

2000 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION

OF

DESOTO INSURANCE COMPANY

BY

THE FLORIDA DEPARTMENT OF INSURANCE

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I. INTRODUCTION

DeSoto Insurance Company is a domestic property and casualty insurer licensed to conduct business in the State of Florida during the scope of this examination, December 1997 through December 1999. This examination began August 20, 2000 and ended September 30, 2000. There has been no prior examination of this insurer by The Florida Department of Insurance.

During this examination, records reviewed included dwelling fire, homeowners policies, cancellations/nonrenewals, agent/MGA licensing, claims and consumer complaints for the period of December 1997 through December 1999, as reflected in the report.

This report contains examination results addressing all areas of noncompliance found during the course of the examination. In all instances, the Company was directed to take corrective action as required, issue appropriate refunds, make all necessary filings with the Department and immediately cease any activity that continues to place the Company in noncompliance with Florida Statutes/Rules.

As a result of the findings this examination, \$718.00 was returned to Florida consumers due to overcharges of premium, underpayments of claims and/or inappropriately charged fees.

II. PRE-EXAM REVIEW OF COMPANY'S WRITINGS

A. CERTIFICATE OF AUTHORITY - AUTHORIZED LINES

1. General Comments

The Certificate of Authority/Renewal Invoices were reviewed for all years within the scope of the examination.

2. Exam Findings

The review included verification of the lines of business the Company was authorized to write during the scope of examination versus those lines actually being written. It also included verification that notification requirements were met for any line of business that was discontinued. Inasmuch as DeSoto Insurance Company is a special homeowners insurer, the Consent Order No. 21703-97-C was also reviewed.

No error was found.

III. COMPANY OPERATIONS / MANAGEMENT

A. PROFILE

On December 12, 1997, DeSoto Insurance Company received its Certificate of Authority from the Florida Department of Insurance and commenced operations as a special purpose homeowners insurance company. In early 1998, DeSoto entered into portfolio assumption agreements with the Florida Residential Property and Casualty Association (FRPCJUA). Under these agreements, DeSoto

assumed the unearned premium from the FRPCJUA and bore the risk of the related losses incurred subsequent to the date of assumption. Also during 1998, DeSoto entered into a replacement carrier agreement with CIGNA. Under this agreement, DeSoto made an offer of coverage to the CIGNA policyholders to replace the coverage that was being nonrenewed by CIGNA.

Upon assumption of the portfolio of policies from the FRPCJUA, the agent of record for all policies was changed to Paget Insurance Agency, an affiliate. The Paget Insurance Agency is located within the offices of DeSoto Insurance Company. The Company's Managing General Agent, Pembroke Managing Agents, Inc. is also located within the offices of DeSoto Insurance Company. The Company's Home Office is located at 3522 Thomasville Road, Tallahassee, Florida 32308.

The Company's website can be accessed at www.desotoin.com.

B. MANAGEMENT

The Company relies on a Managing General Agent (MGA) to provide underwriting, production, marketing, policy issuance, premium billing and collection, premium accounting, claims adjusting and various other services. The MGA subcontracts the policy administration and claims administration functions to third party servicing providers. Apex Managers, Inc., was the outsource provider for the FRPCJUA Take-Out business from March 1, 1998 to July 31, 1999. INSpire Insurance Solutions was the outsource provider from August 1, 1999 to present for FRPCJUA Take-Out and April 1, 1999 to present for CIGNA assumption.

The Company also utilizes the services of an outside vendor for issuing payroll.

The claims are outsourced to Insurance Servicing and Adjusting Company (ISAC), located in Tampa, Florida.

The Company's computer system has a corporate network based on a modern, PC-based, Client Server, Windows NT architecture for running corporate operations.

DeSoto Insurance Company has no internal operating SIU staff members, but uses Facticon, Inc., to fulfill state requirement as outlined in Section 626.9891, Florida Statutes.

DeSoto has developed a Catastrophe (CAT) Plan. The CAT Plan addresses three basic phases: initial; sustaining and close down. In Phase I, Pre-Strike 24-0 hours; Phase II, Post Strike 0-96 hours; Phase III, 4-days – 4-weeks; Phase IV, 4-6 weeks; Phase V, 12-weeks to completion. It establishes the Role of DeSoto’s Claims Officer and Claims Administrator – ISAC; DeSoto’s President, Underwriting Officer and Chief Financial Officer.

DeSoto Insurance Company does not have any internal audit procedures. However, the outsourced providers Apex, INSpire and ISAC do have self-audit procedures.

C. OPERATIONS

DeSoto Insurance Company is a special purpose homeowners company and the portfolio of homeowners and dwelling fire policies assumed from the FRPCJUA includes risks located throughout the state including the coastal areas.

IV. REVIEW OF POLICIES

A. DWELLING FIRE

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

DeSoto Insurance Company is a subscriber of Insurance Services Office (ISO) and as such ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

b. Form Filings

DeSoto Insurance Company is a subscriber of Insurance Services Office (ISO) and as such ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

c. Statistical Affiliation

Insurance Services Office acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
1997	0	0
1998	\$311,653	507
1999	\$860,184	1,500

3. Exam Findings

One hundred (100) policy files were examined.

Twenty-seven (27) errors were found.

Errors affecting premium resulted in eight (8) overcharges totaling \$546.00 and ten (10) undercharges totaling \$761.00.

The errors are broken down as follows:

1. Twelve (12) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. The Company used incorrect protection classes. Three (3) of these errors resulted in overcharges totaling \$532.00, which have been refunded by the Company. Four (4) of these errors resulted in undercharges totaling \$364.00. The remaining errors did not affect premium. This constitutes a violation of Section 627.062, Florida Statutes.
2. Five (5) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. Incorrect rounding resulted in three (3) overcharges totaling \$3.00 (\$1.00 each) and two (2) undercharges totaling \$8.00 (\$1.00 and \$7.00 respectively) The three (3) \$1.00 overcharges were waived due to being under the \$5.00 minimum. This constitutes a violation of Section 627.062, Florida Statutes.
3. Three (3) errors were due to failure to follow the filed rating plan, rating schedule or rating rule. The Company used incorrect factors. One (1) error resulted in an overcharge totaling \$8.00, which has not been refunded by the Company. Two errors resulted in undercharges totaling \$72.00. This constitutes a violation of Section 627.062, Florida Statutes.
4. One (1) error was due to failure to follow the filed rating plan, rating schedule or rating rule. The Company used an incorrect territory. This error resulted in an undercharge totaling \$282.00. This constitutes a violation of Section 627.062, Florida Statutes.

5. One (1) error was due to failure to follow the filed rating plan, rating schedule or rating rule. The Company used an unfiled rate for personal liability. This error resulted in an overcharge of \$3.00, which was not refunded due to being under the \$5.00 minimum. This constitutes a violation of Section 627.062, Florida Statutes.
6. One (1) error was due to failure to follow the filed rating plan, rating schedule or rating rule. The Company applied a Loss Free Credit to an ineligible risk. This error resulted in an undercharge totaling \$35.00. This constitutes a violation of Section 627.062, Florida Statutes.
7. One (1) error was due to failure to follow the filed rating plan, rating schedule or rating rule. The Company failed to give a storm shutter credit, however, the error did not affect premium. This constitutes a violation of Section 627.062, Florida Statutes.
8. Three (3) errors were due to failure to provide timely notice of renewal premium. This constitutes a violation of Section 627.4133, Florida Statutes.

During the review of the dwelling fire files, it was found that the Company had filed an underwriting guideline for minimum and maximum limits they would write. However, there were circumstances in which the Company was willing to waive these limitations and had filed proper rates to write below and above the minimum and maximum of the filed underwriting guidelines. The Company was asked and has agreed to make within 30 days from September 14, 2000 an amended filing to clarify their intent regarding the underwriting guidelines/rates. Exhibit II.

B. HOMEOWNERS

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

DeSoto Insurance Company is a member/ subscriber of Insurance Service Office (ISO) and as such ISO is authorized to file rules/rates on the Company's behalf in accordance with Section 627.062, Florida Statutes. In addition, the Company does make some independent filings.

b. Form Filings

DeSoto Insurance Company is a member/subscriber Insurance Service Office (ISO) and as such ISO is authorized to file forms on the Company's behalf in accordance with Section 627.410, Florida Statutes. In addition, the Company does make some independent filings.

c. Statistical Affiliation

Insurance Services Office acts as the Company's official statistical agent.

2. Premium and Policy Counts

Direct Premiums Written and in-force policy counts for the scope of the examination are as follows:

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
1997	0	0
1998	\$12,023,223	14,069
1999	\$13,801,531	17,628

3. Exam Findings

One hundred (100) policy files were examined.

Sixty-five (65) errors were found.

Errors affecting premium resulted in eight (8) overcharges totaling \$588.00 and thirty-five (35) undercharges totaling \$1,659.00.

The errors are broken down as follows:

1. Twenty-six (26) errors were due to failure to follow the filed rating plan, rating schedule or rating rule by the use of incorrect protection classes. These errors resulted in two (2) overcharges totaling \$80.00, of which \$21.00 has been refunded by the Company. The remaining \$59.00 was reduced by a \$57.00 undercharge for applying a loss free credit to an ineligible risk.

The remaining \$2.00 was not returned based on the \$5.00 minimum.

Three (3) errors resulted in \$985.00 in undercharges. This constitutes a violation of Section 627.062, Florida Statutes.

2. Twenty-one (21) errors were due to failure to follow the filed rating plan, rating schedule or rating rule by the application of a loss free credit to ineligible risks. Twenty (20) errors resulted in undercharges totaling \$504.00. This constitutes a violation of Section 627.062, Florida Statutes.
3. Eight (8) errors were due to failure to follow the filed rating plan, rating schedule or rating rule by applying a \$5,000 basic limit for coverage A when the filed basic limit is \$1,000 on HO-6 policies. Nine (9) errors resulted in undercharges totaling \$58.00. This constitutes a violation of section 627.062, Florida Statutes.
4. Five (5) errors were due to failure to follow the filed rating plan, rating schedule or rating rule by the use of incorrect territory. These errors resulted in five (5) overcharges totaling \$492.00, \$165.00 has been refunded by the Company. The remaining \$327.00 was reduced by three (3) undercharges totaling \$553.00. This constitutes a violation of Section 627.062, Florida Statutes.
5. Two (2) errors were due to use of an unfiled rating plan, rating schedule or rating rule by applying an 15% superior construction credit which is not filed in the Company's preferred program. One (1) of these errors resulted in an undercharge totaling \$33.00. This constitutes a violation of Section 627.062, Florida Statutes.

6. Two (2) errors were due to failure to follow the filed rating plan, rating schedule or rating rule by not applying the protective device credit for eligible risks. Although these errors resulted in overcharges totaling \$16.00, they were not refunded as they were offset by undercharges on other errors. This constitutes a violation of Section 627.062, Florida Statutes.

7. One (1) error was due to failure to follow the filed rating plan, rating schedule or rating rule by providing extra replacement cost coverage to an ineligible risk. This constitutes a violation of Section 627.062, Florida Statutes.

V. AGENTS/MGA REVIEW

Twenty (20) applications/policies written during the scope of examination were examined.

Four (4) errors were found.

None of the errors affected policy fees.

The errors are broken down as follows:

1. Four (4) errors were due to use of unlicensed and/or unappointed agents. This constitutes a violation of Section 626.112, Florida Statutes.

VI. CANCELLATIONS/NONRENEWALS REVIEW

Twenty-five (25) cancelled/nonrenewed policies were examined.

No errors were found.

VII. CLAIMS REVIEW

Fifty (50) claims were examined.

Six (6) errors were found.

None of the errors affected payments.

The Company's internal claims handling procedures and reserving practices are described in Exhibit IV.

The errors are broken down as follows:

- 1 Four (4) errors were due to use of unlicensed/unappointed adjusters. MGA adjusters were not appointed. This constitutes a violation of Section 626.112, Florida Statutes.
- 2 Two (2) errors were due to failure to maintain claim data that is accessible, legible and retrievable. These claims were maintained electronically and due to a system problem the Company was unable to retrieve the data. This constitutes a violation of Rule 4-166.022, Florida Administrative Code.

VIII. COMPLAINTS REVIEW

A complete record of all the complaints received by the Company since the start of operations has been maintained as is required by Section 626.9541(1)(j), Florida Statutes. Procedures for handling these complaints have been established by the Company. Complaint handling procedures are described in Exhibit III. Consumer complaints received during the scope of examination were reviewed, and findings are as follows:

A. INFORMAL COMPLAINTS

Ten (10) complaints were reviewed.

No errors were found.

IX. EXHIBITS

<u>SUBJECT</u>	<u>EXHIBIT NUMBER</u>
CONSENT ORDER NO.21703-97-C	I
UNDERWRITING GUIDELINES FILING	II
COMPLAINT PROCEDURES	III
CLAIMS PROCEDURES	IV