

REPORT ON

MARKET CONDUCT EXAMINATION

OF

PHOENIX HOME LIFE MUTUAL INSURANCE COMPANY

(NAIC COMPANY CODE 67814)

10 KREY BOULEVARD

EAST GREENBUSH, NEW YORK 12144

AS OF

DECEMBER 31, 1996

INSURANCE DIVISION

DEPARTMENT OF BUSINESS REGULATION
STATE OF RHODE ISLAND

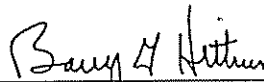
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
INSURANCE DIVISION

The attached Report of Examination as of December 31, 1996, of the market conduct condition and affairs of Phoenix Home Mutual Life Insurance Company was recently completed by duly qualified examiners, pursuant to the provision of the Rhode Island Insurance Code.

Due consideration has been given to the comments of the examiners regarding the operations of Phoenix Home Mutual Life Insurance Company and its market conduct condition as reflected from the examination report.

It is therefore ORDERED that said Report be, and it is hereby adopted and filed and made an official record of this department as of this date.

DEPARTMENT OF BUSINESS REGULATION



Barry G. Hittner
Director/Insurance Commissioner

ORDER NO. 98-0080

DATED: 8/26/98

TABLE OF CONTENTS

	PAGE
SALUTATION	3
FOREWORD	3
SCOPE	4
COMPANY OVERVIEW	5
History	5
Operations	5
Management	7
CERTIFICATE OF AUTHORITY	7
UNDERWRITING AND RATING	8
POLICY LOANS	10
CLAIM PRACTICES	11
CONSUMER OR OTHER RELATED COMPLAINTS	12
REPLACEMENT OF LIFE INSURANCE	13
POLICY SURRENDERS	14
SALES AND ADVERTISING	15
SUMMARY OF RECOMMENDATIONS	17
CONCLUSION	19

PROVIDENCE, RHODE ISLAND

July 3, 1998

Honorable Barry G. Hitter
Insurance Commissioner
State of Rhode Island

Dear Sir:

In accordance with your instructions, and pursuant to Title 27, Chapters 13 and 13.1 of the General Laws of the State of Rhode Island, a Market Conduct Examination was conducted of the Rhode Island business of:

Phoenix Home Life Mutual Insurance Company

10 Krey Boulevard

East Greenbush, New York 12144

referred to hereinafter as "Phoenix" or "the Company." Our report is hereby submitted as follows:

FOREWORD

Our Market Conduct Examination Report is in general, a report by exception. Practices, procedures, and/or files subject to review during this examination may have been omitted from the report if errors and/or improprieties were not evidenced.

SCOPE OF EXAMINATION

We conducted our examination in accordance with Title 27, Chapters 13 and 13.1 of the General Laws of Rhode Island. The examination covers premiums written by the Company in the ordinary life line of business for the period from January 1, 1994 through December 31, 1996. Performance of our examination was in accordance with standards established by the National Association of Insurance Commissioners, and procedures developed by the Rhode Island Department of Business Regulation, Insurance Division.

The examination was performed at the Company's main administrative office, which is located at One American Row, Hartford, Connecticut. Areas examined include Underwriting and Rating; Policy Loans; Claim Practices; Consumer or Other Related Complaints; Replacement of Life Insurance; Policy Surrenders; Sales and Advertising; Policy Forms and Endorsement Filings; and Certificate of Authority.

The primary purpose of the examination was to evaluate the Company's compliance with Rhode Island General Laws and Regulations. The examination was also performed to determine whether Rhode Island policyholders and claimants were treated equitably and fairly during the period under examination. The test work performed during the examination satisfied these purposes, and forms the basis for the findings and recommendations in this report.

COMPANY OVERVIEW

History

Phoenix Home Mutual Life Insurance Company ("Phoenix") was incorporated and commenced business on May 1, 1851, as a stock company. The Company's original was American Temperance Life Insurance Company. In 1889 the Company became a mutual insurance company. In July of 1992, the Company merged with Home Life Insurance Company of New York, and changed its name to Phoenix Home Life Mutual Insurance Company.

Phoenix Home Life segments its business into individual life, group life and health, securities management, real estate management, and life and health reinsurance. The Company has historically concentrated its individual and overall insurance operations in the traditional life market. At the close of the year 1996, traditional life represented approximately 82% of the total individual life premiums written by the Company. Phoenix also offers universal life and individual term coverage, however, these products represented modest amounts of the new business issued during the year by Phoenix. The Company has also emphasized the sale of its individual variable annuity products where the Company has achieved considerable growth in premium writings in each of the past four years.

Company Operations

Operations are conducted on the branch office plan through over 900 career agency representatives in the 50 states, the District of Columbia, the U.S. Virgin Islands, Puerto Rico,

and Canada that comprise its territory. In 1995 these producers generated about 58% of total premiums. The company generates over 37% of its business on a brokerage basis through a network of approximately 55 full-time brokerage representatives in 25 offices nationwide. In addition, the company generates approximately 5% of its business through a network of independent personal producing general agents (PPGA's). The company offers a portfolio of all of the standard forms of whole life and term contracts, universal life, variable life and annuities, group and individual annuities, group life and accident and health and major medical expense coverages. Disability and accidental death benefits are available in connection with life plans. Most business is written by the Company on a participating basis. During 1995, the Company took actions including consolidating agencies and reducing the number of career producers, while expanding both the brokerage system and the number of PPGA's.

1996 RHODE ISLAND DIRECT PREMIUMS WRITTEN

<u>Line of Business</u>	<u>Ordinary or Group</u>	<u>Rhode Island Premiums Written</u>
Life Insurance	Ordinary	\$ 8,512,107
Life Insurance	Group	654,104
Annuity Considerations	Ordinary	2,590
Accident and Health	Group	432,135
Accident and Health	Individual	19,777

Total direct written premiums for year ended December 31, 1996 were \$9,620,713.

Management

The Company was managed by the following individuals as of December 31, 1996:

Chairman of the Board, President
and Chief Executive Officer

Robert W. Fiordella

Executive Vice Presidents

Dona D. Young
Robert G. Chipkin
Richard H. Booth
Philip R. McLoughlin
Charles J. Paydos
David W. Searfoss

CERTIFICATE OF AUTHORITY

The Company's Certificate of Authority was reviewed in conjunction with an examination of its Rhode Island operations, in order to determine whether during the period under examination, the Company was in compliance with Section 27-2-11 of the General Laws of Rhode Island. In addition, a review was performed to determine whether the Company was in compliance with its Certificate of Authority, and to assess whether the Company has transacted business only through lawfully constituted and licensed producers.

Phoenix is licensed in the State of Rhode Island to write Life, Accident and Health, Annuity and Variable Contracts. A review of the Company's operations for the period under examination indicates that the Company's writings were in compliance with its Certificate of Authority.

UNDERWRITING AND RATING

An examination of the underwriting and rating of new business was performed to determine whether the Company was in compliance with Section 27-4-1 et. al. and Section 27-2-17(c), of the General Laws of Rhode Island, Rhode Island Insurance Regulations XXVII and XXIX, and any other applicable Rhode Island laws and regulations. In addition, the examination was conducted to ensure that new business submissions were underwritten and rated in compliance with the Company's underwriting and rating guidelines and procedures.

The Company processed 752 underwritten and rated applications for the period under examination. A sample of one hundred and six (106) files was selected for review based on sampling criteria as set forth by the National Association of Insurance Commissioners Examiners Handbook. The Company supplied the examiners with 103 of the 106 files. The remaining three (3) files could not be located by the Company:

The Company was found on one (1) of the sample items reviewed to be in violation Section 27-2.3-16(a) of the General Laws of Rhode Island which states: "If a domestic or foreign insurance company should reasonably believe that any licensed insurance producer from whom it has accepted an application for insurance has committed or is engaged in any act or omission stated in Section 27-2.3-12, the insurance company shall so notify the department and shall provide, upon request of the department, all relevant information, documents, records, or other data in its possession pertaining to the act or omission which may be used by the department." This

exception resulted from a producer receiving a \$5,000.00 check from an insured and using the check proceeds for his personal use.

It should be noted that once the Company became aware of this alleged misappropriation of funds, the Company contacted the insured and issued a policy that brought the individual to the position they would have achieved if the producer had properly submitted the application and premium. The Company has verified that it did not notify the department relating to the activities of this particular producer as required by the Section 27-2.3-16 of the General Laws of Rhode Island. The Company provided documentation to the examiners relating to this misappropriation of funds, but was unable to locate the producer's file. The Company indicated that this file would contain documentation relating to the licensing and termination of the producer. The producer was terminated from the Company once sufficient evidence was compiled that demonstrated the misappropriation of premiums.

It is therefore recommended the Company review their current procedures regarding the notification as required by Section 27-2.3-16(a) of the General Laws of Rhode Island. The Company should make appropriate changes it deems necessary to bring their procedures into compliance with the referenced General Law.

It is also recommended that the Company review their record retention procedures relating to filing of issued policy applications. This review should focus on identifying the reason(s) that issued policy applications are misfiled. The Company should make appropriate changes to their current record retention procedures that will assist in eliminating misfiled policy applications.

POLICY LOANS

A review of the Individual Life Policy Loans for the period under examination was performed to determine whether the actions taken by the Company with respect to policy loans were in compliance with Sections 27-29-3 and 27-29-4(1) of the General Laws of Rhode Island. The review was also conducted to assess the Company's compliance with its written procedures for handling policy loan requests and the provisions of applicable policy contracts.

During the period under examination, the Company processed 1,266 individual life policy loans. From the population of policy loans processed by the Company, a sample of forty-nine (49) individual life policy loans was selected for review.

Rhode Island Insurance Regulation XXIX requires each Company to inform its field representatives of the applicable requirements of Regulation XXIX. Section 3.E. of Regulation XXIX requires a producer to recognize and process a new policy as a replacement if it is known, or should be known to the producer, that twenty-five percent (25%) or more of the cash value of an existing policy will be subjected to borrowing to fund the premiums of a new policy.

Seven (7) of the forty-nine (49) loans reviewed [involving (3) individuals], contained documentation that the loans were applied directly to pay premiums on new policies which were individually or in the aggregate more than twenty-five percent (25%) of the existing policy's cash value. In all three (3) cases, the producer did not process the sale of the new policy as a replacement of life insurance, as is required by Regulation XXIX, Section 6.

It is recommended that the Company take appropriate action to ensure that its producers process new policies as replacement policies, if it is known, or should be known to the producer or the Company, that in excess of twenty-five percent (25%) of the cash value of the existing policy will be used to pay premiums for a new policy through the use of policy loans. This practice would serve to inform policyholders of the fact that their existing policy is being replaced by a new policy through the use of loans against the existing policy's cash value.

CLAIM PRACTICES

A review of the individual life claims for the period under examination was performed to determine whether actions taken by the Company with respect to claim practices were in compliance with Sections 27-4-26, 27-9.1-3 and 27-29-4 of the General Laws of Rhode Island. The examination was also conducted to assess whether the Company's claim handling procedures were followed in processing claims, all claims were properly documented, and all claims were paid in accordance with the provisions of the applicable in-force policy contract.

The Company provided the examiners with a list which indicated that eighty-five (85) Rhode Island resident individual life claims were processed for the period under examination. A sample of forty-nine (49) claims was selected for review based on the population of individual life claims that were processed during the period under examination.

One (1) of the forty-nine (49) death claims reviewed indicated that the Company paid the accrued interest at 3.75%. Therefore, this payment was in violation of Section 27-4-26 of the General

Laws of Rhode Island, which states, "An insurer of a life insurance contract or annuity contract shall pay to the beneficiary or policyholder respectively, interest on the proceeds at the rate of nine percent (9%) per annum from the date of death of an insured or annuitant in connection with a death claim on a life insurance policy or annuity contract, and from the date of maturity of an endowment contract to the date of payment and the interest shall be added to and be part of the total sum paid". The Company's claim department is contacting the beneficiary and will pay to the beneficiary the interest balance, plus nine percent (9%) interest to date. All of the remaining claim payments received indicated that the appropriate rate of interest was applied

CONSUMER OR OTHER RELATED COMPLAINTS

The Company's procedures for handling consumer or other related complaints were examined to determine whether the Company is in compliance with Sections 27-29-3 and 27-29-4 of the General Laws of Rhode Island relative to timely and adequate response to consumer or other related complaints.

A total of seven (7) complaints were received by the Company, all of which were reviewed. Four (4) of the seven (7) complaints were originally received by the Department of Business Regulation, Insurance Division, and forwarded to the Company by the Department of Business Regulation, Insurance Division, for appropriate action.

Based on the results of the examination work performed in this area all complaints were processed in compliance with the General Laws of Rhode Island.

REPLACEMENT OF LIFE INSURANCE

An examination of the Company's replacement of life insurance was conducted to determine whether the Company has processed replacements of life insurance in compliance with Rhode Island Regulation XXIX and Section 27-2-17 (c) of the General Laws of Rhode Island for the period under examination. A review was also performed to assess the Company's compliance with its own procedures and guidelines pertaining to the replacement of existing life insurance for the period under examination.

The Company provided the examiners with a replacement register listing which indicated that sixty-four (64) replacements were processed for the period under examination. A sample of forty-one (41) policy files was selected for review. The Company was unable to locate two (2) of the policies selected and two (2) substitute files were selected in their place. The review of the forty-one (41) files included fifty (50) external and fourteen (14) internal replacements (some new policies replaced more than one policy). The review of these policies revealed that five (5) replacements were not processed in compliance with Regulation XXIX, as follows:

The processing of three (3) replacement policies did not comply with Sections 6.B.2, 7.C.2, and 7.C.7 of the Regulation. The Comparative Information Forms for these policies were not completed regarding the expiration for the contestable period and the suicide clause for the Company. These were duties required to be performed by the producer and replacing company under the Regulation, and under the Company's own underwriting guidelines.

As a result of this finding, the Company has alerted its Actuarial Department of the importance and need to provide complete information to the policyholder before approving the Comparative Information Form, therefore no recommendation is considered necessary.

Two (2) policies did not comply with Sections 6.B.2, 7.C.2, 7.C.4, and 7.C.7 of Regulation XXIX. One of these policies omitted the expiration for the contestable period and suicide clause for the existing insurer, while the other policy omitted the expiration entirely for the contestable period and the suicide clause for both the existing insurer and the Company as well as not completing items 2 and 3 of the producer's statement on the Comparative Information Form.

No recommendation is made as the Company acknowledged that most of the form was completed and the Actuarial Department which is responsible for reviewing these forms has been advised of the importance for complete data on all required information on the Comparative Information Form and as part of the Company's required guidelines for replacement of life insurance.

POLICY SURRENDERS

An examination of the cash surrenders of individual life insurance policies for the period under examination was performed to determine whether the handling, processing, and actions taken by the Company with respect to their surrenders were in compliance with Sections 27-29-3 and 27-29-4 of the General Laws of Rhode Island and Rhode Island Insurance Regulation XXIX and any other applicable Rhode Island laws and regulations.

The Company provided the examiners with a list of cash surrenders that were processed for the period under examination. This list was compared to the list of new business written during the examination period. Twenty-six (26) surrenders appeared on both lists, and were therefore selected for examination.

Three (3) of the policy surrenders reviewed were found to be in violation of Rhode Island Insurance Regulation XXIX, Section 7. The examiners determined that three (3) policies were surrendered, and new policies were issued in conjunction with those surrenders. Based on Section 3, replacement is defined as any transaction in which new life insurance is to be purchased, and it is known or should be known to the proposing producer and/or broker insurer, if there is no producer and/or broker, that by reason of such transaction, existing life insurance has been or is to be lapsed, forfeited, surrendered or otherwise terminated.

Therefore, new policies issued in relation to surrendered policies should be processed as replacements of life insurance. It is recommended that the Company review its controls to ensure that when a policy is surrendered to purchase a new life insurance policy, that the new issue is processed in compliance with Rhode Island Insurance Regulation XXIX.

SALES AND ADVERTISING

The review of this area of the Company's operations was performed to determine whether the Sales and Advertising practices in use by the Company during the period under examination were in compliance with Sections 27-29-3 and 27-4-5 of the General Laws of Rhode Island, Rhode

Island Insurance Regulation XXVII and any other applicable laws and regulations as they pertain to the Sales and Advertising of individual life insurance products.

The Company provided a listing of all Sales and Advertising materials in use by the Company at any time during the examination period. The listing contained 939 items, from which the examiners selected a total of eighty-two (82) items for review. The Company provided the examiners with all eighty two (82) items requested for examination.

A review of all eighty-two (82) items was performed, however, no exceptions were noted.

SUMMARY OF RECOMMENDATIONS

Page 9

It is therefore recommended the Company review their current procedures regarding the notification of the insurance department as required by Section 27-2.3-16(a) of the General Laws of Rhode Island. The Company should make appropriate changes it deems necessary to bring their procedures into compliance with the referenced General Law.

It is also recommended that the Company review their record retention procedures relating to filing of issued policy applications. This review should focus on identifying the reason(s) that issued policy applications are misfiled. The Company should make appropriate changes to their current record retention procedures that will assist in eliminating misfiled policy applications.

Page 11

It is recommended that the Company take appropriate action to ensure that its producers process new policies as replacement policies, if it is known, or should be known to the producer or the Company, that in excess of twenty-five percent (25%) of the cash value of the existing policy will be used to pay premiums for a new policy through the use of policy loans. This practice would serve to inform policyholders of the fact that their existing policy is being replaced by a new policy through the use of loans against the existing policy's cash value.

SUMMARY OF RECOMMENDATIONS (CONTINUED)

Page 15

Therefore, new policies issued in relation to surrendered policies should be processed as replacements of life insurance. It is recommended that the Company review its controls to ensure that when a policy is surrendered to purchase a new life insurance policy, that the new issue is processed in compliance with Rhode Island Insurance Regulation XXIX.

CONCLUSION

We have applied verification procedures to the data contained in this report using both subjective and statistical sampling techniques as deemed appropriate. While sampling techniques do not give complete assurance that all errors and irregularities will be detected, those that were detected during the course of this examination have been disclosed in this report. We were not informed of, and did not become aware of any other error or irregularity which could have a material effect on the market conduct condition of the Company as presented in this report.

Rhode Island Insurance Division examiners assisting the undersigned in the conduct of this examination were Joseph Seow, Market Conduct Examiner, Ronald R. Radtke, Senior Market Conduct Examiner, Robert G. Arrow, FLMI, AIE, Senior Market Conduct Examiner, and John P Carr, CPCU, AIE, Principal Market Conduct Examiner.

Respectfully submitted,



Sharon K. Gordon, CPA, CFE
Insurance Examiner-In-Charge
State of Rhode Island