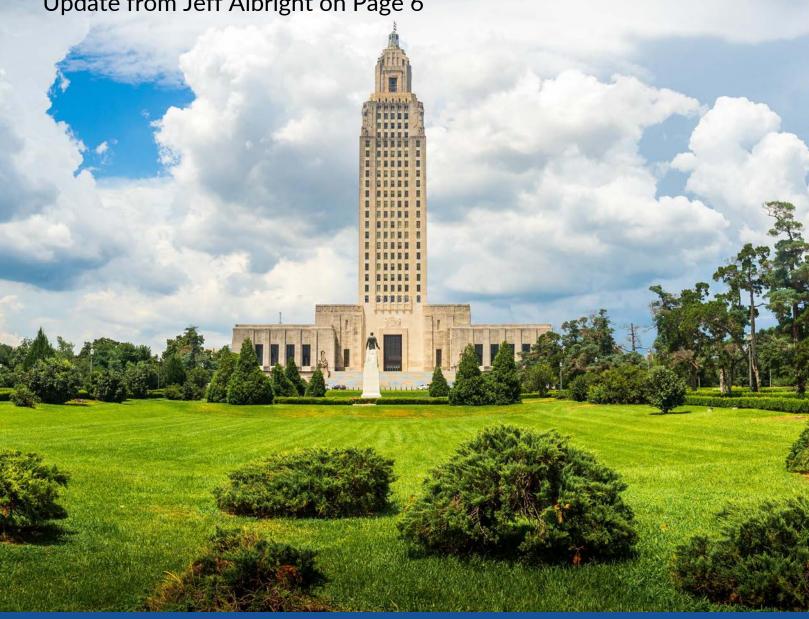
# LOUISIANAAGENT

APRIL 2021

# 2021 Regular Legislative Session has Convened

Update from Jeff Albright on Page 6



Ask Ben: NFIP Risk Rating 2.0

2020 Agency Universe Study

ACAC Insolvency & Coverage Under LIGA

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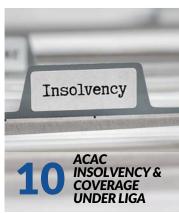


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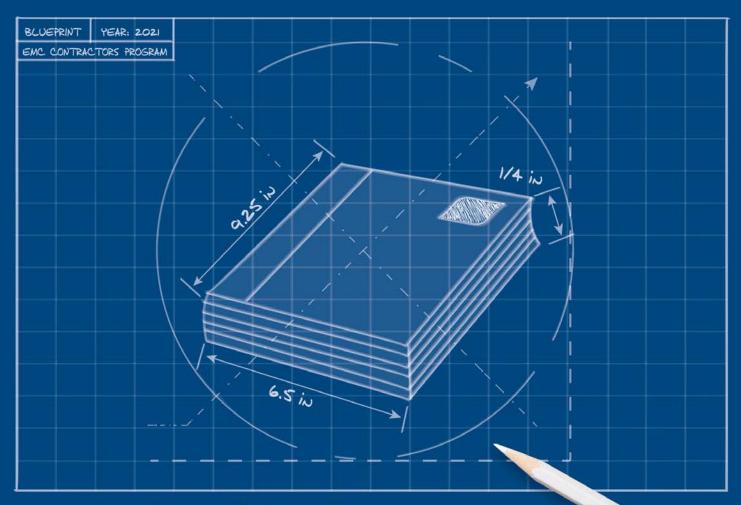
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#### 2021

# LEGISLATIVE SESSION



## By: Jeff Albright, IIABL CEO

The 2021 Regular Session of the Louisiana Legislature convened at noon on Monday, April 12 and must adjourn by Thursday, June 10.

In odd-numbered years, the Regular Session is deemed a "Fiscal Session" by the Louisiana Constitution and is limited to "money matters". This includes taxes, exemptions, exclusions, deductions, credits, rebates, incentives – all the things that cannot be discussed in a "General Session" held in even-numbered years. The Legislature is primarily focused on tax reforms, but this will prove difficult with the federal mandate prohibiting tax changes as a condition of accepting federal Covid relief dollars.

There is already talk of a Special Session for lingering tax issues and a fall Special Session to tackle our decennial census redistricting requirements. We will keep you informed throughout the year, especially as it comes to legislation or matters that may impact the insurance industry.

Even in a Fiscal Session, however, legislators can pre-file up to five bills of general jurisdiction. Compared to the massive battle around tort reform last year, this is a relatively quiet session for insurance, but the insurance industry is still facing several legislative threats this session.

## CATASTROPHE CLAIMS PRACTICES LEGISLATION

There is enormous frustration in many areas of the state that were hard hit by the four hurricanes and a tropical storm last summer. Catastrophe claims handling by insurance companies has not been ideal. Policyholders complain bitterly of long delays before an adjuster started the claims process, multiple reassignments of adjusters which delayed progress, insurance estimates that are far below contractor estimates, and long delays in issuing checks. Policyholders are very angry, and they are asking their legislators what they are going to do protect them from poor catastrophe claims handling. Legislators want to pass legislation that shows their constituents that they have responded to their concerns.

There are a bunch of bills that would require insurers to settle catastrophe claims much faster, expand requirements for adjusters, change claim settlement procedures, and impose very severe penalties on insurers who do not comply with the new requirements. Some of these claims practices bills are reasonable, but some are unworkable and would have a very negative impact on insurers and the Louisiana insurance market.

IIABL is leading the Louisiana insurance industry to pass a few reasonable claims practices reforms to improve the system and protect policyholders, while opposing bills that would hurt the Louisiana insurance market.



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Some of the more important claims practices bills include:

#### HB 386 - Farnum, Les (F)(R)

Provides relative to appointment of special masters in certain civil actions arising within a parish included in a major disaster declaration. *Bill History:* 04-01-21 *H Referred to House* 

Committee on House Judiciary

#### HB 457 - Firment, Gabe (F)(R)

Provides for claims adjusters.

Bill History: 04-02-21 H Referred to House

**Committee on House Insurance** 

#### HB 458 - Firment, Gabe (F)(R)

Provides for additional living expenses and fair rental value coverages under residential insurance policies.

Bill History: 04-02-21 H Referred to House Committee on House Insurance

#### HB 469 - Larvadain, Ed (F)(D)

Provides relative to homeowner's insurance claims settlement practices.

Bill History: 04-02-21 H Referred to House Committee on House Insurance

#### HB 523 - Tarver, Phillip (F)(R)

Provides relative to bad faith claims against insurers.

Bill History: 04-14-21 H Withdrawn

#### HB 585 - Geymann, Brett (R)

Provides relative to homeowner's insurance claims settlement practices.

Bill History: 04-02-21 H Referred to House

**Committee on House Insurance** 

#### HB 591 - Firment, Gabe (F)(R)

Provides for certain claims settlement practices.

Bill History: 04-02-21 H Referred to House

**Committee on House Insurance** 

#### SB 29 - Abraham, Mark (F)(R)

Authorizes the commissioner of insurance to take certain actions relative to insurance during a declared emergency.

Bill History: 04-20-21 S Meeting set for 10:00 A.M.

- Senate Insurance

#### **SB 54** - **Luneau**, **Jay** (D)

Provides relative to hurricane, named storm, and wind and hail deductibles.

Bill History: 03-22-21 S Referred to Senate

**Committee on Senate Insurance** 

## UNDERWRITING PROHIBITIONS LEGISLATION

The second area where the insurance industry is under threat is from bills that prohibit the use of certain underwriting criteria including insurance/credit scoring, occupation, gender over age 25, and status as a widow/widower in underwriting or rating insurance.

Governor John Bel Edwards has made this issue one of his top legislative priorities for this session and has personally lobbied legislators for passage for SB 55 by Senator Jay Luneau.

#### HB 467 - Jordan, Edmond (D)

Prohibits the use of certain rating factors in automobile insurance underwriting.

Bill History: 04-02-21 H Referred to House

Committee on House Insurance

#### **SB 55** - Luneau, Jay (D)

Prohibits insurance rate determinations based on certain risk classifications.

Bill History: 03-22-21 S Referred to Senate

Committee on Senate Insurance

#### WHAT TO EXPECT

Over the coming months of Regular Session, IIABL will keep you informed on any measures that may impact the insurance industry. Your grassroots engagement in the legislative process

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#### **Legislative Updates**

These communications will provide you with the most up-to-date legislative information that is important to the insurance industry but does not require immediate action.

#### **Legislative Grassroots Alerts**

These communications are time-sensitive.
Legislative Grassroots Alerts are a request for you to stop what you are doing, read the alert, and use our grassroots system to send an email to your legislator. These will most likely be sent in advance of a vote or on an important insurance bill.

#### **GET INVOLVED**

There are several ways for you to get involved in the legislative process?

#### **Stay Informed**

Life gets busy, but please take the time to stay informed about issues affecting your agency. Our Legislative Updates make this easy. Things

happen very quickly at the Capitol, so please email your legislator as soon as possible when you receive our Legislative Grassroots Alerts. if you want to monitor some bills, utilize the State Legislature's great, free tracking tool, MyLegis. You can track up to 50 measures and receive updates on any actions taken on those instruments. To sign up, go to <a href="https://www.legis.la.gov">www.legis.la.gov</a> and click "Sign Up" in the upper right corner.

#### **Know Your Legislators**

Please take time to email your legislators and let them know your position on bills that are important to you. Legislators want to hear from their constituents about how legislation is going to affect them, and how they should vote on a bill. If you do not know your legislators, use the link below to find your State Representative and State Senator.

Find Your Legislators

# DISCOVER WHAT MAKES US DIFFERENT. Experience. Knowledge. Performance.



Access Home Insurance Company is a privately owned, admitted insurance company. It was founded in 2011 by insurance professionals with over 100 years of combined experience in property and casualty insurance. The company is based in Baton Rouge.

Access Home distinguishes itself from other carriers by offering innovative residential insurance options. Unlike most carriers, Access Home makes coverage possible for homes with the following characteristics\*: homeowners with any dog breed (including pit bulls), saddle animals, exotic pets, homes with trampolines, pools with diving boards or slides, and unfenced pools, hot tubs or bodies of water on the premises. Furthermore, porches or decks without handrails are now eligible\*; entrances with 3 or more steps without handrails are now eligible\*; and Central A/C is no longer required. We will cover homes on up to 15 acres and we aren't daunted by homeowners with up to a 90 day lapse in coverage, either.

\*Excludes liability coverage associated with these features.



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# ACAC Insolvency & Coverage Under LIGA

By: Ben Albright, IIABL Vice President of Strategic Initiatives

American Capital Assurance Company (ACAC) is in receivership in Florida. The company is a Florida based insurer which has written commercial property insurance (and some flood) in Louisiana. Florida. Texas, and other coastal states in the Southeast with a particular focus on commercial, residential exposures. Poor claims experience due to multiple severe weather events drained their capital, and the company is no longer able to fund its claims. Consequently, ACAC has admitted that it is insolvent, and Florida regulators have initiated delinquency proceedings. Liquidation will be handled by the Florida Department of Financial Services Division of Rehabilitation and Liquidation. Because ACAC is an authorized insurer in Louisiana, claims that they cannot pay in Louisiana will be handled the Louisiana Insurance Guarantee Association (LIGA).

IIABL has been getting a variety of questions regarding the procedure for handling claims through LIGA, so we put together the below FAQ:

## 1) What companies are covered by LIGA?

 All authorized (admitted) companies writing P&C business in Louisiana.

- To verify if a company is authorized in Louisiana, search the Department of Insurance's active company search.
- Admitted Life and Health insurers are covered by a separate Guaranty
   Association
- ACAC is an admitted insurer and is therefore covered by LIGA.

#### 2) What will LIGA pay?

- **U**p to \$500,000/occurrence on a claim covered under the terms of the policy for the insolvent insurer.
- Up to \$10,000 in returned unearned premium for a return mandated by the policy for the insolvent insurer.
- Full benefits owed for an insolvent Workers
   Compensation insurer.

## 3) Are there coverage differences under LIGA?

- Claims should be adjusted and paid under the normal terms and conditions of the policy.
- Coverage should not be affected by the liquidation except by the maximum payments mentioned in item 2.

Continued on page 11.

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#### 4) When and how will by insured get paid?

- The liquidator will try to pay claims as timely as possible, but it will take some time for the liquidator to manage the process and resume claim payments.
  - During this time, claims will continue to be adjusted and paid by the liquidator on behalf of the insolvent insurer until insurer assets are exhausted.
  - In the case of ACAC, the Florida
     Department of Financial Services
     Division of Rehabilitation and
     Liquidation will serve as the liquidator.
- Once AmCap is liquidated, claims will have to be made against LIGA.
  - At this point, claims adjusting and payments will be performed by LIGA.
- In both cases, claims will likely be delayed from normal claim payment schedules because of the liquidation.

- 5) One significant exclusion to know regarding coverage under LIGA is for "high net worth insureds":
- Policyholders with a net worth of over 25 million dollars do NOT have coverage under LIGA.

For additional information on LIGA, please see IIABL's <u>Technical Advisory #212</u> or reference sections of 2051-2070 of the <u>Louisiana Insurance Code</u>.

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**ASK BEN** 

# What do the changes to NFIP guidelines mean for my agency?

By: Ben Albright IIABL Vice-President of Strategic Initiatives



NFIP recently announced its plan to move to an updated rating model, and our agents have been asking what affect this will have on their agency and their customers. Here is a break down some of the details that we know about the changes and their effects in Louisiana.

#### (1) Why the change?

- NFIP describes Risk Rating 2.0 as "equity in action".
- Their goal is to increase the accuracy of the rates for individual locations so that those with higher risk pay more, and those with lower risk pay less.



#### IIABL MEMBER BENEFIT

One of the many great benefits of your IIABL membership is the outstanding staff resources that can help you with many agency issues. When you have a question or a problem and do not know where to get help, "Ask Jeff" or "Ask Ben!" Jeff Albright and Ben Albright are available to assist you!

"Ask Jeff/Ask Ben" allows us to share important information that comes from the questions we receive from our member agents.

Continued on page 14

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#### (2) How is the system changing?

- The legacy system is heavily based on a property's elevation within a given zone on a flood map.
- The new rating plan includes a variety of additional factors including flood frequency, distance to a body of water, and cost to rebuild.

## (3) Will this affect my insureds' grandfathered status?

- No NFIP will continue to discount Pre-FIRM subsidized, newly mapped, and continuous coverage (grandfathered) policies. (Please note that under current rules, continuous coverage must be with NFIP.Private flood insurance does not qualify.)
- Policyholders will still be able to transfer grandfathering discounts to a new owner through the existing assignment process.
- Likewise, policyholders in Community Rating plans will continue to receive discounts.

## (4) What does this mean for rates in Louisiana?

 First, it is important to note that the statutory cap on single year rate increases at 18% of premium remains in place.

- Of the approximately 496,000 NFIP policies currently written in Louisiana:
  - 20% will see a decrease under Risk Rating 2.0
  - 70% will see a rate increase of between
     \$0 and \$120 in their first year
  - 7% will see a rate increase of between \$120 and \$240
  - 3% will see a rate increase of more than \$240

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#### (5) Dates to know:

- August 1, 2021 quoting under the new guidelines opens for any policy with an effective date of 10/1/2021 or later
- October 1, 2021 All new business effective on or after this date will be written under the Risk Rating 2.0 guidelines. Renewals effective on or after this date will have the option to use the new guidelines.
- April 1, 2022 All business new AND renewal renewed on or after this date will be written using Risk Rating 2.0 pricing.

## (6) How can my policyholders keep their rates down?

- NFIP recommends policyholders take steps to mitigate flood risks:
  - Install flood openings
  - Elevate homes
  - Move machinery and equipment to higher floors

- In the event of a flood, see if policyholders are eligible to use Increased Cost of Compliance coverage in order to access additional funds to elevate or relocate structures.
  - To qualify, the policyholder must be in a Special Flood Hazard Area (zones beginning with the letter A or V)
- Repetitive Loss policyholders should contact Jeffrey Giering, Louisiana's State Hazard Mitigation Officer at jeffrey.giering@la.gov about the possibility of getting funding for mitigation projects.





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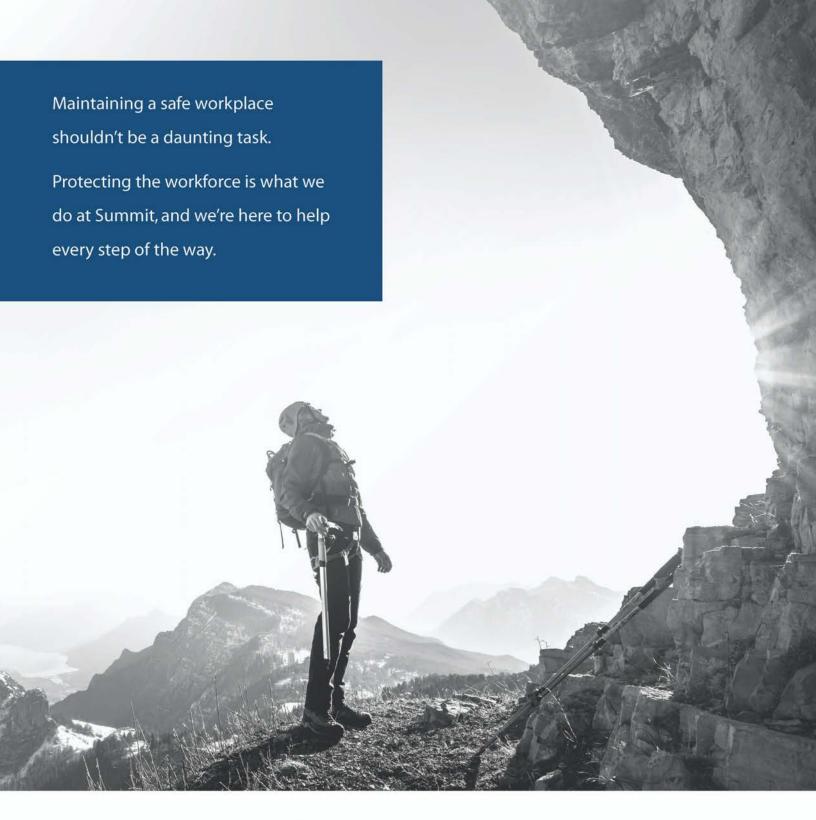
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### !!!AGENT ALERT!!!

The Big I has seen more and more agency members receive demand letters from plaintiffs' attorneys alleging that their agency websites are not accessible to sight-impaired consumers, and therefore violate federal law accessibility requirements. While agencies in Florida, California and parts of Massachusetts have been targeted since at least last year, agencies in Colorado are now receiving more of these letters, and it's likely to be happening in other states as well.

Several law firms nationally have been sending these letters to businesses in various industries for years, but lately we've seen more independent agencies receive them. The alleged violations are typically based on accessibility requirements in the ADA or FHA, or both. The law firms are interested in reaching quick settlements and, so far, have not been actively filing lawsuits against agents. These demand letters, which often appear to be cut-and-paste versions of other attorney letters typically follow the same format of demanding compliance with the ADA and/or FHA and seeking a settlement in exchange for a conditional release.

It's good business to have websites work with online accessibility tools like screen readers, and it also will help agencies avoid being targeted by these plaintiffs' lawyers.IIABA's Office of General Counsel and ACT worked together on providing the following resources:

<u>Technology Solutions for Your Business - Get Your Website ADA-Compliant (independentagent.com)</u>



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# 2020 AGENCY UNIVERSE STUDY 10 KEY FINDINGS!

#### **ABOUT THE STUDY**

The biennial 2020 Agency Universe Study was recently released and reveals stability and challenges in the independent agency system. The number of independent insurance agencies has remained stable and business conditions continue to improve, although at a slower rate than 2018, according to the Study.

Future One, a collaboration of the Big "I" and leading independent agency companies, has released key findings from the recently completed Agency Universe Study, hailed as the most comprehensive look at the independent agency system.

"The 2020 Agency Universe Study reveals good news for the independent agency system, including continued adaption to the digital solutions and innovations that enable independent agents and brokers across the country to serve their clients and communities most efficiently," says Bob Rusbuldt, Big "I" president & CEO. "The study also offers a pulse read on key areas agencies should focus on to better prepare for the future. Women and people of color continue to be underrepresented as agency principals, and the Big 'I' is committed to continuing its outreach efforts to address this issue so agencies can serve all insurance consumers better."

The study looks at many statistics about independent agencies operating in the U.S., including their numbers, revenue base and sources, number of employees, ownership, mix of business, diversification of products, technology

uses, non-insurance income sources and marketing methods. For 2020, the study continued to examine those trends, focusing on agency perpetuation challenges and the impact of emerging purchase channels and trends.

"The study provides independent agency principals and managers with insights into how their peers operate, as well as business strategies that may be helpful to them," says Madelyn Flannagan, Big "I" vice president of agent development, education, and research. "In particular, as agencies express concern over emerging purchase channels threatening their consumer segment, the study revealed how crucial adaptation to social media and digital marketing strategies are key to agency success. Overall, though, the channel has fared well during the economic upheaval of the last year."

#### **COVID-19 IMPACT FINDINGS**

The Agency Universe Study it reveals how the coronavirus pandemic affected the independent agency system. One-quarter of independent insurance agencies report COVID-19 had a significant impact on their operations, revenue and commercial lines customer base, according to the 2020 Agency Universe Study COVID-19 Impact Summary.

Due to the coronavirus pandemic and related shutdown orders in 2020, the study was halted in its traditional fielding time in March and restarted in September. The 2020 study included survey questions related to the coronavirus pandemic, released as the COVID-19 Impact Summary.

Continued on page 20.

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"Independent agents and brokers emerged as truly essential anchors in their communities during the challenges of 2020, helping their clients and neighbors find security and peace of mind even as they themselves were impacted by the uncertainties," says Bob Rusbuldt, Big "I" president & CEO. "The 2020 Agency Universe Study highlights how agencies can best tackle the continued obstacles and trends in the post-COVID-19 world."

The COVID-19-focused section of the study looks at the pandemic's impact on operations, revenue, staffing, strategies and carrier relationships.

"The study uncovered some key areas in which independent agencies need further support, including finding new business opportunities and offering digital tools and servicing," says Madelyn Flannagan, Big "I" vice president of agent development, education and research. "As the Big 'I' continues supporting its members, we

look forward to partnering with the brightest minds in the industry to provide the critical resources, tools and solutions needed to adapt to the current business environment."

#### **10 FINDINGS**

Key findings from the 2020 Agency Universe Study include:

- 1) The number of independent agencies remains stable. In 2020, the estimated total number of independent property/casualty agents and brokers in the United States stands at 36,000. This is consistent with 2018 number of 36,500.
- 2) Business conditions remain favorable but growth slows. Business conditions continue to improve, as they have for the past several waves, but at a slower rate. The majority of agencies (70%) report increases in total revenue

Continued on page 21.



#### How is it that The Iroquois Group can work effectively with Member Agencies with \$2 million in premium and others with \$102 million?

Because Iroquois creates a custom fit of markets, resources and benefits to meet each agency's needs.

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- Want to earn superior compensation from your carriers? We can show you how.
- On't want interference in how to run your agency? We offer information and options, but you make all decisions for what is best for your agency.
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between 2018 and 2019, with an average increase of 20%. However, this is slightly lower than in 2018 when 76% reported an increase, with average increases of 25%. Agencies are slightly more likely to report increases in personal lines revenue (67%) than commercial lines (63%).

- 3) Principal aging remains consistent. The aging of the independent agency universe is consistent with 2018 findings as the average age of agency principals is 55 years old, with 17% age 66 or older. Agencies may be starting to consider perpetuation planning. Nine in 10 have a perpetuation plan (on par with 2018), though it often centers around children and family. Four in 10 anticipate some ownership change in the next five years.
- 4) Social media and digital marketing strategies are key. All the top marketing strategies cited in 2020 are digital: social media and digital marketing (58%), creating and maintaining the agency website (49%), portal technology on the agency site (30%), search engine optimization (30%), and e-marketing activities (20%).
- **5) Emerging purchase channels remain a concern.** The impact of emerging purchase channels remains a concern, particularly for

personal lines, with 35% of agencies believing personal lines direct purchase through the insurance company will have a significant impact on their agency over the next two years—and 27% believing the same issue will emerge with non-insurance website purchases.

Approximately 1 in 4 express similar concerns about small commercial direct purchase or purchase through emerging online providers.

#### 6) Inclusion continues to be a challenge.

Women and people of color continue to be underrepresented in the independent agency universe. Forty-two percent of agency principals are women. Nearly 9 in 10 of agency principals are white. Larger agencies are especially likely to have male principal or senior managers. However, newer agencies are more likely to have at least one African American principal (12% versus 5% of established agencies).

Key findings from the 2020 Agency Universe Study COVID-19 Impact Summary Include:

7) 1.Small and newer agencies took the brunt of COVID-19's impact. About one in four agencies report COVID-19 had a significant impact on their operations, revenue and commercial lines customer base. The pandemic was more likely to impact the revenue of small agencies (34%) and

newer agencies (32%).



## Partnering with people in business.

At FCCI, we've been working with businesses for more than 60 years, now in 20 states and D.C. Our financial strength, expertise and claim handling help businesses thrive and face the future with confidence.



8) 1. Absence of disaster recovery plans belies preparedness perception. Nearly half of respondents believe their agency was well-prepared to deal with COVID-19's impact on their business—despite only 1 in 20 having a disaster recovery plan that included pandemics. Smaller agencies were least prepared to deal with the pandemic at 33%. Nearly half of those with a plan will modify it, but only 1 in 5 without a plan expect to create one. Newer agencies are less likely to have had a disaster recovery plan (22%).

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9) Building an online presence is crucial. Going forward, building an online presence for marketing and implementing or improving online business tools are the most important factors in succeeding in 2021. Building a digital presence is more important for small (65%) and medium-small (61%) agencies. Jumbo agencies cite implementing or improving homebased tech for remote workers (46%) and developing strategies for opening the office safely (29%) as important. Newer agencies are more likely to cite building an online marketing presence as important (80%).

Allstate/Encompass, Amerisure, Central Insurance Companies, Chubb, CNA, Foremost, Grange Insurance, Hartford Steam Boiler (HSB), Liberty Mutual Insurance/Safeco, Nationwide, Progressive, Selective, The Hanover Insurance Group, The Hartford, Travelers and Westfield Group.

10) Independent agencies need support with business opportunities and digital tools. Top areas needing support because of the pandemic are finding new business opportunities and offering digital tools and support with digital servicing. Small agencies are more likely to need support with handling personal lines clients' calls and service requests at 23%, while jumbo agencies are more likely to need support leveraging risk control services to identify new areas of exposure due to the pandemic (23%) and providing guidance about the crisis and coverage (28%). Newer agencies are more likely to need support with finding new business opportunities at 56%.

The 2020 Agency Universe Study is the fourteenth in a series that was first conducted in 1983. Since 2002, the study has been completed biennially. Since 2004, the Agency Universe Study has relied on internet data collection. In total, 1,437 respondents were included in the 2020 study, conducted by Zeldis Research in cooperation with Future One.

To order a copy of the 2020 Agency Universe Study Management Summary, which provides an overview of the highlights from the complete study, visit the Big "I" Agency Universe Study webpage.

Across the country people wake up every morning and head to work. They work in retail, construction, warehouses, and factories making sure they can support their families and make it home safely at the end of each day.

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Last year, the COVID-19 pandemic led to a once-in-ageneration shock to our economic system. Full-year GDP growth of negative 3.5% represented the sharpest decline in the US economy since 1946. Yet, insurance brokers demonstrated remarkable resilience, improving margins in 2020 while generating respectable organic growth of 4.3%.

By comparison, in 2009, during the worst of the Great Recession, the contraction of the US economy was less severe with GDP growth of negative 2.4%. But the impact on insurance brokers was greater in 2009, with organic growth falling to negative 1.9%.

What made the difference? In 2009, the economic contraction coincided with softening P&C pricing. These doubled headwinds proved too much for most firms to overcome, driving growth into negative territory. Conversely, the pricing environment in 2020 was far more favorable with P&C premiums increasing at an average of 10.6%. Without the benefit of this hard market, growth for brokers might have turned negative last year for only the second

# ARE YOU PREPARING FOR GROWTH?

REAGANVIEW MARCH 29, 2021

Jim Campbell Partner, Reagan Consulting PAGE 24 LOUISIANAAGENT

time on record.

Hard markets don't last forever and history suggests this current hard market, which has now been running for 13 quarters, is getting a bit long in the tooth. While increases in P&C rates could continue through this year, there are signs that rates are plateauing in some lines and markets. What will happen to your growth when this inevitable shift in the pricing cycle occurs?

Of the three primary drivers of growth for insurance brokers, only one is within your control. None of us can control the economic cycle or the P&C pricing cycle. But you can control the third growth driver, your Sales Velocity. Sales Velocity is a measure of your rate of new business production, calculated by dividing new business written in the current year by the prior year's total commissions and fees. A high Sales Velocity is a hallmark of high-growth firms. Top performers consistently generate a Sales Velocity of 15% or higher, but the industry median fell last year to only 11.3%. This is the second-lowest level recorded since 2014 and a continuation of a downward trend in Sales Velocity over this period.

So, how's your Sales Velocity? Now may be a good time to assess your firm's readiness to generate positive organic growth regardless of the external trends. Here are a few questions to consider.

- What was your Sales Velocity in 2020 and how has it trended over the past 3 to 5 years?
- What should your Sales Velocity target be to achieve your annual organic growth target, assuming a neutral P&C pricing environment and your historical attrition rate?
- How many producers do you need to achieve your Sales Velocity target this year? Next Year?
- How many new producers should you hire now, considering the average success rate for new producers in our industry is just over 50%?

For the remainder of 2021, the external growth drivers may remain favorable. P&C pricing could continue to increase through the year and most economists are projecting US GDP growth to be the strongest in a decade or more. But to paraphrase an old saying, it's during time so peace that we should prepare for war. Now is the time to ensure your internal growth engine will be ready when the external trends become more challenging.



# ANYTHING BUT BASIC



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## LOUISIANA TRIAL LAWYERS SPEND BIG ON ADS ACROSS THE STATE

State Senator from Shreveport-Bossier seeks to curb over-the-top, dishonest ads

According to a new report, Louisiana accounts for a disproportionate number of local legal services advertisements – the ones that tell you to "Call now to get what you deserve!"

"Louisianans deserve truth in advertising," American Tort Reform Association (ATRA) President Tiger Joyce said. "Trial lawyers continue to dump millions of dollars into buying ads, and while it might help them get more clients and a bigger pay day, it's the hardworking people of Louisiana who really pay."

The new report, released by ATRA, states that from October through December last year, \$12.36 million was spent on local legal services advertisements in Louisiana. More than 75% of that went toward TV ads, nearly 22% toward outdoor advertising like billboards, and less than 1% toward radio. The nearly 180,000 TV ads that aired accounted for nearly 6% of all local legal services TV advertising across the country – though Louisiana makes up less than 1.5% of the nation's population.

Three law firms accounted for nearly 70% of all local legal services TV ads in the state – Dudley DeBosier Injury Lawyers, Morris Bart Personal Injury Attorneys, and Gordon McKernan Injury Attorneys. Combined, the three firms spent \$5.3 million on TV ads in the three-month span. More than 80% of all money spent on local legal services TV ads was spent in New Orleans, Baton Rouge, and Lafayette. Of all the local legal services ads that aired on TV, more than 75% aired in New Orleans, Baton Rouge, Shreveport, and Lafayette.

- "The problem with these ads is that the over-the-top, doomsday ads claiming lethal effects of medications can scare consumers to the point that they might stop using critical, prescribed medications prescribed without consulting their health care providers," Joyce said "These ads undermine the simple notion that physicians and health care providers not TV trial lawyers with catchy jingles should dispense medical advice."
- One Louisiana state Senator is taking a proactive stance to curb these dishonest ads. Senator Barrow Peacock (R-Bossier City) is sponsoring S.B. 43, which would require more transparency in legal services advertisements related to medical or health issues.
- "We're pleased to see Senator Peacock taking the lead on this important legislation," Joyce said. "Passing this bill could truly save lives."
- A 2019 FDA study shows the real-life consequences of these ads. The report found 66 reports of adverse events following patients discontinuing their blood thinner medication (Pradaxa, Xarelto, Eliquis or Savaysa) after viewing a lawyer advertisement. The median patient age was 70 and 98% stopped medication use without consulting with their doctor. Thirty-three patients experienced a stroke, 24 experienced another serious injury, and seven people died.

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Dr. Shawn H. Fleming, doctor for one of the deceased, stated before Congress: "It's my opinion that the tone and content of these advertisements imply a qualitative judgment about these medications that are just not true. When you say call 1-800- BAD-DRUG, that clearly implies it's a bad drug, which runs counter to current medical evidence and also to the FDA's recommendations."

This year's proposed legislation in the Pelican State is building on important work to address legal services advertising in previous legislative sessions. Last year, two pieces of legislation made it to the finish line: S.B. 115, sponsored by Senator Patrick Connick (R-Marrero) and signed into law, requires advertisements for legal services that mention settlements or jury awards to disclose the amount of attorney fees paid from a settlement; and, S.C.R. 57, sponsored by Senator Sharon Hewitt (R-Slidell) urging the Louisiana Supreme Court and the Louisiana State Bar Association to consider a "lawyer advertisement review recognition program."

Louisiana isn't alone in the fight against deceptive legal services ads. In recent years, Tennessee, Texas and West Virginia have also passed legislation related to this type of advertising.

Louisiana is perennially named a "Judicial Hellhole" by the American Tort Reform Foundation in its annual report, and is currently ranked the fifth worst "Judicial Hellhole" in the country.

The full report on trial lawyer advertising in Louisiana is available at ATRA.org and utilizes Kantar data.

**Contact:** Bailey Aragon | BAragon@atra.org | 505-948-0720 (M) | 202-682-0084 (O)

About the American Tort Reform Association (ATRA): Founded in 1986, ATRA is a nonpartisan, nonprofit organization with affiliated coalitions in more than 40 states. It is the nation's first organization dedicated exclusively to reforming the civil justice system through education and legislative enactment, and acts as a nationwide network of state-based liability reform coalitions backed by 142,000 grassroots supporters. ATRA works to bring greater fairness, predictability and efficiency to America's civil justice system. Those efforts have resulted in the enactment of state and federal laws that make the system fairer for everyone.



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# WHOLESALE MARKET UPDATE

Mark Crites, Partner, Reagan Consulting

While the retail insurance sector receives many of the headlines given the recent deal activity, there have been massive changes to the wholesale distribution system over the last nine months. Key events include the acquisitions of two top-five wholesale brokers and an announced initial public offering (IPO) which would mark the first time in history that a pure wholesale broker became a public company. Below is a summary of recent notable transactions in the wholesale insurance sector.

The two blockbuster deals came first. On September 1st, 2020, Ryan Specialty Group, LLC acquired All Risk, Ltd. All Risks, a 100% employee-owned firm, brought to RSG over 800 employees, 36 specialty programs, an industry-leading training and development platform, and a complementary culsture. The deal market the union o the3rd and 4th

largest P&C wholesale brokers in the U.S. (by premiums). The combined firm generated nearly \$15 billion in annual premiums in 2020 across 70 offices (representing a significant increase over the 2019 premiums included in the chart below). With the addition of All Risks, RSG bolstered its specialty program capabilities and presence on the East Coast.

Not to be outdone, on March 5th, 2021, AmWINS Group, Inc. reached an agreement to acquire Worldwide Facilities, LLC. Worldwide, the fifthlargest wholesale P&C broker by premiums brought to AmWINS approximately \$2 bullion in annual premium and 720 employees across 35 offices. The acquisition marked AmWINS' 50th acquisition and added scale to the largest wholesaler in the U.S. The combined firm will have more than 6,150 employees across 155 offices in the U.S., and place in excess of

#### The Top 10 largest P&C wholesale brokers are now the Top 8 P&C wholesale brokers...



Continued on page 29

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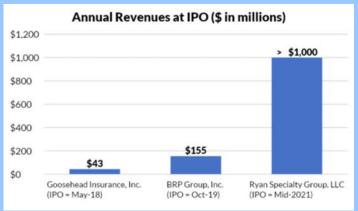
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\$24 billion in annual premiums. The addition of Worldwide broadens AmWINS' specialty capabilities and expands its footprint on the West Coast.

Coincidentally, less than two weeks following the AmWINS announcement, Ryan Specialty Group, LLC announced on March 16th, 2021 that it submitted a draft S-1 registration statement with the SEC for an IPO. While the confidential nature of the filing limits available information, this proposed offering will mark the largest broker IPO in over a decade.



There are currently seven publicly traded U.S. insurance brokers, including recent public market entrants, Goosehead, and BRP (noted in the chart above). RSG will be the only publicly traded broker that is a pure wholesale broker/specialty managing general agent in the U.S.

The top eight wholesale P&C brokers (shown previously) will now consist of one publicly traded broker (RSG), one 100% employee-owned broker (Brown & Riding Insurance Services, Inc.), one bankowned broker (CRC Insurance Services, Inc. is a wholly-owned subsidiary of Truist Financial Corporation), and five brokers backed by private equity firms with either a minority or majority stake.

We expect this trend of capital transactions in the wholesale sector to continue for firms of all sizes. Why? The wholesale sector is well-positioned to capitalize on many of the current trends in insurance distribution, including:

1) Hard P&C Market: Many wholesalers are coming off of their best annual performance (yes, even during a pandemic) in large part due to firming P&C prices across most lines of business.















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- 2) Elevated Risk Profiles: The recent rise of natural disasters, including hurricanes in the Gulf and wildfires in California, has fueled the need for access to excess and surplus lines carriers, which wholesale brokers provide.
- 3) Increased Industry Specialization: Highly specialized brokers achieve higher growth levels than their industry-agnostic/generalist peers. Wholesale brokers, through their contract binding authority platforms and proprietary programs, have a high growth potential.
- 4) Acquisition Imperative: Private equity models in the insurance distribution industry have centered around the "buy-and-build" strategy. Meaning, once a private equity firm acquires a platform broker (larger firm) to stake its presence in the sector, it adds onto that platform as quickly as possible through additional acquisitions. The historically low-

interest rate environment has bolstered their appetite for deals with many securing huge facilities to fuel their lofty acquisition goals. Scale is achieved much earlier through acquisitions relative to organic growth.

While the top wholesale brokers keep getting bigger, as evidenced by these three recent transactions, we believe more consolidation and capital investment is in store for the fragmented wholesale sector.

### Mark Crites Partner, Reagan Consulting

**ReaganView** is Reagan Consulting's forum for providing an occasional perspective on issues and opportunities relevant to the insurance distribution system.

This [article] includes only general information and should not be relied upon as legal, tax or compliance advice.



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It is designed to ready the entry-level student to be able to apply what they have learned in real-world scenarios quickly and help the student become well versed in the main aspects of the commercial world of insurance.

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By focusing on industry and commercial concepts only the student is able to move into a competency level that would otherwise take years using a more traditional approach.

#### **CLCS PROGRAM ADDITIONAL DETAILS**

The CLCS Program includes five (5) classes covering the following areas of concentration:

- 1. Business Auto
- 2. Commercial General Liability
- 3. Commercial Property
- 4. Workers Compensation
- 5. Insurance Principals

It also includes nine (9) hours of Continuing Education, currently set up for video and ondemand viewing.

There are quizzes at the end of each class that requires a 70%+ passing rate for the Designation with 3 attempts.

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OUR PRODUCTS











# Catalyit Provides All the Tech Guidance Agencies Need in One Place, Thanks to Steve Anderson and 7 Big I State Associations

IIA of Wisconsin, Big I New York, IAB of Louisiana, PIIA of Colorado, Big I New Jersey, IIA of Texas, and IIA of North Carolina have partnered with Steve Anderson to launch Catalyit.

"Members constantly share their frustration and need for guidance on agency technology," says Lisa Lounsbury, President of Catalyit, and President & CEO of Big I New York. "There hasn't been a one-stop-shop for us to refer them to, so we created one. With the right tech, agencies will thrive. And that's exactly what we're going to help them do."

Access to the Catalyit membership site (catalyit.com) is granted through a subscription, with further discounts to Big I partner state members.

"The number of ways agencies can leverage technology to increase profits and serve customers is nearly unlimited. But time, knowhow, and fear of risk are getting in the way. Catalyit will solve it for them," says Steve Anderson, leading insurance technology

authority and CEO of Catalyit. "My career has been dedicated to helping agencies harness technology, which is why I'm thrilled to announce Catalyit. We've assembled world-class experts, guidance, solutions, training, and community to help agencies thrive."

#### Agencies will benefit from:

- Guides & Reviews: Not sure which AMS to choose? Don't have time to research 5 quoting platforms? We've done the work! Our guides help agencies compare solutions in minutes and include reviews by peers and experts.
- Training: From monthly live coaching and Q&A sessions to on-demand classes, agencies will be able to use the lingo, get the most out of tools, and train their teams. Unlimited access includes the Tech Tips weekly insights newsletter.
- Tools: Catalyit's in-depth tech assessment provides agencies with a custom roadmap for success and the tools to get it done. Have the right tech stack? We have a guide for that too.
- Community: Discuss trends, best practices, and challenges with peers, experts, and providers.
   With Catalyit, there's an entire community of support and networking.
- Consulting: Our team of experts can work directly with an agency.

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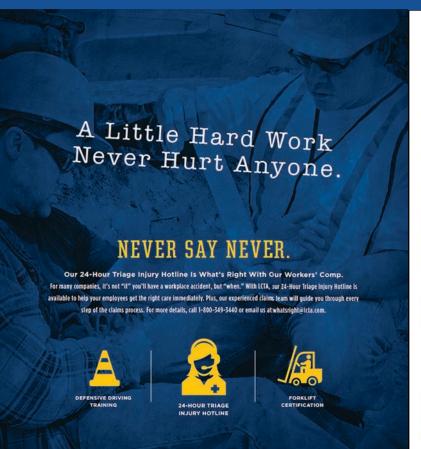
While the full Catalyit website launches in June, agencies should visit today to download Catalyit's Top 10 Tech Tips, sign up for launch notifications, and get on the list for a free tech assessment.

#### **About Catalyit**

Catalyit is the "go-to" technology resource for insurance agencies. In one place, we bring together world-class tech experts, guidance, solutions, training, and community to increase agency profits and customers' experience. Through Catalyit.com, agencies access solution guides & reviews, training, assessments, and tools, a member community, and consulting. Our subscription-based membership site launches in June at Catalyit.com.
[Pronounced cat-a-lit]

#### **About Steve Anderson**

Steve Anderson is a technology and risk expert, and one of the original thought leaders/influencers for LinkedIn. From business management systems to social media, Steve analyzes what is happening and explains its implications for the future. He spent his career helping the insurance industry understand, integrate, and leverage current and emerging technologies. Steve is a globally sought-after speaker, bestselling author, business consultant, and risk expert. His most recent research was the basis for his recently released book, The Bezos Letters: 14 Principles to Grow Your Business Like Amazon, an international best-seller. Steve serves as Catalyit CEO.







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# INSURANCE COMMISSIONER DONELON OFFERS 2021 BILLS TO PROTECT CONSUMERS & IMPROVE CHOICES



The Louisiana Department of Insurance has proposed a slate of bills for the 2021 legislative session that would protect people who want to get genetic testing, expand options for flood insurance and strengthen the insurance commissioner's ability to protect policyholders during a governor's emergency declaration. "We are very excited about our package of consumer-focused bills this season. From health to property to flood, these pieces of legislation touch the lives of every consumer and will make a big difference in the day-to-day insurance options of the people of Louisiana," Insurance Commissioner Jim Donelon said.

could be misused once collected. This bill would prevent a life insurance company from denying coverage, canceling or refusing to renew coverage, imposing a higher premium, or otherwise discriminating against an individual or family member due to any information revealed by genetic testing. This bill was suggested to us by cancer researchers who were having difficulty recruiting research volunteers due to life insurance concerns and is patterned after a similar bill that recently passed in Florida.

Continued on page 37

Some of the most important legislation requested by the LDI this year includes the following:

#### Life Insurance

House Bill 455, authored by Rep. Mary DuBuisson, seeks to prohibit the use of genetic testing in underwriting for life, disability and long-term care insurance in Louisiana. Genetic testing for diseases such as cancer are becoming more popular tools in healthcare, but there are concerns that such information





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#### **Property and Casualty Insurance**

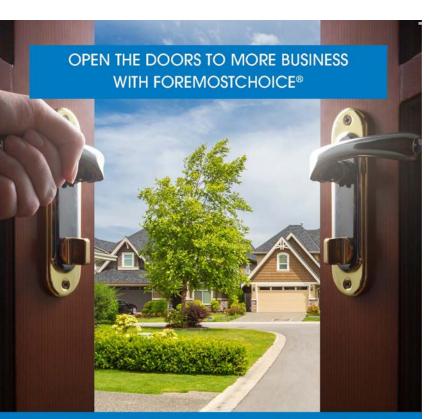
Authored by Rep. Scott McKnight, House Bill 577 would give consumers choices beyond the National Flood Insurance Program by making it easier for private carriers to write flood insurance. The bill would permit insurers to file flood rates and immediately begin using them. Insurers could subsequently 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 would last until Jan. 1, 2027, at which point it would revert to a traditional "prior approval" system unless otherwise extended. All rates would be subject to regulation by the LDI with the same rigor as with its "prior approval" analysis of other property and casualty rates. The bill is modeled on a similar Florida law that has increased the market share of private flood insurance in that state.

The Department, through HB 15, authored by Rep. Sherman Q. Mack, will be tackling the phenomenon of staged accidents in our state by asking for an increase of penalties and adding this activity to our state's anti-racketeering statute for direct involvement in intentionally causing or fabricating an accident. Parties such as planted witnesses, attorneys and doctors intentionally participating in such schemes would also be penalized. The bill would also impose a mandatory minimum sentence of at least five years for the aggravated staging of a motor vehicle collision where another person was seriously injured.

#### **Emergency Powers of the Commissioner**

Finally, Senate Bill 29, sponsored by Sen. Mark Abraham, seeks to streamline the existing authority of the Insurance Commissioner when

Continued on page 38



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the Governor declares an emergency. The change would enable the Commissioner of Insurance to react more quickly to emergency situations and safeguard the rights of policyholders during emergencies, such as when two hurricanes hit the Lake Charles area during the 2020 storm season. Currently, the Commissioner's emergency power authority exists only when the Governor explicitly grants it so that this bill would allow the Insurance Commissioner to issue emergency rules independently, limited to the duration and geographic area of the Governor's declaration and would expire when the Governor's emergency declaration expires. All such emergency rules would still be subjected to oversight by the Legislature as defined in the Administrative Procedure Act.



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#### LOUISIANA **DEPARTMENT** OF INSURANCE

Due to the unprecedented 2020 hurricane season, Commissioner Donelon agreed to make an exception to the 12-month filing rule for property rate requests made to the Louisiana Department of Insurance (LDI) thru June 30, 2021.

As this exception nears its final 60 days. Commissioner Donelon has determined that it merits extension in order to properly accommodate the time frames within which property and casualty insurers need to ascertain their 2020 loss experience, their catastrophe loads,

# **EXCEPTION TO 12-MONTH FILING RULE**

their actual reinsurance costs going into the 2021 hurricane season, and subsequently prepare all of the actuarial and other documentation necessary to make a rate filing pursuant to this exception. For these reasons, Commissioner Donelon extends the 12-month filing rule exception until December 31, 2021.

Accordingly, via a "notice" to all filers in the general filing instructions in SERFF, the Louisiana Department of









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Specializing in Louisiana Homeowners and Dwelling Insurance Insurance (LDI) will amend the 12-month filing rule exception to read as follows:

#### **Exception to the 12-Month Filing Rule**

(1) For all property rate filing requests: Due to the difficulties created by an unprecedented 2020 hurricane season (five named-storm landfalls in Louisiana), the LDI suspends the 12-month filing rule until December 31, 2021. A company can make as many rate adjustments as the company deems necessary to compete profitably in Louisiana's property markets. Rate requests under this temporary suspension should clearly state, in the cover memo of the rate filing, that the filing is being made under the temporary suspension of the 12-month rule.

On January 1, 2022, the 12-month rule will again be effective and the last rate increase, even if made under the temporary suspension, will be used as the beginning reference point for the 12-month rule.

A rate filing made under this exception to the 12-month rule must include all rate filing information required in the Rate and Rule Filing Handbook.

(2) For all other requests for exception to the 12-month filing rule: The LDI will consider an exception to the 12-month filing rule based on a case-by-case basis based on the merits of the request. Such requests should be made directly to the Commissioner (with a copy to the undersigned Deputy Commissioner, Office of Property and Casualty) before a rate filing is filed with the LDI or the request to be treated as an exception to the 12-month filing rule should be clearly stated in the cover memo of the rate filing made with the LDI through SERFF.

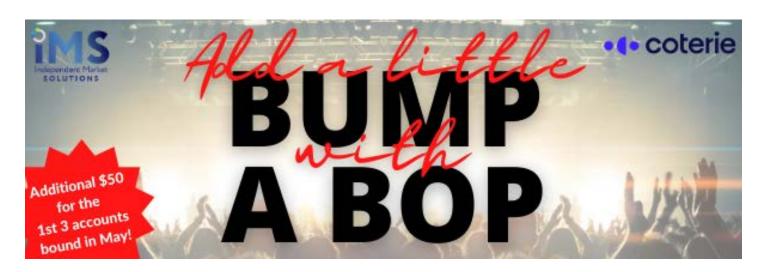
Please contact Warren Byrd, Deputy Commissioner, electronically at warren.byrd@ldi.la.gov or by telephone at 225-342-5203, if you have any questions or need any clarification.

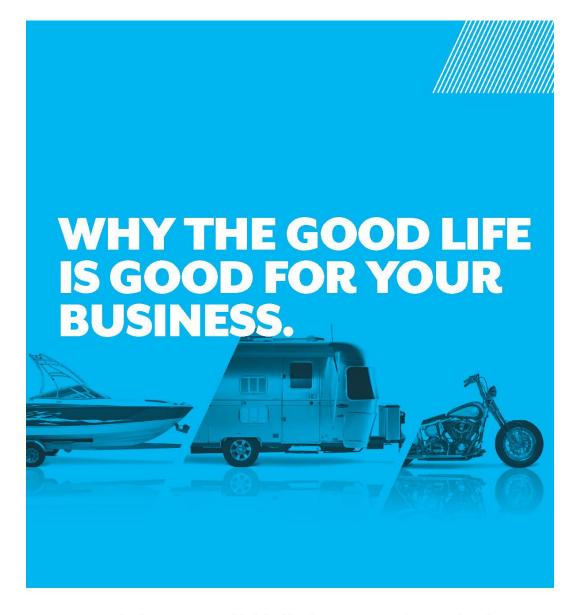




**Independent Insurance Agents & Brokers of Louisiana** 

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9 Rules for Reading an 11:00 am <u>Insurance Policy (2-hour CE)</u>

2:00 pm 3 Keys to Getting the Named Insured Correct (2-hour CE)

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#### **IIABL EVENTS**

#### Save the Date!

- **IIABL Virtual Spring Conference Part 2** May 27, 2021 - 9:30 - 10:30 am
- IIABL Virtual Spring Conference Part 3 June 16, 2021 9:30 10:30 am
- Louisiana & Mississippi Young Agents Conference August 20-22, 2021 Biloxi, MS

5/25 Agents E&O: Documentation, Social 8-11a Media, Cyber & More 5/25 Is This Stuff For Real? 12-3p Understanding & Insuring Emerging Risks

Insurance Issues for the

**Commercial Tenant** 

Why Business Income is the MOST Important Property Coverage

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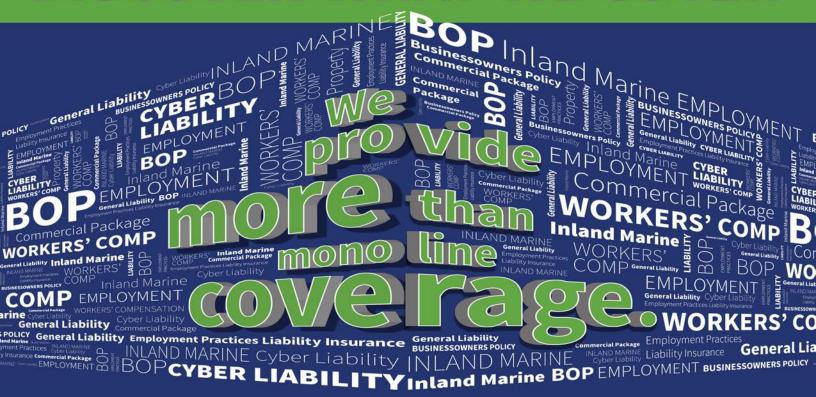
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