



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Fiscal Note

Drafting Number:	LLS 23-0809	Date:	April 14, 2023
Prime Sponsors:	Rep. McCluskie; Amabile Sen. Roberts	Bill Status:	House State Affairs
		Fiscal Analyst:	Matt Bishop 303-866-4796 matt.bishop@coleg.gov

Bill Topic:	FAIR ACCESS TO INSURANCE REQUIREMENTS PLAN
--------------------	---

Summary of Fiscal Impact:	<input checked="" type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
	<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
	<input type="checkbox"/> State Diversion	<input checked="" type="checkbox"/> Statutory Public Entity

The bill creates the FAIR Plan Association to offer property insurance coverage that is not otherwise available on the market, consisting of all companies offering property or commercial insurance in the state. Members may offset participation fees against their premium tax liability. The bill decreases state revenue and minimally increases state expenditures beginning in FY 2023-24.

Appropriation Summary:	No appropriation is required.
-------------------------------	-------------------------------

Fiscal Note Status:	The fiscal note reflects the introduced bill.
----------------------------	---

Summary of Legislation

The bill creates the Fair Access to Insurance Requirements (FAIR) Plan Association, a nonprofit, unincorporated legal entity, whose members consist of all companies that offer or sell property or commercial insurance in Colorado. The association must offer a property insurance policy and reinsurance to provide coverage that is not otherwise available, called the FAIR Plan. All expenses, income, and losses are shared among member insurers. The association is managed by a board of directors, who are to be appointed by the Governor by January 1, 2024. The Commissioner of Insurance in the Department of Regulatory Agencies (DORA) may adopt rules for the association or the plan and may, if the market for property and commercial insurance lacks adequate competition, direct the association to offer additional coverages. The association must submit an annual report to the commissioner regarding the FAIR Plan beginning April 1, 2025.

The association may collect fees from member insurers to generate sufficient start-up revenue or meet its financial obligations. Any fees paid may be recovered from the member insurer's policyholders, but not by an increase in premiums. A member insurer may offset 50 percent of the fee against its premium tax liability. Any member insurer that does not comply is subject suspension or revocation of its certificate of authority or a fine, subject to judicial review.

State Revenue

The bill decreases state General Fund revenue from insurance premium tax collections by an indeterminate amount on an ongoing basis. A member insurer may offset 50 percent of its fee to the association against its premium tax liability. Both the amount of the fee and the amount of the tax offset depend on decisions made by the association, including administrative decisions, such as staff structure, and actuarial analysis as it develops new policies. This revenue is subject to TABOR.

State Expenditures

The bill increases state workload in DORA, the Department of Law, the Governor’s Office, and the Judicial Department by a minimal amount, as discussed below.

Department of Regulatory Agencies. The bill increases workload to review rate filings, liaise with the FAIR Plan Association, and adopt rules. This workload is expected to be minimal, and no change in appropriations is required. In addition, DORA requires approximately 100 hours of legal services, provided by the Department of Law, which can be accomplished within existing legal services appropriations. Ongoing enforcement activities are expected to be conducted within the normal course of business.

Governor's Office. Workload will minimally increase for the Governor’s Office of Boards and Commissions to make the required appointments under the bill. This work can be accomplished within existing appropriations.

Judicial Department. To the extent any judicial reviews are filed of board or commissioner actions, workload will increase in the trial courts. This can be accomplished within existing resources.

Statutory Public Entity

The fiscal note assumes that the costs associated with the FAIR Plan Association—including costs for staff and administration, coordination with member organizations, and claims payments to customers under the FAIR Plan—will be determined and incurred by the association to be shared among member insurers. Similarly, the fees required to be paid by member organizations and premium payments paid by policyholders will be determined by the association. As a result, the association’s revenue and expenditures have not been estimated.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

Governor's Office
Personnel

Judicial
Regulatory Agencies

Law