

stricter bonding requirements.

That bar was raised after controversy dogged the state's previous effort to rid itself of the tens of thousands of cars. In the first round, an obscure janitorial outfit from Georgia joined forces with a flood-wrecked 9th Ward contractor and appeared to have secured the work with a \$62 million bid. However, that

See **CARS**, A-6

Clock is ticking on storm claims

Bills would extend insurance deadline

By **Rebecca Mowbray**
Business writer

Louisiana consumers have until Aug. 29, the first anniversary of Hurricane Katrina, to resolve their storm-related homeowners and business insurance claims, unless state lawmakers pass legislation putting off the deadline for another year.

Most insurance policies carry a one-year statute of limitations, which means policyholders have up to a year after the loss to file any lawsuits disputing their settlement. Once that date passes, it's hard for consumers to negotiate for more money because insurance companies know their policyholders have no legal recourse.

See **INSURANCE**, A-7

► **State panel approves three insurance increases, see Money**

New Orleans Mayor Ray Nagin's microphone is adjusted by a technician as he and Lt. Gov. Mitch Landrieu debate Tuesday night at WDSU, with moderator Chris Matthews, left. The slate of debate questions — accusations — seemed geared to a national audience.

By **Brian Thevenot**
and **Gordon Russell**
Staff writers

In a nationally televised mayoral debate Tuesday, Mayor Ray Nagin and Lt. Gov. Mitch Landrieu ended up debating less with one another than with the two moderators, Chris Matthews of "Hardball" and WDSU's Norman Robinson, who grilled both candidates harshly on such subjects as whether New Orleans should be rebuilt at all.

Not surprisingly, both candidates believe the city they hope to lead should be rebuilt, despite extended arguments to the contrary put forth by Matthews and at one point, referring to specific neighborhoods, by Robinson.

"They're going to think it's crazy," Matthews said at one point, referring to citizens outside New Orleans and their view

See **DEBATE**, A-8



Nagin and Landrieu got few chances to take shots at each other or argue about fund-raising and the pace of debris removal.

Subtleties separate candidates on crime and law enforcement

By **Michael Perlstein**
Staff writer

Crime and law enforcement are tricky issues in any political campaign. They are usually hot-button topics for voters, but candidates almost always agree on the basics: Crime is a scourge that should be curtailed, police should be strongly supported and well-paid, judges and prosecutors should be held accountable for their actions.

The race between Mayor Ray Nagin and Lt. Gov. Mitch Landrieu is no different. At a debate Monday night at Loyola University devoted to criminal justice issues, the candidates spent more time agreeing with each other than picking at differences.

But just below the surface, a subtle fault line could be sensed from candidates' cautious but well-informed answers. Nagin believes that the city is on the right track in combating its historically high crime rate. Landrieu expressed frustration that violence has been creeping back as the city repopulates.

"One of the startling things about post-Katrina life in the first month was to walk around and get the sense of what it felt like that was so different than before," Landrieu said. "Pre-Katrina New Orleans was a dangerous

See **MAYORAL RACE**, A-9

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Nagin "A come up tl little uptick but if you c capita bas compare t murder is percent."

Landrieu rate is just If it's better better."

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"There isn't a one-year limit on their duty to pay a claim, but you lose the ability to sue them, which means, essentially, the leverage. That's when insurers get to thumb their nose at you and say, 'Too bad for you.'"

AMY BACH, executive director of United Policyholders, a California advocacy group

State Farm, Allstate oppose an extension

INSURANCE, from A-1

The one-year deadline isn't usually a source of contention. But the scope of Katrina's devastation, as well as 24-hour curfews that prevented families and adjusters from accessing some properties for weeks after the storm, slowed down the insurance process. In addition, many policyholders waited on FEMA to come out with its latest flood map advisory — released last month — before beginning to rebuild. And many others continue to wait on grants the Louisiana Recovery Authority has said it will make available to homeowners.

Lawmakers are scrambling to extend the looming deadline, which doesn't apply to flood insurance policies or to policies issued through Louisiana Citizens Property Insurance Corp., the state's insurer of last resort. Three separate but coordinated bills dealing with the subject are working their way through the Legislature, each with slight differences in the types of insurance covered or the legal theories on which they are based, to increase the chances that one will survive.

Once the one-year deadline passes, "it doesn't mean (that insurance companies) won't deal fairly with you, but you lose a huge stick," said Rep. Tim Burns, R-Mandeville, who is sponsoring one of the bills. "If they wanted to just say, 'We're not paying you anymore, they could."

But state Insurance Commissioner Jim Donelon worries that if such legislation passes, it could lull consumers into a false sense of security, especially since any legislative change could be subject to legal challenges and an eventual reversal.

And one insurance industry group monitoring the situation says it opposes all of the legislative measures and takes issue with the assumption that the industry will stop paying consumers after Aug. 29.

The implication there is that the insurance company would stall. "I think the insurance companies would like to settle these as quickly as possible," said John Marlow, assistant vice president of the American Insurance Association's Southwest Region. "What consumers need to do is talk to their carrier."

Timing is everything

The situation in Louisiana is

critical because of the way state laws dictate the start of the one-year lawsuit period. Other states, as well as the National Flood Insurance Program, delay the start of the one-year period until a claim has been formally denied. Flood insurance lawsuits must be filed within one year of a written denial of all or part of the claim, said Ed Pasterick, a senior adviser to the national flood program.

In Mississippi, state law gives people three years to sue their insurance carrier, according to the Mississippi Department of Insurance.

The fast-growing Citizens plan, now the third-largest insurer in Louisiana, allows policyholders to file suit within two years of a loss.

But for other insurance policies in Louisiana — aside from those written by Citizens — the one-year period begins on the date of the loss, or in this case, the date Hurricane Katrina hit.

The Burns bill, HB 1302, which was approved by the House Civil Law and Procedure committee Tuesday, attempts to extend the lawsuit period.

Meanwhile, two other pieces of legislation seeking to address the deadline are moving forward.

A bill sponsored by Rep. Arthur Morrell, D-New Orleans, passed the House of Representatives Monday by a vote of 96-8. Morrell's bill, HB 1289, would apply to health insurance as well as property coverage.

Another bill, sponsored by Sen. Julie Quinn, R-Metairie, and Sen. Edwin Murray, D-New Orleans, would extend the deadline for Katrina-related lawsuits by one year to Sept. 1, 2007, and also extends it to health insurance. Insurance lawsuits related to Hurricane Rita also would be given a one-year extension under SB 740.

The bills come at the problem from different directions. The Senate bill and Morrell's bill would create a state law that insurance claimants would have two years after the damage to file a suit. But lawmakers recognize that the bill raises constitutional questions because it affects existing contracts between private parties.

Burns' bill calls upon a legal principle recognized by the courts that basically says it is unfair to impose a time restriction on a legal filing if a person was unable to file a suit for

some valid reason. His bill asks the courts for an expedited ruling on whether his, Morrell's and the Senate bills are constitutional.

The lawmakers hope to pass all the bills in the next week or so, followed by a state Supreme Court decision.

Tepid industry support

Loretta Worters, vice president of communications for the Insurance Information Institute, an industry-financed group, said she thinks the industry might support legislation changing the time frame for lawsuits, as long as it was restricted to Katrina and Rita claims.

It's better to be realistic and agree to an extended deadline, she said, than to have a flurry of lawsuits filed as the Aug. 29 deadline approaches to preserve a policyholder's legal rights.

"You don't want to have an onslaught of litigation against the industry," Worters said. "That just slows down the claims process. I would think that companies would want to be lenient in this area."

But Marlow, of the American Insurance Association, said his group doesn't support any of the bills. "We're opposed to those. It alters the language of an existing contract after the fact, and we feel it has some constitutional issues," he said.

Changing the time frame for lawsuits after the fact raises insurance companies' exposure to additional lawsuits without allowing them to price for it, Marlow said.

"We would much more prefer the ability to provide extensions to our policyholders on a voluntary basis and wrap up those claims as expeditiously as possible," Marlow said.

For that reason, Rep. Shirley Bowler, R-Harahan, has introduced House Concurrent Resolution 143 calling upon insurance companies to voluntarily waive the one-year limit. Resolutions have no force of law but are a way for the Legislature to make a formal request.

But the state's two largest residential insurers oppose any changes to the one-year lawsuit period, preferring instead to handle situations individually.

"We're opposed to the extension. There's three months left, and we think we're going to get everything done," said Jeff

McCullum, a spokesman for State Farm, the state's largest home insurer. "Three months. It's quite a bit of time."

"We feel this is too drastic a measure," said Lorrie Brouse, regional counsel for Allstate. In previous catastrophes, Brouse said, Allstate has negotiated individual extensions with policyholders who need more time to sort out their claims. "If a customer feels that their claim is going to continue to be open, or they feel that there's going to be additional damage, there are ways to toll (extend) the statute."

Possible lost option

Last fall, the governor issued an executive order suspending the time limits on filing lawsuits related to hurricanes.

But whether that order would survive a court challenge is another question, said Donelon, the state insurance commissioner.

Donelon and others fear that passing legislation to change the period for Katrina and Rita victims to file lawsuits could invite legal challenges. As a result, consumers could be lulled into a false sense of security while they continue negotiating their claims, only to have the statute found unconstitutional. And that could leave homeowners without recourse.

The commissioner wants to let the bills in the Legislature run their course, but he and his staff also are investigating other ways to help consumers. "I have the matter under active review," Donelon said. "I'm still in discussion with my staff on those options."

In the meantime, the state insurance department is trying to finish cases pending in the state's mediation program before the Aug. 29 deadline. The program mediates disputes between policyholders and their insurance companies with the promise that if either side is unhappy with the proposed resolution, they resort to the courts.

But with the lawsuit deadline at the end of the summer, the insurance department will need to wrap up the program to make sure that parties in those

cases can still pursue legal options at the close of mediation.

"Once we get to closer to Aug. 29, folks are going to be discouraged from mediation because they're going to have to go get a lawyer," Donelon said.

One deadline that might not be extended is the one for recoverable depreciation.

Recoverable depreciation allows insurance companies to hold back a portion of a settlement check until repair work has been completed or a replacement item has been bought. The amount the insurance company holds back is generally tied to the depreciated value of the property that is being replaced.

In the wake of Katrina, the state insurance commissioner implemented a number of emergency measures, including one that gave policyholders up to a full year to claim recoverable depreciation. Under normal circumstances, policyholders in Louisiana have only six months to claim that money.

At this point, the state has no plans to extend this deadline further, Bobby Clark, a spokeswoman for the Louisiana insurance department, said Tuesday.

Retaining leverage

Amy Bach, executive director of United Policyholders, a California advocacy group that has been working in insurance issues in Louisiana after Hurricane Katrina, said the safest course of action for homeowners is to start negotiating now to extend the one-year statute of limitations with their insurance carriers.

Bach advises homeowners to write a letter asking their insurance carrier to forgo enforcement of the one-year provision until the claim has been denied or paid. Policyholders should ask their insurance company to notify them when their case is deemed closed.

In the letter, Bach said, policyholders should explain that they don't want to hire a lawyer but want to preserve their rights while rebuilding their home and working out the details of their insurance claim.

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Propose an extension

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In the letter, Bach said, policyholders should explain that they don't want to hire a lawyer but want to preserve their rights while rebuilding their home and working out the details of their insurance claim.

Ask the company to send a written confirmation of its agreement not to enforce the one-year suit provision in the policy. If the company refuses, or ignores you, that's when it's time to get a lawyer, Bach said.

It's key to start the process now, Bach said, because you need time to allow insurance companies to respond and to work out the details of your extension. If you find you need to resort to a lawyer, hire one as early as possible, because lots of people will be looking come July and August, and many will be too busy to take on additional cases.

If you need to find a lawyer, look for a plaintiff's-side attorney who has experience with insurance cases because it's a constantly evolving field of law, Bach said. Look for someone who will bankroll your case; lawyers that ask you for money along the way probably aren't financially strong enough to prosecute your case. And look for someone who is responsive and who will dig out the facts of your case.

Bach said these steps, and the one-year deadline, are important.

"There isn't a one-year limit on their duty to pay a claim, but you lose the ability to sue them, which means, essentially, that you lose your leverage," said Bach, whose group frequently works with homeowners in California after wildfires. "That's when insurers get to thumb their nose at you and say, 'Too bad for you.'"

Capital bureau chief Robert Scott contributed to this story.

Rebecca Mowbray can be reached at rmowbray@timespicayune.com or (504) 826-3417.

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