

REPORT ON EXAMINATION  
OF THE  
GENESEE PATRONS COOPERATIVE INSURANCE COMPANY  
AS OF  
DECEMBER 31, 2002

DATE OF REPORT  
EXAMINER

SEPTEMBER 29, 2003  
GERARD L. FRANCO

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STATE OF NEW YORK  
INSURANCE DEPARTMENT  
ONE COMMERCE PLAZA  
ALBANY, NEW YORK 12257

George E. Pataki  
Governor

Gregory V. Serio  
Superintendent

September 29, 2003

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 22070 dated June 23, 2003 attached hereto, I have made an examination into the condition and affairs of Genesee Patrons Cooperative Insurance Company as of December 31, 2002, and submit the following report thereon.

The examination was conducted at the Company's administrative offices located at 218 East Main Street, Batavia, New York 14020.

Wherever the designations "the Company" or "GPCIC" appear herein without qualification, they should be understood to indicate the Genesee Patrons Cooperative Insurance Company.

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, and was limited in scope to these balance sheet items considered by this Department to require analysis, verification or description, including: invested assets, loss and loss adjustment expenses reserves and the provision for reinsurance. The examination included a review of income, disbursements and company records deemed necessary to accomplish such analysis and verification and utilized, to the extent considered appropriate, work performed by the Company's independent certified public accountants. Transactions occurring subsequent to this period were reviewed where deemed appropriate by the examiner.

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

## 2. DESCRIPTION OF COMPANY

The Company was organized on May 3, 1877 as the Genesee County Patrons Fire Relief Association, for the purpose of transacting business as an assessment co-operative fire insurance company in Genesee County in New York State. On April 27, 1979, the Company changed its corporate name to Genesee Patrons Cooperative Insurance Company. In April 1995, the Company's license was amended enabling it to transact business in the entire State of New York, excluding the counties of New York, Kings, Queens, Bronx and Richmond.

### 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 nine nor more than fifteen members. The board meets three times and the executive committee at least once during each calendar year, thereby

complying with Section 6624(b) of the New York Insurance Law. At December 31, 2002, the board of directors was comprised of the following thirteen (13) members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
Edward P Bartz Hamburg, NY	Partner, Harold C. Brown Investments
Richard C. Cherry Akron, NY	Retired Insurance Agent
D.Howard Cohen Batavia, NY	Real Estate Manager
Charles E. Cook Byron, NY	Liberty Pumps
Joseph P. Forsyth LeRoy, NY	Certified Public Accountant
Ernest M. Found Batavia, NY	Retired Attorney
Gary C. Gable Hamburg, NY	Gary C. Gable Professional Adjusters
William G. Hirsch Alexander, NY	Farmer
Harry A. Kelsey Oakfield, NY	Farmer
Keith R. Norton Pavilion, NY	Secretary, GPCIC
Erma J. Preston Elba, NY	Treasurer, GPCIC
Francis M. Spiotta Batavia, NY	President, GPCIC
Bruce R. Tehan Batavia, NY	Marketing Representative, GPCIC

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, 2002, the principal officers of the Company were as follows:

Francis M. Spiotta	President
Keith R. Norton	Secretary
Erma J. Preston	Treasurer

It is noted that at December 31, 2002 a vacancy existed in the positions of Director and Vice President due to a death. Both positions were filled at the Company's April 2003 annual board of directors meeting.

B. Territory and Plan of Operation

At December 31, 2002, the Company was licensed to write business in New York only.

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
12	Collision
13	Personal injury liability
14	Property damage liability
15	Worker's compensation and employer's liability(employers' liability only)
19	Motor vehicle and aircraft physical damage(excluding aircraft physical damage)
20	Marine and inland marine (inland marine only)

The Company added boiler and machinery insurance to its writing powers, upon approval of the Insurance Department, effective February 21, 2002. Both the Company's charter and license were amended to reflect this change in writing powers.

The following schedule shows the direct premiums written by the Company for the period under examination.

<u>Calendar Year</u>	<u>Direct Premiums Written(000's)</u>
1998	\$3,337,910
1999	\$3,262,617
2000	\$3,317,355
2001	\$3,408,022
2002	\$3,804,980

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 66 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$150,000.

The Company underwrites predominantly homeowners multiple peril, commercial multiple peril and farmowners multiple peril, which accounted for 40%, 34% and 15% respectively, of the 2002 net premium writings. The business of the Company is produced through approximately 75 independent agents.

### C. Reinsurance

#### Assumed

The Company does not assume any reinsurance business.

#### Ceded

The Schedule F data as contained in the Company's filed annual statement was found to accurately reflect its reinsurance transactions.

The examiner reviewed all ceded reinsurance contracts in effect at December 31, 2002. The contracts all contained the required standard clauses including insolvency clauses meeting the requirements of Section 1308 of the New York Insurance Law.

The Company had the following property and casualty combination excess of loss reinsurance program in effect at December 31, 2002:

Property 2 layers	\$350,000 x/s \$50,000 as respects any one loss, reinsurer's liability not to exceed for each layer, respectively, \$150,000 and \$900,00 by reason of any one loss occurrence.
Casualty 3 layers	\$950,000 x/s \$50,000 in any one loss occurrence
Casualty clash	\$1,000,000 x/s \$1,000,000 in any one loss occurrence
Property catastrophe 2 layers	95% of \$1,250,000 x/s \$250,000 ultimate net loss each loss occurrence 100% x/s \$1,500,000 ultimate net loss each loss occurrence
Aggregate	95% of \$1,500,000 of aggregate net losses exceeding 75% of net earned premium in any one agreement year

The Company's retention increased from \$25,000 to \$50,000, on both property and casualty lines of business, compared with the prior examination period. During the examination period 100% of the reinsurance cessions were with authorized reinsurers, as was the case in the prior examination period.

In addition to its treaty reinsurance program, the Company also obtained the following facultative reinsurance coverage.

Property	facultative cessions which are the lesser of 50% of the entire risk or \$600,000 in respect of any property risk reinsured.
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#### D. Holding Company System

Genesee Patrons Insurance Agency, Inc., a wholly owned subsidiary of the Company, was formed in 1991 for the purpose of providing umbrella coverage to agents and insureds of the Company. The Company contributed \$5,000 in capital to the subsidiary in return for 100 shares of stock. The agency has been inactive during the examination period. The Company has filed all reports required under Insurance Department Regulation 53.(NYCRR Part 81.1).

### E. Abandoned Property Law

Section 1316 of the New York State 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, but did not conform to the provisions of Section 1316 of the New York State Abandoned Property Law. The Company consistently used incorrect cut-off dates on final Section 1316 report submissions, final payments were made for the years 1998 through 2002 several months prior to the month due and no preliminary abandoned property reports were filed in the examination period. It is recommended that the Company comply with all the filing requirements of Section 1316 of the New York State Abandoned Property Law henceforth.

### 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 to surplus as regards policyholders	72%
Liabilities to liquid assets(cash and invested assets less investments in affiliates)	50%
Premiums in course of collection to surplus as regards policyholders	1%

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	\$ 8,382,903	71.96%
Other underwriting expenses incurred	3,887,471	33.37%
Net underwriting loss	<u>(621,624)</u>	<u>(5.33)%</u>
Premiums earned	<u>\$ 11,648,750</u>	<u>100.00%</u>

#### G. Directors and Officers Liability Policy

Regulation 110 (NYCCR Part 72.4) specifies the retention amount and a coinsurance percentage that each insurer is to hold on a Directors and Officers Liability Policy. After a review, it was revealed that the retention on the Company's Directors and Officers Liability policy was \$20,000 and did not include a coinsurance clause as required by Regulation 110. As required by Regulation 110 the minimum retention for a Company of this size is \$30,000, with a coinsurance percentage of 0.3%. Therefore, it is recommended that the Company comply with Regulation 110 (NYCRR Part 72.4) and raise its retention amount and include a coinsurance clause on its Directors and Officers policy.

#### H. Custodial Agreement

As indicated in the National Association of Insurance Commissioners (NAIC) Financial Condition Examiners Handbook there are specific guidelines that should be followed in the maintenance of a custodial or safekeeping agreement. After a review of the Company's current custodial agreement several provisions and safeguards required by the NAIC, reinforced by the Department's Circular Letter No. 2 of 1977 were not included in the agreement. Therefore, it is

recommended that the Company comply with NAIC requirements, reinforced by Circular Letter No. 2 of 1977 and obtain a custodial agreement that includes the requirements specified by the NAIC and New York Insurance Department.

#### I. Approval of Investments

When reviewing the board of director's minutes for approval of investments it was observed that the Company was not in compliance with Section 1411(a) of the New York Insurance Law, which states, in part that "No domestic insurer shall make any loan or investment unless authorized or approved by its board of directors or a committee thereof responsible for supervising or making such investment or loan. The committee's minutes shall be recorded and a report submitted to the board of directors at its next meeting." Although the Company's purchases and sales of investments, both short and long term, were apparently approved through a verbal statement given by the investment committee at the board meeting, these approvals were not recorded by a written report in the board minutes. Therefore, it is recommended that the Company comply with the requirements of Section 1411(a) of the New York Insurance Law by having the approval of all purchase and sales of investments entered into the board minutes through a written statement, thus ensuring that all investments are authorized or approved by its board of directors or a committee thereof responsible for supervising or making such investments.

### 3. FINANCIAL STATEMENTS

#### A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as determined by this examination as of December 31, 2002. This statement is the same as the balance sheet filed by the Company.

	<u>Assets</u>	Assets Not <u>Admitted</u>	Net Admitted <u>Assets</u>
Bonds	\$ 4,560,075	\$-0-	\$4,560,075
Common stocks	1,216,719	-0-	1,216,719
Real estate occupied by company	32,298	-0-	32,298
Cash and short-term investments	<u>309,650</u>	-0-	<u>309,650</u>
Subtotals cash and invested assets	\$6,118,742	\$-0-	\$6,118,742
Premiums and agents' balances in course of collection	50,126	5,359	44,767
Premiums, agents' balances and installment booked but deferred and not yet due	532,282	0	532,282
Reinsurance recoverables on loss and loss adjustment expense payments	125,815	0	125,815
Federal and foreign income tax recoverable	30,045	0	30,045
Interest, dividends and real estate income due and accrued	77,110	0	77,110
Other assets non admitted	8,219	8,219	
Aggregate write-ins for other than invested assets	<u>15,550</u>		<u>15,550</u>
Total Assets	<u>\$6,957,889</u>	<u>\$13,578</u>	<u>\$6,944,311</u>

Liabilities, surplus and other funds

Losses and Loss adjustment expenses		\$1,353,239
Commissions payable, contingent commissions and other similar charges		161,002
Other expenses (excluding taxes, licenses and fees)		11,703
Unearned premiums		1,978,690
Advance premiums		43,473
Ceded reinsurance premiums payable (net of ceding commissions)		32,124
Remittances and items not allocated		19,796
Payable to parent, subsidiaries and affiliates		<u>3,969</u>
Total liabilities		\$3,603,996
Unassigned funds (surplus)	\$ 100,000	
Special contingent surplus	<u>3,240,315</u>	
Surplus as regards policyholders		<u>3,340,315</u>
Total liabilities, surplus and other funds		<u>\$6,944,311</u>

Note: The Internal Revenue Service has not performed any audits of the Company's Federal Income Tax returns for the examination period. 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. Underwriting and Investment Exhibit

Surplus as regards policyholders increased \$277,198 during the five-year examination period January 1, 1998 through December 31, 2002, detailed as follows:

Underwriting Income

Premiums earned		\$11,648,750
Losses and loss adjustment expenses incurred	\$8,382,903	
Other underwriting expenses incurred	<u>3,887,471</u>	
Total underwriting deductions		<u>\$12,270,374</u>
Net underwriting gain or (loss)		(\$621,624)

Investment Income

Net investment income earned	\$1,032,869	
Net realized capital gain	<u>169,857</u>	
Net investment gain or (loss)		\$1,202,726

Other Income

Net gain or (loss) from agents' or premium balances charged off	\$(12,177)	
Finance and service charges not included in premiums	<u>200,062</u>	
Total other income		<u>\$187,885</u>
Net income after dividends to policyholders but before federal and foreign income taxes		\$768,987
Federal and foreign income taxes incurred		<u>264,153</u>
Net income		<u>\$504,834</u>

C. Capital and Surplus Account

Surplus as regards policyholders per report on Examination as of December 31, 1997			\$3,063,117
	<u>Gains in Surplus</u>	<u>Losses in Surplus</u>	
Net income	\$504,834	\$ -0-	
Net unrealized capital gains or (losses)	-0-	308,181	
Change in net deferred income tax	37,645	-0-	
Change in nonadmitted assets	60,105	-0-	
Aggregate write-ins for gains and losses in surplus	<u>-0-</u>	<u>17,205</u>	
Net increase (decrease) in surplus			<u>\$ 277,198</u>
Surplus as regards policyholders per report on Examination as of December 31, 2002			<u>\$3,340,315</u>

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$1,353,239 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 Companies internal records and in its filed annual statements.

The Company's actuarial opinion and report, as well as Company's CPA workpapers, were reviewed and utilized in the determination of an appropriate reserve for the Company's unpaid losses and loss adjustment expenses.

## 5. MARKET CONDUCT ACTIVITIES

In the course of this examination, a review was made of the manner in which the Company conducts its business 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.

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

A review of Company agent terminations was performed to confirm compliance with the requirements of Regulation 90 (NYCRR Part 218.4). Upon completion of this review it was discovered that the Company was not giving a specific reason for termination and did not give thirty (30) days prior notice of termination to the agent. Therefore, it is recommended that the Company comply with all the requirements of Regulation 90 (NYCRR Part 218) pertaining to the termination of agents and give thirty (30) days prior notice and a specific reason of termination to the agent.

## 6. COMPLIANCE WITH PRIOR REPORT ON EXAMINATION

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

<u>ITEM</u>	<u>PAGE NO.</u>
A. It is recommended that the Company periodically review its fidelity bond coverage and when necessary increase coverage amounts in order to comply with the guidelines of the National Association of Insurance Commissioners.	8
The Company complied with this recommendation.	

## 7. SUMMARY OF COMMENTS AND RECOMMENDATIONS

<u>ITEM</u>	<u>PAGE NO.</u>
<u>A. Abandoned Property</u>	
It is recommended that the Company comply with all the filing requirements of Section 1316 of the New York State Abandoned Property Law henceforth.	7
<u>B. Directors and Officers Liability Policy</u>	
It is recommended that the Company comply with Regulation 110 (NYCRR Part 72.4) and raise its retention amount and include a coinsurance clause on its Directors and Officers policy.	8
<u>C. Custodial Agreement</u>	
It is recommended that the Company comply with NAIC requirements, reinforced by Circular Letter No. 2 of 1977 and obtain a custodial agreement that includes the requirement specified by the NAIC and New York Insurance Department.	8-9

ITEMPAGE NO.D. Approval of Investments

It is recommended that the Company comply with the requirements of Section 1411(a) of the New York Insurance Law by having all purchases and sales of investments entered into the board minutes through a written statement, thus ensuring that all investments are authorized or approved by its board of directors or a committee thereof responsible for supervising or making such investments.

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E. Market Conduct Activities

It is recommended that the Company comply with all the requirements of Regulation 90 (NYCRR Part 218) pertaining to the termination of agents and give thirty (30) days prior notice and a specific reason of termination to the agent.

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Respectfully submitted,

/s/  
Gerard L. Franco, CIE  
Senior Insurance Examiner

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

Gerard L. Franco, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

/s/  
Gerard L. Franco

Subscribed and sworn to before me  
this 3rd day of October, 2003.

/s/

ANDREA M. CLARE  
Notary Public, State of New York  
Qualified in Montgomery County  
No. 4636585  
Commission Expires July 31, 2006

Appointment No 22070

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:

**Gerard Franco**

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

**Genesee Patrons Cooperative Insurance Company**

*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 Albany,*

*this 23rd day of June, 2003*



  
\_\_\_\_\_  
GREGORY V. SERIO

Superintendent of Insurance



Respectfully submitted,

/s/  
Gerard L. Franco, CIE  
Senior Insurance Examiner

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

Gerard L. Franco, being duly sworn, deposes and says that the foregoing report, subscribed by him, is true to the best of his knowledge and belief.

/s/  
Gerard L. Franco

Subscribed and sworn to before me  
this 3rd day of October, 2003.

/s/

**ANDREA M. CLARE**  
Notary Public, State of New York  
Qualified in Montgomery County  
No. 4636585  
Commission Expires July 31, 2006