

# Commissioner Lara takes legal action against FAIR Plan for denying smoke damage claims

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## Commissioner Lara takes legal action against FAIR Plan for denying smoke damage claims

Department responds to wildfire survivor complaints, continues aggressive oversight to protect consumers across insurance market

**SACRAMENTO, Calif.** — Insurance Commissioner Lara today announced formal legal action against the California FAIR Plan Association (FAIR Plan), the state's insurer of last resort operated by the insurance industry, for systematically denying and limiting smoke damage claims from wildfire survivors – particularly in the wake of the Palisades and Eaton Fires earlier this year.

The California Department of Insurance filed an [Order](#) to Show Cause against the FAIR Plan after consumer complaints showed a pattern of denying smoke damage claims based on an arbitrary FAIR Plan-defined requirement for “permanent physical damage.” The Department’s legal filing follows hundreds of escalating consumer complaints filed with the Department against the FAIR Plan and builds on a multi-year investigation, which uncovered at least 418 violations of California’s consumer protection laws.

“I’ve spoken with wildfire survivors who would rather lose their homes to flames than endure the stress and confusion of navigating smoke damage claims. This is unacceptable. This issue has persisted after every fire and has become even more urgent in the aftermath of the largest urban fires in history, the Palisades and Eaton fires. These consumers’ message is clear: they need assistance, not obstacles,” said Commissioner Lara. “We will not tolerate insurance companies breaking the law and denying Californians the coverage they deserve, including the FAIR Plan.”

This enforcement action is part of a broader effort led by Commissioner Lara to strengthen consumer protections through oversight, examination, and enforcement across both traditional insurance carriers and the FAIR Plan. The Department is also conducting a [Market Conduct Examination of State Farm](#) for its handling of consumers’ wildfire claims.

“Whether a consumer is insured by a private company or the FAIR Plan, they are entitled to fair and thorough claims handling,” Commissioner Lara continued. “Oversight and enforcement are crucial for my Department to protect consumers. It is our duty to conduct comprehensive investigations based on consumers’ experiences and uncover the facts necessary to build strong cases—that’s how we ensure swift and lasting accountability for our state’s insurance companies.”

The California FAIR Plan is operated by the insurance industry, not the state. State law requires all property insurance companies doing business in California to participate in the Fair Access to Insurance Requirements (FAIR) Plan, which provides basic fire insurance coverage when homeowners and businessowners cannot find it in the traditional market. It was first created after the Watts Riots of 1965 and resulting major wildfires. It is designed as a temporary safety net – not a long-term solution.

The Department of Insurance has regulatory oversight of the FAIR Plan to ensure it complies with state law and treats policyholders fairly – the FAIR Plan is not exempt from consumer protection and claims handling requirements in California law.

Commissioner Lara’s legal action cites violations of California Insurance Code section 790.03 including, but not limited to:

- Misrepresenting policy terms
- Failing to investigate claims fairly
- Denying legitimate claims without reasonable basis

Commissioner Lara expects to file in the coming weeks the Department’s Report of Examination for an ongoing financial examination of the FAIR Plan, including its compliance with recommendations from the Department’s 2022 [Operational Assessment Report](#). The 2022 report called for significant changes in the FAIR Plan’s

governance, operations, underwriting and claims handling, risk management, customer service, and financial planning strategies and policies.

Commissioner Lara has also created the [Smoke Claims & Remediation Task Force](#) to develop statewide standards for investigating and remediating smoke damage—a gap that has existed for decades. To date, the Department has helped recover more than \$74 million for wildfire survivors through formal complaint intervention.

Consumers who believe their smoke damage claim was unfairly denied or delayed are encouraged to file a complaint at [insurance.ca.gov](https://www.insurance.ca.gov) or call 800-927-HELP.

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## Media Notes:

[Link to Order](#)

## Timeline of Key Actions: FAIR Plan Enforcement

**July 2017:** FAIR Plan began using revised policy language requiring “permanent physical damage” for smoke claims, led at the time by the previous insurance commissioner, which was approved based upon the FAIR Plan’s representation that the new language would either provide no change in coverage or broaden coverage in some instances.

**January 2021:** Under Commissioner Lara, CDI issues cease and desist letter after discovering improper claim denials based on this restrictive language.

**March 2021:** CDI launches targeted market conduct exam of FAIR Plan, adopted in May 2022; 259 claims reviewed, 118 violations linked to smoke damage claim denials.

**July 2022:** Commissioner holds the first-ever investigative hearing into the FAIR Plan identifying areas where improvement is needed, including handling of smoke claims.

**May 2024:** The California Supreme Court confirmed that “damage caused by noxious substances or odors” like smoke may be covered where a policy insures against “direct physical loss or damage to” property. The Department reaches out to the FAIR Plan to align its dwelling policy coverage with recent cases.

**January 2025:** Palisades and Eaton Fires destroy neighborhoods in Southern California. CDI receives more than 220 smoke-related consumer complaints – and counting – against the FAIR Plan.

**March 2025:** Commissioner Lara issues [Bulletin 2025-7](#) directing all insurers, including the FAIR Plan, to properly investigate and pay legitimate smoke damage claims. Continued smoke-related complaints received from consumers against the FAIR Plan.

**May 2025:** CDI sends formal legal directive to the FAIR Plan deeming its “permanent damage” policy language unlawful and unenforceable.

**July 2025:** CDI files today’s legal action of cease and desist order, with penalties, against the FAIR Plan for impacted policyholders

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Led by Insurance Commissioner Ricardo Lara, the California Department of Insurance is the consumer protection agency for the nation's largest insurance marketplace and safeguards all of the state's consumers by fairly regulating the insurance industry. Under the Commissioner's direction, the Department uses its authority to protect Californians from insurance rates that are excessive, inadequate, or unfairly discriminatory, oversee insurer solvency to pay claims, set standards for agents and broker licensing, perform market conduct reviews of insurance companies, resolve consumer complaints, and investigate and prosecute insurance fraud. Consumers are urged to call 1-800-927-4357 with any questions or contact us at [www.insurance.ca.gov](https://www.insurance.ca.gov) via webform or online chat. Non-media inquiries should be directed to the Consumer Hotline at 800-927-4357. Teletypewriter (TTY), please dial 800-482-4833.