

2000 PROPERTY AND CASUALTY MARKET CONDUCT EXAMINATION

OF

EMPLOYERS INSURANCE OF WAUSAU, A MUTUAL COMPANY
(WAUSAU INSURANCE COMPANIES)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

Filed 12/21/01

TABLE OF CONTENTS

<u>PART NUMBER</u>	<u>SUBJECT</u>	<u>PAGE NUMBER</u>
I.	INTRODUCTION	1
II.	PRE-EXAM REVIEW OF COMPANY WRITINGS	2
III.	REVIEW OF POLICIES	
A.	COMMERCIAL PROPERTY	3
B.	OTHER LIABILITY	7
C.	FIDELITY AND SURETY	10
D.	WORKERS' COMPENSATION	12
IV.	AGENTS/MGA REVIEW	15
V.	CANCELLATIONS/NONRENEWALS REVIEW	16
VI.	CLAIMS REVIEW	17
VII.	COMPLAINTS REVIEW	18
VIII.	EXHIBITS	19

I. INTRODUCTION

Employers Insurance of Wausau, A Mutual Company, is a foreign property and casualty insurer licensed to conduct business in the State of Florida during the scope of this examination, January 1996 through December 1998. This examination began November 15, 1999 and ended February 19, 2000. The last examination of this insurer by the Department of Insurance was completed in 1994.

During this examination, records reviewed included policies, cancellations/nonrenewals, agent/MGA licensing, claims and consumer complaints for the period of January 1996 through December 1998 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, \$186.00 was returned to Florida consumers due to overcharges of premium.

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. Error Percentages

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. REVIEW OF POLICIES

A. COMMERCIAL PROPERTY

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Employers Insurance of Wausau, A Mutual Company, is a member/ 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

Employers Insurance of Wausau, A Mutual Company, is a member/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>
1996	\$8,115,125	177
1997	\$8,144,710	178
1998	\$6,252,418	166

3. Exam Findings

Fifty (50) policy files were examined.

Eighty-seven (87) errors were found.

Errors affecting premium resulted in one (1) overcharge totaling \$186.00 and three (3) undercharges totaling \$438.00.

The errors are broken down as follows:

1. Seventeen (17) errors were due to failure to report individual rated risks. This constitutes a violation of Rule 4-137.008, Florida Administrative Code.
2. Eight (8) errors were due to failure to provide timely notice of renewal premium. This constitutes a violation of Section 627.4133, Florida Statutes. This error was brought to the Company's attention in the 1993 Market Conduct Examination Report, Page 8. Exhibit I.
3. Three (3) errors were due to failure to attach mandatory Form SE0901, Florida Changes. This constitutes a violation of Section 627.412, Florida Statutes.
4. Three (3) errors were due to failure to maintain rating worksheets in the file. This constitutes a violation of Section 627.318, Florida Statutes. This was brought to the Company's attention in the 1993 Market Conduct Examination Report, Page 7. Exhibit II.
5. Two (2) errors were due to failure to deliver policy timely. This constitutes a violation of Section 627.421, Florida Statutes.
6. One (1) error was due to failure to follow the filed rating plan. The premium was based on incorrect building construction and deductible factors. This error resulted in an overcharge of \$186.00 that has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
7. One (1) error was due to failure to follow the filed rating plan. The premium was based on incorrect building construction and deductible factors. This error resulted in an undercharge of \$306.00. This constitutes a violation of Section 627.062, Florida Statutes.
8. One (1) error was due to failure to follow the filed rating plan. Incorrect protection class and Group I rate was used to calculate the premium which produced an undercharge of \$12.00. This constitutes a violation of Section 627.062, Florida Statutes.

9. One (1) error was due to failure to follow the filed rating plan. Incorrect Group II deductible factor was used to calculate the premium which resulted in an undercharge of \$120.00. This constitutes a violation of Section 627.062, Florida Statutes.
10. Seventeen (17) errors were due to use of unfiled Form SF0001, Declarations. This constitutes a violation of Section 627.410, Florida Statutes.
11. Sixteen (16) errors were due to use of unfiled Form SF0101, Excess of Loss Pollution. This constitutes a violation of Section 627.410, Florida Statutes.
12. Ten (10) errors were due to use of unfiled Form 7100, Following Form Excess. This constitutes a violation of Section 627.410, Florida Statutes. This error was brought to the Company's attention in the 1993 Market Conduct Examination Report, Page 8 and 9. Exhibit I and III.
13. Five (5) errors were due to use of unfiled Form SF7103, Excess of Loss. This constitutes a violation of Section 627.410, Florida Statutes.
14. Two (2) errors were due to use of unfiled Form ML1001, Additional Insured. This constitutes a violation of Section 627.410, Florida Statutes.

B. OTHER LIABILITY

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Employers Insurance of Wausau, A Mutual Company, is a member/ 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

Employers Insurance of Wausau, A Mutual Company, is a member/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>
1996	\$2,078,917	140
1997	\$3,594,666	182
1998	\$4,177,817	216

3. Exam Findings

Fifty (50) policy files were examined.

One hundred five (105) errors were found.

None of the errors affected premium.

The errors are broken down as follows:

1. Thirty-one (31) errors were due to failure to provide timely notice of renewal premium. This constitutes a violation of Section 627.4133, Florida Statutes. This was also cited on Page 19, of the 1993 Examination Report. Exhibit IV.
2. Twenty-three (23) errors were due to failure to properly report individual rated risks. This constitutes a violation of Rule 4-137.008, Florida Administrative Code. Thirteen (13) of these errors were Umbrella policies on which only 10% of the premium was reported. The Company has revised all quarterly reports for the scope of the examination and filed the revisions with the Florida Department of Insurance.

3. Ten (10) errors were due to failure to deliver policy timely. This constitutes a violation of Section 627.421, Florida Statutes.
4. Four (4) errors were due to failure to maintain applications and worksheets in the file. This constitutes a violation of Section 627.318, Florida Statutes. This was brought to the Company's attention on Page 19, of the 1993 Market Conduct Examination Report. Exhibit IV.
5. One (1) error was due to failure to maintain the experience modification worksheet in the file. The premiums reflected an experience credit of 20.5%. This constitutes a violation of Section 627.318, Florida Statutes. This error was also cited on Page 18, of the 1993 Market Conduct Examination Report. Exhibit V.
6. One (1) error was due to failure to document individual rated risk, a charge of \$210 for Additional Insured. This constitutes a violation of Section 627.062, Florida Statutes.
7. Seventeen (17) errors were due to use of unfiled Umbrella Form CJ2406, Personal and Advertising Injury Liability. This constitutes a violation of Section 627.410, Florida Statutes.
8. Twelve (12) errors were due to use of unfiled Umbrella Form CJ2410, Amendment of Pollution. This constitutes a violation of Section 627.410, Florida Statutes.
9. Six (6) errors were due to use of unfiled Form GL0001, General Liability Declarations. This constitutes a violation of Section 627.410, Florida Statutes. This was brought to the Company's attention on Page 20, of the 1993 Market Conduct Examination. Exhibit VI.

C. FIDELITY AND SURETY

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Employers Insurance of Wausau, A Mutual Company, is a member/ subscriber of Surety Association of America (SAA) and as such SAA 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

Employers Insurance of Wausau, A Mutual Company, is a member/subscriber of Surety Association of America (SAA) and as such SAA 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

Surety Association of America acts as the Company's official statistical agent.

2. Premium and Bond Counts

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

<u>Year</u>	<u>DPW</u>	<u>Policy Count</u>
1996	\$638,811	230
1997	\$707,802	218
1998	\$448,137	247

3. Exam Findings

Fifty (50) bond files were examined.

Fourteen (14) errors were found.

None of the errors affected premium.

The errors are broken down as follows:

1. Seven (7) errors were due to use of unfiled Form CR1000, Crime Declarations. This constitutes a violation of Section 627.410, Florida Statutes. This was also cited on Page 33 of the 1993 Market Conduct Examination Report.
2. Seven (7) errors were due to use of unfiled Form EY5002, Crime Premium Statement. This constitutes a violation of Section 627.410, Florida Statutes.

D. WORKERS' COMPENSATION

1. Application of Rules, Rates and Forms

a. General Comments

Employers Insurance of Wausau, A Mutual Company, is a National Council on Compensation Insurance (NCCI) company and as such uses this organization's rules, rates and forms. The NCCI acts as statistical agent for this line of business.

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>
1996	\$14,762,384	166
1997	\$10,318,269	138
1998	\$10,316,999	90

b. Error Percentages

Fifty (50) policies and audits were examined.

Three (3) errors were found.

Errors affecting premium resulted in two (2) undercharges totaling \$1,190.00.

The errors are broken down as follows:

1. One (1) error was due to failure to provide final audit billing within 90 days. This constitutes a violation of Section 627.191, Florida Statutes.
2. Two (2) errors were due to incorrectly charging a .79 modification rate credit of \$1,180 to both policy and final audit billing, therefore, incurring two (2) errors. No Experience Modification had been promulgated for Florida. These errors resulted in undercharges totaling \$1,180. This constitutes a violation of Section 627.191, Florida Statutes.

2. Unit Statistical Review

a. Audit Comparison

Twenty (20) premium statistical cards were examined.

No errors were found.

b. Claim Comparison

Twenty-five (25) claim statistical cards were examined.

No errors were found.

IV. AGENTS/MGA REVIEW

Thirty (30) applications/policies written during the scope of examination were examined.

Fifteen (15) errors were found.

None of the errors affected policy fees.

The errors are broken down as follows:

1. Seven (7) errors were due to failure to display agent's name and license identification number or insurer's name on the application. This constitutes a violation of Section 627.4085, Florida Statutes.
2. Three (3) errors were due to failure to maintain records. The files did not contain application, agent's name or agent's license identification number. This constitutes a violation of Section 627.318, Florida Statutes.
3. Two (2) errors were due to use of unlicensed nonresident agents. This constitutes a violation of Section 626.741, Florida Statutes.
4. Two (2) errors were due to failure to comply with Exchange of Business requirements. Applications on policies brokered by one agent through another did not contain the Brokering Agent's Register Number or other required legends. This constitutes a violation of Section 626.752, Florida Statutes.
5. One (1) error was due to use of an unappointed agent. This constitutes a violation of Section 626.112, Florida Statutes.

V. CANCELLATIONS/NONRENEWALS REVIEW

Fifty (50) cancelled/nonrenewed policies were examined.

Seven (7) errors were found.

None of the errors affected premium calculations.

The errors are broken down as follows:

1. Three (3) errors were due to failure to maintain records. In all three instances, the return premium notice could not be found in the file. This constitutes a violation of Section 627.318, Florida Statutes.
2. Two (2) errors were due to failure to provide timely notice of nonrenewal. Notes in the file indicated the policies were nonrenewed, but no notice to the Insured was found in the file. This constitutes a violation of Section 627.4133, Florida Statutes.
3. One (1) error was due to failure to provide proof of mailing. This constitutes a violation of Rule 4-167.010, Florida Administrative Code.
4. One (1) error was due to failure to cancel one day after premium finance date. This constitutes a violation of Rule 4-196.001, Florida Administrative Code.

VI. CLAIMS REVIEW

Fifty (50) claims were examined.

Nine (9) errors were found.

None of the errors affected payments.

The Company's internal claims handling procedures and reserving practices are described in Exhibits VII, VIII, IX and X.

The errors are broken down as follows:

1. Seven (7) errors were due to use of unlicensed nonresident adjusters. This constitutes a violation of Section 626.873, Florida Statutes.
2. Two (2) errors were due to failure to affix the Fraud Statement to Proof of Loss. This constitutes a violation of Section 817.234, Florida Statutes.

VII. 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 XI.

VIII. EXHIBITS

<u>SUBJECT</u>	<u>EXHIBIT NUMBER</u>
1993 MARKET CONDUCT EXAMINATION REPORT, PAGE 8	I
1993 MARKET CONDUCT EXAMINATION REPORT, PAGE 7	II
1993 MARKET CONDUCT EXAMINATION REPORT, PAGE 9	III
1993 MARKET CONDUCT EXAMINATION REPORT, PAGE 19	IV
1993 MARKET CONDUCT EXAMINATION REPORT, PAGE 18	V
1993 MARKET CONDUCT EXAMINATION REPORT, PAGE 20	VI
AUTO AND GENERAL LIABILITY CLAIMS HANDLING	VII
COMMERCIAL PROPERTY CLAIMS HANDLING PRACTICES	VIII
SURETY CLAIMS HANDLING PROCEDURES	IX
INSURANCE DEPARTMENT COMPLAINTS HANDLING	X