

1 SENATE BILL 268

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Michael Padilla and Pete Campos

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10 AN ACT

11 RELATING TO CIVIL LIABILITY; ENACTING THE WILDFIRE RECOVERY
12 ACT; ESTABLISHING RECOVERY FOR DAMAGE CAUSED BY WILDFIRES;
13 PROVIDING ECONOMIC RECOVERY FOR PROPERTY DAMAGE CAUSED BY
14 WILDFIRES; PROVIDING NONECONOMIC RECOVERY FOR EMOTIONAL
15 DISTRESS CAUSED BY WILDFIRES; PROVIDING WILDFIRE LITIGATION AND
16 TAX RELIEF; PROVIDING A DEFINITION.

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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
20 cited as the "Wildfire Recovery Act".

21 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
22 Wildfire Recovery Act:

23 A. "person" means:

24 (1) a club, cooperative association, company,
25 corporation, estate, firm, individual, joint venture, limited

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1 liability company, limited liability partnership, partnership,
2 receiver, syndicate, trust or other entity, including an
3 electric, gas, water or utility owned or operated by a county,
4 municipality or other political subdivision of the state; or

5 (2) an agency of the federal government, the
6 state, a political subdivision of the state or a tribal
7 government, or an instrumentality of the state, a political
8 subdivision of the state or a tribal government; and

9 B. "wildfire" means a fire intentionally or
10 negligently started by a person that causes harm to another
11 person.

12 SECTION 3. [NEW MATERIAL] WILDFIRE DAMAGE TO PROPERTY.--A
13 person who owns real or personal property damaged by a wildfire
14 is entitled to recover the following:

15 A. for damaged real property, the higher amount of
16 the actual cost to restore the damaged property to its pre-fire
17 condition or the diminution of value caused by the wildfire.
18 Costs of restoration include the replacement value of all
19 structures, trees and vegetation, including the full commercial
20 value of lost timber or other natural resources;

21 B. for damaged or lost personal property, the
22 replacement value for destroyed personal property and the
23 restoration costs for damaged personal property;

24 C. for evacuation displacement, the costs for
25 alternate living expenses during displacement;

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1 D. for lost use of damaged real property, the fair
2 market monthly rental value of the real property before the
3 wildfire multiplied by the number of months the person remained
4 away from or was unable to use the real property;

5 E. business loss and personal income loss; and

6 F. other economic losses.

7 SECTION 4. [NEW MATERIAL] WILDFIRE DAMAGE TO PERSON.--A
8 person who fled a wildfire or lost real or personal property
9 caused by a wildfire is entitled to recover the following:

10 A. for a person who evacuated from a wildfire with
11 a reasonable fear for personal safety, noneconomic emotional
12 distress damage whether the person suffered physical injury or
13 not;

14 B. for a person who owned real or personal property
15 damaged or destroyed by a wildfire, noneconomic emotional
16 distress damage whether the person suffered physical injury or
17 not;

18 C. for a person who suffered personal injury caused
19 by a wildfire, economic and noneconomic recovery; and

20 D. for the heirs of a person who is killed by a
21 wildfire, recovery of economic and noneconomic damages.

22 SECTION 5. [NEW MATERIAL] WILDFIRE LITIGATION AND TAX
23 RECOVERY RELIEF.--

24 A. A person who makes a claim for damages caused by
25 a wildfire is entitled to the reasonable costs of contracted

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1 attorney fees and expenses.

2 B. A person who has recovered funds from a wildfire
3 claim shall not be required to pay state income tax on any
4 portion of the gross recovery.

5 SECTION 6. APPLICABILITY.--The provisions of this act
6 apply to actions taken on or after January 1, 2022.

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