

Louisiana Property and Casualty Insurance Commission Full Commission Meeting

**Wednesday, February 4, 2009
Louisiana Department of Insurance
Plaza Hearing Room
1:30 p.m.**

Minutes

Commission Members Present: Commissioner Donelon, Ted Haik, Jeff Albright, Senator Hebert, Senator Morrish, Representative Monica, Raymond Aleman, Fabian Blache (representing Chris Broadwater), Lorrie Brouse, Marc Carter, Manuel DePascual, Kay Hodges, Jim Dickerson (representing Col. John LeBlanc), Rick McGimsey, Earl Taylor, Cherie Pinac (representing Aubrey Temple)

Commission Members Absent: Representative Page Cortez

Commission Staff Present: Terrell Moss, Joyce Paul, David Evans and Katie Walsh

Senate and House Committees on Insurance Members Present: Senator Gerald Long, Senator Jean Paul Morrell, Senator Nick Gautreaux, Senator Reggie Dupree, Representative A.B. Franklin, Representative Kevin Pearson and Representative Kirk Talbot

DOI Staff Present: Rich Piazza, Ed O'Brien, Clarissa Preston, Warren Byrd, Judy Wright, Trent Beach, Denise Cassano, Charles Hansberry, Alison Jones, John Lamke and Roxie Brion

Chairman Ted Haik called the meeting to order at 1:40 pm. He welcomed the Commission members and other meeting attendees. He thanked the members of the Senate and House Insurance Committees for their attendance.

Ms. Katie Walsh called the roll.

Mr. Ed O'Brien, Deputy Commissioner of the Office of Property and Casualty at the Department of Insurance, briefed the Commission members on the state of Louisiana's automobile insurance market. Mr. O'Brien reported that while Louisiana provides a widely competitive market for auto insurance, the state currently has the third highest auto rates in the country. He stated in order to reduce the premiums, we must look at reducing the costs which includes medical, auto repair, fraud, litigation and property damage losses. Discussion followed.

Commissioner Donelon also shared his perspective of the state's auto insurance market. He summarized past plans of action taken to reduce auto premiums in the state, discussing the Choice Plan, the Omnibus Premium Reduction Act (OPRA), and No Pay/No Play. Mr. Donelon said he would be in favor of a drivers' license point system, where drivers would pay for their

risk share, although the plan may be somewhat controversial and costly to enforce. The Commissioner addressed the issue of unprotected railroad crossings and the number of fatalities caused by the current situation. He urged the LPCIC to further study mileage based auto coverage and on-line insurance coverage verification. Mr. Donelon stated that full compliance with the compulsory liability laws will have a minimum effect on rates and would slightly reduce the costs for uninsured/underinsured motorist coverage. In closing, Commissioner Donelon noted that Louisiana has made positive progress over the past several years, citing an article in the *Wall Street Journal* which recognized the positive actions taken by Louisiana since the hurricane disasters in 2005.

Representative Monica voiced the sentiment of many commission members when he declared that Louisiana's third place ranking for auto insurance premiums is unacceptable. He supports taking action through legislation evolving from this group. (In 2006, the state's combined average premium for personal auto was recorded at \$1285.43, over \$300 higher than the countrywide average of \$936.60.)

Mr. Marc Carter, LAFAC, Inc. representative on the commission, discussed the state of the auto industry in Louisiana. Comparisons were made with neighboring states on minimum liability limits, the impact of uninsured motorists and premium rankings. He explained the "PAIN Index" which compares average premium expense to average income, placing Louisiana at the top of the index. The state ranks poorly in bodily injury claims in both frequency and severity, which contributes to the lowest ranking for profitability over a ten year average. The high jury trial threshold, the direct action statute and attorney involvement were also discussed.

Senator Long questioned whether the frequency of claims varied by regions of the state and whether rates reflect any differences. Discussion followed.

Mr. Greg LaCost, of the Property Casualty Insurers Association of America (PCI), covered the topics of ratemaking, insurance loss comparisons, cost drivers, and legislative recommendations. He reported that while claim frequency throughout the state has decreased, severity of claims (average cost per claim per coverage) has risen. Mr. LaCost also noted that Louisiana's bodily injury liability costs, property damage liability costs, and comprehensive and collision costs are all significantly higher than the national average. Other costly statistics include the growing fraud problem, high dollar amounts spent on legal-related expenses in the state, high traffic density, and expensive body shop repair costs. The legislative recommendations from the PCI include:

- Implement true competitive-based rating law (file and use)
- Study switching from tort to no-fault with verbal threshold
- Convert UIM damage trigger provision to limits trigger provision (no stacking)
- Judicial modernization; lower jury thresholds for civil lawsuits

Senator Gautreaux suggested that Louisiana's twelve month prescription period forces more claims into court, in comparison with the twenty-four months allowed by many other states. Discussion followed.

Representing the American Insurance Association, Mr. Kevin Cunningham was the panel's next speaker. He stated that while the auto insurance market has made positive progress in recent years, including the passage of No Pay/No Play, new seatbelt laws, the OPRA bill, graduated licensing, and the repeal of the Louisiana Insurance Rating Commission, further strides must be made to cut auto insurance costs, including diminishing litigation and reducing bodily injury claims. Mr. Cunningham asserted that there were too many policies concentrated in too few insurers, emphasizing the need for more competition. The American Insurance Association supports the following legislative recommendations:

- Promoting competition and rating freedom to attract more carriers, pricing options, and product choices
- Improving child restraint laws, graduated licensing system, seatbelt usage laws, red-light cameras, repeat offender laws, and instituting a senior driving exam
- Working with organizations to eliminate fraud

Senator Hebert recounted the legislation that has been adopted since 1996 that was intended to reduce auto rates and questioned if the state had ever realized adequate rate savings. Some of the examples were: No Pay/No Play, raising the driver's age, open container law, red light cameras and the toughest fraud laws in the country. He sought a commitment from the insurer representatives present for rate reductions based on legislation. Discussion followed.

Representative Monica made a motion to form a subcommittee to produce a comprehensive legislative package and report to the LPCIC with its findings at the next meeting. Mr. Haik deferred the motion in order to discuss this concept in more detail with Representative Monica.

Representative Talbot suggested that the actions taken for homeowners insurance (Incentive Program) could be applied to the auto market, attracting more insurers which would lower rates through competition.

Senator Dupree referenced the high incidence of DWI's in the state and suggested supporting the legislative recommendations forthcoming from the Governor's DWI Task Force.

Mr. Ken Moore, the Auto Claim Section Manager of State Farm Insurance Co., suggested that several factors that drive up the cost of auto insurance include the frequency of auto accidents in Louisiana as compared to other states, the direct action statute, jury threshold, and comparative negligence. He also pointed out that auto insurance carriers in Louisiana are not allowed to rate collision and comprehensive coverage and apply deductibles based on non-at-fault accidents, making rates not actuarially sound and causing drivers who avoid accidents to subsidize those who do not. He stated that 58 percent of our book of business would have lower rates, 2 percent would pay the same rate and 40 percent would pay a higher rate. Mr. Moore provided statistics on the frequency of injury claims to property damage claims. As an example, in Louisiana per 100 third-party property damage claims, there are 35 injury claims. Florida, for example is 19 per 100; Kentucky is 18 per 100; and we've got a whole list here; Georgia is 21 per 100.

Mr. Haik acknowledged the statistics and questioned whether something could be done.

Mr. Moore suggested that Louisiana go from a pure comparative negligence law to a modified comparative. Currently, there are 33 states with some type of modified comparative while Louisiana is one of 11 states with a pure comparative system of some type.

Mr. Mike Mitternacht, President of Factory Service Agency, Inc. and a past chair of LABI, presented a non-insurance industry perspective on the topic of automobile insurance rates. As a small business owner, he spends approximately \$130,000 annually for all of his insurance coverage, of which \$30,000 is required to insure ten to eleven company vehicles. All efforts are made to maintain a good experience rating to avoid higher premiums. In reference to the seven percent profit margin in Louisiana's 2007 auto market, Mr. Mitternacht compared his business' profit in the New Orleans area and could only wish for that return. He stated that with construction down and wages up, it's a tough battle right now, and insurance is a big portion of our overhead. Any help that we can get from the LPCIC and legislation to lower the insurance rates will be appreciated.

Dr. Helmut Schneider presented an abbreviated version of the Louisiana Traffic Records Data Report to the Commission members. Dr. Schneider is the Director of the Highway Safety Research Group, and is also an Ourso Family Distinguished Professor of Information Systems and Chairman of Information Systems and Decision Sciences at LSU. In 2007-2008, there were 993 traffic related fatalities, of which, alcohol, lack of seatbelt use, and aggressive driving were the major causes. All crashes and traffic related injuries have been trending downward since 2002, and serious injuries have been declining since 2000; however, the percentage of alcohol-related fatalities has increased since 2005. It is reported that approximately 75 percent of vehicle occupants in Louisiana wear a seatbelt, a statistic which has not changed much over the past six years. The percentage of occupants killed not wearing a safety belt remains over 60 percent. Dr. Schneider also discussed motorcycle statistics, noting that the number of motorcycle crashes in the state doubled between 1999 and 2006, but the percentage of motorcycle fatalities has decreased since 2004. He pointed out that the cost of crashes to Louisiana citizens totals about \$6 billion annually, with the breakdown including \$1.3 billion for alcohol-related crashes, \$0.95 billion for no seatbelt use, and \$392 million for motorcycle crashes.

Chairman Haik thanked all Commission members, guest speakers, and Legislators for participating in the meeting. Possible dates for the next LPCIC meeting were discussed briefly. This will be the last commission meeting before the LPCIC Annual Report is due prior to the Legislative Session in April.

With no further business to discuss, and upon a motion from the Chair that was seconded, the Louisiana Property and Casualty Insurance Commission meeting adjourned at 4:20 pm.