

2000 PROPERTY AND CASUALTY MARKET CONDUCT EXAMINATION

OF

WAUSAU BUSINESS INSURANCE COMPANY
(WAUSAU INSURANCE COMPANIES)

BY

THE FLORIDA DEPARTMENT OF INSURANCE

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I. INTRODUCTION

Wausau Business Insurance 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 February 20, 2000 and ended April 15, 2000. The last examination of this insurer by the Florida 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, \$9,073.00 has been returned to Florida consumers due to overcharges of premium. An additional \$1,255.00 is due to be returned and a rerate of Commercial Package Policies will return approximately \$60,225.00 to Florida consumers. Refunds issued, as a result of this examination, will total approximately \$70,553.00.

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 PACKAGE POLICY

1. Application of Rules, Rates and Forms

a. Rate/Rule Filings

Wausau Business Insurance Company is a member 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

Wausau Business Insurance Company is a member 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	\$1,564,585	82
1997	\$1,655,617	106
1998	\$2,045,274	142

3. Exam Findings

Fifty (50) policy files were examined.

One hundred fifty-six (156) errors were found.

Errors affecting premium resulted in eleven (11) overcharges totaling \$9,073.00 and twenty (20) undercharges totaling \$15,737.00.

The requested rerate of Commercial Package policies will produce approximately \$60,225 in overcharges. Exhibit I.

The errors are broken down as follows:

1. Thirty-four (34) errors were due to use of unfiled Form GL0001, Liability Declarations. This constitutes a violation of Section 627.410, Florida Statutes.
2. Thirty (30) errors were due to failure to provide timely notice of renewal premium. This constitutes a violation of Section 627.4133, Florida Statutes. This error also was brought to the Company's attention in the 1994 Market Conduct Examination Report (Page 10, Item 4). Exhibit II.
3. Twenty (20) errors were due to failure to follow the filed rating plan. These errors resulted in undercharges totaling \$15,737.00. This constitutes a violation of Section 627.062, Florida statutes.

The following were included in this category: incorrect property rates, incorrect property deductible factors, failure to use published specific property rates, failure to use correct published specific rates, use of tentative rates for buildings that have been specific-rated, incorrect package modification factors, class rating risks that were ineligible due to occupancy or construction, incorrect construction, failure to make a premium charge for Liability exposures, incorrect classification, and use of incorrect edition of rates.

4. Thirteen (13) errors were due to use of unfiled rates for WausauCover endorsement. The Company representative advised that the endorsement filing received approval. The pricing filing was disapproved by the Department, but "due to an oversight the endorsement was programmed and used." Exhibit III. This constitutes a violation of Section 627.062, Florida Statutes.

5. Twelve (12) errors were due to failure to deliver policy timely. These errors were for policies that were all issued more than sixty (60) days after inception of coverage. This constitutes a violation of Section 627.421, Florida Statutes.
6. Eleven (11) errors were due to failure to provide Risk Management guidelines. This constitutes a violation of Section 627.0625, Florida Statutes.
7. Eight (8) errors were due to failure to display telephone number and purpose on policy. This constitutes a violation of Section 627.4131, Florida Statutes.
8. Six (6) errors were due to failure to report individually rated risks. This constitutes a violation of Rule 4-137.008, Florida Administrative Code.
9. Five (5) errors were due to failure to maintain records. The files did not contain sufficient documentation to verify the premiums charged. The missing documentation included detailed worksheets, sales for each location on one risk, and Insurance Services Office (ISO) rates for a specific-rated risk. This constitutes a violation of Section 627.318, Florida Statutes.
10. Five (5) errors were due to failure to document or substantiate credit/debits. This constitutes a violation of Rule 4-170.004, Florida Administrative Code. This was brought to the Company's attention in the 1994 Market Conduct Report (Page 8, Item 2). Exhibit IV.
11. One (1) error was due to failure to follow the filed rules. This error was for a policy that covered nine locations in three states, with seven insured locations in Florida. The Company calculated the premium for only one location. Rule 29.B.3 of the Commercial Lines Manual states that "the rates applicable to the territory for

each location of the insured's operations" are to be used. This constitutes a violation of Section 627.062, Florida Statutes.

12. Two (2) errors were due to failure to follow the filed rating plan. Tentative rates were used for specific-rated risks and incorrect deductible factors were applied. These errors resulted in overcharges totaling \$2,083.00, which have been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
13. One (1) error was due to failure to follow the filed rating plan. This error consisted of use of tentative rates for joisted masonry construction instead of the published specific rates for frame construction and incorrect Liability rates, factors, Company deviation, Loss Cost Multiplier and Package modifier. This error resulted in an overcharge of \$1,312.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
14. One (1) error was due to failure to follow the filed rating plan. The Company class rated a risk that was ineligible for class rating due to occupancy as a restaurant and masonry noncombustible construction. This error resulted in an overcharge of \$382.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
15. One (1) error was due to failure to follow the filed rates. Incorrect General Liability rates, Loss Costs Multiplier and increased limits factors were used to calculate the premium. This error resulted in an overcharge of \$3,926.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
16. One (1) error was due to failure to follow the filed rating plan. This error was an incorrect contents Special Form class limit. This error resulted in an overcharge of \$115.00, which has been

refunded by the Company. This constitutes a violation of section 627.062, Florida Statutes.

17. One (1) error was due to failure to follow the filed rates for incorrect territory and construction. This error resulted in an overcharge of \$422.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
18. One (1) error was due to failure to follow the filed rating plan. A building occupied as a restaurant was class rated, but restaurants are ineligible for class rating and must be specific rated. This error resulted in an overcharge of \$221.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
19. One (1) error was due to failure to follow the filed rates, for incorrect construction and protection class. This error resulted in an overcharge of \$12.00, which has been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.
20. Two (2) errors were due to failure to follow the filed rating plan. The Company used noncombustible construction rates for a masonry noncombustible building and the Liability premium was based on Lessor's Risk rates. Occupant rates apply because the Insured occupies more than 75% of the building. These errors resulted in an overcharges of \$600.00, which have been refunded by the Company. This constitutes a violation of Section 627.062, Florida Statutes.

The Analyst examined fifty (50) policies that were issued during the scope of the examination, January 1996 to December 1998. Eleven (11) of these files developed overcharges totaling \$9,073.00, an average of \$825.00 per policy. Based on these findings, the Company has been requested to rerate all Commercial Package Policies and refund the overcharges to affected policyholders. Exhibit I. There were 330 policies issued during this period. Using the same figures as developed during the examination, it would appear that 22% of the 330 policies (73) may have been overcharged. With an average of \$825.00 per policy, the amount to be refunded would be approximately \$60,225.00.

B. WORKERS' COMPENSATION

1. Application of Rules, Rates and Forms

a. General Comments

Wausau Business 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>
1996	\$ 1,206,578	50
1997	\$ 3,596,547	133
1998	\$10,753,360	135

b. Error Percentages

Fifty (50) policies and audits were examined.

No errors were found.

2. Unit Statistical Review

The review of statistical cards is for the purpose of verifying that premium and claim statistics are properly reported to the NCCI. Workers' Compensation statistics are utilized in the rate making process when rate filings are presented to the Department of Insurance for consideration, as well as, in the development of experience modification factors on individual risks.

a. Audit Comparison

Forty (40) premium statistical cards were examined.

Six errors were found.

Errors affecting statistical reporting resulted in five (5) overreports totaling \$16,291.

The errors are broken down as follows:

1. Two (2) errors were due to failure to display and calculate a credit modification rate of .82. This also caused an overreport in the Total Modified Premium of \$649. This constitutes a violation of Section 627.191, Florida Statutes.
2. Four (4) errors were due to failure to correctly report Worker's Compensation Safety Program Credit. In all four instances the amount was added in lieu of being deducted for a total overreport of \$15,642. This constitutes a violation of Section 627.191, Florida Statutes.

b. Claim Comparison

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

No errors were found.

IV. AGENTS/MGA REVIEW

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

Seven (7) errors were found.

None of the errors affected policy fees.

The errors are broken down as follows:

1. Five (5) errors were due to failure to display agent's name and license identification number on application. This constitutes a violation of Section 627.4085, Florida Statutes.
2. One (1) error was due to failure to maintain records. The agent's name was not found in the file and licensure could not be determined. This constitutes a violation of Section 627.318, Florida Statutes.
3. One (1) error was due to use of an unlicensed nonresident agent. This constitutes a violation of Section 626.741, Florida Statutes.

V. CANCELLATIONS/NONRENEWALS REVIEW

Fifty (50) cancelled/nonrenewed policies were examined.

Ten (10) errors were found.

None of the errors affected premium calculations.

The errors are broken down as follows:

1. Eight (8) errors were due to failure to maintain records. The files did not contain Notice of Cancellation, Proof of Mailing, Return Premium advice, validity of cancellation, or evidence that the Company refused to insure. This constitutes a violation of Section 627.318, Florida Statutes.
2. One (1) error was due to failure to provide proof of mailing. This constitutes a violation of Rule 4-167.010, Florida Administrative Code.
3. One (1) error was due to failure to provide a specific reason for nonrenewal. The reason given was “in accordance with Company standards”, which is not a specific reason. This constitutes a violation of Section 627.4091, Florida Statutes.

VI. CLAIMS REVIEW

Fifty (50) claims were examined.

Ten (10) errors were found.

None of the errors affected payments.

The Company's internal claims handling procedures and reserving practices are described in Exhibits V and VI.

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 provide written explanation of claim denial. This constitutes a violation of Rule 4-166.026, Florida Administrative Code.
3. One (1) error was due to failure to affix 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 VII.

VIII. PENDING ISSUES

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

The Company has been requested to rerate all Commercial Package Policies that were issued during the scope of the examination. Eleven (11) of the fifty (50) files examined were found to contain errors that resulted in overcharges totaling \$9,073.00, an average of \$825.00 per policy. There were 330 policies issued during this period. Using the same figures as developed during the examination, it would appear that 22%, or seventy-three (73), of the 330 policies may have been overcharged. With an average of \$825.00 per policy, the amount to be refunded is approximately \$60,225.00.

IX. EXHIBITS

<u>SUBJECT</u>	<u>EXHIBIT NUMBER</u>
COMMERCIAL PACKAGE POLICY RERATE LETTER	I
1994 MARKET CONDUCT EXAMINATION REPORT,PAGE 10	II
MARCH 30, 2000 CRITICISM REPLY	III
1994 MARKET CONDUCT EXAMINATION REPORT,PAGE 8	IV
COMMERCIAL PROPERTY CLAIM-HANDLING PRACTICES	V
AUTO&GENERAL LIABILITY CLAIM-HANDLING PRACTICES	VI
INSURANCE DEPARTMENT COMPLAINTS PROCEDURES	VII