

Market Conduct Final Examination Report

***SOUTHEAST CAPITAL ASSURANCE
COMPANY, LLC***

Florida Company Code: 36464

Date: September 8, 2022



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Executive Summary

A market conduct examination of Southeast Capital Assurance Company, LLC (“Southeast Capital” or “Company”) was performed to ascertain the Company’s compliance with the applicable provisions of the Florida Insurance Code as required by Section 627.834, Florida Statutes (“F.S.”).

Company Operations

Southeast Capital is a domestic Premium Finance Company licensed to offer premium finance agreements in Florida on March 5, 2018. Southeast Capital finances 12-month general commercial and personal lines insurance policies. The policies are generally financed for a period of nine or ten months. All premium finance business originates from a single insurance agency, Demont Insurance Agency. Southeast Capital has shared ownership with Demont Insurance Agency and employs COST Financial Group, Inc. to handle day-to-day operations.

Total Premiums Receivable in Florida during the examination scope period was as follows:

Year	Total Premiums Receivable in Florida (Per Schedule A of the Annual Report)
2021	\$356,956
2020	\$197,048
2019	\$79,413

Section 627.828(1), F.S., requires premium finance companies to maintain a net worth of \$35,000 or a net worth of \$10,000 if a surety bond or other acceptable collateral is approved by the Florida Office of Insurance Regulation. The Company met the requirements of Section 627.828(1), F.S. by reporting the following statutory net worth:

Year	Statutory Net Worth as of December 31 st (Per the Balance Sheet of the Annual Report)
2021	\$65,500
2020	\$49,616
2019	\$43,471

Section 627.836(2), F.S., requires premium finance companies to file an annual report with OIR and remit the annual report filing fee to the Florida Department of Financial Services (“DFS”) by March 1st of each year. The Company met the requirements of Section 627.836(2), F.S. by timely filing both the annual report and the annual report filing fees prior to March 1st for each year during the examination scope period as follows:

Year	Date Annual Report Filed with OIR	Date Annual Report Filing Fees Remitted to DFS
2021	02/22/22	02/10/22
2020	02/24/21	02/16/21
2019	02/10/20	01/29/20

Purpose and Scope of the Examination

The Florida Office of Insurance Regulation (“OIR”) has primary responsibility for the regulation, compliance and enforcement of statutes related to the business of insurance premium financing and the monitoring of industry markets. Due to this responsibility, OIR conducted a market conduct examination of Southeast Capital pursuant to Section 627.834, F.S. The examination scope period was from January 1, 2019 to December 31, 2021. The examination was performed by members of OIR’s Property and Casualty Market Regulation business unit.

The purpose of a market conduct examination is to review the premium finance company’s operating practices to determine if they comply with the applicable provisions of the Florida Insurance Code, rules related to the business of insurance premium financing, the provisions contained within a premium finance contract issued by the Company, or orders issued by OIR. A common element of all market conduct examinations is to evaluate a premium finance company’s business practices to promote the protection of insurance-buying consumers and to hold entities regulated by OIR accountable when issues or violations are found.

The examination began April 1, 2022 and ended August 5, 2022. The last examination of Southeast Capital was completed as of December 31, 2018. That examination concluded the Company’s records were in good standing.

Complaint Statistics

As of December 31, 2021, DFS Division of Consumer Services reported receiving zero complaints related to premium finance agreements issued by Southeast Capital to insureds during the examination scope period.

Complaints Reported to DFS by Consumers	
Year	Number of Complaints
2021	0
2020	0
2019	0

Examination Procedures

The conduct of this examination and the procedures, statistical sampling and examination processes used were consistent with and in accordance with those standards and procedures contained in the *Market Regulation Handbook* promulgated by the National Association of Insurance Commissioners (“NAIC”).

In preparation for the examination, the Company was requested to provide the total number, or universe, of premium finance agreements entered into during the examination’s scope period. The Company was also requested to identify premium finance agreements that were cancelled or received a refund from an insurer prior to the end of the premium finance agreement’s contract term. The Company reported entering into a total of 114 premium finance agreements during the examination scope period. Of the 114 premium finance agreements, 20 premium finance agreements were either cancelled or received a refund from the insurer or premium finance company prior to the end of the agreement’s term.

To facilitate a thorough review of the Company’s premium finance agreements and corresponding documentation, the total universe of premium finance agreements was divided into two categories: Premium Finance Agreements and Cancellations and Refunds. Each of the two categories were evaluated for compliance with the Florida Insurance Code.

The Company reported the universe of premium finance agreements for each category as follows:

- 94 Premium Finance Agreements; and
- 20 Cancellations and Refunds.

For purposes of this examination, the two categories were defined as follows:

- Premium Finance Agreements: The initial premium finance agreement entered into during the examination scope period that completed the full term of the agreement (the premium finance agreement was not cancelled midterm, or the insured was not eligible for a refund); and
- Cancellation and Refunds: The initial premium finance agreements entered into during the examination scope period that were either cancelled prior to the end of the agreement’s term or were eligible for a refund from an insurer or the premium finance company.

The NAIC’s *Market Regulation Handbook* provides guidance regarding sampling methods utilized during market conduct examinations. A minimum confidence level of 95% is used to make inferences when a universe population is greater than 200 and permits those results to be extrapolated to the population of all premium finance agreements. In this instance, the total universe of premium finance agreements is less than 200. As a result, all 114 premium finance agreements were reviewed and tested for compliance with the Florida Insurance Code.

The 114 randomly selected premium finance agreements consisted of:

- 94 premium finance agreements; and
- 20 cancellations and refunds.

Findings

Premium Finance Agreements

This portion of the examination focused on the Company's use of approved forms and rates and evaluated specific statutory components required by the Company in the execution of premium finance agreements, including but not limited to finance charges, service fees, late and non-sufficient fund fees, and products financed. To determine the Company's adherence to these statutory requirements, the examiners reviewed and analyzed each sampled premium finance agreement to determine if the agreement was executed in compliance with the Florida Insurance Code.

No exceptions were noted.

Cancellations and Refunds

This portion of the examination focused on the Company's premium finance agreements entered into during the examination scope period that were either cancelled prior to the end of the agreement's term or were eligible for a refund from an insurer to determine compliance with the Florida Insurance Code. The review evaluated specific statutory components pertaining to cancellations and refunds.

Finding 1: The examiners determined that in nine instances out of 20 premium finance agreements reviewed, an error percentage of 45%, the Company did not maintain in its files a certificate of mailing reflecting that a 10-Day Intent to Cancel Notice was mailed to the last known address of the insured, as required by Rule 69O-196.002(2), F.A.C.

Company Response: The Company agreed with the finding.

Finding 2: The examiners determined that in one instance out of 20 premium finance agreements reviewed, an error percentage of 5%, the Company did not immediately notify the insured that the insurer had not paid the unearned premium within 30 days and that interest would continue to accrue on the amount still outstanding until it was paid, as required by Rule 69O-196.010(4), F.A.C.

Company Response: The Company agreed with the finding.

Recommendations

The following recommendations were compiled from the Findings contained within this report, and observations noted during the examination. The Company is to provide a written report to OIR of actions taken on each Recommendation within 60 days of the Company's receipt of the Final Examination Report.

It is recommended that the Company:

- Ensure that certificates of mailing reflecting that a 10-Day Intent to Cancel Notice was mailed to the last known address of the insured are maintained in each file; and
- Ensure that insureds are immediately notified if an insurer has not paid the unearned premium within 30 days and that interest will continue to accrue on the amount still outstanding until it is paid.

Conclusion

This market conduct examination of Southeast Capital Assurance Company, LLC., was designed to review and evaluate whether the Company's handling of premium finance agreements was in compliance with the provisions of the Florida Insurance Code. During the examination, OIR identified findings and made recommendations for remediation to be implemented by the Company.

This examination report and the observations contained therein are the result of a factual, data-driven analysis of the Company's premium finance agreements and practices related to the cancellation and refund of premiums to insureds. This report contains a number of recommendations for improvement that should be implemented by the Company. It does not document what regulatory or administrative action may be taken by the OIR. Any such action taken as a result of this market conduct examination will be the subject of a separate Order issued by the OIR.

Examination Final Report Submission

The OIR hereby issues this Final Report based upon information from the draft report, additional research conducted by the OIR, and additional information provided by the Company.



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