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# CLIMATE CHANGE AND INSURER LIABILITY: IN RELATION TO INSURANCE LAW

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## **Abstract**

Climate change is causing more frequent and severe weather events, like hurricanes, floods, and wildfires, which are creating big challenges for the insurance industry. Insurers face growing risks from physical damage, economic shifts, and legal liabilities as they try to cover losses tied to climate change. This research paper looks at how climate change affects insurer liability under insurance law, focusing on the problems insurers face and how they are adapting. By reviewing existing studies and analyzing current trends, **the paper explores the legal and financial pressures on insurers, their role in managing climate risks, and the need for new policies.** The **findings show that insurers are struggling with rising claims**, changing regulations, and lawsuits, but they can also help society adapt to climate change through **better risk management and innovative insurance products.** **The paper suggests ways insurers, regulators, and governments can work together to address these issues.**

## **Introduction**

Climate change is one of the biggest global challenges today, affecting ecosystems, economies, and communities. It brings more extreme weather events, rising sea levels, and changing environmental conditions, all of which create new risks for businesses, governments, and individuals. The insurance industry plays a key role in dealing with these challenges. Insurers provide financial protection against losses from natural disasters, but climate change is making this harder. **Storms, floods, and wildfires** are happening more often and causing more damage, leading to higher insurance claims. At the same time, insurers face legal and financial risks, including lawsuits from policyholders if they fail to manage climate-related risks properly. Insurance law, which governs how insurance contracts work and how liabilities are handled, is critical to understanding these issues. This paper explores how climate change impacts insurer liability, focusing on the legal responsibilities insurers face, the challenges of covering climate-related losses, and how insurance law shapes their response.

## Research Problem

The main problem this paper addresses is how climate change is increasing insurer liability and creating challenges within the framework of insurance law. Insurers are seeing more claims due to extreme weather, but they also face risks from lawsuits and regulations if they don't adapt to climate change. Many traditional insurance models rely on past data to predict risks, but climate change makes these predictions less reliable. Additionally, legal questions arise about who is responsible for climate-related losses and whether insurers can refuse to cover certain risks. The objectives of this research are:

1. To examine how climate change affects insurer liability under insurance law.
2. To identify the legal and financial challenges insurers face in covering climate-related risks.
3. To review how insurance law is adapting to climate change and what gaps remain.
4. To explore how insurers can manage climate risks and contribute to climate adaptation.
5. To suggest ways insurers, regulators, and governments can address these challenges together.

## Review of Literature

Many studies have explored how climate change affects the insurance industry. According to Nobanee et al. (2022), climate change and insurance are closely linked, with insurance being a key tool for managing risks from natural disasters. However, they note that covering climate-related losses is challenging because damages are hard to predict and diversify. Mills (2009) explains that insurers are responding to climate change by developing new products and improving risk assessments, but they still struggle with long-term risks. The Intergovernmental Panel on Climate Change (IPCC) has highlighted the insurance sector's role in educating people about climate risks and helping reduce economic losses.

Gupta et al. (2024) pointed out that climate change brought three types of risks for insurers: physical risks (like damage from storms), transition risks (from moving to a low-carbon economy), and liability risks (from lawsuits related to climate change). For example, insurers may face lawsuits if they fail to disclose climate risks or if their clients cause environmental harm. EIOPA (2023) suggests that insurers can create innovative products to encourage climate risk prevention, but they need support from governments to make this work.

Other studies focus on legal challenges. Norton Rose Fulbright (2024) notes that insurers face increasing liability from third-party claims, such as lawsuits against companies for not managing climate risks properly. This is especially true in places with strict regulations, like the UK. Studies also mentions that traditional insurance models, which use historical data, may not keep up with rapidly changing weather patterns.

Some researchers argue that climate change is creating a “protection gap,” where many losses are uninsured because **private insurers can’t profitably cover high-risk areas**. In places like Florida and California, insurers are pulling out of markets due to rising costs, leaving governments to step in with public insurance programs. McKinsey (2020) suggests that insurers need to rethink their strategies, including how they invest and underwrite policies, to handle climate risks better. Overall, the literature shows that climate change is a growing challenge for insurers, and insurance law needs to evolve to address new liabilities and risks.

### **Research Methodology**

This research uses a qualitative approach to study the impact of climate change on insurer liability within the context of insurance law. The study relies on secondary data, including academic articles, industry reports, and legal documents, to understand the challenges insurers face. These sources were collected from reputable databases like Scopus, Emerald Insight, and websites of organizations like the National Association of Insurance Commissioners (NAIC) and the European Insurance and Occupational Pensions Authority (EIOPA). The keywords used for searching included “climate change,” “insurer liability,” “insurance law,” and “climate risk management.” Papers were chosen based on their focus on climate change, insurance, and legal issues, and only English-language articles published between 1998 and 2025 were included. The analysis involves summarizing key findings from the literature, identifying trends in insurer liability, and examining how insurance law is adapting to climate change. The study also looks at case studies, like insurance market challenges in Florida and California, to provide real-world examples.

### **Analysis**

The analysis shows that climate change is creating significant challenges for insurers under insurance law. First, physical risks from extreme weather events, like hurricanes and wildfires, are increasing claims. For example, in 2019, natural disasters caused \$232 billion in losses

globally, but only a small portion was insured, creating a large protection gap. In high-risk areas like Florida, private insurers are exiting markets because they can't profitably cover losses, leading to higher reliance on public insurance programs. This shift raises legal questions about who is responsible for covering uninsured losses and whether insurers can legally refuse to offer coverage in certain areas.

Second, liability risks are growing. Insurers face lawsuits from policyholders or regulators if they fail to manage or disclose climate risks. For example, companies that don't properly assess climate risks could face third-party claims, and insurers may be held liable for covering these claims. In the US, climate change litigation has been reported in at least 28 countries, with most cases targeting businesses for not adapting to climate change. Insurance law is struggling to keep up with these new liabilities, as traditional contracts often don't account for long-term climate risks.

Third, transition risks from moving to a low-carbon economy are affecting insurers' investments. Insurers invest premiums in bonds and other assets, but these can lose value if they are tied to carbon-intensive industries like oil and gas. Insurance law requires insurers to maintain enough capital to cover liabilities, but devalued assets could make this harder, leading to regulatory penalties.

On the positive side, insurers are adapting. Some are creating new products, like parametric insurance, which pays out based on specific triggers (like wind speed) rather than actual losses. Others are working with governments to promote climate adaptation, such as offering discounts for buildings that meet climate-resilient standards. However, the analysis shows that insurers alone can't handle the scale of climate risks. Collaboration with regulators and governments is essential to create policies that support affordable insurance and reduce risks.

### **Conclusion & Implications**

In conclusion, climate change is reshaping insurer liability under insurance law. Insurers face growing physical, liability, and transition risks, which are straining their ability to provide affordable coverage. Insurance law needs to evolve to address these challenges, particularly by clarifying responsibilities for climate-related losses and supporting new insurance models. The findings suggest that insurers can play a key role in climate adaptation by offering innovative products and promoting risk prevention, but they need support from regulators and

governments to succeed. For example, public-private partnerships could help close the protection gap in high-risk areas. Regulators should also create clear guidelines for managing climate risks and encourage transparency in how insurers handle these risks.

The implications of this research are significant. For insurers, it means rethinking traditional models and investing in better risk assessment tools. For policymakers, it highlights the need for laws that balance insurer responsibilities with consumer protection. For society, it shows that insurance can be a tool for building resilience against climate change, but only if all stakeholders work together. Future research should focus on developing legal frameworks for climate-related liabilities and exploring how insurers can support global climate goals while remaining financially stable.

