Texas Tort Reform and Commercial Auto Liability Litigation

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Abstract

The purpose of this study is to examine the impact of Texas Tort reform on litigation and settlement trends with a broader context of social inflation. Throughout the decades, Texas tort reform underwent various drastic changes. Insurance companies left the state due to increasing average cost of claims and litigation costs, resulting in caps on non-economic damages being proposed and debated. Eventually, a non-economic damage cap of $250,000 was implemented in 2003**,** but there is no cap on actual damages that were incurred by patients. Analysis was done on written premiums, earned premiums, and direct losses incurred using data obtained from the National Association of Insurance Commissioners (NAIC,) which was sourced from S&P Capital IQ. The preliminary results demonstrate that the Texas Loss Ratio decreased heavily after 2000, and remained stagnant from 2003 to 2011. There has been a significant increase from 2012 until 2021. There is preliminary evidence that tort reforms had some impact on company profitability, but the magnitude and relevance require further research.

Introduction

- ➢ The purpose of this study is to examine the impact of Texas Tort reform on litigation and settlement trends with a broader context of social inflation.
- ➢ Tort reform is the changing of laws that govern the types of awards litigants can be given or the amounts they can be given in certain categories of awards.
- ➢ Texas tort reform went through various significant changes throughout the past half-century.
- ➢ From 1971-1976, a large amount of companies left the state due to premiums increasing
- ➢ In 1977, the Medical Liability Insurance and Improvement Act added a cap on non-economic damages
- ➢ In 1988, the Texas Supreme Court found that the non-economic cap was unconstitutional, and lawsuits began to skyrocket.
- ➢ In 2003, the Texas Legislature was granted the power to pass a $250,000 non-economic damage cap to limit damages to what the plaintiff paid or incurred.

Methods

Research Method: Secondary Data Analysis / Archival Study

Data Source

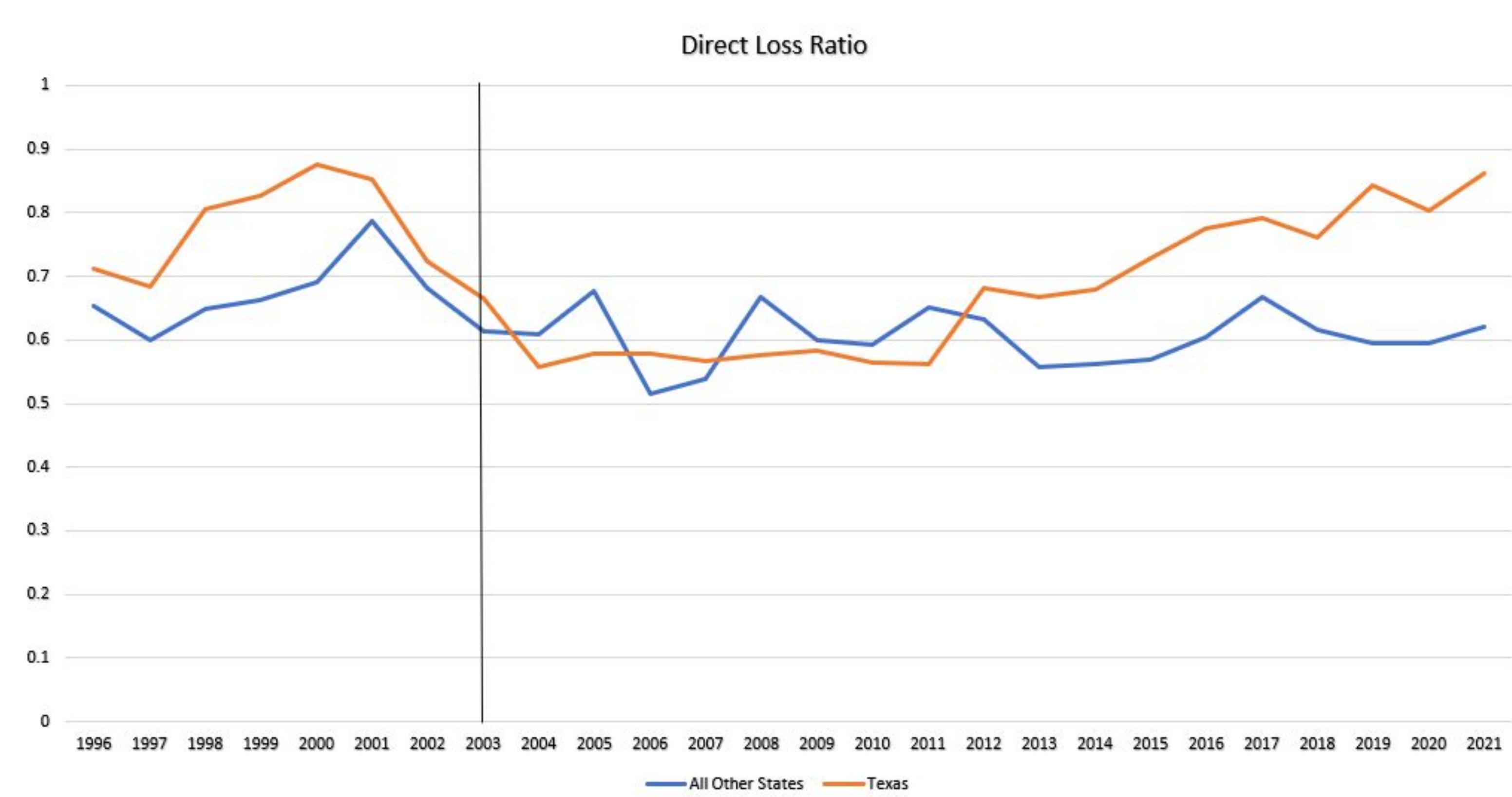
The data used for this study was obtained from the National Association of Insurance Commissioners (NAIC) which was sourced from S&P Capital IQ. The dataset consisted of two sheets of data for Direct Premiums Written, Direct Premiums earned, and Direct Losses Incurred. The data covered all 50 states, with a specific focus on Texas, spanning the years 1996 to 2021.

Data Collection

The data was collected by extracting the relevant information from the two sheets of data provided by S&P Capital IQ. The data was then segregated into two groups, comprising the Direct Premiums Written, Direct Premiums Earned, and Direct Losses Incurred of the 49 states and Texas. This separation was necessary to enable a comparative analysis of the data for Texas with the remaining 49 states.

Data Analysis

The data obtained was analyzed by for Written Premiums and Direct Loss Ratio for both Texas and the remaining 49 States.



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All States and Texas Discussion

- ❖ Firstly, the trends and fluctuations in these data points can provide insights into the overall health and stability of the industry, or indicate that tort reforms are necessary. For example, if premiums are consistently increasing over time, it could indicate that the industry is growing and becoming more profitable, while if loss ratios are consistently high, it could indicate that there are underlying issues with risk management and claims handling. Understanding these trends and how they vary between different states and over time can help stakeholders in the industry make informed decisions about pricing, underwriting, and risk management.
- ❖ Secondly, the potential relationship between tort reform and these data points is interesting because it speaks to broader debates about the role of tort law in the United States. Tort reform measures have been a topic of significant political and legal controversy, with some arguing that they are necessary to prevent frivolous lawsuits and reduce costs for businesses, while others argue that they limit access to justice for injured individuals and undermine important legal protections. By examining the relationship between tort reform and the auto commercial liability industry, we can gain insights into the potential impacts of these policies and how they shape the legal landscape more broadly.
- ❖ In the case of the commercial auto liability industry, there is a relationship between the direct loss ratio and written premiums. When the direct loss ratio is high, insurance companies may need to increase premiums in order to cover their costs and maintain profitability. Conversely, when the direct loss ratio is low, insurance companies may be able to reduce premiums or keep them stable in order to remain competitive.

Analysis

- ❖ *Volatility*: The data for Texas is generally more volatile than the data for all states. This is particularly evident in the written premiums trend line, which shows more significant fluctuations over time.This could also be due to the smaller volume of data for Texas, as compared to all other states combined, which is much larger.
- ❖ *Magnitude of change*: While both Texas and all states show an overall increase in written premiums over time, the magnitude of change is much greater for Texas. From 1996 to 2021, Texas shows an increase of 390.66% in written premiums, compared to an increase of 182.6% for all states. The dramatic increase in written premiums for Texas during this time period demonstrates that the tort reforms in place reduced non-economic damages that could be awarded in suits, and thus reduced the amount of suits, and led to an increase in premiums that were written.
- ❖ *Tort reform impact:* While it is difficult to measure the exact impact of tort reform on the data, the change in tort law and regulation have made a significant impact on the data. In 2003, after Proposition 12 was passed, the direct loss ratios graph demonstrates that the losses incurred plateaued for many years, demonstrating the effectiveness of the bill. However, the loss ratio begins to increase back in 2010.