

## California FAIR Plan Accused of Selling Illegal Home Insurance Policies

The California FAIR Plan, the state's backup home insurance provider, is accused of selling inadequate policies for years to hundreds of thousands of residents, according to a lawsuit filed Wednesday. That has allowed the insurer to increase profits by illegally denying — in part or in full — hundreds of claims related to fire damage, the lawsuit alleges. "These practices save FAIR Plan member carriers tens of millions of dollars a year," said Dylan Schaffer, an attorney who filed the case.

The FAIR Plan is a state-created insurer that is funded by insurance companies — not taxpayers. It provides Californians with a way to get fire coverage when they can't find it otherwise. As of the end of June, it insured more than 400,000 homes, making it one of the largest in the state. A spokesman for the FAIR Plan declined to comment on the lawsuit. In recent years it has seen exponential growth as California's insurance market has crumbled. Companies have pulled back business in the state in response to inflation, increased risks due to climate change and losses caused by catastrophic wildfires.

The lawsuit claims the FAIR Plan in 2017 began selling policies that restricted coverage. One of the changes it made was to only pay for smoke damage that was detectable by someone's eyes or nose and not by laboratory testing. Under the modified policies, Schaffer said the FAIR Plan was not required to investigate or pay for cleanup costs related to other types of smoke-related contamination. That coverage was less than what is required under state law, the lawsuit alleges. Selling inadequate fire coverage in California is a misdemeanor.

"This conduct amounts to criminality of a kind that everyone in California should be worried about," Schaffer said. The lawsuit accuses the FAIR Plan of intentionally concealing and misrepresenting the changes. The FAIR Plan told the Department of Insurance the revised policies would not lead to less coverage for homeowners, but later told policyholders that the changes would result in more claims being denied, according to the lawsuit. The allegations in the lawsuit are not new. In 2022, the department issued a report that said the FAIR Plan failed to provide fire policies that met the state's standard and improperly denied or limited coverage for smoke damage. Despite that, the lawsuit alleges, the FAIR Plan has not changed its policies. "They kind of left us with no real option," Schaffer said.

A department spokesperson declined to comment. The case was filed in Alameda County Superior Court on behalf of four FAIR Plan policyholders. One lives in Oakland, two are near Fresno and one has a home near Los Angeles. It is a class action suit, meaning it was brought on behalf of a group — all FAIR Plan policyholders in the state. The lawsuit asks for a judge to force the plan to stop issuing the current policies and to modify them.

*July 23, 2024, Stephen Hobbs, San Francisco Chronicle*