

**TESTIMONY BY DANIEL L. JUNEAU, PRESIDENT
LOUISIANA ASSOCIATION OF BUSINESS & INDUSTRY**

**SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE AND
GOVERNMENT SPONSORED ENTERPRISES
Why Some Consumers Can't Get Insurance**

April 10, 2003 -- 10:00 a.m. -- Room 2128 of Rayburn House Office Bldg.

Mr. Chairman and Distinguished Members of the Committee:

I am Dan Juneau, President of the Louisiana Association of Business and Industry. My organization is a combination of a state manufacturers association and a state chamber of commerce. We have 3,500 businesses in our membership and they are located throughout the state and in every business sector.

Every year at this time, just prior to the beginning of our state legislative session, I make a speaking tour around the state, addressing business groups. This gives me an excellent opportunity to hear directly from business owners—particularly small business representatives—about the challenges they are facing.

Never in the last 10 years of making those appearances has one issue dominated the concerns of business men and women in Louisiana. That issue is the availability and affordability of the insurance necessary to run their businesses.

Louisiana is not alone in facing insurance problems. Fallout from September 11, 2001, problems with reinsurance, stock and bond market losses and

other factors have complicated businesses' ability to get insurance—and led to skyrocketing premiums.

I can only speak for Louisiana, but I can tell you that the insurance crisis is having a definite impact on jobs and economic development in the Bayou State.

There are many symptoms of the problem in Louisiana, but all of those telltale signs come back to one critical ingredient: Insurance carriers continue to leave the Louisiana marketplace. As the carriers disappear, availability shrinks and competition—the best regulator of rates—erodes.

Although not a commercial line of insurance, the condition of the homeowners market in Louisiana is indicative of what is going on in the industry as a whole. In 1992, prior to Hurricane Andrew, there were 120 carriers writing homeowners insurance in Louisiana. Today, there are only 19 carriers writing any measurable degree of the market (less in South Louisiana due to hurricane exposure). Less than a half dozen carriers are writing any new policies—which creates a particular hardship on new homeowners.

The commercial auto and commercial property and casualty markets are a disaster in Louisiana. Residential general contractors tell me that only one “A” rated carrier is writing policies for them in Louisiana. My oil marketing members—the wholesalers who sell gasoline to retailers—tell me they too have only one carrier left who will write them insurance.

Louisiana’s oilfield contractors—the small businesses who service our domestic oil and gas industry—are having an extremely difficult time finding insurance, and if they do, it is often prohibitively expensive. Auto dealers are down to two carriers that will write them. Their situation is so critical that they are taking steps to self-insure—a risky move in the current market.

The absolute crisis in commercial insurance in Louisiana has led to a marriage of interests I never expected to see. Retailers, oilfield companies, realtors, bankers and other industry groups have formed an alliance with the insurance industry to fight for reforms needed to lure more carriers back into the State of Louisiana. This alliance is called The Coalition to Insure Louisiana. These are groups that have often fought in the past on insurance issues, but now they are banding together in an attempt to bring order to chaos.

While elements such as the overall business cycle and potential risks from terrorism can’t be overcome by regulation, at either the state or federal level, there are reforms that can help to bring carriers back to Louisiana. My organization and the Coalition to Insure Louisiana are working toward enacting those reforms. Here is a short synopsis of some of them:

Insurance Rating Commission:

Most states allow some form of free market pricing for insurance policies. State regulatory agencies only become involved if their actuaries identify faulty

data for the rate increases. In Louisiana, we have an Insurance Rating Commission that is comprised of political appointees named by the governor. There is no basic free market approach to pricing in our system. Legislation was passed in 2001 that would have trimmed the powers of the Commission and installed more of a free market approach. Unfortunately, that legislation was vetoed. Legislation has been introduced in the current legislative session that would move closer to a free market approach by allowing carriers to implement increases or decreases in rates of up to 10 percent without first getting prior approval of our Commission.

FAIR Plan Reform

Louisiana has a market of last resort known as the “FAIR Plan.” Carriers writing any premiums at all in the state are forced to write policies in this assigned risk pool. Significant losses in the pool have led to large assessments levied against the carriers, which in turn leads to them minimizing their market share. This aspect of the market place must be reformed before more carriers are forced out of the state by the high assessments.

Direct Action Statute

Louisiana is one of only two states (Wisconsin is the other) that allows plaintiffs to sue an insurance carrier directly. The existence of insurance is known

up front, and policy limits are determined in the discovery process. This knowledge leads to higher awards than would be granted if the lawsuits were judged on their merits and not on how much insurance was available.

Collateral Source Rule

Some states ban “multiple recovery” in suits where numerous avenues (medical insurance, workers’ comp, general liability insurance, automobile insurance and disability payments) are available to make a plaintiff whole. A majority of states allow the presence of those collateral sources into evidence before the trier of fact. Louisiana has an absolute ban against even the mentioning of any collateral sources of recovery.

Jury Trial Thresholds

In most states, defendants have an absolute right to a jury trial. In Louisiana, there is a threshold of \$50,000 that must be met before the defendant is allowed the right of having a jury trial.

My organization and others representing the business community will be working hard in the current legislative session to enact reforms that will assist in bringing insurance carriers back into Louisiana. High insurance premiums are

affecting jobs and profits throughout the state. High premiums are one thing, but when insurance companies refuse to take your money, you know you have a problem.

Thank you for allowing me to testify before you today.