

2001 PROPERTY AND CASUALTY TARGET MARKET CONDUCT EXAMINATION

OF

AMERICAN INTERSTATE INSURANCE COMPANY  
(AMERISAFE, INC.)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

File Date: 5/10/02

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## I. INTRODUCTION

American Interstate 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 target market conduct examination. The scope of this examination was January 1999 through July 2001. The examination began August 19, 2001 and ended October 20, 2001. The last property and casualty examination of this insurer, by the Florida Department of Insurance, was concluded November 11, 1998.

The prior examination report included a review of workers' compensation policies. Violations cited included failure to provide timely notice of renewal premiums, failure to audit and bill the insureds within 90 days, failure to maintain workplace safety and drug free certifications in the files, providing workplace drug free and safety credits when none were due, failure to file endorsements, failure to list endorsements on the policy, failure to insure due to low premium, failure to audit and return premium within 90 days of cancellation, and failure to display the agent's license number on the applications.

The purpose of the current target market conduct examination was to verify that the Company's business practices and procedures are in compliance with Florida Statutes/Rules.

During this examination, records reviewed included policies, audits, agent/MGA licensing, cancellations/nonrenewals and consumer complaints.

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, \$8,454.45 was returned to Florida consumers due to overcharges of premium.

II. PRE-EXAM REVIEW OF COMPANY 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

American Interstate Insurance Company (AIIC) was incorporated on December 21, 1973, as American Interstate Insurance Company of Georgia under the laws of the State of Georgia. On January 8, 1974, all outstanding shares of common stock were acquired by American Interinsurance Exchange (AIE), a reciprocal insurer organized under the laws of Indiana. AIIC began business on April 12, 1974. In August 1982, AIE discontinued writing new business and did not renew existing policies. The Company entered into an arrangement with the Georgia Department of Insurance that all run-off business would be handled through their attorney-in-fact, American Underwriters Group, Inc. AIIC continued to operate with American Underwriters Group, Inc., as attorney-in-fact for AIE, in the run-off of this insurance business.

On December 18, 1985, AMERISAFE, Inc., formerly Gulf Universal Holdings, Inc., acquired all of the outstanding common shares of AIIC from AIE operating through its attorney-in-fact, American Underwriters Group, Inc. AIIC resumed underwriting under new management on May 1, 1986. On December 12, 1989, the Certificate of Authority was amended authorizing AIIC to write auto, liability, workers' compensation, burglary, forgery, fidelity and surety insurance. However, AIIC continued to write primarily workers' compensation insurance.

AIIC filed an "Amendment to and Restatement of the Articles of Incorporation" when AIIC was redomesticated from Georgia to Louisiana. Concurrently, the name was changed to American Interstate Insurance Company and the certificate of authority was amended to add health and accident, glass, fire, extended coverage and inland marine insurance. This was approved December 15, 1993.

On September 2, 1997, AMERISAFE, Inc., the parent company, was recapitalized by acquisition of approximately 68% of the capital stock by Welsh, Carson, Anderson, and

Stowe VII, L.P., a Delaware Limited Partnership. Other active companies wholly owned by AMERISAFE, Inc., include Silver Oak Casualty, Inc., Amerisafe General Agency, Inc., Amerisafe Risk Services, Inc. (claims and safety services) and Mor-Tem Risk Management Services, Inc. (TPA/claims services).

AIIC is currently licensed in forty-five states, as well as the U.S. Virgin Islands and the District of Columbia. The products are marketed through direct employed agents and independent agents. The direct agents are located in the Jacksonville and Miami areas. Appointed independent agents are located throughout Florida. Managing general agents are not used in any state. Direct response methods of marketing are not used. The Internet is not used for marketing, but a web site is maintained at [www.Amerisafe.com](http://www.Amerisafe.com).

B. MANAGEMENT

1. Company Computer System

AIIC uses a computer system designed for the Company. The name of the system is ICAMS. It is a multi-functional system used for underwriting, accounting, audit and claims. It is maintained on a server and is accessed by personal computers. ICAMS is not currently available to agents.

2. Anti-Fraud Plan

An Anti-Fraud Plan was filed with the Florida Department of Insurance on June 27, 1996. The Plan mainly addresses claim fraud. It is in the process of being updated and amended. The new plan will address internal and premium fraud in addition to claim fraud.

3. Disaster Recovery Plan

AIIC maintains the ICAMS master computer program in a safe deposit box. Tapes for back up protection are made on a daily basis. The tapes are then taken off premises to a secured location.

4. Internal Audit Plan

AIIC periodically checks the rates used in various states to insure they have used the correct rates. In addition, a periodic review of rating values is performed to insure quality and compliance.

5. Privacy Plan 4ER01

AIIC has a privacy policy which complies with Rule 4ER01, Privacy of Consumer Financial and Health Information. A Privacy Policy and Practices notice, which includes an opt-out form, is sent to the policyholders.

C. OPERATIONS

AIIC writes a variety of businesses. However, high-risk businesses and trades such as logging, trucking, construction, oil and gas industries are targeted. AIIC supplements the claims staff with the use of independent adjusters and adjusting companies in areas where there are no employee claims adjusters. There are claim offices in twenty states including Florida. The claims office in Florida is located in the Jacksonville area. Employee and independent auditors conduct audits of policy exposures. Underwriting is performed at the home office located in DeRidder, Louisiana. There are no field offices other than claim offices.

IV. REVIEW OF POLICIES

A. WORKERS' COMPENSATION

1. Application of Rules, Rates and Forms

a. General Comments

American Interstate Insurance 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>	
1999	\$9,957,940	436	
2000	\$9,559,378	460	
2001*	\$5,559,648	217	*As of 7/31/01

Totals include multi-state policies with exposure in Florida.

b. Exam Findings

One hundred (100) policies and audits were examined.

Forty-five (45) errors were found in thirty-two (32) policies.

Errors affecting premium resulted in eight (8) net overcharges totaling \$6,403.49, which have been refunded to policyholders and twenty-three (23) net undercharges totaling \$131,833.

Any policies containing multiple errors, which included overcharges and undercharges, were recorded for their individual monetary impact in the error descriptions below.

The errors are broken down as follows:

1. Eleven (11) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to use the correct rates for the policy year or failure to follow anniversary rating date rules pertaining to rates. These errors resulted in two (2) overcharges totaling \$26, which have been refunded to the policyholders and nine (9) undercharges totaling \$91,740.
2. Nine (9) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to correctly classify the business or employees. These errors resulted in three (3) overcharges totaling \$4,084, which have been refunded to the policyholders and five (5) undercharges totaling \$25,900.

3. Four (4) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to correctly calculate the premium for owners, partners or officers. These errors resulted in two (2) overcharges totaling \$2,003.88, which have been refunded to the policyholders and two (2) undercharges totaling \$2,402.
4. Four (4) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to use the correct Florida percentage factor for increased limits coverage. These errors resulted in one (1) overcharge of \$58, which has been refunded to the policyholder and three (3) undercharges totaling \$594.
5. Five (5) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. Four (4) errors were due to failure to correctly use the Florida algorithm method to calculate the premium charges. One (1) error was due to failure to correctly calculate the expense constant. These errors resulted in three (3) overcharges totaling \$171, which have been refunded to the policyholders and two (2) undercharges totaling \$39.
6. One (1) error was due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. This error was due to failure to use the correct experience modification factor. The modification used had been issued to a risk that was a prime

contractor that had hired the insured. The error resulted in an undercharge of \$1,138.

7. One (1) error was due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. This error was due to applying thirty-nine officers' exclusions to the policy year prior to the policy year in which the exclusions were effective. This error resulted in an undercharge of \$7,721.
8. Three (3) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to applying an experience modification of 1.00 to the billing statement, when the insured was not experience rated. These errors resulted in no premium differences.
9. Three (3) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to applying workplace safety or drug free credits without obtaining the certification forms. These errors resulted in three (3) undercharges totaling \$2,557. This error occurred in the 1998 Examination, Page 7. EXHIBIT I.

10. One (1) error was due to failure to perform an audit within 90 days. This constitutes a violation of Section 627.191, Florida Statutes. This error occurred in the 1998 Examination, Page 7. EXHIBIT I. The same error was noted on Page 5 of the 1993 Examination.
  
11. One (1) error was due to use of an unfiled rate. This constitutes a violation of Section 627.091, Florida Statutes. This error was due to charging a fee of \$250 for a Waiver of Our Rights to Recover From Others Endorsement. No fee had been filed and approved by the Florida Department of Insurance. This error resulted in an overcharge of \$162.50 (adjusted for dividend reimbursement), which has been returned to the policyholder.
  
12. Two (2) errors were due to failure to charge for a Waiver of Our Rights to Recover From Others Endorsement. This constitutes a violation of Section 626.9541(o)(2). Since the Company has not filed a rate for this endorsement, an undercharge could not be calculated.

V. AGENTS/MGA REVIEW

Ten (10) applications/policies written during the scope of the examination were examined.

No errors were found.

## VI. CANCELLATIONS/NONRENEWALS REVIEW

Fifty (50) cancelled/nonrenewed policies were examined.

Eighteen (18) errors were found in thirteen (13) policies.

Errors affecting premiums resulted in eight (8) net underreturns totaling \$2,050.96, which have been returned to policyholders and three (3) net overreturns totaling \$859.

Any policies containing multiple errors, which included overcharges and undercharges, were recorded for their individual monetary impact in the error descriptions below.

The errors are broken down as follows:

1. Seven (7) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to correctly calculate the expense constant. These errors resulted in six (6) underreturns totaling \$68.13, which have been returned to the policyholders and one (1) overreturn of \$20.
2. Three (3) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to use the correct classification for the business or employees. These errors resulted in two (2) underreturns totaling \$1,534, which have been returned to the policyholders and one (1) overreturn of \$778.

3. Two (2) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to the use of incorrect rates. These errors resulted in two (2) underreturns totaling \$350, which have been returned to the policyholders.
4. Two (2) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to follow rules for correctly calculating officers' payroll charges. These errors resulted in two (2) underreturns totaling \$99, which have been returned to the policyholders.
5. Two (2) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. One (1) error was due to incorrectly calculating the minimum premium. One (1) error was due to failure to follow the Florida algorithm calculation procedure. These errors resulted in one (1) underreturn of \$218, which has been returned to the policyholder and one (1) overreturn of \$18.
6. Two (2) errors were due to failure to follow the filed rate, rating schedule, rating rule or underwriting guideline. This constitutes a violation of Section 627.191, Florida Statutes. These errors were due to failure to perform an audit within 90 days. This error occurred in the 1998 Examination, Page 11. EXHIBIT II.

VII. COMPLAINTS REVIEW

A complete record of all the complaints received by the Company since the date of the last examination has not been maintained as 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.

A. CONSUMER RECEIVED COMPLAINTS

The Company did not maintain a log of consumer received complaints. This constitutes a violation of Section 626.9541(1)(j), Florida Statutes.

IX. EXHIBITS

<u>SUBJECT</u>	<u>EXHIBIT NUMBER</u>
1998 EXAMINATION, PAGE 7	I
1998 EXAMINATION, PAGE 11	II
COMPLAINT HANDLING PROCEDURES	III