



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

BULLETIN NO. 08-05

**TO: PROPERTY AND CASUALTY INSURANCE COMPANIES
ENGAGED IN THE BUSINESS OF INSURANCE IN THE STATE
OF LOUISIANA**

FROM: JAMES J. DONELON, COMMISSIONER

RE: ACT 1476 – OMNIBUS PREMIUM REDUCTION ACT OF 1997

DATE: DECEMBER 31, 2008

Pursuant to Acts 2007, No. 459 of the Regular Session of the Louisiana Legislature, the Louisiana Insurance Rating Commission (LIRC) was abolished and all "powers, duties and functions" of the LIRC were transferred to the Commissioner of Insurance and the Louisiana Department of Insurance (LDOI). As such, the LDOI issues Bulletin No. 08-05, which supersedes LIRC Bulletin Nos. 98-01, 98-03, 98-05 and 98-06. The UM Form originally mandated by LIRC Bulletin No. 98-01 has been revised and reissued by LDOI Bulletin No. 08-02.

Acts 1997, No.1476 of the Regular Session of the Louisiana Legislature, referred to as the Omnibus Premium Reduction Act of 1997, established legislative reforms that would prove to reduce motor vehicle insurance costs in Louisiana. One principle feature of the aforementioned Act was the "limitation of recovery" provision, a/k/a "no pay, no play," which set a recovery threshold for uninsured injured motor vehicle owners and operators. Specifically, neither insured drivers nor their insurers are required to pay for the first ten thousand dollars (\$10,000) of bodily injury and/or the first ten thousand dollars (\$10,000) of property damage to an uninsured motor vehicle owner and operator due to the negligence of insured drivers. In many instances this has led to a reduction of liability losses and loss adjustment expenses to motor vehicle insurers.

As a result of the enactment of the above referenced Act and all statutory prohibitions against excessive rates, all authorized motor vehicle insurers were directed to reduce motor vehicle liability rates to reflect the provisions of the applicable law as set forth by LIRC Bulletin Nos. 98-01, 98-03, 98-05 and 98-06. For the purposes of Bulletin No. 08-05, authorized motor vehicle insurers include the following entities:

- All insurers admitted in Louisiana to write motor vehicle liability insurance.
- All unauthorized insurers who are approved by the LDOI to write commercial motor vehicle liability insurance in Louisiana (i.e. surplus lines).
- All insurers writing commercial motor vehicle liability insurance in Louisiana.
- All insurers required to submit personal motor vehicle liability insurance rates for approval in Louisiana.
- All insurers writing liability insurance on all motor vehicle types which require security as defined by Louisiana Revised Statute, Title 32 (Motor Vehicles and Traffic Regulation).

Key provisions of Acts 1997, No.1476 of the Regular Session of the Louisiana Legislature include:

- Minimum ten percent (10%) rate reduction for bodily injury and property damage liability coverage.
- A lowering of the legal interest rate.
- The offering of economic-only uninsured and underinsured motorist coverage at a rate twenty percent (20%) below the uninsured and underinsured motorist coverage rates in place at that time.
- 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 ten thousand dollars (\$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 ten thousand dollars (\$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 ten thousand dollars (\$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 those selected for bodily injury liability limits or selection of economic-only uninsured/underinsured motorist coverage.

The above referenced LIRC Bulletin No. 98-03 addressed several issues relative to the enactment of Acts 1997, No.1476 of the Regular Session of the Louisiana Legislature. Many of the issues addressed at that time are no longer relevant due to jurisprudence, the amending or repeal of various statutory provisions and the passage of time. Nevertheless, the following concerns remain a priority for the LDOI:

Handling of Claims

An insurer has a contractual obligation and a fiduciary duty to its policyholders. By way of an issued policy, an insurer agrees to pay on behalf of its insured all damages for which its insured becomes legally obligated up to the limits of liability stated in the policy.

Out-of-State Operator – Motor Vehicle Owner

Title 32 of the Louisiana Revised Statutes provides that motor vehicles owned or operated by a non-resident must be lawfully registered in the owner's home state in order to be operated in the state of Louisiana. Therefore, if the owner's home state requires insurance coverage and the motor vehicle is not insured, then the motor vehicle does not meet the prerequisites to be operated in the state of Louisiana.

Uninsured Owner Who Is a Guest Passenger

When the owner of an uninsured motor vehicle is a guest passenger in that vehicle, the uninsured owner-passenger will be barred from recovery against a liable third party, in accordance with Acts 1997, No.1476 of the Regular Session of the Louisiana Legislature. LSA-R.S. 32:866 (E) provides an exception for guest passengers in an uninsured motor vehicle, but the exception "...does not apply to a passenger who is also the owner of the uninsured motor vehicle involved in the accident."

Economic-Only Uninsured/Underinsured Motorist Bodily Injury Coverage/Non-Economic Losses/ Economic Losses-Defined

The types of Uninsured/Underinsured Motorist Bodily Injury Coverage (UMBI) are regarded as traditional UMBI and Economic-Only UMBI. The aforementioned coverages are subject to policy terms and conditions including, but not limited to, coverage limits:

Traditional UMBI – Covers non-economic loss (i.e. general damages) and economic loss (i.e. special damages).

Economic-Only UMBI – Covers economic loss only.

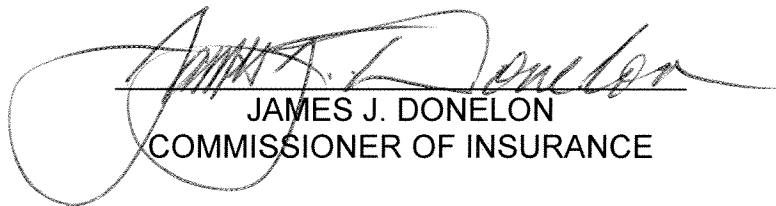
Non-Economic Losses – As provided in Acts 1997, No.1476 of the Regular Session of the Louisiana Legislature, includes "any loss other than economic loss and includes, but is not limited to, pain, suffering, inconvenience, mental anguish and other non-economic damages otherwise recoverable under the laws of this state."

Payment for **economic losses** are made to reimburse an injured person for documented dollar loss due to an accident. Examples of an economic loss include: medical bills, funeral expenses, wages lost due to being absent from employment, use of sick leave, bills for necessary replacement services or reimbursement to an employer to reinstate sick leave.

In conjunction with the enactment of Acts 1997, No.1476 of the Regular Session of the Louisiana Legislature, the LIRC, via LIRC Bulletin Nos. 98-05 and 98-06, compiled an insurance industry contact list used to verify the existence of automobile liability insurance coverage. This list has been maintained by the LDOI and is currently on the LDOI website (www.ldi.state.la.us).

For questions or comments, please contact the Louisiana Department of Insurance, Office of Property and Casualty, Insurance Rating Division, by phone at (225) 342-1258.

Baton Rouge, Louisiana, this 31st day of December, 2008.



JAMES J. DONELON
COMMISSIONER OF INSURANCE