



# Navigating Commercial Auto Insurance Cost and Availability

---

LDI Conference 2020

March 5, 2020


Donald L. Griffin, CPCU, ARC, ARe, ARM, AU  
Department Vice President



# The Property Casualty Insurance Industry: A Pillar of the Louisiana Economy

The property and casualty industry provides significant contributions to the U.S. economy. The industry also provides financial security and vital services to policyholders, businesses, and communities in their time of need. According to the J.D. Power 2018 U.S. Property Claims Satisfaction Survey, overall customer satisfaction with private property insurers has reached a new all-time high, during a period of record-high property losses following catastrophic hurricanes, earthquakes, and wildfires.

1. 2018 S&P Global Market Intelligence  
2. 2017 U.S. Bureau of Labor Statistics  
3. 2014-2018 average S&P Global Market Intelligence  
4. 2015 AIPSO  
5. 2016 NAIC  
6. 2016 AM Best  
7. 2017 U.S. Census Bureau  
8. U.S. Bureau of Economic Analysis, preliminary 2017, all insurance carriers and related activities



### IN LOUISIANA:

- 738** companies provide property casualty insurance.<sup>1</sup>
- 34** property casualty insurance companies are domiciled.<sup>1</sup>
- 32** property casualty insurance companies are headquartered.<sup>1</sup>

---

PROPERTY CASUALTY INSURERS PROVIDE:


**JOBS** to nearly **3,000** Louisiana residents.<sup>2</sup>



Insurers pay **WAGES** totaling more than **\$232 million**, which helps to drive the economy.<sup>2</sup>

---

**ASSISTANCE** totaling more than **\$6 billion** annually<sup>3</sup> in claim payments to help customers recover and rebuild after disasters and other losses.



Insurers **PROTECT** over **3 million** cars<sup>4</sup> and nearly **900,000** residences<sup>5</sup>.

---

**INVESTMENTS** of nearly **\$4 billion** in municipal bonds.<sup>6</sup>



Insurers **CONTRIBUTE** more than **\$800 million** in premium taxes to the state each year, among a wide range of other state and local taxes.<sup>7</sup>



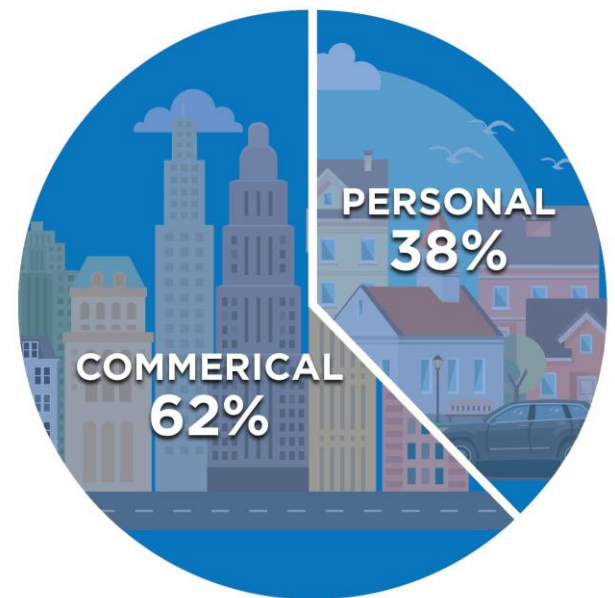
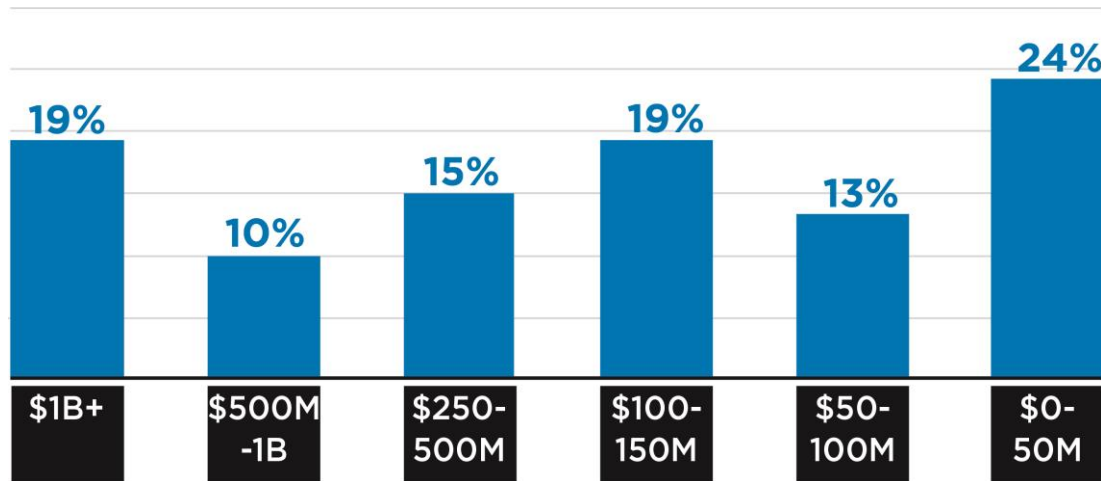
### IN THE UNITED STATES:

The insurance industry contributes **\$602.7 billion** to the nation's GDP.<sup>8</sup>

The property casualty industry directly provides more than **466,000** jobs across the country, bringing approximately **\$42 billion** in annual wages into the U.S. economy.<sup>2</sup>

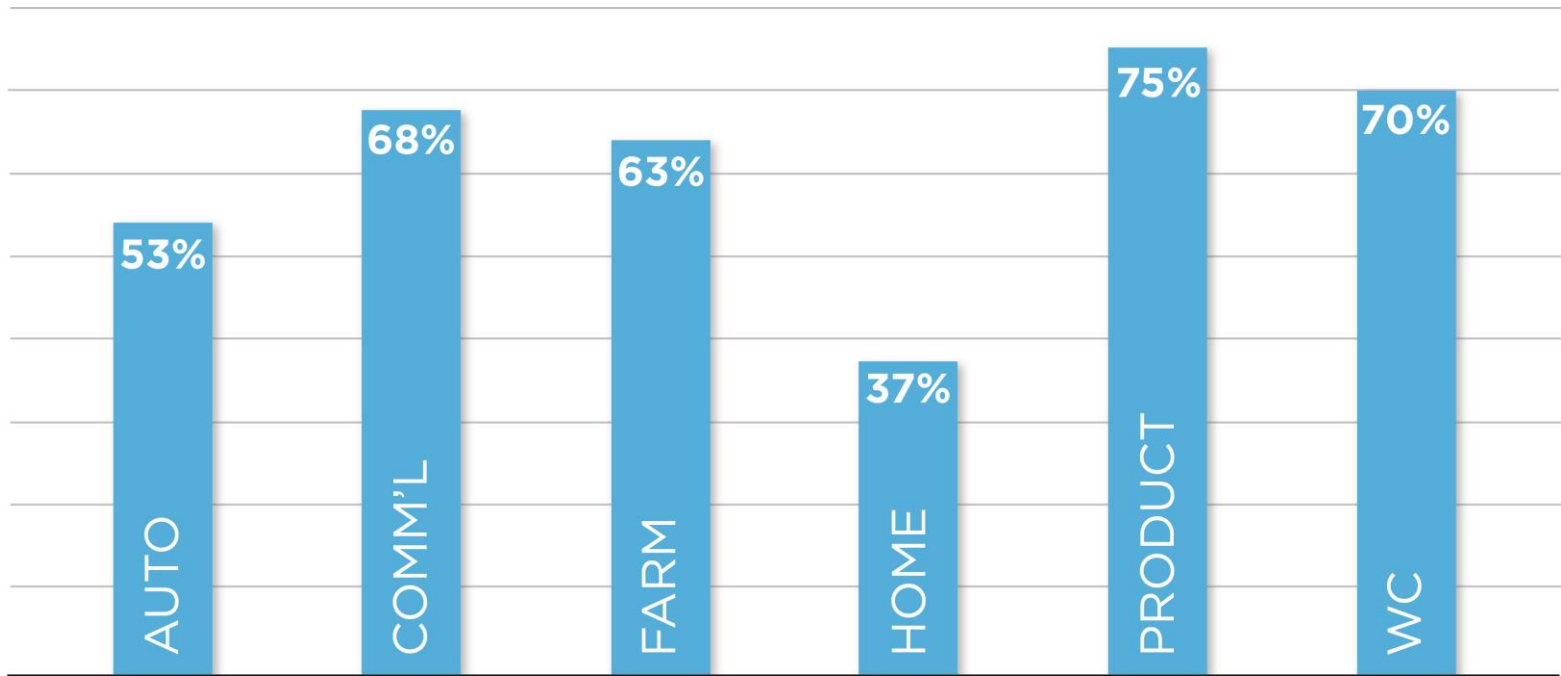


## APCIA represents groups of all sizes





## Member market share\*



\*Based on companies reporting to NAIC



# History - Following a muddy path

- APCIA members = **78% of Louisiana's commercial auto**
- Louisiana commercial auto turned before the rest of the nation
- Combined ratio = 114% in 2010
  - 3rd worst in the nation
  - Almost 20 points above the nationwide average
  - Nationwide the line was profitable until 2011
- Combined ratio consistently worse by year = 140% in 2018
  - 2nd worst in country
  - Now more than 30 points above the nationwide average



Why is Louisiana's  
Legal System So Costly?

# Louisiana Has One of the Nation's Worst Legal Climates

## NOW IS THE TIME FOR CHANGE!

Lawsuit reform will help Louisiana's economy and help policyholders save on costs

### Louisiana's Legal System Needs:

- Jury Trial Threshold Reform
- Discovery Reform
- Collateral Source Rule Reform
- Class Action Lawsuit Reform
- Venue Reform
- Contract Litigation Reform
- Repeal Direct Action Statute



Louisiana's legal climate ranks  
**49th** of 50 states

Source: U.S. Chamber of Commerce's Institute for Legal Reform





Why is Louisiana's Legal System So Costly?

# Louisiana Has the Highest Jury Threshold Law in the Country

## Lowering the Jury Threshold Will Help Consumers and Reduce Costs

Louisiana denies access to a jury trial until damages reach at least \$50,000. This jury threshold is the highest in the country – 3 times more than the next highest state.



### Jury Threshold Allows Judge Shopping

The current law allows trial lawyers to shop around for their favored judges who are prone to award out-sized judgments.

Trial lawyers want to keep the scales of justice tipped in their favor, so that they can continue to seek maximum awards without going before a jury.



### Louisiana's Unbalanced Legal System Contributes to Higher Costs

- The current system provides an incentive to seek high damage awards and take cases to court, which increases costs for all consumers
- A 2019 study by the U.S. Chamber of Commerce Institute for Legal Reform found that Louisiana lawsuit abuse costs more than \$4,000 per year per household and the state's lawsuit costs are the highest in the nation, reaching nearly \$7 billion.

### NOW IS THE TIME FOR CHANGE!

Lowering the damage threshold for jury trials to \$5,000 will help address a major contributor to why Louisianans pay the second highest auto insurance premiums in the country.



Why is Louisiana's Legal System So Costly?

# Louisiana's Unique Direct-Action Law



Louisiana is one of only three states where a plaintiff can sue you **AND** your insurance company. It also permits the presentation of evidence of liability insurance to the jury.

## Direct Action often serves to "Mis-Direct" Attention

Louisiana's direct-action statute shifts the focus from what happened during the accident over to the financial assets of an insurance company that was not there, did not drive and did not own the vehicle. It is far easier for trial lawyers to argue for large damages to "punish" a distant corporation than to deal with the fact that another driver made a mistake.

## Louisiana's Unbalanced Legal System Contributes to Higher Costs

- **Most states** recognize that bringing an insurance company into a lawsuit encourages the tendency to grant excessive jury awards.
- **The end result** of all this is that trial lawyers make millions while Louisiana consumers pay ever increasing premiums for their insurance.



## NOW IS THE TIME FOR CHANGE!

Repealing Louisiana's direct-action law is fair and will reduce costs.





## Why is Louisiana's Legal System So Costly?

# Louisiana's Law Allows Phantom Damages to be Paid



When judges and juries decide how much should be paid in lawsuit damages, that decision should be based on what was actually paid for medical expenses, instead of artificially inflated phantom costs.



### Why Hide the Actual Costs?

Health insurers negotiate the price of billed charges with medical providers and pay the lower, negotiated amount. By permitting only the higher billed charges to be presented to a jury it allows the plaintiff to claim more for medical expenses than were actually paid.

Louisiana law bars information regarding the true cost of medical care from being disclosed at trial and this game of "hide the ball" drives up over-sized, unjust jury awards.

### Louisiana's Unbalanced Legal System Contributes to Higher Costs

- It's a matter of fairness, judges and juries should be told the truth about the actual costs incurred, not artificially inflated charges that were never paid.
- Allowing phantom damages to be the basis of jury awards allows unjust payouts to lawyers and their clients, and the cost of these windfalls is absorbed by insurance consumers.

### NOW IS THE TIME FOR CHANGE!

Changing Louisiana's law to end medical billing secrecy and only allowing economic damages for medical expenses actually paid rather than the amount billed is sound public policy. This provides fair compensation and stops escalating litigation expenses that drive up costs for all Louisiana consumers.



Why is Louisiana's Legal System So Costly?

# Louisiana's Seat Belt Gag Rule

Although wearing seat belts are required by Louisiana law and they help prevent injuries, it is illegal to tell a jury whether seat belts were being used at the time of a crash.

## Why Hide the Evidence?

Nearly **87 percent of drivers** in Louisiana use seat belts. They save lives and according to NHTSA are the single most effective thing you can do to protect yourself in a crash.

Seat belts reduce the risk of fatal injury to front-seat passenger car occupants by **45 percent** and the risk of moderate-to-critical injury by **50 percent**.



### Louisiana's Unbalanced Legal System Contributes to Higher Costs

- By reducing the risk of injuries, seat belt use helps to reduce the medical bills and the overall cost of lawsuits following an accident.
- Keeping juries uninformed regarding seat belt use enables trial lawyers to seek larger jury awards and drives up costs for all consumers.
- Seat belt gag rules are outdated and inconsistent with sound public policy that encourages the use of seat belts.

## NOW IS THE TIME FOR CHANGE!

Repealing Louisiana's seat belt gag rule is good policy, encourages seat belt use, and helps to lower litigation costs.



# Very Large Verdicts

- APCIA study nearly 440 verdicts \$5M+ 2006-2016
- Louisiana 10th highest total verdict \$
- Louisiana 4th highest average verdict \$
- BUT Louisiana just over 1% of verdict count
  - All were tractor-trailer cases
  - No punitive damages involved



# History - Following a muddy path

- More vehicles = more congestion
- More electronics = more distraction
- Verdict inflation = higher liability premiums
- Everybody pays when a few win big



# Commercial Auto Is Not for the Faint of Heart “Need to know basis”

- Know your clients
  - Operations, loss history, safety, management, etc.
- Know your insurers
  - Appetites, risk mgt. services, claim expertise, etc.
- Matchmaker, matchmaker, make me a match
  - Easier renewals, better profit sharing, etc.





# Challenges - Rocks in the path forward

- Almost 280 companies actively writing in LA
- No change in number since 2010
  - 67 Insurers writing commercial auto in 2010 no longer have premium; and
  - 67 New insurers are writing commercial auto in 2018
- Different mix...
  - Progressive still on top!
  - QBE gone...
  - Clear Blue came out of...



# Travel Plans - Things you can do

- Get involved! You CAN make a difference!
- Educate your legislators
  - Balanced civil justice works for everyone
  - Improve highway safety
  - Reduce driver distractions
  - Better business climate = more jobs



# Navigating Commercial Auto Insurance Cost and Availability

Questions?

**Don Griffin**

**[donald.griffin@apci.org](mailto:donald.griffin@apci.org)**

**Direct: 847-553-3743**