

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

Part H. Insurance

In 2010, Louisianians spent approximately \$16.2 billion in insurance premiums; in addition, over 1,446 insurance companies transacted business in Louisiana during that year. Also in that year, the Department of Insurance collected over \$325 million in premium taxes from insurance companies for the state general fund. The federal McCarran-Ferguson Act, enacted in 1945, clarified that the primary jurisdiction for regulation of "the business of insurance" lies with the states. While this jurisdiction has been somewhat eroded by subsequent federal laws and jurisprudence, insurance remains a business primarily regulated by the states.

Commissioner of Insurance

Louisiana's commissioner of insurance is a constitutional office that was created in 1960. The office is held by a statewide elected official whose term is concurrent with that of the governor. Article IV, Section 11 of the Louisiana Constitution states:

"There shall be a Department of Insurance, headed by the commissioner of insurance. The department shall exercise such functions and the commissioner shall have powers and perform duties authorized by this constitution and provided by law."

Since the constitution does not authorize any powers or duties for the department or the commissioner, the commissioner and the department have only those powers and duties provided by the laws adopted by the legislature. This was a result of a struggle in the Constitutional Convention in 1973 between those who wanted to add language to constitutionally empower the commissioner to regulate insurance and those who opposed creating a "Czar" over the insurance industry. The fundamental conflict was over whether the Insurance Rating Commission, appointed by the governor, or the elected commissioner of insurance would regulate insurance rates. The supporters of the insurance rating commission prevailed and for 35 years Louisiana had an insurance commissioner whose powers excluded rate-making authority. (See Ratemaking below)

Article IV, Section 20 of the constitution additionally authorizes the legislature by two-thirds vote to make the commissioner of insurance an appointed position and merge or consolidate the department with other offices.

The body of law which governs the Louisiana insurance industry is the Louisiana Insurance Code, Title 22 of the Louisiana Revised Statutes of 1950. These laws empower the commissioner and the Department of Insurance to regulate the business of insurance companies. (See Department of Insurance below)

Property Insurance Issues

Ratemaking

From 1948 until 2008, the Louisiana Insurance Rating Commission existed for the statutorily mandated purpose of promoting the public welfare by regulating insurance rates in such a way that the rates were not excessive, inadequate, or unfairly discriminatory. The seven-member commission exercised its authority over property and casualty insurance rates by authorizing and regulating cooperative action among insurers in rate making and in other matters within the scope of the Insurance Code.

Prior Approval Filings

Act No. 459 of the 2007 Regular Session abolished the Louisiana Insurance Rating Commission and designated the powers to accept, review, and approve all applications for insurance rates and rate changes to the commissioner of insurance. Act No. 459 provides for two methods that insurers may use to file for rate approval. Under the "prior approval" method, a written application by an insurer or rating organization seeking rate approval shall be on file with the Louisiana Department of Insurance, Office of Property & Casualty, for a forty-five day waiting period. Unless the commissioner disapproves in writing within the forty-five day waiting period, the application shall be deemed to meet the statutory requirements at the end of the waiting period. Act No. 459 authorizes the commissioner to reduce or eliminate the forty-five day waiting period by rule, regulation, or order. The provisions of Act 459 that address the prior approval method are located in R.S. 22:1451 of the Louisiana Insurance Code.

Commercial Informational Filings

The second method of rate filing is relative to commercial deregulation. Insurers negotiating with and insuring commercial entities, excluding worker's compensation and medical malpractice insurance, with at least \$10,000 in annual insurance premiums shall be required to file insurance rates or rate changes for informational purposes only. This provision of Act No. 459 is located at R.S. 22:1451(D) of the Louisiana Insurance Code.

The legislature has established special criteria for insurance rates in noncompetitive markets. The commissioner of insurance is required to regularly monitor the degree and existence of competition in the state. After being given notice that a reasonable degree of competition does not exist in a market, the commissioner has the authority to hold a fact finding hearing to determine if a competitive market exists. An illustrative list of factors the commissioner may use in determining the competitiveness of a market are provided in R.S. 22:1453. If the commissioner determines that a competitive market for insurance does not exist and issues a noncompetitive ruling the rates in that market shall be regulated in accordance with the statutory provisions applicable to noncompetitive markets. Any insurance company having a rate in effect at the time the commissioner determines a competitive market does not exist may be required to furnish supporting information within thirty days of a written request by the commissioner.

Mitigation Discounts

In 2007, the legislature passed Act No. 323 that authorized premium discounts or adjustments for compliance with building codes and for damage mitigation. The stated purpose is to lower insurance premiums on properties constructed or modified to withstand wind damage. The Act

mandates that any insurer requesting a rate revision must also provide an actuarially justified discount, credit, rate differential, adjustment in deductible, or other adjustment to reduce the insurance premium when the property owner complies with the State Uniform Construction Code or installs mitigation improvements to their property.

Compulsory Automobile Liability Insurance – Uninsured Motorist

An important legislative issue regarding automobile insurance has been compulsory liability insurance. Between 1952 and 1977, Louisiana law only required that a person furnish proof of liability insurance after an accident. Failure to do so resulted in the suspension of driving privileges and vehicle registration. Since the mid-1950's, many attempts were made in Louisiana to pass legislation requiring pre-accident security, modeled after the Massachusetts compulsory liability insurance laws. The Massachusetts program, which originated in the 1920's, required the operator of a motor vehicle to provide proof of insurance coverage before he could register his vehicle. The program also provided for criminal penalties for operating an unregistered vehicle.

Act No. 115 of the 1977 Regular Session enacted R.S. 32:861 et seq. which required a motor vehicle owner to declare that he had the minimum insurance coverage (\$5,000/\$10,000) before obtaining a license plate or inspection sticker. In addition to loss of registration and driving privileges, criminal penalties were added for making a false declaration.

Act No. 237 of the 1984 Regular Session increased the minimum liability limits to \$10,000 for injury or death of one person, \$20,000 for injury or death of more than one person, and \$10,000 for property damage (10/20/10 coverage).

In 1984, pursuant to Act No. 212, the legislature added the requirement that proof of insurance be in the vehicle while it is being operated on a public road or highway. Failure to provide the proof of insurance when requested by a law enforcement officer would result in penalties if the proof of insurance was not provided within ten days.

Since 1984, the penalties for failure to have proof of insurance in the vehicle have been increased in order to induce compliance. In 1992, pursuant to Act No. 805, the seizure of license plates was added as a penalty for noncompliance.

In 1997, pursuant to Act No. 1486, the legislature authorized the impoundment of a vehicle when the driver could not produce the required proof of insurance upon the request of a law enforcement officer. Additionally in 1997, with the enactment of Act No. 1476 ("No Pay, No Play"), an uninsured motorist who is the victim in an automobile accident is prohibited from collecting the first \$10,000 of personal injury and the first \$10,000 of property damages in a civil action. Under this same Act, a 10% reduction in automobile liability rates was required and is now in effect. The legislature included these provisions in the same Act in order to guarantee a reduction in automobile premiums while reducing the exposure of liability by insurance companies to motorists who are uninsured.

The latest statistics from the Insurance Information Institute estimate that, as of 2009, 12.9% of Louisiana motorists are uninsured, placing Louisiana at 27th in the nation of the state rankings for uninsured motorists.

In 2008, Act No. 921 of the Regular Session increased the minimum liability limits from \$10,000 for injury or death of one person, \$20,000 for injury or death of more than one person, and

\$10,000 for property damage (10/20/10 coverage) to \$15,000 for injury or death of one person, \$30,000 for injury or death of more than one person, and \$25,000 for property damage (15/30/25 coverage).

Other Topics

The legislature addressed the issue of Chinese drywall and homeowner's insurance with Act. No. 1005 of the 2010 Regular Session. This law prohibits insurers from cancelling or failing to renew homeowners' insurance policies based upon the presence of Chinese drywall or upon the filing of a claim by the insured that is based on the presence of Chinese drywall which was imported from the People's Republic of China prior to December 31, 2009. The law imposes a penalty to insurers of \$15,000 plus attorney's fees for violation.

Act No. 361 of the 2011 Regular Session addressed the issue of surplus lines that insure risks in multiple states. The Act requires the commissioner of insurance to enter into the Nonadmitted Insurance Multi-State Agreement, a multi-state compact providing that when Louisiana is the home state of the insured, such tax on multi-state risks shall be remitted to him to distributed among all states listed in the surplus lines policy.

Health Insurance Issues

The Uninsured

Recent federal estimates of the number of uninsured Louisianians vary. Based on the U.S. 2010 Census Survey, approximately 866,000 Louisiana residents lack health insurance and are not covered under the federal Medicaid or Medicare programs. This gives the state an uninsured rate of 20%, the tenth highest such rate in the nation, and means that one in five Louisianians are uninsured. However, the Kaiser Family Foundation estimates the percentage at 18% while the Gallup-Healthways Well-Being Index sets it at 21.4%. Whichever estimate is accepted, finding a way to make health insurance accessible and affordable to this population, which is often defined as the "working poor", remains a critical issue to be further addressed by the state. One effort in recent years which has had a significant impact on Louisiana's uninsured rate has been extension of health coverage to low-income children under the Louisiana Children's Health Insurance Program (LaCHIP). (Also see Chapter on Health and Social Services for further information on serving the uninsured and LaCHIP.)

Mandated Health Insurance Benefits

The issue of mandating certain health insurance benefits also remains a volatile one for the legislature. Current state law requires health insurance issuers (insurers and health maintenance organizations) to cover such diverse services and medical conditions as screenings for breast, cervical, prostate, or colorectal cancer, bone mass measurement, immunizations, diabetes, cleft lip and cleft palate, certain clinical cancer trials, certain severe mental illnesses, certain autism services and prosthetic devices and services. Alternatively, the legislature has in the past rejected mandates for coverage of contraceptives and gastric bypass surgery. The debate over mandated benefits generally centers on consumer protection versus cost. Proponents argue that mandates are necessary to ensure adequate benefits for consumers and that, to the extent that they provide for early detection and treatment of illnesses, some of these mandates may decrease the ultimate cost of health care and health insurance. Opponents, however, contend that mandated benefits offset any consumer gains by raising the cost of health insurance, making it less affordable and ultimately increasing the number of the uninsured. It is also important to note that state law

requires that an impact report be prepared by the Legislative Fiscal Office for any bill requiring mandated health benefits or mandated offering of health benefits. This impact report is to "be factual, brief, and concise, and... provide an estimate in dollars of the immediate and long-range fiscal effect of the measure. If no dollar estimate is possible, the impact report shall set forth the reasons therefor. An impact report shall not contain reference to the merits of the measure." (R.S. 24:603.1) Another factor to be considered in enacting a mandate is the Louisiana Mandated Health Benefits Commission, created by Act No. 549 of the 2010 Regular Session (See under agencies and associations). However, the commission is only statutory; therefore, it could be superceded by a subsequently enacted mandate as a later expression of legislative will.

Health Insurance Rights and ERISA

With the advent of managed care, assuring the quality of medical care provided by health plans has also developed as a legislative concern. Before Congress took action in this area, the Louisiana Legislature had enacted a number of important consumer protections such as guaranteeing direct access to obstetricians/gynecologists, prohibiting the unreasonable denial of emergency care claims, and prohibiting incentives to restrict, delay or deny medically necessary care. It is important to note, however, that certain employer-sponsored plans are exempt from certain facets of state regulation of insurance, pursuant to the federal Employee Retirement and Income Security Act (ERISA). Specifically, ERISA preempts states from regulating employer-provided health coverage when the employer "self-insures", that is, when the employer assumes all or some financial risk for the care provided to its employees rather than simply purchasing coverage from an insurer. Thus, many state consumer protection laws are preempted and inapplicable to the estimated 40% of employed Louisiana citizens covered by self-insured plans.

Accessibility and HIPAA

The issue of accessibility to health insurance has also been a subject of legislative debate. Louisiana law currently provides for guaranteed continuation of group insurance, guaranteed renewal of health insurance coverage, limitations on preexisting medical condition exclusions from coverage, prohibitions on discrimination by group plans against individuals based on health status (modified community rating), and guaranteed portability protections. While many of these protections emanate from the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), other protections, such as modified community rating, predate that federal legislation. The Louisiana Health Plan is particularly important in this regard as it not only provides access through the High Risk Pool to health insurance coverage for those individuals unable to obtain such coverage in the private market, but also administers the HIPAA pool to fully implement that federal legislation in Louisiana.

Implementation of the Federal Health Insurance Reform of 2010

The Patient Protection and Affordable Care Act (PPACA, sometimes referred to as "Obamacare") is federal legislation that became law on March 23, 2010. This act, along with the Health Care and Education Reconciliation Act of 2010 (signed into law on March 30, 2010) will implement wide sweeping changes to the delivery of health care and health insurance. Parts of these laws (collectively referred to the ACA) affecting health insurers are currently in effect, while other changes relative to insurance will be phased in through 2018. Lawmakers and federal and state regulators are working to adopt the laws and rules necessary to implement the ACA. The Louisiana Department of Health and Hospitals and the Louisiana Department of Insurance

are the two state agencies which have a great deal of involvement in implementing the ACA. The United States Department of Health and Hospitals has issued regulations to provide implementation guidance in conjunction with the National Association of Insurance Commissioners for the great majority of the ACA's provisions. The federal government is continuously issuing implementation guidelines and regulations regarding ACA provisions that may affect these agencies.

As with HIPAA, Louisiana preceded the ACA with a number of reforms. For example, the state already had a high-risk health insurance pool, mandated coverage of various preventive health services, and continuity of care. The state also has provided for a number of years with respect to coverage of certain dependent children on their parents' health plans and updated that law to extend the age to that of 26 in 2010 (Act No. 912). Louisiana's law on dependent coverage also extends to grandchildren.

It is important to note that different parts of the ACA apply to group and individual plans as well as grandfathered group or individual plans. Grandfathered plans are simply plans that were in existence prior to the ACA and are allowed an exemption from provisions of the ACA as long as these plans do not change its coverage.

Among the provisions of the ACA affecting health insurers which took effect on September 23, 2010 are the following:

- Prohibiting lifetime monetary caps on insurance coverage and limiting the use of annual caps. (Annual caps have a phase-in period in amounts until 2014.)
- Providing relative to rescission (cancellation) of insurance coverage from the inception of a policy in cases that only involve fraud or intentional misrepresentation of material facts.
- Prohibiting insurers from excluding coverage for children (under 19 years of age) with preexisting conditions.
- Requiring the coverage of preventive services without cost sharing from an individual.

By far the most controversial provisions of the ACA are ones which will take effect in 2014: that of requiring employers to provide health insurance coverage to their workers, with exceptions for certain small businesses and that of requiring individuals to have insurance, with some exceptions, such as financial hardship or religious belief, or requiring such employers or individuals to pay penalties.

The Louisiana Department of Insurance's website (www.lidi.state.la.us) contains links to more detailed insurance aspects of the ACA.

Department of Insurance

The Department of Insurance is comprised of the following programmatic offices, in addition to the commissioner's office and the office of management and finance:

Office of Property and Casualty

The office of property and casualty is responsible for the regulation of property and casualty insurance rates, the review of insurance rates, the licensing of insurance rating organizations, and such additional duties and functions as are assigned by the commissioner of insurance.

Specifically, this office includes the actuarial staff of the department which makes recommendations to the commissioner of insurance on insurance rates.

Office of Financial Solvency

The office of financial solvency is responsible for examining and monitoring the financial condition of all companies approved to conduct the business of insurance in this state. Specifically, the office performs financial and market conduct examinations, analyzes financial statements and other required filings of insurers, determines the adequacy of reserve liabilities established by insurers, ensures that reserve requirements are maintained and insurer investments are made in accordance with state law, and validates and maintains the recordation of securities pledged to the commissioner as deposits for the protection of Louisiana policyholders. The goal of the office is to detect those adverse financial and other conditions that will allow for early identification of financially troubled insurers.

Office of Receivership

The office of receivership manages all insurance companies placed in conservation or receivership. In conservation, a failing insurer must have the office's approval for all transactions. Receivership includes rehabilitation, in which the department takes title to a failing insurer's assets, and liquidation, in which the office determines creditors and citizens due to receive the assets of an insolvent company. The goal of the rehabilitation process is to restore troubled insurers to financial health whenever possible. Absent successful restoration of the insurers' financial status, the goal of liquidation is to maximize the value of the assets of the failed insurers and to distribute assets equitably in accordance with the priority of claims prescribed by law.

Office of Licensing and Compliance

The office of licensing and compliance regulates the licensing and monitors the market conduct of individuals and companies engaged in the insurance business in this state. Specifically, it conducts examinations of insurance producers (agents, brokers, and solicitors, now collectively referred to as "producers"); issues producer and company licenses; resolves consumer complaints and provides consumer education programs and services relative to property and casualty insurance and life insurance and annuities; approves policy forms for use by insurers; investigates reported incidences of suspected insurance fraud and performs background checks for purposes of producer and company licensing; and assists minorities by establishing educational and information services to foster a greater awareness of opportunities available in the insurance industry.

Office of Health Insurance

The office of health insurance is responsible for health insurance pilot programs as established by the legislature, research and development of rules and regulations to implement health insurance reform legislation, research and development of health insurance reform measures that broaden the availability of health insurance coverage in the state, liaison activities for the Department of Insurance with other state and national agencies for policy on health insurance, preparation of proposed health insurance reform legislation by the department, general research and implementation issues concerning health insurance policy, and additional duties and functions as assigned by the commissioner. Specifically, the office assists and protects consumers with health care coverage needs, reviews health insurance related contract forms, provides senior citizens with health-related counseling through the Senior Health Insurance

Information Program (SHIIP), and reviews health maintenance organization (HMO) provider networks and accreditation bodies for quality assurance.

Office of Consumer Advocacy

The office of consumer advocacy is the newest office of the department, created by Act No. 222 of the 2007 Regular Session. The office performs the following functions: (1) receiving inquiries and complaints from consumers; (2) preparing and disseminating such information as the department deems appropriate; (3) providing direct assistance and advocacy for consumers who request such assistance or advocacy; (4) reporting, with respect to apparent or potential violations of law or applicable rules or regulations by a person or entity licensed by the department, such violations to the appropriate division or office of the department, which may take further action as it deems appropriate; and (5) ensuring compliance with the policyholder bill of rights. This bill of rights, also enacted by Act No. 222, can be found at R.S. 22:41.

Agencies and Associations

A number of boards and commissions are associated with the Department of Insurance. These include: the board of directors of the Property Insurance Association of Louisiana (PIAL); the Louisiana Automobile Insurance Plan (LAIP); the Louisiana Property and Casualty Insurance Commission; the Louisiana Health Care Commission; the Louisiana Insurance Guaranty Association (LIGA), the Louisiana Citizens Property Insurance Corporation, the Life and Health Guaranty Association (LLHIGA), the Louisiana Health Plan, and Louisiana Automobile Theft and Insurance Fraud Prevention Authority (LATIFPA), and the Louisiana Mandated Health Benefits Commission.

Property Insurance Association of Louisiana

Every insurance company in Louisiana that writes fire insurance is required to adhere to the rates adopted by the Property Insurance Association of Louisiana (PIAL). The rates adopted by PIAL are subject to approval by the commissioner of insurance and individual insurers may deviate from the rates with the approval of the commissioner. PIAL inspects and assesses various types of risk that are rated by schedule for property damage insurance. It is the filing organization for rates, rules, and forms for homeowners, dwelling fire, commercial fire, and farm owners insurance. The association surveys municipal areas and issues fire protection grading for those areas. It is fully funded by the members of the association through an assessment apportioned according to direct premiums received by each member.

The board of directors of the PIAL consists of 17 members as follows: nine members elected by the membership; the commissioner of insurance; three members appointed by the commissioner; a representative of the Professional Insurance Agents of Louisiana; a representative of the Independent Insurance Agents of Louisiana; the chairman of the House Insurance Committee (ex officio); and the chairman of the Senate Insurance Committee (ex officio).

Louisiana Automobile Insurance Plan

The Louisiana Automobile Insurance Plan (LAIP) was created in 1972 as a voluntary agreement to provide automobile insurance coverage to eligible risks who are unable to obtain liability coverage through the voluntary market. Any insurance agent holding a valid license to transact automobile insurance business in the state of Louisiana may write business through LAIP. The 9-member governing committee of the LAIP consists of: the commissioner of insurance or his

designee; a member designated by the commissioner of insurance, a representative designated by the Louisiana Association of Fire and Casualty Insurance Companies; appointments by the president of the Senate and the speaker of the House of Representatives; and four members selected by the committee and approved by the commissioner of insurance.

Louisiana Theft and Insurance Fraud Prevention Authority

Act No. 711 of the 2004 Regular Session created the Louisiana Theft and Insurance Fraud Prevention Authority (LATIFPA) in order to combat motor vehicle theft, insurance fraud, and other criminal acts. LATIFPA seeks to carry out its purpose through a statewide cooperative effort of generating funds to support law enforcement, public awareness, community involvement, and education initiatives.

In 2006, LATIFPA, in conjunction with the National Insurance Crime Bureau, introduced the Vehicle Investigation Prevention Enforcement Response (VIPER) program. VIPER is a statewide bait vehicle program where donated vehicles are equipped with systems funded by LATIFPA and placed throughout the state during a reporting period, which results in the arrest of individuals who are reported for automobile theft. LATIFPA also sponsors the License Plate Recognition Program, which awards grants for license plate recognition systems to law enforcement agencies in Louisiana. The awards are made through a competitive selection process based on applications selected and ranked among law enforcement agencies with city populations of 50,000 or more.

The board of directors of LATIFPA consists of the following eleven members: the commissioner of insurance or his designee; the state treasurer or his designee; a representative of the Louisiana State Police Insurance Fraud Unit; the chairman of the House Committee on Insurance or his designee; the chairman of the Senate Committee on Insurance or his designee; two members appointed by the commissioner of insurance who represent motor vehicle insurers doing business in this state; two members appointed by the commissioner of insurance who represent purchasers of motor vehicle insurance; and two members to be appointed by the attorney general.

Louisiana Citizens Property Insurance Corporation

The Louisiana Citizens Property Insurance Corporation (La. Citizens) is a private, nonprofit corporation that was created in 2003 by Act No. 1133 to operate the residual market insurance programs known as the FAIR Plan and the Coastal Plan. The purpose of these plans is to provide essential property insurance for commercial and residential properties in this state. La. Citizens is governed by a 15-member board of directors consisting of business and insurance industry representatives appointed by the governor, as well as the commissioner of insurance, the secretary of state, and chairmen of the House and Senate insurance committees. All insurance companies that write property insurance on a direct basis in Louisiana are required to be members of the plans. The corporation is funded by the premiums from the insurance issued by the plans and an assessment against the member companies to cover any shortfall between revenues and exposure. The member companies are assessed on a percentage of their total written property premiums. The corporation may impose emergency assessments, issue bonds, pledge assessments, and eventually depopulate the plans. (R.S. 22:2291 et seq.)

The FAIR Plan was established by the legislature in 1968 for the purpose of making certain there is adequate fire, extended, vandalism, windstorm, hail storm, and homeowners property insurance in designated areas in Louisiana. The FAIR (Fair Access to Insurance Requirements)

Plan is a "high risk" pool aimed primarily at inland areas and inner cities where it is difficult to obtain property insurance through ordinary insurance markets.

The Coastal Plan, created by the legislature in 1969, is a "high risk" pool for property insurance for those coastal areas of Louisiana designated by the Louisiana Insurance Rating Commission. It is almost identical to the FAIR plan except that it serves a different geographical area of the state, the coastal area below the Intercoastal Waterway.

La. Citizens is designed to be noncompetitive and is mandated to charge insurance rates that are higher than the rates charged in the private, voluntary market. In accordance with R.S. 22:2303, rates for the corporation's residential property policies must be established on a per parish basis and must be adjusted at least annually to maintain the price differential between the private and residual markets in accordance with various methods.

In accordance with R.S. 22:2301, regular assessments may be levied on insurers, emergency assessments may be levied on all property policyholders of the state to address deficits in the plans, and market equalization charges may be levied on La. Citizens policyholders. Regular assessments are levied against assessable insureds to remedy a deficit in either of La. Citizens plans. Insurers are authorized to recoup regular assessments by surcharging their policyholders within twelve months. When La. Citizens' deficit is less than or equal to ten percent of the aggregate statewide direct written premium for the subject lines of business for the prior calendar year, the entire deficit amount is recovered through regular assessments. Emergency assessments are levied directly on property policyholders and may be multi-year to secure bonds issued by the corporation to address any deficit situation. Emergency assessments cover losses in excess of all profits, excess reserves, reinsurance proceeds, and regular assessments. The maximum amount that can be collected via each assessment is twenty percent of the amount of premium (10% per plan).

The present assessments being levied by La. Citizens are the direct result of losses on insured property caused by the 2005 hurricane season. In years when there are no significant catastrophic losses, the corporation will likely collect enough premiums to cover any insured losses. However, the massive losses associated with hurricanes Katrina and Rita cost the corporation over 1.2 billion dollars in losses. La. Citizens was compelled to invoke statutory regular and emergency assessment provisions to repay the bonds issued to pay the claims of its policyholders following the storms. In 2006, the regular assessment was fixed at 18.27% of insurance companies net premiums. For the following years, each homeowner and commercial property policyholder, at issuance or renewal of each policy, will pay an emergency assessment of approximately 4% of the net annual premium. Barring state intervention, annual emergency assessments will continue until the bond debt is satisfied.

Act No. 4 of the 2006 Second Extraordinary Session authorized a refundable income tax credit effective for all taxable periods beginning on or after January 1, 2006 which applies to assessments, surcharges, and market equalization charges levied by La. Citizens. The legislature appropriated \$239 million to refund property insurance policyholders who paid these assessments to La. Citizens. In an effort to expedite relief to policyholders who have paid La. Citizens assessments the legislature enacted Act No. 382 of the 2007 Regular Session that affords policyholders the immediate option to recoup assessments charged on or after January 1, 2007. These rebates may be obtained as soon as they are paid by filing form R540 INS with the Louisiana Department of Revenue. To address the potential inequity in the amount of assessments being paid by policyholders and insurance companies, the legislature passed Act No. 235 during the 2007 Regular Session. This Act authorizes a pro-rata calculation of

emergency or regular assessments based on written premiums over the life of the policy. Assessments may be adjusted accordingly if a policy of insurance is cancelled or modified and results in an increase or decrease in premium. The deadline for insureds to claim the rebate for 2005-2006 was December 2010. The deadline to claim the rebate for assessments and charges paid in 2007 was December 2011. Rebates for assessments paid in 2008, 2009, 2010, and 2011 must be claimed by December of 2012, 2013, 2014, and 2015, respectively.

In August 2011, Finch Ratings upgraded La. Citizens' bond ratings from BBB to A-. This upgrade in ratings reflects an improvement in the corporations's financial position.

Louisiana Insurance Guaranty Association

The Louisiana Insurance Guaranty Association is more commonly referred to as "LIGA". LIGA was created by the legislature in 1970 as a "private nonprofit unincorporated legal entity" that may not be deemed an agency of the state for any purpose. LIGA does not receive any money from the state general fund.

LIGA was created to pay the outstanding claims against property and casualty insurance companies that have become insolvent. LIGA does not cover the following direct insurance: life, health and accident, title, disability, mortgage guaranty, financial guaranty, vehicle breakdown, and ocean marine and certain insurance involving investment risks and credit risks.

Any licensed property and casualty insurer who transacts insurance business in Louisiana is required to be a member of LIGA as a condition of doing business in this state. All members are subject to an annual assessment of up to two percent of the direct written premiums in Louisiana. In addition to the assessment, LIGA receives from the Department of Insurance the investment income and proceeds from the liquidation of insolvent insurance companies. These revenues provide the funds to pay the outstanding claims against the insolvent insurance companies.

LIGA's board of directors consists of nine persons as follows: two consumer representatives appointed by the commissioner of insurance, one Louisiana resident appointed by the president of the Senate, one Louisiana resident appointed by the speaker of the House, and five persons appointed by member insurers who are approved by the commissioner of insurance.

Louisiana Property and Casualty Insurance Commission

The Louisiana Property and Casualty Insurance Commission was created by the legislature in 2003 to replace the Council on Automobile Insurance Rates and Enforcement (CAIRE). The commission is to review and examine the availability and affordability of property and casualty (auto and homeowners insurance) insurance in Louisiana. The commission is also to provide oversight and recommendations regarding programs and the enforcement laws that affect automobile insurance rates. The commission submits an annual report of its recommendations on laws and projects affecting property and casualty insurance to the governor, the commissioner of insurance, and the legislature. The 22-member commission includes: representatives of state and local law enforcement agencies; the attorney general; the assistant secretary of the office of motor vehicles; the executive director of the Louisiana Highway Safety Commission; representatives of agent organizations; members of the House and Senate Insurance Committees; consumer representatives; and the commissioner of insurance.

Louisiana Health Care Commission

The Louisiana Health Care Commission, created by the legislature in 1992, serves as a policy and planning board that undertakes comprehensive review of health care and health insurance issues facing the state. The commission assesses the availability, affordability, and delivery of quality health care in the state by examining such topics as the rising costs of health care, including the cost of administrative duplication, the costs associated with excess capacity and duplication of medical services, and the costs of medical malpractice and liability. The commission further examines the adequacy of consumer protections, as well as the formation and implementation of insurance pools that better assure citizens the ability to obtain health insurance at affordable costs and that encourage employers to obtain health care benefits for their employees by increased bargaining power and economies of scale for better coverage and benefit options at reduced costs. The commission also studies the implementation issues related to national health care reform initiatives. The commission annually makes recommendations on healthcare and health insurance in Louisiana to the commissioner of insurance who subsequently submits a report to the legislature on such matters.

The commission is comprised of approximately 50 members representing a broad spectrum of interests, including health insurers, health care providers, and community leaders, as well as representatives of consumer interests, the governing boards of state colleges and universities, the House and Senate Insurance Committees, the commissioner of insurance, and the Department of Health and Hospitals.

Louisiana Health Plan

The Louisiana Health Plan was originally created by the legislature in 1990 as the Louisiana Health Insurance Association. Its initial purpose was to administer the High Risk Insurance Pool, a major medical health benefits plan which provides health insurance policies to Louisianians who are uninsurable in the private health insurance market, often because of pre-existing medical conditions. Premiums for the high risk pool are currently 110% of the average premium charged by the top five individual health insurance carriers providing coverage in Louisiana. In addition to premium income, the high risk pool is funded by a mandated service charge on hospital admissions and outpatient surgery in Louisiana, to be paid by patients' insurers. In the past, an annual legislative appropriation of two million dollars was made to the plan, but such an appropriation has not been over the past two years. Enrollment in the high risk pool is restricted by the amount of funding for the pool.

During the 1997 Regular Session, the Louisiana Health Plan was additionally authorized to administer the state's HIPAA pool. This pool is the state's alternative mechanism for implementing the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). The purposes of that law are to make insurance coverage from one group employment situation to another group more "portable" and to provide coverage to those persons who move from an eligible group into the individual insurance market. Premiums for the HIPAA pool are currently 125% of the average premium charged by the top five individual health insurance carriers providing coverage in this state. In addition to premium income, the HIPAA pool is funded by assessment of insurance carriers and health maintenance organizations doing business in Louisiana. As enrollment in the HIPAA pool expands, the Louisiana Health Plan is authorized to increase the amount of this assessment accordingly.

The Louisiana Health Plan is governed by a 13-member board of directors, including representatives of health insurance carriers, hospitals, physicians, consumers, and the House and Senate Committees on Insurance, as well as the commissioner of insurance or his designee.

Louisiana Life and Health Guaranty Association

The Louisiana Life and Health Guaranty Association, commonly known as LLHIGA, was created by the legislature in 1991. Modeled on LIGA, LLHIGA is a "private nonprofit unincorporated legal entity" that may not be deemed an agency of the state for any purpose and that receives no money from the state general fund.

LLHIGA was created to pay the outstanding claims against life and health insurance companies who have become insolvent. Any licensed life or health insurer, not including a health maintenance organization or a self-insured employee benefits plan, who transacts insurance business in Louisiana is required to be a member of LLHIGA as a condition of doing business in this state. All members are subject to an annual assessment of up to two percent of the direct written premiums in Louisiana. In addition to the assessment, LLHIGA receives from the Department of Insurance the investment income and proceeds from the liquidation of insolvent insurance companies. These revenues provide the funds to pay the outstanding claims against the insolvent insurance companies.

When a member insurer is found to be insolvent and is ordered liquidated, a special deputy receiver takes over the insurer under court supervision and processes the assets and liabilities through liquidation. The task of servicing the insurance company's policies and providing coverage to Louisiana's resident policyholders becomes the responsibility of the guaranty association. The protection provided by the guaranty association is based on Louisiana law and the language of the insolvent company's policies at the time of insolvency.

LLHIGA's ten-member board of directors consists of eight representatives of member insurers, appointed subject to the approval of the commissioner of insurance, one Louisiana resident appointed by the president of the Senate, and one Louisiana resident appointed by the speaker of the House.

Louisiana Mandated Health Benefits Commission

In 2010, Act No. 549 created the Louisiana Mandated Health Benefits Commission with a 22-member board representing the diverse interests of business, consumers and health care providers. The commission is tasked with conducting reviews of all proposed legislation that would mandate coverage by health insurance issuers of specifically enumerated benefits, services, conditions, or medical products mandates submitted to it no later than January 15 of each year. The commission is then to annually report its findings and recommendations, if any, on mandated benefit proposals to the House and Senate Insurance Committees for their consideration no later than 30 days prior to the date the regular session of the legislature convenes. These committees are then required to consider the commission's report on a particular mandated benefit proposal is brought before the committees during the session. (See Health Insurance Issues for further information on health insurance mandates.)

