

AUTO INSURANCE REPORT

The Authority on Insuring Personal and Commercial Vehicles

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THE GRAPEVINE

26th Auto Insurance Report National Conference Underway in California

For those attending the 26th Auto Insurance Report National Conference, welcome! For the unlucky readers who are stuck at the (home) office, we promise to report on the proceedings, but it won't be the same as being in Dana Point, **California**, with 330 leaders from all segments of the auto insurance industry.

Find out what the fuss is all about. Make a plan to come next year! [AIR](#)



AUTO INSURANCE REPORT

2024 NATIONAL CONFERENCE • APRIL 14-16
WALDORF ASTORIA MONARCH BEACH RESORT, MONARCH BEACH, CA

A New Day Dawns in Louisiana As Temple Aims to Revive Markets

If his plan works, **Tim Temple** will be the hero who rescued **Louisiana** from the depths of an economy-crushing auto and property insurance crisis. If his plan fails, the insurance commissioner's nascent political career may well be doomed.

And he knows it.

"Look, the positions I'm taking are not popular. I'm addressing some of the harsh realities of the challenges our markets have had here," Temple, 54, said in an interview at the **Louisiana Department of Insurance** (LDI) offices in Baton Rouge last month, on a rare day off from testifying at legislative hearings. "I'm not worried [about the next election]. I'm here to do the job today. My job is to help create and promote a healthy competitive insurance market."

Temple took office Jan. 8 after winning the race for a

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Attorneys Push Their Way Into The Claims Processes Earlier

Trial lawyers are winning the minds – and necks and spines – of injured drivers with aggressive advertising and solicitation tactics, encouraging most claimants who hire an attorney to do so even before filing the claim, according to recent research.

Ubiquitous billboard, radio, internet and television ads have reinforced the idea among many motorists that if they are injured in a collision, their first conversation should be with an attorney, rather than an insurance company.

More than half – 57% – of 555 auto insurance claimants with an attorney surveyed by **LexisNexis Risk Solutions** last year hired the lawyer before filing the claim. The survey found that 85% of the respondents were solicited by an attorney after the collision, and 60% heard from more than one. Survey respondents included a mix of mostly personal lines claimants with some commercial.

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“I think of it as a battle for trust that the attorneys seem to be winning,” said **Tanner Sheehan**, vice president and general manager of claims solutions at LexisNexis. The survey results showed that many claimants who hire attorneys fear that insurance carriers won’t play fair and have anxiety about what they assume will be an intimidating claims process.

Attorneys also have the advantage of the “why not?” factor, Sheehan said. “The public has heard the advertising; they understand that you only pay if you win.”

Higher costs from attorney-involved claims start well before litigation. Trial lawyers use a variety of tactics to discover policy limits and then direct clients to specific doctors and clinics that encourage additional and sometimes unnecessary procedures to build the eventual award to the limit. ([AIR 8/28/23](#))

Data from claims administrator **Sedgwick** focused exclusively on commercial auto insurance mirrored the LexisNexis’ survey findings, showing that early attorney involvement has been increasing for the last five years.

One of the top reasons for earlier attorney involvement is the “significant increase in attorney advertising,” said **Max Koonce**, chief claims officer at Sedgwick.

Another reason is that while consumers expect immediate results in an on-demand world, the process of settling third-party bodily injury claims is slow. Claimants see an attorney as a way to force the process to move faster. Ironically, legal representation and the potential for litigation can have the opposite effect.

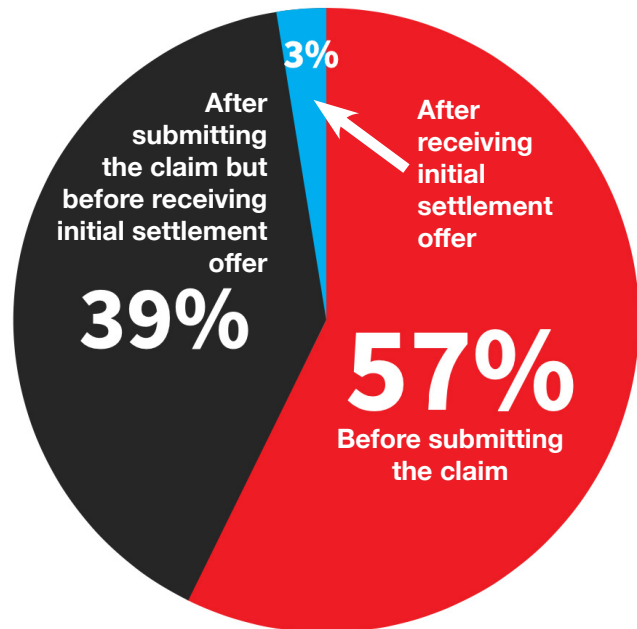
People who are injured often seek someone to “recognize the needs that they have,” Koonce said. “And sometimes that attention doesn’t happen fast enough. And they may feel like they need to go out and get a third party involved.”

The fact that more than half of attorney-represented claimants hire a lawyer before first

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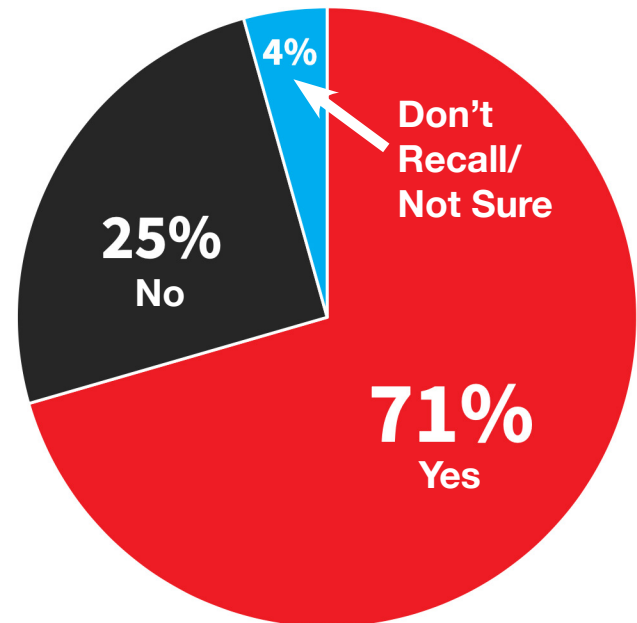
LexisNexis Survey: When Did You Decide to Hire An Attorney?

Percent of Respondents



Did Your Attorney Encourage You To Seek Additional Treatment?

Percent of Respondents



Source: LexisNexis Risk Solutions 2023 survey of 555 auto insurance claimants who had hired an attorney.

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notice of loss makes it difficult for insurers to follow the conventional wisdom for limiting litigation.

“Moving quickly to resolve a claim has long been seen as a way to mitigate attorney involvement, but now we know that’s only possible half the time,” Sheehan said.

By the end of 2022, about 57% of commercial auto liability claims that went to litigation had attorney representation in place within 24 hours of the claim being reported, an increase of almost 15 percentage points compared to 2018, according to Sedgwick’s claims analysis.

While litigated claims make up less than 1% of all claims, they may account for as much as 50% of all losses depending on the line of insurance, according to Sedgwick.

Rising casualty costs, driven partially by increased attorney participation, have led carriers to adjust their internal case reserving policy to set aside more funds for any claim with an attorney attached.

“We weren’t reserving our claims at a high enough level to consider all the attorney involvement,” said an executive at an insurance company that specializes in



Tanner Sheehan
LexisNexis

personal auto insurance policies with minimum limits. Adjustments made in the last two years appear to have improved results, the executive said. “We now know what it’s going to do to us, and we can’t be surprised.”

While drivers are largely familiar with attorney messaging and the promises of large awards, they are less knowledgeable about attorney tactics and concepts like third-party litigation funding – where investors who are not party to the claim pay a portion of litigation costs for a share of the award – nor the

impact lawsuits have on insurance affordability.

A recent survey by the **American Property Casualty Insurance Association (APCIA)** and **Munich Re** found that 59% of respondents were unfamiliar with third-party litigation funding, and 47% were not aware that the plaintiff lawyer in a civil lawsuit is likely to receive a significant portion of the jury award or settlement.

But about 88% of the 2,000 people surveyed believe “there should be full transparency and disclosure of all who have a financial stake in a civil lawsuit.” Some 86% agreed state and



Max Koonce
Sedgwick

Last year, trial lawyers spent more than \$2.4 billion on local TV, print, billboard and radio ads across the U.S.

federal lawmakers should address abuses of the legal system, including undisclosed third-party funding.

“Most Americans are not necessarily aware of the negative impact of these plaintiffs’ bar tactics,” said **Maura Freiwald**, head of casualty at Munich Re. “It’s the investors – not necessarily the policyholders and the parties that are injured – that are going to be benefiting from all these lawsuits.”

Last year, trial lawyers spent more than \$2.4 billion on local TV, print, billboard and radio ads across the U.S., a 5% increase over 2022, according to estimates from the **American Tort Reform Association**. A large portion of spending was by aggregator businesses that recruit potential clients and sell the information to law firms.

“Legal advertising really has two primary

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purposes – one, of course, is soliciting clients, they want more business,” said **Jim Whittle**, vice president and counsel with the APCIA.

“But secondarily, they are, in effect, poisoning the well against defendants and insurers. They scare people about big trucks, they scare people about insurers. All of that plays into their ultimate goal, which is to receive as much money as they can from any claim that they receive.”

The **American Association for Justice**, the association for trial lawyers, did not respond to an interview request.

Property and casualty insurers are no advertising slouches, either, spending more than \$8.8 billion in 2022, according to **Dowling & Partners Securities**. ([AIR 5/15/23](#))

The increase in early attorney involvement

The early involvement of attorneys is pressuring carriers to improve claims response times.

in claims suggests that while the P/C industry’s massive advertising budget has trained consumers to shop for lower rates, it has not succeeded at convincing them that they are “in good hands,” or that the carrier is “on your side” and “like a good neighbor.”

Aggressive attorney advertising and solicitation are piggybacking off the same general mistrust in corporations and insurance companies that have led to “nuclear” jury verdicts for trucking accident victims and the phenomenon of social inflation, claims executives say.

Social inflation is the idea that socioeconomic, legislative and litigation factors have led to more frequent, severe and sometimes unnecessary claim payouts that cause insurance costs to increase more quickly than standard economic inflation.

The early involvement of attorneys is pressuring carriers to improve claims response times

by training casualty adjusters to call injured drivers more quickly – rather than mailing a letter – in an attempt to be the first friendly voice a claimant hears.

“That initial contact is extremely important,” Koonce said. Adjusters must focus on empathy and clearly communicate the process “to show that we’re going to follow up.”

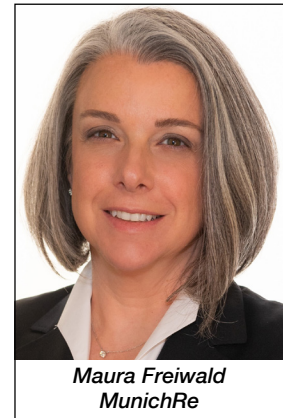
The P/C industry is making a concerted push against the plaintiff’s bar with tort reform laws in dozens of states this year and new public relations campaigns – like one centered around the recent APCIA/Munich Re survey.

But P/C industry tort reform efforts are often stymied by the strong plaintiff’s bar lobby. Just four states have litigation funding laws – [Wisconsin](#), [West Virginia](#), [Indiana](#) and [Montana](#) – despite repeated attempts in more than a dozen states. Governors in [Indiana](#) and [West Virginia](#) signed new laws in March expanding the scope of their states’ existing litigation finance laws.

This year, 18 states and the **District of Columbia** are considering third-party funding reforms, including bills that would require plaintiffs to disclose outside funding sources, according to the APCIA.

“If there’s an unknown third party who’s actually pushing a case, courts certainly should know about that,” Whittle said. “Even jurors might have a reason to know about that, because it goes to the credibility of witnesses and the legitimacy of damages.”

While carriers look to curtail litigation funding through legislation, the industry has exploded. In 2023, “The Westfleet Insider,” a [report](#) that provides an annual snapshot of commercial litigation funding, reported \$15.2 billion in assets



Maura Freiwald
MunichRe

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under management by firms in the space, a 60% increase since the first report in 2019. Westfleet's research showed \$2.7 billion in new commercial deals in 2023, a 14% decline from 2022. Westfleet said the decline was due to higher interest rates, "not a reflection of softening demand."

Whittle said states also need stronger truth-in-advertising laws that would require attorneys to include disclaimers stating that large awards promoted in ads are not representative of the average claim.

Advertising was one of many reasons claimants who sought an attorney cited for doing so, according to the LexisNexis survey.

Fifteen percent said they hired an attorney because they didn't think the insurance company would act fairly, 18% said it was because the other driver was at fault, 17% said they thought the claims process would be overwhelming, 12% said they would be dealing with the other driver's insurance company instead of their own, and 12% said the attorney suggested they could gain compensation beyond their expenses.

Respondents could choose more than one answer to describe how they decided which attorney to hire: 40% hired based on media and advertising, 58% had a personal referral and 47% said they found their attorney on their own or the office was nearby.

Once a claimant has an attorney, a quarter of respondents said the lawyer was "primarily" responsible for setting their medical treatment plan, and 71% said their attorney encouraged them to seek additional treatment.

Sheehan said LexisNexis commissioned the survey in August 2023 after carriers made it clear that this was the primary area of concern.

"No carriers were surprised that the attorneys are involved," he said. "They just didn't have numbers to say *how* involved."

The survey showed that attorneys heavily solicited accident victims regardless of age, income, severity of injury or location.

More than 90% of claimants with household incomes of \$100,000 or more who hired an attorney were solicited. The figure was 85% for those with household incomes between \$60,000 and \$99,000 and nearly 80% of those with incomes below \$60,000. About half the claimants with household incomes above \$100,000 received solicitations from more than one attorney; up to 66% of lower-income households had multiple solicitations.

The frequent solicitation of claimants immediately after an accident reveals that **American Bar Association (ABA)** [ethics rules](#) and incon-



Jim Whittle
APCA

Better training of claims adjusters could help counter the effectiveness of attorney solicitations.

sistent state laws and regulations are having little impact. Some laws require attorneys to wait a set number of days or weeks after an accident before soliciting clients. State bar associations generally follow ABA ethics rules that can disbar attorneys who pay "runners" or "cappers" to either solicit on the behalf of lawyers or notify them of recent accidents – often by using informants at towing companies or inside hospitals. Not all states have laws with criminal penalties.

In some states, like **Georgia**, which passed a [law](#) in 2014 restricting the use of cappers and other tactics, it's illegal to scrape accident reports for potential client leads. People involved in accidents or their attorneys must make a written request to obtain accident reports.

Other states make it incredibly easy for attorneys to collect traffic accident reports to identify

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potential clients. The **Missouri State Highway Patrol**, for example, [publicly posts](#) accident reports to its website within hours of a collision. Reports include the names of people involved in the crash, the severity of their injuries, their insurance carrier, the model of their vehicle and the hospital where they were transported. **Missouri Bar Association** [rules](#) prohibit lawyers from soliciting clients by phone or in person, but they allow mail solicitations so long as the flier is marked “advertisement.”

Better training of claims department employees could help counter the effectiveness of attorney solicitations. Claims consultant **Claudia Rodriguez**, former vice president of claims for **Auto Club Enterprises**, suggested that carriers do a better job managing the workload of casualty adjusters and have processes to funnel more complicated claims to those with more experience.

Insurers also need to train adjusters to prioritize injury claims by immediately requesting police accident reports and promptly calling injured drivers and passengers.

There is also a need for better data sharing among carriers to identify the patterns of attorneys and the doctors they often work with, Ro-

driguez said. The effectiveness of current claims fraud databases is limited because the data isn’t standardized across the industry. “If carriers don’t all populate the same information, you can’t extract the data effectively,” she said.

Carriers also hesitate to collaborate for obvious competitive reasons and because of concerns that it may violate antitrust statutes. Rodriguez said that so long as carriers remain mindful of the rules, they can share claims data legally within the guidelines.

Meanwhile, the plaintiff’s bar is well organized, she said. Trial lawyers attend trade shows just like any other industry to learn strategies and trade tactics. They also exchange information online about which insurance companies are slow to respond to claims, and even which individual adjusters or departments are softer targets.

“They’re using data more effectively than claims organizations,” she said, “because they are working together.” [AIR](#)



Claudia Rodriguez
Claims Consultant

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four-year term by default in August when his only opponent dropped out. **James Donelon**, who served as commissioner for nearly 18 years and beat Temple in the 2019 race, announced in March 2023 that he would not run for re-election and last month [joined](#) the law firm **McGlinchey Stafford**.

In the interview, Temple talked about why he wanted to become insurance commissioner – the political equivalent of running into a burning building – and his approach to putting out the fire. He has proposed a package of legislative reforms and changes to regulatory culture that he expects will make the state more attractive – or

more precisely, less scary – for insurance companies, in part by eliminating the laws that make Louisiana an outlier.

“I just thought that the [prior] leadership didn’t have a focus on creating a healthy industry, which I believe the consumers benefit from,” Temple said. “If we can make the fundamental changes in Louisiana to make us a more attractive state for insurance companies to come to and for insurance companies to stay in and operate in, then that availability leads to affordability and that, at the end of the day, means more money in people’s pockets.”

The primary aim is to rein in excessive litiga-

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tion – addressing bad faith, direct action, the collateral source rule and litigation funding – while providing carriers flexibility to increase rates. For property insurance, the plan also includes scrapping a law that prevents carriers from non-renewing customers after three years as well as a push for homeowners to install more hurricane-resistant roofs.

If it’s an ambitious agenda for a political neophyte, the way Temple sees it, he has no choice.

“I entered the job in the deepest property insurance crisis the state has ever experienced, reeling from four hurricanes – with two the strongest the state has ever experienced within a 12-month period,” Temple said.

“So when I say the deepest, it’s not just homeowners. It’s homeowners, it’s auto, it’s commercial property, commercial trucking, it’s flood. Our citizens, no matter what business you’re in or where you live, they are being impacted directly by this crisis.”

Temple grew up in the insurance business



Tim Temple
Louisiana Insurance Commissioner

– his father, the late **Aubrey Temple Jr.**, co-founded **Amerisafe Insurance Co.** and was founding chairman of the **Louisiana Workers’ Compensation Corp.** The younger Temple then worked in reinsurance and managed catastrophe claims, including for the **BP Oil** spill, before running **Temptan**, the family-owned investment

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Louisiana												
Auto Insurance Profit Margins												
Ten-Year Summary, Percent of Direct Premiums Earned												
Line of Business	2022	2021	2020	2019	2018	2017	2016	2015	2014	2013	Avg	
	Total Profit	Total Profit	Total Profit	Total Profit	Total Profit	Total Profit	Total Profit	Total Profit	Total Profit	Total Profit	Total Profit	
Personal Auto Liab	0.9	7.7	12.3	7.4	0.5	-2.1	-7.8	-4.4	-2.0	-1.5	1.1	
Personal Auto Phys	-1.6	-23.3	-0.3	10.9	13.7	7.9	-29.2	4.2	7.5	-2.9	-1.3	
Personal Auto Total	-0.1	-3.4	7.8	8.6	5.2	1.6	-15.7	-1.1	1.5	-2.0	0.3	
Comm. Auto Liab	-7.6	-6.9	-14.6	-25.1	-29.6	-13.7	-14.0	-17.9	-16.0	-10.1	-15.6	
Comm. Auto Phys	16.1	-6.6	3.5	16.1	10.8	5.8	-22.6	11.0	12.1	1.6	4.8	
Comm. Auto Total	-3.9	-6.9	-11.8	-18.5	-23.3	-10.7	-15.4	-12.9	-11.2	-8.2	-12.3	
Total All Lines*	12.2	-83.0	-43.1	10.3	13.1	13.0	-11.9	12.6	14.8	12.1	-5.0	

*Auto; Home, Farm & Commercial Multiperil; Fire; Allied; Inland Marine; Med Malpractice; Other Liability; Workers Comp; All Other
 Note: Profit calculations are by *Auto Insurance Report* using data from the National Association of Insurance Commissioners. Calculations are estimates, some based on national averages.

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State Market Focus: LOUISIANA

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firm. It's not all that surprising that the wealthy Republican with a long insurance career is an unabashed advocate for free-market solutions to solve the crisis.

Temple's legislative proposals are not new. Some measures reverse populist policies put in place to limit rate increases and nonrenewals and to give consumers more leverage against insurers by making it easier to sue. His proposed legal reforms, in particular, have long been on the agenda of insurers and the broader business commu-

nity. However, they could not previously muster the political support necessary for passage in a state where the trial bar holds great sway.

Today, there is strong momentum for change, driven by a deepening insurance crisis, conservative Republican supermajorities in both legislative chambers and the backing of most measures by Republican Gov. **Jeff Landry**. While Landry has broken from the insurance industry position on some issues, he is a champion of their cause when compared to former two-term Democratic

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Louisiana Personal Auto Insurers

Groups Ranked by Total 2022 Direct Premium Written (000)

Group Name	2022 Premium	Mkt share 2022	Loss Ratio 2022	2021 Premium	Mkt share 2021	Loss Ratio 2021	2020 Premium	Mkt share 2020	Loss Ratio 2020
State Farm Mutual	\$1,445,395	29.1%	83.3%	\$1,358,800	28.1%	81.6%	\$1,356,379	28.6%	57.7%
Progressive Corp.	\$969,832	19.5%	65.2%	\$913,362	18.9%	74.5%	\$856,799	18.0%	55.4%
Allstate Corp.	\$652,243	13.1%	66.3%	\$613,154	12.7%	67.6%	\$619,847	13.1%	55.4%
Berkshire Hathaway/Geico	\$576,150	11.6%	75.5%	\$614,153	12.7%	77.7%	\$566,395	11.9%	68.2%
USAA Insurance Group	\$278,469	5.6%	96.5%	\$270,225	5.6%	81.3%	\$288,934	6.1%	56.3%
Southern Farm Bureau Casualty	\$269,591	5.4%	79.4%	\$239,884	5.0%	85.5%	\$229,854	4.8%	59.3%
GoAuto Insurance Co.	\$152,089	3.1%	74.9%	\$167,364	3.5%	72.1%	\$166,991	3.5%	65.6%
Liberty Mutual	\$144,223	2.9%	64.2%	\$148,106	3.1%	52.8%	\$158,607	3.3%	44.4%
Shelter Insurance	\$74,703	1.5%	71.8%	\$69,088	1.4%	73.7%	\$68,900	1.5%	68.7%
Safeway Insurance	\$60,791	1.2%	71.6%	\$58,208	1.2%	66.0%	\$60,482	1.3%	58.3%
Old American	\$52,163	1.1%	72.3%	\$62,190	1.3%	75.2%	\$53,211	1.1%	55.1%
Farmers Insurance Group	\$41,352	0.8%	70.1%	\$44,204	0.9%	69.7%	\$46,824	1.0%	63.8%
American National Insurance	\$41,097	0.8%	63.4%	\$43,401	0.9%	70.3%	\$45,254	1.0%	54.8%
Root Insurance Co.	\$33,078	0.7%	85.5%	\$42,209	0.9%	103.0%	\$27,993	0.6%	85.2%
Kemper Corp.	\$29,987	0.6%	63.5%	\$39,287	0.8%	67.9%	\$42,361	0.9%	57.2%
Auto Club Exchange Group (SoCal)	\$21,703	0.4%	59.5%	\$21,108	0.4%	68.3%	\$20,316	0.4%	60.7%
Hartford Financial Services	\$20,396	0.4%	54.5%	\$21,426	0.4%	55.4%	\$22,972	0.5%	55.7%
Hanover Insurance Group	\$19,001	0.4%	61.6%	\$16,037	0.3%	65.1%	\$17,151	0.4%	55.5%
Horace Mann Educators Corp.	\$16,259	0.3%	82.1%	\$17,379	0.4%	76.0%	\$18,158	0.4%	65.3%
Markel Corp.	\$11,860	0.2%	46.0%	\$9,701	0.2%	79.5%	\$8,468	0.2%	53.6%
LA Farm Bureau Mutual Ins Co.	\$10,405	0.2%	86.1%	\$11,989	0.3%	89.3%	\$15,403	0.3%	65.5%
American Family Insurance Group	\$8,645	0.2%	64.3%	\$14,350	0.3%	55.9%	\$14,333	0.3%	63.8%
Tokio Marine Group/PURE	\$8,380	0.2%	61.2%	\$7,324	0.2%	87.3%	\$6,956	0.2%	59.8%
Statewide Totals	\$4,963,963		75.0%	\$4,834,130		75.9%	\$4,748,431		58.8%

Source: S&P Global Market Intelligence and the *Auto Insurance Report* database.

Loss ratio = incurred losses/direct premium earned and does not include dividends or loss adjustment expense.

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State Market Focus: LOUISIANA

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Gov. **John Bel Edwards**, a trial lawyer whose veto pen thwarted insurance industry reform efforts.

“The pain of the insurance crisis has made insurance the No. 1 issue at the capitol,” said **Jeff Albright**, retired CEO of the **Independent Insurance Agents and Brokers of Louisiana**. “They can’t go home not having done something to fix both property and auto insurance.”

The property insurance crisis is front and center, but Temple is equally attuned to problems in the auto insurance market. With the nation’s second-highest average expenditure for auto insurance – at \$1,500 in 2021 – and among the

lowest household incomes, Louisiana ranks as the least affordable personal auto market in the country on our PAIN Index. ([AIR 3/25/24](#)).

Since then, consumers have been hit with rising prices on top of already expensive policies. The top 10 personal auto insurance groups increased rates an average 17.7% last year, after a 9.3% rise in 2022, according to RateWatch from **S&P Global Market Intelligence**. The 2023 increases included 33.8% in groupwide rate hikes by **USAA** and 23.0% by **Southern Farm Bureau Casualty**, which is raising them another 23.0% in June.

Personal auto insurers suffered, too, with a

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Louisiana Commercial Auto Insurers

Groups Ranked by Total 2022 Direct Premium Written (000)

Group Name	2022 Premium	Mkt share 2022	Loss Ratio 2022	2021 Premium	Mkt share 2021	Loss Ratio 2021	2020 Premium	Mkt share 2020	Loss Ratio 2020
Progressive Corp.	\$173,295	16.5%	79.3%	\$143,179	14.5%	86.3%	\$108,456	12.6%	75.5%
Skyward Specialty Insurance	\$83,774	8.0%	41.9%	\$80,741	8.2%	70.8%	\$72,447	8.4%	64.6%
Travelers Companies Inc.	\$81,334	7.7%	60.4%	\$73,628	7.5%	63.9%	\$73,775	8.6%	84.5%
Zurich Insurance Group	\$51,950	4.9%	109.4%	\$45,673	4.6%	122.6%	\$45,631	5.3%	83.7%
Berkshire Hathaway Inc.	\$48,051	4.6%	39.6%	\$49,658	5.0%	58.2%	\$48,835	5.7%	79.2%
State Farm Mutual	\$45,204	4.3%	90.7%	\$43,499	4.4%	101.7%	\$24,402	2.8%	60.9%
Clear Blue Insurance	\$42,828	4.1%	127.6%	\$43,132	4.4%	58.3%	\$42,053	4.9%	49.6%
American International Group	\$37,493	3.6%	63.2%	\$35,199	3.6%	86.1%	\$27,863	3.2%	125.7%
Old Republic International Corp.	\$32,493	3.1%	94.5%	\$24,337	2.5%	77.1%	\$21,797	2.5%	80.6%
Allstate Corp.	\$28,299	2.7%	124.6%	\$29,414	3.0%	58.2%	\$22,684	2.6%	114.4%
Liberty Mutual	\$27,024	2.6%	89.6%	\$24,755	2.5%	88.1%	\$24,299	2.8%	98.8%
CNA Financial Corp.	\$24,399	2.3%	100.2%	\$23,684	2.4%	97.1%	\$22,765	2.7%	67.3%
Gray & Co.	\$19,604	1.9%	55.5%	\$19,856	2.0%	37.7%	\$0	0.0%	na
Hartford Financial Services	\$18,197	1.7%	87.8%	\$19,241	2.0%	61.8%	\$12,801	1.5%	49.5%
W. R. Berkley Corp.	\$17,697	1.7%	61.0%	\$17,121	1.7%	85.0%	\$15,033	1.8%	47.6%
Fairfax Financial Holdings	\$17,542	1.7%	60.9%	\$14,722	1.5%	57.3%	\$15,100	1.8%	43.5%
Nationwide Mutual Group	\$17,386	1.7%	63.5%	\$19,068	1.9%	61.5%	\$19,912	2.3%	102.1%
AmTrust Financial Services	\$17,311	1.7%	100.3%	\$13,948	1.4%	57.0%	\$11,182	1.3%	58.4%
Chubb Ltd.	\$16,024	1.5%	130.0%	\$15,716	1.6%	150.8%	\$15,660	1.8%	117.3%
EMC Insurance Companies	\$15,087	1.4%	57.4%	\$16,521	1.7%	64.3%	\$15,842	1.8%	61.0%
Statewide Totals	\$1,050,842		77.6%	\$988,509		79.2%	\$858,660		82.2%

Source: S&P Global Market Intelligence and the *Auto Insurance Report* database.

Loss ratio = incurred losses/direct premium earned and does not include dividends or loss adjustment expense.

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0.3% average annual profit margin for the decade ended 2022. According to preliminary S&P data, the personal auto loss ratio fell to 66.3% in 2023 from 75.0% in 2022 and 75.9% in 2021.



Jeff Albright
IABL

Commercial auto performance was far worse, with an average annual loss of 12.3% for the decade. The commercial auto incurred loss ratio crept up to 78.2% last year from 77.6% in 2022 and 79.2% in 2021.

The commercial auto wreck hits certain segments harder than others, with many truckers having just two or three carrier options and paying thousands more in premiums than businesses in neighboring states. The log-hauling trucks crucial to Louisiana's important forestry products industry, for example, continue to struggle to obtain insurance as they work to establish a self-insured fund authorized by 2022 [legislation](#).

Higgenbotham transportation broker **Mike Knotts** tells shell-shocked businesses with two or three trucks that if their renewal premium is less than \$15,000 per unit, "you're doing great."

As costs have risen, trucking firms with strong risk management practices and good loss experience have moved into captives, worsening the quality of risk pool available for standard writers. Over the last few years, Knotts has established more than 160 captives, about 60 of which are driven by auto liability exposure. But even in the captive, Louisiana claims trend 55% to 60% higher, he said.

Insurance companies settle commercial trucking lawsuits at very high levels because of "the insurance company's fear of going to court

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Louisiana Snapshot

Regulator: Insurance Commissioner Tim Temple

Rate regulation: prior approval

Average rate approval time (2023): [29 days](#);

U.S. average: 64 days

Size of personal auto market: \$4.96 billion (2022 DPW) Rank: 20th

Average policy expenditure: \$1,500 (2021)

Rank: 2nd

Auto Insurance Report PAIN Index rank:

1st (2021)

Property Insurance Report HURT Index rank:

1st (2021)

Auto registrations: 1.5 million (2022)

Truck registrations: 3.0 million (2022)

Vehicle miles traveled (VMT): 54.73 billion (2021)

Traffic fatalities: 1.78 per 100 million VMT;

U.S.: 1.37 (2021)

Vehicle thefts: 310.3 per 100,000 residents;

Region: 321.3 (2022)

Liability defense: pure comparative fault

Minimum Insurance Requirements:

BI: \$15,000/\$30,000 • PD: \$25,000

Safety Laws

Texting ban; cellphone ban for drivers under 18

Primary enforcement seat belt law

Motorcycle helmets required for all riders

Demographics

Population: 4.6 million (2023)

Change 2010-2020: +2.7%, U.S.: +7.4%

Median household income (avg. 2018-2022):

\$57,852; U.S.: \$75,149

Population density: 107.8 per square mile;

U.S.: 93.8 per square mile (2020)

Sources: S&P Global Market Intelligence; NAIC; Milliman; U.S. Dept. of Transportation; NAMIC; U.S. Census; Insurance Institute for Highway Safety; FBI; Matthiesen, Wickert & Lehrer

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in Louisiana,” Knotts said.

Bills have been moving more quickly than usual since the Legislature convened the regular session March 11. With many compromises hammered out before the session even started, veteran insurance executives, as well as lobbyists like Albright, seem confident of success.

“The Legislature is prioritizing property reform legislation that addresses Louisiana’s ongoing homeowners and commercial property crisis now, but we should begin seeing more action on auto reform legislation soon,” Temple said. “Our auto insurance has been high for so long that we forget how much more Louisianans pay than residents of other states, so I am looking forward to working with legislators to pass auto reform and am optimistic that we will do so this session.”

The most significant bills for auto insurers attack the excessive litigation that seems as deeply ingrained in Louisiana culture as Monday night red beans and rice. Litigation is a key driver of auto insurance costs in many states, but the situation is particularly extreme in Louisiana, notorious for a potent combination of dangerous roads, prevalent lawyer advertising and elected judges.

The state highway fatality rate was 1.42 per 100 million miles traveled last year, an improvement from 1.60 in 2022 but still worse than the 1.26 national average, according to [preliminary data](#) from the **National Highway Traffic Safety Administration**.

A [paper](#) published in December by the **Insurance Research Council** found that Louisiana has a higher frequency of accidents, with property damage liability claims 16% higher than the national average. Louisiana accident victims are twice as likely to file an injury claim, though the cost of claims tends to be lower because of low limits. Temple estimated that close to half of drivers in Louisiana have coverage with just minimum limits of \$15,000 for injury to one per-

son and \$30,000 per accident, with an additional \$25,000 for property damage liability.

The IRC also reported that the rate of litigation in personal auto claims in Louisiana is more than twice the national average, and second highest in the country after **Florida**.

Eric Berger, senior vice president for government affairs for **The Gray Insurance Co.**, described how these trends play out for the Louisiana-based commercial insurer that writes about half its business in the state. In Louisiana, Gray’s commercial auto business generates a 156% combined ratio,



Mike Knotts
Higgenbotham

Research shows Louisiana accident frequency is higher, and accident victims are twice as likely to file an injury claim.

compared with 99% countrywide. About 60% of Gray’s commercial auto claims in Louisiana include a medical component, compared with 30% countrywide, and the state’s medical costs were 140% higher. Litigation costs are also more expensive, averaging \$44,000 per claim in Louisiana vs. \$8,300 countrywide. In response to the challenges in Louisiana, Berger said, Gray lowered the coverage limits for heavy construction equipment from \$5 million to \$1 million.

Commercial auto overall “is a challenging line,” Berger said. “But whereas the rest of the country has a cold, we have pneumonia. And we believe the driver of that is the collateral source rule.” Louisiana’s collateral source rule is a “moral hazard,” he said, in that the promise of recovering more than the actual cost of medical

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bills is a powerful incentive to file injury claims.

[Senate Bills 244](#) and [18](#) would change that.

They would direct that evidence of the amounts billed and the amounts paid be admissible in court and would limit the recovery to the amount paid. Under compromise tort reform [legislation](#) that passed in 2020, the responsible party's insurer must reimburse the plaintiff for 40% of the difference between what the medical provider billed and what was paid. For example, if the medical provider billed \$200,000 but was paid \$50,000, the accident victim would recover \$60,000, which is 40% of the difference between billed and paid amounts.

Auto insurers also strongly support [SB 250/ HB 337](#), which would repeal the law enabling

Temple believes it is vital to reform the state's bad-faith laws, which deter insurers from writing in Louisiana.

plaintiffs to file lawsuits directly against insurers in addition to or in place of the at-fault insured except in very limited circumstances. Insurers argue that insurers already pay damages caused by their insured and that the laws invite larger awards from a defendant viewed as a deep-pocketed corporation.

In the interview, Temple emphasized the importance of reforming the state's bad-faith laws, which deter insurers from doing business in the state. The ambiguous provisions make compliance difficult, exposing carriers to attorneys' fees and penalties equal to 50% of damages. While plaintiff attorneys view bad-faith laws as a vital consumer protection against powerful insurance companies, insurers argue they cast too wide a net rather than capturing truly bad actors.

The most promising bill ([SB 323](#)) clarifies these ambiguities, specifying a trigger – receipt

of a written proof of loss – and outlining the process and requirements of both the insurer and insured for good faith and fair dealing. While primarily focused on property claims, Albright said, the bill also would benefit auto insurers.

Temple said the bill was the result of compromises. "I think the initial pushback was 'you're protecting the insurance company and not the consumer,'" Temple said. "But this bill is focused on bringing clarity to the claims process. ... I want the consumer to have the ability to litigate, should that be where they ultimately need to go, but it shouldn't be the first step."

Insurers are much less enthusiastic about a bill promoted by the governor that would extend the amount of time for filing suit from one year to two. Some view it as a necessary compromise to win passage of other tort reforms, but the **Louisiana Motor Truck Association** is among the groups opposing [SB 334](#), concerned it gives plaintiffs more time to pile on costly medical expenses before filing suit.

[HB 336](#) addresses a hot-button issue for insurers across the country: third-party litigation financing. The bill requires that the existence of litigation financial contracts be disclosed and subject to discovery. In addition to the growing trend of large investors, Louisiana has a home-grown litigation-finance industry. Albright said he has seen letters from local attorneys asking insurance agents to become investors.

Temple has also promoted legislation ([HB 613](#)) that would eliminate Louisiana's requirement that insurers receive prior approval of rates with a 45-day waiting period, moving instead



Eric Berger
Gray Insurance Co.

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Save These Dates!

PIRNC24

NOV 10–12

The Ritz Carlton,
Laguna Niguel
Dana Point, CA



AIRNC25

MAY 4–6

The Breakers
Palm Beach
FL



PIRNC25

NOV 9–11

Waldorf Astoria,
Monarch Beach
Resort, Monarch
Beach, CA



AIRNC26

APR 12–14

The Ritz Carlton,
Laguna Niguel
Dana Point, CA



PIRNC26

NOV 15–17

The Ritz Carlton,
Laguna Niguel
Dana Point, CA



AIRNC27

APR 11–13

The Ritz Carlton,
Amelia Island
FL



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to “file and use,” with filings deemed approved within 30 days, unless notified otherwise.

In addition to pushing legislation long sought by insurers, Temple has sought to change the culture of the insurance department, even as he has kept much of the staff intact.

Over the years, Donelon “developed a style of doing business where he wanted to make insurance companies behave rather than trying to facilitate insurance companies doing business here,” said one industry observer.

“His department was not a resource for the industry; they were the insurance police. The industry found the department difficult to work with, and we have enough other problems with legislation, litigation and regulation.”

Temple, by contrast, has put an end to the department’s prior desk-drawer rules – including one limiting profit targets to 10% – pushed staff to complete rate reviews within the prescribed 45 days and issued an edict to be a more helpful resource for the industry. If the Legislature hadn’t acted, Temple also would have lifted Donelon’s

policy limiting insurers to one rate hike a year.

The new commissioner rejects the idea that it is his job to negotiate – and then publicize – forced reductions in insurance rate requests that actuaries determine are not excessive, inadequate or unfairly discriminatory. “It was political,” he said. “My position has been that what the actuaries determine it



James Donelon
Former Louisiana
Insurance Commissioner

is, that’s what we go with.”

“I’m not doing rate suppression,” Temple added. “If we want to go down that slippery slope, then what’s the next business or industry

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that we determine if they’re making too much money or not? Oil companies, refineries, gas stations, milk producers, people that sell bottled water? Do we want government deciding what is a proper profit for private industry? I certainly don’t.”

Temple is confident that free-market reforms can create a healthy market in which insurance carriers compete for the business of Louisiana consumers. But he counsels patience, knowing that path to long-term solutions may involve short-term pain for insurance buyers who face more frequent rate hikes or lose protections from property insurance nonrenewals.

He’s also knows some people just don’t trust him, believing he is acquiescing to the demands of the industry that made his family wealthy.

“I get it. The other side wants to paint me as the fox in the henhouse,” Temple said. “It’s a badge I have to wear, and I hope to be able to earn a different badge by showing that this plan works.” [AIR](#)

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