STATE OF NEW YORK

9279

2025-2026 Regular Sessions

IN ASSEMBLY

November 21, 2025

Introduced by M. of A. KELLES -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to recovery for climate disaster losses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The insurance law is amended by adding a new section 3463 to read as follows:

§ 3463. Recovery for climate disaster losses. (a) For the purposes of this section the following terms have the following meanings:

(1) "Climate disaster" means any event including fire, flood, earthquake, hurricane, tornado, landslide, mudslide, wind, storm, wave action, wind-driven water, tidal wave, volcanic activity, air contamination, blight, drought, infestation, explosion, nuclear, chemical, biological, or bacteriological release, water contamination, bridge failure or bridge collapse, or any event designated in a state declaration of disaster emergency pursuant to section twenty-eight of the executive law or a local state of emergency pursuant to section twenty-four of the executive law, that results in widespread or severe damage, injury, or loss of life or property, provided that climate change was a contributing factor in the event's frequency, severity, location, timing, or extent.

(2) "Fossil fuel product" includes the following:

(A) coal, as defined in section 1-103 of the energy law;

(B) fossil fuel, as defined in section 1-103 of the energy law;

(C) fuel gases, as defined in section 1-103 of the energy law; and

(D) petroleum products, as defined in section 1-103 of the energy law.

(3) "Responsible party" means any person, firm, corporation, company, partnership, society, joint stock company, entity, or association that meets all of the following criteria:

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(A) has an aggregate market capitalization or worldwide annual revenue across the parent entity and all affiliated entities of at least five hundred million dollars ($500,000,000), determined by an average capitalization or revenue over the preceding three years. For purposes of this subparagraph, "affiliated entities" means a parent or subsidiary corporation as well as any other business entity under common ownership or control with the parent entity, including an entity consolidated for financial reporting purposes, or to enhance profitability for the parent entity;

(B) engaged in the extraction, production, manufacture, marketing, or sale of fossil fuel products; and

(C) did business in the state, was registered to do business in the state, was appointed an agent of the state, or otherwise had sufficient contacts with the state to be subject to the state's jurisdiction.

"Responsible party" does not include any tribal government, the state, a political subdivision of the tribal or state government, or an employee of the tribal or state government, on the basis of acts or omissions in the course of official duties.

(b)(1) The attorney general may bring a civil action in the name of the people of the state of New York against any responsible party for any of the following:

(A) recovery of an assessment imposed on member insurers of the New York property insurance underwriting association pursuant to section five thousand four hundred twelve of this chapter, to the extent that the association imposed the assessment to cover the association's expenses or losses arising from a climate disaster.

(B) recovery of each surcharge or premium increase imposed on policyholders or insureds in the admitted or residual market, when the surcharge or increase is based on a projected loss arising from a climate disaster over a defined period, or to reflect priced-in risk of future climate attributable damage.

(C) recovery of costs incurred by policyholders, insureds, or taxpayers resulting from a disruption to the property or casualty insurance market in this state, when the costs arises from losses attributable to a climate disaster.

(2) In any civil action against a responsible party under this section the attorney general may recover or obtain any of the following:

(A) all climate attributable damage.

(B) restitution or disgorgement of profits obtained through the violation.

(C) reasonable costs and disbursements incurred by the attorney general.

(D) any other relief that the court or jury deems proper.

(3) Responsible parties shall be strictly liable for any damages, restitution, or other relief afforded under this section.

(4) In any action under this section, the court shall offset any restitution award by amounts already reimbursed in claims arising from the same case or controversy. The attorney general shall require each claimant seeking restitution to certify, under penalty of perjury, any amounts received from an insured or the New York property insurance underwriting association, including pursuant to section five thousand four hundred ten of this chapter, for the same loss.

§ 2. The insurance law is amended by adding a new section 4122 to read as follows:

§ 4122. Recovery for climate disaster losses. (a) (1) An insurer doing business in this state and the New York property insurance underwriting

association who has suffered harm as a result of a climate disaster may bring a civil action against a responsible party to recover or obtain all of the following:

(A) all damages sustained in connection to the climate disaster.

(B) restitution.

(C) court costs, litigation expenses, and reasonable attorney's fees.

(D) any other relief that the court or jury deems proper.

For purposes of this section, "climate disaster" and "responsible party" have the same meanings as defined in section three thousand four hundred sixty-three of this chapter.

(2) Notwithstanding any other applicable statute of limitations, the action must be commenced within three years of the date that the harm was or should have been discovered by the claimant, whichever is earlier.

(3) Responsible parties shall be strictly liable for the damages, restitution, or other relief afforded under this section.

(4) Notwithstanding any other law, a court shall not award attorneys' fees or costs to a defendant in an action brought pursuant to this section.

(5) None of the rights assigned by this section may be waived.

(6) Damages awarded pursuant to this subsection may be offset by any of the following:

(A) Payments made to a harmed party pursuant to a contract of insurance.

(B) Evidence that a plaintiff fully recovered from a public body or a liable third party for their alleged injuries.

(b) The existence of a civil action against a responsible party pursuant to this section is not an independent basis for enforcement of any other law, the denial, revocation, suspension, or withholding of a right or privilege conferred by the state or a political subdivision, or a threat of the denial, revocation, suspension, or withholding of a right or privilege conferred by the state, a political subdivision, a district attorney, a county or city counsel, an executive or administrative officer or employee of the state or a political subdivision, or a board, commission, or similar body with relevant authority.

(c) Nothing in this section shall be construed to:

(1) limit the enforceability of existing laws concerning consumer protection, climate, environment, energy, or natural resources;

(2) limit the enforceability of existing laws that regulate or prohibit conduct relating to climate disasters, extreme weather, greenhouse gas emissions, or consumer protection;

(3) limit, any other rights or remedies available under any other law or common law, including actions for damages to property or injury to persons;

(4) replace or offset any legally mandated disaster recovery funds, designated disaster recovery funds established via legislation or administrative rule, or contractually obligated or court-ordered insurance claim payouts;

(5) relieve the liability of an entity for damages resulting from climate change or deceptive acts, as provided by any other law;

(6) preempt, displace, or restrict any rights or remedies of a person, the state, local government entities, or a tribal government pursuant to law relating to a past, present, or future allegation of any of the following:

(A) deception concerning the effect of fossil fuels on climate change;

(B) damage or injury resulting from the role of fossil fuels in contributing to climate change; or

(C) failure to avoid damage or injury related to climate change, including claims for nuisance, trespass, design defect, negligence, failure to warn, or deceptive or unfair practices or claims for injunctive, declaratory, monetary, or other relief;

(7) preempt, supersede, or displace any state law or local ordinance, regulation, policy, or program that does any of the following:

(A) limit, set, or enforce standards for emissions of greenhouse gases;

(B) monitor, report, or keep records of emissions of greenhouse gases;

(C) collect revenue through fees or levy taxes; or

(D) conduct or support investigations; or

(8) impose liability on speech or conduct protected by the First Amendment to the United States Constitution, as made applicable to the states through the Fourteenth Amendment to the United States Constitution, or by Section 8 of Article I of the New York Constitution.

§ 3. Subsection (a) of section 2304 of the insurance law is amended to read as follows:

(a) In the making of rates, consideration shall be given to past and prospective loss experience, including the conflagration and catastrophe hazards, if any, both within and without this state, to all factors reasonably attributable to the class of risks, to a reasonable profit, to past and prospective expenses both country-wide and those specially applicable to this state, any proceeds recovered by a claim pursuant to section three thousand four hundred sixty-three or four thousand one hundred twenty-two of this chapter, and in the case of participating insurers to policyholders' dividends, savings or unabsorbed premium deposits allowed or returned to policyholders, members or subscribers.

§ 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 5. This act shall take effect on the ninetieth day after it shall have become a law.