sound rates.”

The study also found that “residual market, shared, or involuntary market programs are intended to provide insurance products temporarily to high-risk policyholders until there is a reduction of risk and policyholders can gain coverage in the private market. These programs, such as FAIR Plans, state run insurance companies (Florida Citizens Property Insurance Corporation, Louisiana Citizens Property Insurance Corporation), as well as beach and windstorm plans serve as a “market of last resort” to offer quasi-subsidized insurance products.”

The study went on to say that “however, amid higher cost drivers and natural catastrophes, recently a growing number of residual market plans are experiencing increasing financial stress. Of concern, there is a growing trend among residual markets in various states of plans prioritizing “affordability” over ensuring “rate adequacy.” To prevent residual market programs from developing into a negative external force suppressing the health and sustainability of the admitted market, it is imperative that the plans employ actuarial-based rate management. Failure to adequately manage rates and preserve the role of residual markets as a temporary insurance market of last resort will create a self-perpetuating cycle of market deterioration.”

APCIA also has concerns with several elements of AB 437.

Board

The provisions that limit board membership to Nevada residents seem overly restrictive. In addition, the make-up of the board seems inappropriate. While insurers still have a voting majority, the agents and consumers do not have expertise in how to run an insurance company and are not ‘on the hook’ for any shortfall in claims-paying capacity. This can lead to attempts to ignore the requirement that rates be actuarially sound and instead try to impose rates that are “affordable.”

Coverage

The Legislature should lay out some statutory guidance on the types of policies the FAIR Plan may write. Is the FAIR Plan going to provide a basic Fire policy and allow policyholders to obtain other coverages, like water claims, in an additional policy or provide an expansive policy which could drive up administrative costs and create additional exposure. APCA’s recommendation would be Dwelling policy/HO-1 form (fire & lightning, internal explosion, and smoke) or HO-2 form (expanded named perils... fire, vandalism/malicious mischief, windstorm and hail, and some minimal liability coverage). We believe that this will limit exposure to the plan being considered and protect the state from overextending coverage beyond what is manageable on a long-term basis.

The Legislature should also consider whether the FAIR Plan’s coverages should be limited to primary residences or should Nevada policyholders be at risk of assessments for vacation homes and other dwellings.

There should also be language that addresses ‘eligibility’, such as the inability to secure coverage in the private market or any minimum underwriting requirements to ensure basic risk mitigation has been done. Failure to first look at the private market could move the Nevada plan towards a market of “first resort” rather than “last resort.” Consideration should also be given to how to “depopulate” the FAIR plan when the private market improves.

The Legislature should also expressly grant the FAIR Plan the authority to not only obtain reinsurance but to allow the rates to include the cost of reinsurance. The FAIR Plan should also have express authority to purchase catastrophe bonds and access a line of credit *prior* to a catastrophe to ensure the financial solvency of the plan.

Assessments

The assessment period is the three most recent calendar years for which information is available. It is unclear if that is the combined 3-year period or if it is weighted in any way, like giving more credence to the most recent year vs a straight sum of all 3 years. This could negatively impact companies that have substantially grown or shrunk in the market.

Servicing

The startup costs can be very significant to build out the operational infrastructure for servicing, claims, etc., in addition to initial capital to cover the losses once coverage is

available to consumers. That creates a very significant assessment exposure that are costs that will be borne by consumers.

For these reasons, APCIA opposes AB 437.