

Commissioner's Monthly Column

Highlights of the 2014 Legislative Session

June 2014

As we head into another hurricane season (hopefully a quiet one) I am pleased to report that the latest legislative session had minimal impact on the insurance market in Louisiana with much of the action focused on social and educational issues. The Louisiana Department of Insurance (LDI) was successful in having several bills we proposed pass in the 2014 Regular Session. In this column I will address some of these measures as well as other legislation that may be of interest to you.

[Act 70](#) addresses the denial, nonrenewal, or revocation of an insurance producer license. It extends my authority to producers who receive any suspension, deferral of sentence or probation in addition to those who have been convicted of any criminal activity or public corruption.

[Act 83](#) addresses continuing education requirements for licensed producers. It authorizes me to grant continuing education credits to licensed producers who participate in qualified graduate-level national designation programs or who are active participants in a state or national insurance association. It also requires me to provide 24 continuing education credits per renewal cycle to licensed producers who are serving a term in the Legislature.

[Act 118](#) reduces the time in which a producer license may be reinstated after lapsing from five years to two years provided that continuing education requirements are met and reinstatement fees are paid. It also gives licensees additional time to provide the LDI with notification of an address change, lengthening the window of time from 10 days to 30 days.

[Act 353](#) changes current homeowners insurance policy cancellation law that requires the occurrence of two or more non-Act of God claims in a three-year period in order for a homeowner's policy to be able to be cancelled or non-renewed if the policyholder has been with his insurer for more than three years. Under this Act the required timeframe for claims is three continuous years within a five-year period preceding the current policy renewal date. Those three years can be at any three-year block of time within that five-year period, not necessarily the three years immediately preceding the policy's renewal date.

As you are aware, once a policyholder has been with a company for three years, they are protected from having their policy canceled or non-renewed (except for certain cases such as if they have failed to make their premium payments). Another exemption to this three-year rule is if the policyholder has made more than two non-Act of God claims within a 36-month period. Recently a company interpreted the existing law to mean that it could non-renew a policy if two or more non-Act of God claims were made in any 36-month period that the policyholder had coverage with that company. This legislation was proposed as a compromise to that new interpretation of the three-year rule.

Also under Act 353, if an authorized property and casualty insurer provides the LDI with notice that it will withdraw from the homeowners market in Louisiana, it must remain out of the market for a minimum of five years before returning. Previously, there was no waiting period. The law does give me the discretion to allow an insurer to reenter the homeowners market prior to the expiration of the five-year period in I deem their return in the best interest of the state.

[Act 374](#) amends the statute pertaining to the Louisiana Life and Health Guaranty Association (LLHIGA) based on the NAIC model law and was part of an effort by the National Organization of Life and Health Guaranty Associations to make states more consistent in the guaranty fund area. It clarifies what LLHIGA will pay, how much it will pay and under what circumstances it will pay it. The Act adds coverage for structured settlement annuities used to fund payments over time of personal injury claims instead of lump sum payments. It also raises the amount of coverage from \$100,000 to \$250,000 for the net cash surrender and withdrawal values of annuities benefits. Additionally, the Act amends the definition of “resident” to address certain U.S. citizens living abroad and adds provisions on the coordination of coverage when a health, life or annuity policy is eligible for coverage under more than one state’s guaranty fund.

[Act 635](#) requires the licensing of health insurance navigators who serve as in-person resources for those shopping for a health insurance plan under the Affordable Care Act. The bill broadens educational and training requirements and requires navigator applicants to undergo fingerprinting and criminal history checks. It requires the registration of non-navigator personnel, known as Certified Application Counselors or CACs, but does not require background checks on them. The bill allows for fines of up to \$500 per violation among other things. Previously the law gave the LDI only the authority to require registration of navigators.

[Act 718](#) provides a means for the LDI to review health insurance premium rates for unreasonableness. Federal law requires that health insurance rate increases of 10 percent or above be reviewed by independent actuaries to determine if the rate increases are actuarially justified. As determined by the Centers for Medicare and Medicaid Services’ Center for Consumer Information and Insurance Oversight, Louisiana was among the states that did not have an effective rate review program for health insurance rates. Our actuarial staff will now conduct a review of proposed rate changes of 10 percent or greater and post the results to the LDI website. Public comments will be accepted via this online tool as well. However, the Act does not grant approval authority to me over health insurance rates and we were again unsuccessful in our effort to get that authority.

The passage of Act 718 will strengthen consumer protection primarily by providing more transparency and applying scrutiny to the processes and assumptions that private insurers use to make significant health insurance rate increases. The bill also substantially revised rating rules in the Insurance Code which had been preempted by federal law.

Other property and casualty insurance Acts that were not part of the LDI proposals but were passed into law include the following:

[Act 427](#), referred to by some as the Property Insurance Clarity Act, was widely supported by the Legislature but sparked some concerns from property and casualty groups. The measure requires homeowner's insurers to provide data annually on direct incurred losses, number of policies in force, and direct earned premiums by zip code and parish. The LDI will aggregate and publish the data on the agency's website by June 1 of each year. An amendment was added to sunset the bill in May 2017.

[Act 641](#) provides for increased fines to create the new Insurance Verification System Fund to finance a real time database between the Office of Motor Vehicles and insurance carriers. The database will allow law enforcement to verify the existence of minimum liability auto insurance in compliance with our state's Motor Vehicle Safety Responsibility Law.

The fund is financed through a variety of graduated increases in criminal sanctions, including fines of \$250 to \$1,000 for such things as being involved in an accident without insurance and falsely claiming to have insurance. Additional financing is also provided to the fund through increased penalties for lack of actual proof of insurance or for letting your insurance lapse.

If a driver is caught without insurance, their license may now be revoked for 180 days instead of the previous 60 days. The penalties become stiffer if a driver is caught falsely claiming to have insurance and their license can be revoked for a minimum of 12 months to a maximum of 18 months. Previously, the minimum penalty for falsely claiming to have insurance was six months.

You can find legislative digests on bills in their entirety by logging into the Legislature's website at www.legis.la.gov and clicking on bill search in the 2014 Regular Session section. In the Search Bill Text section type "insurance" to see a list of all insurance bills. Although this was not a session that will go down in history as having produced landmark insurance legislation, with each session we continue to enhance the current solid and workable platform from which we may all serve the people of Louisiana with their insurance needs.