

JOINT PUBLIC HEARING

SENATE STANDING COMMITTEE ON INVESTIGATIONS AND GOVERNMENT
OPERATIONS

SENATE STANDING COMMITTEE ON INSURANCE

SENATE STANDING COMMITTEE ON HOUSING, CONSTRUCTION, AND
COMMUNITY DEVELOPMENT

TESTIMONY OF DAVE JONES

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Chairpersons Bailey, Kavanagh and Skoufis and Members of the Senate Committees:

Thank you for the opportunity to testify at this joint public hearing on the cost and availability of residential insurance. My name is Dave Jones. I am the Director of the Climate Risk Initiative at the Center for Law, Energy and the Environment (CLEE), at the University of California, Berkeley School of Law. I served as California's Insurance Commissioner from 2011 through 2018.

I. Insurance is the Canary in the Coalmine for the Climate Crisis

Insurance is “canary in the coal mine” for the climate crisis. And the canary is dying

Climate change is increasing the frequency and severity of natural-catastrophe events,¹ which, in turn, damage and destroy homes and businesses at an unprecedented level. In the last ten years, climate change accounted for over 30% of insured natural-catastrophe losses incurred across the globe.² Global insurance losses from natural catastrophes keep climbing. In response to rising losses, property-insurance companies have significantly raised their rates and are increasingly refusing to write or renew insurance for homes and businesses, creating an insurance crisis.

Globally, insurers had over \$137 billion in weather-related natural-catastrophe losses (payments to policyholders) in 2024—significantly exceeding the ten-year average of \$98 billion.³ Losses are on track to increase to \$145 billion in 2025.⁴ The

1. *Extreme Weather and Climate Change*, NASA (Oct. 23, 2024), <https://science.nasa.gov/climate-change/extreme-weather> [<https://perma.cc/86EK-EEGR>].

2. *Climate Change Accounts for over a Third of Insured Weather Losses This Century and Rising*, INSURE OUR FUTURE (Dec. 10, 2024), <https://global.insure-our-future.com/scorecard-2024-insurers-climate-losses> [<https://perma.cc/EWC9-L7JT>].

situation in the United States is consistent with these global trends. In the United States, insured natural-catastrophe losses are also at record levels, reaching \$117 billion in 2024, which exceeds the rolling ten-year average by fifty-two percent.⁵ In 2024, there were twenty-seven events that resulted in over \$1 billion in losses in the United States.⁶

Three factors contribute to the growing insurance crisis globally and in the United States. First, climate change results in more severe and more frequent weather-related disasters, which damage and destroy home and business property and contribute to record insurance-company losses. Second, these losses are compounded by the rising costs of replacing or repairing homes and businesses. Finally, the increasing construction of homes and business properties in areas prone to climate-driven natural catastrophes expands insurance losses when disaster strikes. The last two factors, however, would not matter as much if the first were not true.

Climate change makes existing natural disasters more frequent and severe, and transforms previously mundane occurrences, like rainstorms, into destructive events.

3. Chandan Banerjee, Lucia Bevere, Michael Ewald, Erik Lindgren & Mahesh Puttaiah, *Natural Catastrophes: Insured Losses on Trend to USD 145 Billion in 2025*, Swiss Re Inst. 7 (Apr. 2025) <https://www.swissre.com/dam/jcr:46617c8b-98a4-4d54-b259-f4bdcbaab0b8/sri-sigma-natural-catastrophes-1-2025.pdf> [<https://perma.cc/4VXL-9FJC>].

4. *Id.*

5. Steve Bowen, Brian Kerschner & Jin Zheng Ng, *Natural Catastrophe and Climate Report: 2024*, Gallagher Re 16 (Jan. 2025), <https://www.ajg.com/gallagherre/-/media/files/gallagher/gallagherre/news-and-insights/2025/natural-catastrophe-and-climate-report-2025.pdf> [<https://perma.cc/JY96-QKXT>].

6. *Billion-Dollar Weather and Climate Disasters*, NAT'L CTRS. FOR ENV'T INFO. (Oct. 8, 2025, 11:00 AM EDT) <https://www.ncei.noaa.gov/access/billions> [<https://perma.cc/ET7Q-JNAW>].

While climate-driven catastrophes vary in severity and frequency across the United States—with states like California, Florida, and Louisiana most at risk—there is virtually no place in the United States that is not experiencing worsening weather-related events. The resulting increase in losses causes insurers to raise rates and stop renewing and writing insurance. Higher rates and less underwriting, in turn, make mortgages and other forms of credit less affordable or available because lenders require the borrower to have and maintain insurance. Obstacles to homeownership and higher rents as landlords pass insurance costs onto renters only exacerbate the nation’s housing crisis. Together, these trends set up the central challenge for policymakers: keep insurance available in the short term while facilitating the energy and economic transition to net-zero emissions necessary to preserve the long-term viability of insurance and housing markets.

There is strong expert consensus that global temperatures are on track to rise over two degrees Celsius above preindustrial levels, potentially by as early as 2029.⁷ Climate scientists warn about approaching “tipping points” that will accelerate changes in climate and related catastrophic events.⁸ And even if all greenhouse emissions ceased today, substantial climate change has been baked into our climatic system.⁹

7. Seth Wynes et al., *Perceptions of Carbon Dioxide Emission Reductions and Future Warming Among Climate Experts*, 5 *COMM’NS EARTH & ENV’T* 498, 501 (2024); Madeleine Cuff, *The World Could Experience a Year Above 2°C Of Warming by 2029*, *NEW SCIENTIST* (May 28, 2025), <https://www.newscientist.com/article/2481945-the-world-could-experience-a-year-above-2c-of-warming-by-2029> [<https://perma.cc/GB4C-YFJA>].

8. See Raymond Zhong & Mira Rojanasakul, *How Close Are the Planet’s Climate Tipping Points?*, *N.Y. TIMES* (Aug. 11, 2024), <https://www.nytimes.com/interactive/2024/08/11/climate/earth-warming-climate-tipping-points.html> [<https://perma.cc/Q9GB-YU6W>].

Already we are experiencing the impacts: more frequent and intense weather-related events, such as wildfires, hurricanes, tornadoes, droughts, extreme heat, river and coastal floods, and severe convective storms. These climate-driven catastrophes will kill and injure more people, damage and destroy more property, render entire geographies unlivable, undermine agricultural production, and potentially result in mass migration, to name but a few impacts.¹⁰

Climate change is also expanding losses from perils that were not historically major sources of losses. Severe convective storms accounted for at least forty-one percent of insured natural-catastrophe losses in 2025.¹¹ Rising global temperatures result in larger amounts of water vapor in the atmosphere, which, coupled with changing weather patterns, enable “atmospheric rivers” to stay over a particular geography for longer periods of time.¹² Severe convective storms characterized by heavy rain, and

9. See M.T. Dvorak, K.C. Armour, D.M.W. Frierson, C. Proistosescu, M.B. Baker & C.J. Smith, *Estimating the Timing of Geophysical Commitment to 1.5 and 2.0°C of Global Warming*, 12 NATURE CLIMATE CHANGE 547, 549 (2022).

10. See *Climate Change 2023: Synthesis Report*, INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE 51 (2023), https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_FullVolume.pdf [<https://perma.cc/BUC9-HNA3>]; Gaia Vince, *Where We'll End Up Living as the Planet Burns*, TIME (Aug. 31, 2022, 6:00 AM EDT), <https://time.com/6209432/climate-change-where-we-will-live> [<https://perma.cc/54BR-ATR2>].

11. Steve Bowen, Brian Kerschner & Jin Zheng Ng, *Natural Catastrophe and Climate Report: 2024*, GALLAGHER RE 6 (Jan. 2025), <https://www.ajg.com/gallagherre/-/media/files/gallagher/gallagherre/news-and-insights/2025/natural-catastrophe-and-climate-report-2025.pdf> [<https://perma.cc/JY96-QKXT>].

12. See Michael D. Warner, Clifford F. Mass & Eric P. Salathé, *Changes in Winter Atmospheric Rivers along the North American West Coast in CMIP5 Climate Models*, 16 J. HYDROMETEOROLOGY 118, 124-26 (2015); Esprit Smith, *Climate Change May Lead to Bigger Atmospheric Rivers*, NASA (May 24, 2018),

sometimes with hail and wind, are landing across the United States in historically unprecedented ways.¹³

The effects of climate change are not limited to states like California, Louisiana, and Florida. Climate change has increased the frequency and severity of weather-related events throughout the United States. For example, wildfires are not limited to the West, but are also occurring in New England and the Southeast.¹⁴ The Gulf and Atlantic states are being hit with more intense hurricanes and wind.¹⁵ Severe convective storms are landing throughout the United States, including the Midwest, New England, Mid-Atlantic states, the South, and the West, causing major losses.¹⁶

Another factor that exacerbates losses is the development of new homes and businesses in areas at the highest risk of climate-driven weather-related events.¹⁷ For

<https://science.nasa.gov/earth/climate-change/climate-change-may-lead-to-bigger-atmospheric-rivers> [<https://perma.cc/X8G2-TAVX>]; *How Climate Change Is Fueling Extreme Weather*, EARTHJUSTICE (July 28, 2025), <https://earthjustice.org/feature/how-climate-change-is-fueling-extreme-weather> [<https://perma.cc/5GH5-UV5W>].

13. Chandan Banerjee, Lucia Bevere, Michael Ewald, Erik Lindgren & Mahesh Puttaiah, *Natural Catastrophes: Insured Losses on Trend to USD 145 Billion in 2025*, SWISS RE INST. 7 (Apr. 2025) <https://www.swissre.com/dam/jcr:46617c8b-98a4-4d54-b259-f4bdcbaab0b8/sri-sigma-natural-catastrophes-1-2025.pdf> [<https://perma.cc/4VXL-9FJC>].

14. Olivia Gieger, *Could the Northeast Burn Again?*, INSIDE CLIMATE NEWS (Feb. 18, 2025), <https://insideclimatenews.org/news/18022025/northeast-wildfire-risks> [<https://perma.cc/L734-D9PW>].

15. Shreya Vuttaluru & Jack Prator, *More Hurricanes Are Slamming the Gulf Coast. Is This the New Normal?*, TAMPA BAY TIMES (May 31, 2025), <https://www.tampabay.com/hurricane/2025/05/31/hurricanes-gulf-coast-florida-climate-change> [<https://perma.cc/C7AH-RGP8>].

16. *Rise in Severe Convective Storms Increases Risk*, ZURICH N. AM. (Sep. 7, 2023) <https://www.zurichna.com/knowledge/articles/2023/08/rise-in-severe-convective-storms-increases-risk> [<https://perma.cc/GXQ3-T2CP>].

example, between 1990 and 2010, 43% of all new homes were built in wildfire-prone areas, accounting for twenty-five million residents.¹⁸ Moreover, the increased cost of replacing homes and business property only adds to the burden on insurers.¹⁹ However, the presence of more homes and businesses in areas at risk and the increased costs of replacing homes and business property would not drive insurance losses as significantly without more severe and frequent climate-driven events.

Insurers respond to increased losses in two principal ways. First, they increase the price of insurance. Second, they reduce their exposure to losses by not renewing insurance policies and not writing new insurance policies. U.S. insurers are doing both. In the last three years alone, home-insurance premiums on average rose by twenty-four percent.²⁰ Across the United States, insurers are not renewing home and small-business

17. See Banerjee et al., *supra* note 13, at 17; Travis Martay Brennan, *Redefining the American Coastline: Can the Government Withdraw Basic Services from the Coast and Avoid Takings Claims?*, 14 OCEAN & COASTAL L.J. 101, 101-02, 109-11 (2008).

18. Volker C. Radeloff et al., *Rapid Growth of the US Wildland-Urban Interface Raises Wildfire Risk*, 115 PNAS 3314, 3316 (2018).

19. Brennan, *supra* note 17, at 107; Tobie Stanger & Lisa L. Gill, *Why Home Insurance Costs So Much—and How to Pay Less*, CONSUMER REPS. (Nov. 1, 2024), <https://www.consumerreports.org/money/homeowners-insurance/why-home-insurance-costs-so-much-and-how-to-pay-less-a6189826846> [https://perma.cc/2ANA-623R]. The recent imposition of tariffs by the Trump Administration will only worsen the problem of construction costs. See Elena Patel, Robert McClelland & John Wong, *Recent Tariffs Threaten Residential Construction*, BROOKINGS INST. (Oct. 3, 2025), <https://www.brookings.edu/articles/recent-tariffs-threaten-residential-construction> [https://perma.cc/64VY-RHW8].

20. *New Report Finds American Homeowners Faced 24% Increase in Homeowners Insurance Premiums Over the Past Three Years*, CONSUMER FED'N AM. (Apr. 1, 2025), https://consumerfed.org/press_release/new-report-finds-american-

owners' property insurance,²¹ and they are reducing the issuance of new insurance policies.²²

As homeowners and small-business property owners are unable to find insurance from traditional "admitted" private insurance companies,²³ they are forced to buy insurance from the less regulated and more expensive non-admitted "surplus lines insurers"²⁴ or from insurance "residual markets" established by state law as insurers of

homeowners-faced-24-increase-in-homeowners-insurance-premiums-over-the-past-three-years [https://perma.cc/Q2S7-ES99].

21. Home and small-business property-insurance policies are contracts for which there is no automatic right of renewal. *What's the Difference Between Cancellation and Nonrenewal?*, INS. INFO. INST. <https://www.iii.org/article/whats-difference-between-cancellation-and-nonrenewal-0> [https://perma.cc/XV5W-J6TM]. At the end of the policy year, property and casualty insurers in the United States can decline to renew the insurance policy, which is known as "nonrenewal." *Id.* "Cancellation" of insurance policies occurs during the term of the one-year policy when the insured fails to pay premium or violates some other term of the insurance contract. *Id.*

22. Christopher Flavelle, *Insurers Are Deserting Homeowners as Climate Shocks Worsen*, N.Y. TIMES (Dec.18, 2024) <https://www.nytimes.com/interactive/2024/12/18/climate/insurance-non-renewal-climate-crisis.html> [https://perma.cc/RH9X-ESNS]. Unsurprisingly, higher premiums are correlated with higher nonrenewal rates. STAFF OF S. COMM. ON THE BUDGET, 118TH CONG., NEXT TO FALL: THE CLIMATE-DRIVEN INSURANCE CRISIS IS HERE—AND GETTING WORSE 24-25 (Comm. Print 2024), https://www.budget.senate.gov/imo/media/doc/next_to_fall_the_climate-driven_insurance_crisis_is_here__and_getting_worse.pdf [https://perma.cc/MUB2-AZSE].

23. "Admitted" insurers are licensed and authorized by the state(s) in which they operate. See NONADMITTED INSURANCE MODEL ACT § 3(A) (NAT'L ASSOC. INS. COMM'RS 2023).

24. As of year-end 2022, the surplus-lines market made up eleven percent of the direct premiums written within the overall property and casualty market in the United States. *Surplus Lines*, NAT'L ASSOC. INS. COMM'RS (Sep. 22, 2023), <https://content.naic.org/cipr-topics/surplus-lines> [https://perma.cc/H4Y9-R4AT].

last resort.²⁵ While admitted insurers are fully licensed and regulated by the state, surplus lines insurers are not licensed, less regulated, and will write insurance for risks or exposures that admitted carriers decline to cover, albeit with higher premiums.²⁶

Thirty-three states (including New York) and the District of Columbia have established “residual markets” to write insurance for properties that private admitted carriers refuse to write policies for.²⁷ In most of these states, legislation establishes a Fair Access to Insurance Requirements Plan, or FAIR Plan. A FAIR plan is an involuntary association of admitted property and casualty insurers, who must participate in order to obtain and maintain a license to sell insurance in the state.²⁸ New York has also established a residual market -- the New York Property Insurance Underwriters Association (NYPIUA). FAIR Plans and other residual markets are usually structured so

25. See Alfonso Pating & Rob Moore, *Can FAIR Plans Help Build a More Resilient Future?*, NAT'L RES. DEF. COUNCIL (Jan. 15, 2025), <https://www.nrdc.org/bio/alfonso-pating/can-fair-plans-help-build-more-resilient-future> [<https://perma.cc/DNU8-YGFN>].

26. See *Surplus Lines*, *supra* note 24; *Bridging the Gap: Understanding Florida's Excess and Surplus Market*, FLA. SURPLUS LINES SERV. OFF. 1, <https://www.fslso.com/docs/default-source/uploadedfiles/default-document-library/understanding-floridas-excess-and-surplus-market-english.pdf> [<https://perma.cc/2NW2-H7V5>].

27. Pating & Moore, *supra* note 25.

28. Fed. Ins. Off., *Insurance Supervision and Regulation of Climate-Related Risks*, U.S. DEP'T OF THE TREASURY 38 (June 2023), <https://web.archive.org/web/20250313031717/https://home.treasury.gov/system/files/311/FIO-June-2023-Insurance-Supervision-and-Regulation-of-Climate-Related-Risks.pdf> [<https://perma.cc/4XTA-ASDT>]. Colorado established a FAIR Plan around the time that the report was published, bringing the total to thirty-three states with residual markets or FAIR Plans. For examples of state statutes establishing FAIR Plans that require the participation of all licensed insurers, see CAL. INS. CODE § 10094 (West 2025); and MASS. GEN. LAWS ch. 175C, § 4 (2024).

that if there is a shortfall in reserves to pay claims, the insurance-company members of the association share in making up the shortfall through an assessment collected by the FAIR Plan or residual market from insurance companies, based on their relative market share in the state.²⁹

The implicit rationale for requiring private insurance companies to make up such shortfalls is that *they* are the ones determining the number of policyholders who will be forced to buy insurance through the residual market or FAIR Plan in the first place. By virtue of deciding not to renew or write insurance for certain properties, private insurers send policyholders to the residual market or FAIR Plan. States decided insurers should not be able to “cherry pick” the best risks and throw everyone else onto the FAIR Plan or other residual market, without bearing some responsibility if the FAIR Plan or other residual market runs out of money.

Florida, Louisiana, and California are notable exceptions to the usual state-law approach requiring *private insurers* in the state to make up for shortfalls in FAIR Plan or residual-market reserves based on their relative market share. In the two hurricane-prone states, property-insurance *policyholders* in the state, including those not on the FAIR Plans, are assessed by Louisiana’s or Florida’s version of a FAIR Plan in the event their reserves are insufficient to pay claims.³⁰ In other words, private insurers in those

29. See Pating & Moore, *supra* note 25; see, e.g., 215 ILL. COMP. STAT. 5/529.2 (2025); ALA. CODE § 27-44-9 (2024).

30. *Assessments*, FLA. CITIZENS PROP. INS. CORP., <https://www.citizensfla.com/assessments> [<https://perma.cc/52DX-8JLJ>]; *Overview of Catastrophe Funding Sources and Assessments*, LA. CITIZENS PROP. INS. CORP., <https://www.lacitizens.com/AboutUs/AssessmentInfoCenter/assessment-overview> [<https://perma.cc/K7Q9-TU34>].

two states are not on the hook if the residual market—necessitated by private insurers’ refusal to write insurance—runs out of money. Insurance policyholders are. In California, private insurers responsibility to cover FAIR Plan losses is limited to \$500 Million. Losses above that are covered through a surcharge on all insurance policyholders in California.

The increased prices and decreased availability of property insurance place a heavy burden on homeowners and the economy at large. The Federal Reserve Bank of Dallas found that in areas where insurance prices are rising due to losses from climate-driven events, there is a corresponding increase in mortgage-payment delinquencies and defaults.³¹ Mortgage lenders require the borrower to maintain insurance.³² As insurance costs go up, the borrower’s ability to maintain mortgage and insurance payments decreases.³³ If insurance is unaffordable or unavailable to the borrower, the lender can “force place” insurance (obtain insurance for the property and force the borrower to pay for it), which usually costs even more than traditional home insurance, leading to more defaults.³⁴

31. Shan Ge, Stephanie Johnson & Nitzan Tzur-Ilan, *Climate Risk, Insurance Premiums, and the Effects on Mortgage and Credit Outcomes*, FED. RSRV. BANK OF DALL. 5-7 (Jan. 2025), <https://www.dallasfed.org/-/media/documents/research/papers/2025/wp2505.pdf> [<https://perma.cc/F938-LATL>].

32. See Shannon Martin & Natasha Cornelius, *Is Homeowner’s Insurance Required? What Homeowners Need to Know*, BANKRATE (July 24, 2025), <https://www.bankrate.com/insurance/homeowners-insurance/home-insurance-required> [<https://perma.cc/KC8N-ZJG3>].

33. Ge, Johnson & Tzur-Ilan, *supra* note 31, at 16-17.

34. *Id.* at 25 n.15.

A Federal Reserve Bank of Minneapolis survey found that owners and operators of permanently affordable multifamily housing for very low-, low-, and moderate-income households are getting squeezed by insurance price increases.³⁵ Affordable-housing owners and operators cannot increase rents to cover higher insurance costs, increasing the potential for defaults on loans and discouraging the development of new, permanently affordable housing.³⁶ Owners and operators of market-rate rental housing are also feeling the squeeze. As they raise rents to cover increased insurance costs, rental housing becomes even more unaffordable, exacerbating the nation's housing crisis.³⁷ Increased pricing of property insurance falls hardest on low-income households, who have limited or no ability to cover increased home insurance or rent costs.³⁸

35. Christina Spicher & Libby Starling, *Rising Property Insurance Costs Stress Multifamily Housing*, FED. RSRV. BANK MINNEAPOLIS (Mar. 4, 2024), <https://www.minneapolisfed.org/article/2025/rising-property-insurance-costs-stress-multifamily-housing> [<https://perma.cc/2HYB-HPF5>].

36. *Id.*

37. See Emma Waters, *Rising Insurance Costs and the Impact on Housing Affordability*, BIPARTISAN POL'Y CTR. (June 25, 2024), <https://bipartisanpolicy.org/blog/rising-insurance-costs-and-the-impact-on-housing-affordability> [<https://perma.cc/R3W5-HZ7J>]. Rent increases have major impacts on the almost half of American renter households who spend more than 30% of their income on housing. See Press Release No. CB24-150, U.S. Census Bureau, Nearly Half of Renter Households Are Cost-Burdened, Proportions Differ by Race (Sep. 12, 2024), <https://www.census.gov/newsroom/press-releases/2024/renter-households-cost-burdened-race.html> [<https://perma.cc/B2U5-E3J8>].

38. Matthew Oakley & James Kirkup, *Insurance and the Poverty Premium*, SOC. MKT. FOUND. 3-5 (Mar. 2023), <https://fairbydesign.com/wp-content/uploads/Insurance-and-the-poverty-premium-Summary-report-March-2023.pdf> [<https://perma.cc/DVS2-LSGN>].

The long-term outlook is grim. During his semiannual testimony before Congress, Federal Reserve Chairperson Jerome Powell addressed the growing issue of insurers withdrawing from regions at high risk of natural disasters. “If you fast-forward 10 or 15 years, there are going to be regions of the country where you can’t get a mortgage,” Powell said.³⁹ He explained that “financial institutions and insurance providers are increasingly avoiding areas prone to wildfires, hurricanes,” and other climate-driven risks.⁴⁰

A recent analysis of the impact of climate change on U.S. housing markets over the next twenty-five years found that homes may decrease in value by over \$1 trillion dollars across the country.⁴¹ Increased insurance costs and decreased availability of insurance will reduce the ability to obtain a mortgage and reduce demand for housing.⁴² Economic losses and physical impacts from weather-related events will negatively impact local economies, which will affect employment opportunities and people’s ability

39. Matthew Sellers, *Insurance Could Kill Mortgages in Some of the US—Powell*, INS. BUS. MAG. (Feb. 12, 2025),

<https://www.insurancebusinessmag.com/us/news/catastrophe/insurance-could-kill-mortgages-in-some-of-the-us--powell-524516.aspx> [<https://perma.cc/6W3W-DZQ8>].

40. *Id.*

41. *The 12th National Risk Assessment: Property Prices in Peril*, FIRST ST. 38 (Feb. 2025), <https://assets.riskfactor.com/media/The%2012th%20National%20Risk%20Assessment.pdf> [<https://perma.cc/PW4C-YUPD>].

42. See *id.* at 8-9, 18, 30-31; see also Evan M. Eastman, Kyeonghee Kim & Tingyu Zhou, Homeowners Insurance and Housing Prices 7 (Apr. 2025) (unpublished manuscript), <https://ssrn.com/abstract=4852702> [<https://perma.cc/6T3Y-VR4Y>] (finding that a 10% increase in the price of homeowners insurance is associated with a 4.6% decline in home values).

to continue living in areas hit by disasters.⁴³ Climate-related migration will reduce housing demand in these geographies, which, in turn, will further drive down housing values.⁴⁴ There is potential for a runaway effect—lower property values also squeeze local government budgets, which rely on property taxes as their primary revenue source,⁴⁵ thus degrading the quality of local services and reducing the ability to service or issue debt necessary to finance local public infrastructure projects.

The dwindling availability of mortgages and affordable housing is just one example of the systemic risk that climate change poses for the financial system, through the impact of climate-driven losses on insurers. Without insurance, households and businesses cannot recover or rebuild in the wake of more climate-driven disasters.⁴⁶ But the impact is not limited to high-risk areas. As losses mount, we can expect to see more insurance-company insolvencies, more unaffordable insurance price increases, and more insurers declining to write or renew insurance, all of which will negatively impact credit availability and asset values, which, in turn, will harm the real economy.⁴⁷ A recent

43. See *The 12th National Risk Assessment: Property Prices in Peril*, *supra* note 41, at 27-29.

44. *Id.* at 30.

45. See Eastman, Kim & Zhou, *supra* note 72, at 7; *How Local Governments Raise Their Tax Dollars*, PEW RSCH. CTR. (July 27, 2021), <https://www.pew.org/en/research-and-analysis/data-visualizations/2021/how-local-governments-raise-their-tax-dollars> [<https://perma.cc/UB6G-D4EN>].

46. See Pilita Clark, *Meltdown: How the Next Financial Crisis Starts*, FIN. TIMES (June 26, 2025), <https://www.ft.com/content/9e5df375-650d-492e-ba51-fb5a34e6ddd6> [<https://perma.cc/H2E8-QP3U>].

47. STAFF OF S. COMM. ON THE BUDGET, 118TH CONG., *supra* note 60, at 5-7. It is hard to overstate the economic importance of the U.S. housing market, which is valued at over \$55 trillion. See Treh Manhertz, *U.S. Housing Market Value Hits \$55.1 Trillion*,

report from the United States Senate Budget Committee described the economic consequences of the insurance crisis as “2008 all over again,” except with more permanent results.⁴⁸

II. Policy Solutions to Address the Insurance Crisis

There is no “magic wand” that we can wave or regulatory “dial” that we can turn to keep private insurance available in the long run in the face of increasing global temperatures. To slow or stabilize the increased losses experienced by insurers, we need to address climate change itself, which requires a major transition away from burning fossil fuels and from other greenhouse-gas-emitting sectors of the economy.⁴⁹ Unless we address the root cause of the insurance crisis – climate change – insurers will be overrun by the increased risk and losses resulting from more frequent and severe natural catastrophes driven by rising global temperatures.

At the same time, States can and should take a number of steps to help keep insurance available in the short and mid-term.

ZILLOW (Sep. 8, 2025), <https://www.zillow.com/research/housing-market-value-1-trillion-35518> [<https://perma.cc/M9T8-K7KL>]. Home values constitute over 25% of the total net worth of American households, and in a typical year, spending on housing accounts for over 15% of U.S. gross domestic product. See LIDA R. WEINSTOCK, CONG. RSCH. SERV., IF11327, INTRODUCTION TO U.S. ECONOMY: HOUSING MARKET 1 (2025), https://www.congress.gov/crs_external_products/IF/PDF/IF11327/IF11327.13.pdf [<https://perma.cc/3TVX-9Y94>].

48. STAFF OF S. COMM. ON THE BUDGET, 118TH CONG., *supra* note 60, at 7; *see also id.* (“In the event that such a large-scale climate-driven decline in property values were to occur, the economic damage would not be confined to affected coastal communities. Across the United States, people would lose jobs, economic activity would contract, and retirement investments would lose value.”).

49. Shaye Wolf et al., *Scientists’ Warning on Fossil Fuels*, 5 OXFORD OPEN CLIMATE CHANGE 1, 3-5 (2025).

A. Hold Oil and Gas Majors Accountable for Insurance Losses

An important policy solution to help keep insurance available is to hold the major oil and gas companies accountable for their contributions to the increased frequency and severity of weather-related disasters. All affected parties, including states and local governments, individuals, private businesses, private insurance companies, and FAIR Plans/residual markets, should exercise legal tools already at their disposal—and be given new ones—to require the oil and gas industry to pay its fair share for damages caused by its actions.⁵⁰

The right of subrogation exists in all insurance contracts and under state law. Insurers have the right to bring suits against third parties whose actions or inactions cause damage or injury to insurance policyholders which in turn causes the insurance company to pay the policyholder. Subrogation enables insurers to stand in the shoes of their policyholders and bring suit against third parties to recover the insurance proceeds paid to the policyholder.⁵¹

California had substantial wildfire related losses in 2017 and 2018 -- \$14 Billion⁵² and \$12.6 Billion⁵³ respectively. However, \$11 B in insurance subrogation claims was

50. See *Big Oil Accountability Lawsuits*, Ctr. for Climate Integrity, <https://climateintegrity.org/lawsuits> [<https://perma.cc/7578-XKHG>].

⁵¹ “The Growth of Subrogation and the Future of Personal Injury Litigation” , The Journal of Insurance Regulation, vol 36 No. 6, Stephen J. Spurr, <https://content.naic.org/sites/default/files/inline-files/JIR-ZA-36-06-EL.pdf>.; See also “INSURER, INSURED AND PRIORITY IN RECOVERY PROCEEDS —WHO GETS WHAT AND WHEN?”, Jefferson C. McConnaughey and Karen D. Fultz, 2010 Cozen O’Connor. <https://www.cozen.com/admin/files/publications/McConnaughey.pdf?embed=1>.

⁵² “Insured Losses from 2018 Mudslide and 2017-2018 Wildfires” California Department of Insurance, <https://www.insurance.ca.gov/0400-news/0100-press-releases/2018/upload/nr106Insuredlosses090618.pdf>

recovered from Pacific Gas & Electric (PG&E) --the utility whose equipment started the 2018 Camp Fire which wiped out the town of Paradise, took at least 90 lives, destroyed 18,000 structures and caused insurers to pay out \$12.6 Billion in claims.⁵⁴

Encouraging or requiring private insurers and FAIR Plans/residual markets to pursue subrogation claims against fossil-fuel companies could help stabilize insurance markets by reducing the need to increase rates, stop writing insurance, and assess insurers or surcharge policyholders. And giving the state Attorney General the authority to bring these subrogation claims against fossil fuel companies would enable the state to bring suit to recover insurers' losses where private insurers decline to do so.

States and local governments have begun to bring lawsuits against the oil and gas majors to recover public expenditures and losses associated with responding to and rebuilding public infrastructure after climate-driven natural catastrophes.⁵⁵ States can and should make it easier for private individuals and businesses to recover against oil and gas majors for their contribution to climate-driven physical injury or property losses.

States should also enact legislation to encourage insurers to join governments, individuals, and businesses in accountability efforts. Insurers already have the potent tool of subrogation claims,⁵⁶ which they should bring against the fossil-fuel companies to recover insurance payouts associated with climate-driven, weather-related disasters. But on their own, insurers are unlikely to bring these lawsuits, given their collective

⁵³ "Wildfire insurance losses from November 2018 blazes top \$12 billion", California Department of Insurance press release, May 8, 2019. <https://www.insurance.ca.gov/0400-news/0100-press-releases/2019/release041-19.cfm>.

⁵⁴ "PG&E settles wildfire claims with insurers for \$11 billion" Reuters, September 13, 2019. <https://www.reuters.com/article/business/pge-settles-wildfire-claims-with-insurers-for-11-billion-idUSKCN1VY1FN/#:~:text=By%20Reuters,the%20June%202020%20legislative%20deadline.%22>

55. See *Big Oil Accountability Lawsuits*, *supra* note 50.

56. See *supra* notes 51-54 and accompanying text.

investment of over half a trillion dollars in the fossil-fuel industry.⁵⁷ States can insist that increasing rates and not writing insurance are not the only ways that insurers can address rising losses from climate change. In Hawaii, legislation was introduced by Senator Chris Lee to require that the insurance commissioner's approval to increase the catastrophe load—the portion of the rate covering catastrophes—be conditioned on insurers agreeing to bring subrogation claims, against oil and gas majors to recover losses from climate driven natural catastrophes.⁵⁸ Likewise, California's Senate Bill 222, introduced by State Senator Scott Wiener earlier this year, would encourage insurers to bring subrogation claims against oil and gas companies by reducing their assessment in the event of a FAIR Plan reserve shortfall if they bring subrogation claims.⁵⁹

States can also adopt statutes requiring residual markets or FAIR Plans to bring subrogation claims against oil and gas majors to recover losses.⁶⁰ This will reduce the

57. See *supra* note 63 and accompanying text. Subrogation would not be available when the insurer is insuring a fossil-fuel company where there is a statutory or common-law prohibition against an insurer bringing a subrogation claim against an insured entity. See *The Anti-Subrogation Rule in All 50 States*, MATTHIESEN, WICKERT & LEHRER, S.C. (Jan. 12, 2022), <https://www.mwl-law.com/wp-content/uploads/2018/02/anti-subrogation-rule-in-all-50-states-chart.pdf> [<https://perma.cc/64F6-VJP6>]. However, the insurers of fossil-fuel companies are mostly large commercial insurers and not the home and small-business property insurers who are suffering major climate-driven losses and who could bring subrogation claims against major fossil-fuel companies. See Khan, *supra* note 69, at 24-29; *Fifty Years of Climate Failure: 2023 Scorecard on Insurance, Fossil Fuels and the Climate Emergency*, INSURE OUR FUTURE 12 (Nov. 2023), <https://global.insure-our-future.com/wp-content/uploads/2023/11/IOF-2023-Scorecard.pdf> [<https://perma.cc/WK76-GLJF>].

58. S.B. 1166, 33d Leg., Reg. Sess. (Haw. 2025).

59. S.B. 222, 2025-2026 Reg. Sess. (Cal. 2025).

60. Like any other insurance company, a FAIR plan or residual market can sue to recover money paid to cover losses caused by the conduct of a third-party. See *supra*

pressure to increase rates or the need to assess insurers or surcharge policyholders in the event the state FAIR Plan or residual market runs out of money. Existing state laws place duties on receivers appointed to oversee the liquidation of insolvent insurance companies to bring claims against third parties to recover assets or monies owed in order to enhance the ability to pay outstanding insurance claims and satisfy other legal obligations.⁶¹ Similarly, states can enact laws placing a duty on residual markets or FAIR Plans to bring subrogation claims against oil and gas majors for climate driven losses, to help pay for claims and reduce the likelihood and amount of assessments, surcharges, and rate increases. After all, FAIR Plans, residual markets, and receivership of insolvent insurers reflect failures of the private-insurance market that force state policymakers to intervene.⁶²

And states should give their Attorneys General the authority to bring claims against the fossil fuel companies to recover insurer and residual market losses where insurance companies or residual markets decline to do so.

B. States Should Require Insurers to Transition from Insuring and Investing in the Fossil-Fuel Industry

notes 51-54 and accompanying text; *supra* note 89 and accompanying text; see, e.g., Complaint at 1-4, California FAIR Plan Assoc. v. Pac. Gas & Elec. Co., No. CGC-17-563185 (Cal. Super. Ct. Dec. 18, 2017).

61. See INSURER RECEIVERSHIP MODEL ACT § 504(3), (9), (10) (NAT'L ASSOC. INS. COMM'RS 2007). Many states have adopted either the current version or a prior version of the model law. See *Insurer Receivership Model Act State Pages*, NAT'L ASSOC. INS. COMM'RS (2021), <https://content.naic.org/sites/default/files/model-law-state-page-555.pdf> [<https://perma.cc/R8UX-6LN9>]; see, e.g., CONN. GEN. STAT. § 38a-923(a)(12)-(13) (2024); MO. REV. STAT. § 375.1182(1)(12)-(13) (2024).

62. Residual markets and insurance-company insolvencies represent *ex ante* and *ex post* market failures, respectively.

As many scientists have noted, we need more, not less, investment in clean energy and more regulation to move us away from fossil fuels for energy production, transportation, and home and commercial heating.⁶³ Insurers must stop supporting financially the industries that fuel their demise. Because insurers have thus far refused the call, states should require them to transition from insuring and investing in the fossil-fuel industry. The “Insure our Communities Act,” New York Senate Bill S. 186A, authored by Senator Brad Hoylman-Sigal would require insurers licensed in New York to transition from investments in and underwriting of the fossil fuel industry.

There is an important role for insurers to play in supporting the transition to a net-zero economy. Currently, insurers in the United States are investing over half a trillion dollars in the fossil-fuel industry,⁶⁴ whose emissions are creating an existential challenge for the home and business property-insurance market. Globally, twenty-eight major property and casualty insurers collect \$11.3 billion annually in premiums from insuring the fossil-fuel industry.⁶⁵ Insurers should end their support, through investments and

63. See, e.g., *Phasing Down or Phasing up? Top Fossil Fuel Producers Plan Even More Extraction Despite Climate Promises*, STOCKHOLM ENV'T INST. 14 (2023), https://productiongap.org/wp-content/uploads/2023/11/PGR2023_web_rev.pdf [<https://perma.cc/KE8E-KMBJ>]; *No More Hot Air Please, Emissions Gap Report 2024*, UNITED NATIONS ENV'T PROGRAMME (2024), <https://www.undp.org/sites/g/files/zskgke326/files/2025-01/egr2024.pdf> [<https://perma.cc/9CMU-8P7B>].

64. *Changing Climate for the Insurance Sector: Research and Insights*, CERES 4 (Aug. 22, 2023), <https://www.ceres.org/resources/reports/changing-climate-insurance-industry> [<https://perma.cc/DD7P-LA7S>].

65. Risalat Khan, *Within Our Power: Cut Emissions Today to Insure Tomorrow*, INSURE OUR FUTURE 28 (Dec. 10, 2024), <https://global.insure-our-future.com/wp-content/uploads/sites/2/2024/12/loF-Scorecard-2024.pdf> [<https://perma.cc/W44B-LAS3>].

insurance, for the very industry that poses a critical threat to their ability to write insurance.⁶⁶ Such a move would be far from symbolic. A recent study found that insurers restricting coverage for coal enterprises contributed to a reduction in coal production and burning, with essentially no financial impact on insurers.⁶⁷ Nevertheless, insurers have rejected calls to end investing in and insuring the fossil-fuel industry.⁶⁸

It is time for states like New York to act. As a legal matter, states have broad authority to regulate the underwriting and investing activities of insurers, a power which has been conferred by Congress and repeatedly reaffirmed by the Supreme Court.⁶⁹

66. *Closing the Gap: The Emerging Global Agenda of Transition Plans and the Need for Insurance-Specific Guidance*, UNITED NATIONS ENV'T PROGRAMME (Nov. 2024), <https://www.unepfi.org/wordpress/wp-content/uploads/2024/11/Inaugural-FIT-report-Closing-the-gap-final.pdf> [<https://perma.cc/UVF6-77DD>].

67. Olimpia Carradori, Felix von Meyerinck & Zacharias Sautner, *Insurers' Carbon Underwriting Policies* 4-6 (Eur. Corp. Gov. Inst., Finance Working Paper No. 1071, 2025).

68. While more than half of the insurers in a recent survey had reduced their investments in fossil fuels, fossil-fuel companies represented 4.4% of insurers' overall investments in 2023, compared to 3.8% in 2014. Shane Shifflett & Jean Eaglesham, *The Two Big Insurers Still Betting on Fossil Fuels*, WALL ST. J. (Sep. 25, 2024, 5:30 AM ET), <https://www.wsj.com/us-news/climate-environment/the-two-big-insurers-still-betting-on-fossil-fuels-fa31bb15> [<https://perma.cc/7ZSW-J4KZ>]. The increase in overall investment exposure to fossil fuels—from \$57 billion in 2014 to \$84.6 billion in 2023—was driven primarily by State Farm and Berkshire Hathaway, two of the largest insurers. *Id.*

69. In 1945, Congress enacted the McCarran-Ferguson Act, which provides that “[t]he business of insurance . . . shall be subject to the laws of the several States” and supplies the interpretive principle that “silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States.” 15 U.S.C. §§ 1012(a), 1011 (2024). Shortly thereafter, the Court rejected a Commerce Clause challenge to a South Carolina statute that taxed out-of-state insurers operating within the state, emphasizing that the intention of Congress in enacting the McCarran-Ferguson Act “was broadly to give support to the existing and

States have previously enacted laws that limit which investments meet insurer capital-adequacy requirements and prohibit certain categories of investments.⁷⁰ States have also prohibited certain kinds of insurance coverage.⁷¹

future state systems for regulating and taxing the business of insurance.” *Prudential Ins. Co. v. Benjamin*, 328 U.S. 408, 429 (1946). Since then, the Court has read the McCarran-Ferguson Act broadly to uphold state authority not only to directly regulate insurers, but also to regulate the terms of insurance contracts. *Metro. Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 741-44 (1985).

70. These state laws, such as Article Fourteen of New York’s Insurance Law (NYIL), impose detailed diversification requirements on the investments of an insurer domiciled in the state. N.Y. INS. LAW §§ 1401-1415 (McKinney 2025). For instance, New York generally prohibits a life insurer from investing more than ten percent of its admitted assets in the securities of any one institution. *Id.* § 1409(a). Under Delaware law, the aggregate value of a life insurer’s stock investments (other than subsidiaries) may not exceed forty percent of the insurer’s assets. DEL. CODE ANN. tit. 18, § 1305(3) (2025). NYIL also prohibits insurers’ investments in Iran from being treated as admitted assets. N.Y. INS. LAW § 1415 (McKinney 2025). Examples of prohibited investments for New York domiciled-property-casualty insurers include, among others, shares of the insurer’s parent company and securities issued by a corporation that is majority-owned by the insurer’s officers or directors. *Id.* § 1407. There are also National Association of Insurance Commissioners model laws on permitted investments. See INVESTMENTS OF INSURERS MODEL ACT (NAT’L ASS’N OF INS. COMM’RS 2017), <https://content.naic.org/sites/default/files/model-law-280.pdf> [<https://perma.cc/MRN5-HVFQ>].

71. Twenty-six states have laws that prohibit insurance plans from offering coverage of abortion as part of a comprehensive health care plan sold in the insurance marketplaces set up by the Affordable Care Act (ACA), and eleven of those states go even further and prevent all private insurers in the state—whether in the Marketplace or elsewhere—from offering coverage of abortion as part of a comprehensive health care plan. See *State Laws Regulating Insurance Coverage of Abortion Have Serious Consequences for Women’s Equality, Health, and Economic Stability*, NAT’L WOMEN’S L. CTR. (Dec. 1, 2017), <https://nwlc.org/resource/state-bans-insurance-coverage-abortion-endanger-womens-health-and-take-health-benefits-away-women> [<https://perma.cc/3795-BBWD>]. Twelve States have also enacted laws prohibiting all or most short-term health insurance plans including California, Massachusetts, New Jersey, and New York. Wiley Long, *Short Term Health Insurance: Complete Guide 2025*,

States should exercise this legal authority to require insurers to transition from investing in fossil fuels and writing insurance for the fossil-fuel industry.

While fossil-fuel investments often provide positive returns for investors, insurers can find other investments that also provide positive returns.⁷² Moreover, fossil-fuel investments do not always provide positive returns. Consider the bankruptcy of at least sixty-three U.S. coal companies⁷³ and the decline in the Dow Jones Coal index over time.⁷⁴ The International Energy Agency projects that global demand for fossil fuels will peak in 2030 and then begin to decline.⁷⁵ Wind and solar energy are now a lot cheaper than fossil fuels and are growing substantially as a source of energy globally.⁷⁶

HSA FOR AM. (Sep. 5, 2025), <https://hsaforamerica.com/blog/short-term-limited-duration-insurance> [<https://perma.cc/XW7U-74LK>].

72. C.f. Carradori, von Meyerinck & Sautner, *supra* note 67, at 33 (finding no statistically significant declines in returns for insurers who reduced their underwriting of coal enterprises).

73. See Scott Pham, Ken Ward Jr. & Joel Jacobs, *How We Measured the Environmental Cost of Bankrupt Mines*, PROPUBLICA (Apr. 26, 2023, 5:05 AM EDT), <https://www.propublica.org/article/how-we-measured-environmental-cost-bankrupt-mines> [<https://perma.cc/ZL5U-9Q5E>].

74. For an interactive tool displaying the historic decline in the index, see *Dow Jones U.S. Coal Total Stock Market Index*, GOOGLE FIN., <https://www.google.com/finance/beta/quote/DWCCOA:INDEXDJX> [<https://perma.cc/8767-6S58>].

75. *World Energy Outlook: 2023*, INT'L ENERGY AGENCY 26 (Oct. 2023), <https://iea.blob.core.windows.net/assets/86ede39e-4436-42d7-ba2a-edf61467e070/WorldEnergyOutlook2023.pdf> [<https://perma.cc/SY6G-MQGP>]. The International Energy Agency reiterated this prediction in its most recent report in 2024. *World Energy Outlook: 2024*, INT'L ENERGY AGENCY 24-25 (Oct. 2024), <https://iea.blob.core.windows.net/assets/140a0470-5b90-4922-a0e9-838b3ac6918c/WorldEnergyOutlook2024.pdf> [<https://perma.cc/GZG3-Q3G9>].

76. See *World Energy Outlook: 2024*, *supra* note 75, at 45-47.

Premiums from selling insurance to fossil-fuel companies do provide revenue some insurers, but the rise of litigation against fossil-fuel companies and the potential that courts will hold them liable for climate-related damage ought to give insurers pause.⁷⁷ The premiums collected annually from fossil-fuel enterprises, while not insignificant, are not so large as to be necessary for the financial viability of insurers.⁷⁸ If an oil and gas company can't get insurance, it will have to self-insure. This means that it will have to bear the cost of the risks that insurance would typically cover, such as property damage or liability for third-party injuries.

Right now, insurance companies can maximize their profits by providing financial support to the fossil-fuel industry, while denying insurance coverage to homes and businesses and passing on costs to consumers through higher rates. Increasingly, all policyholders are having to pick up the costs of FAIR Plan or residual market losses which exceed reserves—that is, costs brought about by the very fossil-fuel industry that insurance companies invest in and insure. It is only fair that the state step in to prevent its residents and businesses from (literally) paying the price for the decisions of insurance companies to invest in and write insurance for the fossil fuel industry.

C. Enact State Laws to Require Insurers to Account for the Risk-Reduction

Benefits of Mitigation in Their Pricing and Underwriting

77. See *Big Oil Accountability Lawsuits*, CTR. FOR CLIMATE INTEGRITY, <https://climateintegrity.org/lawsuits> [<https://perma.cc/7578-XKHG>].

78. See Risalat Khan, *supra* note 57, at 28 (“Analysis of 28 major property and casualty insurers with a collective global market share of 35.3% shows that commercial fossil fuel premiums represent under 2% of their total insurance premiums in 2023—essentially pocket change. Moreover, these insurers’ share of climate-attributable losses, estimated at \$10.6 billion, nearly matched the \$11.3 billion of premiums they underwrote for fossil fuels.”).

There is substantial empirical and scientific evidence and a broad-based consensus that adaptation and resilience measures taken at the property, community, and landscape scale can reduce the risk and magnitude of loss from climate-driven perils.⁷⁹ States should pass legislation requiring insurers to account for the risk reductions in both their pricing and underwriting models, given that insurers have largely refused to incorporate this information into their models voluntarily. Accounting for risk-reduction measures in pricing and underwriting models will incentivize their adoption, which will, in turn, reduce risk of loss, helping stabilize prices and allow for the renewal and writing of more insurance.

The Insurance Institute for Business and Home Safety (IBHS), the empirical research arm of the property and casualty insurers, has developed a list of home-hardening measures which reduce the risk of loss of homes due to wildfire.^{80 81}

79. See Jeffrey Czajkowski et al., *Application of Wildfire Mitigation to Insured Property Exposure*, CTR. FOR INS. POL'Y & RSCH. (Nov. 15, 2020), https://content.naic.org/sites/default/files/cipr_report_wildfire_mitigation.pdf [<https://perma.cc/6ZFW-3WMC>]; see also Dave Jones et al., *Wildfire Resilience Insurance: Quantifying the Risk Reduction of Ecological Forestry with Insurance*, NATURE CONSERVANCY 3-4 (Oct. 19, 2020), <https://www.nature.org/content/dam/tnc/nature/en/documents/FINALwildfireresilienceinsurance6.27.21.pdf> [<https://perma.cc/X4T3-YDFJ>] (finding that implementation of landscape-scale ecological forestry practices in a fire-prone area of Northern California could reduce home-insurance premiums by over 40%).

80. *Wildfire Ready: The Science, the Steps, the Safety*, INS. INST. FOR BUS. & HOME SAFETY, <https://ibhs.org/wildfireready> [<https://perma.cc/C552-2R8M>]. These include using less combustible roofing and siding materials; protecting vents in the eaves of a home with screens to reduce ember intrusion; using heat-resistant glass for windows and doors so that the heat of the fire does not shatter the glass or door allowing embers to flow into the building; eliminating any wooded structures attached to the home such as decks, sheds, or fences that can be a conduit for the fire; and more. Having “defensible space” around the home, which includes clearing the first five feet of

Community-level adaptation includes keeping a distance between newly-constructed homes to reduce house-to-house spread, creating fire breaks around the community, and reducing brush and vegetation in the community.⁸² Landscape-scale mitigation of wildfire risk includes using prescribed fire and thinning of forests and chaparral lands to reduce the fuel load, and, in the forest context, eliminating “ladder fuels” like small trees and bushes, which become conduits for fire to move into the tree canopy.⁸³

With regard to hurricanes, other wind events, and severe convective storms, the IBHS has relied on empirical testing to develop a “fortified home” standard for roofing and other elements of the home, which reduces the risk of wind, hail, and heavy rain damage and loss.⁸⁴

While these measures at the property, community, and landscape scale do not guarantee that individual homes will not be damaged or destroyed by a wildfire, hurricane or other climate driven peril, they significantly reduce the risk of loss. Increased federal, state, local, and private expenditures and investments in property-, community-, and landscape-scale adaptation and resilience are needed to help reduce

vegetation, limiting vegetation within one hundred feet from the home, and eliminating overhanging tree canopy, also reduces the risk of loss due to wildfire. *Defensible Space*, Cal. Dep’t Forestry & Fire, <https://www.fire.ca.gov/dspace> [<https://perma.cc/76EM-SB9S>].

82. *Suburban Wildfire Adaptation Roadmaps: A Path to Coexisting with Wildfires*, INS. INST. FOR BUS. & HOME SAFETY (Nov. 2021), <https://ibhs.org/wildfire/suburban-wildfire-adaptation-roadmaps> [<https://perma.cc/QB4R-U64T>].

83. See Jones et al., *supra* note 79, at 18.

84. *About—Fortified Home Program*, INS. INST. FOR BUS. & HOME SAFETY, <https://fortifiedhome.org/about> [<https://perma.cc/KR3V-YXXV>].

the risk of loss and, correspondingly, make it possible for insurers to keep writing insurance for areas hit by climate-change-driven catastrophes. Insurers need to take these risk-reduction measures into account, but are not doing so.

Both the public and private sectors are already investing substantially in landscape-scale mitigation for severe wildfires, for example. At the federal level, the bipartisan infrastructure bill enacted in the first year of the Biden Administration contained \$5.1 billion for forest management and other fuel-reduction measures on federal lands across the United States.⁸⁵ California has appropriated \$4 billion for landscape-scale forest-fuel reduction through prescribed fire and thinning in the last few years.⁸⁶ In 2024, California voters passed Proposition 4, which authorizes the sale of Climate Bonds that will raise an additional \$1.5 billion for landscape-scale forest management to reduce wildfire risk.⁸⁷ On the local level, cities and counties in California are taxing their residents and spending money on community- and landscape-scale fuel reduction and forest-treatment projects.⁸⁸ Mitigation efforts extend to the neighborhood

85. Jessica Gardetto, *Bipartisan Infrastructure Law to Fund Up to \$9 Million to Advance Wildfire Science*, BUREAU LAND MGMT. (Nov. 10, 2022), <https://www.blm.gov/press-release/bipartisan-infrastructure-law-fund-9-million-advance-wildfire-science> [<https://perma.cc/YJ3X-2WZD>].

86. Ezra David Romero, *California Has Invested Billions in Forest Fire Efforts. Newsom Wants the US to Follow*, KQED (July 1, 2025), <https://www.kqed.org/science/1997565/california-has-invested-billions-in-forest-fire-efforts-newsom-wants-the-us-to-follow> [<https://perma.cc/222Z-JHB8>].

87. *Climate Bond Prop 4: 2024*, CAL. NAT. RES. AGENCY, <https://bondaccountability.resources.ca.gov/Propositions/P4> [<https://perma.cc/WRE9-EQJE>].

88. *2024 Truckee Fire Community Wildfire Prevention Fund Annual Report*, TRUCKEE FIRE PROT. DIST. 5 (2024), <https://static1.squarespace.com/static/5a8daffbbe42d684f619597e/t/67c9d37611852c75>

level, where private homeowners associations are collecting fees from their members to pay for landscape-scale forest and chaparral management projects.⁸⁹

State-sponsored risk-reduction efforts are not limited to California. To assist homeowners in fortifying their homes against wind and hurricanes, a number of states on the Gulf and Atlantic coasts have enacted limited grant programs and other financial incentives to help homeowners with the cost of retrofitting their home to meet the IBHS fortified-home standard.⁹⁰ In the Midwest, nature-based solutions to reduce river flood risk are also being implemented.⁹¹

While more federal, state, local and private investments are needed for property-, community-, and landscape-scale adaptation and resilience, homeowners and businessowners who spend thousands of dollars on home hardening, HOA fees, and local, state and federal taxes for risk mitigation measures are justifiably frustrated when their insurer fails to account for these mitigation measures in deciding whether to write or renew their insurance.⁹²

2f3361be/1741280128433/2024+Wildfire+Prevention+Annual+Report+-+FINALupdate_compressed.pdf [https://perma.cc/QH5Y-UTB7].

89. *2024 Budget Report*, TAHOE DONNER ASS'N 3-4 (2024), https://www.tahoedonner.com/wp-content/uploads/2023/11/2024_BudgetReport_webSpreads.pdf [https://perma.cc/8HQ8-8DXG].

90. *Financial Incentives*, INS. INST. FOR BUS. & HOME SAFETY, <https://fortifiedhome.org/incentives/> [https://perma.cc/94GB-WKCA].

⁹¹ See *Natures Remedy: Improving Flood Insurance Through Community Insurance and Nature Based Mitigation*, The Nature Conservancy and Munich Re (November 2021) https://www.nature.org/content/dam/tnc/nature/en/documents/ImprovingFloodResilienceThroughInsuranceandNatureBasedMitigation_21NOV01.pdf

Insurance models used for pricing and underwriting have the technical capacity to account for property-, community-, and landscape-scale mitigation in setting a risk score for particular properties.⁹³ However, when deciding whether to write or renew insurance, only two insurers out of hundreds in California account for mitigation in the risk-score models they use to decide whether to write or renew insurance.⁹⁴

As insurers were not voluntarily accounting for risk-reduction measures in pricing, some states, like California and Alabama, adopted requirements that insurers provide homeowners with a premium discount for home hardening against wildfire (California) or wind (Alabama).⁹⁵ But in these states, insurers issue discounts to homeowners for home-hardening measures, but still refuse to renew or write them insurance.⁹⁶ This

92. Christopher Flavelle, *Insurers Are Deserting Homeowners as Climate Shocks Worsen*, N.Y. TIMES (Dec. 18, 2024), <https://www.nytimes.com/interactive/2024/12/18/climate/insurance-non-renewal-climate-crisis.html> [https://perma.cc/H4CL-CHP3]

93. See Jones et al., *supra* note 79, at 55.

94. CSAA offers renewals to policyholders who meet home-hardening standards. See Kenneth Araullo, *CSAA Proposes Rate Hike, Targets FAIR Plan Depopulation with New Discounts*, INS. BUS. MAG. (Aug. 29, 2025), <https://www.insurancebusinessmag.com/us/news/property/csaa-proposes-rate-hike-targets-fair-plan-depopulation-with-new-discounts-547873.aspx> [https://perma.cc/E88R-EEDR]. Delos Insurance also takes risk mitigation into account in its underwriting. See Allen Laman, *Delos Insurance Solutions Tackles a Nonstandard Peril: Wildfire*, CARRIER MGMT. (Jan. 25, 2025), <https://www.carriermanagement.com/features/2025/01/30/271058.htm> [https://perma.cc/F4V3-78JF].

95. CAL. CODE REGS. tit. 10, § 2644.9 (2025); ALA. CODE. § 27-31D-2 (2024). At least twelve other states require insurers to provide premium discounts for home-hardening measures. See Avery Ellfeldt, *California Insurers Begin Giving Discounts for Fire-Proofed Homes*, ENERGY & ENV'T NEWS (Sep. 29, 2024, 6:33 AM EDT), <https://www.eenews.net/articles/california-insurers-begin-giving-discounts-for-fire-proofed-homes> [https://perma.cc/KXB6-PA6H].

means that you can be eligible for a home-hardening discount, but the insurer will still not renew your policy or write you insurance, which makes the discount for mitigation effectively worthless. Thus, to properly incentivize risk-reduction measures, states will need to require that insurers incorporate property-, community-, and landscape-scale mitigation into their models when deciding to write or renew insurance.

Insurers may complain that there is not one database to which they can look to obtain information as to whether homeowners or businesses have undertaken mitigation measures. But insurance companies routinely ask current and prospective customers for information about their homes and businesses to decide whether to write insurance. Recall the list of questions you were asked the last time you shopped for new property insurance. Customers are asked the age of the home, what materials were used in construction, the age of the roof, the materials used for the roof, the number and type of rooms, whether there is a basement, crawl space or the house is on a concrete slab, how the home is heated and cooled, and more.⁹⁷ Insurers can simply ask the customer if they have undertaken home hardening and, for wildfire risk, defensible space, just as they ask all sorts of other questions to collect data to input into their models or underwriting guidelines to decide whether to write insurance for the home.

96. See Michael Copley, *Here's How Climate Change Is Affecting Your Home Insurance*, NAT'L PUB. RADIO (June 11, 2025, 5:06 AM ET), <https://www.npr.org/2025/06/10/nx-s1-5340360/insurance-cost-homes-climate-change-disasters> [<https://perma.cc/ZX3L-MNLS>].

97. See, e.g., *Homeowners Insurance Questionnaire*, MASON & CARTER, <https://www.masoncarter.com/md/download/Homeowners-Insurance-Questionnaire.pdf> [<https://perma.cc/NG32-EFRD>]; *Homeowners Insurance Questionnaire*, ASSURED PARTNERS, <https://www.assuredpartners.com/-/media/Files/Corporate/Locations/Cranford/Homeowner-Questionnaire-Fillable.pdf> [<https://perma.cc/V3RR-TLAT>].

Data on community or landscape-level mitigation is also available. For example, the State of California maintains a database of the locations of forest-treatment projects to reduce the risk of wildfire,⁹⁸ which insurers can access to obtain data to account for community and landscape scale mitigation in their modeling.

The insurance industry clearly has the technical capacity to use this readily available data to account for property-, community-, and landscape-scale mitigation in setting a risk score for particular properties. As discussed previously, the insurance industry has established empirically based standards for home hardening against wind, wildfire, hail, and heavy rain.⁹⁹ Thus, there is a list of items that the insurance industry's own research arm has developed, about which the customer can be asked, to obtain data to account for property-level mitigation in their models. Further, the availability of data and the ease of incorporating it into models dispels worries that requiring insurers to take into account property-, community-, and landscape-scale mitigation would result in substantial additional costs.

Just this year, Colorado grew tired of waiting for insurers to account for risk-reduction measures in their pricing and underwriting models, and took action. With the support of Colorado Insurance Commissioner Mike Conway, the state enacted H.B. 25-1182, which requires insurers to account for property-, community-, and landscape-scale mitigation in the computer models they use to set prices and to decide whether to write or renew insurance.¹⁰⁰ This is the most important property-insurance law to be

98. See *Interagency Treatment Dashboard*, CAL. WILDFIRE & FOREST RESILIENCE TASK FORCE (Dec. 13, 2024), <https://interagencytrackingsystem.org> [<https://perma.cc/7ZCE-NXFW>].

99. See *supra* notes 79-84 and accompanying text.

enacted this year (if not in several years) anywhere in the United States and should serve as a model for other states like New York, to follow.

III. Conclusion

The insurance crisis is driven by the climate crisis. In the long run, unless we reduce global temperature rise by transitioning away from fossil fuels and other greenhouse gas emitting sectors, we face an uninsurable future.

There are actions now that New York can take to make insurance more available and affordable and to hold the oil and gas industry accountable for its contribution to the climate crisis. New York should enact legislation encouraging or requiring insurers and the New York Property Insurance Underwriters Association to bring subrogation claims against the oil and gas majors, and to give the state Attorney General the authority to bring these or similar claims. Legislation requiring insurers to transition from investments in and underwriting of fossil fuels, like New York S. 186A, is also critically important. And passing legislation requiring the models used by insurers to account for property, community and landscape scale adaptation and resilience measures in pricing and underwriting, like Colorado's HB 25-1182, would incentivize more private and public investments in adaptation and resilience and help keep insurance available. New

100. H.B. 25-1182, 2025 Gen. Assemb., Reg. Sess. (Colo. 2025); Michael Rummel, *Bill Requiring Property Insurers to Share More Information on Fire Risk Models Clears Colorado Senate*, LAW WEEK COLO. (Apr. 9, 2025), <https://www.lawweekcolorado.com/article/bill-requiring-property-insurers-to-share-more-information-on-fire-risk-models-clears-colorado-senate> [<https://perma.cc/A8KH-8C4B>]; Elana Ashanti Jefferson, *New Colorado Law will Require Insurers to Reward Wildfire Mitigation*, PROP. CAS. 360. (May 15, 2025, 12:54PM), <https://www.propertycasualty360.com/2025/05/15/new-colorado-law-will-require-insurers-to-reward-wildfire-mitigation> [<https://perma.cc/D4HH-GT3N>].

York can and should act now to enact these measures, to help keep insurance available and affordable.

Thank you for opportunity to testify at this joint hearing.