U.S. Chamber of Commerce
Institute for Legal Reform



Tort Costs in America

Fourth Edition

An Empirical Analysis of Costs and Compensation of the U.S. Tort System

November 2026

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The Brattle Group

Foreword written by Carolyn Blake, Institute for Legal Reform

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About the U.S. Chamber of Commerce

The Chamber of Commerce of the United States is the world's largest business organization. Our members range from the small businesses and chambers of commerce across the country that support their communities, to the leading industry associations and global corporations that innovate and solve for the world's challenges, to the emerging and fast-growing industries that are shaping the future. For all of the people across the businesses we represent, the U.S. Chamber of Commerce is a trusted advocate, partner, and network, helping them improve society and people's lives.

About the Institute for Legal Reform

The mission of the U.S. Chamber Institute for Legal Reform (ILR) is to champion a fair legal system that promotes economic growth and opportunity.

ILR's cutting-edge research program examines the most pressing civil justice issues facing legal systems in Washington, DC, across all 50 U.S. states, and around the world. These papers by some of the world's foremost legal and economic experts offer potential solutions for a fairer legal system.

Foreword

The price of the U.S. tort system keeps climbing, costing American households and businesses more every year. According to this fourth edition of *Tort Costs in America*, conducted by The Brattle Group and published by the U.S. Chamber of Commerce Institute for Legal Reform, the costs of the U.S. tort system reached $655.6 billion in 2025—more than $4,900 per household and equivalent to 2.12 percent of U.S. gross domestic product (GDP).

From 2019 to 2025, estimated tort costs grew by an average of 7.8 percent annually, compared with 6.3 percent growth in nominal GDP and 3.9 percent inflation. Commercial liability costs grew particularly quickly, averaging 8.8 percent annually. Businesses also bear substantial liability exposure themselves—the report estimates $186 billion in commercial self-insured costs in 2025, up from approximately $142 billion in 2021.

These figures underscore how the rising costs of litigation and liability can weigh on businesses' ability to invest and create jobs. These costs are ultimately borne by consumers and businesses through increased insurance premiums, prices for goods and services, and reduced resources for investment and growth.

At a time when many Americans have little room in their budgets to absorb additional financial pressures, Americans can ill afford the excessive costs imposed by our tort system. According to Bankrate, more than half of Americans cannot afford a $1,000 emergency expense.[1] When households are already struggling to manage even expected costs, much less the unexpected ones, the broader economic burden of an increasingly expensive tort system deserves serious attention.

Yet the findings also point to a path forward—states can take meaningful action to curb the costs of their civil justice systems. In 2025, estimated tort costs were below $3,000 per household in some states and exceeded $7,000 in others. As a share of state GDP, costs ranged from 1.35 percent to more than 3 percent. The considerable variation in tort costs across the country underscores the importance of state policy choices.

Florida offers an important example of how civil justice reform can help curb tort costs. In March 2023, Governor Ron DeSantis signed House Bill 837 into law, enacting a sweeping package of legal reforms in Florida.[2] Although the full effects of these reforms will take time to emerge, the data already points to improvements in Florida's tort costs as a share of state GDP and in its ranking relative to other states. Florida's estimated tort costs rose in dollars between 2022 and 2025, but declined as a share of state GDP, from 3.35 percent to 3.11 percent. Florida also moved from third to seventh highest among states in costs

per household. These results offer an encouraging indication that meaningful reform can help ease the burden of tort costs on businesses and consumers.

Georgia followed a similar path. In April 2025, Governor Brian Kemp signed into law Senate Bill 68 and Senate Bill 69, two landmark legal reform bills which address medical damage awards, trial procedures, attorneys' fees and regulation of third-party litigation funding, among other issues.[3] Due to the timing of their adoption, the impact of these reforms is not meaningfully captured in this study's estimates, but future editions will provide an opportunity to assess their impact.

The findings in this report underscore the need for thoughtful, evidence-based civil justice reform. Policymakers should examine the costs their civil justice systems impose on households and businesses and consider reforms that promote fairness and predictability. A well-functioning civil justice system must not only ensure that legitimate claims are resolved, but must also guard against disproportionate and excessive costs that ultimately fall on consumers and businesses.

The tort cost estimates and the report describing their methodology are the work of The Brattle Group. The foreword is the work of ILR.

"At a time when many Americans have little room in their budgets to absorb additional financial pressures, Americans can ill afford the excessive costs imposed by our tort system."

Although the full effects of these reforms will take time to emerge, the data already points to improvements in Florida's tort costs as a share of state GDP and in its ranking relative to other states.

Chapter 1

Executive Summary

This is the fourth edition of our study that measures the total costs and compensation of the American legal system (the "tort system").[4] As with our prior studies, we use "tort costs" to refer collectively to the costs of litigation and compensation paid to claimants.[5] Our estimates draw primarily on state-level insurance data, supplemented by estimates of self-insured exposures. Because the analysis captures only costs associated with insurable liabilities, it likely understates the full cost of the tort system. Nevertheless, the resulting national and state-level estimates provide a consistent basis for evaluating changes in tort costs over time, differences in liability costs across states, and the broader economic consequences of potential excesses in the system. The appendix describes the data and methodology in detail.

We estimate that in 2025, the most recent year for which full data is available, tort costs totaled $655.6 billion, which is equivalent to 2.12 percent of U.S. gross domestic product (GDP) and just over $4,900 per household. These tort costs included:

- $345 billion in general and professional liability claims, encompassing a broad range of personal injury, consumer, labor and employment, environmental, financial, regulatory, professional, and commercial claims;[6]
- $291 billion in automobile liability claims; and
- $20 billion in medical liability claims.

Other key findings include that:

- Total tort costs grew 7.8 percent annually from 2019 to 2025, outpacing both the average nominal GDP growth (6.3 percent) and inflation (3.9 percent) over that same period.
- Costs also vary substantially across states, ranging from less than $3,000 to more than $7,000 per household and from 1.35 percent to more than 3 percent of state GDP.

"Total tort costs grew 7.8 percent annually from 2019 to 2025, outpacing both the average nominal GDP growth (6.3 percent) and inflation (3.9 percent) over that same period."

Tort Costs Over Time

To provide context, we examined the development of tort costs from 2019 through 2025 (see Table 1 below). Overall, total tort costs increased from $418.0 billion to $655.6 billion, an average annual growth rate of 7.8 percent. Among the types of tort costs, commercial liability costs grew the fastest, at 8.8 percent annually, compared with 5.9 percent for personal liability. Total tort costs grew faster than both nominal GDP, which increased by 6.3 percent per year on average, and inflation, which averaged 3.9 percent. As a result, tort costs increased from 1.95 percent of GDP in 2019 to 2.12 percent in 2025.

GDP contracted in 2020 during the COVID-related shutdowns, while tort costs continued to increase, causing tort costs to rise to 2.09 percent of GDP. That share declined somewhat as GDP rebounded, reaching 2.01 percent in 2023, before increasing again to 2.11 percent in 2024 and 2.12 percent in 2025—the highest level over the period analyzed.

Table 1: Tort Costs by Category From 2019–2025 ($ Billions)

	2019	2020	2021	2022	2023	2024	2025	Average Annual Growth
Commercial Liability	$263.7	$290.5	$324.3	$366.8	$380.3	$417.2	$438.3	8.8%
Personal Liability	$154.2	$153.1	$156.3	$162.1	$180.1	$203.6	$217.3	5.9%
Total Tort Costs	**$418.0**	**$443.6**	**$480.6**	**$528.9**	**$560.4**	**$620.8**	**$655.6**	**7.8%**
National GDP	$21,395.4	$21,193.4	$23,461.6	$25,597.6	$27,825.9	$29,381.0	$30,861.3	6.3%
Consumer Price Index	255.7	258.8	271.0	292.6	304.7	313.7	321.9	3.9%
Total Costs as % of GDP	**1.95%**	**2.09%**	**2.05%**	**2.07%**	**2.01%**	**2.11%**	**2.12%**	**1.4%**

See Table 3 for full results, explanation of calculations, and sources.

Recent insurance-market evidence is consistent with continued upward pressure on liability costs. Liability premiums generally increased during 2023–2025, particularly for commercial auto and umbrella coverage.[7] Industry research attributes these increases in part to rising claim severity and litigation costs, including larger jury awards and settlements, increased attorney involvement, third-party litigation funding, and a growing incidence of large or "nuclear" verdicts.[8] These pressures have contributed to underwriting losses and, in some liability markets, reduced insurer capacity and tighter policy limits.[9]

"Overall, total tort costs increased from $418.0 billion to $655.6 billion, an average annual growth rate of 7.8 percent. Among the types of tort costs, commercial liability costs grew the fastest, at 8.8 percent annually, compared with 5.9 percent for personal liability. Total tort costs grew faster than both nominal GDP, which increased by 6.3 percent per year on average, and inflation, which averaged 3.9 percent. As a result, tort costs increased from 1.95 percent of GDP in 2019 to 2.12 percent in 2025."

Case Study: RCX Solutions and the Effects of a Liability Judgment

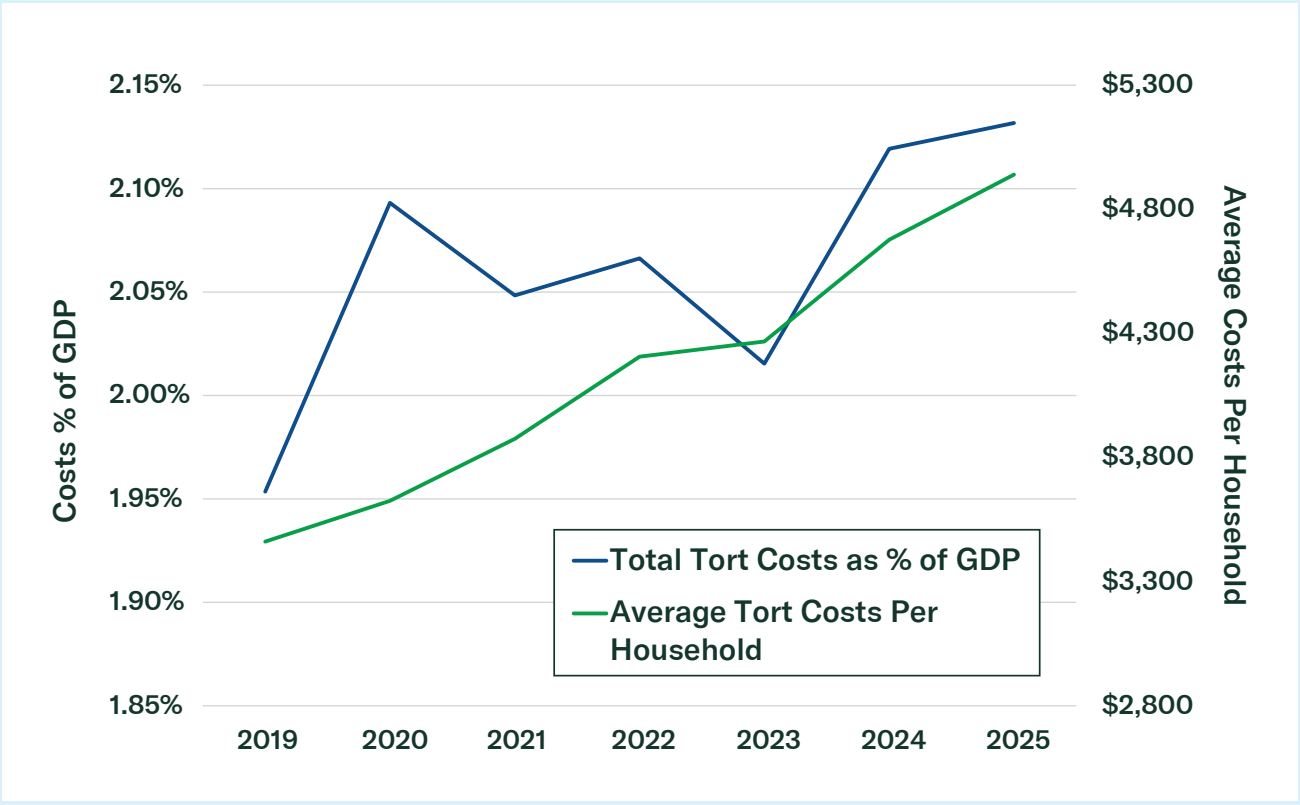
A 2015 crash led a jury to find Arkansas-based trucking carrier RCX Solutions liable for injuries caused by a driver it had contracted to transport a load and awarded the injured motorist and his wife approximately $11.3 million.[10] The Fifth Circuit Court of Appeals upheld the liability finding in 2019 but remanded for adjustments to the damages judgment.[11] RCX's president later reported that the company's insurance rates had tripled and that its bank declined to extend its line of credit while the judgment remained outstanding. RCX ceased operations in March 2020.[12]

RCX illustrates how litigation exposure can coincide with rising insurance costs and reduced access to credit. The events predate the 2023–2025 update period analyzed in this report and represent one company's experience.

Tort Costs Per Household

We estimate that U.S. tort costs in 2025 equate to approximately $4,939 per household.[13] As illustrated in Figure 1 below, this per household amount has grown consistently since 2019.

Figure 1: Change in Tort Costs Over Time



Sources: Tort Costs are from Brattle analysis; GDP is from the Bureau of Economic Analysis; and number of households is from the United States Census Bureau.

Tort Costs Across States

Tort costs vary substantially across states. In 2025, costs per household were below $3,000 in states including Maine and West Virginia but exceeded $7,000 in New York and Delaware. Measured against state GDP, Florida had the highest estimated tort costs at 3.11 percent, while costs in Alaska, Hawaii, New Hampshire, North Dakota, and South Dakota were below 1.5 percent.

These measures describe different aspects of the state burden: costs per household reflect the amount relative to the number of households, while costs as a share of GDP reflect the amount relative to economic output. Florida's position on the latter measure merits a closer look in light of its recent civil-justice reforms.

Florida Following the 2023 Civil Justice Reforms

Florida enacted substantial civil justice reforms through HB 837 in March 2023. The law changed rules governing limitations periods for negligence claims, comparative fault and apportionment of fault, attorney fees, insurer bad faith, and evidence of medical damages, among other matters.[14] Its effects may take time to appear in aggregate tort costs. For instance, the new statute of limitations period only applies to claims arising after the law took effect, and claims already in the system may continue to be resolved over several years.

The early results show moderation relative to Florida's economy and to other states. From 2022 to 2025, Florida's estimated tort costs rose from $48.2 billion to $56.2 billion, but fell from 3.35 percent to 3.11 percent of state GDP. Although costs per household rose from $5,768 to $6,149, Florida moved from third to seventh highest among states on that measure. That three-place decline is a promising early indicator, although a change in rank also depends on what happened in other states and cannot, by itself, establish the reforms' effect.

Recent insurer actions offer additional, narrower evidence of improving conditions in Florida's auto market. State Farm reported more than $1 billion in lower annual premiums for Florida private passenger auto customers from rate reductions since October 2024.[15] USAA reported nearly $1 billion in combined dividends and auto rate savings for eligible Florida members between December 2025 and July 2026.[16] Both companies attributed their actions in part to Florida's litigation reforms. These developments are consistent with benefits beginning to reach insured drivers. Given how recently these changes occurred, we will continue to track Florida tort costs to assess whether the improvement persists.

Chapter 2

Introduction

02

The U.S. Tort System

The U.S. legal system provides businesses and individuals with civil remedies for harms caused by others through courts, arbitration, mediation, settlements, and other proceedings. We refer to the laws, institutions, and participants involved in resolving these claims collectively as the "tort system." The system serves two primary economic functions: compensating parties for harms incurred and deterring conduct that may cause future harm.

The cost and efficiency of the tort system have long been the subject of public policy debate. Liability costs in the United States are significantly higher than in other developed countries.[17] Differences across countries reflect, among other factors, social safety nets and no-fault compensation systems, rules governing attorneys' fees, private rights of action, access to litigation funding, and the use of class actions.

Liability costs can affect economic activity beyond the direct costs of resolving claims. Research has linked product liability risk to reduced innovation and product development,[18] and litigation risk to business location and foreign investment decisions.[19] A more recent empirical study found that certain reforms limiting products liability were associated with higher employment and production in affected industries.[20] Within the United States, liability costs also vary substantially across states, reflecting differences in economic and demographic characteristics, as well as state legal environments.

Finally, the tort system is not particularly efficient: a significant portion of tort expenditures do not go toward compensating injured parties. One study of insured commercial claims in Texas estimated 75 cents in legal and administrative costs for every dollar received by claimants.[21] A RAND study estimated 79 cents of legal fees and related expenses for every dollar of net compensation.[22] These costs highlight the importance of considering both the size and efficiency of the tort system.

"Finally, the tort system is not particularly efficient: a significant portion of tort expenditures do not go toward compensating injured parties."

A Consistent Measure of Tort Costs

In this study, we estimate tort costs for the United States and each state, updating our prior studies of the U.S. tort system.[23] For purposes of this study, we define "tort costs" as judgments and settlements, the legal and administrative costs of resolving claims, and the cost of transferring liability risk to insurers.

Our estimates rely primarily on liability insurance premiums, supplemented by estimates of self-insured exposures. Insurance premiums capture expected awards and settlements, the costs of administering and adjudicating claims, and insurers' costs of assuming liability risk. For self-insured businesses, we use Verisk MarketStance® estimates of commercial liability exposures and premiums.[24]

This insurance-based approach provides a consistent measure across time and jurisdictions and captures private settlements that are generally absent from public court records. Because our estimates include only insurable liabilities, however, they understate tort costs to the extent that claims are uninsurable.

The estimates encompass a broad range of insurable liabilities, including personal injury and property damage, automobile and product liability, commercial disputes, professional and medical liability, consumer and investor protection, labor and employment, civil rights, and certain environmental liabilities.

We apply National Association of Insurance Commissioners (NAIC) loss and loss-adjustment-expense ratios to estimated liability premiums to distinguish amounts paid as compensation, costs of administering and defending claims, and costs of transferring liability risk to insurers.

This insurance-based approach provides a consistent measure across time and jurisdictions and captures private settlements that are generally absent from public court records.

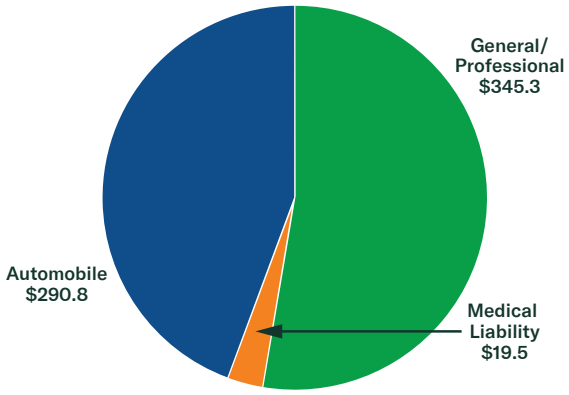
Chapter 3

Results

Costs and Compensation of the U.S. Tort System

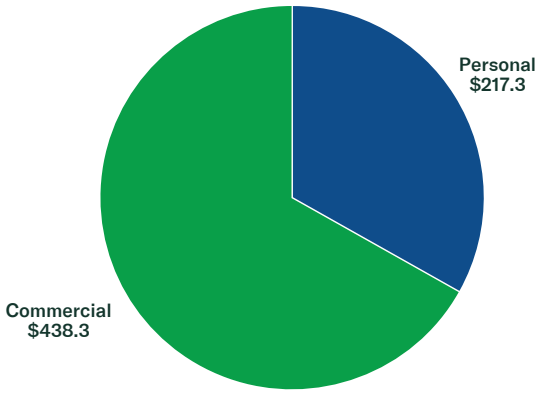
We estimate that the aggregate tort costs in the U.S. amounted to $655.6 billion in 2025. As shown in Figure 2, $345.3 billion of those costs are attributable to general and professional liability claims; $290.8 billion to automobile claims; and $19.5 billion to medical liability claims.

Figure 2: 2025 Tort Costs by Category of Claims ($ Billions)



Sources: MarketStance; NAIC.

Figure 3: 2025 Tort Costs Borne by Businesses and Individuals ($ Billions)



Sources: MarketStance; NAIC.

We further report tort costs by line of coverage as either arising from personal or commercial sources of exposure (both insured and self-insured) in Table 2.[25] For presentation purposes, we group these lines of coverage into three categories of tort costs: general and professional liability; medical professional liability; and automobile liability.

Commercial liability costs total $438.3 billion. Of this amount, $336.4 billion (77 percent) relates to general and professional liability, $19.6 billion (4 percent) to medical malpractice, and $82.3 billion (19 percent) to commercial automobile liability (see Figure 2 and Table 2). Across these categories, $251.9 billion is insured, while $186.4 billion reflects self-insured exposures, illustrating the substantial role of self-insurance among businesses (see Table 2).

As shown in Figure 3, individuals face over $217 billion in tort costs. Personal automobile liability accounts for the vast majority—$208.5 billion, or 96 percent—while the remaining $8.8 billion relates to general and professional liability, including liabilities covered by homeowners', renters', and condominium insurance (see Table 2).

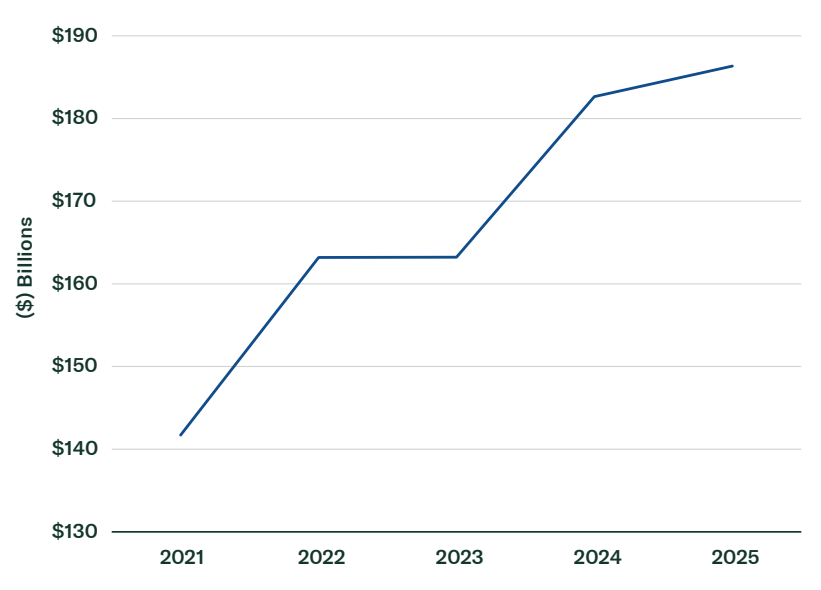
Turning back to businesses, Figure 4 shows that commercial self-insured liability costs rose from approximately $141.7 billion in 2021 to $186.4 billion in 2025. The increase indicates that businesses are bearing a growing amount of liability costs directly rather than transferring those costs to insurers. For companies with limited reserves or liquidity, a large liability claim can place substantial pressure on finances and, in severe cases, threaten solvency.

Table 2: Summary of Tort Costs in 2025 ($ Billions)

	Commercial		Personal (Insured)	Total
	Insured	Self-Insured		
	[A]	[B]	[C]	[D]
General/ Professional	$176.1	$160.3	$8.8	$345.3
Medical Malpractice	$14.3	$5.3	-	$19.5
Automobile	$61.6	$20.7	$208.5	$290.8
Total	**$251.9**	**$186.4**	**$217.3**	**$655.6**

Sources and Notes: Differences in totals are the result of rounding.
[A]: Insurance premiums for commercial liabilities.
[B]: Imputed self-insured premiums for commercial liabilities.
[C]: Insured premiums for personal liabilities.
[D] = [A] + [B] + [C].

Figure 4: Commercial Self-Insured Costs Over Time



Sources and Notes: MarketStance; NAIC; Bureau of Economic Analysis; Bureau of Labor Statistics.

Tort Costs Over Time

Using the methodology described in this paper, we estimate tort costs for the years 2019–2025. Tort costs over this period by insurance line of exposure are summarized in Figure 5 below.

As shown in Table 3, tort costs grew at an average annual rate of 7.8 percent from 2019 to 2025, with commercial liability costs growing faster than personal liability costs. Commercial liability costs increased 8.8 percent per year, compared with 5.9 percent for personal liability.

Commercial liability cost growth exceeded both inflation, which averaged 3.9 percent, and nominal GDP growth of 6.3 percent over the same period, while personal liability cost growth exceeded inflation.[26] As a result, tort costs increased from 1.95 percent of GDP in 2019 to 2.12 percent in 2025, equivalent to average annual growth of approximately 1.4 percent in tort costs as a share of GDP.[27]

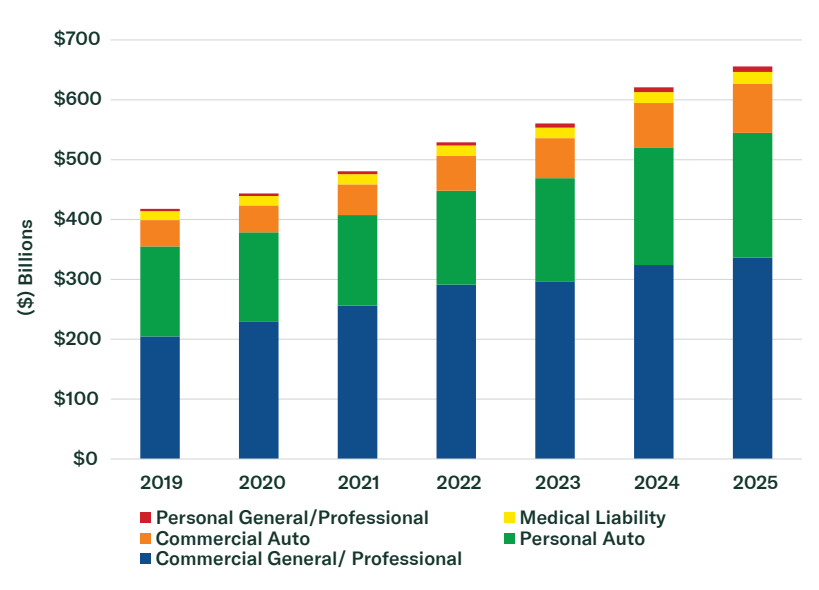
Tort Costs Per Household and Across States

We report the costs of the tort system on a per-household basis by dividing estimated tort costs by the number of U.S. households reported by the U.S. Census. Aggregate tort costs of $655.6 billion in 2025 amounted to $4,939 per household.

We also estimate tort costs by state, both in dollars and as a percentage of state GDP, and calculate costs per household. Insurance companies allocate premiums and losses to each state or territory based on the location of the insured risk. For some liability coverage involving multiple locations, however, premiums and losses may be reported at the insured's principal office.[28] MarketStance produces ground-up premium estimates based on the location, class, size, and other characteristics of each operation and adjusts for premiums reported at the headquarters of multistate businesses. Accordingly, our state estimates are intended to reflect liabilities incurred in each state rather than simply where premiums are reported.

As shown in Table 4, tort costs vary substantially across states, and the differences are not explained solely by state size. Connecticut, Florida, Georgia, Delaware, New York, New Jersey, and Nevada, for example, have tort costs exceeding $6,000 per household,[29] compared with less than $3,000 per household in several lower-cost states.

Figure 5: Tort Costs Over Time by Category



Sources and Notes: MarketStance; NAIC; Bureau of Economic Analysis; Bureau of Labor Statistics.

Table 3: Tort Costs Over Time by Category ($ Billions)

		2019	2020	2021	2022	2023	2024	2025	Average Annual Growth
Commercial Liability									
General/ Professional	[1]	$204.8	$230.0	$256.1	$291.3	$295.8	$324.0	$336.5	8.6%
Medical	[2]	$14.8	$15.6	$17.0	$17.5	$17.6	$18.2	$19.5	4.7%
Automobile	[3]	$44.1	$44.9	$51.2	$58.1	$66.9	$75.0	$82.3	10.9%
Commercial Liability Total	[4]	$263.7	$290.5	$324.3	$366.8	$380.3	$417.2	$438.3	8.8%
Personal Liability									
Homeowners (Liability Portion)	[5]	$4.1	$4.4	$4.8	$5.2	$6.9	$7.9	$8.8	13.8%
Automobile	[6]	$150.2	$148.7	$151.5	$156.9	$173.3	$195.7	$208.5	5.6%
Personal Liability Total	[7]	$154.2	$153.1	$156.3	$162.1	$180.1	$203.6	$217.3	5.9%
Total Tort Costs	[8]	**$418.0**	**$443.6**	**$480.6**	**$528.9**	**$560.4**	**$620.8**	**$655.6**	**7.8%**
National GDP	[9]	$21,395.4	$21,193.4	$23,461.6	$25,597.6	$27,825.9	$29,381.0	$30,861.3	6.3%
Consumer Price Index	[10]	255.7	258.8	271.0	292.7	304.7	313.7	321.9	3.9%
Total Costs as % of GDP	[11]	**1.95%**	**2.09%**	**2.05%**	**2.07%**	**2.01%**	**2.11%**	**2.12%**	**1.4%**

Sources and Notes: MarketStance; NAIC; Bureau of Economic Analysis; Bureau of Labor Statistics.

Growth rates are calculated from unrounded values and may differ slightly from rates calculated from the rounded figures shown.

Tort economic costs include losses, direct defense costs and cost containment expenses, plaintiffs' legal costs, and cost of risk transfer.

Average Annual Growth is the compound annual growth rate from 2019–2025: i.e., $(value_{2025}/value_{2019})^{1/6}-1$.

Difference in totals are the result of rounding.

[4] = [1] + [2] + [3].

[7] = [5] + [6].

[8] = [4] + [7].

[10]: CPI is non-seasonally adjusted for all urban consumers; all items in U.S. city average. Base period: 1982-84=100.

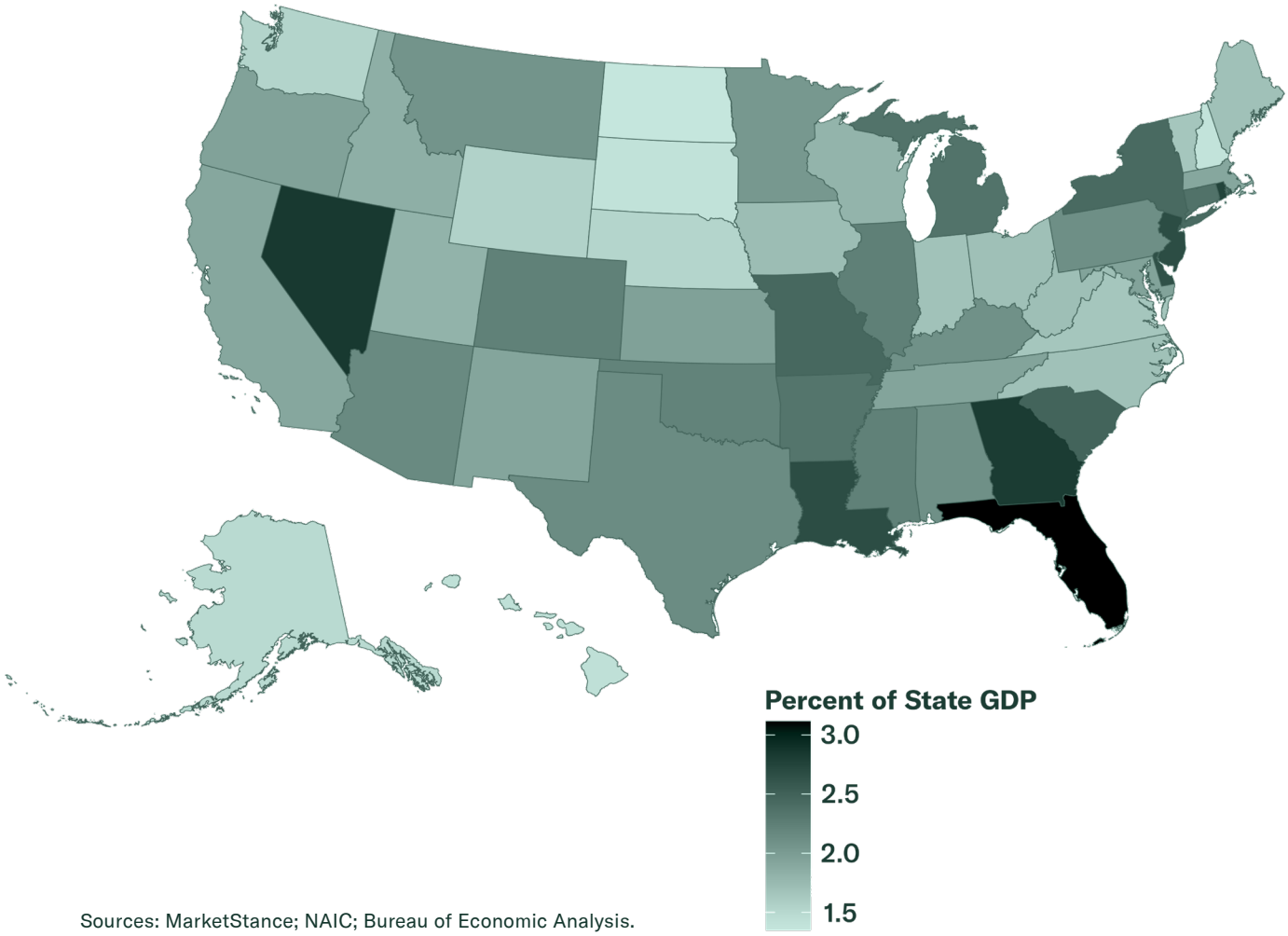
[11] = [8] / [9].

Table 4: Tort Costs by State in 2025 ($ Millions)

State	General/ Commercial	Medical Malpractice	Automobile	Homeowner	Total Tort Costs	Tort Costs as % of State GDP	Tort Costs Per Household ($)
	[1]	[2]	[3]	[4]	[5]	[6]	[7]
AK	$588	$34	$463	$12	$1,096	1.49%	$4,000
AL	$3,026	$339	$3,621	$149	$7,136	2.10%	$3,465
AR	$2,179	$111	$2,209	$77	$4,576	2.33%	$3,670
AZ	$5,521	$309	$6,730	$182	$12,742	2.15%	$4,272
CA	$44,940	$1,993	$34,198	$759	$81,889	1.91%	$5,935
CO	$6,821	$363	$5,376	$259	$12,819	2.23%	$5,169
CT	$5,176	$180	$3,543	$119	$9,019	2.36%	$6,197
DC	$1,348	$66	$363	$15	$1,793	0.93%	$5,439
DE	$2,031	$71	$1,078	$41	$3,222	2.64%	$7,814
FL	$23,436	$1,277	$30,551	$947	$56,211	3.11%	$6,149
GA	$11,410	$710	$13,887	$362	$26,368	2.82%	$6,247
HI	$1,064	$42	$620	$31	$1,756	1.43%	$3,562
IA	$2,703	$129	$1,792	$80	$4,704	1.73%	$3,501
ID	$1,228	$65	$1,205	$35	$2,533	1.84%	$3,372
IL	$16,956	$835	$9,643	$338	$27,772	2.24%	$5,440
IN	$4,444	$398	$4,155	$147	$9,144	1.69%	$3,294
KS	$2,308	$148	$2,021	$77	$4,554	1.96%	$3,782
KY	$2,886	$334	$3,258	$100	$6,579	2.10%	$3,527
LA	$3,939	$292	$4,750	$181	$9,162	2.68%	$4,955
MA	$9,128	$450	$5,729	$212	$15,518	1.91%	$5,484
MD	$4,809	$348	$5,733	$152	$11,042	1.95%	$4,598
ME	$915	$75	$708	$27	$1,725	1.70%	$2,804
MI	$8,718	$384	$7,999	$178	$17,279	2.35%	$4,183
MN	$6,129	$301	$3,884	$195	$10,509	2.04%	$4,446
MO	$6,006	$307	$5,153	$174	$11,639	2.45%	$4,541
MS	$1,465	$106	$1,980	$80	$3,630	2.23%	$3,085
MT	$871	$54	$722	$28	$1,675	2.07%	$3,572
NC	$7,749	$369	$6,805	$261	$15,183	1.69%	$3,377
ND	$658	$12	$430	$12	$1,112	1.35%	$3,181
NE	$1,620	$113	$1,357	$65	$3,155	1.53%	$3,828
NH	$925	$61	$778	$24	$1,788	1.39%	$3,133
NJ	$11,551	$814	$11,225	$186	$23,775	2.68%	$6,709
NM	$1,132	$182	$1,562	$50	$2,927	1.92%	$3,415
NV	$3,470	$138	$4,324	$57	$7,988	2.84%	$6,448
NY	$37,372	$2,657	$19,450	$405	$59,884	2.43%	$7,650
OH	$9,216	$478	$6,732	$225	$16,652	1.70%	$3,378
OK	$2,884	$196	$2,861	$141	$6,082	2.22%	$3,793
OR	$3,043	$189	$3,384	$69	$6,686	1.95%	$3,833
PA	$12,051	$1,459	$8,583	$245	$22,337	2.11%	$4,166
RI	$1,352	$65	$963	$50	$2,430	2.75%	$5,420
SC	$3,647	$185	$5,408	$146	$9,385	2.48%	$4,222
SD	$597	$26	$500	$21	$1,144	1.40%	$2,993
TN	$5,601	$646	$4,897	$174	$11,319	1.93%	$3,865
TX	$30,923	$1,051	$29,608	$1,172	$62,754	2.14%	$5,481
UT	$2,622	$182	$2,918	$59	$5,781	1.81%	$4,881
VA	$6,353	$350	$6,417	$201	$13,321	1.65%	$3,862
VT	$486	$27	$290	$18	$821	1.65%	$2,875
WA	$6,834	$315	$6,385	$147	$13,681	1.53%	$4,318
WI	$5,084	$175	$3,250	$113	$8,622	1.80%	$3,401
WV	$791	$95	$985	$32	$1,903	1.71%	$2,569
WY	$445	$25	$334	$13	$817	1.56%	$3,188
National	**$336,451**	**$19,529**	**$290,816**	**$8,844**	**$655,641**	**2.12%**	**$4,939**

Sources & Notes: MarketStance; NAIC; Bureau of Economic Analysis; U.S. Census.
Difference in totals are the result of rounding.
[5]=sum([1]-[4])
[6]=[5]/State GDP
[7]=[5]/No. of Households

Figure 6: 2025 Tort Costs as a Percent of GDP by State



Sources: MarketStance; NAIC; Bureau of Economic Analysis.

Table 5: 2025 Tort Costs for the Most Expensive States (In Terms of Tort Costs as % of GDP)

State	Total Tort Costs ($ Billions)	State GDP ($ Billions)	Tort Costs as % of State GDP
	[1]	[2]	[3]
FL	$56.2	$1,805.6	3.11%
NV	$8.0	$281.4	2.84%
GA	$26.4	$936.1	2.82%
RI	$2.4	$88.2	2.75%
NJ	$23.8	$887.8	2.68%
LA	$9.2	$342.3	2.68%
DE	$3.2	$121.9	2.64%
SC	$9.4	$378.4	2.48%
MO	$11.6	$475.4	2.45%
NY	$59.9	$2,465.7	2.43%
Top 10 States	**$210.1**	**$7,782.9**	**2.70%**

Sources and Notes: [2]: Bureau of Economic Analysis, Gross Domestic Product by state: All industry total.

Difference in totals are the result of rounding.

[3] = [1] / [2].

Table 6: 2025 Tort Costs for the Most Expensive States (In Terms of Tort Costs Per Household)

State	Total Tort Costs ($ Billions)	Number of Households	Tort Costs Per Household ($)
	[1]	[2]	[3]
DE	$3.2	412,304	$7,814
NY	$59.9	7,828,074	$7,650
NJ	$23.8	3,543,944	$6,709
NV	$8.0	1,238,925	$6,448
GA	$26.4	4,220,732	$6,247
CT	$9.0	1,455,235	$6,197
FL	$56.2	9,141,675	$6,149
CA	$81.9	13,797,638	$5,935
MA	$15.5	2,829,804	$5,484
TX	$62.8	11,449,769	$5,481
Top 10 States	**$346.6**	**55,918,100**	**$6,199**

Sources and Notes: [2]: U.S. Census.

Difference in totals are the result of rounding.

[3] = [1] / [2].

Differences are also apparent relative to the size of state economies. Table 5 shows the ten most expensive states in terms of tort costs as a percent of state GDP. Among the states shown, Florida has tort costs equal to 3.11 percent of GDP—down from 3.35 percent in 2022—followed by Nevada at 2.84 percent and Georgia at 2.82 percent, compared with 1.35 percent of GDP for North Dakota and 1.39 percent of GDP for New Hampshire. Measured this way, tort costs in the ten most expensive states were $210.1 billion. On average, this amounts to 2.70 percent of the total GDP in these states.

Table 6 shows the ten most expensive states in terms of tort costs per household. Measured this way, tort costs in the ten most expensive states were $346.6 billion. This amounts to an average of $6,199 in tort costs per household for each of the 55.9 million households in these states.

Figure 6 shows substantial variation in tort costs as a share of state GDP. Broadly speaking, tort costs range from roughly 1.35 percent to more than 3 percent of state GDP, indicating that differences across states are not explained by economic size alone. Factors that may contribute to this variation—including economic and demographic characteristics, legal environment, perceptions of the tort system, and litigation activity—were examined in our 2011 study.[30]

Measured this way, tort costs in the ten most expensive states were $210.1 billion. On average, this amounts to 2.70 percent of the total GDP in these states.

Chapter 4

Conclusion

04

We estimate that U.S. tort costs reached $655.6 billion in 2025, equivalent to $4,939 per household. Roughly two-thirds of these costs come in the form of commercial liability costs totaling $438.3 billion, while the remaining $217.3 billion are directly borne by individuals. General and professional liability represents the largest category of tort costs, followed by automobile and medical liability.

These costs have also grown substantially over time. From 2019 to 2025, total tort costs increased at an average annual rate of 7.8 percent, exceeding both nominal GDP growth of 6.3 percent and inflation of 3.9 percent. Commercial liability costs grew particularly rapidly, averaging 8.8 percent annually, while personal liability costs increased 5.9 percent annually. As a result, tort costs increased from 1.95 percent of U.S. GDP in 2019 to 2.12 percent in 2025.

The national totals also mask substantial differences across states. In 2025, tort costs ranged from less than $3,000 per household in several states to more than $7,000 in others. Relative to state economic output, costs ranged from roughly 1.35 percent to more than 3 percent of GDP. These differences cannot be explained by state size or economic output alone and are consistent with substantial variation in the economic, demographic, and legal environments in which tort claims arise and are resolved.

Taken together, these findings show that the economic footprint of the U.S. tort system is both large and growing. Since 2019, tort costs have grown faster than both inflation and the broader economy, driven in particular by rapid growth in commercial liability costs. In concert with substantial variation across states, these trends underscore the importance of understanding not only how much the tort system costs, but also how efficiently those costs serve its core functions of compensation and deterrence.

Appendix

Appendix A

Definitions and Methodology

This study provides consistent estimates of tort costs for the United States and each state, allowing comparisons across jurisdictions and over time.

Categories of Tort Liability

For practical purposes, we define the tort system to include insurable liabilities arising under common law and statute. This definition does not correspond precisely to a formal legal definition of tort liability but allows us to estimate tort costs using insurance data. It excludes certain liabilities that are generally uninsurable, including many claims arising from intentional conduct.[31,32]

Legal liability generally arises from two sources: common law, including negligence and (often) product liability, and statutory protections, including consumer protection, labor and employment, and securities laws. Because insurance data are reported by line of business rather than legal cause of action, we do not separately estimate common law and statutory liabilities. Both are included to the extent they are insurable.

Common Law Torts

Common law torts provide remedies for injuries caused by negligent or other wrongful conduct.[33] Depending on the claim, damages may include medical expenses, lost wages, pain and suffering, property damage, financial losses, and punitive damages.[34]

The principal categories of insurable common law liability included in our estimates are:

- Automobile accidents.
- Commercial disputes involving tort claims, such as negligence, bad faith, misrepresentation, misappropriation, or tortious interference.
- Personal injury or property damages.[35]
- Product liability.
- Professional liability, including medical liability.
- Certain environmental toxic torts, covered by specialty environmental liability insurance.

Many pollution, asbestos, and other environmental liabilities are excluded from general liability insurance and therefore fall outside our estimates.[36,37]

Statutory Liability

Statutes can also create civil liability through private rights of action or regulatory enforcement proceedings. Insurable statutory liabilities include claims arising under labor and employment, consumer protection, civil rights, antitrust, and securities laws. Criminal liability is excluded.

Environmental cleanup and regulatory compliance costs are generally uninsurable and therefore excluded,[38] as are workers' compensation liabilities, which are generally handled outside the tort system.

Methodology

We define tort costs to include three components: (1) compensation paid to claimants through judgments and settlements, (2) the costs of investigating, administering, and adjudicating claims, and (3) the cost of transferring liability risk to insurers. We estimate these costs using actual liability insurance premiums and estimated premium-equivalent costs for self-insured risks.

Insurance premiums provide a market-based measure encompassing expected claims, claims administration and defense costs, insurer operating expenses, and compensation for assuming liability risk.[39]

Some businesses instead retain liability risk through deductibles, exposures above policy limits, captives, or self-insurance. We estimate losses and defense costs for these exposures based on the size of the self-insured market. We assume self-insured businesses avoid the cost of risk transfer, although this simplifying assumption understates costs to the extent these businesses incur their own claims-administration, reserving, and risk-management expenses.

Our estimates do not capture all costs—or benefits—of the tort system. They exclude the costs of operating courts and regulatory institutions, jury service, and potential broader effects on innovation, product availability, investment, and economic activity. We similarly do not quantify the benefits associated with compensating injured parties and deterring harmful conduct, or non-economic costs such as the stress associated with legal disputes.

For estimation purposes, we group liability insurance into three broad segments: (1) commercial liability, (2) personal liability, and (3) automobile liability, each discussed below.

Commercial Liability and Medical Professional Liability

The largest components of U.S. liability costs are covered by commercial liability insurance. We rely on estimates of the size of the market for liability insurance developed by MarketStance—a leading provider of market intelligence to the insurance industry—to compute the tort costs for commercial and medical professional liability. MarketStance uses data on the cost of liability insurance from insurance companies' rate filings, and detailed information about the number and size of businesses from the Economic Census and other sources to compute the exposure base for risks by size, industry, and location of businesses.

Based in part on survey data, MarketStance estimates the percentage of exposures that are retained either by businesses choosing to self-insure, or through deductibles and exposures in excess of carried limits. MarketStance scales the estimated insured exposures (for the largest liability insurance lines) to match total premiums written into each state by domestic and alien insurance companies using data collected by the National Association of Insurance Commissioners (NAIC) and other sources. The same scaling factor is then used to develop estimates of self-insured premium liabilities (described in more detail below).

This methodology is described in more detail in the following pages.

Insured Commercial Liability Costs

Commercial liability costs can be either insured or self-insured. All insurance companies are required to report financial data, including premiums, to state and federal regulators, and this information is widely available. These data are aggregated and reported by a number of data providers, including NAIC.[40] Table 7 shows the specific lines of insurance included in MarketStance's estimates.

Medical liability insurance protects doctors and hospitals

Table 7: Lines of Insurance Included in Commercial Liability Estimates

Type of Insurance	NAIC Line	Related MarketStance Line	Tort Category
Commercial Multiple Peril (Liability)	5.2	Premises & Operations Liability Umbrella Liability Excess Liability Business Owner's Policy	General/ Professional
Inland Marine	9	Motor Truck Cargo Liability Warehouse Liability	General/ Professional
Medical Professional Liability	11	Medical Professional Liability	Medical Professional
Other Liability—Occurrence	17.1	Premises & Operations Liability Umbrella Liability Excess Liability Cyber Liability Directors & Officers Liability Business Owner's Policy	General/ Professional
Other Liability—Claims Made	17.2	Errors & Omissions/ Professional Liability Employment Practices Liability Insurance Fiduciary Liability Cyber Liability Directors & Officers Liability	General/ Professional
Products Liability	18	Products Liability	General/ Professional
Commercial Auto Liability	19.4	Commercial Auto Liability	Commercial Auto

Notes:

1. The NAIC insurance lines in this table include the following types of insurance: 5.2002 Business owners, 5.2003 Commercial Package Policy, 5.2006 Commercial Farm and Ranch, 5.2007 Other CMP Policies, 17.0001 Commercial General Liability, 17.0002 Completed Operations, 17.0003 Comprehensive Personal Liability, 17.0004 Contractual Liability, 17.0005 Day Care Centers, 17.0006 D&O Liability, 17.0007 Elevators and Escalators Liability, 17.0008 Employee Benefit Liability, 17.0009 Employers Liability, 17.001 Employment Practices Liability, 17.0011 Environmental Pollution Liability, 17.0012 Fire Legal Liability, 17.0013 Kidnap & Ransom Liability, 17.0014 Liquor Liability, 17.0015 Municipal Liability, 17.0016 Nuclear Energy Liability, 17.0017 Personal Injury Liability, 17.0018 Premises and Operations (OL&T and M&C), 17.0019 Professional Errors and Omissions Liability, 17.002 Umbrella and Excess (Commercial), 17.0021 Umbrella and Excess (Personal), 17.0022 Other, 17.0023 Veterinarian, 17.0024 Internet Liability, 17.0025 Provider Excess Stop Loss, 17.0026 Excess Stop Loss, 17.0027 Other Excess Stop Loss, 17.0028 Cyber Liability, 18.0001 Occurrence, and 18.0002 Claims Made.
2. While aviation and ocean marine policies provide some liability coverage, they are relatively small lines and predominantly cover property losses. These liability costs are excluded from our estimates.

from liability arising from allegations of negligence, purportedly resulting in the injury or death of patients.[41] MarketStance separately analyzes medical professional liability insurance, which is reported separately by NAIC under line 11.

For purposes of estimating tort costs in 2025, we are interested in *direct premiums earned*, which include the portion of premiums that relate to coverage for the 2025 calendar year.[42] However, MarketStance computes *direct premiums written* in its estimates of insurance liability exposure. In 2025, the aggregate earned commercial liability premiums were 3.9 percent lower than written premiums. Accordingly, we scale down the estimates of commercial written premiums by 3.9 percent. Similarly, medical professional liability earned premiums were 1.5 percent lower than written premiums, and commercial auto liability earned premiums were 4 percent lower than written premiums. We scale down the MarketStance estimates of written premiums for medical professional liability and commercial auto liability accordingly.

Self-Insured Liability Costs

MarketStance estimates the fraction of tort costs not covered by insurance and prices this self-insured liability cost using insurance rates.[43] Aggregate premium data provides an estimate of tort costs for those businesses and individuals that purchase insurance. However, not all businesses and individuals purchase insurance, and not all losses are covered. At the smaller end of the market, many individuals and businesses retain a significant amount of risk by not purchasing insurance or having low limits. At the other end of the market, many larger businesses self-insure by choosing high deductibles, or by setting aside funds and developing their own risk management programs. Similarly, in the medical liability insurance segment, many physician groups and hospital systems are largely or fully self-insured.[44]

These self-insured liabilities are not tracked by NAIC but are a significant part of the market. We rely on data and the methodology developed by MarketStance to develop estimates of the self-insured commercial and medical professional liability costs. We do not estimate self-insured costs of individuals, since we assess these to be immaterial to tort costs in aggregate (as discussed further below). The key steps in the methodology for self-insured liability lines are as follows:

- computing the total liability exposure using rate filings and business demographic data,
- estimating the percentage of the exposure that is insured and self-insured, and
- determining the premium cost of insuring the exposure based on total reported insured premiums.

These steps are discussed in the following sections.

Computing Total Exposure

In addition to statutory financial data, insurance companies are required to submit rate filings with their regulators which describe how their premiums are set. Many of these rate filings are available from NAIC's System for Electronic Rates and Forms Filing (SERFF). Rate filings provide valuable information on the cost of liability insurance within each state and identify the risk factors that insurance companies use to price liability insurance. These risk factors and the associated pricing, combined with estimates of the size of each industry sector, provide a measure of the total liability exposure that each business, doctor, or hospital has to risk.

MarketStance estimates exposure based on rate filings, business demographic data reported by the U.S. Census, and other federal government sources for each state. Business demographic data that affects liability costs include: the location of the business operations, the industry in which the business operates, the number of employees, amount of sales, total payroll, or square footage of business operations. Risk factors for medical professional liability also include other factors such as the number of physicians or hospital beds covered. Risk factors for commercial auto liability include number of miles driven and fleet size.

Included in these estimates are exposures for employee businesses, non-employee businesses, hospitals, individual physicians and practices, and state and local governments. MarketStance models exposures and premiums for the following liability lines of coverage ("modeled categories of exposure"):

- Premises and Operations;
- Products Liability;
- Umbrella & Excess (Commercial);
- Business Owners (Liability Portion);[45]
- Professional Errors & Omissions Liability;
- Directors & Officers Liability;
- Employment Practices Liability;
- Fiduciary Liability;
- Cyber Liability;
- Motor Truck and Cargo Liability;
- Warehouse Liability;
- Medical Professional Liability; and
- Commercial Automobile Liability.

Estimating the Percentage of Exposure That Is Self-Insured

The percentage of exposure that is self-insured varies greatly across businesses with different demographic characteristics. For instance, larger businesses are more likely to retain risk through formal risk management programs, whereas smaller businesses are more likely to be entirely uninsured. In addition, businesses in different industries are exposed to different types

of risk which can greatly affect which lines of insurance they purchase and which risks they retain. Many physician groups and hospital systems are largely or fully self-insured. As noted above, this limits the usefulness of aggregate statistics on medical liability insurance premiums reported in NAIC statutory filings.[46]

MarketStance estimates the percentage of the total exposure that is insured based on surveys of companies' propensity to purchase insurance.

Determining Premium Cost of Exposure

MarketStance calibrates its estimates of self-insured exposure by matching the corresponding estimated insured fraction of exposure to the reported values. MarketStance combines its estimates of premiums written and the premium equivalent values for self-insured risks. For each modeled category of liability exposure,[47] MarketStance scales estimated premiums to equal the liability premiums reported in the related annual statement lines, with adjustments, applying the self-insured factor to derive the written premium equivalents for that part of the market.

Personal Liability Insurance

Personal liability exposure is estimated from the costs of homeowners' (private homes and condominiums) or renters' insurance. Most individuals only carry general liability insurance through these policies.

Using rate filings from SERFF that separately report liability premiums, we estimate the share of homeowners', condominium owners', and renters' insurance premiums attributable to liability coverage.

As shown in Table 8, most of the home and condominium owners' insurance premiums cover property damage, with only 3.0 to 7.1 percent of homeowners' premiums and 6.9 to 16.6 percent of condominium owners' premiums attributable to personal liability. In contrast, for renters' and tenants' insurance policies, where the value of the insured property is much less, liability coverage accounts for 17.1 percent of the total premiums.

We apply these percentages to total homeowners', renters', and condominium owners' insurance premiums reported by NAIC to estimate personal liability insurance premiums. While some individuals do not carry homeowners' or renters' liability insurance, they are also less likely to have sufficient wealth to make payments and may therefore be judgment proof. Therefore, we assume that uninsured personal liability costs are not material.

Table 8: Estimated Portion of Homeowners Insurance That Relates to Liability Coverages

	Average Portion of Premium for Liability Coverage	Range Across States
Homeowners	4.5%	3.0%–7.1%
Renters/Tenants	17.1%	11.2%–27.1%
Condominium/ Unit Owner	10.7%	6.9%–16.6%

Source: SERFF Filings.

Personal Auto Liability

We assume that all personal automobile liability is insured either directly or through uninsured/underinsured insurance.[48] Individuals are required to carry automobile liability insurance, and liability from drivers that are uninsured or underinsured is covered by uninsured/underinsured motorist coverage (a form of first party insurance that covers the insured's own losses) designed to fill that gap. NAIC reports the total earned liability premiums (including coverage for uninsured and underinsured motorists) in its Auto Insurance Database Reports.[49] The automobile liability premiums include the following coverages:

- bodily injury liability (BI);
- property damage liability (PD);
- BI/PD combined single limits;
- personal injury protection;
- uninsured/underinsured motorist;
- medical payments; and
- other liability.

Important Caveats

Our estimates understate tort costs for several reasons.

First, our estimates of self-insured costs omit certain expenses. We do not estimate self-insured costs for individuals, and we assume that self-insured businesses avoid claims administration and risk-transfer costs. In practice, self-insured businesses may incur costs to administer claims, reserve for expected losses, and manage risk, including through captives and third-party administrators.

Second, we exclude certain direct and indirect costs of the tort system. These include the costs of operating courts and regulatory enforcement, as well as the productivity and wages lost through jury service. We also do not quantify broader economic effects, including potential impacts on innovation, product and service availability, foreign direct investment, and the economy as a whole.

Third, our estimates capture only insurable liabilities, excluding many intentional torts and liabilities generally excluded from insurance coverage, such as certain pollution and toxic tort claims.

Finally, we do not quantify non-monetary costs, including the psychological costs and stress associated with legal disputes.

Endnotes

1 Anne Marie D. Lee, "Most Americans Can't Afford a $1,000 Emergency Expense, Report Finds," CBS News, Jan. 23, 2025.

2 Press Release, *Governor Ron DeSantis Signs Comprehensive Legal Reforms into Law*, Executive Office of the Governor (Mar. 24, 2023).

3 "Georgia Gov. Kemp Signs Legal Reform Bill to Protect Businesses and Consumers," U.S. Chamber Institute for Legal Reform, Apr. 23, 2025.

4 Paul Hinton and David McKnight are Principals and Adrienna Huffman is a Senior Associate at The Brattle Group. This study was developed for the U.S. Chamber of Commerce Institute for Legal Reform (ILR). We would like to acknowledge the contributions of those who commented on earlier drafts, in particular Eric Price-Glynn, Senior Principal at Verisk's MarketStance® business, and our colleague Bin Zhou. We would also like to acknowledge Lawrence Powell, the Director of the Alabama Center for Insurance Information and Research at the Culverhouse College of Business, and Judyth Pendell, an independent consultant, who helped develop the methodology and contributed to the first version of this study. Britanya Williams, Logan Delavan-Hoover, and Owen Lutz provided research assistance. Previous editions of this study were released in 2024, 2022 and in 2018 and included data for the years 2016–2022. This study provides a 2023-2025 update and includes data for the full timeline covered by the previous studies as well.

5 In this study, "tort costs" include the costs of litigating and adjudicating claims, compensation paid to injured parties, and amounts paid by businesses and individuals to transfer tort liabilities to insurers.

6 While we refer to the costs and compensation associated with these types of litigation as "tort costs" we acknowledge that they include legal claims beyond those governed by the law of torts including sources of statutory liability and some contract claims.

7 *Commercial Property/Casualty Market Index Q1/2025* (Council of Insurance Agents & Brokers (CIAB), May 2025). CIAB reported that commercial umbrella premiums and commercial auto premiums increased, even as premium increases across the broader commercial property and casualty market moderated.

8 *Social Inflation: Litigation Costs Drive Claims Inflation*, sigma No. 4/2024 (Swiss Re Institute, Sept. 2024). *See also* CIAB, *supra* note 7, identifying third-party litigation funding as a key influence on market conditions; *Auto Injury Insurance Claims: A Study of Increasing Claim Severity* (Insurance Research Council, July 30, 2026), citing rising medical costs, attorney involvement, litigation, and general damages as contributing to increasing liability costs.

9 *Supra* note 7.

10 Thomas J. Henry, "Thomas J. Henry Secures $11 Million Verdict for Texas Man Injured in Trucking Accident," PR Newswire, Aug. 2, 2017.

11 *Puga v. RCX Solutions, Inc.*, 922 F.3d 285 (5th Cir. 2019).

12 Clarissa Hawes, "'Nuclear Verdict' Forces Arkansas Carrier to Cease Operations After 19 Years," FreightWaves, March 3, 2020. The insurance and credit details are attributed to RCX's president.

13 The total number of households in 2025 is approximately 132.7 million as per the U.S. Census Bureau American Community Survey 5-year estimates. $4,939 per household in tort costs is calculated by dividing $655.6 billion by the approximate number of households in 2025.

14 Florida Senate Banking and Insurance Committee, "CS/CS/HB 837—Civil Remedies," 2023 Bill Summary.

15 "Op-ed Highlights Progress in Florida," State Farm, updated Oct. 29, 2025.

16 "USAA Broadens National Effort to Help Military Families Navigate Rising Costs," USAA, June 8, 2026.

17 Michel Léonard et al., *International Tort Costs: A Comparative Analysis of the United States, United Kingdom, EUG5, Australia, and Canada* (U.S. Chamber Institute for Legal Reform, July 2026). The study compares the United States with the United Kingdom, the five largest EU economies, Australia, and Canada estimating that U.S. tort costs reached the highest share among the jurisdictions studied and nearly three times the study average in 2023.

18 Alberto Galasso & Hong Luo, When Does Product Liability Risk Chill Innovation? Evidence from Medical Implants, 14 Am. Econ. J.: Econ. Pol'y, 366–401 (2022).

19 *2019 Lawsuit Climate Survey: Ranking the States* (U.S. Chamber Institute for Legal Reform, Sept. 2019). *See also* Robert E. Litan, *Through Their Eyes: How Foreign Investors View and React to the U.S. Legal System* (U.S. Chamber Institute for Legal Reform, Aug. 2007); *The U.S. Litigation Environment and Foreign Direct Investment: Supporting U.S. Competitiveness by Reducing Legal Costs and Uncertainty* (U.S. Dep't of Commerce, Oct. 2008).

20 Joanna M. Shepherd, Products Liability and Economic Activity: An Empirical Analysis of Tort Reform's Impact on Businesses, Employment, and Production, 66 Vanderbilt Law Review 257 (2013).

21 Joni Hersch and Kip Viscusi, Tort Liability Litigation Costs for Commercial Claims, 27 Vand. U. Law Sch., Law and Econ., Working Paper 07-16 (2007).

22 These costs increased to over $1.17 per dollar of compensation when the value of the time litigants spent was included in the cost estimates. *See* James S. Kakalik and Nicholas M. Pace, *Costs and Compensation Paid in Tort Litigation* (RAND Institute for Civil Justice, 1986). *See also* Michelle M. Mello et al., National Costs of the Medical Liability System, 29 Health Affairs, 1569–77 (2010). Mello et al. report that plaintiff attorney fees in the literature generally ranged from 35 to 40 percent of awards and that defense costs in a study of 1,452 malpractice claims averaged 19 cents per dollar of indemnity paid.

23 *See, e.g.*, Paul Hinton, David McKnight, and Lawrence Powell, *Costs and Compensation of the U.S. Tort System* (U.S. Chamber Institute for Legal Reform, Oct. 2018); David McKnight and Paul Hinton, *Tort Costs in America: An Empirical Analysis of Costs and Compensation of the U.S. Tort System* (U.S. Chamber Institute for Legal Reform, Nov. 2022); David McKnight and Paul Hinton, *Tort Costs in America: An Empirical Analysis of Costs and Compensation of the U.S. Tort System*, Third Edition (U.S. Chamber Institute for Legal Reform, Nov. 2024).

24 MarketStance estimates liability premiums and exposure for the following lines of insurance: Businessowners, Commercial Automobile, Premises and Operations, Products, D&O, E&O, Employment Practices, Fiduciary, Umbrella, Excess, Medical Professional, Cyber, Motor Truck Cargo, and Warehouse.

25 We assume that uninsured personal liability costs resulting in payments outside the insurance system are immaterial to the aggregate estimate. Auto liability insurance is required in 49 states and the District of Columbia, but the requirement does not eliminate uninsured driving: the NAIC reports that 15.4 percent of motorists were uninsured in 2023. Uninsured and underinsured motorist coverage can compensate insured claimants for some losses when an at-fault driver lacks sufficient coverage. *See* National Association of Insurance Commissioners, "Uninsured Motorists" (updated July 30, 2025). For homeowners' and renters' liability, we assume that individuals without coverage are generally less likely to have the resources to make substantial liability payments.

26 U.S. Bureau of Labor Statistics.

27 This measures how quickly tort costs grew relative to GDP, rather than how quickly tort costs grew in dollars. The calculation compares tort costs' share of GDP in 2025 with its share in 2019 and expresses the change as an average annual rate over six years: (2.12% / 1.95%)^(1/6) – 1 = 1.4%.

28 *See e.g.*, Nat'l Ass'n of Ins. Comm'rs, *Official Annual Statement Instructions, Property/Casualty, for the 2020 Reporting Year* (adopted June 2020), Schedule T, *Exhibit of Premiums Written Allocated by States and Territories*.

29 Delaware has the highest per-household tort costs at $7,814, partly reflecting its concentration of corporate headquarters. Although MarketStance allocates corporate insurance costs across states of operation, certain commercial risks remain concentrated at headquarters. Accordingly, Delaware ranks highest in other commercial liability as a share of GDP, but 18th in personal liability, suggesting that its high estimated costs reflect factors beyond the state's tort environment and activity. See Paul Hinton and David McKnight (U.S. Chamber Institute for Legal Reform, Oct. 2011).

30 Hinton and McKnight, *supra* note 29.

31 In some states, certain intentional torts and punitive damages are not insurable because shifting responsibility away from an individual for his or her own bad acts would create moral hazard (an incentive to act badly). Whether torts were committed deliberately is often in question, so insurance will often respond to a wider range of claimed torts because doing so does not involve admitting or denying wrongdoing. Furthermore, claimants typically include a negligence theory to ensure coverage, thus allowing them to draw on insurance resources. For example, a deliberate fraud allegedly committed by an employee may be restated as a failure to supervise.

32 We note that although insurance coverage is not generally available for intentional torts, "there are an array of intentional torts for which insurance coverage is expressly provided under liability policies. For example, insurance coverage is available for defamation, disparagement, trademark infringement, misappropriation of style of doing business, unfair competition, infringement of copyright, title or slogan, false imprisonment, employment discrimination, wrongful termination, wrongful eviction, malicious prosecution, and invasion of privacy." *See* Christopher French, Debunking the Myth that Insurance Coverage Is Not Available or Allowed for Intentional Torts or Damages, 8 Hastings Bus. L.J. 65 (2012).

33 Common law torts include: (1) intentional torts, such as assault, battery, trespass, conversion, and defamation; (2) negligent torts involving the violation of a duty of care; and (3) strict/product liability torts. Legal Information Institute, "Tort," https://www.law.cornell.edu/wex/tort.

34 42 U.S.C. § 14505(1); 42 U.S.C. § 247d-6d(e)(8). *See also* Justia, "Non-Economic Damages in Personal Injury Cases," https://www.justia.com/.

35 Bodily injury and property damage are the principal coverages in industry standard general liability policies. Insurance Information Institute, "Commercial General Liability Insurance," https://www.iii.org.

36 Today, commercial general liability (CGL) policies contain a broad pollution exclusion that provides very little coverage for injury, remediation, or cleanup from pollutants. The clause excludes claims for "'bodily injury' or 'property damage' arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of 'pollutants.'" Examples of "pollutants" include asbestos, benzene, chemical fumes, DDT, gasoline, heating oil, insecticide, lead paint, and TCE.

37 Many environmental toxic torts arising from exposures after 1985—including asbestos—are uninsurable. While significant, these amounts are small relative to the total size of the tort system. The impact of the asbestos exclusion can be assessed by considering the size of the aggregate loss payments on insured legacy (1985 and prior) asbestos exposures. In the United States in 2016, insured asbestos losses were $3.2 billion according to AM Best. Uninsured post-1985 exposures are excluded from this estimate but would be expected to be less costly than the claims arising from 1985 and prior exposures, which pre-dated occupational controls and the discontinuation of the use of asbestos. Relative to the estimated aggregate size of the tort system, this source of current liabilities is small. *See Best's Special Report: Asbestos Claims Payments Show No Sign of Slowing Down Despite Drop in Incurred Losses* (AM Best, Nov. 2017).

38 Related private litigation, including class actions, can be brought to recover compensation for bodily injury and property value diminution associated with alleged violations of environmental laws. These costs are included in our tort cost estimates to the extent they are insurable under specialty environmental liability lines.

39 While there are differences across states and products, insurance markets are quite competitive by traditional measures and returns are lower than those of other industries. *See 2016 Competition Database Report* (Nat'l Ass'n of Ins. Comm'rs, 2017); *see also Report on Profitability by Line by State in 2016* (Nat'l Ass'n of Ins. Comm'rs, 2017).

40 *See, e.g., Statistical Compilation of Annual Statement Information for Property/Casualty Insurance Companies in 2019* (Nat'l Ass'n of Ins. Comm'rs, 2020).

41 We note that one study of closed claims alleging medical malpractice found that in a large percentage of lawsuits filed, medical errors were not responsible for the claimed injuries. David M. Studdert et al., Claims, Errors, and Compensation Payments in Medical Malpractice Litigation, 354 N. Eng. J. Med. 2024, 2024-33 (2006).

42 While premiums for annual policies are often paid in advance, those premiums are "earned" throughout the policy term.

43 We refer to uninsured exposures and exposures not covered by formal risk management programs as self-insured.

44 Eric Nordman et al., *Medical malpractice insurance report: A study of market conditions and potential solutions to the recent crisis* (Nat'l Ass'n of Ins. Comm'rs, 2004).

45 The liability portion can be broken out based on disclosures made in statutory filings.

46 Nordman et al., *supra* note 44.

47 There are over 30 different lines of liability insurance, including a number of specialty lines that MarketStance does not separately model.

48 Because of the mandatory coverage and inclusion of uninsured losses, we assume auto insurance premiums reported by NAIC represent 100 percent of personal automobile liability. In fact, uninsured motorists' coverage is not mandatory in most states, leaving some level of uninsured costs. Our estimate of tort costs will be understated as a result.

49 *Auto Insurance Database Report 2014/2015* (Nat'l Ass'n of Ins. Comm'rs, Dec. 2017).

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