

REPORT ON EXAMINATION

OF THE

ERIE INSURANCE COMPANY OF NEW YORK

AS OF

DECEMBER 31, 2010

DATE OF REPORT

OCTOBER 27, 2011

EXAMINER

SHEIK H. MOHAMED

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NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawskey  
Superintendent

October 27, 2011

Honorable Benjamin M. Lawskey  
Department of Financial Services  
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 30622 dated January 4, 2011, attached hereto, I have made an examination into the condition and affairs of Erie Insurance Company of New York as of December 31, 2010, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualifications, they should be understood to indicate Erie Insurance Company of New York. Wherever the designation “EIC” appears herein without qualification, it should be understood to indicate the Erie Insurance Company (the Company’s parent). Wherever the designation “the Exchange” appears herein without qualification, it should be understood to indicate the Erie Insurance Exchange. Wherever the designation “Indemnity” appears herein without qualification, it should be understood to indicate the Erie Indemnity Company, the attorney-in-fact for the Exchange. Wherever the designation “EIG” appears herein without qualification, it should be understood to indicate the Erie Insurance Group.

Wherever the term “Department” appears herein without qualification, it should be understood to mean the New York State Department of Financial Services.

The examination was conducted at the Company’s administrative office located at 100 Erie Insurance Place, Erie, PA 16530.

## 1. SCOPE OF EXAMINATION

The Department has performed a coordinated group examination of Erie Insurance Company of New York, a multi-state insurer. The examination was conducted in conjunction with the state of Pennsylvania, which was the coordinating state of the Erie Insurance Group. The examination was performed concurrently with the examinations of the Erie Insurance Company and the Erie Insurance Exchange by the Pennsylvania Insurance Department. The previous examination was conducted as of December 31, 2005. This examination covered the five-year period from January 1, 2006 through December 31, 2010. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

This examination was conducted in accordance with the National Association of Insurance Commissioners (“NAIC”) Financial Condition Examiners Handbook (“Handbook”), which requires that we plan and perform the examination to evaluate the financial condition and identify prospective risks of the Company by obtaining information about the Company, including corporate governance, identifying and assessing inherent risks within the Company and evaluating system controls and procedures used to mitigate those risks. This examination also includes assessing the principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation, management’s compliance with Statutory Accounting Principles and annual statement instructions when applicable to domestic state regulations.

All financially significant accounts and activities of the Company were considered in accordance with the risk-focused examination process. This examination also included a review and evaluation of the Company’s own control environment assessment and an evaluation based upon the Company’s Sarbanes Oxley documentation and testing. The examiners also relied upon audit work performed by the Company’s independent public accountants when appropriate.

This examination report includes a summary of significant findings for the following items as called for in the Financial Condition Examiners Handbook of the NAIC:

- Significant subsequent events
- Company history
- Corporate records
- Management and control
- Fidelity bonds and other insurance
- Territory and plan of operation

Growth of Company  
Loss experience  
Reinsurance  
Accounts and records  
Statutory deposits  
Financial statements  
Summary of recommendations

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 that involve departures from laws, regulations or rules, or that 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 commenced operations the same day.

On May 18, 1992, the board of directors adopted a plan of demutualization for the Company. This plan was approved by the Department on April 20, 1994, and the Company adopted its current title. The Company is now a wholly-owned subsidiary of Erie Insurance Company, a Pennsylvania insurer.

On January 1, 1995, the Company entered into an inter-company pooling agreement with EIC and the Exchange, which is more fully described in Item 2C of this report.

As of the examination date, capital paid in was \$2,350,000 consisting of 23,500 shares of \$100 par value per share common stock. Gross paid in and contributed surplus was \$4,150,000. Capital paid in and gross paid in and contributed surplus were unchanged during the examination period.

### **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 seven nor more than twenty-one members. The board

meets four times during each calendar year. At December 31, 2010, the board of directors was comprised of the following eight members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Brian William Bolash Erie, PA	Senior Counsel and Assistant Secretary, Erie Insurance Company of New York
James Ernest Caflisch Clymer, NY	Clerk, Chautauqua County Legislature
Terrence William Cavanaugh Erie, PA	President and Chief Executive Officer, Erie Insurance Company of New York
Marcia Ann Dall Erie, PA	Executive Vice President and Chief Financial Officer, Erie Insurance Company of New York
Thomas Bailey Hagen Erie, PA	Chairman/Owner, Custom Group Industries
James Joseph Tanous Erie, PA	Executive Vice President, Secretary and General Counsel, Erie Insurance Company of New York
Michael Stephen Zavasky Erie, PA	Executive Vice President, Erie Insurance Company of New York
Douglas Frank Ziegler Erie, PA	Senior Vice President, Chief Investment Officer and Treasurer, Erie Insurance Company of New York

A review of the minutes of the board of directors' meetings held during the examination period indicated that the meetings were generally well attended and each board member has an acceptable record of attendance.

As of December 31, 2010, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Terrence William Cavanaugh	President & Chief Executive Officer
George David Dufala	Executive Vice President
Marcia Ann Dall	Executive Vice President & Chief Financial Officer
John Francis Kearns	Executive Vice President
James Joseph Tanous	Executive Vice President, Secretary & General Counsel

<u>Name</u>	<u>Title</u>
Michael Stephen Zavasky	Executive Vice President
Douglas Frank Ziegler	Senior Vice President, Treasurer & Chief Investment Officer

B. Territory and Plan of Operation

As of December 31, 2010, the Company was licensed to write business in eleven states and the District of Columbia.

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>Line of Business</u>
4	Fire
5	Miscellaneous property damage
6	Water damage
7	Burglary and theft
8	Glass
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 (inland only)
26(B)	Motor vehicle lessee/debtor gap

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 \$3,500,000.

The Company has a network of 486 independent agents licensed in New York as of December 31, 2010 that write the following risks: private passenger auto no-fault (personal injury protection), other private passenger auto liability, private passenger auto physical damage and workers' compensation. It is also licensed in Pennsylvania, Minnesota, District of Columbia, Illinois, Indiana, Maryland, North Carolina, Tennessee, Virginia, West Virginia and Wisconsin to write Workers'

Compensation. The Company maintains twenty-three sales and claims field offices throughout the United States to service the pooled business.

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

<u>Calendar Year</u>	<u>New York State</u>	<u>Total Premiums</u>	<u>Premiums Written in New York State as a Percentage of Total Premium</u>
2006	\$5,572,948	\$14,493,086	38.45%
2007	\$4,815,939	\$16,655,304	28.92%
2008	\$4,789,877	\$27,198,373	17.61%
2009	\$4,728,833	\$31,129,388	15.19%
2010	\$5,614,768	\$36,790,058	15.26%

### C. Reinsurance

Assumed reinsurance accounted for 35.33% of the Company's gross premium written at December 31, 2010. The volume of assumed business has remained stable during the examination period. All of the Company's assumed business is derived from its participation in an Inter-company Pooling Agreement.

#### Inter-company Pooling Agreement

Effective January 1, 1995, the Company entered into an Inter-Company Pooling Agreement with Erie Insurance Exchange ("the Exchange") and Erie Insurance Company ("EIC"), whereby EIC and the Company cede 100% of their insurance business to the Exchange, and the Exchange retrocedes to EIC and the Company, 5% and 0.5%, respectively, of all of its insurance business. Also included in the pooled business is business that the Exchange assumes from two affiliated Pennsylvania domiciled insurers, Flagship City Insurance Company and Erie Insurance Property & Casualty Company, pursuant to a 100% quota share agreement. The Inter-company Pooling Agreement was approved by this Department.

#### Ceded Reinsurance

The Company and its affiliates are parties to a ceded reinsurance program as follows:

<u>Type of Treaty</u>	<u>Cession</u>
Property Facultative Excess of Loss (Covering commercial lines business bound on the "AutoFac" system)	\$20 million excess of \$15 million, each risk, each occurrence.
Property Catastrophe Excess of Loss	95% of \$500 million excess of \$400 million ultimate net loss, any one occurrence; limit \$1 billion in all during the term of the contract.

All ceded reinsurance agreements in effect as of the examination date were reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law.

Examination review of the Schedule F data reported by the Company in its filed annual statement was found to accurately reflect its reinsurance transactions. Additionally, management has represented that all material ceded reinsurance agreements transfer both underwriting and timing risk as set forth in SSAP No. 62. Representations were supported by appropriate risk transfer analyses and an attestation from the Company's chief executive officer pursuant to the NAIC Annual Statement Instructions. Additionally, examination review indicated that the Company was not a party to any finite reinsurance agreements. All ceded reinsurance agreements were accounted for utilizing reinsurance accounting as set forth in paragraph 17 through 24 of SSAP No. 62.

The Company was a party to an aggregate excess of loss agreement with the Exchange, which was terminated effective December 31, 2005. The agreement provided for the commutation of an Annual Period, sixty months after the expiration of such Annual Period. During the examination period, the Company commuted various Annual Periods. Pursuant to the Commutation Agreements, the Exchange paid to the Company the outstanding recoverable loss and defense and cost containment liabilities, discounted to present value. The Commutation Agreements were approved by this Department.

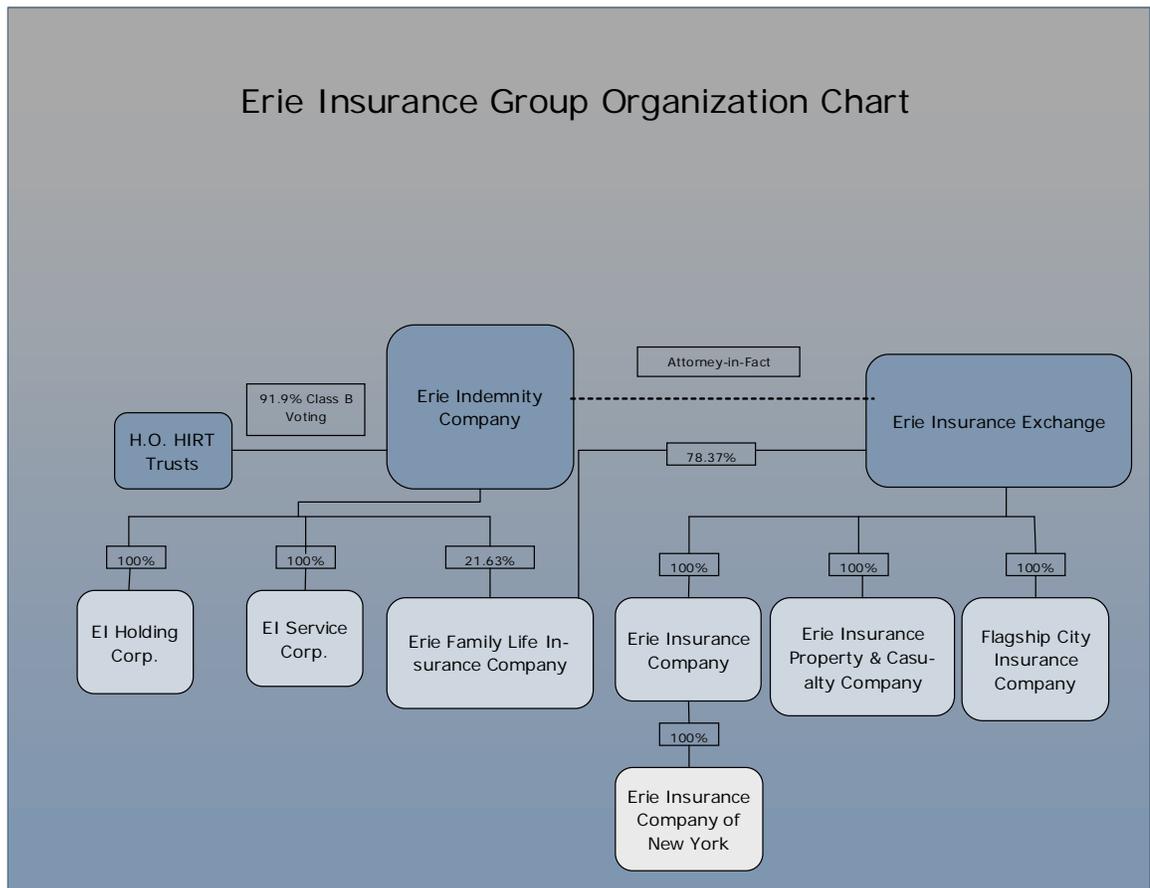
#### D. Holding Company System

The Company is a member of the Erie Insurance Group. The Company is a wholly-owned subsidiary of Erie Insurance Company, a Pennsylvania insurer, which is a wholly-owned subsidiary of Erie Insurance Exchange, a subscriber (policyholder) owned Pennsylvania domiciled reciprocal insurer. Erie Indemnity Company serves as the attorney-in-fact for the Exchange and provides

management services to the Erie Insurance Group. These companies are ultimately controlled by H.O. Hirt Trusts, which owns 91.9% of the voting stock of Erie Indemnity Company.

A review of the holding company registration statements filed with this 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, 2010:



At December 31, 2010, the Company was party to the following agreements with other members of Erie Insurance Group:

Service Agreement

Effective January 1, 1995, the Company entered into a service agreement with Erie Indemnity Company, a Pennsylvania stock corporation. Erie Indemnity Company agreed to provide all services necessary for the day to day operation of the Company including administrative, data processing, claims, underwriting and investment services. This agreement was approved as part of the demutualization package submitted to the Department.

E. Significant Operating Ratios

The following ratios have been computed as of December 31, 2010, based upon the results of this examination:

Net premiums written to policyholders' surplus	101%
Adjusted liabilities to liquid assets	64%
Gross agents balances (in collection) to policyholders' surplus	14%

All of the above ratios fall within the benchmark ranges set forth in 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 incurred	\$64,118,672	66.77%
Other underwriting expenses incurred	26,503,614	27.60
Net underwriting loss	<u>5,407,658</u>	<u>5.63</u>
Premiums earned	<u>\$96,029,944</u>	<u>100.00%</u>

### 3. FINANCIAL STATEMENTS

#### A Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2010 as determined by this examination and as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$44,266,865	\$ 0	\$44,266,865
Preferred stocks (stocks)	82,500	0	82,500
Common stocks (stocks)	18,251	0	18,251
Cash, cash equivalents and short-term investments	1,380,377	0	1,380,377
Receivables for securities	10,125	0	10,125
Investment income due and accrued	657,403	0	657,403
Uncollected premiums and agents' balances in the course of collection	2,706,537	27,879	2,678,658
Deferred premiums, agents' balances and installments booked but deferred and not yet due	14,617,853	0	14,617,853
Amounts recoverable from reinsurers	31,712	0	31,712
Funds held by or deposited with reinsured companies	12,538	0	12,538
Current federal and foreign income tax recoverable and interest thereon	528,648	0	528,648
Premium tax credits & other	36,424	17,677	18,747
Other accounts receivables	4,891	0	4,891
Equity and deposits in pools and association	<u>1,575</u>	<u>0</u>	<u>1,575</u>
Total assets	<u>\$64,355,700</u>	<u>\$45,556</u>	<u>\$64,310,144</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and loss adjustment expenses		\$17,643,965
Reinsurance payable on paid losses and loss adjustment expenses		19,408
Taxes, licenses and fees (excluding federal and foreign income taxes)		182,581
Net deferred tax liability		4,196,473
Unearned premiums		8,065,532
Advance premium		206,626
Policyholders (dividends declared and unpaid)		11,589
Ceded reinsurance premiums payable (net of ceding commissions)		12,526,014
Amounts withheld or retained by company for account of others		49,669
Remittances and items not allocated		14,067
Payable to parent, subsidiaries and affiliates		1,579,071
Payable for securities		9,648
North Carolina private passenger escrow		<u>96</u>
Total liabilities		\$44,504,737

Surplus and Other Funds

Common capital stock	\$2,350,000	
Gross paid in and contributed surplus	4,150,000	
Unassigned funds (surplus)	<u>13,305,406</u>	
Surplus as regards policyholders		<u>19,805,406</u>
Total liabilities, surplus and other funds		<u>\$64,310,144</u>

NOTE: The Company is not currently under IRS audit. The examiner is unaware of any potential exposure of the Company to any tax assessment and no liability has been established herein relative to such contingency.

B. Statement of Income

Surplus as regards policyholders increased \$5,988,632 during the five-year examination period January 1, 2006 through December 31, 2010, detailed as follows:

Underwriting Income

Premiums earned		\$96,029,944
Deductions:		
Losses and loss adjustment expenses incurred	\$64,118,672	
Other underwriting expenses incurred	26,438,175	
Aggregate write-ins for underwriting deductions	<u>65,439</u>	
Total underwriting deductions		<u>90,622,286</u>
Net underwriting gain or (loss)		\$5,407,658

Investment Income

Net investment income earned	\$10,193,996	
Net realized capital gain	<u>(721,361)</u>	
Net investment gain or (loss)		9,472,635

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$(685,075)	
Aggregate write-ins for miscellaneous income	<u>77,794</u>	
Total other income		<u>\$(607,281)</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$14,273,012
Dividends to policyholders		<u>154,046</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$14,118,966
Federal and foreign income taxes incurred		<u>3,916,385</u>
Net income		<u>\$10,202,581</u>

C. Capital and Surplus Accounts

Surplus as regards policyholders per report on examination as of December 31, 2005			\$13,816,774
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$10,202,581	\$ 0	
Net unrealized capital gains or (losses)	28,992		
Change in net deferred income tax		4,807,914	
Change in nonadmitted assets	171,582		
Cumulative effect of changes in accounting principles	<u>393,391</u>	<u>0</u>	
Net increase (decrease) in surplus	<u>\$10,796,546</u>	<u>\$4,807,914</u>	<u>5,988,632</u>
Surplus as regards policyholders per report on examination as of December 31, 2010			<u>\$19,805,406</u>

**4. LOSSES AND LOSS ADJUSTMENT EXPENSES**

The examination liability for the captioned items of \$17,643,965 is the same as reported by the Company as of December 31, 2010. 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. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION**

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

ITEM

PAGE NO.

A. Management

It was recommended that the Company comply with Section 1411(a) of the New York Insurance Law and not make any loan or investment unless it is authorized or approved by its board of directors or a committee thereof responsible for making such investment or loan

5

The Company has complied with this recommendation.

ITEMPAGE NO.B. Accounts and RecordsCertified Public Accountant Engagement Letter

It was recommended that the Company ensure that the contract entered into with its independent certified public accountant complies with Department Regulation No. 118. 12

The Company has complied with this recommendation.

Custodial Agreement

- i. It was recommended that the Company comply with Part 1 Section IV(J) of the NAIC Financial Condition Examiners Handbook by revising its custodial agreements to include all of the requisite safeguards and controls. 12

The Company has complied with this recommendation.

- ii. It was further recommended that the Company respond appropriately to general interrogatories in all future statements filed with this Department. 12

The Company has complied with this recommendation.

Directors and Officers Insurance Policy

It was recommended that the Company comply with Department Regulation No. 110 and ensure that the directors and indemnification policy includes the requisite retention amounts and co-insurance percentages. 13

The Company has complied with this recommendation.

Respectfully submitted,

\_\_\_\_\_/s/\_\_\_\_\_  
Sheik H. Mohamed, CPCU, CPA  
Senior Insurance Examiner

STATE OF NEW YORK    )  
  )ss:  
COUNTY OF NEW YORK )

SHEIK H. MOHAMED, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

\_\_\_\_\_/s/\_\_\_\_\_  
Sheik H. Mohamed

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

STATE OF NEW YORK  
INSURANCE DEPARTMENT

I, James J. Wrynn Superintendent of Insurance of the State of New York,  
pursuant to the provisions of the Insurance Law, do hereby appoint:

**Sheik Mohamed**

*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*

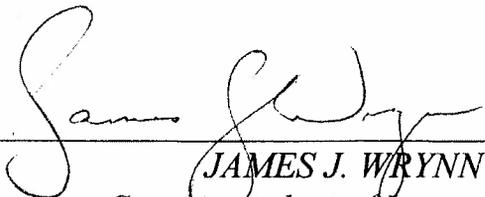
**Company**

*with such other information as he 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 4th day of January, 2011*





JAMES J. WRYNN  
Superintendent of Insurance