

MARKET CONDUCT EXAMINATION REPORT
AS OF DECEMBER 31, 2001

American Home Assurance Company
70 Pine Street
New York, New York 10270

NAIC Group Code 0012
NAIC Company Code 19380

EXAMINATION PERFORMED BY
INDEPENDENT CONTRACTORS
COLORADO DEPARTMENT OF REGULATORY AGENCIES
STATE OF COLORADO

April 29, 2004

The Honorable Doug Dean
Commissioner of Insurance
State of Colorado
1560 Broadway, Suite 850
Denver, Colorado 80202

Commissioner:

In accordance with Sections 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting, auditing and unit statistical card practices of the workers' compensation insurance business of American Home Assurance Company, hereinafter referred to as the "Company", has been conducted. The Company's records were examined at its regional office located at 1200 Abernathy Road, Building 600, Suite 700, Atlanta, Georgia 30328. The examination covered the period from January 1, 2001 to December 31, 2001.

The following market conduct examiners respectfully submit the results of the examination:

Lucille E. Whittle, CIE

K. C. Lang, AIE

**MARKET CONDUCT
EXAMINATION REPORT
OF
AMERICAN HOME ASSURANCE COMPANY**

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COMPANY PROFILE

The Company was organized in February 1899 under the title Globe and Rutgers Fire Insurance Company by the consolidation of the Globe Fire Insurance Company and the Rutgers Fire Insurance Company. Its title was changed on December 31, 1954, following a merger with or the absorption of a former subsidiary, which bore the name American Home Assurance Company. It was licensed to write business in Colorado on March 1, 1955.

The Company is American International Group, Inc.'s (AIG) principal market for property/casualty lines, emphasizing the underwriting of program business for major corporation buyers. In addition, the Company provides excess casualty and umbrella coverages as well as a wide range of commercial property coverages. Business is largely developed and serviced through brokerage sources. Policies are marketed under the direction of several operating divisions: commercial casualty; commercial property; multiple lines; mass marketing; accident and health; reinsurance and financial services; and pools and associations. The Company currently has a thirty-six percent (36%) participation in the seven (7) member American Home/National Union Intercompany pool.

The Company is licensed in DC, Guam and all states. It is also licensed in all provinces of Canada and forty-eight (48) foreign countries.

Based on figures supplied by the Colorado Division of Insurance's Industry Statistical Report, the Company reported direct written premium in Colorado for the calendar year 2001 of \$9,415,000, which represents a 1.10% market share for workers' compensation insurance.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This examination is in accordance with Colorado Insurance Law Section 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of this examination was to determine the Company's compliance with Colorado insurance laws and with generally accepted operating principles related to workers' compensation. Examination information contained in this report should serve only those purposes. The conclusions and findings of this examination report are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners, the Colorado Division of Insurance and the Insurance Regulatory Examiners Society. In reviewing material for this report, the examiners relied primarily on records and materials maintained by the Company. The examination period covered one year of the Company's operations, from January 1, 2001 to December 31, 2001.

File sampling was based on a review of audited policies, with accompanying claims, and claims for policies with large and small deductibles. Samples were systematically selected by using Audit Command Language (ACL) software and computer data files provided by the Company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each sampled policy and claim, any concerns or discrepancies were noted on comment forms and these comment forms were delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree or disagree and justify the Company's noted action. At the conclusion of the examination, the Company was provided a summary of the findings for each sample. The report of the examination is, in general, a report by exception. Therefore, much of the material reviewed will not be contained in this written report as references to any practices, procedures, or files manifesting no errors were omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines. When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exceptions percentages less than five percent (5%) were also included.

This report contains information regarding exceptions to Colorado insurance laws. The examination included review of the following three (3) Company operations:

1. Company Operations/Management
2. Underwriting and Rating
3. Unit Statistical Card Reporting

All unacceptable or non-complying practices may not have been discovered during the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance of such practices. This report should not be construed to endorse or discredit any insurance company or insurance product. Statutory cites and regulation references are as of the period under examination unless otherwise noted. Examination report recommendations not referencing specific insurance laws and/or regulations may be presented to encourage improvement in Company practices and operations and ensure consumer protection. Examination findings may result in administrative action by the Division of Insurance.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's Workers' Compensation underwriting and unit statistical card reporting practices to determine compliance with Colorado insurance law as outlined in Exhibit 1.

Exhibit 1

Law	Subject
Section 10-3-1103	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104	Unfair methods of competition and unfair or deceptive acts or practices.
Section 10-4-110	Notice of intent prior to nonrenewal of certain policies of insurance.
Section 10-4-110.5	Notice of intent prior to unilateral increase in premium or decrease in coverage previously provided of certain policies of insurance.
Section 10-4-113	Exemptions.
Section 10-4-401	Purpose – applicability.
Section 10-4-413	Records required to be maintained.
Section 10-4-416	Prohibiting changes in rates or coverages.
Section 10-4-421	Notice of rate increases and decreases.
Regulation 1-1-7	Market Conduct Record Retention
Regulation 5-1-11	Risk Modification Plans
Regulation 5-3-1	Workers' Compensation Risk Management Regulation
Regulation 5-3-2	Workers' Compensation Insurance Data Reporting Regulation
Regulation 5-3-3	Concerning Workers' Compensation Deductible Policies in Excess of \$5,000
Regulation 5-3-4	Concerning Standards for Not-At-Fault Motor Vehicle Accidents Under Workers' Compensation, Loss Limitation in Calculating Experience Modifications and Distribution of Losses in Excess of The Loss Limitation
Regulation 5-3-5	Workers' Compensation Deductible Reimbursement

Company Operations/Management

The examiners reviewed Company implementation and quality controls, record retention, and timely cooperation with the examination process.

Contract Forms and Endorsements

Forms and endorsements used by the Company in writing Workers' Compensation policies containing Colorado exposures are those filed with the Colorado Division of Insurance by the National Council on Compensation Insurance (NCCI) and no review of these forms was made.

Audited Policies

For the period under examination, the examiners systematically selected the following underwriting samples to determine compliance with underwriting and rating requirements:

Review Lists	Population	Sample Size	Percentage to Population
Audited Policies with Experience Modifiers	340	50	15%
Audited Policies without Experience Modifiers	182	50	27%

Underwriting and Rating

The examiners reviewed the rate and rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was then compared against samples of audited policies with experience modifiers and audited policies without experience modifiers to determine compliance with NCCI rates, filed loss costs factors, audited payroll information, experience modifiers, schedule rating, officer and sole proprietor payrolls, and Colorado cost containment and designated medical provider requirements.

Unit Statistical Card Reporting

For the period under examination, the examiners systematically selected the following samples of claims from audited policies with experience modifiers and from policies with large and small deductibles to determine compliance with NCCI unit statistical card reporting requirements:

Review Lists	Population	Sample Size	Percentage to Population
Claims from Audited Policies with Experience Modifiers	489	216	44%
Claims from Policies with Large and Small Deductibles	3,256	564	17%

EXAMINATION REPORT SUMMARY

The examination resulted in a total of five (5) issues arising from the Company's apparent failure to comply with Colorado insurance laws that govern all property and casualty insurers operating in the State of Colorado. These issues involved the following Company operations:

Company Operations/Management

In the area of Company operations/management, one (1) compliance issue is addressed in this report. This issue arises from Colorado statutory and regulatory requirements that must be followed when writing workers' compensation policies containing Colorado exposures. In regard to this one (1) practice, it is recommended that the Company review its record retention procedures and make the necessary changes to assure future compliance with applicable Colorado insurance laws.

The compliance issue addressed in this phase is as follows:

- Failure of the Company, in some cases, to maintain records required when writing workers' compensation policies containing Colorado exposures.

Underwriting and Rating

In the area of underwriting and rating, four (4) compliance issues are addressed in this report. These issues arise from Colorado statutory and regulatory requirements that must be followed when writing workers' compensation policies containing Colorado exposures. In regard to these four (4) underwriting and rating practices, it is recommended that the Company review its underwriting and rating procedures and make the necessary changes to assure future compliance with applicable Colorado insurance laws.

The four (4) compliance issues addressed in this phase are as follows:

- Failure of the Company to require each insured to indicate on a form their awareness of the potential savings available when an insured obtains cost containment certification by the Colorado Workers' Compensation Cost Containment Board and to retain this form in the insured's underwriting file.
- Failure of the Company to require each insured to indicate on a form their awareness of the premium differential available when an insured selects a designated medical provider and to retain this form in the insured's underwriting file.
- Failure of the Company, in some cases, to use experience modification factors promulgated by NCCI.
- Failure of the Company, in some cases, to apply the correct rating methodology when rating workers' compensation policies with Colorado exposures.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of previous Market Conduct Examinations are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

MARKET CONDUCT EXAMINATION REPORT

FACTUAL FINDINGS

AMERICAN HOME ASSURANCE COMPANY

OPERATIONS/MANAGEMENT
FINDINGS

Issue A: Failure of the Company, in some cases, to maintain records required when writing workers' compensation policies which contain Colorado exposures.

Section 10-4-413, C.R.S., Records required to be maintained, states in part:

(1) Every insurer...shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience or the experience of its members and of the data, statistics, or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys, or inspections made or used by it, so that such records will be available at all reasonable times to enable the commissioner to determine whether such organization, insurer, group, or association and, in the case of an insurer or rating organization, every rate, rating plan, and rating system made or used by it complies with the provisions of this part 4 applicable to it...Such records shall be maintained in an office within this state or shall be made available for examination or inspection by the commissioner at any time, upon reasonable notice.

Colorado Regulation 1-1-7, Market Conduct Record Retention, promulgated under the authority of Section 10-1-109, C.R.S., states, in part:

(B) RECORDS REQUIRED FOR MARKET CONDUCT PURPOSES

1. Every insurer/carrier or related entity licensed to do business in this state shall maintain its books, records, documents and other business records so that the insurer's/carrier's or related entity's claims, rating, underwriting, marketing, complaint, and producer licensing records are readily available to the Commissioner. Unless otherwise stated within this regulation, records shall be maintained for the current calendar year plus two calendar years.

2. A policy record shall be maintained for each policy issued in this state. Policy records shall be maintained for the current policy term, plus two calendar years, unless otherwise contractually required to be retained for a longer period. Provided, however, documents from policy records no longer required to be maintained under this regulation, which are used to rate or underwrite a current policy, must be maintained in the current policy records. Policy records shall be maintained so as to show clearly the policy term, basis for rating and, if terminated, return premium amounts, if any. Policy records need not be segregated from the policy records of other states so long as they are readily available to the commissioner as required under this rule. A separate copy need not be maintained in the individual policy records, provided that any data relating to that policy can be retrieved. Policy records shall include:

- a. The application for each policy, if any;
- b. Declaration pages, endorsements, riders, termination notices, guidelines or manuals associated with or used for the rating or underwriting of the policy. Binder(s) shall be retained if a policy was not issued; and
- c. Other information necessary for reconstruction of the rating and underwriting of the policy.

Colorado Regulation 5-1-11, Risk Modification Plans, promulgated under the authority of Section 10-1-109, 10-4-401, 10-4-403, 10-4-404, and 10-4-408, C.R.S., states, in part:

(III) RULES

(A) Definitions...

(13) "Rate modification plan" (commonly called Schedule Rating Plan or Individual Risk Premium Modification Plan) means a rating plan or procedure which provides a listing of various risk characteristics or conditions and a range of modification factors which may be applied for these characteristics or conditions to the manual rate of a particular insurance risk...

B. Rate modification plans, justified according to the standards herein, are permitted. However, the Commissioner has determined that the use of unjustified rate modification plans is not reasonable, is not objective and is unfairly discriminatory. Therefore, the use of unjustified rate modification plans in rating of commercial property and casualty insurance risks located in Colorado is prohibited.

The following elements shall be considered in determining whether or not a rate modification plan, or its use, is justified...

4. Individual underwriting files must contain the specific criteria and document the particular circumstances of the risk that support each debit and credit. This documentation must exist in the individually rated risk file to enable the Commissioner to verify compliance with this regulation. Documentation may include, but is not limited to, inspection reports, photographs, agent observations and findings, insured's formal safety plans, premises evaluations and narrative reports covering other aspects of the risk...

The Company's Large Risk Rating Plan Filing, to be effective on or after May 1, 1996, states in part:

Rules and Procedures Governing the Application of the Large Risk Rating Plan:

III. How This Plan Applies...

5. Election to be Subject to the Plan: The insurer must make a written offer to the insured to provide coverage subject to this plan. The offer may be in any form, provided it includes at least the following information:

- Name(s) of insurer(s),
- Name(s) of insured(s)
- Effective and expiration dates of the plan,
- State(s) in, and line(s) to which, the plan will apply on its effective date,
- The insurer's Limit(s) of Liability, the insured's Loss Limit(s) and Reimbursable or Deductible Amount(s) and the ALAE Option(s) applicable,
- The Aggregate Stop Amount and Aggregate Stop Limit or alternatively at the option of the insurer, the Maximum Subject Insurance Cost limit, if applicable

- The estimated final adjusted premiums and the reimbursable amounts, showing in summary form how such premiums will be calculated, including the identification and estimated values of all applicable rating elements.

The insured must notify the insurer in writing of its election to be subject to this plan. Any written form of notice is acceptable if it includes the items of information in paragraph a. above and is executed by an authorized representative of the insured.

The insurer accepts the election of the insured by accepting the insured's written notification in its underwriting file; and if so required by any state agency, the insurer must file a copy thereof with such agency.

The Company's Loss Reimbursement Plan Filing effective September 12, 1997, states in part:

Part II. Operation of the Plan

A. How the Insured Elects to be Subject to the Plan

1. The insurer must make a written offer to the insured on or before the effective date of the Plan to provide coverage subject to this Plan. The offer may be in any form, provided it includes at least the following information:

- a) Name of insurer,
- b) Name of insured,
- c) Effective and expiration dates of the Plan,
- d) State or states in which the Plan will apply on its effective date,
- e) The Loss Reimbursement Amount,
- f) The Aggregate Limit, if applicable,
- g) If the Plan is to apply to a Long Term Construction Project or a Wrap-Up Construction Project, identification of the Project,
- h) The estimated total of the reimbursable amounts, estimated premium, the claims payment fund deposits, and the types and amounts of collateral required by the insurer, along with the initial payment and delivery due dates.

2. The insured must notify the insurer in writing of its election to be subject to this Plan. Any written form of notice is acceptable if it includes the items of information in paragraph 1. above and is executed by an authorized representative of the insured.

3. The insurer accepts the election of the insured by accepting the insured's written notification. The insurer must keep the notification in its underwriting file; and if so required by any state agency, the insurer must file a copy thereof with such agency. If any jurisdiction requires additional information to be filed with it, the insurer will make such filings according to such jurisdiction's requirements.

The following chart illustrates the significance of errors versus the population and sample examined:

**WORKERS' COMPENSATION POLICIES WITH EXPERIENCE MODIFIERS
WRITTEN FROM JANUARY 1, 2001 TO DECEMBER 31, 2001**

Population	Sample Size	Number of Exceptions	Percentage to Sample
340	50	28	56%

An examination of fifty (50) audited policies with experience modifiers, representing 15% of all workers' compensation audited policies with experience modifiers which contained Colorado exposures, written by the Company during the period January 1, 2001 to December 31, 2001, showed twenty-eight (28) exceptions (or 56% of the sample), and forty-five (45) instances, in which policy files did not contain a required document. Twenty (20) policy files did not contain a written offer by the Company and a written acceptance by the insured as required by the Company's Large Risk Rating Plan filing. Nineteen (19) policy files did not contain a written offer by the Company and a written acceptance by the insured as required by the Company's Loss Reimbursement Plan filing. Six (6) policy files did not contain a breakdown and/or justification for the schedule credit applied to the policy.

Recommendation #1

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-413, C.R.S. and Colorado Regulations 1-1-7 and 5-1-11. If the Company is unable to provide such documentation, it should be required to provide written evidence to the Colorado Division of Insurance that it will maintain required records when writing workers' compensation policies containing Colorado exposures in compliance with Colorado insurance laws.

UNDERWRITING AND RATING
FINDINGS

Issue B: Failure of the Company to require each insured to indicate on a form their awareness of the potential savings available when an insured obtains cost containment certification by the Colorado Workers' Compensation Cost Containment Board and to retain this form in the insured's underwriting file.

Colorado Regulation 5-1-11, Risk Modification Plans, promulgated pursuant to the authority of Section 10-1-109, 10-4-401, 10-4-403, 10-4-404, and 10-4-408, C.R.S., states, in part:

(III) RULES...

(D) Workers' Compensation Cost Containment Disclosures

All workers' compensation insurers, including the Colorado Compensation Insurance Authority, shall disclose the availability of cost containment certification by the Colorado Workers' Compensation Cost Containment Board and the potential premium savings on the face of the insurance policy or in a separate disclosure form attached as an addendum to the policy. Such disclosure applies regardless of whether or not a risk is experience or schedule rated. *Insurers shall require that the insured business entity indicate, on a form developed by the insurer, which states that the business entity is aware of the premium dividend if the business entity's risk management program is certified by the Colorado Cost Containment Board. This form shall be made part of the insured business entity's underwriting file.* (Emphasis added.)

The following charts illustrate the significance of errors versus the populations and samples examined:

**WORKERS' COMPENSATION POLICIES WITH EXPERIENCE MODIFIERS
WRITTEN FROM JANUARY 1, 2001 TO DECEMBER 31, 2001**

Population	Sample Size	Number of Exceptions	Percentage to Sample
340	50	50	100%

An examination of fifty (50) files, representing 15% of all workers' compensation audited policies with experience modifiers which contained Colorado exposures, written by the Company during the period January 1, 2001 to December 31, 2001, showed fifty (50) exceptions (or 100% of the sample) where no form on which the insureds could indicate their awareness of the potential savings available for cost containment certification by the Colorado Workers' Compensation Cost Containment Board was found in the insureds' underwriting files. These potential savings are generally expressed as percentages.

**WORKERS' COMPENSATION POLICIES WITHOUT EXPERIENCE MODIFIERS WRITTEN
FROM JANUARY 1, 2001 TO DECEMBER 31, 2001**

Population	Sample Size	Number of Exceptions	Percentage to Sample
182	50	50	100%

An examination of fifty (50) audited policies without experience modifiers, representing 27% of all workers' compensation audited policies without experience modifiers which contain Colorado exposures, written by the Company during the period January 1, 2001 to December 31, 2001, showed fifty (50) exceptions (or 100% of the sample) where no form on which the insureds could indicate their awareness of the potential savings available for cost containment certification by the Colorado Workers' Compensation Cost Containment Board was found in the insureds' underwriting files. These potential savings are generally expressed as percentages.

Recommendation #2

Within thirty (30) days, the Company should be required to provide documentation demonstrating why it should not be considered in violation of Colorado Regulation 5-1-11. In the event the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance which will ensure that it will retain a copy of the cost containment notification, on which the insured has indicated their awareness of this program, in each insured's underwriting file in compliance with Colorado insurance laws.

Issue C: Failure of the Company to require each insured to indicate on a form their awareness of the premium differential available when an insured selects a designated medical provider and to retain this form in the insured's underwriting file.

Colorado Regulation 5-1-11, Risk Modification Plans, promulgated pursuant to the authority of Section 10-1-109, 10-4-401, 10-4-403, 10-4-404, and 10-4-408, C.R.S., states, in part:

(III) RULES...

(D)...On an annual basis, all workers' compensation insurers, including the Colorado Compensation Insurance Authority, shall disclose the premium differential on the face of the insurance policy or in a separate disclosure form attached as an addendum to the policy when the policyholder has selected a designated medical provider. Such disclosure applies regardless of whether a risk is experience rated or schedule rated. *Insurers shall require that the insured business entity indicate, on a form developed by the insurer, which states that the business entity is aware of the premium differential for selecting a designated medical provider. This form shall be made part of the insured business entity's underwriting file.* (Emphasis added.)

The following charts illustrate the significance of errors versus the populations and samples examined:

**WORKERS' COMPENSATION POLICIES WITH EXPERIENCE MODIFIERS WRITTEN
FROM JANUARY 1, 2001 TO DECEMBER 31, 2001**

Population	Sample Size	Number of Exceptions	Percentage to Sample
340	50	50	100%

An examination of fifty (50) audited policies with experience modifiers, representing 15% of all workers' compensation audited policies with experience modifiers which contain Colorado exposures, written by the Company during the period January 1, 2001 to December 31, 2001, showed fifty (50) exceptions (or 100% of the sample) where no form on which the insureds could indicate their awareness of the premium differential available if they have selected a designated medical provider was found in the insureds' underwriting files. The premium differential is generally expressed as a percentage.

**WORKERS' COMPENSATION POLICIES WITHOUT EXPERIENCE MODIFIERS –
OCTOBER 1, 1999 TO SEPTEMBER 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
182	50	50	100%

An examination of fifty (50) audited policies without experience modifiers, representing 27% of all workers' compensation audited policies without experience modifiers which contain

Colorado exposures, written by the Company during the period January 1, 2001 to December 31, 2001, showed fifty (50) exceptions (or 100% of the sample) where no form on which the insureds could indicate their awareness of the premium differential available if they have selected a designated medical provider was found in the underwriting files. The premium differential is generally expressed as a percentage.

Recommendation #3

Within thirty (30) days, the Company should be required to provide documentation demonstrating why it should not be considered in violation of Colorado Regulation 5-1-11. In the event the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance which will ensure that the Company will retain a copy of the form on which the insured has indicated their awareness of the premium differential available if they have a designated medical provider in each insured's underwriting file in compliance with Colorado insurance laws.

Issue D: Failure of the Company, in some cases, to use experience modification factors promulgated by NCCI.

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices states, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance...

(f)(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Section 10-4-413, C.R.S., Records required to be maintained, states, in part:

(1) Every insurer, rating organization, or advisory organization and every group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience or the experience of its members and of the data, statistics, or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys or inspections made or used by it, so that such records will be available at all reasonable times to enable the commissioner to determine whether such organization, insurer, group, or association and, in the case of an insurer or rating organization, every rate, rating plan, and rating system made or used by it complies with the provisions of this part 4 applicable to it. The maintenance of such records in the office of a licensed rating organization of which an insurer is a member or subscriber will be sufficient compliance with this section for any insurer maintaining membership or subscribership in such organization to the extent that the insurer uses the rates, rating plans, rating systems, or underwriting rules of such organization. Such records shall be maintained in an office within this state or shall be made available for examination or inspection by the commissioner at any time, upon reasonable notice.

NCCI's Experience Rating Plan Manual states in part:

Part One – Page 1

I.A.6. Issuance of Modification

The experience modification for experience rated risks shall be calculated and issued by the appropriate rating organization listed in the Appendix.

The following chart illustrates the significance of errors versus the population and sample examined:

**WORKERS' COMPENSATION POLICIES WITH EXPERIENCE MODIFIERS
WRITTEN FROM JANUARY 1, 2001 TO DECEMBER 31, 2001**

Population	Sample Size	Number of Exceptions	Percentage to Sample
340	50	9	18%

An examination of fifty (50) audited policies with experience modifiers, representing 15% of all workers' compensation audited policies with experience modifiers which contain Colorado exposures, written by the Company during the period January 1, 2001 to December 31, 2001, showed nine (9) exceptions (or 18% of the sample) in which the experience modification factors used were not the ones promulgated by NCCI.

Recommendation #4

Within thirty (30) days, the Company should be required to provide documentation demonstrating why it should not be considered in violation of Sections 10-3-1104 and 10-4-413, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance which will ensure that all workers' compensation policies written by the Company which contain Colorado exposures will contain the experience modification factors promulgated by NCCI in compliance with Colorado insurance laws.

Issue E: Failure of the Company, in some cases, to apply the correct rating methodology when rating workers' compensation policies which contain Colorado exposures.

Section 10-4-401, C.R.S., Purpose – applicability, states, in part:

(3) The kinds of insurance subject to this part 4 shall be divided into two classes, as follows...

(b) Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Additionally, Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance...

(f)(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Regulation 5-1-10, Rate and Rule Submissions Property and Casualty Insurance, promulgated pursuant to the authority of Sections 10-1-109, 10-3-1110, 10-4-404, and 10-4-404.5, C.R.S., states, in part:

Section 5. Rules...

C. Rule Filing General Requirements...

2. Every property and casualty company, including those writing workers' compensation and title insurance, is required by this regulation to provide a list of minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

In late 2001, NCCI filed by month adjustment factors for 2002 unexpired portions of outstanding policies due to updates to Colorado's Medical Fee Schedule.

The Company's Large Risk Rating Plan filing, effective on or after May 1, 1996, states in part:

B. Phase Two: How Standard Premiums Are Adjusted

1. Premium Calculation Method...

C. The final premium for the insurance to which Phase Two of this plan DOES apply will be the sum of Items 1., 2., 3. and 4., below, such sum divided by Item 5; plus Item 6...

Item 5. Tax and Assessments Divisor: One (1.000) minus the sum of the Tax and Assessment Factors applicable to the final premium where such final premium is the base of taxation or assessment in the state for the type of insurance.

The following charts illustrate the significance of errors versus the populations and samples examined:

**WORKERS' COMPENSATION POLICIES WITH EXPERIENCE MODIFIERS
WRITTEN FROM JANUARY 1, 2001 TO DECEMBER 31, 2001**

Population	Sample Size	Number of Exceptions	Percentage to Sample
340	50	20	40%

An examination of fifty (50) audited policies with experience modifiers, representing 15% of all workers' compensation audited policies with experience modifiers which contain Colorado exposures, written by the Company during the period January 1, 2001 to December 31, 2001, showed forty (40) exceptions (or 80% of the sample), and fifty-nine (59) instances, in which incorrect rating methodology was used. Thirty-seven (37) policies did not contain the by month adjustments for unexpired portions in 2002 filed by NCCI due to updates to Colorado's medical fee schedule. Nineteen (19) Loss Reimbursement Program policies had a premium tax factor of 2.20%, instead of the correct factor of 2.00%, included in the Tax Provision in Premium factor applied to the policies. Two (2) Large Risk Rating Plan policies did not contain the 7.99% Tax Provision in Premium factor required by the Company's filing. One (1) policy file contained a schedule rating modification worksheet indicating that the insured was entitled to a 25% schedule credit; however, this credit was not applied when the policy was written.

**WORKERS' COMPENSATION POLICIES WITHOUT EXPERIENCE MODIFIERS –
OCTOBER 1, 1999 TO SEPTEMBER 30, 2000**

Population	Sample Size	Number of Exceptions	Percentage to Sample
182	50	47	94%

An examination of fifty (50) audited policies without experience modifiers, representing 27% of all workers' compensation audited policies without experience modifiers which contain Colorado exposures, written by the Company during the period January 1, 2001 to December 31, 2001, showed forty-eight (48) exceptions (or 96% of the sample) where policies did not contain the by month adjustments for unexpired portions in 2002 filed by NCCI due to updates to Colorado's medical fee schedule.

Recommendation #5

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-401, 10-3-1104, C.R.S, and Colorado Regulation 5-1-10. If the Company is unable to provide such documentation, it should be required to provide written evidence to the Colorado Division of Insurance that it will apply correct rating methodology when rating policies with Colorado exposures in compliance with Colorado insurance laws.

SUMMARY OF RECOMMENDATIONS LOCATOR
EXAMINATION REPORT ON
AMERICAN HOME ASSURANCE COMPANY

	ISSUE	RECOMMENDATION	PAGE #
A	Failure of the Company, in some cases, to maintain records required when writing workers' compensation policies which contain Colorado exposures.	1	15
B	Failure of the Company to require each insured to indicate on a form their awareness of the potential savings available when an insured obtains cost containment certification by the Colorado Workers' Compensation Cost Containment Board and to retain this form in the insured's underwriting file.	2	18
C	Failure of the Company to require each insured to indicate on a form their awareness of the premium differential available when an insured selects a designated medical provider and to retain this form in the insured's underwriting file.	3	20
D	Failure of the Company, in some cases, to use experience modification factors promulgated by NCCI.	4	22
E	Failure of the Company, in some cases, to apply the correct rating methodology when rating workers' compensation policies which contain Colorado exposures.	5	25

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