

PUBLIC REPORT OF EXAMINATION OF THE CLAIMS

PRACTICES OF THE

**GE LIFE and ANNUITY ASSURANCE COMPANY**

**NAIC # 65536 CDI # 1686-5**

**GENERAL ELECTRIC CAPITAL ASSURANCE COMPANY**

**NAIC # 70025 CDI # 1521-4**

**FEDERAL HOME LIFE INSURANCE COMPANY**

**NAIC # 67695 CDI # 0808-6**

**FIRST COLONY LIFE INSURANCE COMPANY**

**NAIC # 63401 CDI # 1640-2**

**HERITAGE LIFE INSURANCE COMPANY**

**NAIC # 64394 CDI # 1734-3**

**COLONIAL PENN FRANKLIN INSURANCE COMPANY**

**NAIC # 20796 CDI # 0336-8**

AS OF JUNE 30, 1999

**STATE OF CALIFORNIA**



**DEPARTMENT OF INSURANCE**

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**CALIFORNIA DEPARTMENT OF INSURANCE**

Consumer Services and Market Conduct Branch  
Market Conduct Bureau, 11th Floor  
Ronald Reagan State Office Building  
300 South Spring Street  
Los Angeles, CA 90013



October 2, 2001

The Honorable Harry W. Low  
Insurance Commissioner  
State of California  
45 Fremont Street  
San Francisco, California 94105

Honorable Commissioner:

Pursuant to instructions, and under the authority granted under Part 2, Chapter 1, Article 4, Sections 730, 733, 736, and Article 6.5, Section 790.04 of the California Insurance Code; and Title 10, Chapter 5, Subchapter 7.5, Section 2695.3(a) of the California Code of Regulations, an examination was made of the claims practices and procedures in California of:

**GE Life and Annuity Assurance Company - NAIC # 65536**

**General Electric Capital Assurance Company - NAIC # 70025**

**Federal Home Life Insurance Company - NAIC # 67695**

**First Colony Life Insurance Company - NAIC #63401**

**Heritage Life Insurance Company – NAIC # 64394, and**

**Colonial Penn Franklin Insurance Company - NAIC # 20796**

Hereinafter referred to as GELAC, GE Capital, Federal Home, First Colony Life, Heritage Life and Colonial Penn, or collectively as the Companies.

This report is made available for public inspection and is published on the California Department of Insurance web site ([www.insurance.ca.gov](http://www.insurance.ca.gov)) pursuant to California Insurance Code section 12938.

## SCOPE OF THE EXAMINATION

The examination covered the claims handling practices of the aforementioned Companies during the period July 1, 1998 through June 30, 1999. The examination was made to discover, in general, if these and other operating procedures of the Companies conform with the contractual obligations in the policy forms, to provisions of the California Insurance Code (CIC), the California Code of Regulations (CCR) and case law. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al.

To accomplish the foregoing, the examination included:

1. A review of the guidelines, procedures, training plans and forms adopted by the Companies for use in California including any documentation maintained by the Companies in support of positions or interpretations of fair claims settlement practices.
2. A review of the application of such guidelines, procedures, and forms, by means of an examination of claims files and related records.
3. A review of consumer complaints received by the California Department of Insurance (CDI) in the most recent year prior to the start of the examination.

The examination was primarily conducted at the Companies' claims offices in Richmond, Virginia; Lynchburg, Virginia; Ft. Washington, Pennsylvania and Philadelphia, Pennsylvania.

The report is written in a "report by exception" format. The report does not present a comprehensive overview of the subject insurer's practices. The report contains only a summary of pertinent information about the lines of business examined and details of the non-compliant or problematic activities or results that were discovered during the course of the examination along with the insurer's proposals for correcting the deficiencies. When a violation is discovered that results in an underpayment to the claimant, the insurer corrects the underpayment and the additional amount paid is identified as a recovery in this report. All unacceptable or non-compliant activities may not have been discovered, however, and failure to identify, comment on or criticize activities does not constitute acceptance of such activities.

The alleged violations identified in this report and any criticisms of practices have not undergone a formal administrative or judicial process.

## CLAIM SAMPLE REVIEWED AND OVERVIEW OF FINDINGS

The Market Conduct examiners reviewed files drawn from the category of Closed Claims for the period July 1, 1998 through June 30, 1999, commonly referred to as the “review period”. The examiners reviewed 92 GELAC files, 19 GE Capital files, 221 Federal Home files, 64 First Colony Life files, 64 Heritage Life files and 293 Colonial Penn files. The Market Conduct examiners cited 294 claims handling violations of the Fair Claims Settlement Practices Regulations and/or the California Insurance Code Section 790.03.

<b>GE Life and Annuity Assurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Life Insurance	99	38	6
Disability Insurance	112,637	54	54
<b>TOTALS</b>	112,736	92	60

<b>General Electric Capital Assurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Life Insurance	26	19	3
<b>TOTALS</b>	26	19	3

<b>Federal Home Life Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Life Insurance	79	20	0
Disability Insurance	21,489	201	209
<b>TOTALS</b>	21,568	221	209

<b>First Colony Life Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Life Insurance	271	64	10
<b>TOTALS</b>	271	64	10

<b>Heritage Life Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Life Insurance	879	18	8
Disability Insurance	3834	46	0
<b>TOTALS</b>	4713	64	8

<b>Colonial Penn Franklin Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Disability Insurance	4,298	293	4
<b>TOTALS</b>	4,298	293	4

TABLE OF TOTAL CITATIONS							
Citation	Description	A	B	C	D	E	F
CCR §2695.3(b)(3)	The companies failed to maintain hard copy claim files or maintain claim files that are accessible, legible and capable of duplication to hard copy for five years.	54		142			
CCR §2695.7(b)(3)	The companies failed to include a statement in their claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance.			40	1	6	1
CCR §2695.5(a)	The companies failed to respond to a Department of Insurance inquiry within twenty-one calendar days of the inquiry.			25			
CIC §790.03(h)(3)	The companies failed to adopt and implement reasonable standards for the prompt investigation and processing of claims. (Delays/gaps in file activity.)	2	2		7	1	
CCR §2695.3(b)(1)	The companies' claim file failed to contain all documents, notes and work papers which pertain to the claim.	4		2			
CCR §2695.5(b)	The companies failed to respond to communications within fifteen calendar days.		1		2	1	
CCR §2695.11(b)	The companies failed to provide an explanation of benefits.						3
<b>Total Citations</b>		<b>60</b>	<b>3</b>	<b>209</b>	<b>10</b>	<b>8</b>	<b>4</b>

*Key*

- A. GE Life and Annuity Assurance Company*
- B. General Electric Capital Assurance Company (includes Great Northern Annuity)*
- C. Federal Home Life Insurance Company*
- D. First Colony Life Insurance Company*
- E. Heritage Life Insurance Company*
- F. Colonial Penn Franklin Company*

## **SUMMARY OF CRITICISMS, INSURER COMPLIANCE ACTIONS AND TOTAL RECOVERIES**

The following is a brief summary of the criticisms that were developed during the course of this examination related to the violations alleged in this report. In response to each criticism, the Company is required to identify remedial or corrective action(s) that has or will be taken to correct the deficiency. Regardless of the remedial actions taken or proposed by the Companies, it is the Companies' obligation to ensure that compliance is achieved. There were no recoveries resulting from the criticisms cited in this report.

**1. The Company failed to maintain hard copy claim files:** In 142 instances for Federal Home and 54 instances for GELAC, the Companies failed to maintain hard copy files or claim files that are accessible, legible and capable of duplication to hard copy for five years. The Department alleges these acts are in violation of CCR § 2695.3(b)(3).

**Company Response:** The Companies have acknowledged that Explanation of Benefits (EOB's) cannot be reproduced. During the course of the examination EOB's were requested to document specific claim handling procedures. When questioned the Companies responded with the following: "Our EOB's are produced by an outside vendor based on data supplied by our claim processing system. While the vendor does not produce duplicate copies of the EOB's, we do have the ability to replicate an EOB." The Companies also wrote that: "Based on the problems we have discovered in not being able to provide a duplicate EOB, the Company will be reviewing the process that is currently being used with the vendor to determine how the Company can be able to provide duplicate EOB's for future examinations." The Companies held a meeting April 2, 2001 to determine how to produce EOB's capable of reproduction for audit purposes. Federal Home and GELAC agreed to outsource the Medicare Supplement product an outside vendor that has reprint capability. This was to occur in May of 2000. For the Specified Disease/Personal Accident claims the Companies will negotiate with the current vendor to set-up EOB reprint capability in the next few months.

**2. The Company failed to advise the claimant that he or she may have the claim denial reviewed by the California Department of Insurance:** In 40 instances for Federal Home, six instances for Heritage Life, one instance for Colonial Penn, and one instance for First Colony, the Companies failed to include a statement in their claim denial that, if the claimant believes the claim has been wrongfully denied or rejected, he or she may have the matter reviewed by the California Department of Insurance. The Department alleges these acts are in violation of CCR §2695.7(b)(3).

**Company Response:** Heritage Life has acknowledged that the CDI language was not included in the denial letters of the files reviewed. As a result of findings of this examination, the Company has agreed that when a denial letter is sent to a California claimant, the language will automatically be included in the letter. The CDI language has been inserted into the California denial letter on their letter writing system. Federal Home

and Colonial Penn have agreed to include the CDI denial language on all California EOB's in order to comply with CCR §2695.7(b)(3).

**3. The Company failed to respond to a Department of Insurance inquiry within twenty-one calendar days of the inquiry:** In 25 instances Federal Home failed to respond to a Department of Insurance inquiry within twenty-one calendar days of the inquiry. The Department alleges these acts are in violation of CCR § 2695.5(a).

**Company Response:** Company acknowledged that the referral responses were outstanding, and that they had failed to comply with the 21 day referenced time frame. The Company finalized the responses and returned the referrals to the Department. The Company stated that it was management oversight that resulted in some correspondence not being answered in a timely manner.

**4. The Companies failed to adopt and implement reasonable standards for the prompt investigation and processing of claims:** In seven instances for First Colony Life, two instances for GE Capital, and two instances for GELAC, the Companies failed to send status letters or follow-up requests letters to the claimants. The Department alleges these acts are in violation of CIC §790.03(h)(3).

**Company Response:** The Companies have acknowledged that they have procedures in place for following up on requests for additional information and for status letters to the claimant and/or beneficiary. These procedures were not followed for the claims cited in the samples reviewed. Insurer personnel will be retrained and reminded to follow appropriate claim procedures.

**5. The Company failed to maintain claim data retrievable for examination:** In four instances for GELAC and two instance for Federal Home, the Companies failed to maintain claim data that are accessible, legible and retrievable for examination. The Department alleges these acts are in violation of CCR § 2695.3(b)(1).

**Company Response:** The Companies have acknowledged that the check stubs were not available for the specific requests submitted. Storage of the checks was "outsourced" and the copies were not available during the course of the examination. Companies advised that photocopies of the cancelled checks are available form the bank if necessary to provide proof of payment.

**6. The Company failed to respond to communications within fifteen calendar days:** In two instances for First Colony Life, and one instance for GE Capital, the Companies failed to respond to communications within fifteen calendar days. The Department alleges these acts are in violation of CCR § 2695.5(b).

**Company Response:** The Companies have acknowledged that there are formal guidelines and procedures in place for the acknowledgement of notice of claim or any other written or verbal communication from the claimant and/or beneficiary. These procedures were not followed for the claims cited in the samples reviewed. As a result of

this examination, claims personnel were retrained and cautioned as to the necessity for responding to communications in a timely manner.

7. **The Company failed to provide an explanation of benefits:** In three instances for Colonial Penn, the Company failed to provide to the claimant an explanation of benefits including the name of the provider or services covered, dates of service, and a clear explanation of the computation of benefits. The Department alleges these acts are in violation of CCR § 2695.11(b).

**Company Response:** The Company has acknowledged that a system problem existed during the window period of the examination. The Company stated that if the claim situation existed where there was “no money paid, assigned to the provider of service” the Explanation of Benefits to the insured was not being produced. The problem is now corrected and the Company provided examples of correct EOB’s produced after the system enhancement.