

Observations in the Louisiana Property & Casualty Market: Surplus Lines & Beyond

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What are the hot topics in the P&C world?

- Homeowners' Insurance
- Flood Insurance
- Automobile Insurance
- Additional Regulation of "Surplus Lines Insurers"

Louisiana Homeowners' Insurance Market

- On August 29, 2005 Hurricane Katrina. Largest single insured loss event in history with more than \$41 billion in insured property damage, with total economic damage topping \$100 billion. In the 25 year span leading up to 2005, insurers in Louisiana wrote a total of \$13 billion in homeowners insurance premium, from which they earned \$1 billion in profit.
- On August 29, 2021 Hurricane Ida. To date, three insurers had claims which exceeded their catastrophic reinsurance towers leaving them insolvent. LIGA issued a \$100 million assessment.

Complaints & Mediation

- 3305 Consumer complaints received by LDI from Hurricane Ida.
- LDI created the Hurricane Ida Mediation Program which is open to all authorized property and casualty insurers and surplus lines insurers to facilitate disputes for personal lines residential insurance claims up to \$50,000. Participation is voluntary for insurers and policyholders. The two mediation providers (Mediation and Arbitration Professional Systems in Metairie and Perry Damp Dispute Solutions in Baton Rouge) have agreed to provide the 90 minute service for \$600. Additional details are set forth in Bulletin 2021-08.

Three Year Marriage Rule

- La. R.S. 22:1265(D) and 22:1333(C) provide that an insurer may not cancel or fail to renew a homeowners' insurance policy that has been in effect and renewed for more than three years unless based upon nonpayment of premium, fraud of the insured, a material change in the risk being insured, two or more claims within a continuous three- year period of time within the five years preceding the current policy renewal date, or if continuation of such policy endangers the solvency of the insurer.
- The above restriction does not apply if the insurer withdraws from the homeowners' insurance market in Louisiana. A number of insurers have elected to withdraw from the homeowners' insurance market so that they could non-renew policies that were otherwise protected by statute.

Bulletin 2021-02

- Bulletin 2021-02 was issued to All Authorized Property and Casualty Insurers and All Surplus Lines Insurers to provide notification and guidance of the statutory requirements relative to the submission of proof of loss documentation by their policyholders for claims caused by any of the multiple hurricanes that struck Louisiana in 2020.
- “... any attempt by an insurer to classify damage caused by any of the 2020 hurricane events as a “material change in the risk” for purposes of cancellation or non-renewal is not proper. I will exercise the full extent of my regulatory enforcement authority to protect Louisiana homeowners.”

Bulletin 2021-07

- Bulletin 2021-07 was issued to All Authorized Insurers, Surplus Lines Insurers, and Health Maintenance Organizations.
- According to the Bulletin “I urge and request that all insurers evaluate civil authority prohibited use claims filed by their policyholders without regard to whether mandatory evacuations were issued as a result of Hurricane Ida. I also urge and request that all insurers interpret their policyholders’ evacuation broadly and process claims made for loss of use filed by policyholders and treat them fairly as required by law. In furtherance of this request, insurers should waive the language contained in their insurance policies requiring mandatory evacuation to trigger civil authority coverage.”

Directive 218

- Bulletin 2021-07 included a statement that read: “All insurers shall notify me of their decision to abide by Bulletin 2021-07 so that I can monitor adherence to this request when fielding consumer complaints.” Some insurers advised the Commissioner that they would not pay those loss of use claims where no express civil authority order to evacuate was in place.
- “Accordingly, pursuant to the statutory authority vested in me by La. R.S. 22:2(A)(1) and La. R.S. 22:11(A), and 22:861, I direct all authorized insurers and all surplus lines insurers that, to the extent any insurance contract may contain any language that implies the need for a civil authority to issue an evacuation order, they shall treat the multiplicity of actions taken by all public officials and the spirit and intent of all communications issued by all public officials as being tantamount to an order to evacuate that fulfills any such policy requirement.”

HB 83 (Schelgel)

- For homeowners with civil authority loss of use coverage, this bill would clarify what actions by a civil authority would satisfy the policy terms for coverage to be paid.

IIAL Proposed Legislation

- R.S. 22:887 Cancellation by insurer; changes to homeowner's insurance policies
- K. (1) When the governor declares a state of emergency pursuant to R.S. 29:724, an insurer may not cancel or nonrenew an insurance policy which provides property insurance coverage on a property located in this state which has been damaged as a result of a named storm or windstorm that is the subject of the declaration of emergency until 90 days after the property has been repaired. A structure is deemed to be repaired when substantially completed and restored to the extent that it is insurable under a similar property insurance policy by another insurer that is writing policies in this state other than Louisiana Citizens Property Insurance Corporation.
- (2) However, an insurer or agent may cancel or nonrenew such a policy prior to the repair of the property:
 - (a) Upon 10 days' notice for nonpayment of premium; or
 - (b) Upon 30 days' notice:
 - (I) For a material misrepresentation or fraud related to the claim;
 - (II) If the insurer determines that the insured has unreasonably caused a delay in the repair of the dwelling; or
 - (III) If the insurer has paid policy limits.
 - (c) Upon written request of the policyholder.
- (3) If the insurer elects to nonrenew a policy covering a property that has been damaged, the insurer shall provide at least 90 days' notice to the insured that the insurer intends to nonrenew the policy 90 days after the property has been repaired. Nothing in this paragraph shall prevent the insurer from canceling or nonrenewing the policy 90 days after the repairs are complete for the same reasons the insurer would otherwise have canceled or nonrenewed the policy but for the limitations of subparagraph 1. The commissioner of insurance may promulgate rules and issue orders, necessary to implement this paragraph.

SB 119 (Talbot)

- This bill would require insurers to provide a homeowners insurance claim guide by mail or email at the start of a claims process.
- The guide would provide general information regarding the claims process, timelines, and the policyholder's rights and duties.
- The guide would be developed by LDI.

SB

- In the event a third new adjuster is assigned to a homeowners claim, this bill would require that insurers provide the claimant with a central point of contact and a summary report on the status of their claim.
- SB 13 (Bouie) and SB 345 (Smith) each require the insurer to limit the number of claims adjusters per claim to three.

HB 521 (Huval)

- (3) Procedures to address the following:
 - (a) The back up, storage, retrieval, and security of records and data.
 - (b) The handling and processing of claims, whether arising prior to or subsequent to the catastrophe.
 - (c) The training of staff.
 - (d) Communication with policyholders and subscribers.
 - (e) The distribution of catastrophe claims information.
- (4) Considering the scale of the catastrophe and the number of policies issued in the affected area, the methodology for determining the following:
 - (a) The number of field adjusters, desk adjusters, and other administrative personnel necessary to respond to the catastrophe.
 - (b) The provision of sufficient claims and administrative personnel to service policyholder and subscriber needs in a timely manner.
 - (c) The provision of logistical support necessary for claims and administrative personnel in the affected area.
- (5) The process whereby a policyholder can file a claim.
- (6) The process whereby a policyholder or agent can contact the appropriate claims personnel, regarding a claim.
- (7) Any other information required by the commissioner.
- 51 C. Every insurer, health maintenance organization, and third-part

HB 87 (Firment)

- This bill would add “moveable” property to the valued policy law for a total loss property claim.
- In the event of a total property loss, the carrier would pay the full amount of coverage stated in the policy for both immovable and movable property.

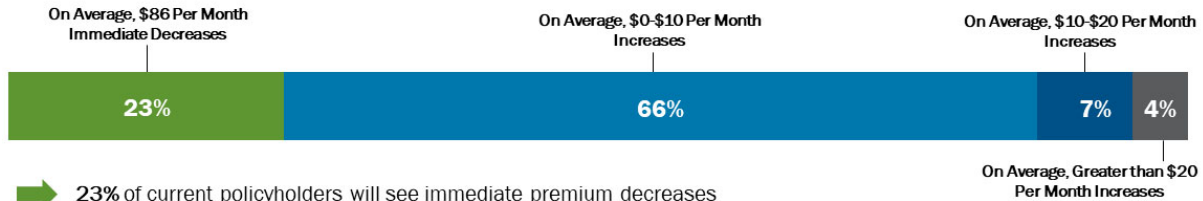
NFIP Flood Insurance

- FEMA updated the National Flood Insurance Program's ("NFIP") risk rating methodology through the implementation of a new pricing methodology called Risk Rating 2.0. The goal was to deliver rates that are actuarially sound, equitable, easier to understand and better reflect a property's flood risk.
- New policies beginning October 1, 2021 were subject to the new rating methodology. Existing policyholders eligible for renewal were able to take advantage of immediate decreases in premiums.
- Phase II – All remaining policies renewing on or after April 1, 2022, will be subject to the new rating methodology.

- As a general rule rate increases are capped at 18% per year.
- Policyholders are able to transfer their discount to a new owner by assigning their flood insurance policy when their property changes ownership.

Risk Rating 2.0 – National Rate Analysis

Under the **current rating methodology**, every year at renewal, policyholders on average see premium increases of **\$8 per month**.



- ➔ 23% of current policyholders will see immediate premium decreases
- ➔ An additional 66% of current policyholders will see, on average, **\$0 - \$10 per month** increases
- ➔ 7% of current policyholders under Risk Rating 2.0 will see, on average, **\$10 - \$20 per month** increases
- ➔ And 4% of current policyholders under Risk Rating 2.0 will see, on average a **\$20 or more per month** increase



Automobile Insurance

- Amongst all the states, Louisiana is the most expensive state with an average auto insurance premium of \$2,839 per year, a 19% increase in rates from 2020. This is 99% more expensive than the national average.

SB 21 (Robert Mills)

- Currently, authorized insurers must provide contact information for their relevant staff in areas such as consumer complaints, solvency, rules and regulations, and taxes.
- This bill would add that surplus lines insurers must also provide the same contact information.

SB 105 (Fesi)

- Most insurers provide between 30 to 45 days advance written notice of renewal to the policyholder.
- Some surplus lines companies are not sending out renewal notices in advance of a policy's expiration date.
- This bill would require that all companies comply with this common practice.