



## Update from Sacramento

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CONSUMER ATTORNEYS OF CALIFORNIA LEGISLATIVE COUNSEL

# The legislative fire after the fires

UTILITIES AND OTHERS ARE SEEKING TO LIMIT LEGAL RESPONSIBILITIES THAT HELP HOMEOWNERS AND COMMUNITIES RECOVER

The January 7, 2025, Eaton wildfire killed 19 people and destroyed 9,414 structures in Altadena and surrounding areas of Los Angeles County. As the Legislature evaluates wildfire liability, insurance stability, and rebuilding policy in the wake of the fire, policymakers face decisions that will directly affect homeowner recovery, insurance access, and community rebuilding timelines. Existing legal frameworks play a central role in compensating victims and promoting safe infrastructure investment.

Bolstered by a recently released report, utilities and others are seeking to limit legal responsibilities that help homeowners and communities recover. Last year, the Legislature passed SB 254, which required the California Earthquake Authority to issue a report with “concept” recommendations to the Legislature. The report was released on April 7, 2026, and states that compensation under current law is “slow, relying too heavily on protracted litigation, rather than administrative or streamlined claims processes.” Specifically, the report suggests:

- An elimination of inverse condemnation, an important legal theory that helps homeowners obtain adequate compensation after a wildfire;
- Creation of an undefined “fast pay” program for survivors;
- A broad immunity for good-faith reporting and a shield from using reports in litigation and regulatory proceedings;
- A prohibition on punitive damages;
- A limitation on public entity claims; and
- A noneconomic damages cap of \$100,000-\$150,000 per person.

Remarkably, the report fails to place any blame on utilities themselves, although their misconduct was responsible for causing a substantial share of the major fires over the last decade. In fact, evidence from multiple major fires shows that utility equipment failures – often tied to aging infrastructure, inadequate maintenance, or operational decisions – have played a significant role in California’s wildfire crisis.

Now that the report has been released, we expect a wave of legislation this year, some of which undoubtedly will attempt to enact these terrible, anti-homeowner statutory changes.

## CAOC’s position

We believe California should maintain inverse condemnation as a core compensation mechanism for wildfire victims, avoid artificial limits that may reduce access to legal representation for homeowners, and preserve full damages recovery to support rebuilding and community stability.

Existing inverse condemnation law remains a central mechanism for compensating property owners while incentivizing safe utility operations. Available legal precedent and historical wildfire outcomes suggest that significant modification could alter rebuilding incentives and shift recovery costs onto homeowners or public systems.

Inverse condemnation is not a tort-based theory of recovery. Inverse condemnation is a legal doctrine that stems from the Takings Clause in Article One, Section 19 of the California Constitution. Inverse condemnation is a no-fault liability theory, but the damage must arise out of the functioning of the public improvement as deliberately conceived, altered and maintained.

Inverse condemnation plays a significant role in enabling homeowners to rebuild by providing a clear pathway to recover property losses associated with utility infrastructure. For lower-income homeowners, inverse condemnation is not a supplement to insurance recovery; it is often the only meaningful path to compensation at all. As insurers continue fleeing California, coverages, and older policies with outdated limits are failing to keep pace with rebuild costs, many homeowners find themselves uninsured or significantly underinsured at the time of a disaster. These homeowners, who are least likely to have the financial reserves to absorb a total loss, are most dependent on the protections inverse condemnation provides. Weakening or eliminating this doctrine would not merely reduce their recovery – it would eliminate it entirely.

Inverse condemnation also functions as a critical deterrent against utility negligence. Under the current framework, investor-owned utilities (IOUs) face direct financial accountability when their infrastructure causes harm, creating a strong incentive to invest in grid safety and wildfire mitigation. Reforming inverse condemnation would not eliminate the financial consequences of utility-caused wildfires – it would merely shift

who bears those costs. If IOUs are insulated from liability, the losses do not disappear; they are redirected onto homeowners, insurance markets, and ultimately, the public. Ratepayers should be equally skeptical of reform proposals. Weakening liability standards means that when disasters do occur, prolonged litigation under a negligence framework will delay payouts, increase legal costs, and ultimately result in ratepayer rate increases to cover those expenses. Perhaps most importantly, reducing IOU accountability gives investor-owned utilities greater financial latitude to prioritize shareholder returns over the infrastructure modernization and grid safety investments that protect communities from future wildfires.

Proposals to cap or limit damages will harm the ability of wildfire victims to achieve full economic recovery and may shift financial burdens to insurance markets, local governments, or public assistance programs. Plaintiffs can legally recover non-economic damages for being in the zone of danger under two theories: A plaintiff either faced the threat of physical injury by being within close proximity to the fire so that it posed an imminent threat of physical injury, or, a plaintiff contemporaneously perceived that the fire was causing harm to a loved one.

Artificial limits on homeowners’ right to contract for an attorney hurt people who cannot afford to pay an attorney by the hour. Attorneys representing IOU wildfire victims know that legal fees can prohibit many, especially those of low socioeconomic backgrounds, from pursuing justice, so they choose to work on a contingency-fee basis so that anyone – not just the wealthy – can stand up to corporations like Edison and PG&E. Experience shows that, in fire zones, market forces naturally provide homeowners with leverage in negotiating fees. Homeowners can, and do, negotiate contingent fees.

Your advocacy team is facing many challenges this year, including Uber’s efforts to limit fees in auto cases, public entities and schools attempts to limit public entity liability and to cap damages in those cases. Now, the efforts to affect your representation of IOU-caused fire victims present yet another challenge. As always, thanks for your support of CAOC’s advocacy team. ♦