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By Dave Jones

Mr. Jones, the director of the Climate Risk Initiative at the University of California, Berkeley, was California's insurance commissioner from 2011 through 2018.

Who should pay for the costliest wildfires in American history? The disaster in Los Angeles, driven by climate change, has killed at least 27 people, destroyed more than 15,000 structures and caused up to an estimated $275 billion in damage. Insurers alone could face $30 billion in claims, increasing the likelihood that more companies will stop covering properties in California and other climate-affected states. As insurance costs soar, more homeowners may struggle to keep up with mortgage payments, risking widespread defaults.

While much of the ire over the devastating fires is aimed at elected officials, there has been little attention given to the coal, oil and gas companies that have contributed substantially to the conditions fueling this and other climate disasters.

Major oil and gas companies have known for decades that burning their products could lead to "potentially catastrophic events," like the higher temperatures and abnormally dry conditions that fed the fires still being battled in Los Angeles. Exxon scientists warned about this internally starting in the 1970s. Instead of disclosing these risks, big oil companies deliberately misled the public, policymakers and investors. According to a yearslong congressional investigation, even as these companies publicly pledged to meaningfully contribute to a transition away from fossil fuels, they were privately working to continue production for decades to come.

We should require these highly profitable companies to compensate communities, homeowners, businesses and even insurers for the losses. And while this might sound like a big lift, there are ways that states and local governments can start taking action today.

As the former insurance commissioner of California, I can confirm that private insurance companies cannot continue to provide coverage at anything approaching affordable rates in the face of increasing climate-driven disasters. States, cities and regulators urgently need to hold the oil and gas industry accountable for the devastation that fossil fuels cause.

Many Californians who've already lost their homeowners and business coverage because of earlier wildfires ended up in a state-created insurance program of last resort, known as the Fair Access to Insurance Requirements plan. It's already clear that claims to the California FAIR plan from the Los Angeles fires will exceed its reserves and reinsurance. When that happens, under recent policy changes in California, all policyholders in the state will end up footing the bill through an assessment on top of their rising insurance rates.

A better model is already emerging. Several states and local governments, including California, are suing oil and gas companies to ensure that these polluters pay for the vast harm their actions have caused. The Supreme Court recently declined to take up an oil industry demand to stop one such case brought by the City and County of Honolulu from proceeding to trial. Just as lawsuits were brought against the tobacco and opioid industries, officials across the country now have a path forward to bring to trial their own claims against oil companies. More cities and states should pursue such lawsuits.

State legislatures are also considering laws that would give individuals the right to sue oil and gas companies directly for damages caused by climate-driven extreme weather. There is a growing recognition that small businesses and individuals need access to the courts to recover their losses.

Insurance companies can take their own legal action against the fossil fuel industry, too. Instead of just raising rates and declining to renew or write insurance, insurers could exercise their right to bring what are called subrogation claims against fossil fuel companies, in which the insurer files lawsuits against third parties that caused the damage to recover what it paid out to its customers. This will allow insurers to cover their own steep losses from large and growing payouts to homeowners and businesses whose property is destroyed by climate-driven catastrophes.

Insurers have previously won subrogation claims. After the 2018 Camp fire, which destroyed the town of Paradise, Calif., insurers recovered $11 billion from the utility company PG&E for its role in the disaster. That money helped insurers keep some coverage available and offset some of the increased premiums they would have otherwise charged consumers.

But given that insurers collectively invest over a half trillion dollars in the fossil fuel industry and provide it with coverage, they are unlikely to bring subrogation claims against oil and gas companies on their own. That means state insurance commissioners and legislatures should step in and require insurers to do so as a condition of approving rate increases in response to climate-fueled catastrophes. State governments could also require insurers to divest from and stop covering the fossil fuel companies driving climate risk.

For decades, oil and gas companies have been allowed to mislead the public and profit from their products while sticking others with the bill for climate change. That must end. If we don’t hold fossil fuel companies accountable for the giant costs they inflict on society, insurance as we know it will be just one of the mounting casualties.