

REPORT ON EXAMINATION  
OF THE  
ERIE INSURANCE COMPANY OF NEW YORK  
AS OF  
DECEMBER 31, 2002

DATE OF REPORT

FEBRUARY 27, 2004

EXAMINER

DEBORAH SEXTON

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STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

February 27, 2004

Honorable Gregory V. Serio  
Superintendent of Insurance  
Albany, New York 12257

Sir:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 22038 dated April 2, 2003 attached hereto, I have made an examination into the condition and affairs of Erie Insurance Company of New York as of December 31, 2002, and submit the following report thereon:

Wherever the designations "the Company" or "Erie of NY" appear herein without qualification, they should be understood to indicate Erie Insurance Company of New York.

The examination was conducted at the Company's administrative offices located at 100 Erie Insurance Place, Erie, Pennsylvania.

Wherever the term "Department" appears herein without qualification, it should be understood to mean the New York Insurance Department.

## **1. SCOPE OF EXAMINATION**

The previous examination was conducted as of December 31, 1997. This examination covered the five-year period from January 1, 1998 through December 31, 2002. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

The examination comprised a complete verification of assets and liabilities as of December 31, 2002. The examination included a review of income, disbursements and Company records deemed necessary to accomplish such analysis or verification and utilized, to the extent considered appropriate, work performed by the Company's independent public accountants. A review or audit was also made of the following items as called for in the Examiners Handbook of the National Association of Insurance Commissioners:

- History of Company
- Management and control
- Corporate records
- Fidelity bond and other insurance
- Territory and plan of operation
- Growth of Company
- Business in force by states
- Loss experience
- Reinsurance
- Accounts and records
- Financial statements

A review was also made to ascertain what action was taken by the Company with regard to comments and recommendations contained in the prior report on examination.

This report on examination is confined to financial statements and comments on those matters, which involve departures from laws, regulations or rules, or which are deemed to require explanation or description.

## **2. DESCRIPTION OF COMPANY**

The Company was incorporated under the laws of the state of New York on September 18, 1885, as the Co-operative Insurance Company of Western New York and began operating on the same day. In 1982, the Company became an advance premium co-operative. In May 1992, the Company converted to a stock property and casualty company pursuant to Section 7307 of the New York Insurance Law. In April 1994, the Company changed its name to Erie Insurance Company of New York and became a wholly-owned subsidiary of Erie Insurance Company, a Pennsylvania company. Both companies are part of the Erie Insurance Group, which also includes Erie Indemnity and Erie Insurance Exchange, both domiciled in Pennsylvania.

As of December 31, 2002, the Company had paid in capital of \$2,350,000, consisting of 23,500 outstanding common shares at a par value of \$100 per share as well as gross paid in surplus of \$4,150,000.

### A. Management

Pursuant to the Company's charter and by-laws, management of the Company is vested in a board of directors consisting of not less than thirteen nor more than twenty-three members. The board met five times during each calendar year. At December 31, 2002, the board of directors was comprised of the following eleven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
J. Ralph Borneman, Jr. Boyerstown, PA	President & Chief Executive Officer, Body-Borneman Associated Insurance Agency
John J. Brinling, Jr. Erie, PA	Executive Vice President, Erie Family Life Insurance Company
Philip A. Garcia Erie, PA	Executive Vice President & Chief Financial Officer, Erie Insurance Company of New York

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
F. William Hirt Erie, PA	Chairman of the Board, Erie Insurance Company of New York
George R. Lucore Erie, PA	Senior Vice President, Erie Insurance Group
Jeffrey A. Ludrof Erie, PA	President & Chief Executive Officer, Erie Insurance Company of New York
Charles A. Markham Gowanda , NY	Retired Director-Secretary, and Financial Vice President, Professional Insurance Association of New York
John M. Peterson Erie, PA	Retired President & Chief Executive Officer, Erie Insurance Group
James J. Tanous Buffalo, NY	Attorney, Jaeckle, Flieshman & Mugel
Jan R. Van Gorder Erie, PA	Executive Vice President & General Counsel, Erie Insurance Group
Douglas F. Ziegler Erie, PA	Senior Vice President, Treasurer & Chief Investment Officer, Erie Insurance Company of New York

As indicated above, the board of directors consisted of eleven members as of the examination date.

The Company's by-laws require a minimum of thirteen directors at all times. Additionally, Section 1202(a) of the New York Insurance Law provides that:

“(1) ... the number of directors shall be fixed by the by-laws, or if not so fixed, by action of the directors.

(2) If not otherwise fixed under this article, the number shall be thirteen...”

Additionally, Section 1201(a)(5)(B)(vi) requires that at least three board members be residents of New York State. As of the examination date, only two board members met that statutory requirement.

It is recommended that the Company comply with the above cited sections of the New York Insurance Law, as well as its by-laws, relative to the number and residency requirements of directors on its board.

Subsequently, it was noted that the Company appointed two additional directors by June 2003 and that one of the new directors does reside in New York, fulfilling the requirement of the aforementioned Section 1201(a)(5)(B)(vi) of the New York Insurance Law, as amended.

Examination review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were well attended.

As of December 31, 2002, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Jeffrey Ludrof	President & Chief Executive Officer
Jan Reid Van Gorder	Sr. Executive Vice President, Secretary & General Counsel
Philip A. Garcia	Executive Vice President & Chief Financial Officer
Douglas Frank Ziegler	Senior Vice President, Treasurer & Chief Investment Officer

B. Territory and Plan of Operation

As of December 31, 2002, the Company was licensed to transact business in New York and Pennsylvania.

As of the examination date, the Company was authorized to transact the kinds of insurance as defined in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

<u>Paragraph</u>	<u>Kind of Insurance</u>
4	Fire
5	Miscellaneous property damage
6	Water damage
7	Burglary and theft
8	Glass

<u>Paragraph</u>	<u>Kind of Insurance</u>
9	Boiler and machinery
10	Elevator
11	Animal
12	Collision
13	Personal injury liability
14	Property damage liability
15	Workers' compensation and employers' liability
16	Fidelity and surety
19	Motor vehicle and aircraft physical damage
20	Marine and inland marine

The Company was also licensed as of December 31, 2002, to transact such workers' compensation insurance as may be incident to coverages contemplated under Paragraph 20 of Section 1113(a) of the New York Insurance Law including insurances described in the Longshoremen's and Harbor Workers' Compensation Act (Public Law No. 803, 69 Congress as amended; 33 USC Section 901 et seq. as amended).

Based on the lines of business for which the Company is licensed and the Company's current capital structure, and pursuant to the requirements of Articles 13 and 41 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$3,300,000.

The Company primarily underwrites workers' compensation and personal automobile insurance policies which are produced by independent agents.

The following schedule shows the direct premiums written by the Company in total and in New York for the period under examination:



DIRECT PREMIUMS WRITTEN

<u>Calendar Year</u>	<u>New York State</u>	<u>Total United States</u>	<u>Premiums Written in New York State as a Percentage of United States Premiums Written</u>
1998	\$ 2,121,028	\$ 7,517,089	28.2%
1999	\$ 2,680,250	\$ 10,896,908	24.6%
2000	\$ 3,874,287	\$ 15,635,975	24.8%
2001	\$ 5,625,854	\$ 21,161,841	26.6%
2002	\$ 8,185,855	\$ 26,599,571	30.8%

C. ReinsuranceInter-Company Pooling Agreement

Under the terms of an inter-company pooling agreement, effective January 1, 1995, Erie Insurance Exchange, Erie Insurance Company, and Erie Insurance Company of New York cede 100% of their written business to the pool and assume an agreed upon participation percentage of the pooled business.

In 2002, the participation percentages were:

Erie Insurance Exchange	94.5%
Erie Insurance Company	5
Erie Insurance Company of New York	<u>.5</u>
Total	<u>100.0%</u>

Ceded

All ceded reinsurance contracts effected during the examination period were reviewed and all were found to contain the required standard clauses including insolvency clauses meeting the requirements of Section 1308 of the New York Insurance Law.

The Company was a party to the following ceded reinsurance treaty in effect as of December 31, 2002:

Treaty

\*All lines aggregate excess of loss

Cession

95% of the amount the net aggregate losses exceed 72.5% of net earned premium up to a maximum of 95% of 15% of net earned premium.

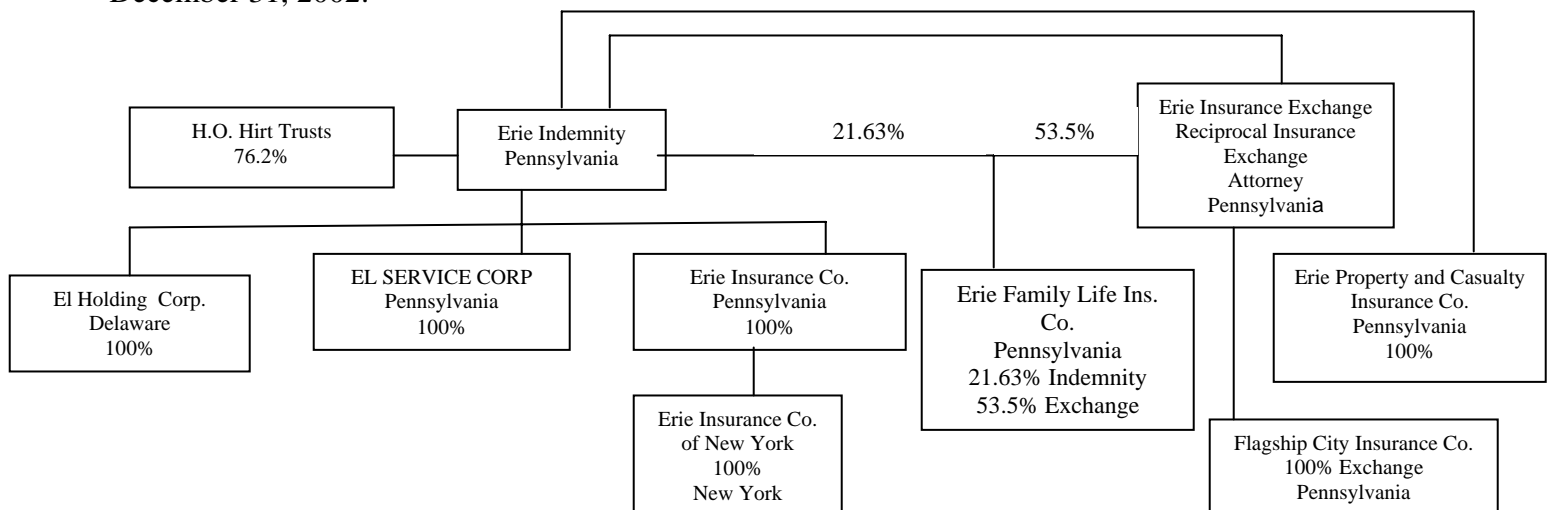
\*The agreement is with Erie Insurance Exchange, an accredited affiliated reinsurer. This agreement was filed and non-disapproved in accordance with Section 1505 of the New York Insurance Law.

The Schedule F data as contained in the Company's annual statements filed for the years within the examination period was found to accurately reflect its reinsurance transactions.

D. Holding Company System

The Company is a wholly-owned subsidiary of Erie Insurance Company (Pennsylvania), which is a wholly-owned subsidiary of Erie Indemnity Company ("Erie Indemnity"), attorney-in-fact for Erie Insurance Exchange. Through the attorney-in-fact, Erie Indemnity operates as a provider of management services for the Erie Insurance Exchange and its affiliates and subsidiaries, including Erie Insurance Company of New York.

A review of the holding company registration statements filed with the Department indicated that such filings were complete and were filed in a timely manner pursuant to Article 15 of the New York Insurance Law and Department Regulation 52. The following is a chart of the holding company system at December 31, 2002:



At December 31, 2002, the Company was a party to the following agreements with other members of its holding company system:

1. Service Agreement

The Company is a party to a service agreement with Erie Indemnity whereby Erie Indemnity agreed to provide all the necessary and appropriate management services generally necessary to conduct the business and affairs of the Company. The agreement provides for Erie Indemnity to be paid a management fee calculated on a cost basis.

2. Cost Sharing Agreement

The Company entered into a cost sharing agreement effective on March 14, 2001, with all the companies within the Erie Group to share costs incurred by exploring the various business opportunities on the internet and other sources.

Both of the above mentioned agreements were filed with the New York State Insurance Department pursuant to Section 1505 of the New York Insurance Law.

E. Abandoned Property Law

Section 1316 of the New York Abandoned Property Law provides that amounts payable to a resident of this state from a policy of insurance, if unclaimed for three years, shall be deemed to be abandoned property. Such abandoned property shall be reported to the comptroller on or before the first day of April each year. Such filing is required of all insurers regardless of whether or not they have any abandoned property to report.

The Company's abandoned property reports for the period of this examination were all filed on a timely basis pursuant to the provisions of Section 1316 of the New York Abandoned Property Law.

F. Significant Operating Ratios

The following ratios have been computed as of December 31, 2002, based upon the results of this examination:

Net premiums written in 2002 to surplus as regards policyholders	1.5 to 1
Liabilities to liquid assets (cash and invested assets less investments in affiliates)	79.1%
Premiums in course of collection to surplus as regards policyholders	31%

All of the above ratios fall within the benchmark ranges set forth by the Insurance Regulatory Information System of the National Association of Insurance Commissioners.

The underwriting ratios presented below are on an earned/incurred basis and encompass the five-year period covered by this examination:

	<u>Amounts</u>	<u>Ratios</u>
Losses and loss adjustment expenses	\$47,980,126	79.66%
Other underwriting expenses	18,110,513	30.07
Net underwriting gain (loss)	<u>(5,864,933)</u>	<u>(9.73)</u>
Premiums earned	<u>\$60,225,706</u>	<u>100.00%</u>

G. Accounts and Records

1. Section 325 of the New York Insurance Law

Section 325 (b) of the New York Insurance Law states in part :

“A domestic insurer ... may keep and maintain its books of account without this state if, in accordance with a plan adopted by its board of directors and approved by the superintendent, it maintains in this state suitable records in lieu thereof...”

The parent moved its administrative operations to Erie, Pennsylvania in 1994 upon acquiring the Company. A plan to move the administrative operations was not filed with the Superintendent or adopted

by its board of directors. This appears to be a violation of Section 325(b) of the New York Insurance Law.

It was noted that the Company filed a Section 325 (b) plan with the Department subsequent to the examination date.

## 2. Minimum Surplus Investments

Section 1402 of the New York Insurance Law requires that before investing in any other types of securities, a domestic stock insurer shall invest and maintain an amount equal to the greater of its minimum capital required by law or its minimum surplus to policyholders required to be maintained by law in the following types of securities:

- (1) Obligations of the United States or of any agency thereof provided such agency obligations are guaranteed as to principal and interest by the United States;
- (2) Direct obligations of this state or of any county, district or municipality thereof;
- (3) Direct obligations of any state of the United States;
- (4) Obligations secured by first mortgage loans which meet the standards specified in paragraph four of subsection (a) of section one thousand four hundred four of this article on property located in this state.

Additionally, not less than 60% must be invested in the types of securities set forth in (1) and (2) above.

It was noted that as of the examination date, the Company was not holding investments that met either the total requirement or the 60% requirement set forth in Section 1402 of the New York Insurance Law. However, it was also noted that subsequent to the examination date, the Company had invested in the proper qualifying securities.

It is recommended that the Company monitor its investment portfolio to ensure compliance with all statutory requirements.

### 3. FINANCIAL STATEMENTS

#### 1. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination and is the same as reported by the Company in its filed annual statement as of as of December 31, 2002:

<u>Assets</u>	<u>Ledger Assets</u>	<u>Assets Not Admitted</u>	<u>Admitted Assets</u>
Bonds	\$25,255,400		\$25,255,400
Preferred stocks	1,822,430		1,822,430
Common stocks	15,992		15,992
Cash	171,146		171,146
Short-term investments	2,090,156		2,090,156
Premiums and agents' balances in course of collection	3,410,645	\$ 39,722	3,370,923
Premiums, agents' balances and installments booked but deferred and not yet due	9,221,373		9,221,373
Funds held by or deposited with reinsured companies	18,933		18,933
Reinsurance recoverables on losses and loss adjustment expenses	2,189		2,189
Federal and foreign income taxes recoverable	1,269,136		1,269,136
Interest, dividends and real estate income due and accrued	408,615		408,615
Equities in pools and associations	545		545
Premium tax credit	45,107		45,107
Other accounts receivable	<u>9,167</u>	<u>          </u>	<u>9,167</u>
Total Assets	<u>\$43,740,834</u>	<u>\$39,722</u>	<u>\$43,701,112</u>

Liabilities

Losses and loss adjustment expenses	\$11,332,396
Reinsurance payable on paid losses	1,957,528
Contingent commissions and other similar charges	5,363
Other expenses	284
Taxes, licenses and fees	397,508
Advance premiums	100,771
Unearned premiums	6,370,938
Dividends declared and unpaid to policyholders	92,100
Ceded reinsurance premiums payable	11,454,456
Amounts withheld or retained by company for account of others	120,888
Payable to parent, subsidiaries and affiliates	924,229
2002 North Carolina private passenger auto escrow	<u>8,716</u>
Total liabilities	\$32,765,177

Surplus and Other Funds

Common capital stock	\$ 2,350,000
Gross paid in and contributed surplus	4,150,000
Unassigned funds	<u>4,435,935</u>
Surplus as regards policyholders	<u>10,935,935</u>
Total liabilities and surplus and other funds	<u>\$43,701,112</u>

NOTE: The Internal Revenue Service has completed its audit of the Company's 1996 tax return. The examiner is not aware of any tax assessment and the financial report does not reflect any tax liability herein. Audits for other years are either in process or have yet to commence.

B. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$2,630,828 during the 5-year examination period January 1, 1998 through December 31, 2002, detailed as follows:

Statement of Income

Underwriting income

Premiums earned		\$60,225,706
Deductions:		
Losses and loss adjustment expenses incurred	\$47,980,126	
Other underwriting expenses incurred	<u>18,110,513</u>	
Total deductions		<u>66,090,639</u>
Net operating loss		\$(5,864,933)

Investment Income

Net investment income earned	8,479,601	
Net realized losses	<u>(192,647)</u>	
Net investment gain		8,286,954

Other Income

Other income	\$11,894	
Net loss on agents' balances charged off	<u>(153,015)</u>	
Total other income		<u>(141,121)</u>
Net Income before federal income taxes and dividends to policyholders		\$2,280,900
Dividends to policyholders		<u>(307,881)</u>
Net income before federal income taxes		\$1,973,019
Federal income taxes incurred		<u>209,768</u>
Net income		<u>\$1,763,251</u>



C. Capital and Surplus Account

Surplus as regards policyholders, December 31, 1997			\$8,305,107
Net Income	\$1,763,251	\$	
Net unrealized capital gains	72,179		
Change in not admitted assets		27,621	
Change in excess statutory reserves	88,150		
Cumulative effect in changes in accounting principles	<u>734,869</u>	_____	
Total gains and losses	<u>\$2,658,449</u>	<u>\$27,621</u>	
Net increase in surplus as regards policyholders			<u>2,630,828</u>
Surplus as regards policyholders, December 31, 2002			
Per report on examination			<u>\$10,935,935</u>

#### **4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned item of \$11,332,396 is the same as reported by the Company as of December 31, 2002. The examination analysis was conducted in accordance with generally accepted actuarial principles and practices and was based on statistical information contained in the Company's internal records and in its filed annual statements.

#### **5. MARKET CONDUCT ACTIVITIES**

In the course of this examination a review was conducted of the manner in which the Company conducts its business practices and fulfills its contractual obligations to policyholders and claimants. The review was general in nature and is not to be construed to encompass the more precise scope of a market conduct investigation, which is the responsibility of the Market Conduct Unit of the Property Bureau of this Department.

The general review was directed at practices of the Company in the following areas:

- A. Sales and advertising
- B. Underwriting
- C. Rating
- D. Claims and complaint handling

No problem areas were encountered.

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

The prior report on examination contained two recommendations as follows (page numbers refer to the prior report):

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A      <u>Custodial Agreement</u></p> <p>A review of the Company's custodial agreement revealed that it lacked most of the protective covenants and safeguards that are deemed necessary.</p> <p>The Company has complied with this recommendation.</p>	<p>10-11</p>
<p>B      <u>Accounts and Records</u></p> <p>It is recommended that the Company comply with the Annual Statement Instructions in the preparation of its future filed financial statements.</p> <p>The Company has complied with this recommendation.</p>	<p>11</p>

## 7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
<p>A.      <u>Board of Directors</u></p> <p>It is recommended that the Company abide by the requirements of its by-laws and maintain the required number of directors and also have at least three directors that reside in New York State according to Section 1201 (a) (5) (B)(vi) of the New York Insurance Law.</p> <p>It is noted that the Company appointed two additional directors by June 2003 and that one of the new directors does reside in New York.</p>	<p>5</p>
<p>B.      <u>Accounts and Records</u></p> <p>(i)      <u>Minimum Surplus Investments</u></p> <p>It is recommended that the Company monitor its investment portfolio to ensure compliance with all statutory requirements.</p>	<p>11</p>

Respectfully submitted,

\_\_\_\_\_  
Deborah Sexton  
Senior Insurance Examiner

STATE OF NEW YORK     )  
                                  )SS:  
                                  )  
COUNTY OF NEW YORK    )

DEBORAH SEXTON being duly sworn, deposes and says that the foregoing report, subscribed to by her,  
is true to the best of her knowledge and belief.

\_\_\_\_\_  
Deborah Sexton

Subscribed and sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

Appointment No 22038

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, GREGORY V. SERIO, Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

*Deborah Sexton*

*as proper person to examine into the affairs of the*

**ERIE INSURANCE COMPANY OF NEW YORK**

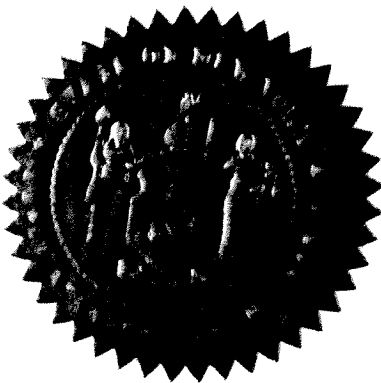
*and to make a report to me in writing of the condition of the said*

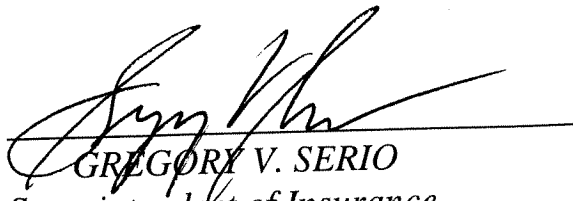
**Company**

*with such other information as she shall deem requisite.*

*In Witness Whereof, I have hereunto subscribed by the  
name and affixed the official Seal of this Department, at  
the City of New York,*

*this 2nd day of April, 2003*



  
GREGORY V. SERIO  
Superintendent of Insurance