

# **Louisiana Property and Casualty Insurance Commission**

**Annual Report 2011 – 2012**



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

Louisiana Department of Insurance

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## **Introduction: State of the Market**

Louisiana continues to recover from the worst oil spill disaster in the history of the United States as parts of the country continue to recover from a record number of isolated weather events. Weather-related catastrophes were on a record pace in 2011. Historically, location is the key. Areas of the country that have usually escaped these dangers were devastated by major weather events such as Hurricane Irene in the Northeastern U. S., killer tornadoes in Joplin, Missouri and Tuscaloosa, Alabama, and major flooding in New England. However, in the last two years this has not been the case for Louisiana as it has experienced no major hurricanes or tornadoes. The state even survived a record breaking flood season on the Mississippi River. Nonetheless, the risks remain.

Louisiana motorists have the ability to change their driving habits for the better. Drinking and driving remains a serious problem and the absence of properly restrained drivers and passengers is a constant. The statistics for seat belt usage have been static for approximately three years in the 75 percent range. The state is slightly above average for the number of crashes and property damage claims, but the number of claims for bodily injuries is the highest in the country. Automobile insurance rates are expensive in Louisiana. Based on the National Association of Insurance Commissioners (NAIC) 2009 Auto Insurance Database Report, Louisiana ranks number one for the combined average premium at \$1,270. This premium cost is approximately \$370 more than the countrywide average.

Louisiana remains the third most expensive market in the country for homeowners insurance, behind Texas and Florida. The statewide average premium is \$1,430 according to the latest data available from the NAIC for 2009. Although there have been larger increases in premium since Hurricane Katrina, the rate of increase has slowed the past two years due to the stabilization of the market in the state. Over a dozen new companies have come into the state and existing companies have increased their policy writing over the past six years. Moderate rate increases have continued for 2010 at 4.9 percent and for 2011 at 4.3 percent. The overall statewide increase was 4.3 percent for the homeowners book of business.

Louisiana's workers' compensation market has experienced a decline in profitability and a slight increase in rates. However, recent legislation and actions by the Office of Workers' Compensation within the Louisiana Workforce Commission are expected to have a positive impact on these negative trends. As the economy improves, more workers will be returning to the workforce, further enhancing the market.

The Commission will continue to serve within a framework of cooperation as they continue to exchange information to strengthen our markets for the benefit of our consumers.

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### **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 consists 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. Act 459 provided an additional appointee for the Commissioner of Insurance. Revised Statute 22:15 is now renumbered as LA R.S. 22:2171 by Acts 2008, No. 415, §1, effective January 1, 2009.

The Commission is composed of members of the Legislature, designees from the Office of the Governor, Insurance Commissioner, Attorney General, assistant secretary representing the Office of Motor Vehicles, Louisiana Workforce Commission, Louisiana Highway Safety Commission, Louisiana District Attorneys Association, along with representatives of the Independent Insurance Agents/Brokers of Louisiana, Professional Insurance Agents of Louisiana, Property Insurance Association of Louisiana, Louisiana Workers' Compensation Corporation, Property Casualty Insurers Association of America, Louisiana Association of Fire and Casualty Companies, and consumers.

### **Louisiana Property and Casualty Insurance Commission Members as of December 2011:**

**Jeff Albright**  
Independent Insurance Agents & Brokers of Louisiana

**Lee Ann Alexander**  
PCI Representative

**The Honorable Gregory Champagne**  
Law Enforcement Representative

**Manuel DePascual**  
Professional Insurance Agents of Louisiana

**Michael Guy**  
Attorney General's Representative

**Lance "Wes" Hataway**  
Office of Workers' Comp-LA Workforce Commission

**The Honorable Eric LaFleur**  
Senate Committee on Insurance

**Ann Metrailler**  
PCI Representative

**The Honorable Dan Morrish**  
Senate Committee on Insurance Chair

**Stephen Schremp**  
LAFAC, Inc. Representative

**Rina Thomas**  
Governor's Designee

**Staff:**  
Terrell B. Moss, Director  
David Evans  
Katie Walsh

#### **Appointed: January, 2012**

**The Honorable Gregory "Greg" Cromer**, House Committee on Insurance Chair  
**The Honorable Kirk Talbot**, House Committee on Insurance

#### **Resigned:**

The Honorable Page Cortez (Senator)  
The Honorable Charles "Chuck" Kleckley (Speaker)

**Raymond Aleman, Sr.**  
Commissioner's Appointee

**Paul Buffone**  
LWCC Representative

**The Honorable Page Cortez**  
House Committee on Insurance

**Nick Gautreaux**  
Commissioner, Office of Motor Vehicles

**Theodore "Ted" M. Haik, Jr.**  
Consumer Representative, House of Representatives

**The Honorable Charles "Chuck" Kleckley**  
House Committee on Insurance Chair

**LTC John LeBlanc**  
Louisiana Highway Safety Commission

**Robert Moorman**  
Property Insurance Association of Louisiana

**The Honorable Chris Roy, Jr.**  
Consumer Representative, Louisiana Senate

**The Honorable Earl Taylor**  
Louisiana District Attorneys Association

**The Honorable James J. Donelon**  
Commissioner of Insurance

### III. Meetings

The Louisiana Property and Casualty Insurance Commission held four public meetings during this reporting period to receive information that was necessary for discussion of issues that are affecting the property and casualty insurance market in the state.

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

The Workers' Compensation Ad Hoc Committee was activated this reporting period.

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

### IV. Issues Addressed

**Legislation:** Highlights of property and casualty legislation enacted during the 2011 Regular Session were presented to the Commission. Such a review is necessary to recognize progress that has been achieved. This Fiscal Session produced a number of laws of interest. Among the laws discussed were:

House Bill 505 (Act 192) increases minimum monitoring of the DWI offender ignition interlock device from every six months to every 60 days. The manufacturer has to report offender usage in an electronic format to the Department of Public Safety and Corrections. This increased monitoring and improved reporting should make the device a more efficient and effective tool in deterring DWI behavior.

House Bill 243 (Act 174) authorizes the installation of split-view television screens anywhere in motor vehicles as long as the image on the screen cannot be viewed by the driver while the vehicle is in motion.

House Bill 507 (Act 193) prohibits an applicant who has a previous DWI or refusal to submit to testing for suspected DWI from receiving a driver's license endorsement to drive a school bus, unless five years has elapsed since the disqualifying event and the applicant has completed approved substance abuse treatment following the offense or refusal. This bill establishes the same criteria for applicants that already existed for licensed school bus drivers.

House Bill 638 (Act 298) provides for the suspension of a driver's license when arrested for vehicular homicide. If the suspect is found to be alcohol and/or drug impaired, then his/her driver's license is suspended for one year, without the benefit of a hardship license. If convicted of DWI vehicular homicide, the offender's license is suspended for a period of two years following release from incarceration with credit for the time the license was suspended prior to conviction.

Senate Bill 164 (Act 307) requires driving instructors to become licensed as “third party testers” by June 30, 2012, so that they may administer the knowledge and skills tests required for a Class “D” or “E” driver’s license. This should reduce the demand on the Office of Motor Vehicle (OMV) personnel and make initial driver’s license issuance a more efficient process for the licensee and the OMV.

House Bill 635 (Act 370) provides that when the OMV receives an insurer’s report that liability coverage has been cancelled, the notice that OMV sends to the vehicle owner must advise the owner that he has 10 days from the date of the OMV notice to surrender the vehicle’s license plate or be subject to fines, which begin to accrue on the first day the vehicle is uninsured. Previously, a licensee had 10 days in which to obtain liability coverage without being fined. This measure should help discourage uninsured motorists.

House Bill 534 (Act 294) consolidates responsibility for the driver education programs with the Department of Public Safety and Corrections. Previously, the Department of Education had the responsibility for some of the programs. This should produce a more consistent and comprehensive product.

House Bill 275 (Act 373) permits the electronic delivery of insurance policies, in general, if each party agrees to this means of delivery.

Senate Bill 84 (Act 135) permits the short-rate calculation of unearned premium when a policy is cancelled by the insured. In order to do so, the policy must contain a provision for short-rate calculation and have been filed with and approved by the Commissioner. No admitted insurer may otherwise assess a penalty against the insured for cancellation of the policy prior to expiration. This act once again allows short-rate cancellation which was generally prohibited by Act 169 of the 2010 Session.

House Resolution 17 requests the Department of Insurance to gather information used to determine homeowner insurance premiums in the coastal parishes and insurers’ use of regional deductibles, and to report the results and any recommendations to the House Committee on Insurance by September 15, 2011.

A handout provided additional information that included brief summaries of legislation that concerned the state building code, DWI, highway safety, flooding issues, and auto, homeowners, and workers’ compensation insurance. Resolutions calling for studies on the impact of credit scoring on auto and homeowners insurance (House Concurrent Resolution 46), and feasibility of capping the homeowner insurance deductible at two percent (House Resolution 18) were noted as well.

Discussion was continued on Act 192 by Mr. Gautreaux. He also noted that detailed information generated by the electronic reporting on ignition interlock devices will increase enforcement. Penalties can be applied more effectively under existing rules and regulations.

The uninsured motorist population has continued to be a problem in the state. Statistics have remained approximately between 13 and 14 percent for several years. Mr. Gautreaux suggested the only way to dramatically reduce that number is to implement a “real time” verification system. Based on the experience of other states, he believes it is possible to reduce the number to five percent. “On the spot” enforcement and the imposition of a fine greater than the actual cost of liability insurance could make this a significant deterrent.

**Automobile Insurance:** A report on Road Safety Cameras, a system that was of interest to Commissioner Donelon and several LPCIC members, was presented to the membership by Mr. Charles Buckels of Redflex Traffic Systems. The report centered on the effectiveness and widespread use of “red-light” cameras. The cameras have been instrumental in reducing deaths and injuries at intersections, and in reducing crashes where speeding is a factor.

Nationally, road safety cameras have been in use for over 20 years; however, they have only been used in Louisiana for approximately four years. Currently there are 500 communities in 26 states that utilize the equipment. Louisiana’s limited experience mirrors the national trends. Mr. Buckels stated there had been a 75 percent reduction in speed-related crashes in Baker and a 65 percent reduction in intersection crashes in Lafayette at camera site locations. National studies prove that road safety cameras significantly reduce crashes when used and that crashes dramatically increase when the cameras are removed or banned.

In addition to highway safety benefits, photo enforcement reduces the time and expense of officers on traffic patrol and enhances their effective utilization elsewhere. Violators may be motivated to change their driving behavior when confronted with the photo evidence. The fines collected pay for the cost of the photo enforcement, offsetting the municipality’s expense which makes the program 100 percent violator funded. For all of its benefits, photo enforcement cannot succeed or survive without community outreach. According to Mr. Buckels, the more people know about the program and the more overt the program is, the better affect it has on public safety.

Mr. Ingolf Partenheimer, Chief Traffic Engineer for the City of Baton Rouge, was invited to the meeting to provide a municipality’s experience with red light camera enforcement. Initially Mr. Partenheimer was not a proponent of the program, but once he was put in charge of implementing the program in 2008, he quickly changed his views. He made certain that the cameras preformed properly and were consistently fair to everyone. The expectation was to achieve a reduction in severe injuries and fatalities at intersections.

Detailed information was received on the intersection locations and the implementation of the cameras. Each camera location was posted on the city’s Web site to keep the public aware and informed. The goal of the program is not to produce a revenue stream from fines, but rather to reduce the number of crashes with injury. There has been an overall decrease in crashes at camera-sited intersections; however, no figures have been released due to insufficient data collected for only one year.

Discussion included several issues concerning constitutionality, local laws necessary for implementation and quality of crash data.

**Conclusion:** It seems evident that road safety cameras are an effective tool in reducing crashes. Fewer crashes, severe injuries and fatalities will result in fewer insurance claims and payments, which over time could be reflected in reduced auto insurance premiums.

**Homeowners Insurance:** The Independent Insurance Agents and Brokers of Louisiana (IIABL) hosted a summit in late September that focused on the analysis and potential impact of Risk Management Solutions, Inc. (RMS) hurricane catastrophe Model Version 11. The impact of the model will influence all elements of the insurance market including financial rating companies, modelers, reinsurers, regulators, primary insurers and the consumer. As a follow-up to the RMS presentation to the LPCIC in April 2011, Mr. Jeff Albright, CEO of IIABL, was asked to report on the issues discussed at the summit.

The components of this model predict greater damage farther inland from hurricane winds and surge. According to Mr. Albright, Louisiana is subject to a statewide average 66 percent higher loss under this model as compared to the previous RMS version. RMS has redefined its vulnerability zones in terms of more extensive claims data and with an increased emphasis on enforcement of strong building codes. While south Florida remains at the highest risk, there are substantial increases in the calculation of risks for Texas, Louisiana, Mississippi and Alabama. The drastic changes in the model could affect the availability and affordability of homeowners and commercial property insurance policies in Louisiana.

Mr. Albright's presentation prompted numerous questions and discussion from the membership. Among the questions asked were:

- Does the model adequately recognize or credit Louisiana with its strong statewide building codes?
- Does Louisiana get any credit for enforcement of the codes?
- What emphasis will financial rating companies, i.e. AM Best, place on the model?
- Why is there such disparity between this version of the model and the previous one?
- What, if any, solution is available?

It was reported that RMS does recognize Louisiana's building codes, however, not to the extent of south Florida's. In comparison, our state does not have the enforcement experience and therefore, RMS does not automatically give us equivalent value in this model. The impact of the model on rating companies is an unknown. For example, A.M. Best will not consider using the model as part of its analysis of individual companies until the first or second quarter of 2012. There was some concern that an insurer's financial rating would suffer if there is an over-reliance on this model. RMS believes that they have better data and better computer models which give them a better understanding of risk. There is concern that the data used in developing this model is too concentrated in the Hurricanes Ike and Gustav

experience. The question is whether this concentrated data produces such radical changes when applied across a much broader region and into the distant future.

The model has been submitted by RMS to the Department of Insurance and remained under review at the time of this report.

**Conclusion:** The reaction to RMS Model Version 11 has been overwhelming to say the least. The potential impact is significant. It is important for Louisiana not to overreact but to coordinate its actions with those of other coastal states stretching from Texas to Maine.

One of the main challenges is to hold the model companies accountable for their model and then expect a balanced, tempered approach. We would not just be looking at one model but several, as well as, looking at historical losses, underwriting judgment and actuarial analysis. It is up to all concerned parties to broaden the discussion on the proper use of catastrophe models.

An update on the Louisiana Citizens Property Insurance Corporation (Citizens) was made part of the record at the February meeting. Information was received from Mr. Richard Robertson, CEO of Citizens, and Ms. Denise Brignac, Chairwoman of the Board of Directors of Citizens. LPCIC Chairman Ted Haik read excerpts from the material that was presented to each member. The synopsis of information received from Citizens centered on the actions and reactions concerning the class-action lawsuit that originated in the 24<sup>th</sup> Judicial District Court. The information received also included the success of the fifth round of depopulation. The compilation was broken down by parish and by participating insurers. Five companies participated in this depopulation round and assumed 10,890 policies from Citizens, effective December 1, 2011. Approximately 105,000 personal property policies remain with the residual insurer.

**Conclusion:** Due to the difficult circumstances surrounding the aftermath of Hurricane Katrina, it is understandable that Citizens was unable to initiate adjustment of all claims within 30 days as required by law. No one advocates not following the law, however, it is notable that of all the class-action lawsuits that were filed against homeowner insurers, only the ones against Citizens were not dismissed. The judgment will deplete Citizens' available cash to the extent that if a Gustav-sized hurricane hits Louisiana at any time during the next two seasons, an assessment will likely be levied affecting all homeowners in the state.

**Workers' Compensation:** An overview of the workers' compensation market was presented to the LPCIC. Mr. Wes Hataway, chair of the newly activated Workers' Compensation Ad Hoc Committee, conducted the meeting. In his capacity as Director of the Office of Workers' Compensation, Louisiana Workforce Commission, he summarized the recent changes in the system.

A medical treatment schedule, which sets specific guidelines for treating injured workers, was implemented last July. This will eliminate outliers: the over-and under treatment of patients and provide the best health care available. Medical treatment disputes can now be

appealed to an appointed medical director. This process has streamlined the time of 15 months to five days and has eliminated the average \$25,000 in litigation expenses involved with these disputes. As a result of the changes, the Office of Workers' Compensation anticipates decreases in litigation and indemnity rates, as well as injured workers returning to the workplace in a timelier manner.

Several state agencies have joined the Office of Workers' Compensation to clamp down on fraud. The passage of legislation that allows federal matching of funds for rehabilitative services by an allotment within the Second Injury Fund was a major accomplishment. The office has plans to update the medical reimbursement schedule and reform the pharmacy reimbursement schedule while continuing the improvements to the medical guidelines system.

The industry side of workers' compensation was represented by Louisiana Workers' Compensation Corporation (LWCC). Mr. Paul Buffone, Senior Vice President of Risk Management Service at LWCC, gave explanations regarding the soft market that workers' compensation has been in for the last 20 years. The market reflects competition and decreasing prices, but really reflects the national trend of decreasing frequency of accidents which results in fewer claims. However, the decreasing premium that employers have been enjoying has been masking the fact that Louisiana is a high cost state. Average claims cost more here than in most other states.

Since the establishment of LWCC in 1992, its workers' compensation rates have dropped 55 percent overall. However, each year the cost of claims has risen faster than the inflationary increases in the medical Consumer Price Index. According to one study, Louisiana's average medical claim is 61 percent higher than the average of four of our neighboring states. Mr. Buffone reported that between 2007 and 2009, Louisiana claims costs increased 26 percent in medical and 21 percent in indemnity. He noted that an increase in frequency of claims, which occurred in 2010, joined by the continuing increase in the cost of claims will lead to higher premiums.

Mr. Buffone stated that the medical treatment guidelines are the single most important change in workers' compensation he has seen in his 20 years of experience. He also believes that it will take two or three years before the savings brought about by the guidelines can be measured. Also worth noting is the new fee schedule being constructed through a cooperative effort led by the Office of Workers' Compensation. He warned that class action lawsuits continue to "drain and strain" the workers' compensation system and expressed hope that the recent changes in the state would change the atmosphere that promotes these lawsuits with health care providers.

Mr. Dennis Kokulak, State Relations Executive with the National Council on Compensation Insurance (NCCI), reported on the function of NCCI in workers' compensation and gave an overview on workers' compensation for Louisiana and nationally.

NCCI, chosen by insurance departments in 38 states, collects workers' compensation data from insurance companies that write workers' comp policies in each state. In turn, NCCI annually files with the insurance departments "loss cost" filings to increase or decrease rates based on the collected data. Analysis of the data produces numerous comparisons relating to premium, profitability, and claim frequency and severity for both indemnity and medical elements.

Data presented for Louisiana confirmed Mr. Buffone's assessment of declining premium and increasing severity for both indemnity and medical claims. Louisiana ranks 27 out of 51 in premium rate per \$100 of payroll. Regionally, Louisiana has a lower claim frequency but higher claim cost for both indemnity and medical claims than neighboring states (AL, AR, MS and OK) that NCCI tracks. Additionally, medical benefits constitute more than half of the total benefit costs in Louisiana.

Upon solicitation of public comments, Mr. Curt Eysink, Executive Director of the Louisiana Workforce Commission, pronounced that the exchange of information and meeting opportunity were invaluable for a healthy workers' compensation system within the state. He appreciated that it was pointed out that state comparisons were inexact because of the differences between the workers' comp systems and laws in the various states. As an example, Louisiana has a seven-day waiting period as opposed to a three-day waiting period in neighboring states. This difference would exclude the smallest claims which would reduce overall frequency and increase severity. He noted the importance of allowing the recent reforms to produce results within the industry. The data needs to accumulate and be assessed after two or three years to determine if further cost control measures are warranted.

**Conclusion:** Louisiana's recently implemented and proposed changes need to be watched to see whether they will have a positive impact on some of the negative trends. In 2010, there was an increase in claim frequency nationally, which bears monitoring to determine whether this is the beginning of a trend or if it was an aberration.

The Workers' Compensation Ad Hoc Chairman and Committee will continue to monitor any emerging issues and developing trends that need to be addressed by the Commission.

**Additional Workers' Compensation Information:** The most recent statistics were gathered by the LPCIC staff after attending a January forum held by the NCCI in Baton Rouge. For the second year, NCCI has filed for a loss cost increase. This year it is an overall 6.0 percent. This increase is attributed to the continued decline in premium and increases in indemnity and medical loss ratios. Losses exceeded premium by 28 percent. Louisiana is ranked near the middle nationally for premium rates.

The NCCI loss cost filing has been approved by the Department of Insurance, and will become effective for rate calculations as of May 1, 2012.

**Additional Report:** Dr. Christine Berry, Associate Professor of Risk Management and Insurance at the University of Louisiana Monroe, presented a detailed report from the data

collected from risk assessment surveys of 240 small businesses in the state. The report titled “The Condition of Small Business Risk Management in Louisiana” included questions concerning demographics, types of insurance and loss history. Ten major concerns were identified:

- Many small businesses lack basic property insurance.
- Larger businesses may have duplicate insurance.
- Knowledge about many types of business insurance is lacking.
- Business interruption insurance is unaffordable or unavailable.
- Some businesses with employees lack workers’ compensation.
- Newer businesses are less likely to have most types of insurance.
- The amount of insurance and planning is positively related to the level of formal education.
- South Louisiana businesses have more property coverage issues than north Louisiana businesses.
- There is an alarming void of business continuity/disaster recovery planning.
- Many have access to only a narrow array of insurance options and their insurance is not “shopped”.

**Conclusion:** There is a need for general insurance education and assistance for small businesses. Establishment of a small business risk management institute at ULM would be a great asset. (Please note article: “*Regents approve ULM's Small Business Risk Management Institute,*” 12/2011.) The study will continue with more refined identity of problem areas and research.

**General Conclusion:** The Commission will continue to bring in local, regional and national experts for reporting and analysis of all issues deemed pertinent to satisfy its statutory responsibilities and examine the insurance market in Louisiana.

## V. Property and Casualty Legislative Recommendations

During the February 2, 2012, meeting of the LPCIC, the Commission voted to recommend the following concepts after thorough discussion. The recommendations for the 2012 Regular Session of the Louisiana Legislature are:

**1. Require electronic reporting by insurers to OMV of SR-22's and SR-26's.**

Electronic reporting will improve the efficiency of data collection and tracking for the high risk drivers who must have this certification of insurance coverage.

**2. Clarify LA R.S. 32:863.2 to recognize that insurer reporting should be "per vehicle."**

This wording will ensure that mandatory insurance coverage is reported by individual vehicle rather than by individual policy.

**3. Increase seat belt fines from \$25 (1<sup>st</sup> Offense) to at least \$50.**

In 2010, 58 percent of drivers and 65 percent of passengers ages five and older, who were killed in crashes, were not wearing a seat belt. According to the Centers of Disease Control and Prevention, even a modest increase can make a difference. An increase from \$25 to \$60 can increase belt use by three to four percentage points. The Louisiana Occupant Protection Program Assessment of March 2011 also recommended this minimum increase.

**4. Reduce the civil jury trial threshold from \$50,000 to \$10,000, and in conjunction, increase the prescriptive period for personal injury from one year to two years.**

Without question, Louisiana has the highest civil jury trial threshold of any state in the country. Depending on the source, there are 33 to 36 states with no threshold. Of the states that do have one, the next highest amount is either \$25,000 or \$15,000, with the most at \$10,000 or below. Louisiana is one of the few states with the lowest prescriptive periods for personal injury at one year. Half of the states have a two year period. For many years Louisiana has had a disproportionate number of lawsuits compared to bodily injury claims. By addressing these two outliers, both industry and consumers should benefit from the outcome in the long run.

**5. Amend existing law requiring the initiation of claim adjustment within 30 days to provide an exception for Louisiana Citizens Property Insurance Corporation, allowing additional time for claims arising from a natural disaster or catastrophe.**

As revealed by Hurricane Katrina, 30 days to initiate claim adjustments following a catastrophe is impractical. Numerous lawsuits arose from this issue with only Citizens suffering a penalty. Current law provides for an extension of time by rule of the Commissioner of Insurance, however, LPCIC would like a more defined law established.

**6. Support six concepts from the Governor’s Task Force on DWI and Vehicular Homicide.**

**a. Clarify existing Implied Consent law pertaining to multiple testing.**

An ambiguity exists in the Implied Consent law. The law needs to be clear that an arresting officer can require a blood or urine test when an apparently impaired driver scores a low BAC on the breath test. Refusal of this second test should require a driver’s license suspension. While the LPCIC endorses the concept, cautionary language should allow exceptions.

**b. Repeal Act 605 of 1992 [LA R.S. 32:667(H)(1) and (2)].**

Act 605 restores a driver’s suspended license when the DWI charges are reduced or an Article 894 is pled. This repeal would restore the law to its pre-1992 state. It is designed to lessen the appeal of refusing the breath test. This change would restore the two-track system of driver’s license suspension and restore a true Implied Consent violation driver’s license suspension.

**c. Require a chemical dependency assessment for first and second offense DWI’s.**

Current law requires a chemical dependency assessment for third and subsequent DWI offenders only. Extending this assessment for first and second DWI offenders will enable the sentencing judge to be more aware of a chronic chemical dependency and possibly reduce repeat offenders.

**d. Clarify that existing law requiring a 45-day “hard suspension” of a driver’s license applies to all second offense DWI’s.**

Current law can be interpreted to exclude second offenders who submit to a test and fail with a reading of .2 percent or higher. This clarification will allow no exceptions.

**e. Amend the existing law to exclude parole time from the calculation of the DWI 10-year “cleansing period.”**

This amendment will extend the time during which enhanced penalties can be assessed for subsequent DWI offenses.

**f. Amend Criminal Code as it pertains to DWI, vehicular homicide, vehicular negligent injuring, and First Degree vehicular negligent injuring in regard to the presence of non-prescribed controlled dangerous substances.**

The crime would occur upon proof of vehicular operation where the operator’s blood has any detectable amount of any scheduled controlled dangerous substance not prescribed or authorized by a licensed medical practitioner. The LPCIC objected to the language “illegal per se” in the original concept and replaced that language to include “a rebuttable presumption of impairment.” The Commission recognizes the need to establish a threshold of impairment for controlled dangerous substance.

**The Louisiana Property and Casualty Insurance Commission strongly advocates legislative action in support of these concepts.**

## **VI. Continuing Study Issues**

The Louisiana Property and Casualty Insurance Commission will continue to study various property and casualty issues throughout the year. Continuing to attract insurers to the state will remain a major focus of the Commission. Striving for affordability and availability in a competitive market is a primary concern.

The Commission will continue to monitor:

- State and federal legislation affecting property and casualty insurance.
- The number of uninsured motorists in the state.
- Highway safety issues and enforcement.
- The progression of RMS Model Version 11.
- Data retrieved from tracking ignition interlock devices.
- Building code legislation.
- Wind mitigation issues.

## **VII. Future Study Issues**

The Commission plans to:

- Research “real time” verification systems to identify uninsured motorists.
- Review the Data Driven Approaches to Crime and Traffic Safety (DDACTS) Program’s expansion.
- Examine wind policy availability and affordability.

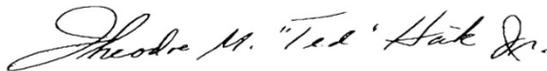
The Commission staff will continue to attend the various meetings across the state that promote and advance all these issues.

## VIII. Final Note

We trust this report will provide additional insight to property and casualty issues in the state.

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

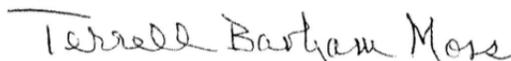
The Louisiana Property and Casualty Insurance Commission is committed to working with the Department of Insurance, the Legislature, the insurance industry and all interested stakeholders to increase the affordability and availability of insurance in the state of Louisiana.



**Theodore M. "Ted" Haik, Jr.**  
**Chairman**



**Jeff Albright**  
**Vice Chairman**



**Terrell Barham Moss**  
**Director**

This report is available on the Louisiana Department of Insurance Web site  
[www.lidi.la.gov](http://www.lidi.la.gov)

## **IX. Appendix A: Meeting Agendas**

### **September 14, 2011 – Full Commission Meeting:** **Final Agenda**

#### **I. Call to Order**

Manuel DePascual, Acting Chairman

#### **II. Roll Call**

#### **III. Presentations on Road Safety Cameras**

- a. Charles L. Buckels, Redflex Traffic Systems
- b. Ingolf Partenheimer, Chief Traffic Engineer- Department of Public Works,  
City of Baton Rouge

#### **IV. Highlights from the 2011 Legislative Session**

- a. LTC John LeBlanc, Executive Director- LA Highway Safety Commission
- b. Nick Gautreaux, Commissioner- Office of Motor Vehicles- DPS&C
- c. Ed O'Brien, Deputy Commissioner- Office of Property & Casualty- LDI

#### **V. Public Comments**

#### **VI. Announcements**

#### **VII. Adjournment**

### **October 19, 2011 – Full Commission Meeting:** **Agenda**

#### **I. Call to Order**

Ted Haik, Chairman

#### **II. Roll Call**

#### **III. Presentation on “The Condition of Risk Management among Louisiana Small Businesses: Preliminary Findings”**

Christine Berry, Ph.D., CPCU, ARM, ARe  
Associate Professor Risk Management and Insurance  
ULM College of Business Administration

#### **IV. Report on IIABL’s Property Insurance Summit**

Jeff Albright, Chief Executive Officer  
Independent Insurance Agents/Brokers of Louisiana

#### **V. Public Comments**

#### **VI. Announcements**

#### **VII. Adjournment**

### **December 8, 2011 – Full Commission Meeting:** **Revised Final Agenda**

#### **I. Call to Order**

Wes Hataway, Acting Chairman

#### **II. Roll Call**

**III. Workers' Compensation Overview**

Wes Hataway- Director, Office of Workers' Compensation, Louisiana Workforce Commission

Paul D. Buffone, J.D. - Senior Vice President, Risk Management Services, Louisiana Workers' Compensation Corporation

**IV. Presentation- Workers Compensation Update: National and Louisiana**

Dennis Kokulak- State Relations Executive, National Council on Compensation Insurance, Inc. (NCCI)

**V. Public Comments**

**VI. Announcements**

**VII. Adjournment**

**February 2, 2012 – Full Commission Meeting:**

**Revised Agenda**

**I. Call to Order**

Ted Haik, Chairman

**II. Roll Call**

**III. Discussion of Legislative Recommendations and Voting**

Nick Gautreaux- Commissioner, Office of Motor Vehicles, Department of Public Safety and Corrections

Manny DePascual- Chairman, Homeowners Ad Hoc Committee

Mike Barron- Impaired Driving Coordinator, Louisiana Highway Safety Commission

Ted Haik- Chairman- and LPCIC Membership Participation

**IV. Public Comments**

**V. Announcements**

**VI. Adjournment**