

Louisiana Property and Casualty Insurance Commission

Annual Report 2014 – 2015



**Louisiana Department of Insurance
James J. Donelon, Commissioner**

Louisiana Department of Insurance

This public document is published at a total cost of \$690.34. 34 copies of this public document were published in this first printing at a cost of \$20.96. The total cost of all printings of this document including reprints is \$690.34. This document was published by the Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214 to report actions, studies and recommendations of the Louisiana Property and Casualty Insurance Commission regarding laws and issues affecting property and casualty insurance in accordance with R. S. 22:2171. This material was printed in accordance with standards for printing by State Agencies established in R.S. 43:31.

Table of Contents

Message from the Chairman	2
State of the Market: Quick Facts	3
I. Brief Legislative History and Purpose	4
II. Membership	4
III. Meetings and Presentations	6
IV. Legislative Recommendations for the 2015 Regular Session	10
V. Study Issues	11
VI. Final Note	12
VII. Appendix A: Meeting Agendas	13



Louisiana Property and Casualty Insurance Commission

Message from the Chairman

As chairman of the Louisiana Property and Casualty Insurance Commission (LPCIC) and its representative from the Professional Insurance Agents of Louisiana (PIA), I am honored to present its 2014 - 2015 Annual Report. The commission is a blue ribbon panel composed of members of the Legislature (including Senators Morrish and Johns, as well as Representatives Cromer and Talbot), designees from the governor's office, the attorney general's office, the Louisiana Highway Safety Commission, the insurance commissioner's office (including Commissioner Donelon), law enforcement, the Commissioner of the Office of Motor Vehicles (Stephen Campbell), and numerous insurance industry representatives including our Vice Chairman Jeff Albright, representing the Big I.

The Commission's directive is to explore opportunities to positively impact Louisiana's insurance environment. Our goal is to protect its citizens, find ways to lower insurance costs, and to generally improve Louisiana's insurance market.

Over the past year the commission has addressed insurance issues related to Transportation Network Companies (such as Uber and Lyft) with an eye towards ensuring the citizens of Louisiana will be properly protected. As a result, Insurance Commissioner Donelon has proposed legislation entitled: "The Transportation Network Company Motor Vehicle Responsibility Law". The commission also tackled Distracted Driving, which is quickly becoming the number one killer on our roads, surpassing even drunk driving.

In the coming year we hope to dive deeper into the root cause of Louisiana's high auto insurance rates to see if we can statistically pin down what has caused our rates to become some of the highest in the nation. While we have identified what we believe to be the issues, we will focus on consensus building and statistical data analysis in an effort to seek support for reforms.

Louis G. Fey, Jr., CPCU, CIC, CRM, AIC
Chairman,
Louisiana Property & Casualty Insurance Commission

State of the Market: Quick Facts

Homeowners:

- Competitive voluntary market has been re-established since 2005.
- Insurance market stabilized by increased number of carriers. 21 new companies writing in Louisiana who were not here in 2005.
- Residual market share continues to decrease with 50% drop since 2008.
- Market wide insurance premium increase of only 2.8 percent last year – lowest statewide average increase since 2005.
- Louisiana ranked second in the average cost of insurance in 2012 at \$1,742.* Louisiana's rates have increased at a rate lower than the national average between 2007 - 2012.

Automobile:

- Competitive but challenging market.
- Increased minimum liability limits in 2010 resulted in a 12-15 percent rate increase.
- New Orleans area parishes pay the highest rates.
- Market wide insurance premium increase of only 3.5 percent last year.
- Louisiana ranked third in the combined average cost of insurance in 2012 at \$1,275.*

Workers' Compensation:

- Market remains competitive.
- Lost-time claim frequency decreased and medical severity increased in 2012.
- Premium volume increased in 2013.
- Market wide insurance premium decrease of 1.9 percent last year.
- Overall statewide 2.4 percent decrease approved for rate filings for 2015.**

* According to the most recent NAIC data.

** According to the most recent NCCI data.

Louisiana Property and Casualty Insurance Commission

Annual Report 2014-2015

**Louisiana Department of Insurance
James J. Donelon, Commissioner**

I. Brief Legislative History and Purpose

In 1997, the Louisiana Legislature created the Council on Automobile Insurance Rates and Enforcement (CAIRE) to undertake a comprehensive study and provide oversight and recommendations aimed at enforcement of those laws and programs that affect automobile insurance rates. CAIRE researched and studied many ideas that have been beneficial in the area of lowering automobile insurance rates.

Due to CAIRE's thorough studies of law enforcement and automobile insurance issues in the state, the Louisiana Legislature expanded CAIRE's realm of study in 2001 to include not only automobile insurance but also homeowners insurance and workers' compensation insurance, thus forming the Louisiana Property and Casualty Insurance Commission (Act 187 of the 2001 Regular Session). The Louisiana Property and Casualty Insurance Commission (LPCIC, or Commission), which consists of three ad-hoc committees (Automobile, Homeowners and Workers' Compensation) has been given the task of reviewing and examining the availability and affordability of property and casualty insurance in the state of Louisiana.

II. Membership

During the 2003 Regular Legislative Session, Act 590 amended and changed the makeup of the LPCIC. The Act also designated the ad-hoc committee memberships.

The amended Commission membership consisted of a 22-member panel. A representative of law enforcement or his designee is now selected jointly by the superintendent of the Louisiana State Police, the secretary of the Department of Public Safety and Corrections, the president of the Louisiana Association of Chiefs of Police and the president of the Louisiana Sheriffs' Association. Representatives of two national trade organizations and one state organization were added to the membership.

During the 2007 Regular Session, Act 459 abolished the Louisiana Insurance Rating Commission effective January 1, 2008, therefore eliminating their representative from the

LPCIC, and providing an additional appointee for the Commissioner of Insurance. Revised Statute 22:15 is now renumbered as R.S. 22:2171 by Acts 2008, No. 415, §1, effective January 1, 2009.

Effective August 1, 2012, Act 317 of the 2012 Regular Session provided the addition of two representatives to the membership. The new members are the Deputy Commissioner of Consumer Advocacy-Louisiana Department of Insurance (LDI) and a representative of the Louisiana Surplus Lines Association. Act 223 of the 2014 Regular Session added one additional member effective August 1, 2014, representing the National Association of Mutual Insurance Companies. The Commission now consists of 24 members.

The Commission is composed of the following members and their affiliations:

Louisiana Property and Casualty Insurance Commission as of December 2014:

Jeff Albright, Vice Chairman
Independent Insurance Agents & Brokers of Louisiana

Lee Ann Alexander
NAMIC Representative

Paul Buffone
LWCC Representative

The Honorable Gregory Champagne
Law Enforcement Representative

Louis G. Fey, Jr., Chairman
Professional Insurance Agents of Louisiana

Michael Guy
Attorney General's Representative

Wes Hataway
Office of Workers' Comp-Louisiana Workforce Commission

The Honorable Ronnie Johns
Senate Committee on Insurance

LTC John LeBlanc
Louisiana Highway Safety Commission

Robert Moorman
Property Insurance Association of Louisiana

Frank A. Opelka
Governor's Designee

The Honorable Earl Taylor
Louisiana District Attorneys Association

Resigned: **Wes Hataway- 1/15**
Frank Opelka 3/15

Appointed: **Patrick Robinson- 2/15**
Office of Workers' Comp- LA Workforce Commission
Lauren Gleason- 3/15
Governor's Designee

Staff: Terrell B. Moss, Director
David Evans, Insurance Specialist/Research Analyst

Raymond Aleman, Jr.
Commissioner's Appointee

J.E. Brignac, Jr.
LAFAC, Inc. Representative

Stephen F. Campbell
LDPS, Commissioner-Office of Motor Vehicles

The Honorable Gregory Cromer
House Committee on Insurance Chair

Julius W. "Will" Grubbs, Jr.
Consumer Representative, Speaker of the House

Christopher S. Haik
Consumer Representative, President of the Senate

Ron Henderson
Deputy Commissioner of Consumer Advocacy, LDI

B. Scott Landry
Louisiana Surplus Lines Association Representative

Ann Metrailler
PCI Representative

The Honorable Dan Morrish
Senate Committee on Insurance Chair

The Honorable Kirk Talbot
House Committee on Insurance

The Honorable James J. Donelon
Commissioner of Insurance

III. Meetings and Presentations

The Louisiana Property and Casualty Insurance Commission held four public meetings during this reporting period to receive information in order to discuss issues and trends that are affecting the property and casualty insurance market in the state.

Testimony was received from the commissioner of insurance, representatives of state agencies and associations, insurance industry executives and regional representatives, and business leaders. Comments were also received from the public in attendance.

Agendas from this meeting period are exhibited in Appendix A of this report.

September 4, 2014 Meeting

State of the Market: Commissioner's Remarks

Commissioner Donelon addressed the group on the state property and casualty market, describing the progress that has been made since Hurricanes Katrina and Rita. Through the efforts of government, industry and business leaders, Louisiana continues its successful recovery. Although some national insurers reduced their property insurance market share, others increased their business including two that doubled theirs. In addition, twenty-one new property insurance companies have entered our market and are actively writing business. He stated that one of the best barometers of the viability of our property and casualty market is the size of our residual market insurer Louisiana Citizens Property Insurance Corporation (Citizens). It has fewer policies today than prior to Katrina thanks to the healthy voluntary market. Even though pricing remains a challenge, Louisiana's property insurance market is more robust and competitive now than it was before Katrina. The Commissioner called Louisiana "a poster child" for the future among the two dozen coastal states that have tropical storm exposure.

Citizens Update

Mr. Dave Thomas, CEO of Citizens, explained the status of Citizens in terms of its mandates. In order to minimize the chance of assessment, Citizens has obtained \$650 million in reinsurance, which is equivalent to its claims' payout for two Hurricane Gustavs or a 1 in 111 year storm. Through its seventh and most successful round of depopulation, Citizens reduced its policy count by 14,000. Mr. Thomas credited this success to the fact that 35 percent of the agents of record released their policies for take-out. This reflects the highest percentage to date and may be attributed to the meetings facilitated by Citizens that brought agents and companies together. Currently Citizens has 98,000 policies and has just started the eighth round of depopulation and six companies have expressed interest in participating. Citizens has demonstrated good stewardship of its assets as recognized by a national organization, the Property Insurance Plans Service Office. Of the 35 residual insurers in the country, Citizens had the lowest operating cost at 7.6 percent. Mr. Thomas attributed this to moving claims

handling and underwriting in-house, saving \$2.6 million this past year and \$7 million projected over time. Cash preservation continues to be Citizens' greatest challenge. During the last twelve months, \$80 million was spent on past class action lawsuit settlements. However, non-storm related claims were the lowest in six years which has contributed to the building of reserves. Sufficient cash remains on hand to deal with a major storm this year without an assessment. In order to respond to claims in a timely and fair manner within the statutory requirements, Citizens has contracted for and trained catastrophe adjusters, established two call centers, backed up its computer system and installed its own generator in order to meet the demands of any significant weather event. All these things contribute to a culture of accountability towards policyholders, agents and the public at large.

2014 Regular Session Legislation: Property and Casualty

A compilation of legislation enacted during the 2014 Regular Session was distributed to the membership for review including actions taken on LPCIC recommendations. The Commission continues to recognize the impact of new legislation and its effect on the property and casualty market.

Discussion Points:

Commissioner Donelon:

- The Session produced some progress and, more importantly, avoided negatives to the state's market.
- Acts 114 (Citizens' take out program) and 117 (travel insurance) by Senator Morrish.
- HR 42 (TRIA reauthorization) by Representative Cromer.
- Acts 458 (DWI/License reinstatement), 118 (Producer license reinstatement) and SR 18 (TRIA reauthorization) by Senator Johns.
- Act 559 (Uninsured school bus drivers) by Representative Talbot.

Lou Fey: VP-Risk Management, Bancorp South/Wright and Percy

- LPCIC recommendations: One enacted- Act 458.
- Ban on hand held cell phone use failed.
- Jury Trial Threshold
 - First time a bill made it out of committee.
 - Senator Morrish's idea to phase out the threshold may be a workable solution.
 - Suggestion to set threshold at \$10,000, preferably \$5,000, to keep below the \$15,000 minimum bodily injury liability limit.
 - No data available to support tying a lower jury trial threshold to lower insurance rates.
 - Industry concerns regarding tying a lower threshold to a mandatory rate rollback.

Wes Hataway: Director, Office of Workers' Compensation, LA Workforce Commission

- Act 375 (Workers' Compensation insurance compliance)

- HCR 99 (Study on over-prescribing of pain medication)

Mike Barron: Impaired Driving Coordinator, LA Highway Safety Commission

- Act 458 (DWI/License reinstatement)
- Act 385 (Reorganized DWI laws)
- Act 299 (Fingerprinting of DWI arrestees)

December 4, 2014 Meeting

Presentation: Distracted Driving- Personal and Professional Considerations- Are We Doing Enough to Save Lives in our Communities?

Mr. Joel D. Feldman, founder of EndDD.org, brought his expertise and dedication to the topic through his presentation to the Commission. The loss of his daughter by a distracted driver has reinforced his commitment to changing attitudes and behaviors of all drivers through education. Not just the drivers' texting and talking on their hand-held cell phones, but including any behavior that diverts the hands, eyes, or mind from the primary task of driving.

Studies have shown that talking on a cell phone creates risks similar to driving with a .08 BAC. He illustrated the problem with videos of actual distracted driving to raise awareness and reform behavior. Various approaches for employers, parents and teenagers were discussed in order to help with the recognition of the danger and disconnection between what we say and what we do. Both drivers and passengers share responsibility and choices to resolve distracted driving behavior through non-confrontational intervention. Motor vehicle crashes are the leading cause of death for 16-21 year olds. The majority of these crashes are caused by speeding, the lack of scanning skills for the environment or driver distractions.

Mr. Feldman noted a study which found a 40 percent decrease in the visual function of the brain when engaged in cell phone use. Although studies have generally shown little reduction in crashes when driver hand-held cell phone use is banned, Mr. Feldman strongly supported such a law for the general reduction in cellular use, the anti-distracted driving message that is sent, and the dialog that results.

He stated that a combination of legislation and diligent enforcement seems to work. Laws banning texting with primary enforcement have shown a three percent reduction in fatalities for some states and were most effective in reducing fatalities for younger drivers. Mr. Feldman emphasized that the combination of these four factors are needed to curb distracted driving: legislation, enforcement, technology, and education.

Ultimately, Mr. Feldman believes that education is the key to raising the awareness that will lead to attitude and behavior changes that reduce distracted driving in all of its forms.

January 28, 2015 Meeting

Transportation Network Companies (TNCs)

Mr. Joe Woods, Vice President-State Government Relations of the Property Casualty Insurers Association of America (PCI) provided the members with background information on TNCs and the coverage issues from the insurance industry's perspective. He stated that industry appreciates the innovation of the TNC concept and the emerging market, however, insurance coverage questions must be clarified. The issue is "when does a TNC driver's coverage change from the driver's personal passenger auto policy to the TNC's commercial auto policy?" Mr. Woods explained that PCI recognizes three stages of TNC insurance coverage:

- Period 1: Driver's phone app is on and waiting for a match.
- Period 2: Match made but no passenger in the vehicle yet.
- Period 3: Passenger in the vehicle.

According to Mr. Woods, a coverage gap exists in Period 1. TNCs only provide 50/100 contingent coverage, no uninsured motorist (UM)/underinsured motorist (UIM) coverage, medical payments coverage, comprehensive and collision coverage.

Coverage would fall under the TNC policy in Periods 2 and 3. The TNC policy would have a \$1 million in coverage and include UM/UIM and medical payments where required. Comprehensive and collision coverage would be covered if drivers have purchased this coverage for their personal passenger auto policy.

Mr. Woods reported that while insurers are developing endorsements for their personal lines auto insurance, four states have adopted legislation to address liability issues. However, PCI thinks that the new laws have not entirely taken care of the problems.

Mr. Curtis Scott, Senior Counsel with Uber Technologies, Inc. gave a brief history on the development of Uber, its international growth and its three levels of service which are limo/livery, taxi and ridesharing/TNC. Uber checks out each driver's background for criminal activity, driving history and vehicle requirements. Uber wants to meet or exceed state mandated insurance and has coverage that is equal to or greater than what is required of taxis and limos in every jurisdiction in the United States. He stated that liability insurance gaps do not exist in the insurance maintained by Uber for state mandated coverage.

Mr. Scott reviewed the key points for insurance for Ridesharing/TNCs which are:

- Protect passengers and drivers with best in class coverage while on a trip.
- No reliance on personal auto while on a trip (en route or transporting).
- No gaps in state mandated coverage while available for requests.

According to Mr. Scott, Period 1 risk is comparable to normal personal use and commercial risk is primarily in Period 3. He mentioned that Illinois is the latest state to adopt TNC legislation and stated that 17 other municipal ordinances follow Illinois, the District of

Columbia and Colorado. Mr. Scott told the members that six carriers have filed TNC personal auto insurance endorsements in five states. Uber has made an impact by reducing personal auto ownership and usage, and most importantly, reduced drunk driving. He stated that Seattle had a decrease of 10 percent in the incidents of drunk driving after allowing TNCs.

March 4, 2015 Meeting:

The LPCIC met to discuss and vote on legislative recommendations presented to the membership. After deliberation, the actions taken by the Commission are listed below as recommendations.

IV. Legislative Recommendations for the 2015 Regular Session

1. Allow sunset of the exemption of the 10 percent surcharge to the Citizens' policyholders in the designated coastal parishes.

Act 632 of the 2012 Regular Session will sunset August 15, 2015. There are approximately 65,000 policyholders in the 12 parishes that would be affected.

2. Ban the manual use of all electronic devices not permanently installed in a vehicle by the operator of the vehicle, while the vehicle is in motion.

This will reduce distracted driving crashes, injuries and deaths. Cognitive demands of the use of hand-held devices narrows our field of vision and creates distraction affected driving. Studies have shown that this type of distraction results in risk similar to driving with a .08 BAC and a four times greater chance of being in a traffic crash.

3. Increase Seat Belt Fines.

Statistics have shown that states with higher fines have a more effective seat belt usage. In many states, fines for violating seat belt laws are so small that they don't motivate people to wear their seat belt. Increasing a seat belt fine from \$5 to \$100 can increase seat belt use by more than 10 percentage points. For instance, an increase from \$25 (Louisiana) to \$60 can increase belt use by three to four percentage points.

Based on 2013 Stats: 1st Offense Nationwide: 87% Usage Louisiana: 82.5%

Oregon: 98.2% usage with \$110 fine

Texas: 90.3% usage with \$200 fine

Washington: 94.5% usage with \$124 fine

4. Provide legislation for the regulation of transportation network companies in regards to appropriate liability insurance coverage.

In 2014, 10 states considered legislation with three states - Colorado, California, and Illinois - plus the District of Columbia enacting laws. In 2015, at least 36 states are considering legislation with bills in Georgia, Indiana, Mississippi, Ohio and Washington to name a few.

(A bill will be filed in Louisiana)

5. Support any effort to lower the civil jury trial threshold.

There are 14 states that have a civil jury trial threshold. Louisiana is at the extreme with a \$50,000 threshold. Maryland comes in second at \$15,000, followed by Rhode Island and Hawaii at \$5,000. Thirty-six states have no threshold. Lawsuits below this amount are heard by a judge instead of a jury. From the insurance companies' perspective this restricted access to jury trials results in fewer out-of-

court settlements, more lawsuits, and higher and more frequent awards to the plaintiff. Lower loss trend projections for insurers should in effect reduce premiums for consumers.

The Louisiana Property and Casualty Insurance Commission submit these recommendations for consideration and strongly endorse legislative action in support of these concepts.

V. Study Issues

The Louisiana Property and Casualty Insurance Commission will continue to study various property and casualty issues throughout the year. Striving for affordability and availability in a competitive market is a primary concern.

The Commission will continue to monitor the state's residual property insurer, Louisiana Citizens Property Insurance Corporation.

The Commission will continue to monitor the developing studies and cost components in the workers' compensation market.

The Commission will continue to monitor state and federal legislation affecting property and casualty insurance.

The Commission will continue to attend the various meetings and conferences across the state that promote and advance all of these issues.

VI. Final Note

We trust this report will have some impact on the legislation in the 2015 Regular Legislative Session.

The members and staff of the Louisiana Property and Casualty Insurance Commission are charged with reviewing property and casualty issues and developing concepts that will promote a healthy, competitive insurance marketplace in Louisiana.

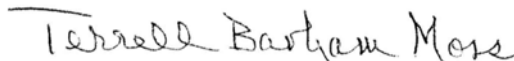
The Louisiana Property and Casualty Insurance Commission is committed to working with the Department of Insurance, the Legislature, the insurance industry and all interested stakeholders to increase the affordability and availability of insurance in the state of Louisiana.



**Louis G. Fey, Jr.
Chairman**



**Jeff Albright
Vice Chairman**



**Terrell Barham Moss
Director**

This report is available on the Louisiana Department of Insurance website
www.lidi.la.gov

VII. Appendix A: Meeting Agendas

September 4, 2014- Full Commission Meeting

- I. Call to Order
Lou Fey, Chairman
- II. Roll Call
- III. Chairman's Remarks
Lou Fey
- IV. Commissioner's Remarks
James J. Donelon, Commissioner of Insurance
- V. LA Citizens Property Insurance Corporation Update
Dave Thomas, CEO
- VI. 2014 Legislative Update
Lou Fey, VP-Risk Management, Bancorp South/Wright & Percy
Wes Hataway, Director, Office of Workers' Compensation, LA Workforce Commission
Mike Barron, Impaired Driving Coordinator, LA Highway Safety Commission
- VII. Public Comments
- VIII. Adjournment

December 4, 2014- Full Commission Meeting

- I. Call to Order
Lou Fey, Chairman
- II. Roll Call
- III. Introduction of Speaker
Lou Fey
- IV. Presentation: Distracted Driving- Personal and Professional Considerations- Are We Doing Enough to Save Lives in our Communities?
Joel D. Feldman- End Distracted Driving (EndDD.org)
- V. Discussion on Possible Legislation
- VI. Public Comments
- VII. Adjournment

January 28, 2015 – Full Commission Meeting

- I. Call to Order
Lou Fey, Chairman
- II. Roll Call
- III. Presentations and Discussion on Transportation Network Companies
Joe Woods- Vice President, State Government Relations
Property Casualty Insurers Association of America (PCI)
Curtis Scott – Senior Counsel
Uber Technologies, Inc.
- IV. Public Comments
- V. Adjournment

March 4, 2015 – Full Commission Meeting

- I. Call to Order
 Lou Fey, Chairman
- II. Roll Call
- III. Discussion and Voting on Recommendations by Membership
 Lou Fey- Facilitator
- IV. Public Comments
- V. Adjournment