

FIRES AND FLOODS IN CALIFORNIA AND THE CAROLINAS: HOW NATURAL CATASTROPHES ARE FORCING STAKEHOLDERS TO RE-THINK INSURANCE¹

By: Costantino P. Suriano and Noah Agnew

What was previously considered a “once in a generation” disaster may be a new normal. According to the California Department of Forestry and Fire Protection, three of the top five deadliest and most destructive California fires have occurred in the state since 2018:

- November 2018 – Fire “Camp” in Butte County, 153,336 acres destroyed, eighty-five deaths.
- January 2025 – Fire “Eaton” in Los Angeles County, 14,021 acres destroyed, eighteen deaths.
- January 2025 – Fire “Palisades” in Los Angeles County, 23,707 acres destroyed, twelve deaths.

If one expands the list to include the twenty deadliest fires in California’s history, eleven have occurred since 2018.² According to a report commissioned by the Southern California Leadership Council, the Palisades and Eaton fires alone resulted in an estimated \$53.8 billion of damages.³ Out east, North Carolina has also experienced some of the most devastating storms and flooding in its history in recent years:

¹ This article is largely based on comments delivered by Costantino P. Suriano at the 2025 Insurance Regulatory Conference organized by the Center for the Study of Insurance Regulation, School of Risk Management, The Peter J. Tobin College of Business, St. John’s University, and the Society for Law & Insurance, and research/editing by our brilliant associate, Noah Agnew. This article represents my views alone and not those of our firm or clients. © 2025 All Rights Reserved.

² See “Top 20 Most Destructive California Wildfires”, Published by Cal Fire, April 3, 2025 *available at* https://34c031f8-c9fd-4018-8c5a-4159cdff6b0d-cdn-endpoint.azureedge.net/-/media/calfire-website/our-impact/fire-statistics/top20_destruction.pdf?rev=adaea8332a014a7ebf11dc6fdb3f8e98&hash=EA9A8C492BD9FBAA0FB67C2FEA3FF52E

³ See “Impact of 2025 Los Angeles Wildfires and Comparative Study,” *available at* <https://laedc.org/wp-content/uploads/2025/02/LAEDC-2025-LA-Wildfires-Study.pdf>

- October 2016 – Hurricane Matthew, thirty-one deaths, \$1.5 billion in damage, 100,000 homes, businesses, and governmental buildings damaged.⁴
- September 2018 – Hurricane Florence, fifty-one deaths, \$17.3 billion in damage. 455,000 people evacuated, 11,386 homes with moderate or major damage.⁵
- September 2024 – Hurricane Helene, eighty-six deaths, \$79 billion in damage.⁶

Unprecedented natural catastrophes occurring at increased rates, from California to the east coast, are threatening both public and private insurance markets in unprecedented ways. With such natural disasters occurring annually, the question on the minds of many is how to protect against such enormous risk.

The State of the Insurance Market

Homeowners and businessowners in California and North Carolina have experienced significant obstacles in acquiring sufficient levels of insurance coverage in the most vulnerable regions of their respective states. For a litany of reasons, not all of which will be discussed here, private and public markets are currently unable to provide consumers with policies at what some regulators believe is an affordable rate.

California’s FAIR Plan

California’s FAIR Plan was initially created to provide insurance for properties which were at higher risk and therefore more difficult to insure through private carriers. The FAIR Plan Act, passed in 1968, provided that an association of private property and casualty insurers, as well as catastrophe reinsurers, would be organized under the auspices of the state and would adhere to

⁴ See “Flooding in North Carolina From Hurricane Matthew Incurs \$1.5 Billion In Damage, Authorities Say” *available at* <https://weather.com/news/news/hurricane-matthew-north-carolina-update>

⁵ See “Hurricane Florence: September 14, 2018,” *available at* <https://www.weather.gov/ilm/HurricaneFlorence>

⁶ See “NHC Hurricane Helene Report AL092024” *available at* https://www.nhc.noaa.gov/data/tcr/AL092024_Helene.pdf

legal requirements set by the state's insurance office.⁷ This insurance program was designed as an insurer of last resort, but it has become the primary provider of insurance for many as some traditional insurers cut back on coverage and/or left the California Market. It seems that in California's most vulnerable wildfire regions, the FAIR Plan is the only option.⁸

Today, what was designed to serve as a temporary safety net, now insures 573,739 California dwellings and commercial policies, and has \$599 billion in total exposure.⁹ Currently, the FAIR Plan is required to pay \$900 million per wildfire event for reinsurance to attach, after reinsurance attaches, total coverage is capped at \$5.78 billion across catastrophic events annually or less than one percent of the FAIR Plan's total potential exposure.¹⁰

Clearly, extreme pressure has been placed on the FAIR Plan as nearly 600,000 home and business owners are dependent on the Plan but the program's liquidity for coverage has remained at less than one percent of its potential exposure. As a result of this strain and in the wake of the 2025 Los Angeles fires, an avalanche of litigation has been filed by policyholders against the FAIR Plan Association and its largest members, seeking compensation for their losses.¹¹

Specifically, in a recent case filed with the Superior Court in Los Angeles County, a class of policyholders alleged the FAIR Plan developed a scheme to deny and underpay claims by revising policy language to redefine, "direct physical loss" as requiring "actual loss or physical damage, evidenced by permanent physical changes," in an attempt to limit coverage.¹² The suit

⁷ See "About the FAIR Plan" *available at* https://ains.assembly.ca.gov/sites/ains.assembly.ca.gov/files/FAIR%20Plan-Factsheet.2.23.23.pdf?mf_ct_campaign=aol-synd-feed

⁸ See "Will California's FAIR Plan Have Enough Cash for Its Wildfire Claims?" *available at* <https://www.insurancejournal.com/news/west/2025/01/16/808564.htm>

⁹ *Id.*

¹⁰ See "Structure of the California FAIR Plan and the financial challenges" *available at* <https://www.jdsupra.com/legalnews/structure-of-the-california-fair-plan-2014778/>

¹¹ See "FAIR Plan Failed To Pay For LA Fire Smoke Claims, Suit Says" *available at* <https://www.law360.com/articles/2330711/fair-plan-failed-to-pay-for-la-fire-smoke-claims-suit-says>

¹² *Smith et al. v. California Fair Plan Association et al.*, 25STCV12265, Superior Court of the State of California.

also alleges that in 2017, the department of insurance in California notified the FAIR Plan Association that its practice of using the revision to limit coverage investigations and claim payments was illegal with regard to smoke damage claims.¹³ Moreover, the complaint alleges that in 2022 the California department of insurance internally investigated and reported to the FAIR Plan, that it had knowingly engaged in unfair and deceptive business practices in its denial of claims.¹⁴

While the FAIR Plan has received significant criticism with respect to its so-called “bad faith” efforts to limit coverage for policyholders, it is clear that the insurance program’s lack of liquidity and rapidly increasing exposure to liability has left that Plan in a position where it can no longer provide sufficient coverage to the thousands of policyholders who are dependent on that Plan because they are unable to obtain insurance coverage through the private market.

California’s Private Market

Even those who were able to find coverage through California’s private insurance market have been dissatisfied in the wake of the Palisades and Eaton fires. In just one community near the Eaton Canyon, over 400 complaints have been collected from victims who were insured by State Farm, the state’s largest private insurer.¹⁵ On June 12, 2025 the California Insurance Commissioner, announced that a formal “market conduct examination” would be conducted against State Farm due to the broad consumer complaints filed across the state.¹⁶ Market conduct examinations allow the California Insurance Commission to investigate insurers where evidence of broad consumer dissatisfaction exists.

¹³ *Id.* at 8.

¹⁴ *Id.* at 10.

¹⁵ See “California Opens Investigation Into State Farm” *available at* <https://www.nytimes.com/2025/06/12/realestate/state-farm-california-insurance-investigation.html>

¹⁶ *Id.*

Several allegations of improper practices have been made against State Farm which include frequent reassignment of multiple adjusters, inconsistent management of similar claims, inadequate record-keeping, and low loss estimates.¹⁷ Some loss estimates are said to have been as low as \$300 per square foot where the alleged approximate cost to rebuild is \$900 per square foot.¹⁸

The June 12th investigation announced by the Insurance Commissioner will be the fourth time that the state of California has investigated State Farm since 2014. Michael Solter, the deputy insurance commissioner, stated that past inquiries into California's largest insurers have resulted in the recovery of hundreds of millions of dollars for policyholders and have led to insurance companies improving their claim practices.¹⁹ It is asserted that the latest round of inquiries are being conducted with the hopes of identifying systemic issues so as to improve regulatory and legislative action against private insurers and improve coverage outcomes for insureds.²⁰

North Carolina and FEMA

Families and business owners throughout the southeast are also struggling to rebuild in the wake of Hurricane Helene. The major anecdotal reason is said to be that hardly anyone had flood insurance. Homeowner's insurance typically does not cover flood damage and often times it must be purchased separately. The Federal Emergency Management Agency (FEMA) manages the National Flood Insurance Program (NFIP), the largest flood insurance provider in the United States which covers 4.7 million homes and businesses.²¹ In the counties most affected by the flooding resulting from Hurricane Helene, less than one percent of households had flood insurance through the federal program which sells almost all of the nation's flood insurance.²²

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ See "FEMA - Flood Insurance" *available at* <https://www.fema.gov/flood-insurance>

²² See "Hurricane Helene Survivors Face a Second Disaster: Few Have Flood Insurance" *available at* <https://www.scientificamerican.com/article/hurricane-helene-survivors-face-a-second-disaster-insurance-woes/>

The result is that of the estimated \$79 billion in economic damage suffered due to Hurricane Helene, only \$6.4 billion were covered by insurance, leaving the most effected states struggling to build back with \$72.6 billion in uninsured losses.²³ Apparently, the three largest contributing factors for individuals not buying flood insurance in North Carolina are the following: 1. most do not live on the coasts and are not required to have flood insurance; 2. it is too expensive and competitive rates do not exist in their area; and 3. individuals do not know or do not think they are at risk. ²⁴ In North Carolina, 0.8 percent of households in disaster counties had FEMA flood insurance. ²⁵ While the Biden administration has approved \$1.8 billion in emergency relief funds in the wake of Hurricane Helene ²⁶, and the Trump administration has approved a \$1.4 billion federal recovery grant for western North Carolina, ²⁷ this federal relief still pales in comparison to the amount of uninsured losses which are preventing communities from recovering.

Potential Answers

Despite the gravity of the situation many insureds find themselves in, relief may be on the horizon. Through policy reform and leveraging advances in technology, home and business owners alike may have better access to more complete coverage and be better protected against the next natural catastrophe.

²³ See “Helene highlights gap between economic and insured losses – Guy Carpenter” *available at* <https://www.insurancebusinessmag.com/reinsurance/news/breaking-news/helene-highlights-gap-between-economic-and-insured-losses--guy-carpenter-508405.aspx>

²⁴ See “Hurricane Helene Survivors Face a Second Disaster: Few Have Flood Insurance” *available at* <https://www.scientificamerican.com/article/hurricane-helene-survivors-face-a-second-disaster-insurance-woes/>

²⁵ *Id.*

²⁶ See “FACT SHEET: Biden-Harris Administration Approves Nearly \$2 Billion for Hurricane Response and Recovery Efforts” *available at* <https://bidenwhitehouse.archives.gov/briefing-room/statements-releases/2024/10/16/fact-sheet-biden-harris-administration-approves-nearly-2-billion-for-hurricane-response-and-recovery-efforts/>

²⁷ See “Trump Administration Approves Governor Stein’s Housing Recovery Action Plan for Western North Carolina” *available at* <https://governor.nc.gov/news/press-releases/2025/04/25/trump-administration-approves-governor-steins-housing-recovery-action-plan-western-north-carolina>

California's Sustainable Insurance Strategy Reforms

California Insurance Commissioner Ricardo Lara is apparently set to implement sweeping reform which seeks to stabilize California's insurance market. The Sustainable Insurance Strategy (SIS) proposals apparently are being promoted as the largest insurance overhaul in the state in 35 years. The proposals will require insurance companies who participate elsewhere in the state's insurance market to underwrite insurance policies in wildfire-prone regions equaling at least eighty-five percent of their statewide market share.²⁸ This supposedly will provide households in California's most at-risk areas with private market alternatives to the FAIR Plan while simultaneously taking strain off of the FAIR Plan's coverage responsibilities.

Additionally, the SIS proposals seek to incorporate state-of-the-art catastrophic modeling, encouraging insurance companies to shift away from historical data modeling.²⁹ Improvements in modeling and prediction technology are said to allow Californians to receive more reliable rates with fewer sudden increases, as well as allowing insurance companies to more accurately write policies and fostering more competition in the insurance market.³⁰ Generally, the SIS proposals are designed to encourage insurance companies to return to the California market in an attempt to increase competition, as well as providing households and businesses with an alternative to the FAIR Plan thereby alleviating the immense load which has been placed on the states insurer of last resort for years.

²⁸ See "Commissioner Lara issues landmark regulation to expand insurance access for Californians amid growing climate risks." *available at* <https://www.insurance.ca.gov/0400-news/0100-press-releases/2024/release065-2024.cfm>

²⁹ See "Commissioner Lara Announces Next Phase of Sustainable Insurance Strategy" *available at* <https://www.calchiefs.org/news/667851/Commissioner-Lara-Announces-Next-Phase-of-Sustainable-Insurance-Strategy.htm>

³⁰ *Id.*

Silicon Valley to the Rescue?

There is a Silicon Valley startup (Stand) that seeks, according to reports, to leverage the latest technology in the hopes of providing more coverage options for Californians in that state's "fire alley." The startup seeks to provide coverage for the state's most exposed properties by using AI modeling to determine how likely the property is to burn if a wildfire were to occur.³¹ The AI model supposedly looks to data such as the species of trees in the property's yard and how hot they burn, to the thickness of the glass on the home, to everything in between.³² The technology can also look to the impact of new interventions, such as what sprinkler systems or materials would prevent a particular home from being destroyed.³³ If such an approach is successful, it may provide a new way to obtain coverage that other major insurers can adopt, thereby helping to restore some traditional carriers of the private insurance market.

LIDAR and the Carolina Floods

New light detection and ranging (LIDAR) systems have also been proposed as another breakthrough technology which would provide improved methods for collecting more accurate data to develop risk-based premiums and to provide effective flood risk data to communities and stakeholders who may be unaware of the threat they are under. Currently FEMA uses 100-year flood zone mapping to determine an individual property's risk of flood damage.³⁴ However, because the FEMA flood mapping looks to historical data of the last 100 years, it does not consider recent urbanization, so-called climate change, and the increased frequency of more severe

³¹ See "Insurers are fleeing California due to wildfires. But this startup plans to work with the riskiest homes" *available at* <https://www.fastcompany.com/91246735/insurers-are-fleeing-california-due-to-wildfires-but-this-startup-plans-to-work-with-the-riskiest-homes>

³² *Id.*

³³ *Id.*

³⁴ See "Outdated and inaccurate, FEMA flood maps fail to fully capture risk" *available at* <https://kinder.rice.edu/urbanedge/outdated-and-inaccurate-fema-flood-maps-fail-fully-capture-risk>

storms.³⁵ It is said that FEMA is using inaccurate or outdated data which leads to inappropriate premiums being charged.

A study done by the University of Pennsylvania demonstrated how accurate flood hazard maps using LIDAR technology as well as a risk-based premium model would lower premiums in North Carolina on average from \$1,457 to \$620.³⁶ With more accurate data modeling, homeowners and businessowners may be better equipped to gauge the true risk they face in an era of climate change, rising sea levels, and increasing floodplains. The theory is that LIDAR would provide more accurate risk assessment for potential insureds which could then reflect a reduced premium, resulting in more individuals being insured for when the next natural disaster event occurs.

Conclusion

Unfortunately, the rate and scale of natural disasters do not show signs of slowing. As discussed, gaps in coverage can be an additional devastating consequence to the destruction caused by fires or floods. By leveraging state-of-the-art technology, AI modeling, and continued policy reform, public and private insurance markets might successfully close the coverage gap and make sure home and business owners are prepared, even in the direst of circumstances.

Keep an eye out for your regulator to borrow some of the new California requirements for your FAIR plans!

³⁵ See “Estimates of present and future flood risk in the conterminous United States” *available at* <https://iopscience.iop.org/article/10.1088/1748-9326/aaac65>

³⁶ See “The Importance of Accurate Flood Hazard Maps and Risk-Based Premiums” *available at* <https://esg.wharton.upenn.edu/news/the-importance-of-accurate-flood-hazard-maps-and-risk-based-premiums/>