

Senate Bill 355

By: Senators Meyer von Bremen of the 12th, Jackson of the 50th, Hooks of the 14th and Smith of the 25th

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 33 of the Official Code of Georgia Annotated, relating to the  
2 Department and Commissioner of Insurance, so as to provide a short title; to provide  
3 legislative findings; to authorize the Commissioner to require medical malpractice insurers  
4 in this state to form a market assistance plan to assist those who are unable to purchase  
5 medical malpractice insurance in an adequate or affordable amount; to provide definitions;  
6 to provide for a study of certain alternative means of providing such insurance; to provide  
7 for a report of such study; to provide for related matters; to repeal conflicting laws; and for  
8 other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the Medical Malpractice Market Stability Act.

12 **SECTION 2.**

13 The General Assembly finds that physicians and hospitals in Georgia are finding it  
14 increasingly difficult to obtain medical liability insurance either because coverage is  
15 unavailable or unaffordable. The General Assembly finds it desirable and necessary for the  
16 Commissioner of Insurance to undertake certain actions to help alleviate or remedy the  
17 medical liability insurance problem.

18 **SECTION 3.**

19 Chapter 2 of Title 33 of the Official Code of Georgia Annotated, relating to the Department  
20 and Commissioner of Insurance, is amended by adding a new Code Section 33-2-34 to read  
21 as follows:

1 "33-2-34.

2 (a) As used in this Code section, 'market assistance plan' means a mechanism by insurers  
3 writing casualty insurance in this state in either the admitted or nonadmitted market to  
4 provide casualty insurance for a class of insurance designated in writing to the plan by the  
5 Commissioner.

6 (b) In order to address the problems of availability and affordability of medical  
7 malpractice liability insurance coverage, the Commissioner is authorized by rule or  
8 regulation to require insurers authorized to write medical malpractice liability insurance  
9 in this state to form a market assistance plan to assist persons and other entities unable to  
10 purchase medical malpractice liability insurance in an adequate or affordable amount in  
11 either the admitted or nonadmitted market.

12 (c) The bylaws and method of operation of any market assistance plan shall be  
13 promulgated or approved by the Commissioner prior to its operation. The Commissioner  
14 may require casualty insurers to participate in a market assistance plan pursuant to this  
15 Code section as a condition of continuing to do business in this state, but may not permit  
16 a casualty insurer to condition its participation in a manner that is inequitable to the  
17 participants.

18 (d) In a further effort to alleviate or remedy the current medical malpractice liability  
19 insurance availability and affordability problem, the Commissioner is directed to study the  
20 feasibility and desirability of:

21 (1) The formation of a hospital mutual company or similar entity as a mechanism for  
22 helping hospitals secure insurance and for stabilizing the insurance market;

23 (2) The formation of additional physicians' mutual insurance companies or similar  
24 entities;

25 (3) The creation of a joint underwriting association to provide medical malpractice  
26 liability insurance for physicians and hospitals;

27 (4) The formation of a state funded or administered insurance plan providing medical  
28 malpractice liability insurance coverage for physicians and hospitals in this state;

29 (5) The creation of alternative pooling agreements to facilitate the issuance and  
30 underwriting of medical malpractice liability insurance policies in this state; and

31 (6) Implementing other means or methods to increase competition, attract more insurers  
32 to the state, and increase the availability and affordability of medical malpractice liability  
33 insurance coverage in this state.

34 (e) The Commissioner shall issue a report to each member of the General Assembly that  
35 shall include the results of the study required by this Code section and shall make  
36 recommendations concerning the feasibility and desirability of creating any of the options  
37 referenced in subsection (d) of this Code section or any other recommendations concerning

1 the present state of the medical malpractice liability insurance market in this state. The  
2 report shall be distributed within 180 days after July 1, 2003."

3 **SECTION 4.**

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