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Bulletin LIRC 98-01

DATE: **APRIL 28, 1998**

TO: **ALL PROPERTY AND CASUALTY INSURANCE COMPANIES IN LOUISIANA**

RE: **Act 1476 - Omnibus Premium Reduction Act of 1997**

The purpose of this Bulletin is to inform all companies authorized to write commercial and private passenger motor vehicle insurance in Louisiana that the Louisiana Supreme Court has found Act 1476 of the 1997 Regular Session (hereinafter "Act") to be constitutional. This Bulletin is the official notice to companies as to filing procedures set forth by the Louisiana Insurance Rating Commission (hereinafter "LIRC") and the Louisiana Department of Insurance (hereinafter "DOI"). Further, this Bulletin makes available the Louisiana Uninsured/Underinsured Motorist Bodily Injury Coverage Form.

This Bulletin (LIRC 98-01) replaces Bulletin LIRC 97-03 and Bulletin LIRC 97-04 in their entirety.

Act 1476, titled *Omnibus Premium Reduction Act of 1997,* is part of a set of legislative reforms which will reduce motor vehicle insurance costs in Louisiana. One of the principle features of the Act is the "limitation of recovery" provision, a/k/a "no pay, no play", which sets a recovery threshold for uninsured injured motor vehicle owner and operators. Specifically, motor vehicle insurers will no longer be required to pay for the first $10,000 of bodily injury or the first $10,000 of property damage to an uninsured motor vehicle owner and operator due to the negligence of insured drivers. This will result in a reduction of liability losses and loss adjustment expenses to motor vehicle insurers.

Therefore, in accordance with the requirements of Act 1476 and the statutory prohibitions against excessive rates, all authorized motor vehicle insurers are directed to reduce motor vehicle liability rates to reflect the provisions of the Act in the manner prescribed in this Bulletin.

To assure compliance with the Act all authorized insurers should take note of the following key dates, filing procedures, and requirements.

ACT 1476 KEY PROVISIONS

Key provisions of Act 1476 are listed below:

- Minimum ten percent (10%) rate reduction for bodily injury and property damage liability.
- A lowering of the legal interest rate.
- The offering of economic-only uninsured and underinsured motorist coverage at a rate twenty percent (20%) below current uninsured and underinsured motorist coverage rates.
- Notification of the Louisiana Department of Public Safety within fifteen (15) days of the effective date, termination date, withdrawal, cancellation, or lapse of a motor vehicle policy.
- No recovery by an uninsured owner or operator of a motor vehicle involved in an accident of up to the first $10,000 of bodily injury.
- No recovery by an uninsured owner or operator of a motor vehicle involved in an accident of up to the first $10,000 of property damage.
- The uninsured owner or operator of a motor vehicle may be assessed all court costs incurred by all parties when recovery from a suit is less than $10,000.
- Preparation of a form by the Commissioner of Insurance for the rejection of uninsured/underinsured motorist coverage, selection of uninsured/underinsured motorist coverage limits lower than selected bodily injury liability limits, or selection of economic-only uninsured/underinsured motorist coverage.

For reference, the text of Act 1476 is attached to this Bulletin.

IMPORTANT DATES UNDER ACT 1476

The LIRC certifies that the official rate reduction day is May 8, 1998.

May 8, 1998	the declared "**rate reduction day**"; this is the day upon which all other dates legislated by the Act are based. This is the day the judgment rendered by the Louisiana Supreme Court is final and can not be reheard.
June 6, 1998	thirty (30) days after the rate reduction day; this is the "**filing deadline**" by which a filing must be received by the LIRC to be in compliance with Act 1476.
August 5, 1998	ninety (90) days after the rate reduction day; this is the "**compliance date**" or the date by which the LIRC must conclusively act on a rate filing in compliance with Act 1476.
September 4, 1998	one hundred twenty (120) days after the rate reduction day; this is the "**effective date**" for Sections 2 through 4 of Act 1476.

RATE FILING PROCEDURES AND REQUIREMENTS

In order to facilitate compliance with the Act's provisions and to expedite the filing process, the LIRC and the DOI request a company take note of the following filing requirements. The Act requires that every motor vehicle insurer authorized to transact business in the state of Louisiana make a rate filing with the LIRC.

For the purpose of this Bulletin "every motor vehicle insurer authorized to transact business in the state of Louisiana" [Section 5.(A)] shall include:

- All insurers admitted in Louisiana to write motor vehicle liability insurance.
- All insurers not admitted in Louisiana but authorized by the DOI to write motor vehicle liability insurance in Louisiana.
- All insurers writing commercial motor vehicle liability insurance in Louisiana.
- All insurers writing personal motor vehicle liability insurance rates in Louisiana.
- All insurers writing liability insurance on all motor vehicle types which require security as defined by *Louisiana Revised Statutes 32, Motor Vehicle and Traffic Regulation*.

In this Bulletin the above qualified vehicle references shall be referred to collectively as "motor vehicle(s)." Also in this Bulletin, all authorized motor vehicle insurers shall be referred to collectively as "insurer(s)."

LIRC and DOI filing requirements and procedures are:

1. Every insurer shall file with the LIRC as specified below:

   A. An insurer **which has written** any motor vehicle liability policies in Louisiana over the past twelve (12) months **must file rates** in compliance with the Act. [Section 5.(C)]

   B. An insurer **which has not written any** motor vehicle liability policies in Louisiana over the past twelve (12) months **but has rates approved and on file with the LIRC <u>must file rates</u>** to be in compliance with the Act.

   C. An insurer **which has not written any** motor vehicle liability insurance policies in Louisiana over the past twelve (12) months **and has no rates approved and on file with the LIRC, does not have to make a filing** to be in compliance with the Act.

2. A filing mandated by the Act must be received by the LIRC no later than the filing deadline. [Section 5.(C)]

3. The LIRC will act on a filing by the compliance date. [Section 8.(A)]

Upon receipt, a filing will be placed on the next available LIRC agenda. If necessary on or before the compliance date, one or more LIRC meetings may be called to act on any filings which address Act 1476 and that are pending.

It is not necessary that the company be present at the meeting when a filing which complies with Act 1476 is acted upon by the LIRC. If the LIRC needs a company to be present to discuss the filing, a formal request will be issued.

The LIRC will issue an action letter for a filing made under the provisions of Act 1476. The action letter will specify approval of a filing in compliance with the Act or disapproval of a filing not in compliance with the Act. This letter will be issued no later than one week after the compliance date mandated by Act 1476.

4. All new and renewal business issued by a company with a policy effective date on or after the Act's effective date must comply with the provisions of the Act. [Section 5.(D)(1)]

5. The rate filing required by the Act should be filed separately from a filing which addresses rate adequacy or other rate and rule matters and should only include the following revisions:

   A. A ten (10%) percent rate reduction off currently filed and approved rates for bodily injury and property damage liability coverage. [Section 5.(A)]

   B. Rates and rules for economic-only uninsured motorists coverage which is in compliance with the provisions of Act 1476 and meet the requirements set forth in R.S. 22§1404 and other relevant statutes. [Section 5.(B)]

6. The rate reduction for bodily injury and property damage liability coverage mandated by the Act must be based on the average total limits rate in each of the company's respective territories. [Section 5.(A)]

To meet this mandate every company can reduce its combined bodily injury and property damage liability coverage rates a flat ten (10) percent from rates currently used in Louisiana. If the company reduces rates a flat ten (10%) percent (i.e., every policyholder's bodily injury and property damage liability coverage premium is reduced exactly ten percent (10%) regardless of limit), no actuarial support is required.

The company may deviate from the flat ten percent (10%) rate reduction by coverage (between bodily injury and property damage only) or by coverage limit providing the company can actuarially demonstrate that the combined effect off current bodily injury and property damage liability coverage total limits rates is a reduction of at least ten percent (10%) within each of the company's respective territories. For example, in Territory X a company could request a twelve percent (12%) rate reduction on bodily injury coverage with a seven (7%) percent rate reduction on property damage liability

coverage providing the combined bodily injury and property damage liability coverage rate reduction is at least ten percent (10%) in Territory X.

If increased limit rates are multiplicatively derived off a base rate, only the base rate needs to be reduced. If increased limit rates are additively derived on top of the base rate, both the base rate and the increased limit rate must be reduced.

7. The rate for economic-only uninsured motorist coverage must be a minimum of twenty percent (20%) off the average uninsured and underinsured motorist rate in each of the company's respective territories. [Section 5.(B)]

   Every company filing rates for economic-only uninsured/underinsured motorist coverage must provide actuarial analysis in support of their proposed rates. A company may deviate the percentage reduction by coverage limit providing the company can actuarially support such deviation and demonstrate that the average reduction within each territory is at least twenty percent (20%).

   For clarification, the newly defined **economic-only uninsured motorist coverage applies to both uninsured and underinsured motorist situations** and for all limits of coverage afforded.

8. If a company is currently approved to use the latest ISO commercial automobile loss costs (CA-97-BRLA1) or ISO private passenger automobile loss costs (PP-97-BRLA1), the company may file to adopt revised ISO loss costs which are in compliance with the Act. To effect this adoption, the company must send a letter of intent to the LIRC by the filing deadline. This letter is in lieu of other filing materials. The adoption's effective date must be clearly stated in the letter. The company's currently approved loss cost multipliers must be retained and used with the revised ISO loss costs which are in compliance with this Act.

   Note that, due to the Act's time constraints, the request to adopt revised ISO loss costs may be filed and approved before ISO has, in fact, received formal approval of their revised loss costs.

   If a company is approved to use any ISO loss costs or ISO premiums other than CA-97-BRLA1 or PP-97-BRLA1, the company **can not** automatically adopt the latest revised ISO loss costs which are in compliance with the Act. In this situation the company must first file to reduce their currently approved rates to be in compliance with the Act. This may be as simple as filing a revised loss cost multiplier which reflects the mandated ten percent rate reduction on bodily injury and property damage rates. If the company then wishes to adopt the latest ISO loss costs, this request must be made under a separate filing following established LIRC guidelines.

9. The following instructions should be noted when putting together filing materials which comply with the requirements of Act 1476:

   A. **It is not required that filing materials include** LIRC Exhibits A.1 through A.2, Exhibit B, Exhibits D.1 through D.6, Exhibit F, Exhibits G.1 through G.2, and the Tort Reform Worksheet.

      Submission of LIRC Exhibit C, calculation of the company's loss cost multiplier, may be required. Each company will need to make this determination.

   B. The company **must include in the filing materials a table** which cross-references the currently approved bodily injury and property damage liability coverage rates (separately or combined) with the proposed and reduced bodily injury and property damage liability coverage rates by territory.

   C. The company **must include in the filing materials a table** which cross-references the currently approved uninsured and underinsured motorist rates with the proposed economic-only uninsured motorist rates by territory.

   D. The company **must include in the filing materials a copy** of the last action letter from the LIRC approving current bodily injury coverage, property damage coverage, and uninsured and underinsured liability coverage rates. This letter was on LIRC letterhead addressed to the company.

   E. The company **must include in the filing materials** the following information:

      - The proposed statewide percentage rate reduction by coverage, i.e. bodily injury, property damage, or uninsured/underinsured coverage.
      - The overall statewide percentage impact the proposed rate reduction represents across all motor vehicle coverages, i.e., liability and physical damage combined.
      - The proposed effective date of the revised rates for new and renewal business.

10. The rate filing mandated by the Act shall not affect the company's filing status with regard to the twelve (12) month filing limitation set forth in R.S. 22§1401.J.

11. If a company can demonstrate that rate reductions mandated by the Act will result in inadequate rates, or would result in the continuation of existing inadequate rates, notify the LIRC by a **SEPARATE FILING** to remedy such situation. [Section 5.(A)] **The rate reduction filing mandated by Act 1476 must still be made under a separate filing.**

    In the rate adequacy filing, the company should follow previously published guidelines of the LIRC and comply with all Louisiana statutes, regulations, rules, bulletins and directives. This filing should include LIRC Exhibits A.1 through A.2, Exhibits D.1 through D.6, Exhibit F, Exhibits G.1 and G.2, and the Tort Reform Worksheet as

required. The company should provide actuarial analysis and be prepared to make an oral presentation in support of the adequacy request at the LIRC rate hearing.

Consideration by the LIRC of a request to alleviate an inadequate rate does not excuse the company's need to file a rate reduction as prescribed in items 1 through 10 above.

Consideration by the LIRC of a request to alleviate an inadequate rate is subject to the twelve (12) month filing limitation set forth in R.S. 22§1401.J. Note that the filing to comply with Act 1476 as prescribed in items 1 through 11 above will not, in any way, impact the company's status with respect to 22§1401.J.

UNINSURED/UNDERINSURED MOTORIST BODILY INJURY COVERAGE FORM

With this Bulletin the LIRC distributes the form prescribed by the Commissioner of Insurance for the selection of lower coverage limits, selection of economic-only coverage, or rejection of uninsured and underinsured motorist coverage. This form is titled *Uninsured/Underinsured Motorist Bodily Injury Coverage Form* (hereinafter "UM Form"). When signed by the named insured, this form shall be conclusively presumed to become part of the policy or contract when issued and delivered. [Section 3 of the Act amending R.S. 22§1406.D(1)(a)(ii)].

The prescribed UM Form is required by law to be used with all automobile insurance policies delivered or issued for delivery in Louisiana. **For identification purposes, the company name must be placed at the lower left-hand corner and the policy number at the lower right-hand corner of the Form.**

Note that form revisions, other than the UM Form prescribed by the Commissioner of Insurance, must still be filed with the Licensing and Market Compliance Division, Forms Review Section for approval. Such form filing must comply with all established filing procedures of that division.

This Bulletin is issued under the authority of R.S.22§1402, 1404, 1407, 1415, 1447 and Act 1476.

If you have questions regarding this Bulletin, you can reach LIRC staff at (504) 342-5202.

Chris Faser, III
Deputy Commissioner - LIRC

Act 1476

Regular Session, 1997

HOUSE BILL NO. 2513 (Substitute for House Bill No. 401 by **ENROLLED**Representative Donelon)

BY REPRESENTATIVES DONELON, MCMAINS, CLARKSON, JOHNS, AND WIGGINS

AN ACT

To enact the Omnibus Premium Reduction Act of 1997, to amend and reenact Civil Code Article 2924(B), R.S. 22:1406(D)(1)(a), and R.S. 863.2(A)(1) and (2) and to enact R.S. 32:863.2(A)(5) and 866, all relative to the recovery of certain civil damages and other factors which relate to the availability and cost of obtaining security to cover such damages; to provide for the rate of judicial interest; to authorize the issuance of "economic-only" uninsured motorists coverage; to provide for notification of issuance and cancellation of insurance; to reduce otherwise recoverable damages for failure to maintain liability insurance coverage; to require the reduction in automobile liability insurance rates; to provide for the filing of insurance rate reductions; to provide for contingency rules for premium rate filings; to provide with respect to the severability of provisions hereof; to authorize the taking of a declaratory judgment; to provide an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. The provisions of this Act shall be known as the "Omnibus Premium Reduction Act of 1997". Whereas motor vehicle accident claims comprise a major portion of the lawsuits filed in Louisiana's state courts, and whereas the enactment of civil justice reforms and their general applicability have a positive effect toward the reduction of the cost of motor vehicle insurance, the Omnibus Premium Reduction Act of 1997 is designed to achieve a significant reduction in the premium rate of motor vehicle insurance by legislating in regard not only to specific motor vehicle accidents and insurance suits, but also to civil law issues of general applicability. A secondary purpose of the Omnibus Premium Reduction Act is to encourage all persons who own or operate motor vehicles on the public streets and highways of this state to comply with the Motor Vehicle Safety Responsibility Law by correcting the imbalances and abuses which are prevalent in Louisiana's current civil law and motor vehicle insurance systems thereby resulting in a direct cost savings to all citizens of the state of Louisiana.

Section 2. Civil Code Article 2924(B) is hereby amended and reenacted to read as follows:

Art. 2924. Rates of legal and conventional interest; usury

* * *

B.(1) Legal interest is fixed at the following rates, to wit:

(a) At the rate fixed in Subparagraph (3) of this Paragraph on all sums which are the object of a judicial demand, whence this is called judicial interest; and

(b) On sums discounted at banks at the rate established by their charters.

(2) The rate of judicial interest resulting from a lawsuit pending or filed during the indicated periods shall be as follows:

(a) Prior to September 12, 1980, the rate shall be seven percent per annum.

(b) On and after September 12, 1980, until September 11, 1981, the rate shall be ten percent per annum.

(c) On and after September 11, 1981, until January 1, 1988, the rate shall be twelve percent per annum.

(d) On January 1, 1988, and for the entire year of 1988, the rate shall be nine and three-quarters percent per annum.

(e) On January 1, 1989, and for the entire year of both 1989 and 1990, the rate shall be eleven and one-half percent per annum.

(f) On January 1, 1991, and for the entire year of 1991, the rate shall be eleven percent per annum.

(g) On January 1, 1992, and for the entire year of 1992, the rate shall be nine percent per annum.

(h) On January 1, 1993, and for the entire year of both 1993 and 1994, the rate shall be seven percent per annum.

(i) On January 1, 1995, and for the entire year of 1995, the rate shall be eight and three-quarters percent per annum.

(j) On January 1, 1996, and for the entire year of 1996, the rate shall be nine and three-quarters percent per annum.

(k) On and after January 1, 1997, until August 1, 1997, the rate shall be nine and one-quarter percent per annum.

(l) On and after August 1, 1997, and for the remainder of 1997, the rate shall be seven and nine-tenths percent per annum.

(3)(a) On and after January 1, 1998, the rate shall be equal to the rate as published annually, as set forth below, by the commissioner of financial institutions. The commissioner of financial institutions shall ascertain, on the first day of October of each year, the coupon issue yield equivalent, as determined by the secretary of the United States Treasury, of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately prior to the first day of October of each year. The effective judicial interest rate for the calendar year following the calculation date shall be two percentage points above the coupon issue yield equivalent as ascertained by the commissioner.

(b) The judicial interest rate for the calendar year following the calculation date shall be published in the December issue of the Louisiana Bar Journal, the December issue of the Louisiana Register, and in one daily newspaper of general circulation in each of the cities of Alexandria, Baton Rouge, Lake Charles, Lafayette, Monroe, New Orleans, and Shreveport. The notice in the daily newspapers shall be published on two separate occasions, with at least one week between publications, during the month of December. The publication in the Louisiana Register shall not be considered rulemaking, within the intendment of the Administrative Procedure Act, R.S. 49:950 et seq., and particularly R.S. 49:953.

* * *

Section 3. R.S. 22:1406(D)(1)(a) is hereby amended and reenacted to read as follows:

1406. Specific duties of casualty and surety division; uninsured motorist coverage; temporary substitute vehicles and rental vehicles

* * *

D. The following provisions shall govern the issuance of uninsured motorist coverage in this state:

(1)(a)(i) No automobile liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle designed for use on public highways and required to be registered in this state or as provided in this Subsection unless coverage is provided therein or supplemental thereto, in not less than the limits of bodily injury liability provided by the policy, under provisions filed with and approved by the commissioner of insurance, for the protection of persons insured thereunder who are legally entitled to recover nonpunitive damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness, or disease, including death resulting therefrom; however, the coverage required under this Subsection is not applicable when any insured named in the policy either rejects coverage, selects lower limits, or selects economic-only coverage, in the manner provided in Item D(1)(a)(ii) of this Subsection. In no event shall the policy limits of an uninsured motorist policy be less than the minimum liability limits required under R.S. 32:900, unless economic-only coverage is selected as authorized herein. Such coverage need not be provided in or supplemental to a renewal, reinstatement, or substitute policy where the named insured has rejected the coverage or selected lower limits in connection with a policy previously issued to him by the same insurer or any of its affiliates. The coverage provided under this Subsection may exclude coverage for punitive or exemplary damages by the terms of the policy or contract. Insurers may also make available, at a reduced premium, the coverage provided under this Subsection with an exclusion for all noneconomic loss. This coverage shall be known as "economic-only" uninsured motorist coverage. Noneconomic loss means any loss other than economic loss and includes but is not limited to pain, suffering, inconvenience, mental anguish, and other noneconomic damages otherwise recoverable under the laws of this state.

(ii) After September 1, 1987, such rejection, selection of lower limits, or selection of economic-only coverage shall be made only on a form prescribed by the commissioner of insurance. The prescribed form shall be provided by the insurer and signed by the named insured or his legal representative. The form signed by the named insured or his legal representative which initially rejects such coverage, selects lower limits, or selects economic-only coverage shall be conclusively presumed to become a part of the policy or contract when issued and delivered, irrespective of whether physically attached thereto. A properly completed and signed form creates a rebuttable presumption that the insured knowingly rejected coverage, selected a lower limit, or selected economic-only coverage. Any form executed prior to the effective date of this Act shall be valid only until the policy renewal date; thereafter, the rejection, selection of lower limits, or selection of economic-only coverage shall be on a form prescribed by the commissioner as provided in this Subsection.

(iii) This Subparagraph and its requirement for uninsured motorist coverage shall apply to any liability insurance covering any accident which occurs in this state and involves a resident of this state.

(iv) Notwithstanding any contrary provision of this Section, an automobile liability policy written to provide coverage for a school bus may limit the scope of uninsured motorist liability to only provide liability coverage for damages incurred by reason of an accident or incident involving the school bus, or a temporary substitute vehicle, and such limitation shall limit the uninsured motorist coverage of a named insured in the policy to only damages incurred by reason of such accident or incident.

* * *

Section 4. R.S. 32:863.2(A)(1) and (2) are hereby amended and reenacted and R.S. 32:863.2(A)(5) and 866 are hereby enacted to read as follows:

863.2. Notification of the cancellation or issuance of security; penalties

A.(1) All entities providing security in compliance with R.S. 32:861 et seq., hereinafter referred to as "security providers", whether admitted or nonadmitted (surplus line underwriter) insurance companies providing automobile liability policies, or sales representatives or agents of surety companies issuing motor vehicle liability bonds, or the state treasurer holding deposits, shall notify the secretary of the effective dates of each liability policy, liability bond, deposit, or other security within fifteen business days from the date such policy, bond, deposit, or other security was issued or made.

(2) Except as otherwise provided for motor carriers in R.S. 32:900(M), in addition, all such security providers shall notify the secretary when any policy, bond, deposit, or other item of security is terminated, withdrawn, canceled, lapsed, or otherwise made ineffective within fifteen business days of the date the security became ineffective.

* * *

(5) If any cancellation of a motor vehicle liability policy occurs at the request of the insured, the insurer is not obligated to cancel such policy earlier than ten days prior to actual receipt by the insurer of such request.

* * *

866. Compulsory motor vehicle liability security; failure to comply; limitation of damages

A.(1) There shall be no recovery for the first ten thousand dollars of bodily injury and no recovery for the first ten thousand dollars of property damage based on any cause or right of action arising out of a motor vehicle accident, for such injury or damages occasioned by an owner or operator of a motor vehicle involved in such accident who fails to own or maintain compulsory motor vehicle liability security.

(2) For purposes of this Section, the meaning of "bodily injury" and "property damage" is governed by the applicable motor vehicle liability insurance policy or, in the event of security other than an insurance policy, the meaning of such terms is that which is commonly ascribed thereto.

(3) The limitation of recovery provisions of this Subsection do not apply if the driver of the other vehicle:

(a) Is cited for a violation of R.S. 14:98 as a result of the accident and is subsequently convicted of or pleads nolo contendere to such offense.

(b) Intentionally causes the accident.

(c) Flees from the scene of the accident.

(d) At the time of the accident, is in furtherance of the commission of a felony offense under the law.

B. Each person who is involved in an accident in which the other motor vehicle was not covered by compulsory motor vehicle liability security and who is found to be liable for damages to the owner or operator of the other motor vehicle may assert as an affirmative defense the limitation of recovery provisions of Subsection A of this Section.

C. If the owner of a motor vehicle, who fails to own or maintain compulsory motor vehicle liability security, institutes an action to recover damages in any amount, regardless of whether such owner or operator is at fault, and is awarded an amount equal to or less than the minimum amount of compulsory motor vehicle liability security, then such owner or operator shall be assessed and held liable for all court costs incurred by all parties to the action.

D. Each person who applies for a driver's license, registers a motor vehicle, or operates or owns a motor vehicle in this state is deemed to have given his consent to be subject to and governed by the provisions of this Section. All persons who apply for the issuance or renewal of a driver's license, motor vehicle title, or motor vehicle registration shall sign a declaration on a form developed by the Department of Public Safety and Corrections pursuant to rule and regulation that the person acknowledges and gives consent to the requirements and provisions of this Section and that the person will comply with all provisions of this Section and the Motor Vehicle Safety Responsibility Law. Proof of whether the person obtained or signed such declaration is irrelevant to the application of this Section.

E. Nothing in this Section shall preclude a passenger in a vehicle from asserting a claim to recover damages for injury, death, or loss which he occasioned, in whole or in part, by the negligence of another person arising out of the operation or use of a motor vehicle. This Subsection shall not apply to a passenger who is also the owner of the uninsured motor vehicle involved in the accident.

F.(1) Notwithstanding any provision of law to the contrary, no insurer shall lose any rights of subrogation for claims paid under the applicable insurance policy for the recovery of any sum in excess of the first ten thousand dollars of bodily injury and the first ten thousand dollars of property damages.

(2) In claims where no suit is filed, the claimant's insurer shall have all rights to recover any amount paid by the claimant's insurer on behalf of the insured for the recovery of any sum in excess of the first ten thousand dollars of bodily injury and the first ten thousand dollars of property damages.

Section 5.(A) Every motor vehicle insurer authorized to transact business in the state of Louisiana shall make an automobile policy rate filing with the Louisiana Insurance Rating Commission to reduce its combined rates for bodily injury liability and property damage liability by a minimum of ten percent in each of its respective territorial service areas, based upon the average rate in such area on the day prior to "rate reduction day", unless the motor vehicle insurer can demonstrate at a rate hearing that such a decrease will result in inadequate rates, or would result in the continuation of inadequate existing rates, for the motor vehicle insurer in accordance with R.S. 22:1404 or the provisions of Section 7(B) of this Act become applicable.

(B) Every motor vehicle insurer authorized to transact business in the state of Louisiana shall also make an automobile policy rate filing with the Louisiana Insurance Rating Commission to reduce its rates for uninsured/underinsured motorist coverage, for insureds which select a policy which provides economic-only uninsured motorist coverage, by a minimum of twenty percent in each of its respective territorial service areas, based upon the average rate of its uninsured/underinsured motorist coverage in such area on the day prior to "rate reduction day", unless the motor vehicle insurer can demonstrate at a rate hearing that such a decrease will result in inadequate rates, or would result in the continuation of inadequate existing rates, for the motor vehicle insurer in accordance with R.S. 22:1404 or the provisions of Section 7(B) of this Act become applicable.

(C) All motor vehicle insurers who write policies shall file rates for bodily injury liability, property damage liability, and uninsured motorist coverage with the Louisiana Insurance Rating Commission no later than thirty days after "rate reduction day". The rates required to be filed under this Subsection shall be in accordance with R.S. 22:1404. The Louisiana Insurance Rating Commission shall conclusively act on all rate filings within ninety days of "rate reduction day".

(D)(1) For purposes of this Section, the savings provided hereby shall be applicable to an insured only upon policy renewal or policy issuance.

(2) For purposes of this Act, "rate reduction day" is the date on which a final and definitive judgment is rendered in the declaratory judgment proceeding authorized in Section 6 of this Act, or, if no suit for declaratory judgment is filed prior to August 1, 1997, "rate reduction day" is August 1, 1997. The Louisiana Insurance Rating Commission shall certify and make available the official "rate reduction day". If, however, due to unforeseen events or time delays which preclude the filing of rates or the acting thereon by the Louisiana Insurance Rating Commission, the commissioner of insurance may apply to the

Nineteenth Judicial District Court for a stay order suspending the running of all time limits or provisions which are tied to the "rate reduction day" and the court, for good cause shown, shall grant such stay order.

Section 6. Because the legislature finds and declares that questions of law may be raised by some persons with respect to the constitutionality of some of the provisions of the Omnibus Premium Reduction Act, the public welfare requires that such questions of law be resolved with expedition prior to such time as its provisions take effect in order to avoid disruption of the orderly implementation of its provisions. Therefore, the legislature finds that the remedy of declaratory judgment to determine the constitutionality of the provisions of the Omnibus Premium Reduction Act should be immediately made available in order to avoid confusion by the public. Therefore, any domiciliary of this state may institute an action in the Nineteenth Judicial District Court seeking a declaratory judgment to determine the constitutionality of the provisions of the Omnibus Premium Reduction Act. The attorney general and the commissioner of insurance shall be served with a copy of the proceeding and be entitled to be heard. In the interest of further expediting this procedure, the Nineteenth Judicial District Court, First Circuit Court of Appeal, and Louisiana Supreme Court are urged to minimize all unnecessary delays and may suspend all applicable rules of court in contravention hereof and for this limited purpose.

Section 7.(A) Unless otherwise specifically excepted, if any provision or item of the Omnibus Premium Reduction Act or the application thereof is held to be invalid or unconstitutional by a final and definitive judgment, such invalidity shall not affect other provisions, items, or applications of the Omnibus Premium Reduction Act which are not specifically declared to be invalid or unconstitutional and which can be given effect without the invalid provisions, items, or applications, and to this end the provisions of this Omnibus Premium Reduction Act are hereby declared severable.

(B) Exceptions.

(1) If any provision or item of the Omnibus Premium Reduction Act or the application thereof is held to be invalid or unconstitutional by a final and definitive judgment, the mandatory percentage rate reduction provisions of Section 5 of this Act are also decreed to be invalid; however, each insurer shall still make a rate filing with the Louisiana Insurance Rating Commission within thirty days of "rate reduction day" adjusting its rates to reflect the actuarial value, as determined by the Louisiana Insurance Rating Commission, with respect to the remaining valid and constitutional provisions of the Omnibus Premium Reduction Act and the provisions of Act ___ which originated as House Bill 530 of the 1997 Regular Session.

(2) If the mandatory rate reduction provisions or the actuarial provisions of the Omnibus Premium Reduction Act, or both, are held to be invalid or unconstitutional by a final and definitive judgment, all other provisions of this Act are also decreed to be invalid.

Section 8.(A) Section 1 and Sections 5 through 8 of this Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, Section 1 and Sections 5 through 8 of this Act shall become effective on the day following such approval.

(B)(1) Sections 2 through 4 of this Act shall become effective one hundred twenty days after "rate reduction day" and shall apply to all causes of action which occur on or after the effective date thereof.

(2) If, however, during the time prescribed in Subsection 5(C) of this Act, the Louisiana Insurance Rating Commission approves rates of insurers selling more than twenty-five percent of the automobile insurance in this state, as measured by earned premium volume for the calendar year of 1996, which rates are not in compliance with the mandatory percentage rate reduction provisions of Subsection 5(A) or (B) or, if applicable, the actuarial provision of Section 7(B) of this Act, all as determined and certified by the commissioner of the Department of Insurance within ten days of the rate approval, then Sections 2 through 4 of the Omnibus Premium Reduction Act shall never take effect.

State of Louisiana

This form was promulgated pursuant to LRS 22§1406.D.(1)(a)(ii). This form may not be altered or modified.

Uninsured/Underinsured Motorist Bodily Injury Coverage Form

Uninsured/Underinsured Motorists Bodily Injury Coverage, referred to as **"UMBI"** in this form, is insurance which pays persons insured by your policy who are injured in an accident caused by an owner or operator of an uninsured or underinsured motor vehicle.

By law, your policy will include UMBI Coverage at the same limits as your Bodily Injury Liability Coverage unless you request otherwise. If you wish to reject UMBI Coverage, select lower limits of UMBI Coverage, or select Economic-Only UMBI Coverage, you must complete this form and return it to your insurance agent or insurance company. (Economic-Only UMBI Coverage may not be available from your insurance company. In this case, your company will have marked options 3 and 4 below as "Not Available.")

UNINSURED/UNDERINSURED MOTORIST BODILY INJURY COVERAGE

You may select one of the following UMBI Coverage options (initial only one option):

1. _____ Initials **I select UMBI Coverage** which will compensate me for my economic and non-economic losses with the same limits as my Bodily Injury Liability Coverage.

   Economic losses are those which can be measured in specific monetary terms including, but not limited to, medical costs, funeral expenses, lost wages, and out of pocket expenses.

   Non-economic losses are losses other than economic losses and include, but are not limited to, pain, suffering, inconvenience, and mental anguish.

2. _____ Initials **I select UMBI Coverage** which will compensate me for my economic and non-economic losses **with limits lower** than my Bodily Injury Liability Coverage limits:

   $ _____ each person $ _____ each accident

3. _____ Initials **I select Economic-Only UMBI Coverage** which will compensate me only for my economic losses with the same limits as my Bodily Injury Liability Coverage.

4. _____ Initials **I select Economic-Only UMBI Coverage** which will compensate me only for my economic losses **with limits lower** than my Bodily Injury Liability Coverage limits:

   $ _____ each person $ _____ each accident

5. _____ Initials **I do not want UMBI Coverage**. I understand that **I will not be compensated through UMBI coverage** for losses arising from an accident caused by an uninsured/underinsured motorist.

SIGNATURE

The choice I made by my initials on this form will apply to all persons insured under my policy. My choice shall apply to the motor vehicles described in the policy and to any replacement vehicles, to all renewals of my policy, and to all reinstatement or substitute policies until I make a written request for a change in my Bodily Injury Liability Coverage or UMBI Coverage.

_____ Named Insured or Legal Representative (Please Print)

_____ Policy Number

_____ Signature of a Named Insured or Legal Representative

_____ Date