



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB1790

Introduced 2/5/2025, by Sen. Laura Ellman

SYNOPSIS AS INTRODUCED:

New Act

Creates the Extreme Weather Recovery Act. Creates a private cause of action for a harmed party against a responsible party in which the amount in controversy is \$10,000 or more. Authorizes a harmed party who has suffered damages in that amount that is alleged to have been caused by climate disaster or extreme weather attributable to climate changes or both to sue a responsible party. The Act's covered period is from 1965 to the effective date of the Act. Prohibits the State or unit of local government or an agent or employee of these governmental units from commencing an action under the Act. Makes legislative findings. Makes definitions. Creates a 3-year statute of limitation in which a harmed party must file or commence an action under the Act. Authorizes the Illinois Emergency Management Agency to adopt rules implementing the Act. Makes other changes. Effective immediately.

LRB104 11448 JRC 21536 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Extreme Weather Recovery Act.

6 Section 5. Findings; intent; purpose.

7 (a) The General Assembly finds that:

8 (i) climate disasters, extreme weather attributable to
9 climate change, and harms resulting from long-term changes
10 to the climate system pose a threat to the health, safety,
11 and security of all residents of, and visitors to,
12 Illinois;

13 (ii) climate change poses many costly risks to
14 Illinois residents, including an increase in precipitation
15 and severe storms, hotter temperatures, and intensified
16 drought;

17 (iii) average annual precipitation in Illinois has
18 increased by 12% to 15%; and extreme precipitation events
19 (days with more than 2 inches of precipitation) have
20 increased by 40% since the beginning of the 20th century,
21 resulting in more frequent flooding;

22 (iv) insurance companies lost money on policies
23 associated with property insurance in Illinois in 2023,

1 due mostly to damage from severe storms;

2 (v) the average temperature in Illinois is predicted
3 to increase by up to 9°F by 2100 under a moderate climate
4 scenario (RCP4.5); the average daily temperature has
5 already increased by 1 to 2°F in most areas of the State;
6 and the average nighttime temperature has increased by
7 more than 3°F over the last 120 years;

8 (vi) warmer temperatures will change the composition
9 of Illinois forests and decrease agricultural yields of
10 corn, soybeans, and other crops;

11 (vii) heat stress caused by climate change is likely
12 to reduce corn yields by 23% to 34% in Illinois by the
13 middle of this century;

14 (viii) all Illinoisans are at risk of concrete and
15 particularized injuries caused by the increasing
16 prevalence and intensity of climate disasters, extreme
17 weather attributable to climate change, and harms
18 resulting from long-term changes to the climate system;

19 (ix) Illinois has a compelling State interest in
20 protecting its citizens from climate disasters, extreme
21 weather attributable to climate change, and harms
22 resulting from long-term changes to the climate system;

23 (x) the cost and impact of climate disasters, extreme
24 weather attributable to climate change, and harms
25 resulting from long-term changes to the climate system
26 continue to increase, straining public resources in this

1 State; and

2 (xi) impacts in Illinois causally connected to
3 responsible parties' qualified products and actions during
4 the covered period include, but are not limited to:

5 (A) damage to public property and infrastructure,
6 as well as adjacent private property and
7 infrastructure;

8 (B) natural resource damages to public and private
9 resources;

10 (C) increased risk, hours, and compensation to
11 emergency responders faced with increasingly frequent
12 and severe events;

13 (D) significant and costly health and safety
14 upgrades to public buildings before generally accepted
15 amortization and depreciation timelines, resulting in
16 additional taxpayer expenses now and into the future;

17 (E) significant and costly occupational
18 productivity losses and costs from workplace health
19 and safety regulations that are increasingly necessary
20 and required to protect employers and employees from
21 increased risks and hazards related to climate change
22 and extreme weather attributable to climate change;

23 (F) canceled school days because of climate
24 disasters and extreme weather attributable to climate
25 change, resulting in educational harms to students
26 that have long-lasting impacts on workforce, business,

1 and economic development; and

2 (G) increasing public and private health costs
3 stemming from indoor and outdoor pollution,
4 contamination, and exposure to toxic materials,
5 whether in combination or occurring separately,
6 exacerbated by the impacts of climate disasters and
7 extreme weather attributable to climate change;

8 (xii) a judicial forum is necessary for Illinoisans to
9 redress the harm that responsible parties have caused and
10 continue to cause through climate disasters, extreme
11 weather attributable to climate change, and harms
12 resulting from long-term changes to the climate system
13 fueled by their products and actions. Illinois has a
14 compelling State interest in empowering citizens to
15 recover, recoup, or rebuild the value of lost, damaged,
16 and destroyed property, as well as the full extent of
17 non-economic, compensatory, and punitive damages allowable
18 under this State's laws and constitution;

19 (xiii) the courts of this State are the appropriate
20 venue to provide additional relief to harmed parties as
21 deemed necessary or proper in the course of legal
22 proceedings brought under the authority of this Act;

23 (xiv) this State has a compelling interest in
24 preserving public resources for traditional public
25 purposes. It is not the desire of this State to continue
26 paying for increased damages to harmed parties caused by

1 the profit-seeking actions and omissions of responsible
2 parties' qualified products and actions;

3 (xv) climate disasters, extreme weather attributable
4 to climate change, and harms resulting from long-term
5 changes to the climate system are not acts of God,
6 unforeseeable, or otherwise classified as a force majeure
7 event eligible for litigation limitations or defenses,
8 except as explicitly and unambiguously provided;

9 (xvi) decades of intentional lies, misinformation, and
10 disinformation, and misrepresentations by responsible
11 parties about the connection between qualified products
12 and climate change has directly and causally contributed
13 to concrete and particularized injuries in this State from
14 climate disasters, extreme weather attributable to climate
15 change, and harms resulting from long-term changes to the
16 climate system. Continued lies, misinformation, and
17 disinformation, and misrepresentations pose a threat to
18 the health, safety, and security of all residents of, and
19 visitors to, this State. Responsible parties have
20 long-known the dangers of their qualified products but
21 continued to deny and lie for profit. Hiding, obfuscating,
22 and denying information to consumers, elected officials,
23 and regulators alike harmed and continues to harm
24 Illinoisans. This State has a compelling interest in
25 protecting consumers from lies, misinformation, and
26 disinformation in the marketplace, and encouraging factual

1 and truthful information on climate disasters, extreme
2 weather attributable to climate change, harms resulting
3 from long-term changes to the climate system, and the
4 qualified products and actions of responsible parties. The
5 General Assembly further finds and declares that:

6 (A) responsible parties have engaged in a
7 decades-long project to protect their profits with a
8 coordinated effort to deceive the public about the
9 reality of the climate crisis;

10 (B) documents unveiled by litigation and
11 investigative journalists demonstrate that as early as
12 the 1950s, responsible parties became aware of the
13 potentially catastrophic impact of their products.
14 Even in the face of research conducted by their own
15 scientists affirming the impacts of their business,
16 responsible parties outright denied that climate
17 change was real, spread disinformation to cast doubt
18 on the science, and fought regulatory action against
19 qualified products;

20 (C) the 1970s and 1980s saw the development of a
21 clear scientific consensus that increasing CO₂
22 concentration in the atmosphere would contribute to
23 global warming and that the heightened CO₂ emissions
24 were attributable to fossil fuels. These facts were
25 supported by fossil-fuel industry scientists like
26 Exxon's James F. Black, who provided these findings in

1 a 1977 presentation and a 1978 briefing of Exxon
2 management. In 1979, W.L. Ferrall outlined that an
3 internal Exxon study concluded that the "present trend
4 of fossil-fuel consumption will cause dramatic
5 environmental effects before the year 2050." In 1982,
6 R.W. Cohen summarized that Exxon's climate modeling
7 research was "consistent with the published prediction
8 of more complex climate models" and "in accord with
9 the scientific consensus on the effect of increased
10 atmospheric CO₂ on climate." A 1988 Shell report
11 echoed the Exxon warnings and acknowledged the need to
12 consider policy changes. The report provided that "the
13 potential implications for the world are... so large
14 that policy options need to be considered much
15 earlier" and that research should be "directed more to
16 the analysis of policy and energy options than to
17 studies of what we will be facing exactly";

18 (D) despite acknowledging that increased CO₂
19 concentrations because of fossil-fuel combustion posed
20 a considerable threat, responsible parties decided not
21 to take steps to prevent the risks of climate change.
22 Instead, they stopped funding major climate research,
23 and launched campaigns to discredit climate science
24 and delay actions perceived as contrary to their
25 business interests. These responsible parties carried
26 out these campaigns by:

1 (1) developing public relations strategies
2 that were contradictory to their knowledge and
3 scientific insights;

4 (2) engaging in public communications
5 campaigns to promote doubt and downplay the
6 threats of climate change; and

7 (3) funding individuals, organizations, and
8 research aimed at discrediting the growing body of
9 publicly available climate science.

10 (E) from 1970 to 2020 the oil and gas industry
11 responsible parties made nearly \$2.8 billion a day and
12 \$1 trillion a year in profit;

13 (F) responsible parties currently advertise
14 "green" efforts to the public that mask the lack of
15 real investment in resiliency and energy-source
16 transition and the continued prioritization of the
17 extraction, refinement, and distribution of qualified
18 products;

19 (G) a December 2022 report by the Oversight
20 Committee in Congress also revealed internal documents
21 from senior leaders in responsible parties that
22 explicitly reject taking accountability for the
23 greenhouse gas emissions associated with their
24 products;

25 (H) by their conduct and impact, responsible
26 parties have intentionally obfuscated the truth about

1 climate change and outright deceived the public to
2 continue dependence on their qualified products;

3 (xvii) intentional lies, misinformation, and
4 disinformation, and misrepresentations by responsible
5 parties about the connection between qualified products
6 they sell or sold and climate change is not political
7 speech, but fundamentally commercial activity with
8 incidental political impact; and

9 (xviii) that responsible parties must be accountable
10 to harmed parties. The General Assembly hereby explicitly
11 authorizes a cause of action to harmed parties, including
12 individuals, businesses, and associations. This State has
13 a sovereign and compelling State interest in providing a
14 forum for individuals, businesses, and associations
15 sustaining injuries and harms caused by responsible
16 parties' deceptive behavior and linked to the harms of
17 responsible parties' products and actions. It is the
18 intent of this State to provide a judicial forum for the
19 efficient, just, and equitable resolution of harmed
20 parties' claims for damages stemming from climate
21 disasters, extreme weather attributable to climate change,
22 and harms resulting from long-term changes to the climate
23 system, as defined herein, against responsible parties.

24 (b) It is the purpose of this Act to create a new cause of
25 action independent of existing law. Nothing in this Act may be
26 construed to limit in any way the enforceability of existing

1 laws concerning consumer protection, climate, environment,
2 energy, or natural resources.

3 Section 10. Definitions. As used in this Act:

4 (a) "Amount in controversy" means the damages claimed or
5 relief demanded by the injured party or parties in a lawsuit.

6 (b) "Extreme event attribution science" means research
7 aimed at understanding how human-induced changes in the global
8 climate system affect the probability, severity, and other
9 characteristics of extreme weather events such as hurricanes
10 and heat waves. This may include, but not be limited to,
11 determining the likelihood of the particular event happening
12 today compared to how it might have unfolded without
13 human-caused increase in concentration of greenhouse gases in
14 the atmosphere.

15 (c) "Climate disaster" means an event that meets any of
16 the following threshold qualifications and is determined by
17 impact attribution science or extreme event attribution
18 science to be substantially worsened (at least statistically
19 significant) or caused by climate change from responsible
20 parties' products or extreme weather attributable to climate
21 change from responsible parties' products:

22 (i) a "major disaster" as defined by the Federal
23 Emergency Management Agency in July of 2024, without
24 recognition of any changes to that definition that may
25 occur at a later time by subsequent agency administration,

1 or removal of the definition from the public domain or
2 Code of Federal Regulations;

3 (ii) "any natural catastrophe" (including any
4 hurricane, tornado, storm, high water, wind-driven water,
5 tidal wave, tsunami, earthquake, volcanic eruption,
6 landslide, mudslide, snowstorm, or drought), or,
7 regardless of cause, any fire, flood, or explosion, in any
8 part of the United States, which in the determination of
9 the President causes damage of sufficient severity and
10 magnitude to warrant major disaster assistance under this
11 Act to supplement the efforts and available resources of
12 states, local governments, and disaster relief
13 organizations in alleviating the damage, loss, hardship,
14 or suffering caused thereby. This includes, but is not
15 limited to, the definition of a natural catastrophe in the
16 Stafford Act such as any hurricane, tornado, storm, high
17 water, wind-driven water, tidal wave, tsunami, earthquake,
18 volcanic eruption, landslide, mudslide, snowstorm, or
19 drought or, regardless of cause, any fire, flood or
20 explosion, in any part of the United States, which in the
21 determination of the President causes damage of sufficient
22 severity and magnitude to warrant major disaster
23 assistance under this the Stafford Act to supplement the
24 efforts and available resources of local and state
25 governments and disaster relief organizations in
26 alleviating the damage, loss, hardship or suffering caused

1 thereby;

2 (iii) a "catastrophic incident" as defined by the
3 Federal Emergency Management Agency in July of 2024 (not
4 including events linked to terrorism), without recognition
5 of any changes to that definition that may occur at a later
6 time by a later agency administration or removal of the
7 definition from the public domain or Code of Federal
8 Regulations;

9 (iv) any natural or man-made incident that results in
10 extraordinary levels of mass casualties, damage, or
11 disruption severely affecting the population,
12 infrastructure, environment, economy, national morale, or
13 government functions. A catastrophic event could result in
14 sustained national impacts over a prolonged period of
15 time; almost immediately exceeds resources normally
16 available to local, state, tribal, and private sector
17 authorities in the impacted area; and significantly
18 interrupts governmental operations and emergency services
19 to such an extent that national security could be
20 threatened;

21 (v) any event that does qualify, or would have
22 qualified, for inclusion on the National Centers for
23 Environmental Information's "Billion-Dollar Weather and
24 Climate Disasters" program and data list as it existed in
25 July of 2024, without recognition of any changes weakening
26 the agency program that may occur at a later time by

1 subsequent agency administration or abolition of the
2 program, National Centers for Environmental Information,
3 or the National Oceanic and Atmospheric Administration;
4 and

5 (vi) a gubernatorial proclamation that a disaster
6 exists under the Illinois Emergency Management Agency Act.

7 (d) "Covered period" means the period from January 1, 1965
8 to the effective date of this Act.

9 (e) "Extreme weather attributable to climate change" means
10 weather, climate, or environmental conditions including, but
11 not limited to, temperature, precipitation, drought, or
12 flooding that are consistent with impacts or events that are
13 attributable to climate change and where the intensity,
14 magnitude, location, timing, or extent of the event lie
15 outside the historical distribution of measurements for that
16 type of event or impact for a particular place and time of
17 year. These events include those that "extreme event
18 attribution science" determines were made more likely or
19 severe by climate change.

20 (f) "Generally accepted amortization and depreciation
21 timelines" means methods used and encouraged by the Internal
22 Revenue Service and Generally Accepted Accounting Principles.

23 (g) "Gross negligence" means negligence that is materially
24 greater than the mere absence of reasonable care under the
25 circumstances and that is characterized by indifference to or
26 reckless disregard of the rights of others.

1 (h) "Harmed parties" means any person, business, or
2 association harmed or suffering damages in the amount of at
3 least \$10,000 as a result of a climate disaster or extreme
4 weather attributable to climate change.

5 (i) "Impact attribution science" means research aimed at
6 understanding how global climate change affects human and
7 natural systems, including but not limited to localized
8 physical impacts, such as floods, droughts, and sea level
9 rise, and the corresponding effects on infrastructure, public
10 health, ecosystems, agriculture, and economies.

11 (j) "Long-term changes to the climate system" includes,
12 but is not limited to: increases in average temperature;
13 disruptions to ocean chemistry, circulation, and temperature;
14 sea level rise; variation in precipitation; saltwater
15 intrusion into drinking water; sunny day flooding; decreased
16 snowpack and seasonal water availability; drought; and species
17 mortality and extinction.

18 (k) "Market-share liability" means liability that is
19 imposed severally on each member of an industry, based on each
20 member's share of the market or respective percentage of the
21 qualified product placed on the market.

22 (l) "Qualified product" means a fossil-fuel product
23 including, but not limited to:

24 (i) Crude petroleum oil and all other hydrocarbons,
25 regardless of gravity, that are produced at the wellhead
26 in liquid form by ordinary production methods;

1 (ii) Natural, manufactured, mixed, and byproduct
2 hydrocarbon gas; or

3 (iii) Refined crude oil, crude tops, topped crude,
4 processed crude, processed crude petroleum, residue from
5 crude petroleum, cracking stock, uncracked fuel oil, fuel
6 oil, treated crude oil, residuum, gas oil, casinghead
7 gasoline, natural-gas gasoline, kerosene, benzine, wash
8 oil, waste oil, blended gasoline, lubricating oil, and
9 blends or mixtures of oil with one or more liquid products
10 or byproducts derived from oil or gas.

11 (m) "Responsible party" means a firm, corporation,
12 company, partnership, society, joint stock company or any
13 other entity or association that emitted or caused to be
14 emitted through the extracting, storing, transporting,
15 refining, importing, exporting, producing, manufacturing,
16 distributing, compounding, marketing, or offering for
17 wholesale or retail sale, a qualified product with total
18 greenhouse gas emissions of at least one billion metric tons
19 of carbon dioxide equivalent during the covered period. It
20 does not include any public utility, public authority, or the
21 State and its political subdivisions.

22 (n) "Statute of limitation" means that an action under
23 this Act must be commenced within 3 years after the cause of
24 action accrued.

25 (o) "Strict liability" means liability that does not
26 depend on actual negligence or intent to harm, but that is

1 based on the breach of an absolute duty to make something safe.

2 Section 15. Civil action enforcement.

3 (a) Notwithstanding any other law, the requirements of
4 this Act shall be enforced exclusively through the civil
5 actions described in this Act.

6 (b) Any person, other than an officer or employee of a
7 State or local governmental entity in this State, may bring a
8 civil action against any responsible party for climate
9 disasters or extreme weather attributable to climate change or
10 both as defined in this Act when the following conditions are
11 met:

12 (i) The person qualifies as a harmed party.

13 (ii) During any part of the covered period, the
14 responsible party did business in Illinois, was registered
15 to do business in Illinois, was appointed an agent of the
16 State, or otherwise had sufficient contacts with the State
17 to give the State jurisdiction over the responsible party
18 under Illinois law.

19 (iii) The statute of limitations for the action has
20 not expired.

21 (iv) The amount in controversy is at least \$10,000.
22 Plaintiff allegations of the amount in controversy at the
23 pleading stage must be given judicial deference. Multiple
24 plaintiffs (regardless of association in a class action)
25 must be allowed to aggregate claims without common injury

1 caused by climate disasters or extreme weather
2 attributable to climate change to reach the amount in
3 controversy threshold. The courts of this State are
4 encouraged to process these actions with simplified
5 procedural rules, streamlined enforcements, and other
6 remedied mechanisms.

7 (c) No enforcement of this Act may be taken or threatened
8 by the State, a political subdivision of the State, or an
9 executive or administrative officer or employee of the State
10 or a political subdivision, or a unit of local government or an
11 attorney representing any one of these governmental entities.

12 (d) Responsible parties are jointly and severally liable
13 to the plaintiffs for strict liability if they are a harmed
14 party.

15 (e) Harmed parties may commence an action against
16 responsible parties for recovery of damages in any one of the
17 following counties:

18 (i) the county in which all or a substantial part of
19 the events giving rise to the action occurred;

20 (ii) the county of residence for any one of the
21 natural person defendants at the time the cause of action
22 accrued;

23 (iii) the county of the principal office in this State
24 of any one of the defendants that is not a natural person;
25 or

26 (iv) the county of residence for any plaintiff if the

1 plaintiff is a natural person residing in the State.

2 Notwithstanding any other law, if a civil action is
3 brought under this Act in one of the venues in this Section 16,
4 the action may not be transferred to a different venue,
5 including federal court, without the written consent of all
6 parties.

7 (g) The fact that harmed parties bring legal action
8 against responsible parties under this Act may not be an
9 independent basis for enforcement of any other law of this
10 State; or the denial, revocation, suspension, or withholding
11 of any right or privilege conferred by the law of the State or
12 a political subdivision of the State, or a threat to do the
13 same.

14 (h) Nothing in this Act shall be construed to do any of the
15 following:

16 (i) Limit the enforceability of any other laws that
17 regulate or prohibit any conduct relating to climate
18 disasters, extreme weather, greenhouse gas emissions, or
19 consumer protection.

20 (ii) Replace legally mandated disaster recovery funds,
21 designated disaster recovery funds established by
22 legislation or administrative rule, contractually
23 obligated, or court-ordered insurance claim payouts.

24 (i) If a claimant prevails in an action brought under this
25 Section, the court shall award all of the following:

26 (i) The full extent of non-economic, compensatory, and

1 punitive damages allowable under Illinois law and
2 Constitution.

3 (ii) Compensatory damages in an amount of not less
4 than the fair market value of recovering, recouping,
5 rebuilding, or remediating the value of lost, damaged, and
6 destroyed property.

7 (iii) Compensatory damages in an amount not less than
8 the cost of injuries to harmed parties including medical
9 care, mental and behavioral health care, past and present
10 pain and suffering, or emotional distress.

11 (j) Notwithstanding any other law, a cause of action under
12 this Section shall be extinguished unless the action is
13 commenced no later than 3 years after the cause of action
14 accrues.

15 (k) The connection of a climate disaster, extreme weather
16 attributable to climate change, or harms resulting from
17 long-term changes to the climate system to alleged injuries
18 shall be deemed an injury in fact for all residents of, and
19 visitors to, Illinois. Any such person shall have standing to
20 bring a civil action under this Act.

21 (l) Notwithstanding any other law, none of the following
22 is a defense to an action brought under this Act:

23 (i) A defendant's ignorance or mistake of law.

24 (ii) A defendant's belief that the requirements of
25 this Act are unconstitutional or were unconstitutional.

26 (iii) A defendant's reliance on any court decision

1 that has been overruled on appeal or by a subsequent
2 court, even if that court decision had not been overruled
3 when the defendant engaged in conduct that violates this
4 Act.

5 (iv) A defendant's reliance on any State or federal
6 court decision that is not binding on the court in which
7 the action has been brought.

8 (v) Nonmutual issue preclusion or nonmutual claim
9 preclusion.

10 (vi) Any claim that the enforcement of this Act or the
11 imposition of civil liability against the defendant will
12 violate a constitutional right of a third party.

13 (vii) A defendant's assertion that this Act proscribes
14 conduct that is separately prohibited by any other law of
15 Illinois.

16 (viii) Any claim that defendants' or responsible
17 parties' qualified products were not misused, or were not
18 intended to be misused, in an unlawful manner.

19 (ix) A defendant's assertion that State or federal
20 laws relating to qualified products and responsible
21 parties' operations displace, abrogate, or supersede the
22 actions authorized under this Act, the authority of the
23 courts of Illinois to provide a forum for the action, or
24 the authority of the courts of Illinois to provide a
25 remedy to harmed parties.

26 (x) A defendant's assertion that choice-of-law and

1 choice-of-forum clauses govern the action, regardless of
2 whether such clauses apply to harmed parties by basis of
3 consumer transactions.

4 (xi) A defendant's assertion that the plaintiff or
5 plaintiffs assumed a risk of harm through the use of their
6 products.

7 (xii) A defendant's forum non conveniens assertion so
8 long as the jurisdictional requirements of this Act are
9 satisfied.

10 (m) An action brought under this Section may be resolved
11 by settlement through mediation or arbitration upon written
12 consent of both parties; however, mediation or arbitration may
13 not be mandated by Illinois courts.

14 (n) This Act shall not be construed to impose liability on
15 any speech or conduct protected by the First Amendment to the
16 United States Constitution, as made applicable to the states
17 through the Fourteenth Amendment to the United States
18 Constitution, or by the Illinois Constitution.

19 (o) Notwithstanding any other law, the State, a State
20 official or a unit of local government or an attorney
21 representing any one of these governmental entities may not
22 intervene in an action brought under this Section. However,
23 this subsection does not prohibit a person described by this
24 subsection from filing an amicus curiae brief in the action.

25 (p) Notwithstanding any other law, a court may not award
26 attorney's fees or costs to a defendant in an action brought

1 under this Section, unless the plaintiff was represented by
2 counsel in the action and plaintiff's counsel is found by the
3 court or the entity enforcing the rules of professional
4 conduct of attorney to be in violation of the rules of
5 professional conduct.

6 (q) An action under this Section may not be brought
7 against the federal government, State, or political
8 subdivision of the State, or an employee of one of those
9 governmental units on the basis of acts or omissions in the
10 course of discharge of official duties.

11 Section 20. Offsets to damages and defenses to liability.

12 (a) All of the following are offsets to damages:

13 (i) Payments made to a harmed party under a contract
14 of insurance. Insurers have the right to commence a
15 subrogation action against responsible parties for
16 recovery of payments made to harmed parties under a
17 contract of insurance regardless of whether the insured
18 has been made whole.

19 (ii) Evidence that a harmed party fully recovered from
20 a public body for alleged injuries.

21 (b) All of the following are affirmative defenses to an
22 action commenced under this Act:

23 (i) Evidence of intentional destruction of property or
24 intentional worsening of damage to reach the amount in
25 controversy threshold.

1 (ii) Evidence of gross negligence by the harmed party.

2 (iii) The defendant has the burden of proving an
3 affirmative defense under this subsection by a
4 preponderance of the evidence.

5 Section 25. Fee and cost shifting from challenges to
6 enforcement.

7 (a) Notwithstanding any other law, any person, including
8 an entity, attorney, or law firm, who seeks declaratory or
9 injunctive relief to prevent this State, a political
10 subdivision, a governmental entity or public official in this
11 State, or a person in this State from enforcing any portion of
12 this statute, State rules of civil procedure, or any other
13 related law that promotes consumer protection and remedies to
14 injuries from climate disasters, extreme weather attributable
15 to climate change, and harms resulting from long-term changes
16 to the climate system, or that represents any litigant seeking
17 that relief, is jointly and severally liable to pay the
18 attorney's fees and costs of the prevailing party.

19 (b) For purposes of this Section, a party is considered a
20 prevailing party if a court does either of the following:

21 (i) Dismisses any claim or cause of action brought by
22 the party seeking the declaratory or injunctive relief
23 described by this Section, regardless of the reason for
24 the dismissal.

25 (ii) Enters judgment in favor of the party opposing

1 the declaratory or injunctive relief described by this
2 Section on any claim or cause of action.

3 (c) Regardless of whether a prevailing party sought to
4 recover attorney's fees or costs in the underlying action, a
5 prevailing party under this Section may bring a civil action
6 to recover attorney's fees and costs against a person,
7 including an entity, attorney, or law firm, that sought
8 declaratory or injunctive relief described by this Section no
9 later than the third anniversary of the date on which, as
10 applicable:

11 (i) The dismissal or judgment described by this
12 Section becomes final upon the conclusion of appellate
13 review.

14 (ii) The time for seeking appellate review expires.

15 (d) None of the following are a defense to an action
16 brought under this Section:

17 (i) A prevailing party under this Section failed to
18 seek recovery of attorney's fees or costs in the
19 underlying action.

20 (ii) The court in the underlying action declined to
21 recognize or enforce the requirements of this Section.

22 (iii) The court in the underlying action held that any
23 provision of this Section is invalid, unconstitutional, or
24 preempted by federal law, notwithstanding the doctrines of
25 issue or claim preclusion.

1 Section 30. Limitations of the Act. This Act may not be
2 construed to do any of the following:

3 (a) Authorize the commencement of an action under this
4 Act against an entity that is not a responsible party.

5 (b) Authorize the commencement of an action under this
6 Act when the amount in controversy requirements are not
7 met.

8 (c) Wholly or partly repeal, either expressly or by
9 implication, any other statute that regulates or prohibits
10 any conduct relating to climate disasters, extreme weather
11 attributable to climate change, and harms resulting from
12 long-term changes to the climate system.

13 Section 35. Sovereign, governmental, and official
14 immunity.

15 (a) Notwithstanding any other law, the State has sovereign
16 immunity, a political subdivision of the State has
17 governmental immunity, and each officer and employee of this
18 State or a political subdivision has official immunity in any
19 action, claim, or counterclaim or any type of legal or
20 equitable action that challenges the validity of any provision
21 or application of this Act on constitutional grounds or
22 otherwise.

23 (b) A provision of State law may not be construed to waive
24 or abrogate an immunity described by this Section unless it
25 expressly waives immunity under this Section.

1 Section 40. Severability.

2 (a) It is the intent of the General Assembly that every
3 provision in this Act and every application of the provisions
4 in this Act are severable from each other.

5 (b) If any application of any provision in this Act is
6 found by a court to be invalid or unconstitutional, the
7 remaining applications of that provision to all other persons
8 and circumstances shall be severed and shall not be affected.
9 All constitutionally valid applications of this Act shall be
10 severed from any applications that a court finds to be
11 invalid, leaving the valid applications in force, because it
12 is the General Assembly's intent that the valid applications
13 be allowed to stand alone. Even if a reviewing court finds a
14 provision of this Act to impose an unconstitutional burden in
15 a large or substantial fraction of relevant cases, the
16 applications that do not present an unconstitutional burden
17 shall be severed from the remaining applications and shall
18 remain in force, and shall be treated as if the General
19 Assembly had enacted a statute limited to the persons, group
20 of persons, or circumstances for which the statute's
21 application does not present an unconstitutional burden.

22 (c) If any court declares or finds a provision of this Act
23 facially unconstitutional, when discrete applications of that
24 provision can be enforced against a person, group of persons,
25 or circumstances without violating the United States

1 Constitution and the Illinois Constitution, those applications
2 shall be severed from all remaining applications of the
3 provision, and the provision shall be interpreted as if the
4 General Assembly had enacted a provision limited to the
5 persons, group of persons, or circumstances for which the
6 provision's application will not violate the United States
7 Constitution and the Illinois Constitution.

8 (d) The General Assembly further declares that it would
9 have enacted this Act and each provision regardless of the
10 fact that any provision or application of this Act were to be
11 declared unconstitutional or to represent an unconstitutional
12 burden.

13 (e) If any provision of this Act is found by any court to
14 be unconstitutionally vague, then the applications of that
15 provision that do not present constitutional vagueness
16 problems shall be severed and remain in force.

17 (f) A court may not decline to enforce the severability
18 requirements of this Section on the ground that severance
19 would rewrite the statute or involve the court in legislative
20 or lawmaking activity. A court that declines to enforce or
21 enjoins a State official from enforcing a statutory provision
22 of this Act does not rewrite a statute, as the statute
23 continues to contain the same words as before the court's
24 decision.

25 (g) A statute that provides financial benefits to victims
26 or survivors of climate disasters, extreme weather

1 attributable to climate change, or harms resulting from
2 long-term changes to the climate system or results in the
3 collection of damages by the State for damage to consumers and
4 State interests, may not be construed to repeal any other
5 statute that addresses climate disasters, extreme weather
6 attributable to climate change, and harms resulting from
7 long-term changes to the climate system, either wholly or
8 partly, unless the later-enacted statute explicitly states
9 that it is repealing the other statute.

10 (h) Every statute that provides financial benefits to
11 victims or survivors of climate disasters, extreme weather
12 attributable to climate change, and harms resulting from
13 long-term changes to the climate system or results in the
14 collection of damages by the State for damage to consumers and
15 State interests from climate disasters, extreme weather
16 attributable to climate change, and harms resulting from
17 long-term changes to the climate system, is severable in each
18 of its applications to every person and circumstance. If any
19 statute that provides financial benefits to victims or
20 survivors of climate disasters, extreme weather attributable
21 to climate change, and harms resulting from long-term changes
22 to the climate system, or results in the collection of damages
23 by the State for damage to consumers and State interests from
24 climate disasters, extreme weather attributable to climate
25 change, and harms resulting from long-term changes to the
26 climate system, is found by any court to be unconstitutional,

1 either on its face or as applied, then all applications of that
2 statute that do not violate the United States Constitution and
3 the Illinois Constitution shall be severed from the
4 unconstitutional applications and shall remain enforceable,
5 notwithstanding any other law, and the statute shall be
6 interpreted as if containing language limiting the statute's
7 application to the persons, group of persons, or circumstances
8 for which the statute's application will not violate the
9 United States Constitution and the Illinois Constitution.

10 Section 45. Savings.

11 (a) All existing litigation filed in State courts under
12 the statutes of this State may not be expressly or impliedly
13 preempted, displaced, mooted, or dismissed upon any other
14 prudential consideration arguably arising from this Act.

15 (b) To the extent that any aspect of every and all existing
16 litigation filed in the courts of this State is reviewed for
17 the application of this Act, it is severable in each of its
18 applications to every person and circumstance. If any statute
19 that provides financial benefits to victims or survivors of
20 climate disasters, extreme weather attributable to climate
21 change, and harms resulting from long-term changes to the
22 climate system, or results in the collection of damages by the
23 State for damage to consumers and State interests from climate
24 disasters, extreme weather attributable to climate change, and
25 harms resulting from long-term changes to the climate system,

1 is found by any court to be unconstitutional, either on its
2 face or as applied, then all applications of that statute that
3 do not violate the United States Constitution and the Illinois
4 Constitution shall be severed from the unconstitutional
5 applications and shall remain enforceable, notwithstanding any
6 other law, and the statute shall be interpreted as if
7 containing language limiting the statute's application to the
8 persons, group of persons, or circumstances for which the
9 statute's application will not violate the United States
10 Constitution and the Illinois Constitution.

11 (c) The remedies provided in this Act are in addition to
12 any other remedy available to a person or the State at common
13 law or under statute. This Act may not be interpreted to
14 prevent a person or the State from pursuing a civil action or
15 any other remedy available at common law or under statute.

16 (d) This Act does not do any of the following:

17 (i) Relieve the liability of an entity for damages
18 resulting from climate change as provided by law.

19 (ii) Preempt, displace, or restrict any rights or
20 remedies of a person, the State, units of local
21 government, or tribal government under law relating to a
22 past, present, or future allegation of any of the
23 following:

24 (A) Deception concerning the effects of fossil
25 fuels on climate change.

26 (B) Damage or injury resulting from the role of

1 fossil fuels in contributing to climate change.

2 (C) Failure to avoid damage or injury related to
3 climate change, including claims for nuisance,
4 trespass, design defect, negligence, failure to warn,
5 or deceptive or unfair practices and claims for
6 injunctive, declaratory, monetary, or other relief.

7 (e) This Act does not preempt, supersede, or displace any
8 State law or local ordinance, regulation, policy, or program
9 that does any of the following:

10 (i) Limit, set, or enforce standards for emissions of
11 greenhouse gases.

12 (ii) Monitor, report, or keep records of emissions of
13 greenhouse gases.

14 (iii) Collect revenue through fees or levy taxes.

15 (iv) Conduct or support investigations.

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.