

PUBLIC REPORT OF THE MARKET CONDUCT EXAMINATION

OF THE CLAIMS PRACTICES OF THE

**ALLSTATE INDEMNITY COMPANY**  
**NAIC # 19240 CDI # 1633-7**

**ALLSTATE INSURANCE COMPANY**  
**NAIC # 19232 CDI # 1117-1**

AS OF SEPTEMBER 30, 2003

**STATE OF CALIFORNIA**



**DEPARTMENT OF INSURANCE**  
**MARKET CONDUCT DIVISION**  
**FIELD CLAIMS BUREAU**

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**DEPARTMENT OF INSURANCE**

Consumer Services and Market Conduct Branch  
Field Claims Bureau, 11th Floor  
300 South Spring Street  
Los Angeles, CA 90013



July 16, 2004

The Honorable John Garamendi  
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:

**Allstate Indemnity Company**

**NAIC #19240**

**Allstate Insurance Company**

**NAIC #19232**

Hereinafter referred to as Allstate Indemnity and Allstate Insurance, 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 October 1, 2002 through September 30, 2003. 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), the California Vehicle Code (CVC) and case law. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. Any alleged violations of other relevant laws which may result from this examination will be included in a separate report which will remain confidential subject to the provisions of CIC Section 735.5.

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 conducted at the Companies' office in Roseville, California.

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.

Any 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 examiners reviewed files drawn from the category of Closed Claims for the period October 1, 2002 through September 30, 20003, commonly referred to as the “review period”. The examiners reviewed 354 Allstate Indemnity claims files and 418 Allstate Insurance claims files. The examiners cited 151 claims handling violations of the Fair Claims Settlement Practices Regulations and/or California Insurance Code Section 790.03 within the scope of this report. Further details with respect to the files reviewed and alleged violations are provided in the following tables and summaries.

<b>Allstate Indemnity Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Personal Auto Property Damage	95,844	45	13
Personal Auto Collision	85,200	45	6
Personal Auto Comprehensive	37,295	45	3
Personal Auto Bodily Injury	42,107	46	28
Personal Auto Medical Payments	17,717	44	0
Personal Auto Uninsured Motorist Bodily Injury	5,072	44	25
Personal Auto Uninsured Motorist Property Damage	671	22	8
Commercial Auto Property Damage	1,610	10	2
Commercial Auto Collision	1,056	10	0
Commercial Auto Comprehensive	394	10	3
Commercial Auto Bodily Injury	610	10	0
Commercial Auto Medical Payments	160	10	0

<b>Allstate Indemnity Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Commercial Auto Uninsured Motorist Bodily Injury	57	10	4
Homeowners Dwelling	215	1	0
Homeowners Other Perils	543	1	0
Renters All Coverage	124	1	0
<b>TOTALS</b>	288,675	354	92

<b>Allstate Insurance Company</b>			
<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Personal Auto Property Damage	51,155	23	4
Personal Auto Collision	43,271	23	2
Personal Auto Comprehensive	19,757	23	4
Personal Auto Bodily Injury	19,233	22	7
Personal Auto Medical Payments	8,351	22	0
Personal Auto Uninsured Motorist Bodily Injury	2,815	22	4
Personal Auto Uninsured Motorist Property Damage	671	22	3
Commercial Auto Property Damage	1,623	10	1

**Allstate Insurance Company**

<b>CATEGORY</b>	<b>CLAIMS FOR REVIEW PERIOD</b>	<b>REVIEWED</b>	<b>CITATIONS</b>
Commercial Auto Collision	1,065	10	1
Commercial Auto Comprehensive	380	10	0
Commercial Auto Bodily Injury	710	10	8
Commercial Auto Medical Payments	137	10	0
Commercial Auto Uninsured Motorist Bodily Injury	39	10	1
Homeowners Dwelling	26,194	67	10
Homeowners Other Perils	37,871	67	7
Dwelling Fire	2,570	12	2
Condominium All Coverage	4,022	15	4
Landlords All Coverage	3,082	15	0
Renters All Coverage	2,224	15	0
Mobile Home All Coverage	1,810	10	1
<b>TOTALS</b>	226,980	418	59

**TABLE OF TOTAL CITATIONS**

<b>Citation</b>	<b>Description</b>	<b>Allstate Indemnity</b>	<b>Allstate Insurance</b>
CCR §2695.3(b)(2)	The Company failed to record in the file the date the Company received, date the Company processed and date the Company transmitted or mailed every relevant document in the file.	18	8
CIC §790.03(h)(3)	The Company failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies.	17	8
CCR §2695.5(b)	The Company failed to respond to communications within 15 calendar days.	12	8
CCR §2695.7(b)	The Company failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days.	10	4
CCR §2695.7(c)(1)	The Company failed to provide written notice of the need for additional time every 30 calendar days.	8	6
CCR §2695.3(a)	The Company's claim file failed to contain all documents, notes and work papers that pertain to the claim.	4	10
CCR §2695.5(e)(3)	The Company failed to begin investigation of the claim within 15 calendar days.	3	3
CCR §2695.5(e)(2)	The Company failed to provide necessary forms, instructions, and reasonable assistance within 15 calendar days.	4	1
CCR §2695.7(h)	Upon acceptance of the claim the Company failed to tender payment within 30 calendar days.	1	3
CCR §2695.7(b)(3)	The Company failed to include a statement in its 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.	3	1
CCR §2695.7(g)	The Company attempted to settle a claim by making a settlement offer that was unreasonably low.	2	1
CCR §2695.7(b)(1)	The Company failed to provide written basis for the denial of the claim.	3	0
CCR §2695.8(k)	The Company failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing.	3	0
CCR §2695.8(i)	The Company failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.	0	3
CCR §2695.4(a)	The Company failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy.	0	2

**TABLE OF TOTAL CITATIONS**

CCR §2695.8(b)(1)	The Company failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile, or the Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.	2	0
CIC §790.03 (h)(5)	The Company failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.	1	0
CCR §2695.3(b)(3)	The Company 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.	0	1
CCR §2695.5(e)(1)	The Company failed to acknowledge notice of claim within 15 calendar days.	1	0
<b>Total Citations</b>		92	59

## **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. This report contains only alleged violations of Section 790.03 and Title 10, California Code of Regulations, Section 2695 et al. In response to each criticism, the Companies are required to identify remedial or corrective action that has been 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. Money recovered within the scope of this report was \$503.64.

**1. The Companies failed to record claim data in the file.** In 26 instances, the Companies failed to record the date the Companies received, date the Companies processed and date the Companies transmitted or mailed every relevant document in the file. The Department alleges these acts are in violation of CCR §2695.3(b)(2).

**Summary of Companies Response:** The Companies acknowledge these findings, and explain that in 17 of the files reviewed the police reports were retrieved by a vendor service and the documents were not date stamped before they were added to the files. A new procedure is in place to date stamp all police reports as they are received in the claim offices. The remaining occurrences were oversights by the adjusters and the Companies have reinforced the guidelines with the adjusters to assure compliance in the future.

**2. The Companies failed to adopt and implement reasonable standards for the prompt investigation and processing of claims.** In 25 instances, the Companies failed to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under its insurance policies. In these claim files, the Companies were unable to verify or produce information indicating that investigative activity was initiated promptly, was in a follow-up mode or had been diligently pursued. The Department alleges these acts are in violation of CIC §790.03 (h)(3).

**Summary of Companies Response:** The Companies acknowledge that the lack of proactive and reasonable investigation in the files in question does not meet their established standards with respect to prompt investigation and processing of a claim. It is the policy of the Companies to adhere to principles of timely investigation and adjudication of claims. To remedy this situation, the adjusters have been reminded to initiate prompt investigation and to document any activities or conversations with parties involved in the claim. The Companies have agreed to make this issue a pivotal training point during their next California claims settlement training and certification session.

**3. The Companies failed to respond to communications within 15 calendar days.** In 20 instances, the Companies failed to respond to communications within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(b).

**Summary of Companies Response:** The Companies agree that in these instances the adjusters failed to respond to communications within 15 days, even though it is each Companies

normal practice and guideline to comply with this regulation. Receipt of these violations was documented by the Companies and signed by the claim representative responsible for the error. Re-emphasis of the communication requirement will be reviewed with adjusting staff and included in their refresher training sessions on California claim procedures and regulations.

**4. The Companies failed to accept or deny the claim within 40 calendar days.** In 14 instances, the Companies failed, upon receiving proof of claim, to accept or deny the claim within 40 calendar days. The Department alleges these acts are in violation of CCR §2695.7(b).

**Summary of Companies Response:** The Companies acknowledge that the adjusters handling the claims failed to comply with the regulation requiring that the claim be accepted or denied within 40 days of receiving proof of claim, even though it is each Company's practice and guideline to comply with this regulation. Receipt of these violations was documented by the Companies and signed by the claim representative responsible for the error. Re-emphasis of this requirement will be reviewed with adjusting staff and included in their refresher training sessions on California claim procedures and regulations.

**5. The Companies failed to provide written notice of the need for additional time every 30 calendar days.** In 14 instances, the Companies failed to provide written notice of the need for additional time every 30 calendar days. The Department alleges these acts are in violation of CCR §2695.7(c)(1).

**Summary of Companies Response:** The Companies acknowledge that the adjusters handling these claims failed to comply with company guidelines regarding the regulation requiring written notice every 30 calendar days when additional time is needed to consider proof of claim or a demand for payment. Receipt of this violation was documented by the Companies and signed by the claim representative responsible for the error. The Companies have agreed to make this issue a pivotal training point during their next California claims settlement training and certification session.

**6. The Companies failed to properly document claim files.** In 14 instances, the Companies' files failed to contain all documents, notes and work papers. Some of the files were missing items such as vehicle repair invoices, medical billings or letters from attorneys that are referred to the adjuster notes but are not a part of the paper file. Other files were missing documentation by the adjuster in regards to conversations with claimants, offers extended and agreed upon settlements. Additional files did not have documentation in the claim notes to substantiate that the company required procedures were followed, i.e. sending denial letters or notifying the Department of Vehicles of an owner retained salvage. The Department alleges these acts are in violation of CCR §2695.3(a).

**Summary of Companies Response:** The Companies acknowledge these violations. Receipt of these violations was documented by the Companies and signed by the claim representative responsible for the error. The Companies have agreed to make this issue a pivotal training point during their next California claims settlement training and certification session.

**7. The Companies failed to begin investigation of the claim within 15 calendar days.** In six instances, the Companies failed to begin investigation of the claim within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(3).

**Summary of Companies Response:** The Companies acknowledge that for the claim files in question they failed to begin investigation within 15 calendar days. It is the Companies' standard procedure to begin investigation through oral or written contact with the insured and/or claimant within 24 to 72 hours of receipt of notice of claim. The Companies' answers to questions in the Claims Operation Questionnaire indicate the following: "Quality file reviews are conducted monthly/quarterly in each segment/discipline.....assess timeliness, correctness, thoroughness, and compliance to company, California Regulations and Fair Claim Practice Regulations....." Re-emphasis of this requirement will be reviewed with adjusting staff and included in their refresher training sessions on California claim procedures and regulations.

**8. The Companies failed to provide necessary forms, instructions, and reasonable assistance within 15 calendar days.** In five instances, the Companies failed to provide necessary forms, instructions, and reasonable assistance within 15 calendar days. The Department alleges these acts are in violation of CCR §2695.5(e)(2).

**Summary of Companies Response:** The Companies acknowledge that for the claim files in question they failed to provide forms, instructions or assistance within 15 calendar days. It is the Companies' standard procedure to begin investigation through oral or written contact with the insured and/or claimant and provide the necessary tools to the claimants to document their claim. Answers from the Claims Operation Questionnaire indicate the following: "Quality file reviews are conducted monthly/quarterly in each segment/discipline.....assess timeliness, correctness, thoroughness, and compliance to company, California Regulations and Fair Claim Practice Regulations....." Re-emphasis of this requirement will be reviewed with adjusting staff and included in their refresher training sessions on California claim procedures and regulations.

**9. Upon acceptance of the claim, the Companies failed to tender payment within 30 calendar days.** In four instances, upon acceptance of the claim, the Companies failed to tender payment within 30 calendar days. The Department alleges these acts are in violation of CCR §2695.7(h).

**Summary of Companies Response:** It is the practice of the Companies to comply with CCR§ 2695.7(h) and this guideline is communicated to all adjusters. The Companies acknowledge that isolated errors do occur from time to time and that in these instances, the undisputed portion of the claim was not paid in a timely manner. The Companies will re-emphasize to the current staff the importance of prompt payment upon acceptance of proof of claim, and include this item in their re-training sessions.

**10. The Companies failed to advise the claimant that he or she may have the claim denial reviewed by the California Department of Insurance.** In four instances, the Companies failed to include a statement in its 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).

**Summary of Companies Response:** The Companies acknowledge these violations. It is the policy of both Companies to send a written explanation of the determination for closing a claim. This letter is to include reference to the availability of the review process by California Department of Insurance. In these four instances, the adjusters did not include the required language. The Companies have reviewed with the findings with applicable claim staff and will continue to monitor for compliance per their auditing procedures.

**11. The Companies attempted to settle a claim by making a settlement offer that was unreasonably low.** In three instances, the Companies attempted to settle a claim by making a settlement offer that was unreasonably low. In one instance, salvage was deducted from a total loss settlement when the salvage was not retained by the owner. In the second claim file, a deductible was applied incorrectly and in the third instance, an incomplete payment was made on a claim. The Department alleges these acts are in violation of CCR §2695.7(g).

**Summary of Companies Response:** The Companies acknowledge these violations and they have adjusted the claims and supplemental payments were issued. Receipt of these violations was documented by the Companies and signed by the claim representative responsible for the error.

**12. The Companies failed to provide the written basis for the denial of the claim.** In three instances, Allstate Indemnity failed to provide the written basis for the denial of the claim. The Department alleges these acts are in violation of CCR §2695.7(b)(1).

**Summary of Companies Response:** The Companies acknowledge these violations. The Companies view these acts as employee oversights since there are specific procedures in place regarding the handling of denials and partials denials. The Companies have reviewed this violation with the applicable claim staff and will monitor for compliance.

**13. The Companies failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing.** In three instances, Allstate Indemnity failed to document the basis of betterment, depreciation, or salvage. The basis for any adjustment shall be fully explained to the claimant in writing. The Department alleges these acts are in violation of CCR §2695.8(k).

**Summary of Companies Response:** The Companies acknowledge these violations. Adjusters were made aware of the incomplete processing of the claim and reminded that any deductions must be explained in writing. The Companies will include this item on the retraining agenda.

**14. The Companies failed to provide written notification to a first party claimant as to whether the insurer intends to pursue subrogation.** In three instances, Allstate Insurance failed to provide written notification to a first party claimant as to whether the insurer intends to

pursue subrogation of the claim. The Department alleges these acts are in violation of CCR §2695.8(i).

**Summary of Companies Response:** The Companies' standard procedure is to notify the insured when it intends to pursue subrogation. Receipt of these violations was documented by the Companies and signed by the claim representative responsible for the error.

**15. The Companies failed to disclose all policy provisions.** In two instances, Allstate Insurance failed to disclose all benefits, coverage, time limits or other provisions of the insurance policy. The Department alleges these acts are in violation of CCR §2695.4(a).

**Summary of Companies Response:** The Companies acknowledge that in two instances its claims adjusters failed to disclose all benefits and policy provisions or stated a policy provision incorrectly. Receipt of these violations was documented by the Companies and signed by the claim representative responsible for the error.

**16. The Company failed to include, in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile, or the Company failed to explain in writing for the claimant the basis of the fully itemized cost of the comparable automobile.** In one instance, Allstate Indemnity failed to include in the settlement, all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the comparable automobile. In a second instance, Allstate Indemnity failed to itemize and explain in writing the basis for the settlement. The Department alleges these acts are in violation of CCR §2695.8(b)(1).

**Summary of Company Response:** The Company acknowledges these violations. The employees handling these claim failed to comply with policies and procedures, and the Companies view these acts as oversights and not a pattern of practice. One file in question contains an addition error of \$6.00 in the calculation of the total loss settlement and the amount was paid to the claimant. In the second file it appears that the adjuster either did not document the file and/or failed to provide a copy of the vendor generated valuation used in the total loss settlement.

**17. The Company failed to effectuate prompt, fair and equitable settlements of claims in which liability had become reasonably clear.** In one instance, the Company failed to effectuate prompt, fair and equitable settlement of a claim in which liability had become reasonably clear. The Department alleges this act is in violation of CIC §790.03 (h)(5).

**Summary of Company Response:** The Company acknowledges this violation. It contends that this was a unique and isolated instance in which the Company claims representative was unable to resolve a possible policy limits problem because of a competing Worker's Compensation lien and incomplete medical documentation. Nevertheless, it is the Company's policy to adhere to principles of prompt, fair and equitable settlements of claims and the issue will be included as a training point during its next California claims settlement training and certification session.

**18. The Companies failed to comply with the Fair Claims Regulation Practices.** In one instance each, the Companies failed to comply with the following Fair Claims Regulation Practices: CCR §2695.3(b)(3) and CCR §2695.5(e)(1).

**Summary of Companies Response:** The Companies acknowledge these violations. The employees handling these claims failed to comply with policies and procedures, and the Companies view these acts as oversights and not a pattern of practice.