



**REPORT ON EXAMINATION
OF
BERKSHIRE HATHAWAY ASSURANCE CORPORATION
AS OF DECEMBER 31, 2022**

**EXAMINER:
DATE OF REPORT:**

**SHEIK H. MOHAMED
OCTOBER 18, 2023**

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KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

October 18, 2023

Honorable Adrienne A. Harris
Superintendent
New York State Department of Financial Services
Albany, New York 12257

Madam:

Pursuant to the requirements of the New York Insurance Law, and in compliance with the instructions contained in Appointment Number 32483 dated February 22, 2023, attached hereto, I have made an examination into the condition and affairs of Berkshire Hathaway Assurance Corporation as of December 31, 2022, and submit the following report thereon.

Wherever the designation “the Company” appears herein without qualification, it should be understood to indicate Berkshire Hathaway Assurance Corporation.

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

1. SCOPE OF EXAMINATION

The Department has performed an examination of Berkshire Hathaway Assurance Corporation, a multi-state insurer. The previous examination was conducted as of December 31, 2017. This examination covered the five-year period from January 1, 2018, through December 31, 2022. 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, which requires that we plan and perform the examination to evaluate the financial condition and identify current and 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 New York laws, statutory accounting principles, and annual statement instructions.

This examination report includes, but is not limited to, the following:

- Company history
- Management and control
- Territory and plan of operation
- Reinsurance
- Holding company description
- Financial statement presentation
- Loss review and analysis
- Summary of recommendations

A review was also made to ascertain what action was taken by the Company with regard to the recommendation 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

Berkshire Hathaway Assurance Corporation was incorporated under the laws of the State of New York on December 21, 2007. It became licensed on December 28, 2007 and commenced business on the same date. The Company ceased actively writing new business in late 2008.

A. Corporate Governance

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 13 members. The board met one time during each calendar year. At December 31, 2022, the board of directors was comprised of the following seven members:

<u>Name and Residence</u>	<u>Principal Business Affiliation</u>
John Duane Arendt Stamford, Connecticut	Vice President, National Liability & Fire Insurance Company
Bruce John Byrnes New City, New York	Vice President, National Indemnity Company
Dale David Geistkemper Omaha, Nebraska	Treasurer and Controller, National Indemnity Company
Brad Evan Rosen Stamford, Connecticut	Vice President, National Liability & Fire Insurance Company
Brian Gerard Snover Stamford, Connecticut	Senior Vice President and General Counsel, National Liability & Fire Insurance Company
Kevin Gerard Snover North Babylon, New York	Attorney, Self-employed
Donald Frederick Wurster Omaha, Nebraska	President, National Indemnity Company

As of December 31, 2022, the principal officers of the Company were as follows:

<u>Name</u>	<u>Title</u>
Donald Frederick Wurster	President
Bruce John Byrnes	Secretary and Vice President
Brooke Lea Gregory	Controller
Dale David Geistkemper	Treasurer
Brian Gerard Snover	Senior Vice President
Ateet Avanish Dhru	Vice President
Michael James Lawler	Vice President

B. Territory and Plan of Operation

As of December 31, 2022, the Company was licensed to write business in all fifty states, the District of Columbia, and Puerto Rico.

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>
16(C)(D)(E)(F)(G)(H)(I)	Surety
17(A)	Credit
25	Financial guaranty

Based upon 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 69 of the New York Insurance Law, the Company is required to maintain a minimum surplus to policyholders in the amount of \$66,400,000.

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

<u>Calendar Year</u>	<u>Total Gross Premiums</u>
2018	\$252,713
2019	\$236,206
2020	\$218,682
2021	\$200,085
2022	\$180,358

The Company is a monoline bond insurer and has written insurance for tax-exempt bonds issued by states, cities, and other local entities. During the examination period, the Company did not write or assume business. The direct written premium reported during the examination period represents annual premiums from a surety bond, issued in 2008. The premium is reported per an agreed-upon schedule of exposure, which declines through the January 2027 termination.

C. Reinsurance Ceded

Since January 1, 2008, the Company has in place a 49% quota share reinsurance agreement with its affiliate, National Indemnity Company. As the Company did not write business during the examination period, no new risks were ceded to the National Indemnity Company.

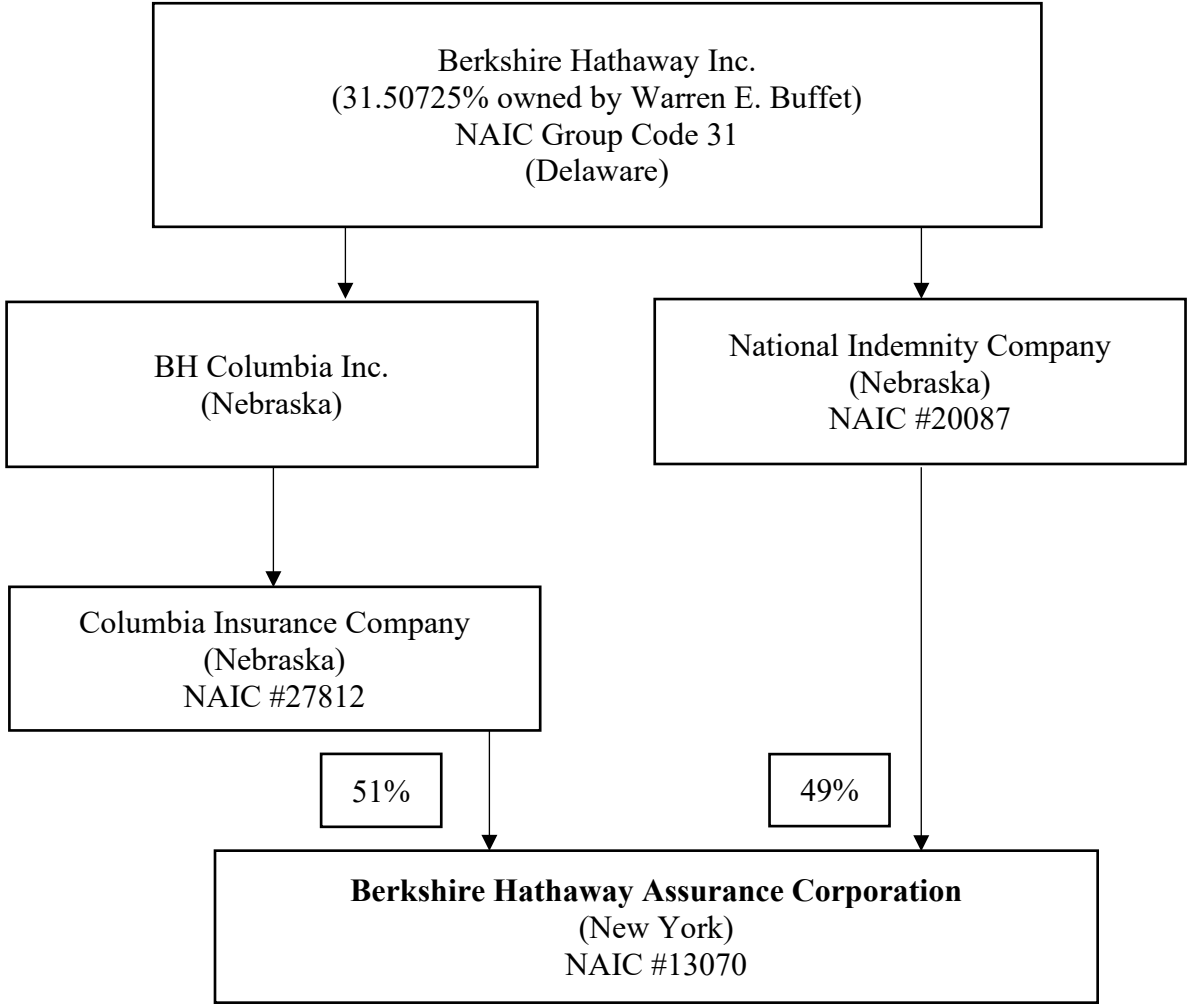
This agreement was reviewed and found to contain the required clauses, including an insolvency clause meeting the requirements of Section 1308 of the New York Insurance Law. This agreement was filed with the Department pursuant to the provisions of Section 1505(d)(2) of the New York Insurance Law.

D. Holding Company System

The Company is a member of the Berkshire Hathaway Group. The Company is 51% owned by Columbia Insurance Company and 49% owned by National Indemnity Company. The ultimate parent is Berkshire Hathaway Inc. (31.50725% owned by Warren E. Buffett).

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 an abridged chart of the holding company system at December 31, 2022:



Holding Company Agreements

At December 31, 2022, the Company was party to the following agreements with other members of its holding company system:

Administrative Agreement

Effective July 26, 2021, the Company entered into an administrative agreement with its affiliate, WestGUARD Insurance Company (“GUARD”). Pursuant to the terms of the agreement, GUARD will provide the use of its facilities in New York State to serve as the Company’s statutory home office and will provide basic services as reasonably necessary for the maintenance of the Company’s books and records. The agreement shall terminate on March 25, 2025, or earlier as agreed to by the parties.

Investment Agreements

Effective January 30, 2019, the Company entered into an investment management agreement with Berkshire Hathaway Inc. (“BHI”). Pursuant to the terms of the agreement, for a fee, BHI shall act as an investment manager for the Company. The fee shall be payable quarterly, and expenses are to be allocated in accordance with Department Regulation No. 30. Expenses totaling \$32,255 were incurred during 2022 and remitted with other billings through National Indemnity Company, who in turn reimbursed BHI.

The Company has in place an investment services agreement with National Indemnity Company, effective December 31, 2007, and amended May 29, 2008. Pursuant to the terms of the agreement, for a fee, National Indemnity Company shall act as an investment manager for the Company. The fee shall be payable quarterly, and expenses are to be allocated in accordance with Department Regulation No. 30.

Tax Allocation Agreement

At December 31, 2022, the Company was party to a tax allocation agreement, dated December 31, 2007, with its indirect parent, Berkshire Hathaway Inc. Pursuant to the terms of the agreement, the parties agree to file consolidated federal income tax returns and stipulates that the Company’s tax liability on a consolidated basis would not exceed the liability if the Company had filed its tax return on a stand-alone basis. The agreement was filed with the Department pursuant to Department Circular Letter No. 33 (1979).

The Company was also party to the following agreements which were not significant or not in use, as there were no expenses or very minimal expenses paid under these agreements during the examination period:

- Service agreement with National Indemnity Company;
- Service agreement with National Liability & Fire Insurance Company;
- Service agreement with FlightSafety International; and,
- Corporate guaranty agreement with Columbia Insurance Company (“CIC”), whereby CIC unconditionally guarantees the due and punctual payment of all future obligations and liabilities of the Company due under financial guaranty insurance policies issued by the Company.

All agreements subject to Section 1505(d) of the New York Insurance Law were submitted to the Department.

E. Significant Ratios

The Company no longer writes business; therefore, the only relevant ratio is adjusted liabilities to liquid assets. The adjusted liabilities to liquid assets ratio of 17%, computed as of December 31, 2022, falls within the benchmark range set forth in the Insurance Regulatory Information System of the NAIC.

Underwriting Ratios

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

	<u>Amount</u>	<u>Ratio</u>
Losses and loss adjustment expenses incurred	\$(15,264,328)	(17.62)%
Other underwriting expenses incurred	2,901,961	3.35%
Net underwriting gain (loss)	<u>98,994,869</u>	<u>114.27%</u>
Premiums earned	<u>\$86,632,502</u>	<u>100.00%</u>

The Company, as a financial guarantor, is not subject to the reporting requirements of risk-based capital.

3. FINANCIAL STATEMENTS

A. Balance Sheet

The following shows the assets, liabilities and surplus as regards policyholders as of December 31, 2022, as reported by the Company:

<u>Assets</u>	<u>Assets</u>	<u>Assets Not Admitted</u>	<u>Net Admitted Assets</u>
Bonds	\$ 210,462,312	\$ 0	\$ 210,462,312
Preferred stocks (stocks)	93,880,000	0	93,880,000
Common stocks (stocks)	602,310,280	320,580,583	281,729,697
Properties held for sale	3,750,000	3,750,000	0
Cash, cash equivalents and short-term investments	1,120,465,171	0	1,120,465,171
Investment income due and accrued	3,270,146	0	3,270,146
Receivables from parent, subsidiaries and affiliates	<u>47</u>	<u>0</u>	<u>47</u>
Total assets	<u>\$2,034,137,956</u>	<u>\$324,330,583</u>	<u>\$1,709,807,373</u>

Liabilities, Surplus and Other FundsLiabilities

Losses and loss adjustment expenses	\$	0
Other expenses (excluding taxes, licenses and fees)		10,600
Taxes, licenses and fees (excluding federal and foreign income taxes)		(65,862)
Current federal and foreign income taxes		12,026,906
Net deferred tax liability		174,885,443
Unearned premiums		65,305,368
Advance premium		159,439
Payable to parent, subsidiaries and affiliates		203,738
Contingency reserve		<u>42,672,629</u>
 Total liabilities	 \$	 295,198,261

Surplus and Other Funds

Common capital stock	\$	15,000,000
Gross paid in and contributed surplus		990,000,000
Unassigned funds (surplus)		<u>409,609,112</u>
 Surplus as regards policyholders		 <u>\$1,414,609,112</u>
 Total liabilities, surplus and other funds		 <u>\$1,709,807,373</u>

Note: The Internal Revenue Service has completed its audits of the Company's consolidated federal income tax returns through tax year 2011. All material adjustments, if any, made subsequent to the date of examination and arising from said audits, are reflected in the financial statements included in this report. Audits covering tax years 2012 through 2019 are currently under examination. The Internal Revenue Service has not audited tax returns covering tax years 2020 through 2022. 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

The net income for the examination period as reported by the Company was \$767,645,262, as detailed below:

Underwriting Income

Premiums earned		\$86,632,502
Deductions:		
Losses and loss adjustment expenses incurred	\$(15,264,328)	
Other underwriting expenses incurred	<u>2,901,961</u>	
Total underwriting deductions		<u>(12,362,367)</u>
Net underwriting gain or (loss)		\$98,994,869

Investment Income

Net investment income earned	\$218,207,929	
Net realized capital gain	<u>528,120,999</u>	
Net investment gain or (loss)		746,328,928

Other Income

Miscellaneous income (expense)	\$ <u>39,182</u>	
Total other income or (loss)		<u>39,182</u>
Net income before dividends to policyholders and before federal and foreign income taxes		\$845,362,979
Dividends to policyholders		<u>0</u>
Net income after dividends to policyholders and before federal and foreign income taxes		\$845,362,979
Federal and foreign income taxes incurred		<u>77,717,717</u>
Net income		<u>\$767,645,262</u>

C. Capital and Surplus

Surplus as regards policyholders decreased \$385,204,830 during the five-year examination period January 1, 2018 through December 31, 2022, as reported by the Company, detailed as follows:

Surplus as regards policyholders as reported by the Company as of December 31, 2017			\$1,799,813,942
	<u>Gains in</u>	<u>Losses in</u>	
	<u>Surplus</u>	<u>Surplus</u>	
Net income	\$ 767,645,262		
Net unrealized capital gains or (losses)		\$ 169,354,369	
Change in net deferred income tax		89,411,074	
Change in nonadmitted assets	287,048,773		
Dividends to stockholders		1,250,000,000	
(Increase)/decrease in contingency reserve	<u>68,866,578</u>	<u>0</u>	
Total gains and losses	<u>\$1,123,560,613</u>	<u>\$1,508,765,443</u>	
Net increase (decrease) in surplus			<u>(385,204,830)</u>
Surplus as regards policyholders as reported by the Company as of December 31, 2022			<u>\$1,414,609,112</u>

No adjustments were made to surplus as a result of this examination.

Capital paid in is \$15,000,000 consisting of 2,500 shares of \$6,000 par value per share common stock. Gross paid in and contributed surplus is \$990,000,000. Gross paid in and contributed surplus did not change during the examination period.

4. LOSSES AND LOSS ADJUSTMENT EXPENSES

The examination liability for the captioned items of \$0 is the same as reported by the Company as of December 31, 2022. The examination analysis of the loss and loss adjustment expense reserves was conducted in accordance with actuarial standards of practice and statutory accounting principles, including the NAIC Accounting Practices & Procedures Manual, Statement of Statutory Accounting Principles No. 60 (“SSAP No. 60”).

The Department reviewed the Company’s modelling, modelling assumptions, and surveillance policies and procedures as of December 31, 2022 and found them to be adequate. The Company has not written new business since 2008 but has renewed existing contracts. The only area of current risk is with respect to obligations issued by Puerto Rico, which the Company insured on a second-to-pay basis; accordingly, the Company only becomes liable for such defaulted amounts if they are not paid by the primary insurer.

The Company’s estimate of reserves for losses on its exposures is based on certain assumptions. Changes in these assumptions could materially adversely affect such reserve estimates; and include more adverse macroeconomic conditions, the bankruptcies of issuers of insured obligations, and the amount and timing of any claims. Under certain conditions, many of which are event-driven and outside the control of the Company, these exposures may result in significant increases in claims beyond those assumed in the Company’s reserve estimate (which may or may not result in an increase in such loss reserves).

5. UNEARNED PREMIUM RESERVES

Pursuant to Section 6903(c) of the New York Insurance Law, the Company maintains an unearned premium reserve. Unearned premiums represent the portion of premiums which are applicable to the unexpired risk on policies in force. As of December 31, 2022, the Company reported an unearned premium reserve of \$65,305,368.

6. CONTINGENCY RESERVES

Pursuant to Section 6903(a) of the New York Insurance Law, the Company is required to establish and maintain contingency reserves for the protection of policyholders and claimants against the effect of excessive losses occurring during adverse economic cycles. As of December 31, 2022, the Company reported a contingency reserve of \$42,672,629.

7. 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.	<u>Corporate Governance</u> It was recommended that board members who are unable or unwilling to attend meetings consistently should resign or be replaced.	4
	The Company has complied with this recommendation.	

8. SUMMARY OF COMMENTS AND RECOMMENDATIONS

This report on examination does not contain any comments or recommendations.

Respectfully submitted,

_____/S/_____
Sheik H. Mohamed
Associate 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 _____, 2024.

NEW YORK STATE

DEPARTMENT OF FINANCIAL SERVICES

I, Adrienne A. Harris, Superintendent of Financial Services of the State of New York, pursuant to the provisions of the Financial Services Law and the Insurance Law, do hereby appoint:

Sheik Mohamed

as a proper person to examine the affairs of the

Berkshire Hathaway Assurance Corporation

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

COMPANY

with such other information as he shall deem requisite.

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

this 22nd day of February 2023

*ADRIENNE A. HARRIS
Superintendent of Financial Services*

By:

Joan Riddell

*Joan Riddell
Deputy Bureau Chief*

