

# THE “GEORGIA COVID-19 PANDEMIC BUSINESS SAFETY ACT

On August 6, 2020, Governor Kemp signed into law the *Georgia COVID-19 Pandemic Business Safety Act* (the “Act”) which provides Georgia businesses, including churches and schools, broad protections against COVID-19 related claims, subject to several contingencies described below. The Act applies to all causes of action accruing between August 6, 2020 and July 14, 2021.

In general, the Act applies to claims for the injury or death of a claimant related to:

- (1) The transmission, infection, exposure, or potential exposure of COVID-19 which occurs on the premises of any *entity*; and
- (2) The manufacturing, labeling, donating, or distribution of PPE or sanitizer to the claimant during a public health state of emergency for COVID-19, which departs from the normal manufacturing, labeling, donating, or distribution by the entity, and which is the proximate cause of the claimant’s damages.

“Entity” as defined within the Act includes the following, along with their trustees, partners, limited partners, managers, officers, directors, employees, contractors, independent contractors, vendors, officials, and agents:

- Associations
- Institutions
- Corporations
- Companies
- Trusts
- LLCs
- Partnerships
- Religious organizations
- Educational organizations
- City, County, and other governmental bodies, departments, divisions, and bureaus
- Volunteer organizations

## Limited Liability

Under the Act, no entity or individual shall be liable for any damages from the claims referenced above unless the claimant is able to prove that the entity or individual (i) was grossly negligent (e.g., failed to use at least slight diligence or care), (ii) exhibited willful and wanton misconduct, or (iii) recklessly or intentionally inflicted harm.

## Assumption of the Risk

Moreover, when a potential claimant now enters an entity’s premises (i.e., property owned, occupied, leased, operated, maintained, or managed by an individual or entity, whether residential, agricultural, commercial, industrial, or other real property located in Georgia) there is a rebuttable presumption that they have assumed the risk of transmitting COVID-19, becoming infected with COVID-19, and/or being exposed or potentially exposed to COVID-19, absent a showing of (i) gross negligence, (ii) willful and wanton misconduct, or (iii) reckless or intentional infliction of harm, by the entity or individual. Note, however, that this presumption is conditioned upon the entity or individual doing one of the following two things:



(1) Issuing the claimant a receipt or proof of purchase (e.g., an electronic or paper ticket, or wristband) for entry or attendance which includes the following written statement:

***Any person entering the premises waives all civil liability against this premises owner and operator for any injuries caused by the inherent risk associated with contracting COVID-19 at public gatherings, except for gross negligence, willful and wanton misconduct, reckless infliction of harm, or intentional infliction of harm, by the individual or entity of the premises.***

Please note: The above statement must be printed in at least ten-point Arial font, and placed apart from any other text.

OR

(2) Posting at the point of entry the following written warning:

**Warning**

**Under Georgia law, there is no liability for an injury or death of an individual entering these premises if such injury or death results from the inherent risks of contracting COVID-19. You are assuming this risk by entering these premises.**

Please note: The above warning sign must be printed in at least one-inch Arial font and placed apart from any other text.

This new law is obviously great news for Georgia businesses wary about operating during these unprecedented times, and it hopefully will provide them with the much-needed encouragement to forge ahead.

If you have any questions about this new law or any other issues, please contact us at (678) 424-6500.