

STATE OF NEW YORK

8585

2025-2026 Regular Sessions

IN SENATE

November 17, 2025

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

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

3 § 3463. Recovery for climate disaster losses. (a) For the purposes of
4 this section the following terms have the following meanings:

5 (1) "Climate disaster" means any event including fire, flood, earth-
6 quake, hurricane, tornado, landslide, mudslide, wind, storm, wave
7 action, wind-driven water, tidal wave, volcanic activity, air contam-
8 ination, blight, drought, infestation, explosion, nuclear, chemical,
9 biological, or bacteriological release, water contamination, bridge
10 failure or bridge collapse, or any event designated in a state declara-
11 tion of disaster emergency pursuant to section twenty-eight of the exec-
12 utive law or a local state of emergency pursuant to section twenty-four
13 of the executive law, that results in widespread or severe damage, inju-
14 ry, or loss of life or property, provided that climate change was a
15 contributing factor in the event's frequency, severity, location,
16 timing, or extent.

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

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

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

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

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

22 (3) "Responsible party" means any person, firm, corporation, company,
23 partnership, society, joint stock company, entity, or association that
24 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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1 (A) has an aggregate market capitalization or worldwide annual revenue
2 across the parent entity and all affiliated entities of at least five
3 hundred million dollars (\$500,000,000), determined by an average
4 capitalization or revenue over the preceding three years. For purposes
5 of this subparagraph, "affiliated entities" means a parent or subsidiary
6 corporation as well as any other business entity under common ownership
7 or control with the parent entity, including an entity consolidated for
8 financial reporting purposes, or to enhance profitability for the parent
9 entity;

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

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

15 "Responsible party" does not include any tribal government, the state,
16 a political subdivision of the tribal or state government, or an employ-
17 ee of the tribal or state government, on the basis of acts or omissions
18 in the course of official duties.

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

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

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

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

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

38 (A) all climate attributable damage.

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

41 (C) reasonable costs and disbursements incurred by the attorney gener-
42 al.

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

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

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

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

55 § 4122. Recovery for climate disaster losses. (a) (1) An insurer doing
56 business in this state and the New York property insurance underwriting

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

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

5 (B) restitution.

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

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

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

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

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

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

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

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

23 (A) Payments made to a harmed party pursuant to a contract of insur-
24 ance.

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

27 (b) The existence of a civil action against a responsible party pursu-
28 ant to this section is not an independent basis for enforcement of any
29 other law, the denial, revocation, suspension, or withholding of a right
30 or privilege conferred by the state or a political subdivision, or a
31 threat of the denial, revocation, suspension, or withholding of a right
32 or privilege conferred by the state, a political subdivision, a district
33 attorney, a county or city counsel, an executive or administrative offi-
34 cer or employee of the state or a political subdivision, or a board,
35 commission, or similar body with relevant authority.

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

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

39 (2) limit the enforceability of existing laws that regulate or prohib-
40 it conduct relating to climate disasters, extreme weather, greenhouse
41 gas emissions, or consumer protection;

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

45 (4) replace or offset any legally mandated disaster recovery funds,
46 designated disaster recovery funds established via legislation or admin-
47 istrative rule, or contractually obligated or court-ordered insurance
48 claim payouts;

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

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

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

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

3 (C) failure to avoid damage or injury related to climate change,
4 including claims for nuisance, trespass, design defect, negligence,
5 failure to warn, or deceptive or unfair practices or claims for injunc-
6 tive, declaratory, monetary, or other relief;

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

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

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

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

13 (D) conduct or support investigations; or

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

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

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

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

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