

Louisiana Property and Casualty Insurance Commission Full Commission Meeting

**Thursday, January 23, 2014
Louisiana Department of Insurance
Plaza Hearing Room
1:30 p.m.**

Minutes

Commission Members Present: Noble Ellington (representing Commissioner Donelon), Ted Haik, Jeff Albright, Senator Dan Morrish, Representative Kirk Talbot, Raymond Aleman, Jr., J.E. Brignac, Jr., Paul Buffone, Stephen Campbell, Major Beckendorf (representing Sheriff Greg Champagne), Lou Fey, Michael Guy, Chris Haik, Wes Hataway, Ron Henderson, Scott Landry, LTC John LeBlanc, Robert Moorman, and Earl Taylor.

Commission Members Absent: Senator Ronnie Johns, Representative Greg Cromer, Lee Ann Alexander, and Frank Opelka.

Commission Staff Present: Terrell Moss and David Evans.

LDI Staff Present: Warren Byrd, Charles Hansberry, Ileana Ledet, Judy Wright, and Bernadette Williams.

The Louisiana Property and Casualty Insurance Commission (LPCIC) meeting was called to order at 1:40 p.m. by chairman Ted Haik.

Mr. Evans called the roll and reported a quorum present.

Mr. Haik welcomed commission members and all others in attendance. He noted that the purpose of this meeting was to consider an extensive number of possible LPCIC recommendations to the Legislature.

The chair called for a motion to limit discussion to 15 minutes on each.

Mr. Brignac offered the motion.

It was seconded by Representative Talbot.

Mr. Haik directed the members' attention to a list of possible recommendations compiled by staff based on issues that had been raised during the three previous LPCIC meetings.

- 1) No recommendations were offered regarding workers' compensation.**
- 2) Re-examine driver's license reinstatement based on Article 894 pleading.**

The discussion included additional information from Mr. Mike Barron of the Louisiana Highway Safety Commission.

LTC LeBlanc made a motion to re-examine driver's license reinstatement based solely on an Article 894 pleading.

Mr. Landry seconded the motion.

Without objection or further discussion, the motion passed.

3) Lower the jury trial threshold.

Discussion followed.

Representative Talbot offered a motion to lower the jury trial threshold to \$10,000.

It was seconded by Mr. Buffone.

Without further discussion and with only Mr. Taylor voting in opposition, the motion passed.

Mr. Taylor asked permission to submit a Minority Report, to which the Chair gave consent.

4) Adopt File and Use for auto insurance rates.

A brief discussion followed.

The Chair asked if there was a motion.

No motion was offered.

5) Bar "pain and suffering" for uninsured motorists.

Discussion followed.

Representative Talbot offered a motion to bar "pain and suffering" for uninsured motorists.

It was seconded by Mr. Brignac.

Without further discussion and with Mr. Taylor abstaining, the motion passed.

6) Prohibit or regulate litigation funding by third party vendors/lenders.

Discussion followed.

Mr. Brignac made a motion to prohibit or regulate litigation funding by third party vendors/lenders.

It was seconded by Senator Morrish.

Mr. Taylor obtained assurance that this recommendation would not disturb the existing regulated practice of attorney lending to clients.

The motion passed without objection.

7) Adopt Modified Comparative Negligence; Repeal Pure Comparative Negligence.

Discussion followed.

The Chair asked if there was a motion.

No motion was offered.

8) Restrict accrual of pre-judgment judicial interest.

With Mr. Haik's agreement, Mr. Fey introduced this proposed recommendation and led the discussion that followed.

Mr. Fey offered a motion to restrict pre-judgment interest except when required by contract. It was seconded by Mr. Brignac. Without further discussion and with only Mr. Taylor voting in opposition, the motion passed.

The list compiled by staff of issues raised at LPCIC meetings during the year included the following for consideration as to whether they merited further study:

- **Modify the Collateral Source Rule.**

Discussion followed.

Mr. Fey offered a motion for further study of the collateral source rule.

It was seconded by Representative Talbot.

Without objection or further discussion, the motion passed.

- **Limit Court's discretion to restrict evidence.**

Discussion followed.

Representative Talbot offered a motion for further study of the court's discretion to restrict evidence.

It was seconded by Mr. Chris Haik.

Without further discussion and with only Mr. Taylor voting in opposition, the motion passed.

- **Amend insurance laws that require delivery by first-class or certified mail or that require actual signatures in order to fully implement electronic commerce.**

Discussion followed.

Senator Morrish offered a motion to study fully implementing electronic commerce by amending insurance laws that require delivery by first-class or certified mail or that require actual signatures.

It was seconded by Mr. Chris Haik.

Without objection or further discussion, the motion passed.

- **Make general damages for minor soft-tissue injury more predictable.**

Discussion followed.

Mr. Fey offered a motion to exclude further study.

It was seconded by Mr. Taylor.

Without objection or further discussion, the motion to exclude passed.

- **Educate public to improve claim behavior.**

Discussion followed.

Mr. Fey offered a motion for further study of ways to educate the public to improve claim behavior.

It was seconded by Mr. Albright.

Without objection or further discussion, the motion passed.

Mr. Haik recognized Mr. Fey in order for him to introduce the detailed list of proposed recommendations that he had prepared and distributed to the members.

1) Repeal the direct action statute.

Mr. Fey offered a motion to repeal the direct action statute.

It was seconded by Senator Morrish.

Discussion followed.

Mr. Fey offered an amended motion to repeal the direct action statute except in cases where the defendant cannot be served.

It was seconded by Mr. Moorman.

Without objection or further discussion, the amended motion passed.

2) Clarify uninsured motorist rejection form rules.

Mr. Fey offered a motion to clarify UM rejection form rules.

Discussion followed on the extent and evidence of the issue.

Mr. Fey offered an amended motion to study clarification of the UM rejection form rules.

It was seconded by Mr. Brignac.

Without objection or further discussion, the amended motion passed.

3) Amend Louisiana's UM statute to clarify that UM/UIM claims are to be settled just like BI claims.

Discussion followed, primarily on the basis and effect of undisputed tenders.

Mr. Fey offered a motion to amend the uninsured motorist statute to clarify that uninsured/underinsured motorist claims are to be settled just like bodily injury claims.

It was seconded by Mr. Albright.

Without further discussion and by a vote of 11 to 2, the motion passed.

4) Amend Louisiana's statute to expand the prohibition on the use of hand held cell phones to all drivers.

Mr. Fey offered a motion to expand the prohibition on the use of hand-held cell phones to all drivers.

It was seconded by Mr. Buffone.

An extended discussion followed.

Mr. Haik asked again for a motion.

Mr. Fey offered the same motion to expand the prohibition on the use of hand-held cell phones to all drivers.

It was seconded by Mr. Campbell.

Without objection or further discussion, the motion passed.

5) Amend Louisiana’s financial responsibility statute to increase the minimum limits from 15/30/25 to 25/50/25.

Mr. Fey offered a motion to amend Louisiana’s financial responsibility statute to increase the minimum limits from 15/30/25 to 25/50/25.

It was seconded by Mr. Aleman.

Discussion followed.

Mr. Brignac offered a motion to table Mr. Fey’s motion.

It was seconded by Mr. Landry.

Without objection or further discussion, the motion to table passed.

Mr. Fey’s list of proposed recommendations included the following for consideration as feasibility studies:

- **Changing to a system of appointed judges versus the current system of elected judges.**

A brief discussion followed.

Mr. Fey offered a motion to study changing to a system of appointed judges versus the current system of elected judges.

It was seconded by Mr. Brignac.

Without objection or further discussion, the motion passed.

- **Banning TV advertising aimed at auto accident victims.**

Discussion followed.

Mr. Fey offered a motion to study banning TV advertising by plaintiff attorneys aimed at auto accident victims.

It was seconded by Mr. Brignac.

Without objection or further discussion, the motion passed.

Mr. Haik recognized Mr. Brignac in order for him to introduce the proposed recommendation that he had prepared and distributed to the members.

1) Reinstate the UM statute as a “first party coverage.”

Discussion followed.

Mr. Brignac offered a motion to reinstate the uninsured motorist statute as a “first party coverage.”

It was seconded by LTC LeBlanc.

Without objection or further discussion, the motion passed.

With the agenda concluded and no comments from the public, Commissioner Donelon asked the chair to be recognized. The Commissioner noted that Mr. Haik had tendered his resignation from the LPCIC effective in March. He expressed his deep appreciation for the dedication and leadership that Mr. Haik had provided through his years of service to Louisiana’s citizens as a

state legislator and subsequently as the chair of the LPCIC. In recognition of that service, the Commissioner presented Mr. Haik with an honorary commissioner of insurance certificate.

Mr. Haik, in turn, thanked the Commissioner for his support and friendship through the years in their mutual efforts on behalf of the insurance consumers of the state. Mr. Haik expressed his appreciation for his fellow LPCIC members and suggested that they could be even more effective in their deliberations and recommendations if the trial lawyers were made a member of the LPCIC.

With no further business to discuss, a motion to adjourn this meeting of the Commission was made by Mr. Albright at 3:39 p.m.