

2001 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION

OF

DIRECT GENERAL INSURANCE COMPANY
(DIRECT GENERAL CORPORATION)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

File Date 11/2/01

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I. INTRODUCTION

Direct General Insurance 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, January 1999 through December 2000. This is the first property and casualty market conduct examination of this Company by the Florida Department of Insurance.

The purpose of this target examination was to ensure compliance with the Florida Statutes and Administrative Code.

During this examination, records reviewed included policies, claims and consumer complaints for the period of January 1999 through December 2000, 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 of this examination, \$202.00 was returned, and \$1,424.31 will be returned, to Florida consumers due to overcharges of premium, underpayments of claims and/or inappropriately charged fees. In addition, the Company has been directed to re-adjust all subrogated claims that were closed during the scope of the examination. The Company should reimburse approximately \$16,483.00 in deductibles that were initially paid by insureds, but also collected by the Company through the subrogation process.

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.

No errors were found.

III. COMPANY OPERATIONS/MANAGEMENT

A. PROFILE

Direct General Insurance Company (Company) (formerly known as Independent Property and Casualty Insurance Company) was incorporated in the State of Florida on December 16, 1990 and began operations on January 1, 1991. At that time, the Company was a wholly-owned subsidiary of Independent Insurance Group, Inc.. On February 29, 1996, Independent Insurance Group was acquired by American General Corporation, and became a wholly-owned subsidiary of AGC Life Insurance Company. On March 14, 1997, Direct General Corporation (formerly known as Direct Corporation), a Tennessee Corporation, acquired all of the voting capital stock of the Company, and on April 1, 1997, the Company name was changed to Direct General Insurance Company.

The majority of the Company's business is produced by Direct General Insurance Agency, Inc.. This agency produces business for the Company through approximately sixty-six (66) agent offices in Florida. The Company's products are also produced by the Company's managing general agency, Maitland Underwriters, Inc., through approximately forty (40) agent offices operating as Cash Register, Friendly or Insurance Options.

An independent adjusting firm, Direct Adjusting Company, Inc., handles all adjustment of claims. This is a wholly-owned subsidiary of Direct General Corporation and is located in Tampa, Florida. Salvage is handled in the Memphis, Tennessee claims office.

The Home Office of the Company is located in Nashville, Tennessee.

B. MANAGEMENT

The Company's computer system, AS/400, is a central processor for daily processing of underwriting, policyholder services, claims, premium finance, control, reporting and accounting functions for all locations. In the event of a disaster at one location, the system would roll into another location so that operations could continue.

The Company has filed an Anti-Fraud Plan to comply with Section 626.9891, Florida Statutes.

Internal audits are performed under contract by the CPA firm of Faulkner, Mackie & Cochran, P. C. The procedure is on-going, with audits being conducted in a different office each time.

C. OPERATIONS

Direct General Insurance Company specializes in writing nonstandard Private Passenger Automobile insurance in Florida.

IV. REVIEW OF POLICIES

A. PRIVATE PASSENGER AUTOMOBILE

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Direct General Insurance Company independently files rules/rates in accordance with Section 627.0651, Florida Statutes.

b. Form Filings

Direct General Insurance Company independently files forms in accordance with Section 627.410, Florida Statutes.

c. Statistical Affiliation

National Independent Statistical Service (NISS) 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>
1999	\$46,386,369	57,775
2000	\$74,924,075	88,748

The increase in DPW and Policy Count from 1999 to 2000 was due to the Company's purchased several franchised agencies, which increased its marketing force.

3. Exam Findings

One hundred (100) policy files were examined.

Ten (10) errors were found.

Errors affecting premium resulted in three (3) overcharges totaling \$202.00 and two (2) undercharges totaling \$73.00.

The errors are broken down as follows:

1. Four (4) errors were due to failure to maintain proof of prior insurance. This constitutes a violation of Section 627.318, Florida Statutes.
2. One (1) error was due to use of unfilled base rating factor. This constitutes a violation of Section 627.0651, Florida Statutes.
3. One (1) error was due to failure to follow the filed rating plan. This constitutes a violation of Section 627.0651, Florida Statutes. The Company failed to allow the filed 25% multi-car discount. This resulted in an overcharge of \$85.00, which has been refunded by the Company.
4. One (1) error was due to failure to follow the filed rating plan. This constitutes a violation of Section 627.0651, Florida Statutes. The premium was incorrectly calculated. This resulted in an undercharge of \$47.00.
5. One (1) error was due to failure to follow the filed rating plan. This constitutes a violation of Section 627.0651, Florida Statutes.

The Company did not apply correct automobile symbols to calculate the premium. This resulted in an undercharge of \$26.00.

6. One (1) error was due to failure to follow the filed rating plan. This constitutes a violation of Section 627.0651, Florida Statutes. An incorrect rating classification was used to calculate the premium. This error resulted in an overcharge of \$70.00, which has been refunded by the Company.
7. One (1) error was due to failure to provide safety device discounts. This constitutes a violation of Section 627.0653, Florida Statutes. The vehicle inspection report indicates the vehicle was equipped with anti-lock brakes and air bags, but no credit was allowed. This resulted in an overcharge of \$47.00, which has been refunded by the Company.

V. CLAIMS REVIEW

One hundred (100) claims were examined.

Fifty-five (55) errors were found.

Five (5) errors resulted in underpayments totaling \$1,424.31, which have not yet been refunded.

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

The errors are broken down as follows:

1. Thirty-three (33) errors were due to use of unlicensed/unappointed adjusters. This constitutes a violation of Section 626.863, Florida Statutes.
2. Four (4) errors were due to failure to comply with Unfair Claim Practices Requirements. This constitutes a violation of Section 626.9541, Florida Statutes. The full amount of claims paid was recovered through subrogation, but only two-thirds of the deductible was reimbursed to insureds. These errors resulted in underpayments totaling \$1,333.34, which have not been refunded by the Company. See Pending Issues Section.

The Company has provided computer runs to document that 104 subrogated claims had deductible reimbursements totaling \$32,966.42. The correct total reimbursement should have been \$49,449.16. This resulted in underpayments of approximately \$16,483.00. The Company has been directed to re-adjust these claims and to refund the remainder of the deductibles. (Exhibit II). See Pending Issues Section.

3. Four (4) errors were due to failure to maintain claim documentation. This constitutes a violation of Rule 4-166.022, Florida Administrative Code. Subrogation notes and information was not contained in these claim files.
4. Three (3) errors were due to failure to provide written explanation of claim denials. This constitutes a violation of Rule 4-166.026, Florida Administrative Code.
5. Three (3) errors were due to failure to comply with PIP requirements of mailing notice to an insured advising of PIP rights and benefits within 21 days of receipt of a claim. This constitutes a violation of Section 627.7401, Florida Statutes.
6. Three (3) errors were due to failure to communicate timely following report of a claim. This constitutes a violation of Rule 4-166.024, Florida Administrative Code.
7. Two (2) errors were due to failure to disclose information requested by an attorney. This constitutes a violation of Section 627.4137, Florida Statutes.
8. Two (2) errors were due to failure to properly forward automobile titles to the Department of Highway Safety and Motor Vehicles. This constitutes a violation of Section 319.30, Florida Statutes. Notes on the data log indicate the titles were sent to a salvage office in Memphis, Tennessee, and to the Department of Highway Safety and Motor Vehicles within 72 hours.
9. One (1) error was due to failure to comply with PIP benefit requirements. This constitutes a violation of Section 627.736, Florida Statutes. Medical bills were not paid within thirty (30) days of receipt and no interest was paid. This error resulted in underpayment of \$90.97, which has not been refunded. See Pending Issues Section.

VI. COMPLAINTS REVIEW

A complete record of all the complaints received by the Company since the date of the last examination 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. COMPANY RECEIVED COMPLAINTS

Ten (10) complaints were reviewed.

No errors were found.

VII. PENDING ISSUES

The following issues were pending at the conclusion of the examination field work:

1. The Company has been directed to re-adjust 104 claims that were subrogated and only a portion of the deductible was reimbursed to the insured/claimant. (Exhibit II). See Section V, Item 2.
3. Four (4) underpayments totaling \$1,333.34 have not yet been refunded. See Section V, Item 2.
2. One (1) underpayment of interest in the amount of \$90.97 has not yet been refunded. See Section V, Item 9.

VIII. EXHIBITS

<u>SUBJECT</u>	<u>EXHIBIT NUMBER</u>
SUMMARY OF CLAIMS PROCEDURES	I
LETTER DATED FEBRUARY 15, 2001 RE: CLAIMS SUBROGATION – DEDUCTIBLES	II
STANDARD PRACTICE MEMORANDUM - CONSUMER COMPLAINT COMPLIANCE	III