

OHIO DEPARTMENT OF INSURANCE

MARKET CONDUCT EXAMINATION

OF

The Ohio FAIR Plan Underwriting Association

NAIC# 32573

As Of

June 30, 2005





Bob Taft, Governor
Ann Womer Benjamin, Director

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Honorable Ann Womer Benjamin
Director
Ohio Department of Insurance
2100 Stella Court
Columbus, Ohio 43215-1067

Director:

Pursuant to your instructions and in accordance with the powers vested under Title 39 of the Ohio Revised Code, a market conduct examination was conducted on the operations of The Ohio FAIR Plan Underwriting Association, NAIC Code #32573. The examination was conducted at the Association's office location at 2500 Corporate Exchange Drive, Columbus, Ohio 43231.

A report of the examination is enclosed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Melissa L. Hull".

Melissa L. Hull
Assistant Director, Market Regulation and
Licensing Divisions

A handwritten date "11/6/06" in black ink.

Date



Accredited by the National Association of Insurance Commissioners (NAIC)
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FOREWORD

On May 17, 2005, the Market Regulation and Licensing Division, Ohio Department of Insurance (“Department”), started an examination into the non-financial business practices of The Ohio FAIR Plan Underwriting Association (“Association”). On November 7, 2005, the on-site portion of the examination started at the Association’s office in Columbus, Ohio. Below is a summary of the examiners’ overall findings. Additional detail regarding the specific tests conducted by the examination team and the results of those tests follow the Executive Summary.

EXECUTIVE SUMMARY

Except where noted, the examiners determined that the Association was in compliance with Ohio statutes and rules.

Claims Settlement Practices

The Association’s claims settlement practices are the most significant finding of the examination and have the greatest impact on its consumers. The examiners found that the Association, in its claim settlements for some files, failed to calculate the actual cash value of losses in accordance with Ohio rules. Specifically, depreciation was applied inconsistently. Replacement cost should be based on the cost new at time of loss as required by rule. Instead, this was sometimes based on other factors such as cost of an item of similar age and condition. In addition, sales tax was not documented as a separate calculation in claim settlements.

The examiners recommend a thorough revision of the Association’s loss valuation process. A third party vendor should assist with the development of consistent and objective loss valuations in order to assure fair and impartial treatment for all claimants.

Fraud Reporting

The Association was in compliance with Ohio Revised Code (“R.C.”) 3999.41, which requires a written antifraud program. However, the Association failed to report claims where there was a suspicion of fraud. The Association should revise its practices to report all claims involving a suspicion of fraud.

Agent Licensing

The Association’s records of agents were inadequate. It was frequently difficult to identify the specific agents listed on applications, which delayed the examiners from finalizing this examination. The Association should make improvements in its systems for maintaining agent data.

Farm Inspections

There were some timeliness problems in returning farm inspections. However, the Association has already implemented an automated process to expedite handling.

Crime Renewal Notices

The Association considered its “Residential and Commercial Crime” premium renewal notices as sufficient to serve as the final notice if the premium was not paid. However, the notices did not contain the required “right of appeal” language. As such, these notices are not sufficient. The examiners recommend that the Association revise these notices to conform to Ohio law.

Insured's Request to Cancel Notice

The Association's cancellation notices, prepared at the insured's request, failed to include the required right to appeal wording on the notices. The examiners recommend that the Association revise these notices to conform to Ohio law.

Other Operational Issues

- The Association should create a new policy-numbering system for crime policies.
- While not a statutory requirement, the examiners suggest that the Association provide an e-mail address to the Department's Consumer Services Division for the receipt of consumer complaints, in lieu of facsimiles. The establishment of an e-mail address for the processing of consumer complaints from the Department would facilitate communication and resolution of consumer complaints.

Self-audits

The Association should conduct audits on all areas of noncompliance with Ohio statutes and rules. These audits should be reported to the Department within six months from the conclusion of this exam.

SCOPE OF EXAMINATION

This examination was conducted under authority provided by R.C. 3901.011 and R.C. 3929.45. The examination was restricted to the Association's activities for the period of January 1, 2004, through June 30, 2005, and was conducted in accordance with the standards and procedures established by the National Association of Insurance Commissioners ("NAIC") and Ohio's applicable statutes and regulations. The examination report is a report by test.

Accordingly, the examination included a review of the following areas: operations, history, agent licensing and commissions, reporting requirements, rating and underwriting, claims procedures, claims settlement practices, and policyholder services.

METHODOLOGY

As part of the examination, the Department's examiners reviewed the Association's policy and claim files and its corresponding procedure manuals. This information was supplemented by interviewing employees and with written inquiries requesting clarification and/or additional information.

Based on the examiners' request, the Association supplied electronic data files. The examiners segmented each data file by line of business: homeowners, dwelling fire, commercial property, farm, residential crime, and commercial crime.

The examiners designed and applied a series of tests to the files reviewed to determine the Association's level of compliance with Ohio's insurance statutes and rules. These tests are described, and the results are noted in this report. The examiners used the NAIC's standard of a seven percent error ratio on claim files (93% compliance rate) and a ten percent error ratio on all

other files (90% compliance rate) to determine whether an apparent pattern or practice of non-compliance existed for any given test.

The results of each test are reported separately. Each test is expressed as a “yes/no” question. A “yes” response indicates compliance and a “no” response indicates a failure to comply. A “no” response may also be referred to in this report as an “exception.”

In any instance where errors were noted, the examiners submitted a request for information to the Association describing the apparent error. The Association responded to these inquiries with notes as to whether the Association:

- Concurred with the findings;
- Had additional information for the examiners to consider; and/or,
- Proposed remedial action(s) to correct the apparent deficiency.

The examiners’ recommendations, as applicable, are included in this report.

SAMPLING

Where the total population of policy or claim records was less than 100 records, the entire population was tested for compliance. Otherwise, all tests were conducted on a sample of files randomly selected from a given report. Samples were selected using a standard business database application that provides a true random sample.

ASSOCIATION HISTORY

The Federal Riot Reinsurance Act was passed by Congress and signed into law on August 1, 1968. (It subsequently expired in 1983.) Essentially, the Act assured that the federal government would provide reinsurance to companies for catastrophic loss by riot in those states that established a FAIR Plan.

Subsequent to the passage of the federal law, the Department asked that the Ohio Insurance Institute formulate a FAIR Plan for Ohio. The Association was created under R.C. 3929.41 *et seq.*, in November 1968 to provide essential insurance coverage for eligible property unable to obtain insurance through the voluntary market. Initially, the Association’s Plan of Operation applied to a limited number of metropolitan areas. By 1977, all areas of the state were eligible for basic property insurance, including farm coverage, through the plan.

Since 1981, the Association has offered homeowners insurance for one and two family owner-occupied properties. The availability of homeowners coverage provided the opportunity for theft and liability coverage for these properties as well. Since 1987, a Crime Insurance Program has been offered through the Association for qualifying residential and commercial property.

ASSOCIATION OPERATIONS

The Association was created by R.C. 3929.41 *et seq.*, to assure stability in the property insurance market and to assure availability of basic property insurance and homeowners insurance. Ohio Administrative Code (“Ohio Adm.Code”) 3901-1-18 encompasses the Association’s Plan of

Operations. Among other things, the plan specifies permissible risks, requirements for property inspections, and the structure of the Association's Board of Governors.

R.C. 3929.42(A) prohibits the Association from including manufacturing exposures or coverage for automobiles in basic property insurance. The Association provides a market for the following lines of property insurance: homeowners, dwelling fire, farm fire, commercial fire, residential crime, and commercial crime.

The Association is authorized to only insure properties located in the state of Ohio. All insurance companies licensed to transact basic property or homeowners insurance business in Ohio are members. Each company may be assessed in direct proportion to its Ohio premium volume to cover any deficit or projected deficit arising out of the operation of the Association.

As reported on its annual financial statement, the Association's direct premiums written and direct losses incurred for calendar year 2005 were as follows:

Line of Business	Direct Premiums Written	Direct Losses Incurred
Fire	\$6,844,487	\$5,434,887
Allied lines	\$2,128,916	\$1,037,759
Homeowners multiple peril	\$23,669,474	\$19,022,272
Other liability	\$66,117	\$768
Burglary and theft	\$21,251	\$16,357
Total	\$32,730,245	\$25,512,043

As of December 31, 2005, the officers of the Association were:

President and Treasurer: Norman E. Beal
 Vice President and Secretary: Ellen R. Leslie
 Vice President David J. Engleson
 Vice President David H. Culler III

AGENT LICENSING AND COMMISSIONS

The Association has no appointed agents, but it is statutorily authorized to pay commissions to licensed, resident agents who assist property owners who apply to the FAIR Plan for coverage. As of the end of the exam period, commissions were paid at the rate of 10% on new and renewal commercial business and 12% on new and renewal residential business.

In July of 2002, the Association made on-line quoting available on its website for homeowners and dwelling fire policies. This development followed on-line access to policy application forms introduced in August of 2001.

The Association is permitted to accept applications directly from property owners. Those applications are not included in the agent licensing and commission tests.

Agent Licensing

Methodology:

- The Association supplied the following data files:
 1. A list of all policies issued as new business during the examination period where an agent participated in the application process.
 2. A list of all agents on record that submitted at least one application during the examination period.
- The examiners compiled a file from Department records of the license effective date and license status for all agents that submitted applications during the examination period as reported by the Association.
- The Association's automated data files did not contain the date an application was solicited. For the purpose of this test, the examiners used the policy effective date.
- The examiners compared the Association's list of agents with the Department's agent licensing records.
- If the agent was not licensed as of the effective date of the policy, then the examiners considered the record to be an exception.

Standard: Association records of licensed producers match Department records.

Test: Were the agents reported by the Association as soliciting or procuring applications for insurance licensed as required by R.C. 3905.02?

Findings:

Applications	Yes	No	Standard	Compliance
46,759	46,657	102	90%	99.8%

Unique agents/agencies	Yes	No	Standard	Compliance
3,869	3,866	3	90%	99.9%

The standard of compliance is 90%. The Association's practices met this standard.

Examiners' Comments:

- One agent never held an insurance license in the state of Ohio.
- One agent's license had been inactive since 1994.
- One unlicensed agent submitted 96 applications during the examination period.

Commissions

Methodology:

- The Association supplied a list of all agents that were paid commissions during the examination period, including the agent's name and tax identification number. There were instances where more than one agent/agency was paid commission on a single policy.
- The examiners compared the Association's commission list with the Department's agent licensing records, as of the policy effective date.

- The examiners considered the following to be exceptions:
 1. Commission was paid to an agent that was not licensed as of the effective date of the policy; and/or,
 2. It was not possible to confirm that the agent/agency was a licensed resident agent.

Standard: The Association shall pay commissions only to licensed resident agents.

Test: Were the persons reported by the Association as receiving commissions licensed resident agents as of the date of the application as required by Ohio Adm.Code 3901-1-18(G)(4)?

Findings:

Agents/Agencies	Yes	No	Standard	Compliance
4,874	4,684	190	90%	96%

The standard of compliance is 90%. The Association’s practices met this standard.

Examiners’ Comments on Commissions:

For the 189 agents and/or agencies that were found to be exceptions, the tax identification number provided did not match the Department’s licensing records or the tax identification number was missing. One agent who could be traced to the Department’s licensing system received \$1,370 in commissions, but the agent had not been licensed since 1994.

Examiners Comments on Agent and Agency Data:

During the test for compliance, the Association was not keeping accurate records from whom they were receiving applications and to whom commissions were being paid. This apparently resulted from the practice of assigning an internal agent code that could not be consistently matched with Department records. Some internal agent codes had more than one tax identification number, and others had none at all. In order to conduct the test, the Association was asked to contact agents to establish the correct identification.

Examiners Recommendation:

Compliance with licensing and commission statutes and rules cannot be accomplished unless an accurate identification is made of each agent and/or agency is made. The Association should develop procedures and systems that will capture and maintain the name, address, and tax identification number of the individual agent submitting the application and the agency being paid commissions. The data captured by Association systems should identify agents and agencies should match Department records.

REPORTING REQUIREMENTS

In the Association’s Plan of Operation, Ohio Adm.Code 3901-1-18(R) sets forth certain reporting requirements to the Superintendent of the Department and statistical coding and reporting to a statistical organization.

Underwriting Operations and Experience

Standard: The Association shall submit reports to the Superintendent as required by Ohio laws and rules and the Association’s operating plan.

Test: Did the Association submit to the Superintendent at least annually a report of its underwriting operations and underwriting experience in the form and detail required by the Superintendent?

Findings: The Association’s reports were made as required and contained all necessary data.

Statistical Reporting

Standard: The Association shall submit reports to a statistical rating service as required by Ohio laws and rules and the Association’s operating plan.

Test: Did the Association submit reports on its loss experience as required and were these reports complete and accurate?

Findings: The Association’s statistical rating agent, ISO, advised the Department that the Association’s statistical coding met its standards for accuracy and completeness.

Reports on Risks

Standard: The Association shall submit reports to the Superintendent as required by Ohio laws and rules and the Association’s operating plan.

Test: Did the Association submit to the Superintendent periodic reports concerning the number of risks inspected, the number of risks accepted, the number of risks conditionally accepted, the number of reinspections made and the number of risks declined?

Findings: The Association’s reports were made as required and contained all necessary data.

RATING AND UNDERWRITING

Application Underwriting

Methodology: The Association supplied a list of applications issued as new business during the examination period.

Standard: Policies issued by the Association shall conform to all statutory and regulatory requirements.

Test 1: Does the application clearly indicate the availability of a binder to the applicant per Ohio Adm.Code 3901-1-18(H)(1)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%

Line of Business	Population	Sample	Yes	No	Standard	Findings
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 2: Does the occupancy of the risk conform with the risks defined as acceptable for basic property insurance and homeowners insurance coverage in R.C. 3929.42(A) and (B) and Ohio Adm.Code 3901-1-18(E)(4)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 3: Is the person and the property to be insured otherwise insurable subject to reasonable underwriting standards in the normal insurance market *except* for its location, as per Ohio Adm.Code 3901-1-18(G)(3)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 4: Does the Association have the applicant certify that at least two insurance companies were contacted and did not make coverage available; there are no outstanding taxes, assessments, penalties or charges with respect to the property to be insured; and there are no notices that the property to be insured is in violation of any building, housing, air pollution, sanitation, health, fire, or safety code, ordinance or rule as per R.C. 3929.44(D)-(F) and Ohio Adm.Code 3901-1-18(G)(1)(a)-(c)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Property Inspection

Methodology: The Association supplied a list of all new business applications subject to inspection during the examination period.

Standard: The Association shall conduct property inspections in a timely manner.

Test 1: Was the inspection made “promptly” as required by R.C. 3929.44(B)?

Test Methodology:

For the purpose of Test 1, the examiners defined “promptly” to be 10 business days.

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	25,033	100	100	0	90%	100%
Dwelling Fire	19,375	100	100	0	90%	100%
Commercial	1,107	50	50	0	90%	100%
Farm	215	50	48	2	90%	96%

The standard of compliance is 90%. The Association’s business practices met this standard for all lines of business.

Test 2: Was the inspection report made to the Association in writing and did it include information sufficient for underwriting the risk, including any physical deficiencies and information on vacancy or unoccupancy, excluding information on environmental hazards, as required by Ohio Adm.Code 3901-1-18(F)(2) and (F)(3)(a)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	25,033	100	100	0	90%	100%
Dwelling Fire	19,375	100	100	0	90%	100%
Commercial	1,107	50	50	0	90%	100%
Farm	215	50	50	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Test 3: Did the inspection report include information on the construction and occupancy of the risk, as required by Ohio Adm.Code 3901-1-18(F)(3)(b)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowner	25,033	100	100	0	90%	100%
Dwelling Fire	19,375	100	100	0	90%	100%
Commercial	1,107	50	50	0	90%	100%

Line of Business	Population	Sample	Yes	No	Standard	Findings
Farm	215	50	50	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Test 4: Did the inspection report include information sufficient to permit rating per the Association’s filed rate plan, as required by Ohio Adm.Code 3901-1-18(F)(5)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	25,033	100	100	0	90%	100%
Dwelling Fire	19,375	100	100	0	90%	100%
Commercial	1,107	50	50	0	90%	100%
Farm	215	50	50	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Test 5: Was a copy of the completed inspection report sent to the Association within ten calendar days of completing the inspection as required by Ohio Adm.Code 3901-1-18(F)(5)?

Test Methodology:

For the purpose of this test, the examiners used the date the inspection service received data from its field inspectors as the date the inspection was “complete.” This was necessary, because it was the only date the inspection service captured once the field inspection was made.

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	25,033	100	96	4	90%	96%
Dwelling Fire	19,375	100	97	3	90%	97%
Commercial	1,107	50	47	3	90%	94%
Farm	215	50	36	14	90%	72%

The standard of compliance is 90%. The Association’s business practices met this standard for all lines of business except farm. Examiners’ comments appear below.

Test 6: Did the Association advise the applicant and the applicant’s licensed agent as to the property’s acceptability within ten business days of receiving the written inspection report as per Ohio Adm.Code 3901-1-18 (F)(6)(a)-(c)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	25,033	100	99	1	90%	98%
Dwelling Fire	19,375	100	100	0	90%	100%
Commercial	1,107	50	47	3	90%	94%
Farm	215	50	46	4	90%	92%

The standard of compliance is 90%. The Association’s business practices met this standard for all lines of business.

Examiners’ Comments:

For more than a year, the Association has been working with its inspection service to automate the various phases of the property inspection process. These changes include automating the inspection ordering process; the electronic exchange of data between the Association and the inspection service; and digital photographs of all properties inspected. The electronic inspection processing went into effect in January of 2006. Based on this new electronic inspection process, the examiners did not take an additional sample of the farm inspections.

Examiners’ Recommendation:

The Association should conduct self-audits of the processing of inspections after implementation of the automated inspection ordering process is completed in order to assure compliance with the six inspection tests above.

New Business Policy Issuance

Methodology: The Association supplied a list of policies issued as new business during the examination period.

Standard: The Association shall issue policies as required by Ohio statutes and rules and the Association’s operating plan.

Test 1: Upon receipt of the applicant’s payment of the annual premium, did the Association deliver either a policy or a binder to the applicant or the licensed agent named on the application as required by Ohio Adm.Code 3901-1-18(G)(4)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%
Residential Crime	196	50	50	0	90%	100%
Commercial Crime	2	2	2	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Test 2: Was the binder or policy effective the day following the date the Association received the annual premium as required by Ohio Adm.Code 3901-1-18(G)(5)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%

Line of Business	Population	Sample	Yes	No	Standard	Findings
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%
Residential Crime	196	50	50	0	90%	100%
Commercial Crime	2	2	2	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 3: When the policy was issued, was the effective date of the policy the same as the original effective date of the binder as prescribed in Ohio Adm.Code 3901-1-18(H)(6)(a)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%
Residential Crime	196	50	50	0	90%	100%
Commercial Crime	2	2	2	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 4: Was the policy issued for a period of one year as required by Ohio Adm.Code 3901-1-18(G)(6)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%
Residential Crime	196	50	50	0	90%	100%
Commercial Crime	2	2	2	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 5: Does the occupancy of the risk conform with those defined as acceptable for basic property insurance and homeowners insurance coverage in R.C. 3929.42(A) and (B) and Ohio Adm.Code 3901-1-18(E)(4)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%

Line of Business	Population	Sample	Yes	No	Standard	Findings
Farm	161	50	50	0	90%	100%
Residential Crime	196	50	50	0	90%	100%
Commercial Crime	2	2	2	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 6: Did the applicant certify that at least two insurance companies were contacted and did not make coverage available; that there are no outstanding taxes, assessments, penalties or charges with respect to the property to be insured; and that there are no notices that the property to be insured is in violation of any building, housing, air pollution, sanitation, health, fire, or safety code, ordinance or rule as per R.C. 3929.44(D)-(F) and Ohio Adm.Code 3901-1-18(G)(1)(a)-(c)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%
Residential Crime	196	50	50	0	90%	100%
Commercial Crime	2	2	2	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 7: Were new business policies statistically coded as required by Ohio Adm.Code 3901-1-18(R)(1) and was the statistical coding entered for the policy correct?

Findings:

The Association's statistical rating agent, ISO, advised the Department that the Association's statistical coding met its standards for accuracy and completeness.

Policy Coding—In-Force Policies

Standard: All policies are correctly coded.

Test: Were in-force policies correctly coded as required by R.C. 3935.03 and Ohio Adm.Code 3901-1-18(R)(2)?

Findings:

The Association's statistical rating agent, ISO, advised the Department that the Association's statistical coding met its standards for accuracy and completeness.

Policy Forms and Language

Methodology:

- From the Association’s report of policies in-force and new business, the policies were separated into distinct populations by line of business.
- A policy was considered to be an exception if:
 1. Total property insurance limits for basic property and homeowners policies exceeded the statutory per location limit of \$1,500,000;
 2. Total policy limits exceeded \$10,000 for residential crime policies;
 3. Total policy limits exceeded \$15,000 for commercial crime policies;
 4. The insured location was outside the boundaries of the state of Ohio; and/or,
 5. The policy lacked statutorily mandated contract language and warranties.

Standard: Policies issued by the Association shall conform to all statutory and regulatory requirements.

Test 1: Does the coverage amount conform to the maximum limits per policy or per location as specified in Ohio Adm.Code 3901-1-18(E)(1)?

Findings-Policies in-force:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	120,662	100	100	0	90%	100%
Dwelling Fire	72,855	100	100	0	90%	100%
Commercial	3,822	50	50	0	90%	100%
Farm	977	50	50	0	90%	100%
Residential Crime	404	50	50	0	90%	100%
Commercial Crime	11	11	11	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Findings-New Business:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%
Residential Crime	196	50	50	0	90%	100%
Commercial Crime	2	2	2	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Test 2: Is the insured location in the state of Ohio as required by Ohio Adm.Code 3901-1-18(F)(1)?

Findings-Policies in-force:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	120,662	100	100	0	90%	100%
Dwelling Fire	72,855	100	100	0	90%	100%
Commercial	3,822	50	50	0	90%	100%
Farm	977	50	50	0	90%	100%
Residential Crime	404	50	50	0	90%	100%
Commercial Crime	11	11	11	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Findings-New Business:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%
Residential Crime	196	50	50	0	90%	100%
Commercial Crime	2	2	2	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 3: Does the policy form include the additional contract language required by Ohio Adm.Code 3901-1-18(G)(1)(a)-(c)?

Findings-Policies in-force:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%
Residential Crime	404	50	50	0	90%	100%
Commercial Crime	11	11	11	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Findings-New Business:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	20,627	100	100	0	90%	100%
Dwelling Fire	14,931	100	100	0	90%	100%
Commercial	710	50	50	0	90%	100%
Farm	161	50	50	0	90%	100%
Residential Crime	196	50	50	0	90%	100%
Commercial Crime	2	2	2	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Mine Subsidence

The Ohio Mine Subsidence Insurance Underwriting Association consists of all insurers that are authorized to write, on a direct basis, basic property insurance in the state.

Every insurer that offers basic property and homeowners insurance insuring, on a direct basis, a structure located in the counties of Athens, Belmont, Carroll, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Hocking, Holmes, Jackson, Jefferson, Lawrence, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Scioto, Stark, Trumbull, Tuscarawas, Vinton, and Washington shall include mine subsidence coverage in each policy of basic property and homeowners insurance that is delivered, issued for delivery, or renewed in any of these counties. "Mandatory counties" are defined in Ohio Adm.Code 3901-1-48(G)(1) and in R.C. 3929.56(A)(1).

Every insurer that offers basic property and homeowners insurance insuring, on a direct basis, a structure located in the counties of Delaware, Erie, Geauga, Lake, Licking, Medina, Ottawa, Portage, Preble, Summit, and Wayne shall offer to include, on an optional basis, mine subsidence coverage in each policy of basic property and homeowners insurance that is delivered, issued for delivery, or renewed in any such designated county. "Optional counties" are defined in Ohio Adm.Code 3901-1-48(G)(2), and after April 27, 2005, in R.C. 3929.56(A)(2).

Methodology:

- The Association documented in its response to the examiners' interrogatories that its automated policy processing systems include mine subsidence coverage on all policies of basic property and homeowners insurance insuring all eligible structures located in the "mandatory counties."
- The examiners constructed and applied the tests below only to those policies issued or renewed covering eligible structures located in one of the "optional counties."
- As defined in RC 3929.50(B), "structures" are "one to four-family dwellings as defined and limited in dwelling fire, homeowners, and farm policies." Accordingly, commercial insurance policies are outside the scope of this statute and excluded from the tests below.
- From the Association's report of policies issued without mine subsidence coverage, the examiners defined populations by line of business and location of the insured property in an "optional county."
- The examiners removed and replaced any policies sampled that upon review were found to insure risks other than "structures" as defined in the statute cited above. Two records in the dwelling fire sample were removed and replaced for this reason.
- A policy was considered to be an exception if no mine subsidence coverage was offered.

Standard: A property insurer shall offer mine subsidence coverage to all new business applicants requesting coverage on eligible structures located in "optional" mine subsidence counties.

Test: Did the Association offer mine subsidence coverage on all new business policies issued for dwelling fire, homeowners and farm insurance on “structures,” as defined by R.C. 3929.50(B), and located in one of the “optional” counties defined in R.C. 3929.56(B)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	2,316	50	50	0	90%	100%
Dwelling Fire	1,351	50	50	0	90%	100%
Farm	22	22	22	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Standard: A property insurer shall offer mine subsidence coverage on all renewal policies extending coverage on eligible structures located in “optional” mine subsidence counties.

Test: Did the Association offer mine subsidence coverage on all renewal policies issued for dwelling fire, homeowners and farm insurance on “structures,” as defined by R.C. 3929.50(B), and located in one of the “optional” counties defined in R.C. 3929.56(B)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	9,312	100	99	1	90%	99%
Dwelling Fire	3,760	50	49	1	90%	98%
Farm	76	76	75	1	90%	99%

The standard of compliance is 90%. The Association’s business practices met this standard.

Examiners’ Comments:

For each exception noted, the examiners could not locate an imaged copy of the mine subsidence offer letter.

Property Applications Rejected

Methodology: The Association provided a list of new business applications rejected during the examination period.

Standard: Cancellation/non-renewal and declination notices comply with policy provisions, state laws and the Association’s plan of operation.

Test 1: Did the reason for the rejection conform to the Association’s filed underwriting rules and the statutory and regulatory limitations of R.C. 3929.42 and Ohio Adm.Code 3901-1-18(E)-(G)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	1,300	50	50	0	90%	100%

Line of Business	Population	Sample	Yes	No	Standard	Findings
Dwelling Fire	1,269	50	50	0	90%	100%
Commercial	253	50	50	0	90%	100%
Farm	22	22	22	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Test 2: When the Association determined that the property was not insurable, was notice provided to the applicant as required by Ohio Adm.Code 3901-1-18(G)(8)?

Test Methodology:

- The examiners considered the following to be exceptions:
 1. If the reason for rejection was “property condition” and the improvements needed to make it an acceptable risk were not listed in the notice; and/or,
 2. The notice was not sent to the applicant in a timely manner.

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	1,300	50	50	0	90%	100%
Dwelling Fire	1,269	50	50	0	90%	100%
Commercial	253	50	50	0	90%	100%
Farm	22	22	22	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Binder Termination

Methodology:

- The Association provided a list of all binders cancelled during the examination period for any reason other than a policy being issued.
- The examiners considered the following to be exceptions:
 1. The cancellation reason did not conform to those permitted by Ohio Adm.Code 3901-1-18(H)(7)(a);
 2. The notice was not sent to the applicant as required by Ohio Adm.Code 3901-1-18(H)(7)(b);
 3. The cancellation reason did not appear on the notice as required by Ohio Adm.Code 3901-1-18(H)(7)(c);
 4. The number of days notice did not conform to the Association’s policy provisions as required by R.C. 3935.04(H) and 3937.03(H);
 5. The cancellation notice did not include the appeal wording required by Ohio Adm.Code 3901-1-18(H)(7)(c); and/or,
 6. All earned premium was not charged as required by Ohio Adm.Code 3901-1-18(H)(6)(b).

Test: When the Association determined that the property was not insurable, was notice provided to the applicant as required by Ohio Adm.Code 3901-1-18(G)(8) and (H)(7)?

Qualifying Test: If a return premium was due, were the returns calculated on a pro-rata basis as per Ohio Adm.Code 3901-1-18(H)(9)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	4,636	50	50	0	90%	100%
Dwelling Fire	4,265	50	50	0	90%	100%
Commercial	290	50	50	0	90%	100%
Farm	29	29	29	0	90%	100%

The standard of compliance is 90%. The Association’s business practices met this standard.

Policy Termination—Other than Insured’s Request

Methodology

- The Association supplied a file of all policies in effect for more than 60 days and subsequently terminated at the Association’s initiative for any reason during the examination period.
- The examiners segmented the terminated policy data into populations of unique records defined by line of business, policy number, and policy termination effective date.
- Policies cancelled at the insured’s request were removed and replaced. Eight such replacements were made in the residential crime sample.
- The examiners considered to be an exception any instance where:
 1. The Association failed to send cancellation notice to the insured;
 2. The notice to the insured failed to specify the reason for cancellation;
 3. The reason for cancellation was contrary to the permitted cancellation reasons listed in the statutes and regulations cited below;
 4. The cancellation effective date provided less notice than required by the Association’s policy forms as filed with the Superintendent;
 5. The cancellation notice lacked the appeal wording required by the statutes and regulations cited below; and/or
 6. The Association failed to charge all earned premium at the time of cancellation or failed to make return premium, if applicable, as required by the statutes and regulations cited below in the Examiners’ Comments.

Standard: Cancellation/non-renewal and declination notices comply with policy provisions, state laws, rules, and the Association’s plan of operation.

Test 1: Was the policy terminated “for cause,” which would have been grounds for non-acceptance of the risk had such cause been known to the Association at the time of acceptance, per Ohio Adm.Code 3901-1-18(H)(7)(a)(i)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	3,995	50	50	0	90%	100%
Dwelling Fire	2,647	50	50	0	90%	100%

Line of Business	Population	Sample	Yes	No	Standard	Findings
Commercial	70	70	70	0	90%	100%
Farm	19	19	19	0	90%	100%
Residential Crime	200	50	50	0	90%	100%
Commercial Crime	1	1	1	0	90%	100%

The standard of compliance is 90%. The Association's business practices met this standard.

Test 2: Was notice sent to the insured as required by Ohio Adm.Code 3901-1-18(H)(7)(c), including information on the right to appeal as provided in Ohio Adm.Code 3901-1-18(I)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	3,995	50	50	0	90%	100%
Dwelling Fire	2,647	50	50	0	90%	100%
Commercial	70	70	70	0	90%	100%
Farm	19	19	19	0	90%	100%
Residential Crime	200	50	0	50	90%	0%
Commercial Crime	1	1	0	1	90%	0%

The standard of compliance is 90%. The Association's business practices met this standard for all lines of business except residential and commercial crime.

Examiners' Comments:

The Association asserted that the renewal premium notices reviewed by the examiners were not policy cancellation notices, but rather renewal premium notices. Further, the Association contended that the expiration of a policy does not require a nonpayment of premium notice. However, Ohio Adm.Code 3901-1-18(H)(7)(b) and (c) clearly requires notices of nonpayment cancellation to be sent to the insured accompanied by a statement that the insured has a right to appeal. Therefore, the Association's renewal premium notices must meet all cancellation notice requirements of Ohio Adm.Code 3901-1-18(H)(7) if the premium notice is to serve as the final notice to the insured.

Examiners' Additional Comments:

The Association does not maintain the reason for cancellation in its data files, which is important information that should be captured so that the various types of cancellation can be separately identified. It was for this reason that it was necessary to remove and replace eight policies that were cancelled at insured's request.

Examiners' Recommendations:

1. The Association should revise its renewal premium notices to include the appeal notice required by Ohio Adm.Code 3901-1-18(H)(7), unless a separate nonpayment cancellation is subsequently sent to the insured with the required information on right to appeal.
2. The Association should revise its systems to capture the reason for cancellation in its data files.

Policy Termination—Insured’s Request

Methodology: The Association provided the examiners with information on its procedures for processing cancellations at the insured’s request.

Standard: Cancellation/non-renewal and declination notices comply with policy provisions, state laws, rules, and the Association’s plan of operation.

Test: Did the cancellation notice sent when a policy is cancelled at the insured’s request include appeal wording required by Ohio Adm.Code 3901-1-18(H)(7)(c)?

Findings: The Association failed to meet this standard because it does not include appeal wording in its notice to insureds upon policy cancellation at the insured’s request.

Examiners’ Recommendations:

The Association should revise the notices used upon cancellation at the insured’s request to comport with Ohio Adm.Code 3901-1-18(H)(7)(c).

GENERAL CLAIM PRACTICES

The examiners reviewed the Association’s claim procedures to determine whether the Association had procedures in place that could reasonably be expected to meet the requirements of Ohio Adm.Code 3901-1-54(G); to wit, timely investigation, denial of coverage and reporting of apparent fraudulent claims. The examiners also reviewed Association procedures to assure compliance with R.C. 3999.41, which requires a company to adopt an antifraud program.

The examiners found that the Association’s written procedures could reasonably be expected to establish compliance with Ohio statutes and rules. However, a review of claim settlement practices by the examiners indicate a practice of calculating settlements in a manner not consistent with those written procedures and with Ohio Adm.Code 3901-1-07 and 3901-1-54 concerning property and casualty claim settlements.

SPECIFIC CLAIM REVIEW

General Methodology:

- The Association provided a list of claims paid and closed during the examination period.
- The Association provided a list of claims denied and closed during the examination period.
- Claims were separately identified by coverage:
 1. Structure claims paid,
 2. Personal property claims paid,
 3. Crime claims paid,
 4. Medical payments claims paid, and
 5. Liability claims paid.
- Claims were separately identified by line of business:
 1. Commercial,
 2. Dwelling Fire,

3. Farm,
4. Homeowners,
5. Residential Crime, and
6. Commercial Crime.

Timely Initial Contact

Standard: The initial contact by the Association with the claimant is within the required time frame.

Test: Upon receiving notification of the claim, did the Association respond within the time frame required by Ohio Adm.Code 3901-1-54(F)(2)?

Test Methodology:

- The examiners considered contact with the claimant or the claimant’s representative at the time the loss was reported directly to the Association as “initial contact.”
- Whenever a liability claim was reported by the insured, the examiners calculated the number of days to contact a third party claimant from the date the Association had sufficient information to identify and contact that claimant.
- The examiners considered a claim to be an exception if the Association’s claim records did not document that the Association contacted the claimant within ten calendar days from the date of notification of the claim.

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Commercial Contents Paid	7	7	7	0	93%	100%
Commercial Structure Paid	45	45	45	0	93%	100%
Dwelling Fire Contents Paid	59	59	59	0	93%	100%
Dwelling Fire Structure Paid	711	50	50	0	93%	100%
Farm Contents Paid	7	7	7	0	93%	100%
Farm Structure Paid	12	12	12	0	93%	100%
Homeowners Contents Paid	1249	50	50	0	93%	100%
Homeowners Structure Paid	3007	50	50	0	93%	100%
Residential Crime Paid	6	6	6	0	93%	100%
Commercial Crime Paid	1	1	1	0	93%	100%
Homeowners Med Pay Paid	37	37	35	2	93%	95%
Dwelling Med Pay Paid	2	2	2	0	93%	100%
Homeowners Liability Paid	100	100	100	0	93%	100%
Dwelling Liability Paid	3	3	3	0	93%	100%

The standard of compliance is 93%. The Association’s claim practices met this standard.

Timely Claim Settlement

Standard: Claims are resolved in a timely manner.

Test: Did the Association make timely settlement to claimants as required by Ohio Adm.Code 3901-1-54(G)(6) (first party-ten days) or Ohio Adm.Code 3901-1-07(C)(16) (third party-five working days)?

Test Methodology:

- Where release by a mortgagee or lienholder was required to settle a claim, the examiners did not consider the claim amount “known and agreed” until the required release was received by the Association.
- Where a county treasurer’s certificate was required to settle a structure claim, the examiners did not consider the claim amount “known and agreed” until the required certificate was received by the Association.
- The examiners considered the following to be exceptions:
 1. Failure to make payment to a first party claimant in ten calendar days once the claim amount was known and agreed; or,
 2. Failure to make a payment to a third party claimant in five working days once the claim amount was known and agreed.

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Commercial Contents Paid	7	7	7	0	93%	100%
Commercial Structure Paid	45	45	45	0	93%	100%
Dwelling Fire Contents Paid	59	59	59	0	93%	100%
Dwelling Fire Structure Paid	711	50	50	0	93%	100%
Farm Contents Paid	7	7	7	0	93%	100%
Farm Structure Paid	12	12	12	0	93%	100%
Homeowners Contents Paid	1249	50	48	2	93%	96%
Homeowners Structure Paid	3007	50	49	1	93%	98%
Residential Crime Paid	6	6	6	0	93%	100%
Commercial Crime Paid	1	1	1	0	93%	100%
Homeowners Med Pay Paid	41	41	40	1	93%	98%
Dwelling Med Pay Paid	2	2	2	0	93%	100%
Homeowners Liability Paid	100	100	100	0	93%	100%
Dwelling Liability Paid	3	3	2	1	93%	67%

The standard of compliance is 93%. The Association’s claim practices met this standard for all lines except dwelling liability paid.

Fair and Reasonable Claim Settlement

Standard: Claims are properly handled in accordance with policy provisions and applicable statutes, and rules.

Test: Did the Association’s settlement calculations conform to Ohio Adm.Code 3901-1-07(C)(6) and (7), Ohio Adm.Code 3901-1-54(I), and the Association’s policy provisions?

Test Methodology:

- The examiners considered the following to be exceptions:
 1. Claim records that failed to document whether the settlement amount offered and paid was fair and reasonable;
 2. Deductions for depreciation that were not documented as being based on objective criteria;
 3. Deduction for depreciation applied to labor or non-depreciable repair expenses, such as dry cleaning;
 4. Failure to use current replacement costs in actual cash value (“ACV”) calculations;
 5. Failure to include sales tax in the calculation of ACV;
 6. Deduction for depreciation that did not conform to the Association’s procedures and schedules of useful life;
 7. Any instance where the Association calculated the settlement amount in a manner contrary to its contract provisions;
 8. Any indication of a pattern settlement;
 9. Any indication of deliberate action to compel a first-party claimant to litigate;
 10. Failure to document that the settlement amount offered and paid was fair and reasonable; and/or,
 11. Any indication that all coverages available under the contract were not disclosed to the insured.

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Commercial Contents Paid	7	7	5	2	93%	71%
Commercial Structure Paid	45	45	19	26	93%	42%
Dwelling Fire Contents Paid	59	59	29	30	93%	49%
Dwelling Fire Structure Paid	711	50	22	28	93%	44%
Farm Contents Paid	7	7	5	2	93%	71%
Farm Structure Paid	12	12	6	6	93%	50%
Homeowners Contents Paid	1249	50	8	42	93%	16%
Homeowners Structure Paid	3007	50	48	2	93%	96%
Residential Crime Paid	6	6	1	5	93%	17%
Commercial Crime Paid	1	1	1	0	93%	100%
Homeowners Med Pay Paid	37	37	37	0	93%	100%
Dwelling Med Pay Paid	2	2	2	0	93%	100%
Homeowners Liability Paid	100	100	100	0	93%	100%
Dwelling Liability Paid	3	3	3	0	93%	100%

The standard of compliance is 93%. The Association’s claim practices failed to meet this standard in eight of the 14 tests conducted.

Examiners’ Comments:

1. The Association applied inconsistent, subjective criteria to determine depreciation when calculating ACV settlements of both structure and contents claims. Depreciation documentation was indicated to be the adjuster’s professional opinion rather than the age of the item.

2. “Replacement Cost” should be determined by using the cost new of the same or similar item at the time of the loss. Other factors such as the cost of an item of similar age and condition were sometimes used.
3. The Association failed to pay or to document payment of sales tax as a separate calculation in the claim settlement.
4. An arbitrary depreciation amount (50%-75%) was applied on some files when claimants could not produce receipts. In a few cases, the need for documentation and receipts appears to have discouraged claimants from pursuing claims further. However, there is no indication that the Association failed to adjust and pay claims submitted for payment.
5. Debris removal is a contract provision that should not be subject to any ACV or depreciation calculations.
6. Claims settled by independent adjusters were often not documented in detail.

Examiners’ Recommendations:

1. The Association should develop and use claim settlement procedures for determining depreciation based on independent, objective criteria.
2. The Association should develop and use claim settlement procedures that accurately and independently determine replacement cost valuations for contents losses based on the cost new for a similar item at the time of the loss.
3. These procedures and methods should be applied consistently to all claims paid by the Association.

Structural Fire Loss Claims—County Treasurer Certificates

Methodology:

- From the Association’s report of all claims paid, the examiners identified all structural losses caused by “fire” and the total amount paid on the structure exceeded \$5,000.
- The claims were separated into distinct populations by line of business. Where the total number of claims in a population exceeded 50, a random sample was selected.
- Three records from the homeowners sample and two records from the dwelling fire sample were removed and replaced. In each instance, the initial structure claim amount, excluding supplemental payments made at a later date, was less than \$5,000.
- Where the number of apparent errors in a sample of 50 ranged between 4% and 8%, an additional sample of 25 claim records was selected and tested to assure statistical credibility of the claim findings. Additional samples were selected for the Homeowners Structural Fire claim samples.
- The examiners considered to be an exception any claim payment made on loss greater than \$5,000 that lacked certification from the county treasurer that no property taxes were outstanding.
- For the purpose of these tests, any search of public records that supplied information on whether taxes on an insured location were “current” was considered to be equivalent to a “certificate” issued by a county treasurer.

Standard: Claims are handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Association require the named insured to provide certification from the county treasurer that there were no outstanding property taxes before making a settlement on a structural fire loss in excess of \$5,000 value as required by R.C. 3929.86(A) and (B)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners Structural Fire Losses	3007	75	72	3	93%	96%
Dwelling Fire Structural Fire Losses	171	50	49	1	93%	98%
Commercial Structural Fire Losses	12	12	12	0	93%	100%
Farm Structural Fire Losses	2	2	2	0	93%	100%

The standard of compliance is 93%. The Association’s claim practices met this standard.

Structural Fire Loss Claims—“Demolition Fund” Escrow Payments

Methodology:

- From the Association’s report of all claims paid, the examiners identified all structural losses caused by “fire,” located in a municipality that had enacted a “demolition fund” ordinance, and the amount paid on the structure exceeded 60% of the structure’s total insured value. No Farm losses met this population definition.
- The examiners considered to be an exception:
 1. Failure to make payment to the “demolition fund” unless the claim file contained a copy of a contract for demolition or removal of the damaged structure; or
 2. Failure to deposit the correct amount of policy proceeds to the municipal “demolition fund.”

Standard: Claims are handled in accordance with policy provisions and applicable statutes, rules, and regulations.

Test: Did the Association’s structural fire loss claims settlements include, where applicable, payments to “demolition fund” escrow accounts as required by R.C. 3929.86(C) and (D)?

Findings:

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners Losses	75	75	75	0	93%	100%
Dwelling Fire Losses	74	74	74	0	93%	100%
Commercial Losses	3	3	3	0	93%	100%

The standard of compliance is 93%. The Association’s claim practices met this standard.

Claims Denied

Methodology:

- The examiners considered claims where the claim amount was below the deductible amount to be “paid.” These claims were removed and replaced, where applicable. Nine dwelling fire and 24 homeowners records were removed and replaced for this reason.

Two commercial fire and two farm claims were removed from the population for this reason. These two populations were tested in their entirety; no replacements were made.

- Where the number of apparent errors in a sample of 50 ranged between 4% and 8%, an additional sample of 25 claim records was selected and tested to assure statistical credibility of the claim findings. Additional samples were selected for the homeowners and the Dwelling Fire claim samples.
- The examiners considered the following to be exceptions:
 1. Failure to send notice to the claimant that the claim was denied in whole or in part;
 2. Failure to make timely response to proofs of loss within 21 days if the Association did not notify the claimant or the claimant’s representative that additional time was needed to investigate the claim and the estimated time required for continuing the investigation every 45 days thereafter;
 3. Rejecting a claimant’s proof of loss because the claimant did not use the Association’s usual form;
 4. Failure to report claims reasonably believed to be fraudulent to the Department’s Fraud Division within 60 days of receipt of proof of loss; and,
 5. Failure to make reference in its claim denial notice to specific policy provision, condition or exclusion, if the claim was denied on the grounds of a specific policy provision, condition, or exclusion.

Standard: Denied claims are handled in accordance with policy provisions and state law.

Test: Did the Association’s claim practices conform to the standards for claims denied as required in Ohio Adm.Code 3901-1-54(G)(1) and (2)?

Findings

Line of Business	Population	Sample	Yes	No	Standard	Findings
Homeowners	1011	75	74	1	90%	99%
Dwelling Fire	438	75	73	2	90%	97%
Commercial	15	15	15	0	90%	100%
Farm	7	7	6	1	90%	86%
Residential Crime	1	1	0	1	93%	0%

The standard for compliance is 93%. The Association’s practices met this standard for all lines except farm and residential crime.

Examiners’ Comments:

The findings that did not meet the standard were small populations with a single exception. The residential crime exception did not meet the 21-day response requirement. One dwelling fire exception resulted because no denial letter was sent. For the three remaining exceptions, the Association’s claim records documented that a denial letter had been produced using the Association’s automated document system. However, there was no copy of the document in the Association’s imaged records. These records were imaged before changes were made to the way imaged documents are indexed in the Association’s record system. There is no apparent problem with retrieving documents stored more recently using the newer indexing procedures. For this

reason, the examiners have no recommendations for changes to the Association's records management practices.

POLICYHOLDER SERVICES

Consumer Complaints

Methodology:

- An appeals process is set forth in Ohio Adm.Code 3901-1-18(I) if an insured has a grievance with the Association's business practices. Consumers submitting complaints are instructed to make an appeal to the Association. The examiners reviewed the Association's appeals rather than complaints. All Consumer Services Division complaints were included in the appeals.
- The examiners reviewed all written policies and procedures that instructed its employees and/or agents on the Association's appeal procedures.
- The Association supplied a report of all appeals received during the examination period.
- The examiners reviewed 240 consumer appeals to test for compliance with Ohio Adm.Code 3901-1-07(C)(15).
- The examiners considered a record to be an exception if the Association failed to respond appropriately to the consumer's inquiry, request, or complaint or engaged in any other apparent unfair practice.

Standard: An insurer shall adopt and implement reasonable standards for the proper handling of written communications, primarily expressing grievances, received by the insurer from insureds or claimants.

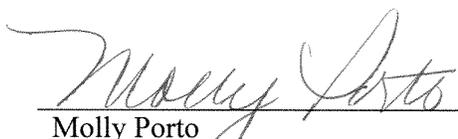
Test: Did the Association adopt and implement reasonable standards for handing written communications, primarily expressing grievances, including procedures to make a complete investigation of an insured's or claimant's complaint and respond as required by Ohio Adm.Code 3901-1-07(C)(15)?

Findings:

	Population	Sample	Yes	No	Standard	Findings
Appeals	240	240	240	0	90%	100%

The standard of compliance is 90%. The Association's claim practices met this standard.

This concludes the report of the Market Conduct Examination of The Ohio FAIR Plan Underwriting Association. The examiners would like to acknowledge the assistance and cooperation provided by the management and the employees of the Association.



 Molly Porto
 Examiner in Charge



 Date

COMPANY RESPONSE



RECEIVED
OCT 02 2006
OHIO DEPT. OF INS.
MARKET CONDUCT DIVISION

September 27, 2006

Melissa L. Hull
Assistant Director
Market Regulation and Licensing Division
Ohio Department of Insurance
2100 Stella Court
Columbus, Ohio 43215-1067

Re: Ohio FAIR Plan response to Market Conduct Examination Report

Dear Ms. Hull:

The following are the Ohio FAIR Plan's comments in response to the Market Conduct Examination Report. Note that I have attempted to "label" the comments by relating them to the report sections.

.....
EXECUTIVE SUMMARY COMMENTS

Claims Settlement Practices

We appreciate the observations that were made by the Examiners and are anxious to take appropriate corrective action. It is critical that loss adjustments be calculated with uniformity and consistency. The claim files must contain sufficient documentation to demonstrate that uniform and consistent adjustment of all property claims in compliance with Ohio Statutes and Rules. To accomplish this, following are changes that have or will be implemented:

- 1) The Association has developed Claim Procedure Guidelines for all Claim Representatives (staff and independent) to provide for uniform and consistent settlement of all property claims in compliance with Ohio Statutes and Rules.
- 2) The Depreciation Guidelines that must be used by the Representatives in preparing the settlement of Actual Cash Value Claims are a part of the Claim Procedure Guidelines. These Depreciation Guidelines will be revised as updates become available.
- 3) OFP has contacted a third Party Vendor for assistance and advice in the determination of Actual Cash Value. A formal plan utilizing this service will be in place by November 1, 2006.

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- 4) Seminars and Training Programs for staff and independent representatives have been developed. One seminar has been conducted and future training will occur in 2006 to assure consistent and objective evaluation of procedures.
- 5) Regular audits of claims have been implemented with emphasis on the uniform and consistent calculation of Actual Cash Value in compliance with Rule 3901-1-54. Senior members of the Claim Staff will conduct these internal audits. Additionally, the Board's Loss Committee conducts an annual audit of claim files and reports its findings to the Board. This Audit Plan is a part of our new Claim Procedure Guidelines.

Fraud Reporting

OFP's Claims and Underwriting Managers have met with the Fraud Division of ODI. We will make appropriate changes to our fraud reporting process.

Agent Licensing

We have developed a multi-faceted approach to improving the accuracy of our agents and agency information to assure compliance with licensing and commission statutes and rules. Some procedures have already been modified, some changes are in process, and other system modifications are planned.

The identification and verification procedures for new agents have already been reviewed, needed changes identified, and these revised procedures have been implemented. These procedures have been enhanced and broadened. When a new business application is received, our agent services group reviews the submitting agent information. If this is a new agent to the Ohio FAIR Plan, the agents name and address is matched against Ohio Department of Insurance's database to verify the existence of an active license. We also collect the pertinent profile information for this agent, including social security number or employee identification number for tax reporting purposes. We assure we have the appropriate commissioning entity established, i.e., whether we commission the individual agent or the agency. Furthermore, if we determine the submitting agent already exists on the agent master file, we still verify name, address, and ODI license number, and assure that all profile information is complete.

We have implemented a program this summer to verify and update the existing information on our current agent master file. Agent profile and W-9 tax reporting forms were mailed to all agents this June. As these forms are returned, we are verifying the reported ODI license number, name, and address against ODI's database. Once verified, our data base records are updated with any profile changes. In this manner, we are assuring we have valid, accurate, and active agents on our master file. This program is planned for completion in September 2006.

Additionally, we are enhancing the functionality of our policy processing application and related agent modules. The application currently does not allow for the capture and storage of both the agent and agency data. System modifications are planned to permit this capability. We will develop procedures to verify the existence of valid, active licenses for both the agent and agency.

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The system will allow commissions to be paid to either the agent or agency, depending on that entity's business practices.

The above-mentioned efforts assure that our agent master file is "clean", and only valid agents are added to this file. However, procedures need to be established to maintain the accuracy of this data. The Ohio FAIR Plan needs to receive information regarding changes to agent's status such as license expiration, revocation, or suspension. The Ohio Department of Insurance either needs to "push" agent status changes to us, or give us the ability to "pull" this data from their database in some automated fashion. We need to work with the Ohio Department of Insurance to implement this capability, as this is the only way we can be expected to maintain valid agent records. Please advise which ODI employee should be contacted to discuss this need.

Crime Renewal Notices

OFP "renewal notices" for crime policies have been amended to include the "right to appeal" language.

Insured's Request to Cancel Notice

OFP believes that including the "right to appeal wording" in instances where the insured has requested cancellation will be confusing to those insureds. Additionally, the ORC language regarding the right of appeal references "any person aggrieved" as the potential appellant and, in our opinion, an insured requesting cancellation of their OFP policy is not an "aggrieved person." However, OFP has amended these cancellation notices to include the "right to appeal" verbiage.

Other Operational Issues

We have already created a new policy-numbering device for crime policies per the Examiners' suggestion. New policies and renewal notices created since 8/06 have numbers reflecting the revised numbering strategy.

Regarding ODI's request that we provide an e-mail address for consumer complaints, we will contact ODI's Consumer Services Division to accomplish this.

Self-audits

OFP will expand its existing internal audits to include any areas of non-compliance pursuant to this Market Conduct Examination. The report requires that "these audits should be reported to the Department within six months from the conclusion of this exam." We will comply with this request but ask for definition as to when this exam is considered to be concluded by ODI and to whom the audits should be reported.

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POLICY TERMINATIONS-OTHER THAN INSURED'S REQUEST-EXAMINERS'
ADDITIONAL COMMENTS

The Examiners request that the reason for cancellation be maintained in OFP data files to differentiate the "various types of cancellation." OFP is presently undergoing a rewrite of its computer system and this should be handled within that rewrite to clearly delineate the reason for cancellation.

.....

We want to thank the Examiners, the Examiner in Charge, and the Insurance Compliance Division of the Ohio Department of Insurance for their efforts in bringing this Examination to a conclusion. We look forward to hearing from you regarding:

1. the self-audit time frame
2. the individual to whom the audits should be reported
3. the individual we should contact regarding any change in an agents licensing status.

Sincerely,

A handwritten signature in black ink that reads "Norman E. Beal". The signature is written in a cursive, flowing style.

Norman E. Beal
President and General Manager
Ohio FAIR Plan Underwriting Association

2500 Corporate Exchange Dr Suite 250 Columbus OH 43231 614-839-6446

STATE OF OHIO
DEPARTMENT OF INSURANCE
2100 Stella Court
Columbus, Ohio 43215

IN THE MATTER OF : **CONSENT ORDER**
THE OHIO FAIR PLAN :
UNDERWRITING ASSOCIATION :

The Superintendent of the Ohio Department of Insurance ("Department") is responsible for administering Ohio insurance laws pursuant to Section 3901.011 of the Ohio Revised Code ("R.C."). The Department conducted a market conduct examination of the Ohio FAIR Plan Underwriting Association ("Association"). The Association is authorized to engage in the business of insurance in the State of Ohio and, as such, is under the jurisdiction of the Superintendent and the Department. The Department examined the Association's operations, agent licensing and commissions, reporting requirements, rating and underwriting, claims procedures, claims settlement practices and policyholder services in the State of Ohio for the period of January 1, 2004 through June 30, 2005.

SECTION I

As a result of the market conduct examination, the Superintendent alleges:

- A. For certain claims, the Association did not properly calculate the actual cash value of losses in accordance with Ohio rules. Specifically, depreciation was determined without objective support for the determination. The Association's claim settlement calculations did not conform to Ohio Adm. Code 3901-1-54(I)(2).
- B. For certain Farm claims, a copy of the completed inspection report was not sent to the Association within ten calendar days as required by Ohio Adm. Code 3901-1-18(F)(5).
- C. The Association's non-payment of premium notices for Residential and Commercial Crime failed to conform to Ohio Adm. Code 3901-1-18(H)(7).

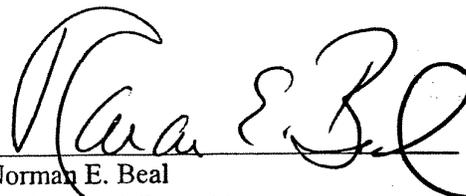
SECTION II

It is hereby agreed to by the parties that:

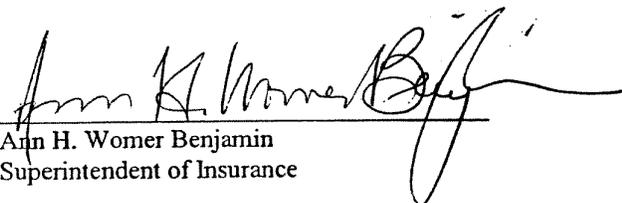
- A. The Superintendent and the Association enter into this Consent Order to resolve the allegations as set forth in Section I of this order. Further, the Association admits to the allegations set forth in Section I.

- B. The Association has been advised that it has a right to a hearing before the Superintendent pursuant to R.C. Chapter 119; that, at a hearing, it would be entitled to appear in person, to be represented by an attorney or other representative who is permitted to practice before the agency; and that, at a hearing, it would be entitled to present its position, arguments or contentions in writing and to present evidence and examine witnesses appearing for and against it. The Association hereby waives all such rights.
- C. The Association recognizes the jurisdiction of the Superintendent and the Department to determine the issues set forth herein. The Association expressly recognizes that the Association's plan of operation shall be administered under the supervision of the Superintendent.
- D. The Association represents that its non-payment of premium notices have been corrected and are now in compliance with Ohio Administrative Code 3901-1-18(H)(7).
- E. The Association has instituted policies, procedures and controls to assure that completed Farm inspection reports are submitted to the Association within ten (10) days of the completion of the report to comply with Ohio Administrative Code 3901-1-18(F)(5).
- F. The Association represents that policies, procedures and controls have been established, and are currently being implemented, to ensure proper claim settlement calculations including objective standards for calculating actual cash value as required by the Ohio Administrative Code.
- G. The Association waives any and all causes of action, claims or rights, known or unknown, which it may have against the Department, and any employees, agents, consultants, contractors or officials of the Department, in their individual and official capacities, as a result of any acts or omissions on the part of such persons or firms arising out of this matter.
- H. The Association has read and understands this Consent Order. The Association further understands that it has the right to seek counsel of its choice and to have counsel review this Consent Order.
- I. This Consent Order has the full force and effect of an Order of the Superintendent. Failure to abide by the terms of this agreement shall constitute an actionable violation in and of itself without further proof and may subject the Association to any and all remedies available to the Superintendent.
- J. This Consent Order shall be entered in the Journal of the Ohio Department of Insurance. All parties understand and acknowledge that this Consent Order is a public document pursuant to R.C. 149.43.

Date: 10/18/06


Norman E. Beal
President and General Manager
Ohio FAIR Plan Underwriting Association

Date: 11/6/06


Ann H. Womer Benjamin
Superintendent of Insurance