

House Bill 1114 (AS PASSED HOUSE AND SENATE)

By: Representatives Wade of the 9th, Gambill of the 15th, Hong of the 103rd, McDonald of the 26th, Jones of the 25th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 33 of the Official Code of Georgia Annotated, relating to insurance, so as to
2 enact the "Data Analysis for Tort Reform Act"; to provide for definitions; to provide for
3 applicability; to provide for data collection from certain insurers, insurance rating
4 organizations, and state agencies; to provide for confidentiality; to provide for data analysis;
5 to provide for reports; to provide for automatic repeal; to provide for related matters; to
6 provide for a short title; to provide for legislative findings; to provide for an effective date;
7 to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 This chapter shall be known and may be cited as the "Data Analysis for Tort Reform Act."

11 **SECTION 2.**

12 The General Assembly makes the following findings and determinations:

13 (a) Frivolous and excessive tort litigation hinders economic growth and job creation and
14 makes goods and services more expensive for all Georgians. Left unchecked, excessive
15 tort claims and damages that exceed a plaintiff's true injuries create costs for all Georgians.

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16 Most significantly, by raising the costs of liability insurance for businesses and everyday
17 individuals, every person or business that purchases insurance in Georgia feels these costs,
18 even if they never cause injury themselves.

19 (b) Anecdotal evidence indicates that there are insurers exiting the Georgia market and that
20 some insurers have stopped writing new business in Georgia due to the state's civil liability
21 environment. Fostering robust competition is the only guaranteed way to ensure the
22 long-term stability of the insurance market. With fewer insurance options, consumers and
23 businesses are left with limited choices and higher costs.

24 (c) Insurance is an essential component of the civil justice system. In the vast majority of
25 personal injury actions, the defendant is insured. A healthy and competitive insurance
26 market assures that consumers and businesses have adequate liability protection in case of
27 a lawsuit, and injured plaintiffs can receive just compensation for their injuries caused by
28 the negligent actions or inactions of the insurance policyholder.

29 (d) Effective tort reform legislation requires a thorough understanding of how insurers
30 assess the risk of tort liability and how that risk is quantified and reflected in insurance
31 premiums. Tort reform legislation should prioritize areas where reforms can stabilize or
32 reduce insured risk without unnecessarily impeding plaintiffs from recovering just
33 compensation for their injuries. This body requires additional data and information to
34 assess which tort reform measures will successfully achieve these goals.

35 (e) Tort litigation should be primarily compensatory and, unless punitive damages are
36 imposed, should reflect the accurate and full cost of the damages incurred, but not more.

37 (f) The Department of Insurance collects significant data from insurers in this state already
38 and is best positioned to collect the additional data needed for effective, long-term tort
39 reform legislation that benefits all Georgians.

40 **SECTION 3.**

41 Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by
42 adding a new chapter to read as follows:

43 "CHAPTER 6644 33-66-1.

45 As used in this chapter, the term:

46 (1) 'Data' means any qualitative or quantitative information related to tort claims and tort
47 claim liability collected or stored by an insurer or insurance rating organization, including
48 but not limited to actuarial information.

49 (2) 'Report' means the report provided for in Code Sections 33-66-6 and 33-66-7.

50 (3) 'Tort claim' means any legal claim seeking damages for the violation of a private
51 legal right other than mere breach of contract, whether express or implied.

52 (4) 'Tort liability insurance' means a contract of insurance under which an insurer agrees
53 to pay on behalf of an insured damages that the insured is obligated to pay to a third party
54 due to a tort claim by such third party. Such term shall include but not be limited to
55 liability insurance as provided for in paragraph (1) of Code Section 33-7-3, malpractice
56 insurance as provided for in paragraph (8) of Code Section 33-7-3, and vehicle insurance
57 as provided for in Code Section 33-7-9.

58 (5) 'Tort reform legislation' means laws enacted after July 1, 2024, designed to change
59 the laws of the civil justice system so that tort litigation and damages are reduced and
60 designated as such by the Commissioner.

61 33-66-2.

62 (a) This chapter shall apply to all insurers, including but not limited to stock and mutual
63 companies, surplus lines, nonadmitted insurers, reciprocal and interinsurance exchanges,

64 and all licensees that under any laws of this state write or in any way provide for tort
65 liability insurance, and to rating organizations serving such insurers.

66 (b) The Commissioner may request data from any insurer to which this chapter applies
67 through the Commissioner's examination authority pursuant to Code Section 33-2-11, and
68 in any report required under Chapter 3 of this title or any required filing under Chapter 9
69 of this title, or under any other authority granted to the Commissioner pursuant to this title.

70 (c) The Commissioner may, by rule, regulation, or order, exempt certain insurers or certain
71 kinds of insurance from the requirements of this chapter.

72 33-66-3.

73 (a) The Commissioner may request data from any licensed rating organization through the
74 Commissioner's examination authority pursuant to Code Section 33-9-22.

75 (b) The Commissioner may consult with any state agency as the Commissioner deems
76 necessary, and the Commissioner shall have authority to request any data from such state
77 agency necessary to produce the reports described in Code Sections 33-66-6 and 33-66-7,
78 unless such access is otherwise prohibited by law.

79 33-66-4.

80 (a) Documents, materials, or other information in the possession or control of the
81 department under this chapter shall be confidential by law and privileged as provided for
82 in Code Sections 33-2-14, 33-9-14, and 33-62-3. Such documents, materials, or other
83 information shall not be subject to disclosure under Article 4 of Chapter 18 of Title 50,
84 shall not be subject to subpoena, and shall not be subject to discovery or admissible in
85 evidence in any private civil action.

86 (b) Neither the Commissioner nor any person who receives confidential or privileged
87 documents, materials, or other information while acting under the authority of the
88 Commissioner or with whom such documents, materials, or other information are shared

89 pursuant to this chapter shall be permitted or required to testify in any private civil action
90 concerning any such confidential or privileged documents, materials, or other information
91 subject to subsection (a) of this Code section.

92 (c) No waiver of any applicable privilege or claim of confidentiality in the documents,
93 materials, or other information shall occur as a result of the Commissioner submitting a
94 report as provided for in Code Section 33-6-6 or Code Section 33-66-7.

95 33-66-5.

96 (a) No later than July 1, 2024, and as often as necessary through July 1, 2029, the
97 Commissioner shall request data from insurers, licensed rating organizations, and state
98 agencies for the Commissioner to make findings regarding the impact of tort lawsuits and
99 the assessment of tort related risks. The Commissioner may allow for the confidential
100 submission of such requested data via electronic means.

101 (b) The data requested from insurers as provided for in subsection (a) of this Code section
102 shall be limited to data in existence on or after January 1, 2019, and shall include but not
103 be limited to:

104 (1) The number of tort lawsuits filed against the insured of an insurer;

105 (2) The total attorneys' fees and court costs for such tort lawsuits; and

106 (3) The total value of the incurred claims from any tort lawsuits.

107 (c) The Commissioner shall request from any relevant insurer a supplemental actuarial
108 analysis of the risks due to tort litigation that were considered in issuing a statement of
109 actuarial opinion either at the time of submission of the statement of actuarial opinion or
110 within one year following such submission.

111 (d) The Commissioner shall request that any filings with the department made by any
112 relevant insurer reflect the impact indicated, if any, due to the effect of the applicable
113 provisions of any tort reform legislation enacted after July 1, 2024, in a manner prescribed
114 by the Commissioner.

115 33-66-6.

116 (a) The Commissioner shall analyze the data submitted pursuant to this chapter and make
117 certain determinations regarding the assessment of tort related risks by insurers, including
118 but not limited to:

119 (1) The degree to which tort related risk is reflected in insurance premiums;

120 (2) The specific aspects of tort related risk that have the largest monetary impact on
121 insurance premiums; and

122 (3) The potential impact of any changes to tort law on the portion of insurance premiums
123 that reflect tort related risk.

124 (b) The Commissioner shall generate an initial report utilizing the items listed in
125 subsection (a) of this Code Section and any data or information necessary to support such
126 determinations. The report may analyze any data in the Commissioner's possession, any
127 data gathered pursuant to this chapter, and any other data submitted to the Commissioner.
128 The Commissioner may summarize, aggregate, or otherwise make anonymous the
129 documents, materials, or other information in the possession or control of the department
130 so that any information or data contained in the report shall not be attributable to any
131 specific insurer.

132 (c) No later than November 1, 2024, the Commissioner shall submit the initial report
133 provided for in subsection (b) of this Code section to the Governor's Office, the House
134 Committee on Insurance, and the Senate Insurance and Labor Committee.

135 33-66-7.

136 (a) The Commissioner shall generate a subsequent report in substantially similar form to
137 the initial report provided for in Code Section 33-66-6, and such subsequent report shall
138 include but not be limited to:

139 (1) Historic and predictive trends based on submitted data;

140 (2) The effects of any enacted tort reform legislation; and

141 (3) Any further determinations or recommendations for legislative action.
142 (b) No later than November 1, 2029, the Commissioner shall submit the subsequent report
143 provided for in subsection (a) of this Code section to the Governor's Office, the House
144 Committee on Insurance, and the Senate Insurance and Labor Committee.

145 33-66-8.
146 This chapter shall stand repealed in its entirety on January 1, 2030."

147 **SECTION 4.**

148 This Act shall become effective upon its approval by the Governor or upon its becoming law
149 without such approval.

150 **SECTION 5.**

151 All laws and parts of laws in conflict with this Act are repealed.