LEGISLATIVE AUDIT ADVISORY COUNCIL

Minutes of Meeting
Thursday, October 27, 2022
Senate Committee Room F
State Capitol Building

The items listed on the Agenda are incorporated and considered to be part of the minutes herein.

Chairman Luneau called the Legislative Audit Advisory Council (Council) meeting to order at 1:42 p.m. Ms. Tanya Phillips called the roll confirming that a quorum was present.

Members Present:	Senator Jay Luneau, Chairman Senator Beth Mizell Senator J. Rogers Pope, Proxy for Senator Louie Bernard Senator Eddie Lambert, Proxy for Senator Fred Mills Senator Regina Barrow, Proxy for Senator Jimmy Harris Representative Barry Ivey, Vice Chairman Representative Edmond Jordan Representative Stephanie Hilferty Representative Jason Hughes, Proxy for Representative Aimee Adatto Freeman
Members Absent:	Representative Rodney Schamerhorn
Also Present:	Michael J. "Mike" Waguespack Louisiana Legislative Auditor (LLA)

<u>Approval of Minutes</u> (*Video Archive Time 01:32)*

Representative Jordan offered a motion to approve the minutes of the October 27, 2022 meeting and, with no opposition, the motion was approved.

Legislative Auditor Mike Waguespack adviseds that the Louisiana Legislative Auditor's office (LLA) will present three Performance Audit reports as it relates to the Department of Insurance: Regulation of Residential Property Insurance, Residential Property Insurance Complaint Statistics, and the Financial Condition of the Residential property Insurance Market.

(*Video Archive Time 02:42)*

Karen LeBlanc, Director of Performance Audit Services, Chris Magee, Data Analytics Manager and Julie Floyd, Senior Auditor will present three Performance Audit reports on homeowners insurance.

Ms. LeBlanc first advised that because the number of legislative requests have increased and LLA wanted to timely respond to those requests, LLA has developed two new types of reports -- an informational report and informational brief. The informational report is used when we compare Louisiana to other states or to best practices. For example, we just issued an informational report on the Louisiana State Police and how they compare organizationally to police agencies in other southern states. We also have a report coming out on the State Central Registry that DCFS maintains. In informational reports, if we see a large disconnect between what Louisiana is doing compared to other states or we are not following best practices, then we will offer recommendations for legislative consideration.

The informational brief has been designed to be very brief and narrow in scope -- generally used to answer a question or provide statistics based on data analysis. We have issued four of those – the Industrial Tax Exemption Program, Pay Actions with State Civil Service, and the Louisiana Watershed Initiative. The other one we have done is Insurance Complaint Statistics which we are going to over today.

Chris Magee, Data Analytics Manager, presented the informational brief on Louisiana Department of Insurance ("LDI") Residential Property Insurance Complaint Statistics. This report came about because there was so much interest from the public and the legislature on what was happening with people's issues with having their insurance companies respond to their claims, being paid timely, etc. What we found is that over a five year period, most complaints LDI received were related to residential property or about 36%. These complaints significantly increased after the hurricanes. From 2017-2019 LDI received 430-450 residential property complaints. After Hurricane Laura and the 2020 hurricanes, residential property complaints tripled to about 1,350 and after Hurricane Ida they quadrupled to over 5,200. LDI was inundated with these complaints and trying to work on them for the policy holders. We found most complaints were dissatisfaction with how insurers handled the claims. Over 96% were due to claim handling by the insurance companies – things like claim delay, unsatisfactory settlement offer, claim denial and adjuster handling. Most complaints were about companies instead of individual agents or adjusters. Finally, LLA found when a complaint is filed they are usually favorable to the consumer or complainant. About 64% of complaints filed were in favor of people filing the complaint, 28% were a neutral outcome and only 6% were favorable to the agency. It highlights the importance of the complaint process.

Julie Floyd, Senior Auditor, presented the Performance Audit report on Regulation of Residential Property Insurance. LLA evaluated LDI's regulatory activities to ensure insurance companies comply with laws and handle claims fairly and timely. Overall we found LDI does have procedures in place including licensing adjusters, investigating complaints, monitoring insurance companies and individuals for violations of Louisiana's Insurance Code. We did identify ways LDI could strengthen those activities. We also identified a revision to the Insurance Code the legislature may wish to consider. We found most adjusters for calendar year 2020-

2021 hurricanes were licensed. Catastrophe adjusters; however, which are adjusters that come into the state when there is an emergency to help cover the case load are not required to be licensed in Louisiana but they might be licensed in another state. LLA recommended and LDI stated is when the next emergency occurs they are going to collect information to determine if the catastrophe adjusters are licensed. Right now three southern coastal states require catastrophe adjusters to be licensed and based on information LDI obtains they might decide to require that in Louisiana. With regard to complaints, LDI's goal is to complete 70% of complaint investigations with 42 days and in 2017, 2018 and 2019 they met that goal. LDI did experience a significant increase in complaints in 2020 and 2021 so they went from about 440 in 2019 to more than 5,000 complaints in 2021. As a result of that increase they closed approximately 60% of residential property complaints within 42 days.

LLA noted LDI does not always report accurate information regarding complaints including outcome of the investigation and the amount of money recovered as a result of the investigation. The recovered amount is the difference between the amount a policy holder is initially offered by the insurance company versus what they actually get after LDI conducts their investigation. This is a way for LDI to show the impact of their involvement in the investigation process. The primary cause of inaccurate reporting was due to a quality assurance process that they paused while they attempted to handle the significant increase in complaints. LDI plans to restart the quality assurance process. In the end, it was an error in reporting but did not affect the amount of money policy holders actually received.

LDI conducts a range of activities to monitor the market conduct of insurance companies. Market conduct is basically the behavior of companies or business practices. What LLA found was that LDI was conducting those activities in accordance with state law and best practices. However, most of the hurricane related complaints in 2020-2021 were related to how insurance companies were handling claims. LDI conducted five market conduct exams in 2021 which is the most comprehensive and expensive monitoring process they do. Each of the exams identified issues with how insurance companies were handling claims. LLA recommended LDI do some additional work to evaluate the claims handling practices of insurance companies which LDI said they are in the process of making those changes.

Ms. Floyd mentioned a potential change to state law. HB 936 of the 2022 regular session would have added some new time frame requirements to the claims handling process. According to LDI, the changes would have allowed them to more objectively determine if companies are handling claims timely. The bill got through both House and Senate but did not get through conference committee. LLA believes that change would be a potential way for LDI to effectively monitor companies and give them more specific criteria to which they could base enforcement actions on.

Chris Magee then discussed the Performance Audit report on the Financial Condition of the Residential Property Insurance Market and the residual effects of what happens when insurance companies become insolvent. LLA focused on three different entities and how the issues affect them -- LDI from the regulatory perspective, Louisiana Insurance Guaranty Association ("LIGA") who is really the safety net for when insurance companies become insolvent but there are outstanding claims and then Citizens who is really the insurer of last resort. All of these entities are connected to one another when these issues arise. Overall LLA found that 11 insurance companies became financially insolvent between July 2021 and September 2022 which strained the financial position of LIGA. Six of these insolvencies were primarily due to lack of adequate reinsurance. In addition to those insolvencies, because of the impacts of the 2020 and 2021 hurricanes, other companies have left the market because they said there is too much risk, they've taken too much loss or they have stopped writing new policies in certain locations – oftentimes below south of I-10 to try to avoid the risk.

Most of LIGA's claims, prior to these insolvencies, were dealing with asbestos claims, automobile failures and things like that. In 2020 they paid out $4.8 million for the claims they had. In the first eight months of 2022 they paid out $268.1 million and that number continues to rise because it had to assume the claims of the financially insolvent companies. For the first time since 2004, LIGA had to assess insurance companies. The assessment works where they [LIGA] can assess up to 1% of written premium from the previous year. That ends up being about $100 million in funding a year for LIGA to pay these claims.

Representative Ivey asked if those costs passed on to the consumer – the 1%. Mr. Magee advised there are two options when this occurs. LIGA can increase their rates and pass it on to the consumer directly or LIGA can take a tax credit at 10% for 10 years. It is passed on to either policy holders or consumers in different ways. Policy holders have direct impact. According to LDI, most companies take the tax credit – the tax credit decreases the amount of funding available for the general fund and therefore reduces the amount of services that can be paid for by those general fund dollars. This is across the state for the people who need the safety net programs.

Representative Ivey then asked if it is up to the insurer to decide if they are going to take the money out of the state general fund or their insured. Mr. Magee answered that the insurer chooses which of those two options – they cannot do both and LDI regulates if you take the tax credit are you adding it to the rate or not. Representative Ivey asked if it was odd that the insurance company gets to determine who pays. Mr. Magee responded that it was set up like an interest free loan to the state. The insurers are taking money out of their pockets and giving it to LIGA to bail out the claims. The state does not have to pay interest if you avoid having to take a loan. This is the rare and possibly only circumstance where we've had to assess and still get a loan approval from bond commission. Louisiana is one of seven states that allows insurance companies to use premium tax credits or the rates. Fourteen states allow only the premium tax credit and 29 states allow the premium rate increase only. The most common option out there, 29 of them, is to only allow the rate premium increase or a surcharge.

Representative Jordan stated that as it relates to the tax credit or premium increase, Commissioner Donelon testified in the Joint Insurance committee that during his tenure he couldn't recall any company that had passed it on to the policy holders so it's all been part of the tax credit. Mr. Magee stated the idea of the assessment is it helps float and have revenue come in and LIGA doesn't have to obtain any type of financing. However, because of the number of insurance companies that became financially insolvent and the cost of those claims, LIGA had to go before the Bond Commission and obtain approval for a $600 million loan. With the interest that will have to be paid, if they take the full $600 million loan, that will cost between $721 million and $884 million. The way they generate revenue is the assessment so the assessment is going to have to be taken for the foreseeable future and as the premium tax credits are taken they stack on each other. You have 10% for 10 years, once you are assessed the first year. If you are to assess for 10 years in a row it is a potential $100 million hit to the state general fund. It is something that has to be done to make the policy holders whole but has a negative impact to the state general fund.

Back in the 1990s, the assessment percentage was temporarily increased from 1% to 2%. There is always a pro and con doing this so LLA made this a matter for legislative consideration: Temporarily or permanently increase that capacity because it would allow them to assess the insurance companies and the $100 million could turn into $200 million a year which could avoid some of the interest cost; however, along with that comes the premium tax credit unless that part of it were to be changed. That would be a quicker impact each year to the general fund where the 10% or $10 million hit per year turns into $20, $40, $60 and so forth. There are different options that can be weighed. Most states have an assessment percentage of 2% or higher and the LIGA equivalents don't have to assess the whole 2% it's just capacity to assess up to 2%.

Mr. Magee discussed the second entity that has these residential effects is Citizens. The insolvencies and companies leaving the market have ballooned the number of policies and values of policies they have. Citizens has gone from approximately 35,000 policies with a total insured value of $6.7 billion in January 2021 to 112,000 policies with a total insured value of $33.3 billion. Citizens' exposure to a potential catastrophe such as Hurricane Ida has significantly increased as a result. It's a 214% increase in policies and 397% increase in the value of those policies. How does this affect the policy holders and the state? If Citizens does not have enough assets and reinsurance coverage to pay claims then they can assess. They assess the insurance companies and can get about $250 million within a short period of time. If that doesn't meet their obligations, like it did not after Hurricane Katrina, then they assess all policy holders throughout the state. If you look at your insurance bill there is the assessment, and we will all be paying that assessment, from Hurricane Katrina. That is the importance of Citizens not having too many policies, and another bad storm hits, we could be seeing that assessment to that degree.

Representative Ivey asked if there a similar process for Citizens, like LIGA, as far as the tax credit, etc. and how are they structured. Mr. Magee advised that it's different. They use up all of their funds and they have reinsurance, they increased the reinsurance from $600 million to $1.2 billion so they doubled reinsurance coverage. They would have to get through $1.2 billion in damage then they would assess the insurance companies, satisfy any other assets they could use and then it would get down to the policy holders. And the policy holders don't have the tax credit anymore.

Representative Ivey stated that LIGA receives no public funding but is able to assess insurance companies up to 1% in total premiums. So they can't receive public funds but they are receiving funding from the insurance companies and those dollars are being replaced in the form of a tax credit. Is that dollar for dollar – does it not cost them anything to go the tax credit route. Mr. Magee stated it's dollar for dollar as long as they have a profit in that year. The insolvent companies cannot take the tax credit. It is an interest free loan. It is a taxpayer funded solution.

Senator Luneau stated that two to three years ago Senator Bernard had a bill that relieved some insurance companies from posting a bond in the case they became insolvent. It became law. Were any of the 11 companies that became insolvent relieved of posting a bond? Mr. Magee stated LLA did not look into that. He did advise the companies that failed exhausted their assets and their reinsurance. LDI may be able to answer you.

This all begs the question --- did LDI monitor in the way they were supposed to? One of their main missions is to ensure companies do not go financially insolvent. What LLA found is that LDI did conduct the financial monitoring that they are required to do by state law and did it in accordance with best practices. They are required to conduct financial examinations of each company once every five years and they did do that. They also conduct quarterly monitoring of the insurance companies each year. We found they conducted 228 financial analysis and 13 financial examinations on the companies They have to figure out are the companies able to pay their obligations or not. Even with all of the monitoring companies still go insolvent.

What can be done? The legislature has taken some steps and LDI has taken some steps and LLA identified something we feel could help. In the last session, two specific bills passed – one to increase minimum capital surplus requirements – this doesn't require them to have more reinsurance but it does require the company to have more "skin in the game." In the past companies had to have $3 million in capital and surplus now they have to have $10 million to come in and write so that's been tripled. Companies already writing here are escalating the amount of reserves they have to have. This makes them be more diligent in which risks or policies they take. The second one is the Insure Louisiana Incentive Program. This program was recreated but not funded. This program was established and changed slightly in this session to encourage or incentivize companies to come and take some of those risky policies. Primarily some of the policies that Citizens has right now. Also, LDI has beefed up it's review process by adding in a standalone actuary review of some of the modeling the insurance companies do.

Representative Ivey asked on the capital requirements, the capital is in a reserve is that correct? Is there more value to the consumer or to the insured for those dollars to be in capital versus being applied to higher reinsurance coverages for those dollars? Mr. Magee responded that that is the crux of the whole reinsurance issue which is the valuation of policies in the first place. What Citizens has found is that whenever they go and take over a policy from a now insolvent company the policy maybe was valued at $500,000 and now it's valued at $730,000. The reason is because the insurance company isn't going back to reevaluate the policy to make sure it's replacement costs for the home are truly what they cost. LDI monitors the rate filings each year but we didn't dig deep into the rate filing issue. If you are not assessing the value of homes properly and not insuring them properly it snowballs on itself. One you are not bringing in enough premium to cover eventual losses and two you are modeling for potential losses and thus maybe understating the amount of reinsurance you need. We recommended LDI, with the information that it now has at its disposal – the policy evaluations from now insolvent companies and what Citizens is saying those homes are valued at plus to have receivers in each of the companies that have gone insolvent, to dig deep into those policies and business practices – take that information and figure out what is the true cause of this kind of broad statement the companies didn't have enough reinsurance and why didn't they have enough reinsurance and really time is going to be needed for that.

Representative Hilferty asked about the Insure Louisiana Incentive Program – this was done after Hurricane Katrina and there was success in bringing more insurers to the market but the new companies, after testing, failed. How do you prevent a repeat of that having a bunch of new insurers come and the first time they are tested with a storm they go insolvent. Mr. Waguespack stated there is going to be a subsequent report into the insurance market on a "what if" scenario. After Hurricane Katrina there was $100 million put into the fund but they spent around $29 million. LLA's Economist, Ed Seyler, is doing a study on this. LLA is looking into this in three buckets – where can the money be best spent or utilized (1) the incentive fund – put $100 million in the incentive fund and incentivize the insurance company. They might get $10 million and they have to match that $10 million and bring a certain number of policies (2) Do we put $100 million in Citizens and create a catastrophe fund to create another layer of cash or reserves so they can boost up reinsurance. Reinsurance is a tough market - there is only so much insurance you can get. (3) Fortified homes. This is more long-term plan – if we grant monies to fortify homes. How do we fortify and keep a roof on if you don't have catastrophic damage to homes. What is the best "what if" spend or is it a combination of the three. Commissioner Donelon said we have to focus more on the reinsurance component when looking at stability of companies. Representative Hilferty asked how much reinsurance were companies required to cover in the portfolio. Mr. Magee said it varies by company but typically they try to buy for a 1 in 130 year event so less than 1% chance reinsurance. Citizens tries to buy at the 1 in 300 year mark – they buy more reinsurance to cover a more catastrophic storm. We require Citizens to be more prudent than we require the commercial market. Representative Hilferty asked if reinsurance is available to be bought because that's a finite thing or is it there to be bought and not being bought. Mr. Magee stated it's becoming a much tighter market. Reinsurers are also insurers and are deciding where to take risks. The Florida hurricane had a significant impact on Louisiana because the reinsurers look at Louisiana and Florida hand in hand. Representative Hilferty stated that Citizens is able to buy reinsurance so it's out there to be bought. Mr. Magee said it is available but Citizens was not able to buy up to their usual level last year because the market was so tight. It's getting more expensive to buy it and there is a limited capacity. They bought as much as they could up to $1.2 billion in coverage but it wasn't up to the year level they are used to. Representative Hilferty asked if there is anything to stop a company that went insolvent to form another company and come back. Mr. Magee stated there are certain safeguards LDI has for the program and are writing regulations and formulating a plan.

Stewart Guerin, Deputy Commissioner, Office of Financial Solvency, LDI stated that with regard to the incentive program going back to its formation after Hurricane Katrina, $29 million was given to five companies. Of those five companies only one has gone insolvent. One company went into receivership because management stole from the company. LDI put them in receivership, got management out, and the company came back. How do we prevent the insolvent programs coming back? LDI filed notice of intent for a new regulation with regard to the incentive program that spells out criteria and one of the criteria is management competence and trustworthiness. This is done by regulation. Senator Luneau asked how LDI determines how much money the company gets. Mr. Guerin stated it is based upon their capital – the higher the capital base is the higher the grant will be. There are requirements they have to meet in order to earn that money. If the requirements are not met they have to return the unearned portion of the fund. In the last program at least two companies returned money because they did not meet the requirements through the whole five year period. Mr. Guerin - Senator Luneau mentioned a statutory deposit requirement that was repealed a couple of years back. That law stated the company had to have $100,000 on deposit pledged to LDI so we repealed that requirement so they no longer had to. Some companies, because they are licensed in other states that require statutory deposits, decided to maintain that money. Other companies, single state companies that don't have the requirement, asked for the deposits to be released. He is not sure which companies that went insolvent had deposits versus which didn't. Senator Luneau wants to know the answer to that and asked how much we returned to various companies -- how much money we gave back on that. Mr. Guerin stated we don't know. Senator Luneau asked what we are requiring on minimal capital. Mr. Guerin stated a bill passed last session raised the capitol requirement from $3 million to $10 million so for a new company that applied today it would need to have $10 million. For a company licensed prior to the effective date of the bill but there is a transition period. Within five years they have to get to $5 million and in another five years they have to get to $10 million. On the claims handling aspect, Senator Luneau stated Mr. Magee said 64% of claims filed last fiscal year were found in favor of the insurers is that correct? Nina Hunter, Deputy Commissioner for Office of Consumer Services and Robert Barnes, Insurance Administrator of LDI replied that is accurate. They are PNC but are homeowner type claims. Senator Luneau said that's a big number of claims that are found in favor of the claimants is there anything done or do you have any power to punish the bad behavior by the insurance companies. Ms. Hunter responded that LDI has the ability to enforce the statutes of the Insurance Code so when they receive complaints and they are investigated they take certain enforcement actions that can include fines, initiation of investigations or reviews. Senator Luneau asked if the insurance company has to pay the claim the way LDI says to if there is a finding. LDI exchanges information with insurance company and let them know LDI thinks there is an issue before LDI takes formal action. Senator Luneau - do they have the choice to appeal or pay it? LDI stated once we get to that point but we do communicate with them and give them multiple opportunities to share information and participate in the process. Senator Luneau stated that's even more staggering -- 64% -- when you work with them that's why we get so many calls from people regarding hurricane claims with insurance companies not paying claims and not handling them correctly. LDI works with them the way you do and it's still 64%. Representative Jordan asked what is the most common remedy - what is the median amount of the fine. If it's not a fine what form of compliance is there – what's the most common enforcement? Ms. Hunter stated when LDI says resolve favorably that means a complaint is filed and LDI communicates with insurance company and lets them know there is a concern. From that point LDI monitors the claim until it is resolved. It could be the claim being paid or LDI determines the insurer is correct in whatever the issue was or that LDI has communicated and the insurance company changed it's position. All of this determines a favorable outcome. The Insurance Code provides that the insurance company owes the insurer a certain duty of care and not act in bad faith. A part of LDI's review process is to look at that and LDI has the authority to reprimand them or a referral to the enforcement division and they take further action fines or other types. LDI has approached this from a few different angles. LDI is doing is a few market conduct investigations into some of the carriers after the first three hurricanes to look back and see what occurred there and we did see a lot of findings there. Representative Jordan's concern is 64% of complaints is found in favor of complainant but the insurance company doesn't get a fine what remedy do you take on the insurance company? Ms. Hunter responded that the Insurance Code allows us to impose fines and penalties. LDI takes all of the violations seriously. Senator Luneau asked how many fines or penalties did LDI assess in the last fiscal year. Representative Jordan pointed out that on page 15 of the LLA report it states that LDI imposed $764,750 in fines with fines ranging from $43,250 to $250,000. Senator Luneau said in the report it says LDI took regulatory actions and fines against in 2021 was $7,750 for the year (Page 15 Exhibit 6)? LAAC wants to know how many companies were fined as a result of the 64% of claims and what were they fined? Is LDI waiving fines because you are not supposed to waive fines. Does LDI have authority? Ms. Hunter says on page 15 of the report stated nine fines were assessed in 2021 out of all of the complaints filed for approximately $7,750? Senator Luneau – nine fines were assessed in 2021 out of all of the complaints filed? The bills that were passed? I represented a guy who had 23 adjusters from 21 different states assigned to his claim and LDI assed nine fines? David Caldwell, Executive Counsel, LDI responded that LDI did a market conduct review with all of the storm claims. LDI took the top five complaint companies and conducted a market conduct review to determine if there were any patterns – lack of communication, bad faith payment of claims, etc. Mr. Caldwell stated the nine regulatory actions and fines of $7,750 were proposed fines and were still pending. This means LDI issued notices of proposed fines that have not been finalized and paid so LDI does not have the final figure. The $700,000 figure is going to be the umbrella what amount of that is final and paid LDI cannot say because the companies have the right to appeal and it's just not final. Senator Luneau asked how many complaints were filed? Ms. Hunter stated over the last two years the estimate was close to 7,000 or 8,000 – there was over 1,000% increase in the number LDI would normally deal with. She also states on page 14 of the report LLA breaks down the regulatory information. Senator Luneau pointed out in that two year period between 7,500 or 64% were found in favor of the insured that would be 4,800 claims found in favor of the insured and there was nine regulatory actions taken out of 4,800. Ms. Hunter said what LDI defines as favorable doesn't always mean there was a violation of the law. A lot of times LDI just helps facilitate the claims process. LDI does track bad faith claims. In most of the complaints, the bad faith allegation is going to up front because if they are calling and not getting the money they feel they should get so LDI tracks that in our system. What is it that we find and what I wanted to convey is we did have a couple of limited findings in a couple of market conduct reviews we did was payments made after the 30 day time frame it's not a 64% number and I think that number is overblown – the way we were categorizing these complaints were did we get something for the consumer more than what they had before the complaint and if we did it was a favorable outcome. If we see a pattern of these payments not getting there in time and it's a business practice we tag the company. LAAC wants more information on how things are done.

Representative Ivey asked about recovered funds which is supposed to indicate a favorable outcome to the policy holder. What is the dollar value of increased benefit to the consumer? LDI believes Representative Ivey's question related to the third bullet on page 9 and where the actual recovery amount for the 82 complaints was $14.4 million. Representative Ivey said we are talking millions and millions of dollars that the consumer had to engage with the LDI in order to obtain what was appropriate. From a business practice perspective, insurance companies have to be made to do what is right by the policy and if a system is designed until they are made to then they can shade a little on the – this is the people that complained how many people don't complain because they don't want to deal with the insurance company anymore. Is there data on that? LDI does not count it favorable until they get a consumer everything they wanted. The way LDI classifies does not have anything to do with the way they examine a company. LDI has conducted market conduct reviews of insurance companies. They have the ability and authority and actually do go in and ask the companies to provide us information on the claims that are being adjusted. LDI does a random sample and utilizes actual complaints from consumers.

Lance Herrin, Deputy Undersecretary, LDI states they have a general performance indicator and for consumer services the indicator is the amount of claim payment and/or premium refunds or recovered for PNC claimants. Fiscal Year End 2021-2022 was $125,880,811. The prior year was $53.9 million and that would have been Fiscal Year End 2021. Fiscal Year End 2019-2020 was $4.5 million.

Senator Barrow asked Mr. Herrin why 87.9% of adjusters were fined $50 and were they fined because they did not have an adequate address? Mr. Caldwell stated many of our fines against adjusters are administerial in nature meaning a form wasn't filed correctly. Senator Barrow points out this indicates a bigger issue in terms of being serving as adjusters. Mr. Caldwell points out on page 15, it states 1,663 or 87.4% of 1,902 regulatory actions were related to inaccurate addresses. While only 31 or 1.6% were related to job performance such as demonstrating lack of fitness or trustworthiness or misrepresenting an insurance product or policy. The vast majority of those examined were simply administrative fines. This means giving us the wrong address or not turning in a form. Insurance companies have a duty to make sure they communicate with LDI and file the proper paperwork and whenever they don't follow it it's reportable regulatory action and reportable to all states. When we fine them it's a set amount as provided for in the statute. Mr. Herrin wanted to point out that in LLA's report LLA looked at regulatory actions against homeowners the companies writing homeowners' insurance. Also, on page 14, when the report talks about the 25 regulatory actions against 18 homeowner insurers, there was only 143 writing during 2017-2021 so I believe that is 12.6% of all homeowner insurance companies we took regulatory actions against. Mr. Herrin states as soon as LDI finds out about this they take action. Mr. Caldwell notes that

NIPR, an automated system, if the address is not updated it automatically finds the individual so the fines that are being sent out are part of a computerized routine check. This occurs every 30 days.

Representative Ivey asked about the bad addresses and if LDI knows why there are so many bad addresses. Matthew Stuart, Deputy Commissioner of Licensing with LDI stated they have 127,000 adjusters that have a license with LDI. 95% of those are non-resident so that 1,663 number is nationwide. When they go into the national database and update that address if there is more than 30 days that have lapsed since they live there they automatically get fined. They weren't necessarily handling claims in Louisiana they are regulated by however many states. They could be in five states or 40 states. It's not limited to Louisiana.

Senator Luneau stated it's important for the consumers to know how to get in touch with adjusters. He asked if LDI knows how many adjusters are out of state versus in state to compare the numbers to ten years ago. LDI responded that it's 127,000 total about 4,500 are Louisiana, if you want to count public adjusters we have roughly 500 of those. Only 49-50 are actual Louisiana public adjusters the other ones are more than likely from Texas or Florida. The majority of the adjusters are not Louisiana residents. Senator Luneau commented a decade ago that was not the case. They were Louisiana residents. It is unfortunate most are out of state. Mr. Stuart said adjusters weren't even licensed until after Hurricane Katrina so the numbers started growing. Senator Luneau says we are talking about adjusters in a normal practice and catastrophic event adjusters those people do not have to be licensed in Louisiana. LDI responded that they are not. Representative Ivey asked if LDI tracks the adjusters that don't update their contact information and which companies they work for? Could that be an indicator of bad practices? LDI stated that they do track that information. Representative Ivey stated if insurance companies were required to put certain information in a system LDi can begin to determine where the outliers are on individual claims based on the size of the home, where it's located, etc. and create predictors on problems and have a better understanding of how big the problem is.

(*Video Archive Time 01:56:35)*

Diane Allison, Director of Local Government Services of the Louisiana Legislative Auditor discussed audit report extension requests. Ms. Allison stated we are going to go over six reports but first gave a high level overview of the extension requests. LLA is presenting 91 extension requests but, to put that in perspective, in July we presented 295 extensions. This is indicative that more reports are getting done and the backlog is being cleared. Of the 91 requests, 38 are for emergencies and that's due to Hurricane Laura, Hurricane Delta and Hurricane Ida. Of those 38, 22 are still Hurricane Laura and Hurricane Delta from two years ago and 16 are from Hurricane Ida. This includes agencies across eight parishes. Of the 22 from Hurricane Laura and Hurricane Delta, we have received 19 of those reports. Of the three lingering, one is a city in Calcasieu Parish and the other two are hospital districts. We have 58 non-emergency requests. Primarily the big reasons for the requests are due to turnover and lengthy absences at the agency and 21 of those are due to those. 12 of those related they didn't get the work completed on time. It's about half and half – 90 days or less and greater than 90 days. To give a little perspective of that, back in 2018 less than one fifth of the extensions were over 90 days. Most of them just needed an additional month or two or three.

Ms. Allison began with emergency extension requests 90 days or less. We only have one and that is a hospital district. The Hospital District was hit with Hurricane Laura and Hurricane Delta and are still dealing with Covid and CARES Act funding. This is for fiscal year end 2022. LLA recommended the committee approve. Representative Ivey moved to grant extension and, with no opposition, the motion was approved.

Ms. Allison then presented emergency extension requests greater than 90 days. There are 15 requests from 13 agencies. Two are from Hurricane Laura and Hurricane Delta and 13 are due to Hurricane Ida. All of these are for fiscal year end 2021. This indicates that the CPAs and agencies are working through the backlog. LLA recommended the committee approve. Representative Ivey moved to grant extension and, with no opposition, the motion was approved.

Ms. Allison presented the non-emergency extension requests 90 or less. We received 18 requests from 16 agencies. Six of these are due to turnover or lengthy absences at agency, five agencies need extra time to complete the work, five are due to staffing issues at CPA firm, and two fall under other categories. Ms. Allison has reviewed all of the requests. The agencies meet the requirements to be granted an extension. LLA recommended the committee approve. Representative Ivey moved to grant extension and, with no opposition, the motion was approved.

Ms. Allison presented the non-emergency extension requests greater than 90 days. We have received 27 requests. Nine are due to lengthy absences at agency level – three of these are housing authorities. The housing authorities suffered tough auditor issues – some are on their third auditors because auditors are no longer are the LLA approved list of CPAs. Twenty four of the requests are for fiscal year end 2021. LLA has reviewed and recommend for approval. Representative Ivey moved to grant extension and, with no opposition, the motion was approved.

Ms. Allison presented the final report which is reports received since the last meeting in October. Twenty-two were for emergency extensions and eight were non-emergency extensions. We have received all of these reports. LLA recommended the committee approve. Representative Ivey moved to grant extension and, with no opposition, the motion was approved.

Mr. Waguespack presented a new list which is the denied extension requests because the agency did not qualify for extensions. Our office has developed a policy and have denied these extensions. Mr. Waguespack felt it appropriate and is something we are suggesting we do in the future. LLA notified each of the agencies and are allowing them due process to discuss why they are requesting an extension. LLA is deferring to LAAC on whether or not the extension request is granted.

Angel Nelson, CEO Boys & Girls Club of Metro Louisiana. Ms. Nelson stated there was been a lot of turnover. In May 2021, Boys & Girls Club of Greater Baton Rouge and Boys & Girls Club of Southeast Louisiana merged into one agency – Boys & Girls Club of Metro Louisiana. In November 2021, the CEO of the new organization unexpectedly resigned. When he resigned Ms. Nelson became interim CEO. She was COO. In December 2021, the comptroller then resigned. In January 2022, the Finance Assistant resigned. Ms. Nelson outsourced the finance department to Hannis T. Bourgeois in order to get everything under control. She also outsourced to HR Nola. In April 2022, she officially became the CEO of Boys & Girls Club of Metro Louisiana and we are now in the process of our audit. It should be completed within the next two weeks. We are going to put out an RFP this will not happen again. Senator Luneau appreciates the steps Ms. Nelson is taking. Representative Jordan asked Mr. Waguespack -- LLA received prior report but because they hadn't filed timely in the last three years is that the issue? Mr. Waguespack responded that they haven't engaged timely and did not file two of the last three audit reports timely. That's some of the criteria we use to say we are going to deny the extension. Mr. Waguespack stated Ms. Nelson has done a great job of taking a distressed organization by the horns and recommends approving the extension. Representative Ivey stated that a lot of top people left the company is there a problem at the company with misappropriation of funds or anything of that nature. Ms. Nelson said that was not an issue. A lot was Covid related and this year, and as a new CEO, she did not know there was a deadline. Representative Jordan moved to grant extension and, with no opposition, the motion was approved.

Paul Rainwater, City of New Orleans. Mr. Rainwater explained a few things that led to the delay in other two audits. The City has a timeline and plan to complete the 2020 audit and 2021 audit. In December 2019 there were a couple of things happen at the City. The City had five separate accounting systems, legacy systems, they were consolidating those systems. At the same time, the City was hit by a cyber-attack. The cyber attack affected those five systems. You had data that was no longer good, corrupted data so they had to manually upload that. Covid happened in 2020 and there was a turnover in staff. About 75% of the finance staff or budgeting staff retired so that created an issue. Going forward Hurricane Ida and any time there are issues with FEMA payroll – one you have to do it manually typically how most people do it do timesheets manually. A number of situations that created the issue with the Airport Authority, Police Pension and the City. There is a time and plan for the 2021 audit and 2022 audit to be completed by the first quarter of next year. Mr. Waguespack, in his opinion, Hurricane Ida did not have the ill effects on New Orleans as it did other coastal areas. That's been a year so if we are dealing with a payroll issue that long ago that concerns him. Senator Harris spoke to me and he would like to see them approved. If it's first quarter the, completion of both of these audits, LLA can live with that. Mr. Waguespack is concerned that the City has bond issues that got approved by the Bond Commission and they have to rely on up to date financials and that can be a problem if the audits are not completed.

Representative Hilferty states she doesn't know about the manual documents with FEMA. Mr. Rainwater stated it's easier to do a manual payroll because compliance is an issue and it cuts back on fraud and FEMA accepts that 100%. It's a very safe way to do that. Representative Hilferty asked Mr. Waguespack if it's fair to say many other parishes had interaction with FEMA and what does that payroll look like. Mr. Waguespack responded that after Hurricane Ida there was very little request from Terrebonne Parish or Lafourche Parish. The City of New Orleans, the 2020 audit report was done and was provided in June 2022. What are good reasons for this long of a process of getting it done. I think the Covid excuse has dropped off. If the manual process takes more than a year then we have a problem with the manual process. Representative Hilferty asked Mr. Rainwater what is being done by the City so this doesn't keep happening. Mr. Rainwater responded that one thing clearly being done is the consolidating of the accounting system. The City has five accounting systems in the City – but that takes time to move all of the data and accounting over. By the end of 2022 they would be complete. That will create an efficiency. Representative Hilferty commented that it's been a 3 year migration system. Mr. Rainwater said yes, sometimes it can take up to five years to migrate information and data -- it just depends. The City has gone through difficult times. The City feels comfortable with the auditor in place now for 2022 and 2023 so that will help create an efficiency as well. Mr. Waguespack said the auditor that handled the 2020 audit struggled to get it done and they refused to engage for the future. The new CPA has a 3 year contract so there may be a more efficient outcome.

Representative Ivey asked what a manual payroll entails. Mr. Rainwater responded that a manual timesheet is a timesheet with your information on it. Timesheet goes to payroll and attached to project worksheet so FEMA likes to have a paper trail and an automated digital trail. The information is in the system so what may have been a manual transaction to a degree is now an automated system. Mr. Rainwater stated Covid 19 created issues – there were different types of dollars some paid by LDH, some by Health and Human Services and some by FEMA so you have different accounting codes, some paid by FEMA some paid by Health and Human Services. It is a complicated process. Mr. Rainwater stated with 3,000 employees over a period of time between Covid and Hurricane Ida there was a challenge with loading it all up. Mr. Waguespack advised the formal request was for fiscal year end 12/31/21 and the City expects to issue that report on 12/15/22. Mr. Waguespack said an agency is only permitted to ask for a 90 day extension. If they don't get the audit report completed in those 90 days they have to request another extension.

Representative Hughes stated he spoke to Senator Harris and had extensive conversations with the City. He advised Mr. Rainwater that everyone has talked to the City and in 2023 their expectation is that everything is filed timely. The committee has a better understanding of the challenges and staffing issues within the City. Representative Hughes wanted to get it on the record we don't expect to have these issues in the future.

Senator Luneau made sure this extension request included the City of New Orleans, the Airport Authority and the Pension Fund. He stated we have a fiduciary duty to the state and constituents to make sure everybody abides by the rules and processes. Sometimes there are extenuating circumstances that we have to give extensions on the audits and we do that generously. But enough is enough. We must get that information. The extensions are not going to continue to come like this with this committee. There has to be accountability and they have to provide this information. Representative Hughes moved to grant extension and, with no opposition, the motion was approved.

David Trautenberg, Orleans Parish Sheriff's office came to the table. Mr. Waguespack spoke with Sheriff Hutson and she just transitioned in to the position. The audit was late at that time. Sheriff Hutson assured Mr. Waguespack that they would be done with the by the end of this year. We are in contact with the Sheriff about this issue. Mr. Trautenberg joined sheriff's office in June 2022. He has reached out to CPA firms and hired two new accountants. They have dealt with CPA issues. Sheriff's office has contacted CPA and have done everything CPA needs. Once accounting firm gets data they have to do a second read and requires a separate partner to do the read and they are at capacity. He stated the 2021 audit will be done by the end of the year. Senator Luneau asked that he please convey to the sheriff we understand the problems involved with a transition however every time that happens there are issues to deal with and this is one of them and it can't be ignored. We appreciate you not ignoring it Representative Hughes moved to grant the extension and, with no opposition, the motion was approved. It was noted this is for fiscal year end 2020 and 2021.

Mr. Waguespack recommended the remaining denied extensions be granted. The committee took those up, in globo. Senator Luneau asked if there were any questions on the remaining denied extension requests. He reiterated to the agencies that he appreciated them being at the meeting but we will do our job if we have to. Representative Ivey moved to grant extension of the remaining extension requests and, with no opposition, the motion was approved.

Public Comment

No public comment.

Other Business

Mr. Waguespack announced LLA's Center for Local Government Excellence was hosting a conference November 2-3, 2022 in Lafayette. LLA has over 1,045 people registered. Hopefully the more education the less problems we have.

Adjournment

Representative Ivey offered a motion to adjourn and, with no opposition, the meeting was adjourned at 4:31 p.m.

Minutes Approved: Minutes Approved at the Legislative Audit Advisory Council meeting on December 15, 2022.

The video recording of this meeting is available at:
https://senate.la.gov/s_video/VideoArchivePlayer?v=senate/2022/10/102722LAAC