

**Introduced by Senator Wiener**

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An act to add Part 3.5 (commencing with Section 3508.5) to Division 4 of the Civil Code, and to add Sections 540 and 10100.3 to the Insurance Code, relating to climate disasters, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 222, as introduced, Wiener. Climate disasters: civil actions.

(1) Existing law gives a person the right of protection from bodily harm and the right to possess and use property. If a person suffers bodily harm or a loss of their property because of the unlawful act or omission of another, existing law authorizes them to recover compensation from the person at fault, which is known as damages.

This bill would authorize a person to bring a civil action, if specified criteria are met, including damages of \$10,000 or more, against a party responsible for a climate disaster or extreme weather or other events attributable to climate change due to the responsible party's misleading and deceptive practices or the provision of misinformation or disinformation about the connection between its fossil fuel products and climate change and extreme weather or other events attributable to climate change. The bill would make responsible parties jointly, severally, and strictly liable to a plaintiff for the climate disaster or extreme weather or other events attributable to climate change. The bill would set forth venue requirements and prohibited defenses for that

action, and would require the court to award a prevailing plaintiff the full extent of noneconomic, compensatory, and punitive damages allowable, as specified. The bill would provide that the connection of a climate disaster, extreme weather or other events attributable to climate change, or harms resulting from long-term changes to the climate system to alleged injuries are an injury in fact for all residents of the state harmed by the event and would give those persons standing to bring a civil action pursuant to the above-described provisions. The bill would also make a person who seeks declaratory or injunctive relief to prevent enforcement of the above-described provisions or any other related law, as specified, jointly and severally liable to pay the attorney's fees and costs of the prevailing party, as specified.

(2) Existing law generally regulates the business of insurance in the state. The California FAIR Plan Association is a joint reinsurance association in which all insurers licensed to write basic property insurance participate in administering a program for the equitable apportionment of basic property insurance for persons who are unable to obtain that coverage through normal channels. Under existing law, a member insurer participates in the writings, expenses, and profits and losses of the association in proportion to its written premiums, as specified. Existing law authorizes the association, with the Insurance Commissioner's approval, to assess member insurers in amounts sufficient to operate the association.

This bill would authorize an insurer to seek damages against a responsible party for a climate disaster, pursuant to the above-described provisions. Within 90 calendar days of its operative date, the bill would require the commissioner to establish an independent advisory body of industry experts to conduct cost-benefit analyses of the effect of a climate disaster, or extreme weather or other events attributable to climate change, on the association. The bill would require the association to exercise its right of subrogation against a responsible party for a climate disaster or extreme weather or other events attributable to climate change, if the association pays claims and the independent advisory body determines the benefits of subrogation outweigh the costs. The bill would authorize the association to assess member insurers in amounts if the claims paid after a climate disaster or extreme weather or other events attributable to climate change exhaust the association's claims-paying capacity, but would provide for adjusting an assessment amount if the insurer does or does not exercise its right of subrogation against a responsible party.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Part 3.5 (commencing with Section 3508.5) is  
2 added to Division 4 of the Civil Code, to read:

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PART 3.5. CLIMATE DISASTER ACTIONS

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6 3508.5. For purposes of this part:

7 (a) "Climate disaster" means an event that meets any of the  
8 following threshold qualifications and is determined by impact  
9 attribution science or extreme event attribution science to be  
10 substantially worsened or caused by climate change from  
11 responsible parties' fossil fuel products, or extreme weather or  
12 other events attributable to climate change from responsible parties'  
13 fossil fuel products:

14 (1) A natural catastrophe, including a hurricane, tornado, storm,  
15 high water, wind-driven water, tidal wave, tsunami, earthquake,  
16 volcanic eruption, landslide, mudslide, snowstorm, or drought, or,  
17 regardless of cause, a fire, flood, or explosion, that, in the  
18 determination of the President of the United States causes damage  
19 of sufficient severity and magnitude to warrant major disaster  
20 assistance under the federal Robert T. Stafford Disaster Relief and  
21 Emergency Assistance Act, as amended (Public Law 93-288) to  
22 supplement the efforts and available resources of states, local  
23 governments, and disaster relief organizations in alleviating the  
24 damage, loss, hardship, or suffering caused by the catastrophe.

25 (2) A catastrophic incident that is a natural or manmade incident  
26 that results in extraordinary levels of mass casualties, damage, or  
27 disruption severely affecting the population, infrastructure,  
28 environment, economy, national morale, or government functions.  
29 A catastrophic incident could result in sustained national impacts  
30 over a prolonged period of time, almost immediately exceeds  
31 resources normally available to local, state, tribal, and private  
32 sector authorities in the impacted area, and significantly interrupts  
33 governmental operations and emergency services to such an extent

1 that national security could be threatened. A catastrophic incident  
2 does not include an event linked to terrorism.

3 (3) An event that qualifies, or would have qualified, for inclusion  
4 on the federal National Centers for Environmental Information’s  
5 “Billion-Dollar Weather and Climate Disasters” program and data  
6 list as it existed in December 2024.

7 (4) A state of emergency or local emergency as defined in  
8 Section 8558 of the Government Code.

9 (5) An event or occurrence linked to extreme weather or other  
10 events attributable to climate change for which insurer losses in  
11 the aggregate across carriers in this state exceed one hundred  
12 million dollars (\$100,000,000).

13 (b) “Extreme event attribution science” means research aimed  
14 at understanding how human-induced changes in the global climate  
15 system affect the probability, severity, and other characteristics of  
16 extreme weather events, such as wildfires and flooding. Often, this  
17 is done by determining the likelihood of the particular event  
18 happening today compared to how it might have unfolded without  
19 human-caused increase in concentration of greenhouse gasses in  
20 the atmosphere.

21 (c) “Extreme weather or other events attributable to climate  
22 change” means weather, climate, or environmental conditions,  
23 including temperature, precipitation, drought, flooding, or wildfires,  
24 that are consistent with impacts or events that are attributable to  
25 climate change and in which the intensity, magnitude, location,  
26 timing, or extent of the event are shown by peer-reviewed studies  
27 or assessments using peer-reviewed methods, to be attributable in  
28 part to climate change. These events include those that extreme  
29 event attribution science determines were made more likely or  
30 severe by climate change.

31 (d) “Fossil fuel product” includes crude petroleum oil and all  
32 other hydrocarbons, regardless of gravity, that are produced at the  
33 wellhead in liquid form by ordinary production methods, natural,  
34 manufactured, mixed, and byproduct hydrocarbon gas, refined  
35 crude oil, crude tops, topped crude, processed crude, processed  
36 crude petroleum, residue from crude petroleum, cracking stock,  
37 uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil,  
38 casinghead gasoline, natural-gas gasoline, kerosene, benzine, wash  
39 oil, waste oil, blended gasoline, lubricating oil, and blends or

1 mixtures of oil with one or more liquid products or byproducts  
2 derived from oil or gas.

3 (e) “Impact attribution science” means research aimed at  
4 understanding how global climate change affects human and natural  
5 systems, including localized physical impacts, such as floods,  
6 droughts, and sea level rise, and the corresponding effects on  
7 infrastructure, public health, ecosystems, agriculture, and  
8 economies.

9 (f) “Responsible party” means a firm, corporation, company,  
10 partnership, society, joint stock company, or any other entity or  
11 association that engaged in misleading and deceptive practices,  
12 including intentional lies, or the provision of misinformation or  
13 disinformation about the connection between its fossil fuel products  
14 and climate change and extreme weather or other events attributable  
15 to climate change. “Responsible party” does not include the federal  
16 government, tribal governments, the state, a political subdivision  
17 of the federal, tribal, or state government, or an employee of the  
18 federal, tribal, or state government on the basis of acts or omissions  
19 in the course of official duties.

20 3508.5.1. (a) A person, other than an officer or employee of  
21 a state or local governmental entity, may bring a civil action against  
22 a responsible party when the following conditions are met:

23 (1) The person has damages of at least ten thousand dollars  
24 (\$10,000) as a result of a climate disaster or extreme weather or  
25 other events attributable to climate change. Multiple plaintiffs,  
26 regardless of association in a class action, may aggregate claims  
27 with a common injury and connection to a climate disaster or  
28 extreme weather or other events attributable to climate change to  
29 reach this amount in controversy threshold.

30 (2) During any time since the year 1965, the responsible party  
31 did business in the state, was registered to do business in the state,  
32 was appointed an agent of the state, or otherwise had sufficient  
33 contacts with the state to give the state jurisdiction over the  
34 responsible party.

35 (3) Notwithstanding any other applicable statute of limitations,  
36 the action is filed within three years of the date that the injury was  
37 or should have been discovered.

38 (b) A person may bring a civil action pursuant to subdivision  
39 (a) in any of the following:

- 1 (1) The county in which all or a substantial part of the events  
2 giving rise to the action occurred.
- 3 (2) The county of residence for any one of the natural person  
4 defendants at the time the cause of action accrued.
- 5 (3) The county of the principal office in this state of any one of  
6 the defendants that is not a natural person.
- 7 (4) The county of residence for a plaintiff if the plaintiff is a  
8 natural person residing in this state.
- 9 (c) Responsible parties are jointly, severally, and strictly liable  
10 to a plaintiff for the climate disaster or extreme weather or other  
11 events attributable to climate change.
- 12 (d) The connection of a climate disaster, extreme weather or  
13 other events attributable to climate change, or harms resulting from  
14 long-term changes to the climate system to alleged injuries shall  
15 be deemed an injury in fact for all residents of this state who are  
16 harmed by that event. Those persons shall have standing to bring  
17 a civil action pursuant to this section.
- 18 (e) Notwithstanding any other law, none of the following is a  
19 defense to an action brought pursuant to this section:
  - 20 (1) A defendant’s ignorance or mistake of law.
  - 21 (2) A defendant’s belief that the requirements of this act are  
22 unconstitutional or were unconstitutional.
  - 23 (3) A defendant’s reliance on a court decision that has been  
24 overruled on appeal or by a subsequent court, even if that court  
25 decision had not been overruled when the defendant engaged in  
26 conduct that gave rise to an action brought pursuant to this section.
  - 27 (4) A defendant’s reliance on a state or federal court decision  
28 that is not binding on the court in which the action has been  
29 brought.
  - 30 (5) Nonmutual issue preclusion or nonmutual claim preclusion.
  - 31 (6) A claim that the enforcement of this section or the imposition  
32 of civil liability against the defendant will violate a constitutional  
33 right of a third party.
  - 34 (7) A defendant’s assertion that this section proscribes conduct  
35 that is separately prohibited by any other law of this state.
  - 36 (8) A claim that defendant’s fossil fuel products were not  
37 misused, or were not intended to be misused, in an unlawful  
38 manner.
  - 39 (9) A defendant’s assertion that state or federal laws relating to  
40 fossil fuel products and a responsible party’s operations displace,

1 abrogate, or supersede the actions authorized by this section, the  
2 authority of the courts of this state to provide a forum for the action,  
3 or the authority of the courts of this state to provide a remedy to  
4 plaintiffs.

5 (10) A defendant's assertion that a choice-of-law or  
6 choice-of-forum clause governs the action, regardless of whether  
7 the clause applies to a plaintiff on the basis of consumer  
8 transactions.

9 (11) A defendant's assertion that the plaintiff assumed a risk of  
10 harm through the use of their products.

11 (12) A defendant's assertion that the forum is inconvenient, if  
12 the jurisdictional requirements of this section are satisfied.

13 (f) (1) The state, a political subdivision, a district attorney, a  
14 county or city counsel, or an executive or administrative officer  
15 or employee of the state or a political subdivision shall not bring  
16 a civil action pursuant to this section or take action to enforce this  
17 part.

18 (2) Notwithstanding any other law, the state, a state official, or  
19 a public prosecutor shall not intervene in a civil action brought  
20 pursuant to this section. However, this paragraph does not prohibit  
21 the state, a state official, or a public prosecutor from filing an  
22 amicus curiae brief in the action.

23 3508.5.2. (a) If appropriate, the court is encouraged to process  
24 actions brought pursuant to Section 3508.5.1 in limited civil cases  
25 with simplified procedural rules and streamlined enforcement and  
26 remedial mechanisms. Allegations of the amount in controversy  
27 at the pleading stage shall be afforded judicial deference.

28 (b) (1) If a plaintiff prevails in an action brought pursuant to  
29 Section 3508.5.1, the court shall award all of the following:

30 (A) The full extent of noneconomic, compensatory, and punitive  
31 damages allowable.

32 (B) Compensatory damages in an amount of not less than the  
33 fair market value of recovering, recouping, rebuilding, or  
34 remediating the value of lost, damaged, and destroyed property.

35 (C) Compensatory damages in an amount not less than the cost  
36 of the natural person's injuries, including medical care, mental  
37 and behavioral health care, past and present pain and suffering, or  
38 emotional distress.

39 (2) Notwithstanding any other law, a court shall not award  
40 attorney's fees or costs to a defendant in an action brought pursuant

1 to this section, unless the plaintiff was represented by counsel in  
2 the action and plaintiff’s counsel is found by the court or the State  
3 Bar to be in violation of applicable rules of professional conduct  
4 or rules of civil procedure.

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

7 (1) Payments made to a harmed party pursuant to a contract of  
8 insurance. In addition to an action brought pursuant to Section  
9 3508.5.1, an insurer may bring a subrogation action against a  
10 responsible party for recovery of payments made to insureds  
11 harmed by the responsible party pursuant to a contract of insurance,  
12 regardless of whether or not the insured has been made whole.

13 (2) Evidence that a plaintiff fully recovered from a public body  
14 for their alleged injuries.

15 3508.5.3. (a) Notwithstanding any other law, a person,  
16 including an entity, attorney, or law firm, who seeks declaratory  
17 or injunctive relief to prevent this state, a political subdivision of  
18 this state, a governmental entity or public official in this state, or  
19 a person in this state from enforcing any portion of this part, state  
20 rules of civil procedure, or any other related law that promotes  
21 consumer protection and remedies for injuries from climate  
22 disasters, extreme weather or other events attributable to climate  
23 change, or harms resulting from long-term changes to the climate  
24 system, or that represents any litigant seeking that relief, is jointly  
25 and severally liable to pay the attorney’s fees and costs of the  
26 prevailing party.

27 (b) Regardless of whether or not a prevailing party sought to  
28 recover attorney’s fees or costs in the underlying civil action, a  
29 prevailing party may bring a civil action to recover attorney’s fees  
30 and costs against a person, including an entity, attorney, or law  
31 firm, that sought declaratory or injunctive relief described by  
32 subdivision (a) no later than three years after the date that either  
33 of the following occurs:

34 (1) The action is dismissed or the judgment becomes final after  
35 appellate review.

36 (2) The time for seeking appellate review expires.

37 (c) None of the following are a defense to an action brought by  
38 a prevailing party:

39 (1) The prevailing party failed to seek recovery of attorney’s  
40 fees or costs in the underlying action.



1 (2) The court in the underlying action declined to recognize or  
2 enforce the requirements of this section.

3 (3) The court in the underlying action held that a provision of  
4 this section is invalid, unconstitutional, or preempted by federal  
5 law, notwithstanding the doctrines of issue or claim preclusion.

6 (d) (1) For purposes of this section, a party is considered a  
7 prevailing party if a court does either of the following:

8 (A) Dismisses a claim or cause of action brought by the party  
9 seeking the declaratory or injunctive relief described in subdivision  
10 (a), regardless of the reason for the dismissal.

11 (B) Enters judgment in favor of the party that opposed the  
12 declaratory or injunctive relief described in subdivision (a) on a  
13 claim or cause of action.

14 (2) A person, including an entity, attorney, or law firm, who  
15 seeks declaratory or injunctive relief as described in subdivision  
16 (a), shall not be deemed a prevailing party pursuant to this section  
17 or this part.

18 3508.5.4. The existence of a civil action against a responsible  
19 party pursuant to Section 3508.5.1 is not an independent basis for  
20 enforcement of any other law, the denial, revocation, suspension,  
21 or withholding of a right or privilege conferred by the state or a  
22 political subdivision, or a threat of the denial, revocation,  
23 suspension, or withholding of a right or privilege conferred by the  
24 state, a political subdivision, a district attorney, a county or city  
25 counsel, an executive or administrative officer or employee of the  
26 state or a political subdivision, or a board, commission, or similar  
27 body with relevant authority.

28 3508.5.5. This part does not do any of the following:

29 (a) Limit the enforceability of existing laws concerning  
30 consumer protection, climate, environment, energy, or natural  
31 resources.

32 (b) Limit the enforceability of existing laws that regulate or  
33 prohibit conduct relating to climate disasters, extreme weather,  
34 greenhouse gas emissions, or consumer protection.

35 (c) Replace legally mandated disaster recovery funds, designated  
36 disaster recovery funds established via legislation or administrative  
37 rule, or contractually obligated or court-ordered insurance claim  
38 payouts.

39 (d) Relieve the liability of an entity for damages resulting from  
40 climate change, as provided by any other law.

1 (e) Preempt, displace, or restrict any rights or remedies of a  
2 person, the state, local government entities, or a tribal government  
3 pursuant to law relating to a past, present, or future allegation of  
4 any of the following:

5 (1) Deception concerning the effect of fossil fuels on climate  
6 change.

7 (2) Damage or injury resulting from the role of fossil fuels in  
8 contributing to climate change.

9 (3) Failure to avoid damage or injury related to climate change,  
10 including claims for nuisance, trespass, design defect, negligence,  
11 failure to warn, or deceptive or unfair practices or claims for  
12 injunctive, declaratory, monetary, or other relief.

13 (f) Preempt, supersede, or displace any state law or local  
14 ordinance, regulation, policy, or program that does any of the  
15 following:

16 (1) Limit, set, or enforce standards for emissions of greenhouse  
17 gasses.

18 (2) Monitor, report, or keep records of emissions of greenhouse  
19 gases.

20 (3) Collect revenue through fees or levy taxes.

21 (4) Conduct or support investigations.

22 (g) Impose liability on speech or conduct protected by the First  
23 Amendment to the United States Constitution, as made applicable  
24 to the states through the Fourteenth Amendment to the United  
25 States Constitution, or by Section 2 of Article I of the California  
26 Constitution.

27 SEC. 2. Section 540 is added to the Insurance Code,  
28 immediately following Section 533.7, to read:

29 540. In addition to its right of subrogation, an insurer may seek  
30 damages against a responsible party for a climate disaster or  
31 extreme weather or other events attributable to climate change  
32 pursuant to Part 3.5 (commencing with Section 3508.5) of Division  
33 4 of the Civil Code.

34 SEC. 3. Section 10100.3 is added to the Insurance Code,  
35 immediately following Section 10100.2, to read:

36 10100.3. (a) If claims are paid by the association, it shall  
37 exercise its right of subrogation against a responsible party if the  
38 independent advisory body established pursuant to subdivision (c)  
39 determines that the benefits of subrogation outweigh the costs.

1 Subrogation shall be pursued in good faith and with a fiduciary’s  
2 level of care.

3 (b) If the claims paid after a climate disaster or extreme weather  
4 or other events attributable to climate change exhaust the  
5 association’s claims-paying capacity, the association shall assess  
6 member insurers based on each insurer’s market share and pursuant  
7 to subdivision (c) of Section 10094. A member insurer’s share of  
8 the assessment shall be reduced by 10 percent if the insurer  
9 exercises its right of subrogation against a responsible party. A  
10 member insurer’s share of the assessment shall be increased by 10  
11 percent if the insurer does not exercise its right of subrogation  
12 against a responsible party. Assessment reductions for insurers  
13 utilizing subrogation shall be covered by remaining insurers who  
14 do not utilize their right of subrogation.

15 (c) Within 90 calendar days of the operative date of this section,  
16 the commissioner shall establish an independent advisory body of  
17 industry experts to conduct cost-benefit analyses of the effect of  
18 a climate disaster, or extreme weather or other events attributable  
19 to climate change, on the association.

20 (d) For purposes of this section, “climate disaster,” “extreme  
21 weather or other events attributable to climate change,” and  
22 “responsible party” have the same meanings as defined in Section  
23 3508.5 of the Civil Code.

24 SEC. 4. The provisions of this act are severable. If any  
25 provision of this act or its application is held invalid, that invalidity  
26 shall not affect other provisions or applications that can be given  
27 effect without the invalid provision or application.

28 SEC. 5. This act is an urgency statute necessary for the  
29 immediate preservation of the public peace, health, or safety within  
30 the meaning of Article IV of the California Constitution and shall  
31 go into immediate effect. The facts constituting the necessity are:

32 (a) The deaths of at least 24 people, with many more  
33 unaccounted for or missing, in the January 2025 fires.

34 (b) Estimated losses of at least twenty billion dollars  
35 (\$20,000,000,000) across the insured marketplace, at least fifty  
36 billion dollars (\$50,000,000,000) in economic damages, and up to  
37 one hundred fifty billion dollars (\$150,000,000,000) in total  
38 damages as a result of numerous fires in January 2025.

39 (c) The destruction of at least 12,000 structures in the greater  
40 Los Angeles metropolitan region as of January 13, 2025.

- 1 (d) More than 10,000 homes, businesses, and other buildings
- 2 that have been destroyed by fire since 2020, according to data from
- 3 the Department of Forestry and Fire Protection.
- 4 (e) Growing nonrenewal rates for property and casualty
- 5 insurance across the state.
- 6 (f) Increasing premiums for property and casualty insurance
- 7 across the state.
- 8 (g) Sharp increases in the price of reinsurance for insurers
- 9 operating in the state.
- 10 (h) The number of FAIR Plan policies has grown by more than
- 11 40 percent since late 2023, and the value of the residential
- 12 properties insured by the FAIR Plan Association is 300 percent
- 13 higher than in 2020.