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CLIMATE DAMAGES & CANADA'S LOOMING HOME INSURANCE CRISIS: WHO PAYS?

INVESTORS *for* PARIS COMPLIANCE

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ABOUT INVESTORS FOR PARIS COMPLIANCE

Investors for Paris Compliance (I4PC) is a shareholder advocacy organization that works to hold Canadian publicly-listed companies accountable to their net zero commitments. More information can be found here.

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EXECUTIVE SUMMARY

As climate damages soar, threatening Canada's home insurance system, the question is called: who pays? This report outlines how affordability and system stability requires climate cost recovery – where polluters, rather than households and taxpayers, pay for the climate damages they cause.

Globally, insured losses have been growing more than twice as fast as GDP since 1994. In 2024, insured damage from extreme weather in Canada – compounded by rising reconstruction costs – shattered records at over $9 billion, nearly triple the losses of 2023 and 12 times the annual average from 2001 to 2010.

These costs get passed along to homeowners. On average, premiums in Canada have risen by three quarters over the past decade, faster than inflation. Insurance companies are predicting double digit growth. In some areas such as BC's Shuswap, Calgary, and Carleton Place, ON, rates have spiked by anywhere from 25% to 300%.

These costs also get passed along to taxpayers, since most damages are uninsured. Canada's federal Disaster Financial Assistance Arrangements program is under enormous strain, with one-third of all payouts since 1970 occurring in just the last decade. Provinces and municipalities pick up more costs, including hundreds of millions in increased forest fire fighting budgets.

The insurance industry's solution to this emerging crisis is adaptation – necessary, although another form of cost transfer to homeowners and taxpayers. Canadians are being asked to spend on flood- and fire-proofing their homes, and governments are being lobbied to spend on infrastructure hardening.

Using Swiss Re's projections of insurance claims rising by 5-7% annually coupled with the ratio of insured vs. uninsured damages, Canada could see $25 billion annually in claims by 2050 and $75 billion annually in uninsured damages, for a total of $100 billion per year by mid-century.

The industry itself admits that climate damages threaten the stability of the system. An Insurance Bureau of Canada representative wrote earlier this year, "Canadians need governments and the private sector to collaborate on solutions to protect them from the severe weather of today and tomorrow. If that doesn't happen, we should all get ready to live in an uninsurable country a decade from now" if more isn't done on adaptation, echoing the warnings of other global insurance executives. On average, Canadian insurers paid out more than they took in over 2023 and 2024 for home insurance. And, as areas become uninsurable, home prices drop and mortgage defaults rise, posing a threat to the wider financial system and to the economy.

Provincial and federal regulators remain largely on the sidelines as this crisis unfolds, failing to even monitor insurance affordability, let alone acting to shore up system stability. Unlike in the U.S. home insurance prices are not regulated in Canada.

While the Canadian legal system has always allowed litigants to seek redress for economic damages, until now it has been difficult to establish causality between the polluters causing climate damages and those impacted. This has changed with the development of attribution science, including frameworks that connect emissions from identifiable sources to measurable damages. For example, a study concluded that the emissions from 88 oil, gas, coal, and cement producers contributed to 37% of the burnt area due to forest fires between 1986 and 2021 in the western United States and southwestern Canada.

Courts around the world have already started to accept attribution science. A German court recently ruled against a Peruvian farmer suing a German utility for the increased risk of flooding caused by its historical emissions, but accepted that attribution was possible.

In Canada, climate damages litigation to recover costs could be brought by insurance companies, governments, or individuals. Insurance companies have the right to step into the shoes of policy holders to recover costs, but given they are also investors and underwriters of fossil fuels, it seems unlikely that they would exercise these subrogation rights against polluters.

Governments do not need to wait for litigation – they could proceed with legislation for cost recovery, as we have already seen in Canada with the issues of tobacco and opioids. Multiple state-level governments in the U.S. have begun to legislate to recover climate damages from polluters. Revenues from such legislation could be used to fund climate mitigation and adaptation measures as well as to compensate victims, thus stabilizing the insurance system.

Yet, due to Canadian governments being conflicted by their own fossil fuel activities, it may require individual Canadians initiating class action litigation for climate cost recovery, as we saw on the tobacco issue. And, as climate damages mount to tens of billions and the question of who pays becomes more urgent, such lawsuits become inevitable.

1. COST TRANSMISSION

1.1 THE CLAIMS-PREMIUMS CYCLE

Canadian households are currently stuck on a cost transmission cycle: each year extreme weather drives up insurance claims and the industry passes along these costs in the form of higher premiums, changes in coverage and deductibles for everyone.

Climate change is making Canada a more expensive place to live: Extreme fire weather is more likely and more intense.[1] Short, intense downpours are likelier, raising flash-flood risks, and hailstorms more frequent and severe.[2] All these damage property.

Globally, insured losses have been growing more than twice as fast as global GDP since 1994.[3] In 2024, insured damage from extreme weather in Canada shattered records at over $9 billion, nearly triple the losses of 2023 and 12 times the annual average from 2001 to 2010.[4] Since 2019, Canada has experienced a 115% increase in the number of claims for personal property damage.[5] Figure 1 below illustrates the steep rise in annual insured losses.

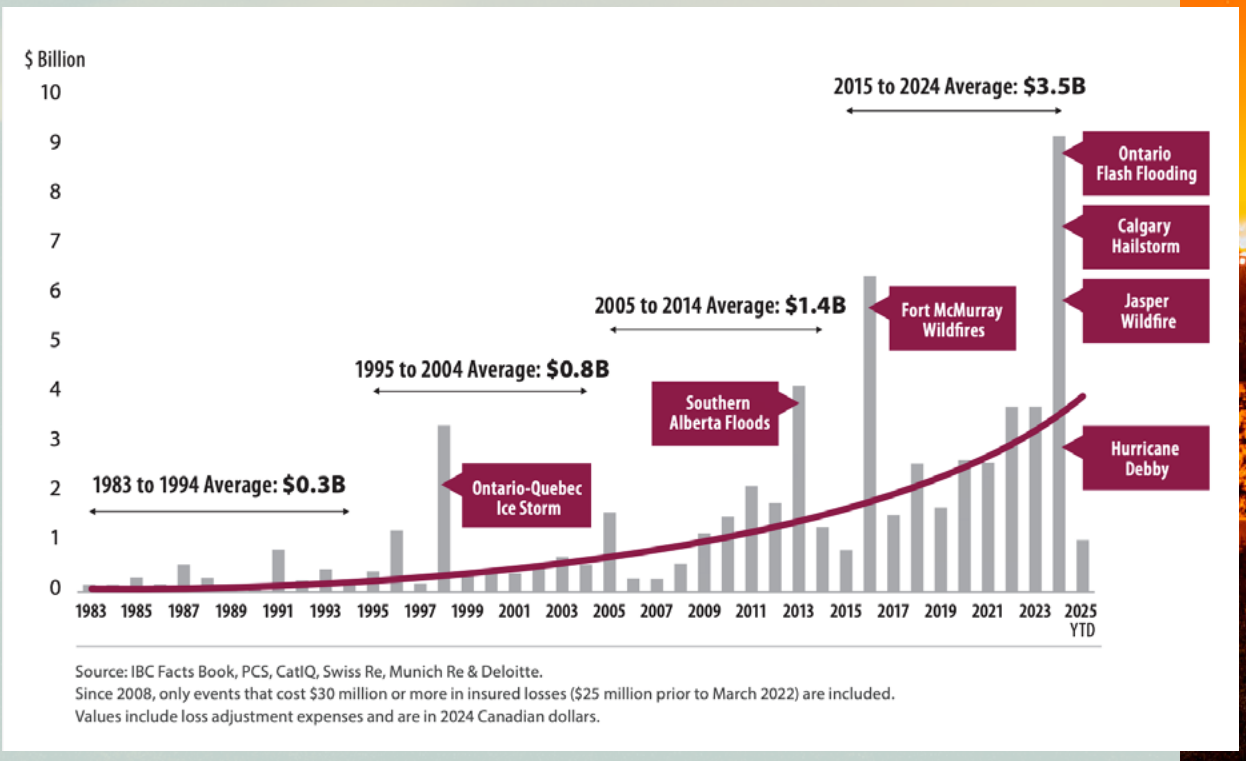

FIGURE 1. ANNUAL P&C INSURANCE CLAIMS IN CANADA, 1983 TO 2025YTD.[6]

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Toronto's 2024 floods caused $1 billion in insured losses, but including uninsured costs, the real bill is estimated at up to $4 billion for three hours of rainfall, or about $1.3 billion per hour.[7] In July and August 2024, four severe weather events resulted in over $7 billion in insured losses, with a Calgary hailstorm causing $3.2 billion, the provincial government is considering whether it needs to investigate the home insurance system.[8] Clearly, "Canada is becoming a riskier place to live, work and insure," as IBC's former climate director warned.[9]

According to MyChoice Financial, a Toronto-based Insurtech company, overall home insurance premiums rose ~77% across Canada from 2015 to 2025.[10] This includes 5.28% just this year, following a 7.7% hike last year, with companies such as Intact predicting "low double-digit premium growth [...] mainly due to catastrophe loss trends and uncertainty driven by geopolitical conflicts."[11] High building costs and labour shortages are also contributing upwards pressure on rates and from 2020 to 2023, home insurance consistently outpaced all items inflation, seen in the figure below.[12]

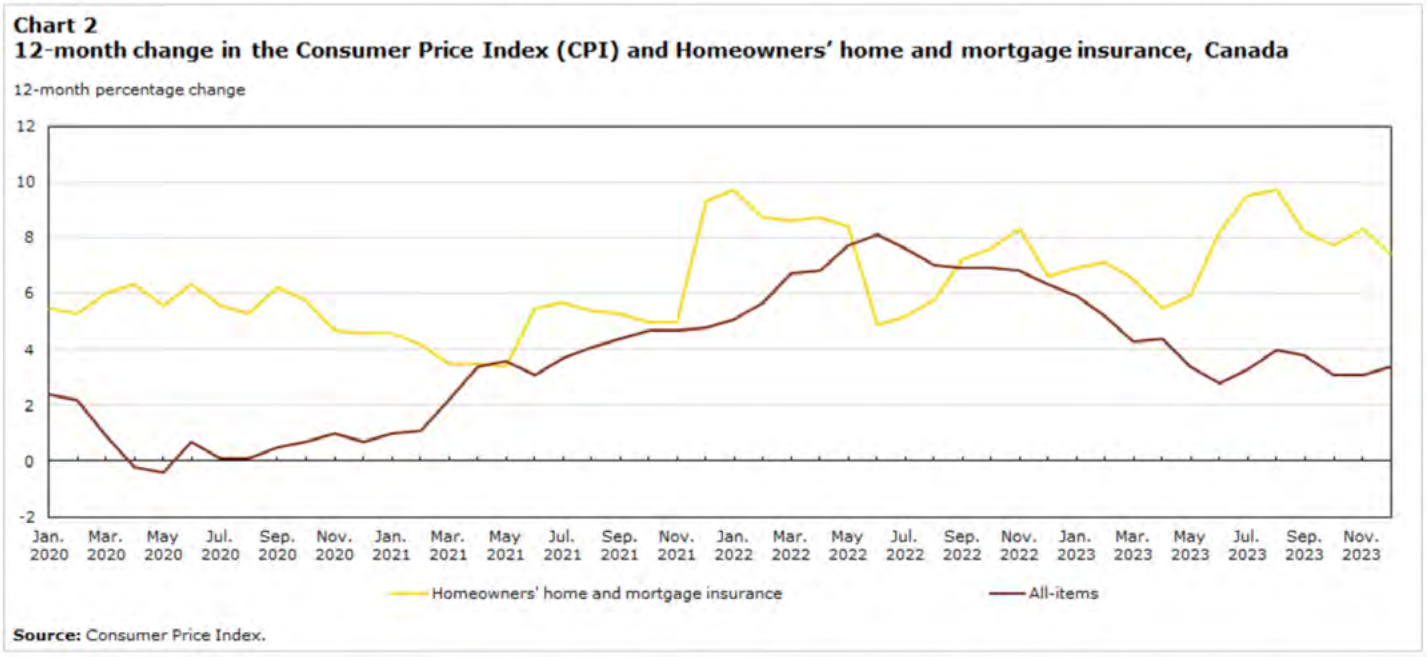


FIGURE 2: CPI VS. HOME INSURANCE

Some Calgary homeowners affected by hailstorms saw premiums double and triple this year, with many not able to find any insurer willing to cover them at all.[13] One resident was denied by over 10 companies, then secured a policy almost three times their previous payment.[14] The average Alberta homeowner is paying $660 more for home insurance in 2025 than they did in 2015, with annual home insurance now often exceeding $1,300.[15]

> **"Canada is becoming a riskier place to live, work and insure**
> *IBC's former climate director*

What used to be included in general insurance is increasingly changing to optional add-ons. In Calgary, hail coverage is now commonly optional, which could leave consumers unknowingly underinsured – or choosing not to buy hail protection at all, though this may allow for savings for customers not at risk.[16] Insurance is also trending towards higher deductibles, peril-specific deductibles, and depreciation endorsements.[17]

In some high-risk areas, premiums have leapt 50 to 70% in a single year. For example, rural homeowners outside Carleton Place, Ontario reported a year-over-year jump of 72%,[18] their insurance company refused to comment publicly on the jump. In British Columbia's Shuswap region, residents are experiencing ~25% rate increases on average.[19] From 2014 to 2024, home insurance rates in Ontario rose by 84%,[20] including a 12.7% increase in 2024[21] and 7.2% jump in 2025.[22]

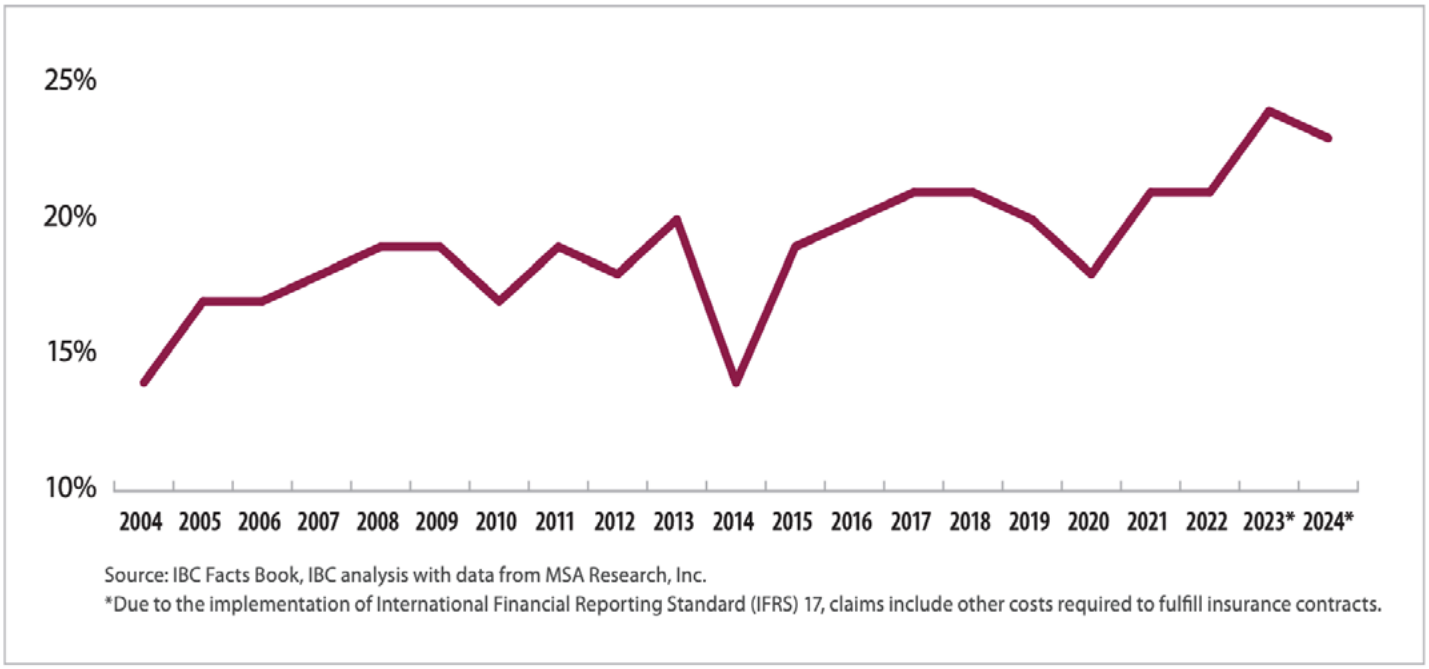


FIGURE 3: PERSONAL PROPERTY CLAIMS OVER TIME[23]

As a percentage of total claims, personal property insurance claims have risen significantly over the past 20 years, as seen in the figure above. Insurers are also beginning to retreat from certain areas, and mortgage dealers have begun to follow suit, for example Desjardins no longer offers mortgages in certain flood zones.[24] About 10% of all Canadian households are highly exposed to flooding but lack access to affordable flood insurance.[25]

Flooding is the most common and costly disaster in Canada.[26] Over 1.5 million homes across the country are located in areas of high flood risk and 80% of Canadian cities are built on floodplains.[27] Many Canadian homeowners believe their insurance will pay, but general home insurance policies usually don't cover external flooding, and may not offer extra coverage for purchase. Co-operators is the only insurer in Canada who continues to offer comprehensive water coverage nationally. In high-risk areas, few options for flood coverage are available, and at a very high premium.[28]

Regarding wildfire risk, credit rating agency Morningstar DBRS has noted early signs of Canadian coverage tightening for properties near wildland-urban interfaces, and exclusionary clauses or stricter underwriting for wildfire risk in high-exposure zones.[29]

As climate risks escalate, reinsurance costs do too. Primary insurers pass these costs onto consumers. During the 2023 renewal cycle, catastrophe reinsurance premiums for property in Canada rose by an estimated 25–30% for loss-free portfolios and up to 50–70% for portfolios that had experienced recent loss events such as a wildfire or flooding.[30]

In summary, as climate damages mount, insurance claims increase and these costs are being passed along to Canadian homeowners in the form of increased premiums and less coverage. **This is a cycle with no clear end.**

1.2 TAXPAYER OUTLAYS AND ADAPTATION

Most climate damages are not covered by insurance. For example, while insured claims topped $9 billion in 2024, an estimated $24 billion in damage went uninsured.[31] Canadian households end up paying for these damages, either directly from their own pockets, or via their taxes as governments pay to battle extreme weather.

As taxpayers, Canadians already pay billions in disaster recovery or in dealing with extreme weather in the moment. Canada's federal Disaster Financial Assistance Arrangements (DFAA) program, which helps provinces pay for catastrophes, is under enormous strain. Ottawa has acknowledged that climate change has driven DFAA claims "exponentially" higher, with one-third of all payouts since 1970 occurring in just the last decade.[32]

Provincial government funds such as the Ontario Disaster Recovery Fund also pay out millions where consumers are not covered by insurance[33] and the Municipal Disaster Recovery Assistance provides provincial funding for municipal infrastructure recovery, such as $2.3 million for Bracebridge after a 2019 flood.[34] The 2021 Fraser Valley floods in B.C. are expected to cost $3.4 billion under DFAA.[35]

In six of the ten years from 2014 to 2023, the annual national cost of wildland fire protection exceeded $1 billion.[36] By September of 2023, the Canadian government had spent over $3 billion on wildfire suppression that year alone.[37] Provincial wildfire budgets have also surged across Canada. Alberta added $25 million to its ~$100 million budget in 2024, and increased FireSmart funding to $19 million, on top of a $2 billion contingency.[38] BC went over their wildfire suppression budget by $762 M fighting 2023 fires, hitting over $1 billion – its highest ever[39] and now keeps $233 million base funding plus prevention and aircraft investments.[40]

The Quebec 2023 fires cost over $8 billion in combined economic losses,[41] including government spending of $1.1 billion, largely on firefighting ($211 million) and reforestation efforts ($773 million).[42] Ontario spent $203 million in 2023 but trimmed its 2025 budget to $135 million.[43]

Manitoba's wildfire suppression costs hit $180 million in September alone in 2025, $130 million more than the province sets aside in its annual budget for all emergencies.[44] Other provinces have smaller budgets, but have similarly seen sharp increases in spending the past few years.

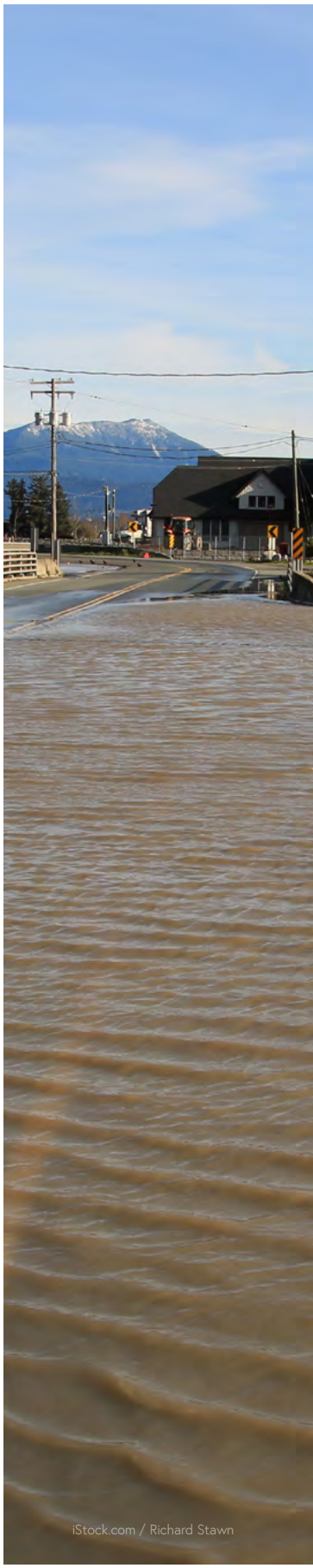
The insurance industry appears largely a one-note orchestra in its public response to mounting damages: adaptation. Many say that both households and governments should spend to harden property against extreme weather – another form of cost transfer.

For households in flood-prone areas, this looks like spending money on landscaping to redirect water, sealing entry points, installing pumps, and moving utilities to higher ground. For households in fire-prone areas, this looks like spending money on replacing roofs, siding, and decks with fire-resistant materials, landscaping to remove flammable vegetation, and purchasing fire-suppression equipment.

Insurance companies may require a mix of such activities in order to secure lower rates or improved deductibles.[45]

Because many climate hardening activities are more regional or structural in nature, the insurance industry is also lobbying local, provincial, and national governments to invest in adaptation – again, another form of cost transfer, this time to taxpayers. Notably, in Quebec adaptation measures are in part funded by revenues from the cap and trade system.[46]

Insurers sometimes use their own capital to re-build for improved climate resilience and adaptation following a major claim. For example, some Co-operators clients in select high-risk cases have been provided with funds to proactively reduce risk before a climate-related claim is filed. Some insurers also fund municipal level adaptation, Intact launched Flood Risk Reduction Rebate Program and Co-operators share hazard maps to municipalities to help inform policy and housing strategy.



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In September 2025 the Insurance Bureau of Canada published a three-point plan[47] to "ensure the continued sustainability of the home insurance market: improve how and where we build; invest in resilience and help communities mitigate their risks; and address market gaps while avoiding interventions that reduce market capacity."

Some of these recommendations are common-sense measures that don't necessarily cost taxpayers more money, such as restricting new building in flood- and fire-prone areas, but many involve government spending or cost increases for builders and home buyers, such as:

- Stronger building codes and adherence
- Housing retrofit programs
- Public hazard mapping and outreach programs
- Extreme weather early warning programs
- Upgrades to public infrastructure such as storm drains; and fire suppression programs
- Funding for municipal resilience programs
- Increased amounts for disaster recovery
- "Public-private partnerships" for risky properties – subsidies for things like flood insurance, like the long-awaited National Flood Insurance Program that would take on the riskiest properties.[48]

Notable also is the industry's main recommendation for what not to do: control insurance prices via regulation. But with affordability and homeowners ongoing ability to pay under pressure, Canada could find itself with a debate about price controls seen in other jurisdictions. Canadian home insurance prices are currently not regulated, with the industry arguing that such prices should be allowed to rise as high as necessary, which in its words "supports healthy market dynamics, encourages competition and fosters innovation." But if the sector cannot get ahead of the escalating risks driving costs higher, public and political pressure will inevitably mount.

One of Canada's leading researchers into climate risk and insurance at the University of Waterloo has characterized some proposals by the industry as "an effort to deflect responsibility from the sector towards government and individuals."[49] Overall, in addition to transferring the costs of climate damages in the form of premium hikes, they are also being transferred to taxpayers in the form of disaster response and adaptation costs.


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1.3 SYSTEM INSTABILITY

There is an odd mix of statements by the insurance industry regarding whether mounting climate damages represent a manageable or existential threat to the system. Meanwhile, provincial and federal regulators charged with maintaining system stability remain largely on the sidelines as costs mount for homeowners and taxpayers, with no end in sight.

In lobbying for government resources, IBC warns, "Canadians need governments and the private sector to collaborate on solutions to protect them from the severe weather of today and tomorrow. If that doesn't happen, **we should all get ready to live in an uninsurable country a decade from now.**"[50] Years ago, the CEO of AXA cautioned that more than 4°C of warming would render the world "uninsurable."[51] More recently, a senior executive from global P&C giant Allianz wrote,

> This is a systemic risk that threatens the very foundation of the financial sector…There is also the false comfort of "adaptation," as many risks do not lend themselves to meaningful adaptation. There is no way to "adapt" to temperatures beyond human tolerance. There is limited adaptation to megafires, other than not building near forests. Whole cities built on flood plains cannot simply pick up and move uphill. And as temperatures continue to rise, adaptation itself becomes economically unviable…At that point, risk cannot be transferred (no insurance), risk cannot be absorbed (no public capacity), and risk cannot be adapted to (physical limits exceeded). That means no more mortgages, no new real estate development, no long-term investment, no financial stability. The financial sector as we know it ceases to function. And with it, capitalism as we know it ceases to be viable.[52]

The Institute and Faculty of Actuaries at the University of Exeter concludes that unmitigated climate change and nature-driven risks have been hugely underestimated.[53] Dr. Nicola Ranger from University of Oxford says "most supervisors and financial institutions are not considering these risks within their risk management, flying blind and leaving the financial system dangerously unprepared."[54]

The Institute calls on financial institutions to carry out realistic risk assessments of climate change that take into account "the full range of possible outcomes, including realistic worst-case scenarios, social and environmental tipping points, and the ways in which complex risks can compound."[55] There is a need for better communication of key assumptions and judgements in climate change modelling and scenario analysis.[56]


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The Insurance Bureau of Canada has also written that "the personal property insurance sector's overall financial performance has deteriorated significantly in the last two years."[57] Profitability for personal property has declined since 2020, and ROE dropped to 5% in 2024, far below the average of 9%. Personal property insurance market's combined loss ratio was 101% for both 2024 and 2023, meaning insurers paid out $1.01 in claims and operating costs for every $1 they earned in premiums.[58]

Last year in Alberta, which has suffered five of the 10 costliest severe weather events in Canada's history, insurers paid out $1.18 in claims and operating costs for every $1 they earned in personal property premiums. These increasing claims costs contributed to a -11% return on equity for Alberta personal property insurance.[59]

As costs mount and budgets are stretched, nearly 40% of Canadian household debt is situated in areas with both high disaster exposure and high indebtedness.[60] When insurance bills start rivaling monthly mortgage payments, the incentive is to drop coverage entirely. A recent Australian analysis found that 15% of Australian households are now in "insurance affordability stress," spending over one month's income on home insurance premiums.[61] No comparable study has been done yet in Canada, but one report estimated that between 2019 and 2023, 10,000 Canadians turned to crowd-funding campaigns in the aftermath of severe weather.[62]

The Financial Resilience Institute has also published that one in five Canadians report being impacted by an extreme weather event in the past 12-24 months – of them, 29% reported negative effects on their finances.[63] Another memo says households who reported sufficient insurance protection scored an average of 15 Index points higher on the Institute's Financial Resilience Index model, with 66% scored as 'Approaching Resilience' or 'Financially Resilient', compared to 40% of those who report they lack sufficient insurance protection.[64]

Instability in the home insurance sector is contagious to other areas of the financial system. If areas become uninsurable, home values can be expected to drop, mortgage defaults rise, and lenders to curtail loans – a scenario analogous to the 2008 subprime mortgage crisis in the US, but driven by climate losses rather than bad debt.[65]

From 2014 to 2019, the average selling price of Canadian homes in communities that experienced catastrophic flooding dropped by 8.2 per cent.[66] In 2024, Canada's largest credit union Desjardins announced it will stop offering new mortgages in some areas with heightened flood risk.[67]

In the U.S., First Street estimates that for every 1% increase in insurance costs, there is a roughly 1% increase in the mortgage foreclosure rate.[68] First Street estimates U.S. lenders will lose $1.2 billion a year in 2025 — and up to $5.4 billion in 10 years — as they are forced to absorb the cost of mortgage defaults.[69]

Where is this heading? Based on growth projections by Swiss Re, losses in Canada could reach $100 billion by 2050, combining $25 billion in insured losses and $74 billion in uninsured losses.* See figure below.

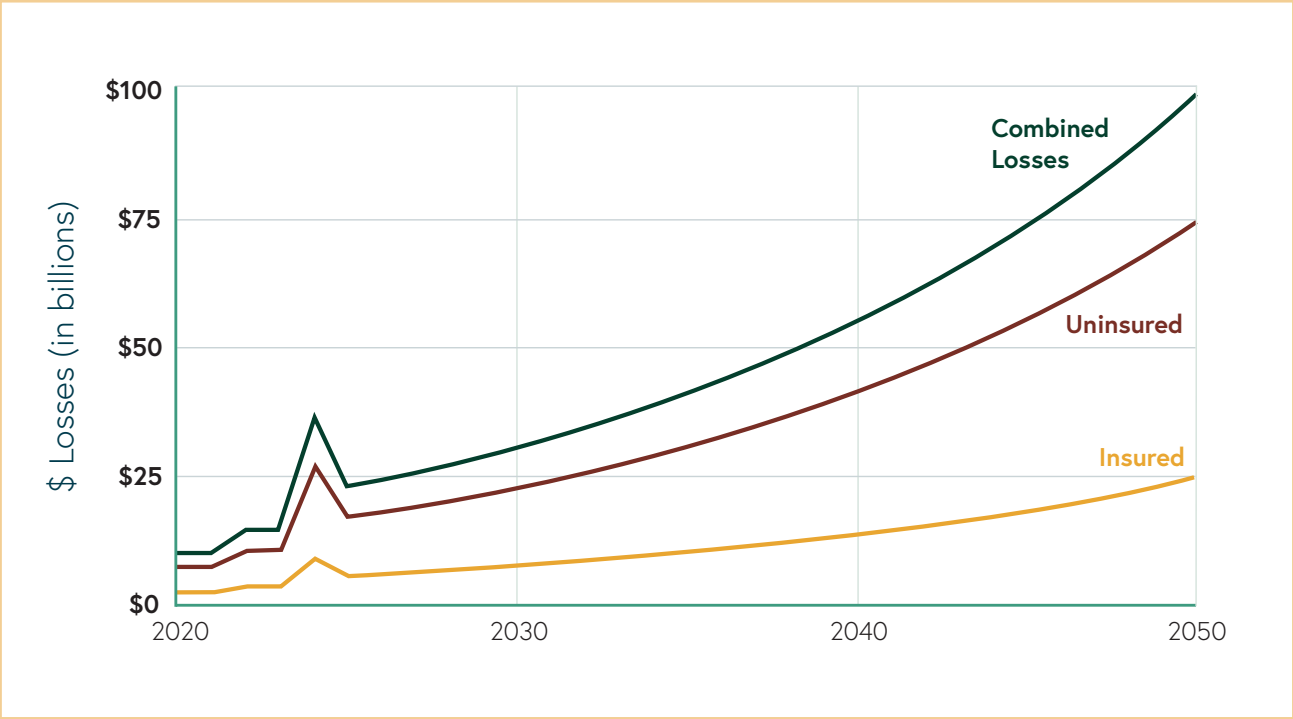

FIGURE 4: PROJECTED INSURED AND UNINSURED LOSSES BY 2050

One estimate by the Government of Canada projected annual costs by 2075 in the range of $74-319 billion.[70] A 2022 Public Safety Canada report estimates 2030 losses at $15.4 billion,[71] while the Canadian Climate Institute estimates that $5.5 billion in insured losses in 2050 will be due to floods.[72]

Direct written home insurance premiums have a similar growth rate of 6%. In 2022, direct written premiums in Canada were $17.4 billion.[73] At a similar pace, total home insurance premiums in Canada could rise to ~$89 billion by 2050.

* SwissRe projects natural catastrophes to continue to follow the 5-7% annual growth rate (in real terms) that has been the norm of recent years. We took the midpoint (6%) and projected 25 years of Canadian insured and uninsured losses based on average insured losses from 2022-2024. ($3.61 billion in both 2022 & 2023, and $9.1 billion in 2024 = $5.44 billion). Uninsured losses projected at 3x insured losses.

Insurance supervision and system stability is the mandate of both the federal Office of the Superintendent of Financial Institutions (OSFI) regarding solvency of larger insurance companies and banks, as well as provincial regulators – BC Financial Services Authority (BCFSA), the Financial Services Regulatory Authority of Ontario (FSRA) and L'Autorité des marchés financiers (AMF) – regarding the market conduct of insurance companies.

In 2025, OSFI and the AMF jointly released their first climate scenario exercise results that included some information about physical risks — such as extreme weather impacts. OSFI warned that property insurance is a "blind spot" for many financial institutions, with only 12% of deposit-taking institutions requiring or collecting information on flood insurance on properties used as financing collateral.[74] OSFI has issued Climate Risk Management guidance[75] for federally-regulated financial institutions, including insurance companies, but this does not deal with overall system stability.

Provincial market conduct agencies are not yet acting to truly address growing climate damages and the threat they pose to the insurance system. In BC, where the BC Financial Services Authority (BCFSA) published a discussion paper in 2023 regarding climate damages.[76] It concludes that natural catastrophes and climate-related risks "are material and potentially systemic for the B.C. financial services sector," where "systemic risk" means "a risk of disruption to financial services that is caused by an impairment of all or parts of the financial system and has the potential to have serious negative consequences for the real economy."

The BCFSA summarized what it heard regarding the discussion paper but has yet to propose any follow up. Quebec's AMF produced a Climate Risk Management Guideline for financial institutions in Quebec, stating that "Given their likelihood, unpredictable nature and potential impact, these risks are considered systemic and pose a real threat to global stability, including the stability of the financial industry."[77] The AMF also points out Fair Treatment of Consumers expectations: clients should be made aware of the increased frequency of extreme weather events and the consequences of physical and transition risks generated by climate change.[78]

In 2025 the Alberta regulator surveyed insurers about residential hail coverage to understand market changes under "mounting consumer and market pressure" from extreme weather events. It's unclear where this investigation will lead at this time.[79]

Overall, Canada's home insurance system is already stressed by climate damages, and set to become even less stable as they mount. Regulators are slow to act despite having mandates for system stability.


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2. COST RECOVERY

2.1 ATTRIBUTION SCIENCE

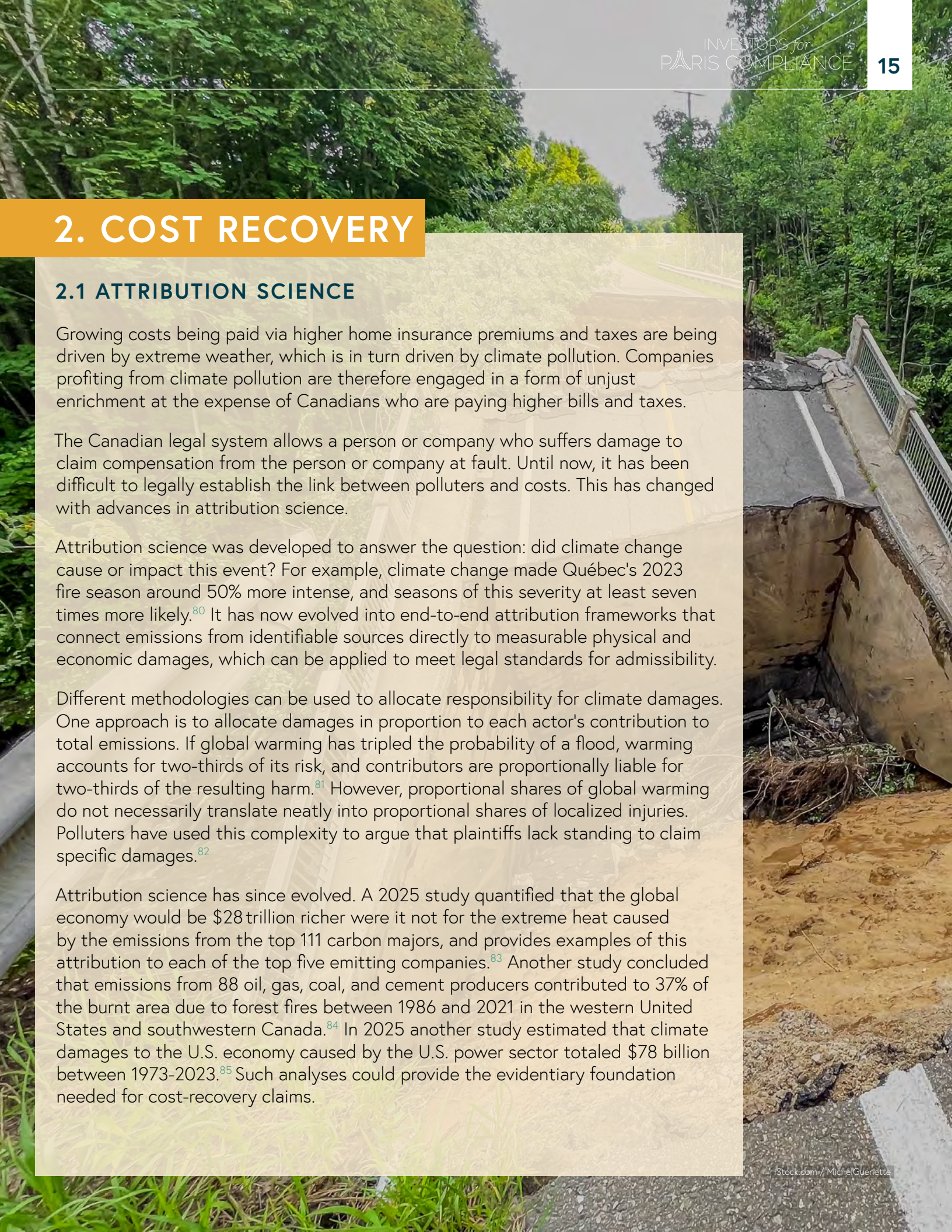
Growing costs being paid via higher home insurance premiums and taxes are being driven by extreme weather, which is in turn driven by climate pollution. Companies profiting from climate pollution are therefore engaged in a form of unjust enrichment at the expense of Canadians who are paying higher bills and taxes.

The Canadian legal system allows a person or company who suffers damage to claim compensation from the person or company at fault. Until now, it has been difficult to legally establish the link between polluters and costs. This has changed with advances in attribution science.

Attribution science was developed to answer the question: did climate change cause or impact this event? For example, climate change made Québec's 2023 fire season around 50% more intense, and seasons of this severity at least seven times more likely.[80] It has now evolved into end-to-end attribution frameworks that connect emissions from identifiable sources directly to measurable physical and economic damages, which can be applied to meet legal standards for admissibility.

Different methodologies can be used to allocate responsibility for climate damages. One approach is to allocate damages in proportion to each actor's contribution to total emissions. If global warming has tripled the probability of a flood, warming accounts for two-thirds of its risk, and contributors are proportionally liable for two-thirds of the resulting harm.[81] However, proportional shares of global warming do not necessarily translate neatly into proportional shares of localized injuries. Polluters have used this complexity to argue that plaintiffs lack standing to claim specific damages.[82]

Attribution science has since evolved. A 2025 study quantified that the global economy would be $28 trillion richer were it not for the extreme heat caused by the emissions from the top 111 carbon majors, and provides examples of this attribution to each of the top five emitting companies.[83] Another study concluded that emissions from 88 oil, gas, coal, and cement producers contributed to 37% of the burnt area due to forest fires between 1986 and 2021 in the western United States and southwestern Canada.[84] In 2025 another study estimated that climate damages to the U.S. economy caused by the U.S. power sector totaled $78 billion between 1973-2023.[85] Such analyses could provide the evidentiary foundation needed for cost-recovery claims.



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While attribution science has matured, there are still debates as to what methods are most legally viable.

One method is to compare a historical world with all emissions to a counterfactual world with a given actor's emissions removed so researchers can isolate that actor's contribution to both global warming and regional damages. The resulting models are nonlinear: equal shares of emissions do not always yield equal shares of harm, since timing, gas composition, and regional sensitivity all affect outcomes.[86]

Another study quantifies each emitter's climate damages by using an Earth-system model to estimate how much that emitter's historical CO_2 and CH_4 emissions increased global mean temperature, then feeding those company-specific temperature contributions into extreme-event attribution models to calculate how much each emitter raised the likelihood and intensity of every heatwave.[87]

In effect, attribution science allows judges, policymakers, regulators, and communities to quantify the share of climate-related damages attributable to particular emitters and opens new pathways for recovering costs currently borne by households and taxpayers. Governments and insurers can ground claims for compensation in evidence that connects polluters' emissions to measurable increases in disaster-related losses.

2.2 LITIGATION

More than 100 climate-related lawsuits have been filed annually from 2017 to 2023, ranging from cases alleging inadequate climate risks disclosure to investors to cost recovery claims.[88] Advances in attribution science are being used by several U.S. governments to seek compensation from oil and gas companies for physical damages linked to historical emissions and the industry's role in delaying action on climate change. At least 25 cities, counties, and states – including California, Colorado, Connecticut, Delaware, Hawai'i, Maryland, Minnesota, New Jersey, New York, Rhode Island, South Carolina, and Vermont are taking legal action.[89] Rulings are expected in the coming months and years, with the potential to shape the future of climate litigation in common law jurisdictions.

Internationally, a German court established an important precedent last May in a case where a Peruvian farmer and tour guide sued German utility RWE, seeking compensation for increased flood risk linked to the company's historical GHG emissions. The case was unsuccessful, but only due to insufficient proof of immediate threat, with the court recognizing that large emitters could in principle be held accountable for the transnational impacts of their historical emissions under the German Civil Code.[90] More recently, two new lawsuits were brought in European courts: in the UK against Shell by Filipino victims of super typhoon Rai in 2021,[91] and in Germany against RWE and Heidelberg Materials by Pakistani victims of major floods in 2022.[92] [93]

In July this year, the International Court of Justice (ICJ) issued a comprehensive advisory opinion confirming that states have binding customary law obligations to prevent harm to the climate system, and that a failure to meet these obligations could trigger compensation to other vulnerable states. Although directed at governments, the ICJ advisory opinion reinforces the notion that climate damages are enforceable, and indirectly raises compliance risks to corporations.[94]

In Canada, tort liability could serve as a legal foundation for potential lawsuits. In all provinces except Quebec where extracontractual responsibility has similar effects, tort liability allows individuals or entities who have suffered harm to seek a civil remedy directly against those responsible. Establishing liability generally requires proof of a duty of care, a breach of that duty, causation, and legally recognized damage.[95] Notably, tort liability was successfully mobilised by provincial governments against the tobacco industry in the 2010s,[96] with the support of enabling legislation facilitating the burden of proof needed to establish damage and causation.

Who in Canada could sue polluters for cost recovery? There are various options, from insurance companies to households to governments.

Insurance companies have the ability to sue climate polluters in an action called "subrogation." After an insurance claim has been made and the insurer has reimbursed the policy holder, Canadian legislation allows insurance companies to "step into the shoes" of an insured person to recover expenses from any party who may have contributed to the damage. In the US, some insurers have sold their subrogation rights to third parties, to avoid engaging in lengthy and risky lawsuits.[97] There is no indication that this could not also happen in Canada.

Insurers routinely win subrogation claims based on tort liability, although no case has yet been brought on climate grounds. After the 2018 Camp fire, which destroyed the town of Paradise, California, insurers recovered $11 billion from the utility company PG&E for its role in the disaster due to electricity system failures. That money helped insurers keep some coverage available and offset some of the increased premiums they would have otherwise charged consumers.[98]

In April 2025, Hawai'i became the first U.S. state to endorse the idea that polluters bear financial responsibility for the rising cost of home insurance. A joint resolution passed by the state House and Senate calls on the state's insurance providers to limit rate increases on Hawai'i families by taking the fossil fuel industry to court for the economic damage from climate disasters.[99] California bill SB-222 includes provisions requiring the association of private insurers participating in the publicly funded FAIR Plan, which provides basic property insurance, to exercise their subrogation rights towards fossil fuel companies.[100]

Canadian insurance companies are yet to explore subrogation related to climate damages and polluters, perhaps in part due to their "clean hands" problem. Canadian P&C companies engage in extensive fossil fuel investing and underwriting. The seven largest Canadian-based P&C insurers and their parent companies had over $19.5 billion invested in fossil fuel assets in 2023,[101] while Fairfax ranks as the fifth largest fossil fuel underwriter in the world.[102] Canadian insurance companies do not promote public policies supporting emissions reductions, and while some have adopted individual net zero commitments, their industry association has no workstream on net zero for its members.

If their insurance companies won't recover climate costs on their behalf, Canadian households could exercise their legal rights via a class action lawsuit seeking damages from polluters. For instance, households that suffer uninsured damages from a specific flood event could target one or more carbon emitters based on their historical contribution to climate change. It would likely not be required that the targeted emitters be headquartered in-country to engage their liability; even international emitters might be sued if they have assets, or have extracted, refined or distributed high-emitting products within the jurisdiction where harm has occurred.[103] Aside from the damage from extreme weather events, other grounds for climate lawsuits could include rising housing insurance premiums, or lung health problems related to forest fire smoke.[104]

A relevant precedent for a class action lawsuit could be the one brought by lung disease victims from Quebec against tobacco companies. In 1998, two separate class action lawsuits were filed by close to 100,000 cigarette smokers or ex-smokers suffering from lung cancer, throat cancer, or emphysema. After the class action lawsuits were authorized in 2005, 253 days of hearings were held between 2012 and 2014, involving the examination of 76 witnesses, and more than 43,000 documents admitted as evidence. In 2015, the Quebec Superior Court ruled in favor of the victims, a judgment that was subsequently upheld by the Court of Appeals in 2019. The debate over the enforcement of the judgment continued until 2025, when the Ontario Superior Court approved a compensation plan.[105]

In parallel to the class action lawsuits, provincial governments introduced their own tobacco lawsuits, and that could repeat in the instance of climate damage cost recovery from polluters given the billions in disaster response already being paid by local, provincial, and federal governments in Canada. Each one of those has a case.

Several Canadian cities have signaled their interest in pursuing legal action against polluters, although no lawsuits have been filed to date. In 2019, Toronto adopted a resolution to explore "any legal avenues to pursue compensation for [climate change] costs from major GHG emitters,"[106] and in BC 11 municipalities have pledged to pursue climate cost recovery in court when a set threshold of participating municipalities is met.[107]

2.3 LEGISLATION

Governments could adopt legislation enabling climate damage cost recovery, which can take various forms.

In the 2000s, Canadian provinces began adopting legislation creating a direct cause of action against tobacco companies, for their contribution to the public health crisis caused by these products. Modelled after legislation from Florida, BC was the first province to do so,[108] followed by other provinces.[109] Opioid cost recovery legislation was later introduced in the 2010s.[110]

These laws allowed for the use of data from epidemiological studies as evidence to establish the causal link between the cost of healthcare and the actions of the company, and quantify the damages.

Several jurisdictions in the U.S. and Canada are also considering expanding public interest corporate liability principles beyond tobacco and opioids to other industries, including polluters.

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While BC is considering broadening the range of industries subject to health care cost recovery,[111] two US states recently enacted legislation targeting fossil fuels specifically. Introduced first by Vermont in 2024,[112] and then by New York,[113] climate change cost recovery programs, or climate superfund laws, create an obligation for large polluters to pay a one-time amount established in proportion to their historical emissions starting in 1995 and 2000, respectively. The payments would be transferred into a fund which would be used to adapt land, buildings, and infrastructure to the impacts of climate change. The programs are facing legal challenges by industry groups and the current U.S. federal administration.

Similar programs have been introduced in at least seven other states — California, Connecticut, Maryland, Massachusetts, New Jersey, Oregon, Rhode Island — but have not yet been passed into law.[114]

Connecticut lawmakers also considered Senate Bill 1115, which would have established a surcharge on Connecticut-based insurance companies that underwrite fossil fuel companies and fossil fuel projects. Proceeds from the fee would have been split between the Department of Energy and Environmental Protection's Climate Resilience Fund and a Connecticut Insurance Department Premium Assistance program to help middle and low-income communities struggling to afford rising insurance premiums.[115]

Whereas tobacco and opioids cost recovery legislation in Canada was aimed at allowing provincial governments to recover health costs, it also included provisions on admissible evidence which strengthened the case of victims.[116]

A proposed bill in the California senate, SB-222 Climate disasters: civil actions[117] goes one step further. It proposes that a person who suffered at least $10,000 in damages as a result of an extreme weather event may bring a civil action against a fossil fuel company that did business in the state, to recover all damages sustained in connection to a climate disaster.[118] Thus, the proposed bill would make fossil fuel companies strictly liable for damages, meaning that it would not be necessary for plaintiffs to establish wrongdoing or a causal relationship between pollution and the damages suffered. The bill suffered an unfavorable vote in the Senate last April, but could be reconsidered at a later date. In Canada, a similar bill enacting strict liability of fossil fuel producers for climate-related harms was introduced in Ontario in 2018 and re-introduced in 2023, although it did not pass second reading.[119]

In a potential private action on climate damages, these types of provisions could be used to strengthen the plaintiffs' case, and relieve them of the burden of establishing the causal link and damages for each individual victim, facilitating access to justice. This was done successfully for tobacco, with Canadian victims and provinces obtaining a $32 billion settlement against the largest tobacco companies in August this year.[120]

CONCLUSION

Unfortunately, at this point given historical emissions, a massive amount of climate damages are already baked in. Whether we continue to escalate those damages and ultimately destabilize our economy and society depends on the choices we make regarding future emissions.

Canadians are already paying for these costs in a variety of ways, including via rising home insurance premiums and higher government expenditures for disaster response. Investments in adaptation, while necessary, will cost us more and are an inadequate solution in isolation. Meanwhile, polluting companies are making billions in profit while offloading the resulting costs to others. This is a form of unjust enrichment that also threatens the stability of systems such as the home insurance market.

As damages mount, the question of "who pays?" will inevitably become more urgent, and the answer must be those who cause the damages in the first place. Attribution science lays the blame clearly at the feet of those most responsible, and litigation and legislation provide the tools for cost recovery.

What happens next comes down to leadership. The majority of Canadian insurance companies are thus far avoiding this conversation despite the existential threat posted to their industry. Many Canadian governments are also conflicted given their promotion of fossil fuels. It may therefore come down to individual homeowners choosing to join together in court to force the matter, as we saw in the early days of tobacco litigation.

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