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Connecticut FAIR Plan

Sec. 38a-328-1. Purpose of program

(a) To make basic insurance available, subject to the conditions hereinafter stated;

(b) To establish a Connecticut FAIR (Fair Access to Insurance Requirements) Plan, and a joint underwriting facility to apportion and distribute risks equitably among insurers in the manner and subject to the conditions hereinafter stated as per Title 38a of the Connecticut General Statutes.

(Effective September 25, 1992)

Sec. 38a-328-2. Effective date

(a) The program shall become effective on September 1, 1969 and as amended thereafter.

(b) The program is intended to conform with the applicable provisions of the Urban Property Protection and Reinsurance Act of 1968, as amended (P.L. 90-448), hereinafter referred to as the "Act," and Connecticut law.

(Effective September 25, 1992)

Sec. 38a-328-3. Definitions

(a) "Insurer" means any insurance company or other organization licensed to write and engaged in writing property insurance business, including the property components of multi-peril policies, or liability coverage. Such liability coverage is limited to those forms of insurance available on the normal voluntary market for single family, two family, three family or seasonal dwellings of not more than three families, on a direct basis, in this state, except where such insurer is specifically exempted from participation in this program.

(b) "Servicing insurer" means (1) the Connecticut FAIR Plan or (2) any insurer who enters into an agreement with the FAIR Plan to issue and service policies on risks referred to it by the FAIR Plan.

(c) "Basic insurance" means coverage against direct loss to real and tangible personal property at a fixed location including insurance against direct loss to property which is being constructed or rehabilitated (builder's risk coverage), that is provided in (1) the standard fire insurance policy of the State of Connecticut, (2) the extended coverage endorsement, and (3) vandalism and malicious mischief and sprinkler leakage insurance, as well as coverage against liability arising from the ownership, maintenance and use of such property. Liability coverage shall be limited to those forms of insurance available on the normal voluntary market, for single family, two family, three family or seasonal dwellings of not more than three families. Upon recommendation of the governing committee and approval of the insurance commissioner, the program may be extended to include such additional lines of insurance as may be designated. Basic insurance does not include automobile, farm, and such types of manufacturing risks as may be excluded by the insurance commissioner.

(d) "FAIR Plan" means an organization formed by insurers to assist applicants in securing basic property insurance.

(e) "Inspection agency" means the organizations designated by the FAIR Plan, filed with the insurance commissioner, to make inspections as required under this program and to perform such other duties as may be authorized by the FAIR Plan.

(f) "Premiums written" means gross direct premiums charged during the preceding calendar year with respect to property in this state on all policies of basic insurance and the basic insurance premium components of all multi-peril policies,

as computed by the FAIR Plan, less return premiums, dividends paid or credited to policyholders, or the unused or unabsorbed portions of premium deposits and also excluding premiums attributable to the operation of the FAIR Plan.

(g) "Commissioner" means the insurance commissioner of the State of Connecticut.

(h) "Manager" means the general manager of the FAIR Plan appointed by the governing committee to perform such duties as the committee may designate.

(Effective September 25, 1992)

Sec. 38a-328-4. Inspection and reports

(a) Any person having an insurable interest in real or tangible personal property at a fixed location shall be entitled to an inspection of the property without cost to the applicant if the FAIR Plan is (1) unwilling to write the coverage at regular rates or (2) declines the application based on the physical condition of the property.

(b) The manner and scope of the inspection of FAIR Plan risks shall be prescribed by the FAIR Plan with the approval of the commissioner.

(c) An inspection report shall be made for each property inspected. The report shall cover pertinent structural and occupancy features as well as the general condition of the building. A representative photograph of the property may be taken during the inspection.

(d) During the inspection, the inspector may point out features of structures and occupancy to the applicant or his representative which may result in condition charges if the risk is accepted. The inspector shall have no authority to advise if the FAIR Plan will provide the coverage.

(e) After inspection, a copy of the completed inspection report, and any photograph, indicating the pertinent features of building, construction, maintenance, occupancy, including any condition charges or surcharges imposed by inspection or under the program, or under any substandard rating plan approved by the commissioner shall be prepared. A copy of the inspection report shall be made available to the applicant or his agent upon request.

(Effective September 25, 1992)

Sec. 38a-328-5. Policy issuance

Upon determination by the FAIR Plan that an applicant is eligible for coverage, or renewal of coverage, and upon receipt by the FAIR Plan of the full amount of the required premium, the FAIR Plan shall issue a binding receipt and/or issue a policy within three working days.

If a condition charge is made the applicant shall be provided with a statement indicating the improvements necessary to remove the charge.

(Effective September 25, 1992)

Sec. 38a-328-6. Assumption of liability

All liability of the FAIR Plan shall be assumed by its participating companies.

(Effective September 25, 1992)

Sec. 38a-328-7. Joint underwriting organization

(a) A joint underwriting organization shall be created consisting of all insurers licensed to write the lines of insurance written by the FAIR Plan. All such insurers shall participate in the FAIR Plan.

(b) Each participating company shall participate in the FAIR Plan's writings, expenses, profits and losses in the proportion that such member's premiums written

during the preceding calendar year bears to the aggregate of premiums written by all members of the FAIR Plan.
(Effective September 25, 1992)

Sec. 38a-328-8. Standard policy coverage and limits of liability

(a) All policies issued shall be limited to basic insurance on authorized policy forms and approved amendatory endorsements. Each such policy shall be for a term of one year.

(b) The limit of liability which may be placed through this program is subject to the following special limits per location for construction, protection and class of occupancy:

	Limits
(1) Habitational occupancy classes:	
(A) One, two, three or four family private dwelling building	$350,000
(B) Household and personal property usual or incidental to the occupancy of each private dwelling unit or each apartment dwelling unit and use therein	75,000
(C) Public liability-one to three family	300,000
(2) All other occupancy classes including commercial, service and manufacturing property with respect to buildings:	
(A) Fire Resistive Construction	1,000,000
(B) Ordinary Masonry Construction	700,000
(C) Frame Construction	500,000
(3) All other occupancy classes with respect to contents:	
(A) Fire Resistant Construction	250,000
(B) Ordinary Masonry Construction	200,000
(C) Frame Construction	200,000

Note: The above content limits may be doubled in the case of sole occupancy.

(c) The foregoing limits may be increased upon approval of the governing committee. In no event shall the total amount of insurance exceed one million five hundred thousand dollars on any single risk. The FAIR Plan will attempt to place insurance up to the full insurable value of the risk to be insured, except to the extent that deductibles, percentage participation clauses and other underwriting devices are employed to meet special problems of insurability.

(d) Policies written pursuant to this program shall be separately coded.
(Effective September 25, 1992; amended July 2, 2003)

Sec. 38a-328-9. Declinations

Applications for coverage shall be declined where the property is determined to be uninsurable because it fails to meet program standards. Such declinations shall be furnished in writing to the applicant with a copy to the commissioner and shall include a statement of the conditions which make the property uninsurable and the measures, if any, which, if taken, would make the property insurable. Such statement shall also inform the applicant of his right to appeal such determination by the FAIR Plan and shall advise him of the means whereby such an appeal may be initiated. Declinations for physical condition must be based on an inspection report.
(Effective September 25, 1992)

Sec. 38a-328-10. Provisional binder. Estimated premium

(a) To prevent lapses of insurance coverage for risks eligible under the program, before coverage has been made available or declined, the insurance requested,

subject to all provisions of this program, will be automatically effective on the twenty-first day following the date the application was received or such later date requested by the insured on the application if:

(1) through no fault of the applicant, coverage has not been either offered or denied within twenty calendar days after the date the request for inspection was received, and

(2) the applicant, at any time prior to the receipt of a report indicating that the property is uninsurable, pays the estimated annual premium.

(b) Manual rates shall be used in developing the estimated annual premium which shall be subject to an appropriate premium adjustment, based on an inspection of the property.

(Effective September 25, 1992)

Sec. 38a-328-11. Program standards

(a) It is the intent of the program to make basic insurance available to applicants who in good faith request coverage for eligible properties which meet program standards.

(b) The occurrence or presence of any of the following conditions constitutes failure to meet program standards and shall provide a basis for declination, cancellation, or non-renewal of an application, binder or policy:

(1) Vacancy or unoccupancy of the property for sixty (60) days or more, other than for rehabilitation purposes, provided however, a building shall not be deemed vacant or unoccupied unless at least 75% of owner occupied family dwellings of not more than three families or at least 65% of any other building is vacant or unoccupied.

(2) Existing substantial damage which the applicant or insured has failed or refused to repair.

(3) Failure to pay real estate taxes on the property for two (2) years or more.

(4) Failure, within the insureds control, to furnish heat, water, or public lighting for 30 days or more.

(5) Failure within a reasonable time to correct conditions dangerous to life, health or safety including but not limited to conditions resulting from overcrowding or excessive rubbish or flammable materials.

(6) As respects commercial properties, failure to provide protective devices required by law.

(7) Conviction of any person with a financial interest in the property of fraud or incendiarism.

(8) Loss history of the applicant. The frequency, severity, circumstances of the loss(s), and the number and value of the properties insured shall be considered. Each declination, non-renewal, or cancellation based on loss history must be subject to approval by the Governing Committee.

(9) Material misrepresentation concerning this insurance or the subject thereof.

(10) Abandonment of the property or removal of heating or plumbing equipment or fixtures.

(11) Non-payment of premium by the insured.

(12) Where the FAIR Plan has received reliable information that the property will be intentionally damaged or destroyed for the purpose of collecting the insurance proceeds.

(13) Buildings on which because of their physical condition there is an outstanding order to vacate, an outstanding demolition order or which have been declared unsafe in accordance with applicable law. Neighborhood or area location or any

environmental hazard beyond the control of the property owner shall not be deemed to be acceptable criteria for declination, cancellation, or non-renewal of a risk.
(Effective September 25, 1992)

Sec. 38a-328-12. Rates

Promptly following each inspection, rates shall be promulgated for each risk in accordance with rating plans filed with the commissioner.
(Effective September 25, 1992)

Sec. 38a-328-13. Declination, non-renewal or cancellation

(a) The FAIR Plan may issue a notice of declination, cancellation or non-renewal based only on the occurrence or presence of any of the conditions or circumstances set forth in Section 38a-328-11 (b) of these regulations.

(b) The FAIR Plan shall send by registered or certified mail or by mail evidenced by a certificate of mailing, or delivered to the named insured at the address shown in the policy, at least sixty (60) days advance notice of its intention not to renew.

(c) Each notice of cancellation or non-renewal shall specify the reason therefore and the FAIR Plan shall give prior written notice as follows:

(1) For each cancellation based on non-payment of premium, 10 days prior written notice.

(2) For each cancellation based on sub-division (1), (7), (10), (12), or (13) of sub-section (b) of Section 38a-328-11, not less than five (5) days prior written notice to the named insured at the address shown on the policy by registered or certified mail.

(3) For each cancellation based on a reason other than sub-division (1) or (2) of Section 38a-328-13 (c), the FAIR Plan shall give notice as required by Section 38a-307 of the Connecticut General Statutes.

(d) Each notice of declination, cancellation or non-renewal shall be accompanied by a statement explaining the applicant or insured's right of appeal to the manager of the FAIR Plan and the procedures that will govern such an appeal.
(Effective September 25, 1992)

Sec. 38a-328-14. Right of appeal

(a) An applicant or insured may appeal any adverse ruling or decision of the Fair Plan to the manager of the Fair Plan, by making written notice of appeal to the manager. Such appeal shall be made within thirty (30) days of the date of the mailing of the adverse ruling or decision of the Fair Plan. The manager of the Fair Plan, shall within fifteen (15) days of receipt of the written notice of appeal, decide the matter under appeal and notify the applicant or insured in writing of his or her decision.

(b) An applicant or insured may appeal the decision of the manager of the Fair Plan to the Insurance Commissioner within thirty (30) days from the date of the mailing of the decision of the Fair Plan manager, in accordance with the Insurance Department Rules of Practice.
(Effective May 25, 1993)

Sec. 38a-328-15. Commissions

Commissions under the program shall be ten percent of the premium which shall include condition charges and shall be paid to the licensed producer designated by the applicant.
(Effective September 25, 1992)

Sec. 38a-328-16. Administration

This program shall be administered by a governing committee (hereinafter referred to as the committee) of the FAIR Plan and operated by a manager appointed by the committee. The committee shall include ex-officio, the insurance commissioner or his designee, one representative of each of the following groups and one member selected by the committee and approved by the commissioner:

American Insurance Association
Alliance of American Insurers
National Association of Independent Insurers
All other stock insurers
All other nonstock insurers

Not more than one insurer under the same management or ownership shall serve on the committee at the same time. The ex-officio member shall not vote on matters before this committee.

(Effective September 25, 1992)

Sec. 38a-328-17. Annual and special meetings

(1) There shall be an annual meeting of the insurers on a date fixed by the committee. The three aforementioned associations shall designate or elect their representatives to the committee. The two nonassociation groups of companies represented on the committee as provided in section 38-114f-15 shall elect their respective representatives by majority vote counted on a weighted basis in accordance with each insurer's premiums written and the aggregate premiums written for all insurers in the respective groups of companies. Representatives on the committee shall serve for a period of one year or until successors are elected or designated.

(2) A special meeting may be called at such time and place designated by the committee or upon the written request to the committee of any ten insurers, not more than one of which may be in a group under the same management or ownership.

(3) Twenty days' notice of such annual or special meetings shall be given in writing by the committee to insurers. A majority of the insurers shall constitute a quorum. Voting by proxy shall be permitted. Notice of any meeting shall be accompanied by an agenda for such meeting.

(4) Any matter, including amendment of this program, may be proposed and voted upon by mail, provided such procedure is unanimously authorized by the members of the committee present and voting at any meeting of the committee. If so approved by the committee, notice of any proposal shall be mailed to the insurers not less than twenty days prior to the final date fixed by the committee for voting thereon.

(5) At any regular or special meeting at which the vote of the insurers is or may be required on any proposal, including amendment to the program, or any vote of the insurers which may be taken by mail on any proposal, such votes shall be cast and counted on a weighted basis in accordance with each insurer's premiums written. A proposal shall become effective when approved by at least two-thirds of the votes cast on such weighted basis.

(6) Any amendment of the program shall be subject to approval by the commissioner.

(Effective September 25, 1992)

Sec. 38a-328-18. Duties of the committee

(a) The committee shall meet as often as may be required to perform the general duties of administration of the program or on the call of the commissioner. Four insurers of the committee shall constitute a quorum.

(b) The committee shall be empowered to appoint a manager, who shall serve at the pleasure of the committee, to budget expenses, levy assessments, disburse funds and perform all other duties provided herein or necessary or incidental to the proper administration of the program.

(c) The manager shall prepare an annual operating budget which shall be subject to approval of the committee.

(d) The committee shall furnish to all insurers and to the commissioner a written report of operations annually in such form and detail as the committee may determine. The FAIR Plan shall submit to the commissioner periodic reports setting forth the number of requests for inspection, the number of risks inspected, the number of risks accepted, the number of risks declined and reinspections made together with such other information as the commissioner may request.

(Effective September 25, 1992)

Sec. 38a-328-19. Termination of the program

This program shall continue indefinitely but in no event shall be of any force and effect after the expiration of the Urban Property Protection and Reinsurance Act of 1968 and a determination by the commissioner after consultation with the insurance industry that the program is no longer needed, or at such earlier date at which the program provided hereunder shall no longer qualify for riot or civil disorder reinsurance under the Urban Property Protection and Reinsurance Act and the commissioner after consultation with the insurance industry determines that the program is no longer needed. Notwithstanding the foregoing, any obligations incurred by the FAIR Plan shall not be impaired by the expiration of the program and such FAIR Plan shall be continued, for the purpose of performing such obligations.

(Effective September 25, 1992)

Sec. 38a-328-20. Public education

The FAIR Plan will carry on a continuing public education program, in cooperation with participating insurers and producers to assure that the program receives adequate public attention.

(Effective September 25, 1992; amended June 26, 1997)