

The Great Seal of the State of Florida is a circular emblem. It features a central scene with a woman in a blue dress holding a scale, a palm tree, a ship, and a landscape with flowers. The outer ring contains the text "GREAT SEAL OF THE STATE OF FLORIDA" at the top and "IN GOD WE TRUST" at the bottom, separated by two stars.

**2002 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION**

**OF**

**DIRECT GENERAL INSURANCE COMPANY  
(DIRECT GENERAL CORPORATION)**

**BY**

**THE FLORIDA DEPARTMENT OF INSURANCE**

**FILED DATE: 7/12/02**

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## INTRODUCTION

Direct General Insurance Company (Company) is a foreign property and casualty insurer licensed to conduct business in the State of Florida during the scope of this property and casualty market conduct examination. The scope of this examination was January 2001 through August 2001. The examination began December 2, 2001 and ended January 5, 2002. The last property and casualty market conduct examination of this insurer, by the Florida Department of Insurance, was concluded in April 2001.

The prior examination report included the review of private passenger automobile, claims, and complaints. Violations cited included failure to maintain records, use of unfiled base rating factors, incorrect application of multi-car discounts, incorrect premium calculations, incorrect automobile symbols, incorrect classifications, failure to provide safety device discounts, use of unlicensed/unappointed adjusters, deducting fees from subrogation recoveries, failure to maintain claim documentation, failure to maintain written explanation of claim denials, failure to advise insureds of PIP rights and benefits, failure to communicate timely following report of claims, failure to disclose information requested by attorneys, failure to properly forward automobile titles, and failure to pay PIP medical bills timely.

The purpose of the current examination was to verify corrective action as to the deduction of fees from claim subrogation recoveries found in the prior examination and to review the marketing of optional coverages. In addition, the purpose was to verify compliance with Florida Statutes and Administrative Rules.

During this examination, records reviewed included private passenger automobile and claims for the period of January 1, 2001 through August 31, 2001, 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 requested 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 of this examination, \$194.82 was returned to Florida consumers due to overcharges of premium, and underpayments of claims.

## **CERTIFICATE OF AUTHORITY – AUTHORIZED LINES**

### **GENERAL COMMENTS**

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

### **EXAM FINDINGS**

The review included verification of the lines of business the Company was authorized to write during the scope of the examination versus those lines actually being written. It also included verification that notification requirements were met for any lines of business that were discontinued.

No errors were found.

## **COMPANY OPERATIONS/MANAGEMENT**

### **HISTORY/MANAGEMENT**

Direct General Insurance Company is a property and casualty insurance company specializing in the non-standard automobile insurance market. The Company was incorporated in the State of Florida on December 16, 1990, and began operations on January 1, 1991. The Home Office is located in Nashville, Tennessee with a branch office in Baton Rouge, Louisiana, and a claims office in Tampa, Florida. The Company is a wholly-owned subsidiary of Direct General Corporation (DGC). In addition, DGC also owns directly or indirectly: Direct Insurance Company; Direct General Insurance Company of Louisiana; Direct General Insurance Company of Mississippi; Direct Life Insurance Company; Direct General Financial Services, Inc.; Direct General Insurance Agencies; Direct Administration, Inc.; Direct Adjusting Company, Inc; and Direct General Consumer Products, Inc. The corporate directors are: Mr. William C. Adair, Jr. CEO & President, Board of Directors and founder of the Corporation; Mrs. Jacqueline C. Adair, President of Direct General Insurance Company; and, Mr. Barry D. Elkins, Senior Vice President and CFO. There have been no substantive changes in officers since the last examination.

### **COMPANY PROCESSES/STATISTICAL AFFILIATIONS**

#### **Computer System**

The Company uses the IBM AS/400 computer system located in Nashville, which is the central processor used for all functions of the Company at all locations.

#### **Anti-Fraud Plan**

The Company has filed a Plan with the Florida Department of Insurance as required by Section 626.9891, Florida Statutes.

The Plan does meet the requirements by establishing a Special Investigation Unit in Florida. The purpose of this unit is to detect and investigate suspected fraudulent claims and other fraudulent insurance activities by adequately investigating overt claims and other potentially fraudulent acts perpetrated against the Company.

#### **Disaster Recovery Plan**

The Company has developed a Disaster Recovery Plan for use with Florida business. The key element to this plan is the maintenance of a duplicate IBM AS/400 system located in Baton Rouge, Louisiana. The capacity of this computer permits full historical detail to be maintained and in the event of disaster serves as complete backup of all functions.

## **Internal Audit Procedures**

The Company has developed Internal Audit Procedures for use in reviewing Florida business. The Company outsources its internal audit functions to a local accounting firm, Faulkner, Mackie & Cochran, P.C. This firm conducts internal audits of the organization's sales offices and claims operations during the year.

## **Privacy Plan**

The Company has developed a Plan to meet the requirements of Emergency Rule 4ER-01, which is communicated to its policyholders. This plan meets the requirements of this Rule.

## **Statistical Affiliations**

National Independent Statistical Service (NISS) acts as the Company's official statistical agent.

## **Credit Reports**

The Company does not use Credit Reports as an underwriting tool.

## **OPERATIONS/MARKETING**

### **Marketing**

The Company writes non-standard private passenger automobile liability and physical damage insurance in Florida. The Company's target market is low to middle income customers in communities of 20,000 or more. There have been no changes in business practices since the last examination. The Company also makes available to the customer optional programs including Travel Protection Plan; Accident Medical Protection Plan; Accidental Death; Prepaid Legal Services; and Life Insurance which are sold through Direct General Insurance Agencies. Business is written in all areas of the State.

### **Agents/Agencies/MGA/Exchange of Business/Direct Response/Internet/Adjusters and Claims Handling**

Most business is produced by Direct General Insurance Agency, Inc., utilizing approximately sixty-five (65) agent offices in Florida. In addition, the Company produces business through Maitland Underwriters, Inc., a managing general agency utilizing approximately forty-one (41) agent offices operating as Cash Register, Friendly or Insurance Options.

Direct Adjusting Company, Inc., located in Tampa, Florida handles all adjustment of claims. This is an independent adjusting firm employing independent licensed and appointed adjusters.

The Company maintains a web site, [www.direct-general.com](http://www.direct-general.com), for advertising the description of products and locations of offices, however, it is not used for active solicitation of business.

The Company's most used advertising medium in reaching its target audience has been local television. Additionally, the Company advertises in the yellow pages.

**Lines of Business**

The only line of business currently written by the Company is private passenger automobile.

## REVIEW OF POLICIES

### PRIVATE PASSENGER AUTOMOBILE

#### Description of Product/Lines of Business

This is a monoline program for non-standard risks. Credit reports and rating tiers are not used. The amount of premium charged depends on whether the insured had prior insurance, usage of the vehicle, MVR, age of driver, renewal, multiple cars, safety devices, and other normal underwriting criteria.

#### 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>
*2001	\$71,346,445	96,644

\*As of August 31, 2001

#### Examination Findings

One hundred (100) policy files were examined.

Thirty-eight (38) errors were found.

Errors affecting premium resulted in two (2) overcharges totaling \$173.00.

The errors are broken down as follows:

1. Thirty-six (36) errors were due to use of an obsolete form. This constitutes a violation of Section 627.412, Florida Statutes, and is considered a business practice of the Company. These errors were caused by using application 0218 (4/98) in lieu of FL001A (1/01), which was filed to be attached to all policies effective 1/3/01. Applications are attached and made a part of all policies.
2. One (1) error was due to failure to follow the filed rates. This constitutes a violation of Section 627.0651, Florida Statutes. This error was due to the use of an incorrect territory code. This error resulted in one (1) overcharge totaling \$58.00, which has been refunded by the Company.
3. One (1) error was due to failure to provide a safety device discount. This error was caused by failure to provide an anti-lock brake discount of 5%. This error resulted in one (1) overcharge totaling \$115.00, which has been refunded by the Company.

The purpose of this examination was to review the marketing of optional coverages. Five optional coverage programs are sold thru Direct General Agencies in Florida: Travel Protection Plan; Accident Medical Protection Plan; Accidental Death; Prepaid Legal

Services Program; and Life Insurance. All plans except Accidental Death and Life Insurance are written through other carriers. Direct Life Insurance Company is the carrier for all Life business. Life business is sold by licensed and appointed life agents.

If an insured elects one of these optional programs, they are required to sign the Florida Explanation of Policy Coverages and Cost Breakdown form which explains coverages as optional as well as the insurance premium financing disclosure form acknowledging these coverages as optional in compliance with Chapter 324, Florida Statutes. Exhibit I.

Optional programs are offered to consumers using Direct Insurance Company agents and are presented as optional coverages. The internet web site, [www.direct-general.com](http://www.direct-general.com), describes the various products available, however, there is no direct solicitation. Life insurance is actively advertised along with the automobile insurance on one of the televised commercials. Advertising for the other optional programs is through brochures available in the agency offices.

The present marketing of optional coverages was not indicative of improper business practices.

## CLAIMS REVIEW

### DESCRIPTION OF CLAIMS REVIEWED – NON-PPA/MEDICAL REVIEWS

The types of claims reviewed included private passenger automobile first and third party, litigated, and subrogated. The types of losses included total losses, bodily injury, property damage, PIP, comprehensive, and collision.

#### Examination Findings

Fifty (50) claims were examined.

Five (5) errors were found.

Two (2) errors resulted in underpayments totaling \$21.82.

The errors are broken down as follows:

1. Two (2) errors were due to failure to properly adjust claims. This constitutes a violation of Section 626.877, Florida Statutes. These errors were due to the use of incorrect sales tax applied to the total loss as a result of using incorrect discretionary sales surtax percentages for the particular county in which the vehicle was principally garaged. These errors resulted in underpayments totaling \$21.82, which have been returned by the Company.
2. Two (2) errors were due to failure to properly forward the motor vehicle title. This constitutes a violation of Section 319.30, Florida Statutes. These errors were due to failure to forward the motor vehicle title on total losses to the Division of Highway Safety and Motor Vehicles within 72 hours upon receipt of same by the Company. This error occurred in the 2001 Examination, Page 9, Item 8. Exhibit II.
3. One (1) error was due to failure to comply with PIP benefit requirements. This constitutes a violation of Section 627.736, Florida Statutes. This error was due to paying a PIP medical bill in excess of the required 30 days. The Company having realized this late payment, reimbursed interest prior to the beginning of this examination. This error occurred in the 2001 Examination, Page 9, Item 9. Exhibit II.

The purpose of this examination was to verify corrective action as a result of the prior 2001 property and casualty market conduct examination as to the deduction of fees from deductibles reimbursed to claimants on subrogation recoveries. Based on documentation consisting of a computer run listing the names, dates of return, and amounts of deductibles returned to the claimants, along with a sampling of files reviewed for same (18), it was verified that fees were not being deducted and the full deductible was reimbursed in all cases within the scope of this examination.

## **DESCRIPTION OF CLAIMS REVIEWED – PPA/MEDICAL REVIEWS**

This review included PIP claims referred to independent medical examiners (IME) for medical review.

### **Examination Findings**

Fifty (50) claims were examined. Fifty (50) claims were PIP claims.

No errors were found.

**EXHIBITS**

**SUBJECT**

**EXHIBIT NUMBER**

**REQUIRED OPTIONAL COVERAGE FORMS  
2001 MARKET CONDUCT EXAM REPORT PAGE #9**

**I  
II**