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[®] The Agent's Voice

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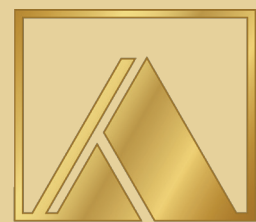
**THE IMPACT OF THE 2021 LOUISIANA
LEGISLATIVE SESSION
P. 12**

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Address inquiries to:

EDITOR, THE AGENT'S VOICE
4021 W. E. Heck Ct., Building K
Baton Rouge, LA 70816

Phone: (225) 766-7770
Watts: (800) 349-3434
Fax: (225) 766-1601
Email: info@piaoflouisiana.com
Website: www.piaoflouisiana.com

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As we all look forward to our convention with the theme, "Come Gather. Breath Easy" it is refreshing to be able to look forward to our safely gathering again and seeing old friends. It is also nice to have some history and be able to reminisce about conventions from the past. There are way too many agents and company people that I've interacted with over the decades to call them out by name, with a few exceptions, but here are a few memories – things I remember and you may too:

- The pool used to be where the Spa Building is now, and it was a big ol' Olympic-sized pool. Rectangle. I could not believe it when they tore it up. There used to be cottages where the current pool is. It was likely not as good a revenue source as the current buildings, but they sure were quaint and a great place to throw a party. In fact, I know many, including staff, were holed up in those cottages the year Hurricane Danny decided to sit over The Grand for a couple of days at the beginning of convention.

- The golf course used to just have 18 holes. I think it was the Magnolia course, but I could be all wrong about that. I do remember just the 18 holes, though. And in fact, I remember when we used to have a Golf Tournament that played on those 18 holes. It seems the younger generation isn't into golf as much as back in the day, so once we saw the numbers dwindle (while they grew for the Fun Run) and considered the time and cost associated with it, we eliminated the tournament from the agenda.


- Now here's a sporting event most of you will not remember: Pat Dutschke had a brokerage agency called Gem Underwriters and they hosted the sailing competition. I sailed every year and often won. It was dumb luck but I still like to sail to this day.

- The lounge originally was called the Birdcage Lounge, and gentlemen had to have a coat and a tie to get in. I went in one time with neither and the bartender gave me an ill-fitting sport coat and a scarf to wear. After a drink or two I didn't care anymore.

After Bucky, the world's best doorman, died they named the lounge Bucky's Birdcage Lounge. For those of you that aren't aware, Bucky has a statue outside the lounge, between the hotel and the bay. Check it out when you're there this year.

The flavor or tenor of our convention is subject to the location of our convention be it on Orange Beach or Galveston Island or here at The Grand. The other locations have their merits, but I prefer The Grand. Although nostalgic about the cottages and the Olympic pool, I'll admit the upgrades there are nice. The coffee shop in the lobby sure is convenient. The new pool is fun as anyone can see by just stopping in for a look. The Spa Building is very nice, and I love the view from the rooms. Speaking of views, my parents used to get a second story room in the Bay House building and sit in those rocking chairs, look at the bay, the pelicans and people watch. I love that building, too.

There are some iconic members and although I'm reluctant to open that can, I can't get by without mentioning some that meant a lot to me. Rose Mary De-Louise. Who didn't love Rose Mary and did anyone love this association more than she did? Bill Gassie was the person who recruited us to The Gand so many years ago. He loved being in the cottages and on the golf course. I got to know Al Pappalardo and later had to call him Al Pappalardo Sr., for some reason. There was a three-year run with Norris, Herndon and Hudson that we were lucky to get through. Then once you get to 1988 and Mike Grace, well the others are still too new to pass judgment on and several of them are still inside the statute of limitations.

So many fond memories of places and people and we have the opportunity to do it all again, now, at The Grand. Come Gather. Breathe Easy. See you at the Point! 



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COMMISSIONER'S COLUMN

After the 2020 legislative session in which we dealt with Covid protocols that created fear amongst those participating, I'm happy to be reporting to you on a 2021 legislative session that was more regular than not. Even though this year was a fiscal session, there was still plenty legislation as a result of the historic 2020 hurricane season, the devastation of which is still looming large even as we begin a new hurricane season.

The largest change for me comes in the form of SB29, which will streamline the existing authority of the Insurance Commissioner when the Governor declares an emergency. The change protects the ability of the Commissioner of Insurance to react quickly to catastrophic situations and safeguard the rights of policyholders during emergencies, such as when two hurricanes hit the Lake Charles area and the pandemic hit the state in 2020. Prior to the passage of SB29, the Commissioner's emergency power authority existed only when the Governor explicitly granted it, and that delegation by Govs. Jindal and Edwards had been challenged in the courts. This legislation allows the Insurance Commissioner to issue emergency rules independently, limited to the duration and geographic area of the Governor's declaration. This authority expires when the Governor's emergency declaration expires, and all such emergency rules are subject to oversight by the Legislature as defined in the SB29, which became Act 223.

Also related to the 2020 hurricane season, Sen. Johns sponsored Amendment No. 32 to HB1, the annual budget bill, to appropriate funds to begin performing market conduct examinations on five insurers that received a higher share of complaints after the 2020 storms relative to their shares of the property insurance market. The LDI has received more than 1,500 complaints related to the 2020 hurricanes. LDI also monitors complaints for patterns of potential miscon-

duct and launches market conduct examinations when necessary to take a deeper look at a company's operations to determine the root cause and effect of problems that harm policyholders. The results of market conduct examinations can trigger regulatory action in the form of fines or other punitive measures if the examinations reveal that improper activity has occurred.

Other successes this legislative season include House bills 577 and 15. HB577 gives consumers choices beyond the National Flood Insurance Program by making it easier for private carriers to write flood insurance. The legislation permits insurers to file flood rates and immediately begin using them rather than waiting for LDI approval under the current prior approval system. Insurers can subsequently adopt new rates provided they file change paperwork with the LDI within 30 days of use. This hybrid "file and use" and "use and file" system for private flood insurance will last until Jan. 1, 2027, at which point it will revert to a traditional "prior approval" system unless otherwise extended. All rates are subject to regulation by the LDI with the same rigor as with its "prior approval" analysis of other property and casualty rates. The bill was modeled on a similar Florida law. According to an interview in Insurance Journal with Florida Insurance Commissioner David Altmaier, there was a 300 percent increase in private flood policies after their legislation was passed in 2014.

The Department tackled the phenomenon of staged accidents in our state through HB15 by asking for an increase of penalties and adding this activity to our state's anti-racketeering statute. The bill ensures that parties such as planted witnesses, attorneys and doctors intentionally participating in such schemes can also be charged for their involvement. The legislation also imposes a mandatory minimum sentence of at




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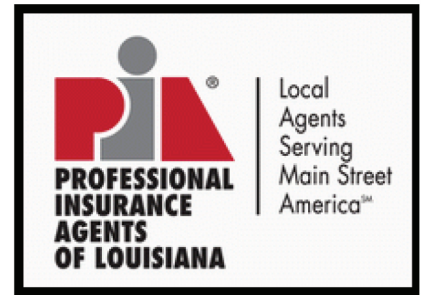
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least five years for the aggravated staging of a motor vehicle collision where another person was seriously injured.

There will also be some paperwork changes after this legislative session. HB436, effective July 1, 2021, repeals the requirement for Louisiana to maintain its own policy search on life insurance policies. Louisiana consumers will now be directed to a national policy search maintained by the National Association of Insurance Commissioners (NAIC). Finally, SB42 adds to the existing requirements that any insurer give notice when a property and casualty policy is canceled. Current law only requires a notice of reinstatement for a property policy. The new law will require that if an insurer issues a notice of cancellation for a casualty policy, and later continues or reinstates the casualty policy, a separate notice of reinstatement must be sent to every policyholder, insurance producer, or any other person shown by the policy to have an interest in any loss that may occur as well as any person who received the original notice of cancellation.

In light of the challenges presented by the pandemic followed by the devastating hurricanes of 2020, I am very pleased with our success during this year's legislative session.

Visit legis.la.gov for more information these bills and others in the 2020 legislative session. 



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PASSING IT ON!

By Jody M. Boudreaux, CAE, CIC, CISR

Senate Holds Second NFIP Hearing

On June 17, the U.S. Senate Committee on Banking, Housing and Urban Affairs held a second hearing on the reauthorization of the National Flood Insurance Program (NFIP). The first hearing was held in May.

The hearing featured the testimony of David I. Maurstad, the Deputy Associate Administrator of the Federal Insurance and Mitigation Administration (FIMA), which houses the NFIP within the Federal Emergency Management Agency (FEMA). Mr. Maurstad oversees the NFIP and the implementation of its new premium rating methodology, known as Risk Rating 2.0 (RR 2.0). The hearing mostly focused on the changes associated with RR 2.0, its rollout, and its anticipated effect on policyholders.

RR 2.0 will be implemented as to all new policies beginning on October 1, 2021. In April, FEMA announced that some existing policies would also gain access to RR 2.0 rates at that time. Specifically, FEMA will allow existing policyholders with renewal dates between Oct. 1, 2021, and April 1, 2022, to renew their policies using RR 2.0 rates, if doing so would be financially

advantageous to them. Based on renewal date, then, among the policyholders for whom RR 2.0 will represent a decrease in premium, some policyholders will be offered RR 2.0 rates ahead of other policyholders.

During the hearing, several senators questioned FEMA's readiness for the rollout of RR 2.0 and potentially precipitous premium increases for NFIP policyholders. FEMA has said that the new methodology will increase premiums for about 80 percent of policyholders and decrease premiums for about 20 percent of them. Senators on the Banking Committee expressed concern about how the increases will affect their constituents. One committee member, Senator John Kennedy (R-LA), has introduced legislation that would require Congress to approve RR 2.0 before it goes into effect.

PIA shares FEMA's stated goal of providing policyholders with the best available risk-based price for their policies, and we are working with FEMA to ensure as smooth a rollout of RR 2.0 as possible. PIA believes the RR 2.0 methodology will improve the NFIP's financial stability and provide policyholders with a more accurate understanding of their risk. At the same time, we want to ensure FEMA implements the new rating system in a way that is workable for both agents and consumers.

Write-Your-Own Rate Targeted Again

A few senators repeated the criticisms they expressed at the first Senate Banking hearing on the NFIP last month. Specifically, they questioned the role of, and compensation provided to, insurance carriers, called Write-Your-Owns (WYOs), which administer the NFIP. PIA strongly opposes any proposal that would reduce the role of WYOs in the program and maintains our longstanding opposition to a reduction in the WYO reimbursement rate, which is the vehicle by which independent insurance agents are compensated for selling NFIP policies.

During yesterday's hearing, we were pleased to see several senators recognize the important role independent agents play in delivering the program. PIA shares Administrator Maurstad's hope that the RR 2.0 rating system will be easier for agents to understand and will encourage agents to sell NFIP policies. We have always shared FEMA's goal of increasing the take-up rate of flood insurance, which would protect more properties against the risk of flood.

PIA is actively engaged with both the House and Senate on NFIP reauthorization, and we are in continued communication with FEMA regarding the rollout of RR 2.0.

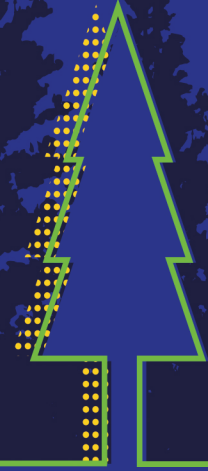


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The Impact of the 2021 Louisiana Legislative Session

By Louis G. Fey Jr. CPCU, CIC, CRM, AIC BXS Insurance

The 2021 Louisiana Legislative Session was dominated by bills aimed at addressing concerns over alleged unfair claim practices stemming from the record five hurricanes that struck Louisiana in 2020. While most of the problems experienced by home and business owners were the result of the sheer volume and severity of the claims, coupled with a lack of qualified adjusters to handle them, some legislators seized upon the opportunity to strengthen Louisiana's already substantial unfair claim practice statutes. While there definitely have been some bad actors in handling some of these claims, the vast majority of the problems arose from a lack of qualified adjusters, and the penalties already in place are sufficient to address unfair acts.

Fortunately, PIA and the industry as a whole were able to defeat or water down these bills so that in the end there will be minimal impact upon our industry, with the biggest change being a 15-day requirement to provide a policyholder with the field adjuster's report upon request, an increase of the minimum bad faith penalty under RS:1892 by \$1,500 (to \$2,500) for claims resulting from declared disasters where there is a late payment, along with the standardization of the appraisal clause already found in most, if not all, property insurance policies.

While the list below is far from complete, I believe these are the most significant, and you can see the complete list of bills we were watching on our website at www.piaoflouisiana.com.

HB457 by Firmont – Became **Act 402** after being signed by the Governor.

This is an interesting bill because it seems to require (by exception to an exception) the licensing of engineers, estimators, or building consultants engaged in the investigation of a residential or commercial building claim resulting from the perils of hurricane, flood, windstorm, hail, or tornado.

The bill also formalizes a list of 21 prohibited adjusting practices that mirror some of the already existing insurance industry's more basic claim handling standards and practice. The bill addressed issues such as misrepresentation, licensing, adjuster qualifications, and undue influence or pressure upon a claimant or insured. Since these standards are already a claim handling requirement, the PIA did not oppose codification.

HB 458 by Rep. Firmont

This bill would have required payment of additional living expense (ALE) or fair rental value (FRV) if a property was damaged by a storm **and** the utilities or electrical service in the general vicinity of the home was also knocked out. Importantly, since there was no requirement in the language that the power outage had to be caused by direct physical loss or damage to covered property, only a requirement that there be some storm damage to the home, if a home lost just one tab off one shingle during a storm, or one slat out of a fence, and there also just happened to be a general power outage (which is almost expected to occur during storms in Louisiana), the insurer would have been required to pay ALE or FRV until the utilities were restored. Essentially this bill would have expanded coverage under personal line policies to include off premises utility interruption coverage, a coverage that is generally unavailable in the insurance market, and a coverage not contemplated in the premium charged for personal line policies.

While this dangerous bill flew through the House unopposed 98 - 0, after the PIA rallied the troops to strenuously oppose this bill, it was tabled. Our thanks to Chairman Talbot for making sure this bill didn't make it out of the Senate Insurance Committee.

HB 467 by Rep. Edmond Jordan

This bill was an attempt to prohibit the use of credit-based insurance scoring. Thanks in part to our PIA Grassroots, the bill was soundly defeated on the House floor 38 - 50 after we

were surprised by it making it out of the House Insurance Committee.

HB469 by Rep. Larvadain

This bill would have increased the bad faith penalties for late payment to 200% of the amount that should have been paid. The bill was soundly defeated on the house floor 36 – 50.

HB 565 by Rep. Huval, Carter and Green – Distracted Driving

This was the PIA's Distracted Driving bill that we have been trying to pass for 8 years. While it sailed through the Senate last year only to be derailed by the House, this year it sailed through the House only to be derailed by the Senate. Apparently, there are about 18 Senators that did NOT support this bill.

Those Senators that voted "Nay" are as follows:

Allain, Boudreaux, Bouie, Cloud, Connick, Fesi, Fields, Foil, Hensgens, Hewitt, Johns Mills, R. Mizell, Peacock, Peterson, Price, Tarver, and White.

Wait till next year? If any of these Senators represent your district, please reach out to them to ask for their support next year. Ironically, some of these nay-voting Senators supported the bill last year, and while we believe that we had the votes to pass the Senate this year had it been recalled for a vote, we couldn't garner enough support to have it called back up. Its defeat is literally a crying shame for the families that will lose loved ones to distracted driving until this bill is finally passed, and an embarrassment to our state.

HB 585 by Rep. Geymann – Became **Act 344** after being signed by the Governor.

- Insurers have 15 days to provide the adjuster's report to an insured after being requested;

- Failure to pay the undisputed amount of loss within 30 days may result in a bad faith penalties equal to 50% of amount that should have been paid or \$1,000, whichever is greater.

- In the case of a presidentially or gubernatorially declared disaster, failure to pay the undisputed amount of loss within 30 days may result in a bad faith penalties equal to 50% of amount that should have been paid or \$2,500, whichever is greater.

The original version of this bill provided for bad faith penalties of 200% of the amount payable, and for a 15-day payment requirement. The PIA worked to restore the 50% penalty and the 30-day payment requirement as outlined in the existing statute and was very happy to see that the conference committee reduced the minimum penalty to \$2,500 for presidentially or gubernatorially declared disasters from the \$10,000 called for by the original bill.

HB591 by Firment – Became **Act 345** after being signed by the Governor.

- Prohibits insurers from **requiring** insureds to use a preferred vendor or contractor on property claims;

- Provides that an insurance policy covering damaged property shall provide notice that depreciation may be deducted or withheld, **in a form approved by the commissioner;**

- Contractor overhead and profit (“O&P”) and sales tax cannot be deducted in determining the actual cash value of a claim;

- Codifies a **binding** appraisal process that will trump insurance policy language for claims involving residential property insurance policies issued in this state; and

- Provides that if a lawsuit has been filed, the lawsuit the lawsuit will be held in abatement until the execution of the appraisal award.

HB 652 by Rep. Glover, Wilford Carter, Cox, Green, Hughes, Jones, Landry, Marcelle, Nelson, Pierre, and Selders. Became **Act 247** after being signed by the Governor

Provides for the lowering of penalties associated with the non-prescription

possession and distribution of marijuana in amount less than half an ounce.

A first conviction **or any subsequent conviction**, wherein the offender **possesses fourteen grams or less**, the offender shall be fined not more than one hundred dollars.

While this isn’t the decriminalization of marijuana that some have suggested, the consequences of possession or use of less than 14 grams (half an ounce) is merely a fine of \$100. The bill is silent on if a conviction would appear on your criminal record, but it essentially turns possession of small amounts of marijuana into nothing more than a ticketed offense.

SB 54 by Sen. Luneau - deferred

This bill would have required the Commissioner of Insurance to prescribe a separate form regarding named storm, hurricane, and wind and hail deductibles in homeowners' insurance policies, signed by the insured and made a part of the policy.

Since most, if not all, policies already contain deductible notices, PIA viewed this bill as unreasonable and unnecessary. PIA also was concerned that member agents might be caught in the middle between clients and insurance companies as is sometimes the case with the current Louisiana UM selection/rejection forms.

After the bill passed unanimously (37 – 0) through the Senate Floor, it was deferred during the House Insurance Committee at our urging.

SB 70 by Sen. Abraham - Became **Act 164** after being signed by the Governor.

This extends the Named Storm deductible limitation applicable to **authorized** residential policies to authorized commercial policies. (Authorized **does not include surplus lines insurers.**)

Authorized commercial property or multi-peril insurers can assess **only one Named Storm deductible per calendar year**. If there are subsequent Named Storms, the insured can take a credit towards the Named Storm deductible to the extent they can document

the prior damage. Agents should encourage clients to submit all Named Storm claims even if it appears to be under the deductible to obtain the benefit of any credit towards the Named Storm deductible for any subsequent Named Storm. For subsequent Named Storms, if the Named Storm deductible has already been met, the insurer can still assess the AOP deductible.


And last but not least:

HB 614 – Rep. Seabaugh – **From the 2020 legislative session – Act 283**

During the 2020 session, the DOI passed this bill that is based upon the NAIC Cyber Security Model Act. The bill had previously been introduced by the DOI for several years over the PIA’s objections. While each year the bill was deferred, this time we were able to meet with the DOI along with other interested parties to express our concerns. Through this meeting, we were able to have certain exemptions included in the bill, with the ultimate outcome being that the vast majority of our member agents are exempt.

Importantly, **for those that are in compliance with this statute**, whether exempt or not, **the statute also includes a safe harbor, giving agents that comply with the statute a defense to Cyber liability claims**, with a presumption that they are not negligent for a Cyber breach if they are in compliance with these requirements.

Just as important, and the reason for including it in this discussion of this year’s legislation, is that the compliance deadline is **August 1, 2021**. While the bill is too complex to discuss here, those licensees who have **fewer than twenty-five employees, less than five million dollars in gross annual revenue**, or less than ten million dollars in year-end total assets **are exempt from compliance with La. R.S. 22:2504**.

There has also been some confusion surrounding the reporting requirements mandated by the bill. While the bill applies to all licensees, **the reporting requirements** under section I of the statute applies only to **“each insurer domiciled in this state,”** not to insurance agents or other licensees. 



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Annual Business meeting of the Professional Insurance Agents of Louisiana, including An update from the Department of Insurance. (2 Hrs CE applied for)

Don't Stress... It's Just Flood - Sunday, July 18th; 2 pm–5 pm

Noel Bunol with Gulf States Insurance Company will review flood fundamentals, rating concepts, private flood markets and new changes to the NFIP rating system. (3 Hrs Flood CE applied for)

Understanding Public Financial Information - Demotech - Monday, July 19th, 10 am–Noon

Demotech President and Co-Founder, Joe Petrelli, will provide attendees with an understanding of how to review and compare key financial metrics to evaluate the relative financial position of markets. (2 Hrs CE applied for)

Let Social Media Do Your Marketing For You - Monday, July 19th; 1 pm–3 pm

Ariel Rivera, Deer Insurance Agency, will lead a discussion on marketing your business through social media. (2 hrs CE Applied for)

Contact the PIA office, 800-344-3434, for more information on the PIA Convention.



PIA will offer the following WEBINARS in the fall:



September 21, 2021 Agency Operations
 October 6, 2021 Personal Residential
 October 27, 2021 Commercial Casualty-1
 November 17, 2021 Commercial Casualty-2
 December 7, 2021 Personal Lines Misc.

CPIA-1 August 5, 2021
 CPIA-2 September 9, 2021
 CPIA-3 October 7, 2021

PIA also offers Non-Designation Online CE classes, with a variety of topics, including ETHICS and FLOOD. Visit the ONLINE CE option from the Education tab on the PIA website for more information.

**More details can be found at www.piaoflouisiana.com
 You may also email Coleen@PIAofLouisiana.com.**

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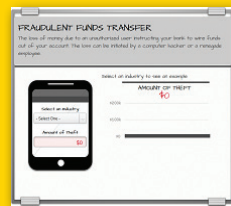
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Have a question for PIA? Contact us at ProductsAndServices@pianational.org.

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