

**HOW INSURANCE COMPANY, A RISK RETENTION GROUP
HOME WARRANTY CORPORATION, AND
HOME OWNERS WARRANTY CORPORATION**

IN RECEIVERSHIP

**REPORT TO HOME OWNERS, MEMBER BUILDERS,
CREDITORS, AND OTHER INTERESTED PERSONS**

P.O. Box 901021 • Fort Worth, Texas 76101-2021

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HOME OWNERS WARRANTY CORPORATION
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To: Home Owners, Member Builders, Creditors, and Other Interested Persons

As Commissioner of Insurance for the Bureau of Insurance, State Corporation Commission of the Commonwealth of Virginia, it is my responsibility to oversee and regulate insurance companies domiciled or authorized to do business in Virginia in the interest of policyholders and creditors. Enclosed is a Report on the receivership of HOW Insurance Company, a Risk Retention Group ("HOWIC") domiciled in Virginia, and its affiliates (collectively, the "Companies") for whom I was appointed Deputy Receiver. The next two pages provide a brief summary of the Report. The summary does not discuss all of the important information covered by the Report, and thus, the Report should be read in its entirety to determine how the receivership proceedings affect your interests. The Companies, which operate a home warranty protection plan known as the HOW Program, were placed in receivership in October 1994. This Report is being sent to the owners of homes insured by HOWIC, and home builders who participated in the HOW Program, as well as creditors of the Companies and other persons interested in their affairs.

The insurance coverage provided by HOWIC under the HOW Program remains in effect. Home owners who submit covered claims to HOWIC for defects in workmanship or construction of their homes will receive partial payment of policy benefits at this time because of HOWIC's financial condition, and may be eligible to receive additional payments later if funds become available.

The enclosed Report is intended to provide you fundamental information regarding the impact of receivership on your relationship with the Companies and your rights and benefits under the policies and contracts that they have issued. You are encouraged to read the Report carefully. Among other things, it describes how to present a claim for HOW coverage and how that claim will be adjudicated. Moreover, the "Deputy Receiver's Directives" section in Part 3 of the Report provides you with important information in order to avoid the waiver of certain rights. We hope the Report will answer most or all of your questions and will assist you in understanding the effect that these proceedings have on you.

Please rest assured that first and foremost my goal is to protect your interests in the HOW Companies. We will take all measures reasonably available to us to accomplish that goal. As you can see from the materials that follow, significant efforts are being made to address the many issues that arise from these complicated and difficult proceedings. If you have any questions that are not addressed in the Report, please feel free to forward them to us in writing. Late this Summer, the Report and certain receivership information can be reviewed on-line at the Companies' Internet web site as follows: <http://www.howcorp.com>.

All communications with the Companies should be directed either to their office address at P.O. Box 901021, Fort Worth, Texas 76101-2021. For urgent matters only, you may call 1-800-834-0577.

Very truly yours,

Alfred W. Gross
Commissioner of Insurance and Deputy Receiver of
HOW Insurance Company, A Risk Retention Group,
Home Warranty Corporation, and Home Owners
Warranty Corporation

Executive Summary

This Report is being sent to all persons interested in the affairs of Home Warranty Corporation and its subsidiaries (collectively, the "Companies").

On October 7, 1994, the Circuit Court for the City of Richmond, Virginia, issued a temporary order placing the Companies in receivership and on October 14, 1994, issued a final order ("Receivership Order") placing the Companies in permanent receivership. The Receivership Order also appointed the State Corporation Commission of the Commonwealth of Virginia (the "Commission") Receiver and Steven T. Foster, Commissioner of Insurance, Bureau of Insurance ("Bureau") as Deputy Receiver of the Companies. On May 1, 1996, Alfred W. Gross succeeded Steven T. Foster as Commissioner of Insurance for the Bureau and as Deputy Receiver of the Companies.

Action on pending litigation against the Companies has been stayed pending review by the Deputy Receiver. All claims against the Companies or their assets, including claims in litigation, must be submitted to the Deputy Receiver in a manner consistent with the Administrative Claims Process established by the Deputy Receiver as described in Part 3 of the Report.

The HOWIC Warranty/Insurance documents (the "HOWIC Warranty") issued as part of the HOW Program provides **excess** coverage. As such, claimants must first seek recovery for the amount of their claimed loss from other insurance they have available such as their homeowners policy, their builder's commercial general liability carrier, or any other insurance that may apply to the claimed loss. **In this connection, all other insurance must be exhausted before the Companies will consider the payment of a loss submitted by a Home Owner or Member Builder.**

All Home Owners who believe their homes have Major Structural Defects covered by the HOWIC Warranty, which have not been previously considered by the Companies, must detach, complete, and sign before a notary the Major Structural Defect Questionnaire For Home Owners attached to this Report as Exhibit A. The Major Structural Defect Questionnaire and all appropriate information should be mailed to:

**HOW Insurance Company, A Risk Retention Group
In Receivership
P.O. Box 901021
Fort Worth, Texas 76101-2021**

Member Builders who believe the Companies are responsible for amounts they have spent repairing covered defects in their customers' homes and want to submit claims, must complete and sign before a notary the Repair Cost Questionnaire For Builders attached to this Report as Exhibit C. The Repair Cost Questionnaire and all appropriate information should be mailed to the address noted above this paragraph. The Repair Cost Questionnaire should not be submitted by a Member Builder if the claim at issue was previously considered by the Companies. All other persons who wish to file claims with the Companies can do so by submitting their claims to the address noted above this paragraph.

All claims which are submitted to the Companies, including requests for warranty performance (covered defects which arise during the first two years of HOWIC Warranty coverage), Major Structural Defect claim coverage (covered defects which arise during years three through ten of HOWIC Warranty coverage), Member Builder's requests for reimbursement, and claims for legal defense will be reviewed by HOWIC claim representatives. Claimants will receive a Notice of Claim Determination once all information requested by the Companies has been submitted and reviewed by the claim representatives. All decisions reflected in the Notices of Claim Determination may be appealed as provided in the "Right to Appeal" section in Part 3 of this Report. All appeals must be made in accordance with the Receivership Appeal Procedure which is the exclusive method of appealing decisions of the Deputy Receiver. A copy of the Receivership Appeal Procedure is attached to the Report as Exhibit B.

On November 29, 1994, the Deputy Receiver issued a directive which permitted the partial payment of approved direct claims (claims for repair costs of covered defects as specified in the HOWIC Warranty) and temporarily suspended the payment of indirect claims under the HOWIC Warranty (claims which include, but are not limited to, extra contractual obligations, non-economic damages, consequential damages, and litigation costs and attorneys' fees) until all direct claims are paid in full. All interested parties who are affected by the temporary suspension of payments on indirect claims and who wish to object to the suspension and classification of these types of claims must file an Application For Hearing ("Application") with the Clerk of the Commission **within ten days of the date of this Report**. All Applications will be considered filed with the Commission when the Clerk receives them at the following address:

**William J. Bridge, Clerk
State Corporation Commission
P.O. Box 2118
Richmond, Virginia 23218**

A copy of the Application must also be delivered to the Deputy Receiver at P.O. Box 152087, Irving, Texas 75015-2087. Failure to file the Application within ten days of the Report will waive any right to object to the Deputy Receiver's suspension and classification of indirect claims.

On January 23, 1996, the Deputy Receiver issued a second directive which increased the payment percentage on approved direct claims from 40% to 50%. Claimants who received partial payment of their approved direct claim before the second directive was issued may be eligible to receive an additional 10% distribution under certain circumstances. The Deputy Receiver will make a determination as to whether an additional distribution is appropriate on a case-by-case basis.

The Deputy Receiver has undertaken to better understand the operation of the Companies prior to receivership. In that regard, enclosed at the end of this Report is a short survey. If you were a Home Owner, the Deputy Receiver would be most grateful if you would take the time to complete the survey and return it to the Companies at the address referenced in the paragraph below.

The Deputy Receiver is aware of the disruption the receivership proceeding has caused Home Owners, Member Builders, Creditors and others interested in the Companies' affairs. In this regard, the Deputy Receiver will continue to strive to maximize benefits paid to Home Owners and all other creditors of the receivership estate. You are encouraged to read the entire Report, as it will answer many of your questions. For additional information about the Report, you may write the Companies at P.O. Box 901021, Fort Worth, Texas 76101-2021. Late this summer, the Report and certain receivership information can be reviewed on-line at the Companies' Internet web-site as follows: <http://www.howcorp.com>. For urgent matters only, you may call toll free at 1-800-834-0577.

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REPORT TO HOME OWNERS, MEMBER BUILDERS, CREDITORS, AND OTHER INTERESTED PERSONS

This Report is being mailed to current Home Owners, Member Builders, and creditors of Home Warranty Corporation ("HWC"), Home Owners Warranty Corporation ("HOW"), and HOW Insurance Company, A Risk Retention Group ("HOWIC") (any or all of which companies are referred to in this Report as the "Companies"), and to other persons interested in their affairs. It is intended to provide an overview of the receivership and the current wind-down plan in effect for the Companies. The Report should be read in its entirety. A glossary of defined terms is contained in Part 4.

The information contained in this Report is provided for the convenience of its recipients. It is based in substantial part on the books and records of the Companies as they were found by the Deputy Receiver. Nothing contained in this Report constitutes or shall be deemed an admission by the Receiver, the Deputy Receiver or the Special Deputy Receiver of any fact or occurrence, nor shall the inclusion or exclusion of any matter in this Report constitute a waiver of any right, claim or defense of the Receiver, Deputy Receiver or Special Deputy Receiver.

PART 1. GENERAL INFORMATION

On October 7, 1994, the Circuit Court of the City of Richmond, Virginia, issued a temporary order placing the Companies into receivership. On October 14, 1994, the Court entered its Final Order (the "Receivership Order") appointing the State Corporation Commission of the Commonwealth of Virginia as Permanent Receiver (the "Receiver") of the Companies. The Receivership Order directed the Receiver and its representatives to take control of the Companies. Exclusive title to all of their assets has been placed in the Receiver. The Receivership Order also appointed Steven T. Foster, the Commissioner of Insurance, Bureau of Insurance (the "Bureau"), State Corporation Commission (the "Commission") of the Commonwealth of Virginia, as Deputy Receiver of the Companies. On May 1, 1996, Alfred W. Gross succeeded Steven T. Foster as Commissioner of Insurance of the Bureau and as Deputy Receiver of the Companies. In his separate and distinct legal capacity as Deputy Receiver, Commissioner Gross oversees the affairs of the Companies and supervises the team of professionals and subcontractors to whom he has delegated the function of administering certain aspects of their affairs, all for the benefit of insureds and creditors.

The Circuit Court entered the Receivership Order because, among other things, it found that the Companies were in a financial condition such that any further transaction of their business would have been hazardous to their Home Owners, Member Builders, creditors, and the public. On October 17, 1994, the United States District Court for the Eastern District of Virginia, Richmond Division, entered its Permanent Injunction prohibiting interference with the receivership proceedings. Former management of the Companies consented to the entry of these orders.

A team of experts including asset managers, actuaries, accountants, attorneys, and other consulting firms was engaged by the Deputy Receiver to stabilize the financial and operating condition of the Companies and to implement a plan for their orderly rehabilitation or liquidation. Because it appeared that the Companies were unable to meet all their contractual obligations as and when due, the Deputy Receiver temporarily suspended all claim payments until the Companies' financial condition could be analyzed and a payment plan developed for the fair and equitable treatment of all claimants.

A plan was established by the Deputy Receiver on November 29, 1994, which permits the partial payment of approved "direct claims" until additional recoveries can be made to meet the Companies' obligations. Direct claims are those for the amount of the reasonable cost of repairing defects to a home which are covered by the HOWIC warranty/insurance document (the "HOWIC Warranty"), less any applicable deductible. The payment plan temporarily suspends the payment of other claims until approved direct claims are paid in full. Part 3 of this Report describes the priority scheme for paying claims in receivership and provides an overview of the rules and procedures established by the Deputy Receiver for the adjudication of claims.

It is not necessary to make claims with the Companies before others do. **Being "first in time or first in line," as that concept is normally understood, does not entitle a claimant to greater benefits or claims than other similarly situated claimants.**

Reasons for Regulatory Action

Certain losses, accounting irregularities, and operating problems at the Companies persuaded the Bureau that intervention by state officials was appropriate to protect the interests of Home Owners, Member Builders, creditors, and the public. According to the Companies' independent auditors, HOWIC had an estimated premium reserve deficiency ranging from \$15 million to \$43.9 million as of December 31, 1993, which cast serious doubt on its ability to provide for its future claim obligations. In its private offering memorandum¹, HWC indicated that the amount of HOWIC's deficiency at June 30, 1994, might have increased from the range indicated at December 31, 1993. The memorandum also stated that HOW and its non-insurance company affiliates had "a negative net worth of \$7.5 million." The Companies' independent auditors issued a statement in their report accompanying HOWIC's financial statements for the years ended December 31, 1993, and 1992, that uncertainties relating to the estimated premium reserve deficiency of HOWIC raised "substantial doubt about the company's ability to continue as a going concern." Moreover, consulting actuaries retained by the Bureau to perform an actuarial analysis of the outstanding reserve liabilities underlying

¹ Shortly before the Companies were placed in receivership, their management commenced an effort to obtain funds from new investors. A "Confidential Private Offering Memorandum" dated September 1, 1994, was compiled and distributed for that purpose. References in this Report to the memorandum are for information purposes only and do not constitute ratification or adoption of the material contained in such document nor an indication that the information therein contained has been determined to be accurate or reliable.

the insurance business written by HOWIC, estimated that HOWIC may have been insolvent by as much as \$47.4 million as of June 30, 1994, based on data provided by the Bureau, HOWIC, and HOWIC's own consulting actuaries. For these and other reasons, the Bureau's experts determined that if regulatory action were not taken against the Companies, they would probably exhaust all their assets to the detriment of Home Owners, Member Builders, and creditors. The Deputy Receiver has since determined that HOWIC was insolvent by more than \$116 million as of December 31, 1994.

Background of HOWIC

HOW Insurance Company of Delaware was formed in 1981 under the laws of the State of Delaware and authorized in that year to transact the business of insurance as a risk retention group. In 1988, HOW Insurance Company of Delaware redomesticated to the Commonwealth of Virginia via Articles of Merger filed with the Commission and merged with HOW Insurance Company, A Risk Retention Group ("HOWIC") which was the surviving entity. HOW Insurance Company of Delaware no longer exists.

As a result of HOW Insurance Company of Delaware's merger into HOWIC, HOWIC is treated as having operated as a risk retention group under the Liability Risk Retention Act, 15 U.S.C. § 3901 *et. seq.* (formerly the Product Liability Risk Retention Act) (the "Act"), since 1981. HOWIC received a license from the Bureau in 1988 authorizing it to transact business as an insurance company in the Commonwealth of Virginia. At the time of receivership, HOWIC was authorized to transact business in the District of Columbia and in all states other than Alaska.

The Act, which was passed by Congress to address the unavailability and unaffordability of product liability insurance, permits companies with similar liability exposure, such as manufacturers, to form an insurance company to insure all or part of their liability exposure. The Act allows similarly situated members to insure themselves by forming an insurance company in one state and thereafter to sell coverage to members in any state without having to qualify specifically and be licensed as an insurance company in each state in which covered members reside.

There are a number of restrictions imposed upon risk retention groups. For example, the primary activity of the group must consist of assuming and spreading all or a portion of the liability exposure of its members. Similarly, the risk retention group may only insure members, who are also the owners of the company, and the type of member risk insured must be similar. As a risk retention group, HOWIC was and still is subject to the full spectrum of regulatory controls exercised by the Commonwealth of Virginia, its chartering jurisdiction. The regulatory controls of other jurisdictions, however, are limited by the provisions of the Act.²

Insurance Program of the Companies

HWC, a for-profit mutual corporation, was the parent company which owned all the shares of stock in its operating subsidiaries, HOW and HOWIC. As a mutual corporation, HWC was owned exclusively by its members, who were home builders.

HOW was the management company which managed the insurance operations of HOWIC. HOWIC issued insurance policies and certificates, received insurance premiums, and paid the claims that were covered by its contracts of insurance.

The business activities of the Companies are referred to in this Report as the "HOW Program." A builder who desired to participate in the HOW Program was required to file an application and to undergo an underwriting procedure administered by HOW. Once approved as a member of HWC, the builder entered into a builder agreement with HWC and HOW which governed the terms of its participation in the HOW Program. Under the terms of the agreement, the Member Builders were required to make capital contributions to HWC for a certain period of time defined in the agreement for each home enrolled by the Member Builder in the HOW Program. Once a home was enrolled by the Member Builder in the HOW Program, a HOWIC certificate was issued to the Home Owner to evidence the coverages provided by the HOWIC Warranty. The Home Owner was thus provided a direct right to seek certain specified benefits from HOWIC.

The HOWIC Warranty provides two principal coverages. Under the first coverage, a Member Builder provides to purchasers of its newly built homes a two-year limited warranty covering various aspects of the performance of the home and its components. The warranty obligation of the Member Builder pursuant to the warranty is insured by HOWIC through the "Builder Default Coverage" provisions of the HOWIC Warranty. It provides that if the Member Builder defaults on its warranty obligations, HOWIC will cover the cost of repairs to the home for the warranty claim. HOW's agreement with the Member Builder provides for reimbursement to HOWIC for the costs incurred in fulfilling the Member Builder's warranty obligations.

Under the second coverage of the HOWIC Warranty, the participating Member Builder receives insurance from HOWIC against any covered claims that a purchaser of a new home may make during years three through ten after the home's construction for the repair of "Major Structural Defects." Generally, the HOWIC Warranty defines a "Major Structural Defect" as actual physical damage to designated load-bearing portions of the home caused by a failure of such load-bearing portions which makes the home become unsafe, unsanitary or otherwise unlivable. The HOWIC Warranty explains the terms and conditions of coverage and lists the load-bearing portions of a home covered by the policy (*i.e.*, foundation systems and footings, beams, girders, lintels, columns, walls and partitions, floor systems and roof framing systems). Damage to non-load bearing portions of a home, such as the roof, exterior siding or a separately built concrete floor, generally do not constitute Major Structural Defects.

Under the second coverage, the Member Builder gives no express warranty to the purchaser for such repairs. The HOWIC Warranty provides that HOWIC, not the Member Builder, will pay for the cost to repair Major Structural Defect damage on behalf of the purchaser during years three through ten after the home's construction. HOWIC will pay for the cost to repair actual physical damage to the home resulting directly from the Major Structural Defect. For example, certain foundation failures should typically be expected to result directly in physical damage to sheetrock and other finishes.

² The status of HOW and HOWIC under the Act has given rise to litigation. *See i.e., Home Warranty Corp. v. Caldwell*, 777 F.2d 1455 (11th Cir. 1985).

The Home Owner must file a claim against HOWIC for Builder Default Coverage (*i.e.*, for warranty claims arising within the first two years of the home's construction) or Major Structural Defect coverage (*i.e.*, for defect claims arising during years three through ten after the home's construction). **The insurance provided by HOWIC covers the home itself; therefore, the coverage is available even if the original home buyer has sold the home to another person.** The coverage applies to damage resulting from construction defects. Causes such as storms, fires, and breach of contract are not included in the coverage.

The Companies also offered the HOW Remodeler Program to those Member Builders in the home remodeling business. Under this program, Member Builders provided to the Home Owner essentially the same limited warranties as under the HOWIC Warranty during the first and second years following completion of a remodeling project to a home. The Member Builder's limited warranty was covered by HOWIC under the remodeler program. In addition, HOWIC provided the Home Owner with insurance protection during years three through five (extendable for five additional years on an optional basis) following completion of the home remodeling project.

In addition to these coverages, the Companies offered a variety of other insurance products to the home construction industry. These products constituted a small portion of the Companies' overall insurance business.

Interruption in the Sale of New Policies

Upon the commencement of receivership, the Companies generally ceased issuing new HOWIC Warranties. When necessary to avoid substantial hardship to a home buyer, however, the Deputy Receiver did permit new warranties to be issued. For this exception to apply, a contract for home construction between the Member Builder and home buyer had to be in effect on or before October 7, 1994, and construction of the home had to have commenced by that date. Moreover, before a new warranty would be issued, the Member Builder, the home buyer and buyer's lender had to acknowledge in writing that the Companies were in receivership and may be unable to fulfill their contractual obligations. The Deputy Receiver is no longer accepting requests for new warranties under this initiative.

The Deputy Receiver suspended new insurance business because there was substantial uncertainty that HOWIC would be able to fulfill its current insurance obligations and, therefore, the issuance of new warranties would only have further depleted the assets of the Companies. In general, applications for new home enrollments received after October 7, 1994, have been returned to the Member Builder with an explanation that no new insurance business would be accepted by the Companies.

In instances where the Companies received payment of an enrollment fee from the Member Builder for a home that was enrolled *on or before* October 7, 1994, and the builder has thereafter obtained other warranty coverage on the home, the builder has been permitted to cancel the HOWIC Warranty retroactively and receive a refund of the enrollment fee under certain circumstances. The builder was required to make written request for cancellation of the warranty and refund of the enrollment fee, enclosing a copy of the declarations page of the other warranty policy, and an executed and notarized release from the Home Owner and Member Builder. A builder's request for the refund of an enrollment fee was denied if the above conditions were not met or if claims had been paid or were pending under the HOWIC Warranty.

Enrollment fees received *after* October 7, 1994, from a Member Builder who, for any reason, did not want a HOWIC Warranty were also refunded if the enrollment application had not been processed by the Companies, the HOWIC Warranty had not been bound or issued by HOWIC, and the Member Builder did not owe HOWIC an offsetting balance on another matter. If an offsetting balance did exist, the enrollment fees would have been held pending payment of the Member Builder's balance. The enrollment fees would be offset against the Member Builder's balance if it was not paid promptly to the Deputy Receiver.

Although most eligible claims for returns of enrollment fees have already been presented to the Deputy Receiver, Member Builders who believe they have eligible claims may still present them at this time.

Directors and Officers Litigation

In October 1995, the Deputy Receiver instituted a lawsuit in Virginia Federal Court against certain former directors and officers of the Companies, alleging violation of federal securities laws as well as various state law claims. On January 15, 1996, the Deputy Receiver, together with a group of 12 Texas Home Owners on behalf of themselves and other Home Owners similarly situated, instituted a second lawsuit in Texas State District Court in Dallas County against various persons and entities who were not Defendants in the Federal Court lawsuit. These lawsuits were instituted in an effort to seek redress from those parties whom the Deputy Receiver and the other plaintiffs believe to have caused damage to the Companies and Home Owners for which they may recover assets for the benefit of creditors including Home Owners. Eventually, the two cases were effectively consolidated in the Dallas court. Some of the preliminary phases of this litigation have been completed as the parties prepare themselves for various matters before the court.³ The Deputy Receiver intends to use any recoveries obtained from this case to add to assets available to fund benefits owed to the Home Owners, Member Builders, and creditors of the Companies.

³ Recently, the court denied a motion to certify a plaintiff class of home owners. As this Report is distributed, it is probable that this decision may be appealed.

Other Asset Collection Activities

The Deputy Receiver has also pursued a number of other efforts to marshal additional assets for the Companies' operations and for the benefit of creditors. These efforts have included the continuation of litigation commenced initially by the Companies prior to receivership in order to collect debts owed to them; the commencement of new litigation for the collection of debts where that was deemed appropriate; the establishment of an "asset recovery department" which seeks to collect sums due to the Companies without litigation and at reasonable costs; and pursuit of reinsurance and other contractual recoverables. An area of particular emphasis has been the availability of third party insurance and contributions from Member Builders toward the payment of covered claims.

PART 2. EFFECTS OF RECEIVERSHIP

Change in Management

The affairs of the Companies are being managed by the Commissioner of Insurance in his separate and distinct legal capacity as Deputy Receiver and by experts and consulting firms he has retained for this purpose. The Deputy Receiver has dismissed all senior management from the employ of the Companies. During receivership, diligent efforts have been made to stabilize the Companies' affairs, to identify operating problems, to devise a plan that would improve the operations of the Companies, and to enhance the benefits paid to claimants. We are confident that receivership actions taken to date are an important component of a plan of corrective action reasonably calculated to maximize benefits for all claimants.

In short, the Companies are effectively under new management whose mission it is to protect fully the interests of Home Owners, Member Builders, and creditors.

Authority of Deputy Receiver

The Receivership Order authorizes the Deputy Receiver to act on behalf of the Commission for the period the Commission is the Receiver of the Companies, to take possession of their assets, to control their affairs, to take all actions necessary or appropriate for their management, and to conserve and marshal their assets. The Receivership Order also authorizes the Deputy Receiver to institute or defend, in the name of the Companies or in his own name, any and all lawsuits and other legal proceedings on behalf of the Companies. By virtue of this Order, the Deputy Receiver is legally in control of the Companies' records and other property, and is overseeing the payment of claims, recovery of assets, and proper performance of all other administrative functions.

Stay of Litigation

Under the terms of the Receivership Order, neither the Companies nor the Deputy Receiver may be sued without the Deputy Receiver's consent. Action on pending litigation against the Companies has been stayed by the Receivership Order. All claims against the Companies, including any claims in litigation, must be submitted to the Deputy Receiver in accordance with the administrative claims process established by the Receivership Order. The Deputy Receiver is to determine the validity and the amount of each such claim. This administrative process is the sole method of asserting claims against the Companies or their assets. The administrative claims process and availability of appeals are described more fully in Part 3 of this Report.

Rehabilitation Efforts

The rehabilitation of an insurance company like HOWIC is a complex and intricate undertaking. First, at the time of receivership only two companies competed directly with HOWIC on a nationwide basis. Second, the insurance company that underwrote the HOW Program before the formation of HOWIC, INA Underwriters Insurance Company, sustained losses leading it eventually to cease underwriting this business. Third, HOWIC itself sustained heavy losses in underwriting the HOW Program, which led ultimately to its receivership. These factors, among others, made the rehabilitation of the Companies a daunting challenge.

Frequently, rehabilitation efforts focus on the possibility of finding new owners or investors willing and able to infuse additional capital. This new capital can then be devoted to assuring that the company's financial structure does not present unacceptable risks to those parties interested in the insurer's affairs. As explained below, the Deputy Receiver has tried to sell the Companies. However, the depth of the Companies' insolvency and poor operating history, combined with the peculiarities of their products, appear to have made it virtually impossible to obtain any purchase offers that would restore enough of the benefits owed to all current and future claimants.

The Deputy Receiver has also focused on whether the sale of certain portions of the Companies' business would assist and enhance the benefits payable to all current and future claimants. Despite the challenges imposed by the Companies' financial condition and operating history, the Deputy Receiver also took active steps to sell portions of HOWIC's insurance business. To assist in the rehabilitation effort, the Deputy Receiver retained a group of consultants to solicit and evaluate purchase proposals for all or certain portions of HOWIC's business.

Beginning in May 1995, the Deputy Receiver solicited confidential bid proposals from more than 100 potential purchasers who might be interested in acquiring all or parts of HOWIC's business. Extensive due diligence was conducted by some of these bidders, who submitted purchase proposals to the Deputy Receiver before December 1995.

While efforts were underway to sell the Companies, in whole or in part, the Deputy Receiver undertook a number of measures to reduce the operating expenses of the Companies. These measures included, among others, consolidation of offices, reduction of staff, and the downsizing and conversion of the Companies' computer systems. In addition, the Deputy Receiver instituted changes in procedures governing the Companies' adjudication of their claims.

As an additional rehabilitation effort, in October 1995, the Deputy Receiver requested proposals from third party administrators for the adjudication of the Companies' claims over the remaining term of the policies in force. Proposals in response to the administrative bid process were submitted in December 1995. The Deputy Receiver also requested bid proposals from service firms to oversee the third party administrator and to perform other administrative functions on behalf of the Deputy Receiver. Proposals from the service firms were submitted by February 1996. The goal of these administrative bid processes was to determine whether third parties could provide administrative services at a price that was lower than the Companies' projected costs over the term of the policies in force.

The Deputy Receiver evaluated all purchase and administrative proposals with the assistance of outside experts retained for this purpose. The goal of this effort was to determine whether any proposals to purchase the Companies or to administer their business would provide greater benefits to Home Owners, Member Builders, and creditors than would be achieved if no changes were made to the Companies' receivership operations. A key factor of this analysis was the need to assure that a proposed agreement would not worsen the plight of Home Owners, Member Builders, and creditors.

After extensive rounds of communication and negotiation, the Deputy Receiver concluded that none of the purchase proposals, either by themselves or in combination with others, could be reasonably anticipated to provide greater benefits for Home Owners, Member Builders, and creditors of the Companies than would likely be achieved by an orderly administration of the Companies' operations in rehabilitation. Therefore, the Deputy Receiver did not enter into any contract to sell the Companies' business.

In March 1996, the Deputy Receiver concluded that the administrative proposals would provide greater benefits to claimants than the plan of operation then in effect for the Companies' operations. Therefore, the Deputy Receiver retained a third party administrator to adjudicate claims and perform other routine administrative tasks for the Companies, in accordance with guidelines established by the Deputy Receiver. The Deputy Receiver also retained a service firm to oversee the third party administrator and perform other administrative functions of the Companies on behalf of the Deputy Receiver.

The third party administrator and service firm act under the direction and guidance of the Deputy Receiver. Enlisting these third parties to administer the Companies' operations has enabled the Deputy Receiver to achieve additional cost savings by closing the Companies' offices, downsizing their warehouse facilities, selling unneeded furniture and equipment, terminating all employees (some of whom were subsequently hired by the third party administrator), and reducing other overhead costs.

The Deputy Receiver has not ruled out the possibility of selling the Companies or parts of their business to third parties in the future. However, he is not actively soliciting purchase proposals from third parties at this time in light of the comprehensive and costly bid process that was recently completed. Through this bid process, it was determined that the purchase proposals apparently would provide fewer benefits to Home Owners, Member Builders, and creditors than the administrative proposals selected by the Deputy Receiver.

Actions taken by the Deputy Receiver, together with a reduction in reported claims, appear to have improved the financial condition of HOWIC. Before receivership, it was concluded that the financial reports filed by HOWIC reflected reporting methodologies that did not depict its true financial condition. It appears that HOWIC was insolvent by as much as \$116 million as of December 31, 1994. As of December 31, 1996, HOWIC was reported to be insolvent by approximately \$53 million. This apparent improvement is a reflection of several aspects of the Companies' post-receivership operations. First, following the inception of receivership proceedings, the volume of claims presented to the Companies declined substantially. However, this decline may well be temporary. Secondly, the Deputy Receiver implemented a number of measures to expedite and reduce the costs of claims adjudication. The Deputy Receiver also devised and implemented a comprehensive plan for the reduction of operating costs. Finally, the Deputy Receiver has placed particular emphasis on collection of amounts due to the Companies from third parties.

The Deputy Receiver hopes that this favorable trend will continue in the future, but he can provide no assurance that operating results of the Companies will continue to improve. Indeed, cost saving measures taken in coming years will not likely be of the magnitude of those taken during the first two years of receivership. A number of measures previously implemented by the receivership team were one-time events that cannot be repeated.

No Guaranty Fund Coverage

The HOWIC Warranty is not backed by a state insurance guaranty association or other insolvency protection plan. The federal statute governing risk retention groups like HOWIC expressly prevents a state from including such companies in its guaranty association. Therefore, if HOWIC is ultimately unable to fulfill its contractual obligations under the HOWIC Warranty, no payments will be available from state insurance guaranty associations.

HOWIC Coverage Remains in Effect

With certain exceptions, the Deputy Receiver has not terminated the HOWIC Warranties that were issued before October 7, 1994. The insurance coverages that were in effect on that date were not canceled by reason of the receivership. Warranty claims submitted to the Companies continue to be adjudicated in accordance with the terms and conditions of the HOWIC Warranty, as that document has been interpreted by the Deputy Receiver, and the rules and procedures in effect for the receivership.

PART 3.
ADMINISTRATIVE CLAIMS PROCESS

Prioritization of Claims

Because the Companies have been placed in receivership, claims asserted against them, even if approved, are not all entitled to payment at the same time. The law applicable to insurers in receivership compels that claims be separated by category, with certain categories being paid first. In addition, directives and policies adopted during the receivership may cause a moratorium on the payment of certain claims.

In general, the conduct of the receivership proceedings for the Companies is governed by Section 38.2-1500, *et. seq.*, of the Virginia Code. Section 38.2-1509 of the Virginia Code, as that section existed at the time the Companies were placed in receivership, provided the following order of priorities or creditor classes for the payment of liabilities:

- Class 1 Wages entitled to priority as provided by statute.
- Class 2 Claims of secured creditors with a perfected security interest to the extent of the value of the security.
- Class 3 Taxes owed to the United States and other debts owed to any person, including the United States, who by the laws of the United States are entitled to priority.
- Class 4 Claims of guaranty associations and policyholders.
- Class 5 Other creditors.

Because HOWIC Policies are not backed by any state insurance guaranty associations, it is anticipated that no claims will be paid or submitted by these associations. All Class 4 claims will, therefore, consist of the claims of Member Builders and Home Owners arising under the two principal coverages of the HOWIC Warranty, which were described in the "Insurance Program of the Companies" section of Part 1 of this Report.

By traditional usage, claims in Class 5 are generally referred to as general creditor claims. In the case of the Companies, they would include, among others, the claims of vendors, trade creditors, and Member Builders (other than those claims arising under the HOWIC Warranty). Class 5 claims include Member Builders' claims for litigation costs and attorneys' fees arising from actual or threatened litigation claims brought against them by Home Owners or other persons for the cost of repairing defects covered under the Major Structural Defect coverage of the HOWIC Warranty. The treatment of Member Builders' claims for legal defense is discussed in greater detail in the "Defense of Third Party Actions" section in this Part 3. The law also permits, under certain circumstances, the recognition of a class of subordinated creditors, typically owners or equity holders. Claims falling into that category would include claims of Member Builders for the return of capital contributions they paid to HWC.

The determination that a claim falls within Class 5 does not mean that it will not be paid by the Deputy Receiver. It simply means that it will not be paid until all approved claims in higher classes have been paid. Thus, all approved Class 1 claims must be paid before Class 2 claims, all approved Class 2 claims must be paid before Class 3 claims, all approved Class 3 claims must be paid before Class 4 claims, all approved Class 4 claims must be paid before Class 5 claims, and all approved Class 5 claims must be paid before the claims of owners or equity holders of the Companies.

Deputy Receiver's Directives

As noted previously, HOWIC does not have sufficient assets to meet all its contractual obligations. On November 29, 1994, the Deputy Receiver issued his First Directive authorizing initial payments of 40% on approved direct claims for costs of repairing covered defects and imposing a moratorium on the payment of "indirect claims" arising under the HOWIC Warranty. Indirect claims under the HOWIC Warranty are those claims approved for other components of a Class 4 claim, including but not limited to claims for extra contractual obligations, non-economic damages, consequential damages, and litigation costs and attorneys' fees. By this Directive, the Deputy Receiver has suspended payment on all indirect claims until direct claims have been paid in full.

This directive was the result of an actuarial and accounting determination of the maximum percentage that HOWIC can reasonably pay on claims as they are presented with sufficient assurance that HOWIC will be able to pay the same or no lower percentage on comparable claims presented during the ensuing years of the existing policies. For example, HOWIC could not pay 100% of today's Home Owner claims if HOWIC reasonably anticipated that as a result of doing so it would only be able to pay a lower percentage of other Home Owners' claims in the future. This directive was made necessary, in part, because it is generally unlawful to give preference to certain creditors of an insolvent insurer over other similarly situated creditors. **Persons who have not been previously notified of, and who are affected by, this Directive may present objections to the Deputy Receiver's suspension of payments on indirect claims by filing an Application for Hearing with the Commission for the presentation of such objection within ten days of the date of this Report. All Applications for Hearing shall be considered filed with the Commission upon receipt of the original by the Clerk of the Commission at the following address:**

William J. Bridge, Clerk
State Corporation Commission
P.O. Box 2118
Richmond, Virginia 23218

A copy of the Application for Hearing must also be delivered to the Deputy Receiver at P.O. Box 152087, Irving, Texas 75015-2087. Failure to file the Application for Hearing in accordance with the provisions of this Report waives any further right to object to the Deputy Receiver's categorization and suspension of payments on indirect claims.

On January 23, 1996, the Deputy Receiver issued a Second Directive that increased the amount being paid on direct claims from 40% to 50%. As a result, 50% of each direct claim is now being paid, and claimants who have previously been paid 40% on their direct claims may be eligible to receive an additional 10% payment on those claims, subject to a case-by-case determination that the additional payment would be proper and fair under the circumstances. The payment of indirect claims remains suspended.

The Deputy Receiver continues to evaluate whether the amount of assets available or the projected volume of future claims would justify an additional increase in the payment percentage for direct claims. The Deputy Receiver will raise the payment percentage for direct claims if the financial condition of the Companies continues to improve and he concludes that he can do so without creating an unlawful preference. In the best case, the payment percentage for direct claims would be raised to 100%, and the Companies would then turn to the payment of indirect claims. After all Class 4 claims had been paid in full, the Companies would then turn to the payment of claims of lesser priority. The Deputy Receiver is hopeful that the payment percentage for direct claims will be increased further; however, at present he can give no assurance that an increase beyond 50% of direct claims can be made. Any claimant who receives 50% of his or her direct claim retains the right to receive the remaining 50%, subject to the availability of funds and a case-by-case determination that additional payments to the claimant would be proper and fair under the circumstances.⁴

How to File a Claim

A. Claims for Builder Default Coverage

Pursuant to the authority granted in the Receivership Order, the Deputy Receiver has revised the dispute settlement and resolution procedures prescribed for claims under the builder's limited warranty which arise within the first **two years** after the home's construction. This section provides more information on the guidelines for the adjudication of warranty claims.

Requests for Warranty Performance ("RWP") arising from a builder's default under the warranty should be submitted in writing to the Deputy Receiver. If coverage is available, the Deputy Receiver will approve a settlement process in which monetary awards, in lieu of repairs, may be given for covered items.

The Office of Dispute Settlement (the "ODS") was created to review warranty claims and disputes and, if necessary, to arrange for an inspection of the premises. The Dispute Settlement Procedure (the "DSP") implemented by the Deputy Receiver consists primarily of written submission to ODS, which, after evaluation, renders its decision. Under the DSP, the submission to ODS must be complete and under oath. The Home Owner and Member Builder are required to submit documents and other evidence to support their respective positions. The ODS will then make a determination or conduct further analysis regarding whether the Member Builder is responsible for repairing the defect identified in the RWP. If the Member Builder fails to perform in accordance with that determination, the ODS may convert the Home Owner's RWP on the defective item to a warranty claim, which is adjudicated through HOWIC. HOWIC then would perform the Member Builder's obligations as determined by ODS under the HOWIC Warranty (*i.e.*, HOWIC will pay 50% of the amount required for covered repairs, with the balance or increments thereof paid when the payment percentage for direct claims is increased).

To be given effect, RWPs must be filed timely with HOWIC and the defect must have occurred within the warranty period for the covered item. In addition, HOWIC must have received the RWP no later than 30 days after expiration of the two-year warranty period.

B. Claims for Major Structural Defect Coverage

This section provides information on the guidelines for the adjudication of claims for Major Structural Defect coverage. Claims for Major Structural Defects may be made during years three through ten after the home's construction. All Home Owners who believe their homes have Major Structural Defects covered by the HOWIC Warranty, which have not been previously considered by the Companies, must detach, complete, and sign before a notary the Major Structural Defect Questionnaire For Home Owners attached to this Report as **Exhibit A**. The Major Structural Defect Questionnaire and all appropriate information must be mailed to the Deputy Receiver at the address contained in the "Claim Submission" section of this Part 3 in order for the claim to be considered as a claim of the receivership estate.

C. Other Claims

The Companies may be indebted to a person or entity for reasons other than defects covered under the HOWIC Warranty. For example, a supplier of goods or services may believe that he, she or it has not been paid in full for all such services, a Member Builder may have a claim arising under the Member Builder's Agreement rather than the HOWIC Warranty, or the Companies may be indebted to a person or entity for some other reason. All such claims (which generally are considered Class 5 general creditor claims), including any claims complaining of a decision by the Deputy Receiver, must be presented to the Deputy Receiver in the same manner as claims arising under the HOWIC Warranty.

⁴ For example, additional payment may not be proper and fair under the circumstances if the claimant has assigned the claim to a third party or has received payment for the unpaid portion from another party, such as a Member Builder.

Claim Submission

Persons who wish to submit an RWP arising from the alleged failure of a Member Builder to perform under its limited warranty, who believe that they have a covered claim for a Major Structural Defect, or who wish to assert any other claim, must send their claim information to the following address:

**HOW Insurance Company, A Risk Retention Group
In Receivership
P.O. Box 901021
Fort Worth, Texas 76101-2021**

The Companies maintain a toll free number which is answered between 7:30 a.m.- 5:30 p.m. Central Time, Monday through Friday. For urgent matters only, you may call toll free at 1-800-834-0577.

Defense of Third Party Actions

The Companies are not providing a legal defense to Member Builders against claims brought by Home Owners under the Major Structural Defect ("MSD") coverage provisions of the HOWIC Warranty. A Member Builder may, however, present a claim to the Companies for costs it has incurred in connection with the defense of such a claim. To the extent approved, the claim will be treated as a Class 5 general creditor claim (as described in the "Prioritization of Claims" section in this Part 3) against the Companies. A Member Builder's claim for legal defense is a general creditor claim because the claim arises under the Member Builder's Agreement with HOW rather than the HOWIC Warranty. Generally, in order to be approved, a Member Builder's claim for defense costs must meet certain criteria. Namely, the costs must be reasonable and necessary, incurred after the filing of a lawsuit against the Member Builder to recover under the insurance documents for an MSD, and not covered by other insurance protecting the Member Builder or its subcontractors. To be considered reasonable and necessary, the costs must relate directly to the Member Builder's defense of a claim by a Home Owner under the Major Structural Defect coverage provisions of the HOWIC policy. Other insurance in this context may include a commercial general liability insurance policy which covers the work of the Member Builder or its subcontractors, a liability policy issued to a subcontractor, or other forms of insurance.

Other Insurance

The HOWIC Warranty provides only **excess** insurance coverage. This means that if a loss occurs that is covered under the HOWIC Warranty as well as by other insurance applicable to the home or its construction, HOWIC will not be liable for the loss, except for that portion of the loss which is not covered by, or which is in excess of, the amount due from such other insurance (whether or not collected). Therefore, claimants should first seek recovery of the amount of their loss from other insurance policies, such as their homeowners insurance policy, their builder's commercial general liability insurance policy and any other insurance policies which may be applicable to the loss. To the extent it is applicable, all such other insurance must be exhausted before the Companies can be required to pay any portion of the loss.

Claim Determinations

Once the Companies receive a claim, a claims representative will review the documentation and make a determination as to whether coverage is available based on the information received or whether additional information is necessary. The representative may contact the claimant over the telephone or by written correspondence and inform him or her of any additional information which is required. After a thorough investigation of the facts and circumstances concerning the claim, the claimant generally will receive a Notice of Claim Determination ("NCD") which informs him or her of the Deputy Receiver's disposition of the claim.

Advisory Opinions Regarding Claims

From time-to-time, Home Owners, Member Builders, creditors, and other interested persons may contact the Companies seeking advice about whether a hypothetical situation constitutes a valid claim against the Companies, and, if so, the level of payment priority that the claim would receive. These scenarios typically present situations where assumptions must be made regarding the facts and circumstances of the claim. It is the Deputy Receiver's policy that no advisory opinions or statements will be offered in these situations regarding whether claims coverage exists. It is important that all relevant claim information be submitted in writing to the address referenced in the "Claim Submission" section of this Part 3 so that the claim can be properly evaluated without constituting an advisory opinion.

Right to Appeal

Under the terms of the Receivership Order, a procedure has been implemented by which appeal may be taken from any decision of the Deputy Receiver involving a specific claim. The appeal must be received within 30 days after the NCD is issued. The Receivership Appeal Procedure is the exclusive method for appealing such decisions. A copy of the Receivership Appeal Procedure is attached to this Report as **Exhibit B**. Except to the extent provided in this procedure, all decisions of the Deputy Receiver are final and nonappealable. No procedure exists for alternative dispute resolution or arbitration of claims.

There are two levels of appeal following the issuance of an NCD. First, the decision reflected in the NCD may be appealed to the Deputy Receiver. Generally, such claims are then reviewed by the Deputy Receiver's appeals department, which may or may not request additional information than that considered by the claims department. The result of this process is typically the issuance of a Determination of Appeal letter by the Deputy Receiver. Claimants dissatisfied with the decision in the Determination of Appeal may appeal to the Commission in the manner

set forth in the Receivership Appeal Procedure. Appeals to the Commission take the form of lawsuits filed in Richmond, Virginia. These lawsuits are governed by the rules of practice and procedure applicable to practice before the Commission as well as the supplemental rules of procedure adopted by the receivership court for this particular receivership. Unless the Commission enters orders to the contrary, appeals filed with the Commission will be treated as lawsuits and may be subject to depositions, interrogatories, and other formal discovery. The appealed cases may also result in a full trial. However, trial by jury is not available in the Commission under applicable Virginia law or the orders of the Commission.

Under the laws of the Commonwealth of Virginia, a decision by the Commission is appealable as a matter of right to the Supreme Court of the Commonwealth of Virginia. Such appeals will be governed by the rules and procedures adopted by the Virginia Supreme Court and are subject to all of the policies, procedures, rules, and traditions that govern other appeals to the Virginia Supreme Court.

Under applicable state and federal law, decisions by the Virginia Supreme Court may be appealable to the United States Supreme Court. However, the United States Supreme Court may decline to consider an appeal from a claim decision made by the Commission and then decided on appeal by the Virginia Supreme Court.

Builder Repair Costs

In certain instances, a Member Builder who repairs or pays for the repair of covered defects to a home may wish to seek reimbursement from the Companies. The builder may "stand in the shoes" of the Home Owner, to an extent, with respect to that portion of the claim that would be payable in the receivership. The Member Builder's claim for repair costs will be evaluated to determine whether such costs are: (1) covered under the HOWIC Warranty; (2) incurred after receivership by the builder in consideration of the builder's receipt of a legally enforceable assignment or release of the Home Owner's rights to receive payment for those costs of repair; and (3) not covered by other insurance protecting the builder or its subcontractors.

The Member Builder's claim against the Companies must be offset or reduced by the amounts, if any, that the builder owes the Companies. For example, a builder may owe the Companies for another matter or may be responsible for a portion of the repair costs under the loss participation feature of its builder agreement. If all requirements for reimbursement were satisfied, and no offsets, deductions or counterclaims existed against the Member Builder, the Member Builder's claim would be approved as a direct claim.

To determine whether repair costs incurred by a Member Builder are covered under the HOWIC Warranty, the Member Builder must detach, complete, and sign before a notary the Repair Cost Questionnaire for Builders which is attached to this Report as **Exhibit C**. The Repair Cost Questionnaire and all appropriate information must be mailed to the Deputy Receiver at the address contained in the "Claim Submission" section of this Part 3 to be considered a claim of the receivership estate. The Member Builder's cost of evaluating the claim will not be reimbursed by the Companies. Further, the Member Builder will not be reimbursed by the Companies for any portion of the repair costs that represents any form of "profit" or "fee" to the Member Builder or that properly constitutes an "overhead" or "administrative" expense of the Member Builder. The Repair Cost Questionnaire should not be submitted by a Member Builder if the claim at issue was previously considered by the Companies.

Builder Adjudication of Claims

Certain Member Builders have agreed with the Deputy Receiver to attempt to resolve *all* Home Owner claims for Major Structural Defect coverage arising from homes they have constructed. Under these arrangements, Member Builders contact Home Owners directly to arrange for the disposition of their claims. The Companies have agreed to suspend any action on the Home Owner's claim while it is under investigation by the Member Builder. If the Member Builder fails to reach agreement with the Home Owner within a reasonable time, the Home Owner may elect to pursue his or her claim directly against the Companies. Inasmuch as the Companies are only making partial payments on direct claims at this time, Home Owners may prefer to settle their claims directly with their builders, as this approach may result in full payment of the claim by their builders. As noted in the "Builder Repair Costs" section of this Part 3, Member Builders who pay for, or perform repairs in settlement of, covered claims, as determined by the Deputy Receiver, are entitled under these arrangements to present claims against the Companies, subject to the rules and procedures that are in effect for the adjudication of claims.

Member Builders who have requested that the Deputy Receiver advise Home Owners that they have agreed to adjudicate their own claims include **Milburn Homes** and **The Ryland Group**. Owners of homes constructed by **Milburn Homes** in Austin, Texas, should contact it with any claims or questions at the telephone number or address shown on **Schedule 1** attached to this Report. Owners of homes constructed by **The Ryland Group** should contact it with any claims or questions at the telephone numbers or addresses shown on **Schedule 2** attached to this Report. Other builders who are adjudicating their own claims have requested that we not provide contact information for them in this Report. Home Owners who wish to obtain further information regarding builders who are adjudicating their own claims should contact their builder.

Conclusion

We are keenly aware of the tremendous disruption that the Companies' receivership has caused Home Owners, Member Builders, and creditors. Diligent efforts have been made to resolve the many problems arising from the Companies' failure. Significant progress is being made in restructuring their operations and improving their financial condition. In the months ahead, the Deputy Receiver will continue striving to maximize the benefits paid to all claimants. For more information about any matter discussed in this Report, please write to the Companies at P.O. Box 901021, Fort Worth, Texas 76101-2021. For urgent matters only, you may call toll free at 1-800-834-0577.

PART 4.
GLOSSARY

Act Liability Risk Retention Act, 15 U.S.C. § 3901 *et. seq.* (formerly the Product Liability Risk Retention Act).

Builder Default Coverage Coverage provided by HOWIC for a builder's failure to perform under its limited warranty, as determined by ODS or because of the builder's bankruptcy or insolvency.

Bureau The Bureau of Insurance, State Corporation Commission of the Commonwealth of Virginia.

Commission The State Corporation Commission of the Commonwealth of Virginia.

Commissioner Alfred W. Gross, Commissioner of Insurance for the Bureau of Insurance, State Corporation Commission of the Commonwealth of Virginia.

Companies HOW Insurance Company, A Risk Retention Group, Home Warranty Corporation, and Home Owners Warranty Corporation.

Deputy Receiver The Commissioner acting solely in his capacity as Deputy Receiver of the Companies.

Direct Claims Claims for the cost of repairing defects to a home which are covered by the HOWIC Warranty, less any applicable deductible.

DSP Dispute Settlement Procedure.

Home Owners Owners of homes which are covered by a certificate of insurance evidencing the coverages of the HOWIC Warranty.

HOW Home Owners Warranty Corporation.

HOW Program The business activities of the Companies.

HOWIC HOW Insurance Company, A Risk Retention Group.

HOWIC Warranty The HOWIC warranty/insurance document issued to Member Builders.

HWC Home Warranty Corporation.

Indirect Claims Claims under the HOWIC Warranty which include, but are not limited to, amounts for extra contractual obligations, non-economic damages, consequential damages, and litigation costs and attorneys' fees.

Major Structural Defect Actual physical damage to designated load-bearing portions of the home caused by a failure of such load-bearing portions which affect their load-bearing functions to the extent that the home becomes unsafe, unsanitary or otherwise unlivable.

Member Builders Builders who are members of HWC and policyholders of HOWIC.

NCD Notice of Claim Determination.

ODS Office of Dispute Settlement.

Permanent Injunction The injunction entered on October 17, 1994, by the United States District Court for the Eastern District of Virginia, Richmond Division, which prohibits interference with the receivership proceedings.

Petition A Petition for Review of Deputy Receiver's Determination of Appeal which is filed with the Commission by a claimant of the receivership.

Receivership Appeal Procedure The Receivership Appeal Procedure attached to the Report as **Exhibit B**.

Receivership Order The Final Order entered on October 14, 1994, in the Circuit Court for the City of Richmond, Virginia, which appointed the Commission as Receiver.

Report This Report to Home Owners, Member Builders, Creditors, and Other Interested Persons.

Rules The Rules of Practice and Procedure of the Commission which govern receivership appeal proceedings.

RWP Request for Warranty Performance.

Special Deputy Receiver Patrick H. Cantilo, acting solely in his capacity as Special Deputy Receiver of the Companies.

MAJOR STRUCTURAL DEFECT QUESTIONNAIRE FOR HOME OWNERS

Instructions:

PLEASE PRINT CLEARLY IN INK. It is important that you answer every question and enter all the information requested in this questionnaire so that we can process your claim. If an answer to a question is not known or the information requested is not readily available, do not leave the space blank as this will only delay the processing of your claim. If the answer to a question is not known, please indicate "UNKNOWN" in the blank space. If the information requested is not readily available, please provide a brief statement to that effect and indicate where or from whom such information can be obtained. If you need additional space, please use the back side of the last page or attach additional pages to the last page with a reference number indicating which question the information is intended to answer. All information submitted on any back page or additional pages shall be deemed incorporated by reference herein as if fully set forth on this questionnaire. You must swear in the presence of a notary public to the truth and completeness of all information you provide in support of your claim, as provided on the last page of this questionnaire.

Name of Home Owner(s): _____

Address of Property: _____

HOW Enrollment Number (see home owner certificate): _____

Mailing Address, if different: _____

1) Daytime phone number: ()- _____ ()- _____ Co-owner

2) Evening phone number: ()- _____ ()- _____ Co-owner

3) Your Property Insurance Carrier: _____

Agent's Name: _____ Phone Number: ()- _____

Policy Number: _____

4) Date home was purchased: _____

Mortgagee or lienholder: _____

5) Type of loan: FHA VA CONVENTIONAL (please circle one)

FHA or VA Case Number (if applicable): _____

6) Did the builder provide any of the following services: (check all applicable)

_____ landscaping _____ decks _____ patios _____ pool _____ spa _____ septic

7) During original construction, did you or anyone other than the builder perform any work? Yes _____ No _____ If yes, please explain: _____

8) Were any inspections done prior to your purchase of the home? Yes _____ No _____ If yes, please indicate who performed the inspections and when they were performed: _____

9) Please describe the home and the property on which it is situated (check all applicable):

_____ frame _____ stucco _____ brick _____ stone _____ one-story _____ two-story

- 10) Have there been any changes, additions or modifications to the home or the property since the original construction? Yes ____ No ____ If yes, please explain what was done, when, and by whom: _____

- 11) Is the home currently occupied? Yes ____ No ____ If not, please explain why and when the home became vacant?

- 12) How and when was the defect or damage first noticed? _____

- 13) Please describe the defect or damage and where it is located: _____

- 14) Has the defect or damage worsened since it was first noticed? _____

- 15) Explain why you believe the defect or damage is covered by the HOWIC Warranty: _____

- 16) Please describe all prior claims filed with HOWIC for the home in question:

- 17) Have you experienced any problems in any of the following areas: plumbing, wastewater, gas, oil, electric lines, ductwork or heating system? Yes ____ No ____ If yes, please explain the problems and provide any relevant documentation relating to these problems:

- 18) Is there any item which affects the health or safety of the occupants of the home? Yes ____ No ____ If yes, please fully explain: _____

19) Are there any windows or doors which do not operate? Yes _____ No _____ If yes, please fully explain the condition and location of the non-functioning door or window: _____

20) Explain the results of your efforts, if any, to exhaust all other potential sources of recovery relating to your claim (*i.e.*, recovery efforts directed toward the builder, subcontractor, engineers, architects, insurance carriers): _____

Please attach copies of all relevant correspondence and, if available, copies of applicable insurance policies related to your exhaustion of other potential sources of recovery.

21) If you filed a lawsuit against third parties seeking recovery for the defect or damage made the basis of your claim with HOWIC, provide a concise statement of the status of the case or its disposition, as well as information on all attorneys' fees incurred for this litigation: _____

22) Were any emergency, temporary or permanent repairs done since the damage was first noticed? Yes _____ No _____ If yes, please indicate who made the repairs, when they were made, and what was done: _____

23) Have there been any recent windstorms, hail storms, floods, mudslides, earthquakes, volcanic eruptions, wind-driven water, changes in the underground water table or other occurrences that may have damaged your home or any of its structural components?

24) Do you have any engineer's reports or plans of repair for the defect or damage? Yes _____ No _____ If yes, please attach copies to this questionnaire.

25) Have you obtained three **itemized** repair estimates from independent third parties for this claim? Yes _____ No _____. If yes, please attach copies of the estimates to this questionnaire. If you have not obtained these **itemized** estimates, please do so and enclose the estimates with this questionnaire. The estimates must describe the method and basis by which the estimated cost of repair was derived. **We must receive these estimates before a determination on your claim can be made.**

26) Please enclose photographs or a videotape of the alleged damage or defect, as well as photographs or a videotape of the front and back of the home. **Photographs or a videotape are required.** Attached to this **Exhibit A** is a list of "helpful hints" that contains useful information for the submission of certain Major Structural Defect claims.

27) List any additional information that is pertinent to this claim:

Executed at _____ (city and state), this _____ day
of _____, _____.

HOME OWNER(S):

x _____
Signature (print name)

x _____
Signature (print name)

STATE OF _____

COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared _____, known to me to be the persons (whether one or more), whose names are subscribed to the foregoing Major Structural Defect Questionnaire for Home Owners, and having by me been first duly sworn, upon their oath, deposed and stated that all information provided by them in the Major Structural Defect Questionnaire for Home Owners or otherwise in support of their claim is and will be true and complete to the best of their knowledge and belief.

Given under my hand and seal of office on this _____ day of _____, _____.

(Notary Seal)

Notary Public, State of _____

Printed/Typed Name of Notary

*** DO NOT FORGET to include itemized estimates for repair and photographs or a videotape of the damage to the home with this form. Any information submitted in support of your claim will become property of the Companies and will not be returned.**

THIS QUESTIONNAIRE IS PROVIDED ONLY AS A GUIDE TO HELP YOU ILLUSTRATE THE EXACT NATURE OF THE CLAIMED DEFECT. YOU MAY BE REQUIRED TO PROVIDE ADDITIONAL INFORMATION TO ESTABLISH THAT HOWIC WARRANTY COVERAGE EXISTS FOR YOUR CLAIM. THE DEPUTY RECEIVER RESERVES THE RIGHT TO ADJUDICATE YOUR CLAIM IN THE MANNER HE CONSIDERS APPROPRIATE UNDER THE CIRCUMSTANCES.

Helpful Hints For Submission Of Evidence To Verify Your Major Structural Defect Claim

The following suggestions are not mandatory requirements, but following these suggestions in preparing your evidence to be submitted to the Companies in connection with your Major Structural Defect claim may help in making a more expedient and accurate determination of your claim.

1. If you are submitting a claim regarding cracks or separation in walls, foundations, concrete slabs, ceilings, support beams, bricks, floors (including wood flooring), or cracks or separation in any other area:
 - A. Place a ruler over the crack before taking the picture or video.
 - B. Make sure when you are taking the picture or video that you are close enough to see the measurement.
 - C. If it is a vertical displacement crack (*i.e.*, a crack in the floor which makes the floor unlevel), please place a ruler perpendicular to the crack to show the size of the displacement.
2. In the case of floors which are not level or walls which are not plumb (*i.e.*, level): place a leveler on the item or show the unlevelness in some other manner before taking the picture or video.

PLEASE DISTINGUISH WHETHER ITEMS ARE EXTERIOR OR INTERIOR, IDENTIFY ROOMS WHERE DEFECTS ARE LOCATED, AND LABEL PHOTOGRAPHS WITH YOUR NAME, CLAIM NUMBER, AND WHAT THE PHOTOGRAPH DEPICTS.

THESE SUGGESTIONS ARE PROVIDED ONLY AS A GUIDE TO HELP YOU ILLUSTRATE TO US THE EXACT NATURE OF THE CLAIMED MAJOR STRUCTURAL DEFECT AND, THEREFORE, RELIANCE ON THESE SUGGESTIONS DOES NOT NECESSARILY PROVE THE EXISTENCE OF A DEFECT CLAIM. THE COMPANIES AND THE DEPUTY RECEIVER RESERVE AND RETAIN THE RIGHT TO ASSERT ANY AND ALL DEFENSES SUCH THAT NOTHING HEREIN SHALL CONSTITUTE A WAIVER OF ANY RIGHTS, SETOFFS, COUNTERCLAIMS OR OTHER REASONS FOR DENIAL OR DETERMINATION OF YOUR CLAIM AS MAY BE AVAILABLE UNDER APPLICABLE LAW AND THE CIRCUMSTANCES.

RECEIVERSHIP APPEAL PROCEDURE

THIS PROCEDURE GOVERNS APPEALS AND CHALLENGES OF ANY DECISION MADE BY THE RECEIVER OF HOW INSURANCE COMPANY, HOME WARRANTY CORP. AND HOME OWNERS WARRANTY CORP.

A. APPLICABILITY OF PROCEDURE

1. For purposes of this procedure, the term "Deputy Receiver" includes the Special Deputy Receiver and any other duly Authorized Representative of the Receiver. In order to challenge or seek review of any "appealable decision" of the Deputy Receiver, including any decision concerning a claim against HOW Insurance Company, Home Warranty Corp., and Home Owners Warranty Corp. (collectively referred to as "Companies") you must adhere strictly to the following steps and deadlines. Failure to fully adhere to this procedure will result in a waiver of your appeal, and the Deputy Receiver's decision as to your claim or any other matter will become final and non-appealable.

- 2. A decision of the Deputy Receiver is an "appealable decision" only if:
a. it concerns a specific claim made against the Companies, whether or not arising under a warranty/insurance document issued by HOWIC; or
b. it affects, or may affect, a financial interest, contract right or legal entitlement of the person making the appeal.

3. The date by which an appeal must be presented is governed by the "DATE OF DECISION" of the matter being appealed. The DATE OF DECISION is:

- a. with respect to the Deputy Receiver's decision on a specific claim, the date shown on the NOTICE OF CLAIM DETERMINATION;
b. with respect to any non-claim matter, the day the Deputy Receiver announces his decision; or
c. with respect to any non-claim matter that is not announced, the date the decision is made.

4. There are two levels of appeal which may be available to you: appeal to the Deputy Receiver and appeal to the State Corporation Commission ("the Commission"). You may not appeal to the State Corporation Commission without first appealing to the Deputy Receiver in the manner described below.

B. APPEAL TO THE DEPUTY RECEIVER: DEADLINE: 30 DAYS FROM DATE OF DECISION

1. Decisions by the Deputy Receiver must be appealed within thirty (30) days following the DATE OF DECISION.

2. Once the Deputy Receiver concludes his review of a specific claim, the claimant will be sent a NOTICE OF CLAIM DETERMINATION advising him or her of the disposition of his or her claim. Such a notice may have been sent to you before, or with, this "RECEIVERSHIP APPEAL PROCEDURE".

3. Within thirty (30) days after the DATE OF DECISION regarding the matter being appealed, you must file with the Deputy Receiver and the Deputy Receiver must receive a "NOTICE OF APPEAL" containing a narrative or documentary explanation of the reason for your appeal and including all documents supporting your appeal. No particular form is necessary for this notice of appeal (a letter may be sufficient) but whatever you send must be clearly labelled "NOTICE OF APPEAL" on the first page. It must also contain:

- a. a copy of the NOTICE OF CLAIM DETERMINATION or, if in writing, a copy of the other matter being appealed;
b. a full and detailed explanation of your appeal;
c. adequate documentation to support it; and
d. the following or a substantially similar jurat so that the appeal is sworn:

State of _____)

County of _____)

BEFORE ME, the undersigned authority, on this day personally appeared _____ known to me to be the person whose name is subscribed to the foregoing NOTICE OF APPEAL, and having by me been first duly sworn, upon his (her) oath deposed and stated that the facts therein contained are true and correct to his (her) knowledge or belief.

Given under my hand and seal of office on this _____ day of _____, 199_____.

(Notary Seal)

(Notary's name)

Notary public in and for

State of _____

4. Because the date on which the Deputy Receiver *receives* your NOTICE OF APPEAL is very important in determining your appeal, you should employ a method of delivery that will enable you to know when it is actually received by the Deputy Receiver.

5. You must present all grounds and bases for appeal to the Deputy Receiver in your NOTICE OF APPEAL. Any ground or basis not presented in this Notice will be deemed waived and may not be presented for the first time to the State Corporation Commission unless the Commission determines that consideration of additional grounds or bases is necessary to attain the ends of justice.

6. Your NOTICE OF APPEAL *must be received* by the Deputy Receiver at the following address no later than thirty (30) days after the DATE OF DECISION:

[for delivery by U.S. mail]

Claim Appeals
HOW, In Receivership
P.O. Box 152087
Irving, Texas 75015-2087

[for hand or overnight delivery, or other means requiring a street address]

Claim Appeals
HOW, In Receivership
300 Burnett Street
Fort Worth, Texas 76102-2799

7. If your NOTICE OF APPEAL is not *received* at the above address by the above deadline, your right to appeal the Deputy Receiver's decision will be waived and that decision (including, but not limited to, a decision set out in a NOTICE OF CLAIM DETERMINATION) will become final and non-appealable.

8. *Except as noted below*, the Deputy Receiver will advise you of his decision regarding your appeal by sending you a written "DETERMINATION OF APPEAL" on or before thirty (30) days after receipt of your NOTICE OF APPEAL. However, the Deputy Receiver may extend the time by which he must determine your appeal by up to ninety (90) *additional* days by sending you a written "EXTENSION OF APPEAL" notification on or before thirty (30) days after receipt of your NOTICE OF APPEAL.

9. If the Deputy Receiver does not send you a written DETERMINATION OF APPEAL or an EXTENSION OF APPEAL notification within thirty (30) days following receipt of your NOTICE OF APPEAL, your appeal will be deemed *automatically* rejected and you will then have thirty (30) days within which to challenge the Deputy Receiver's decision.

10. If you receive a DETERMINATION OF APPEAL that you believe is incorrect, or if for any other reason you are dissatisfied with the Deputy Receiver's determination of your appeal, whether automatic or by specific decision, you may challenge such determination by following the procedures set out below. Note however, such appeal may only proceed if you have timely filed a Notice of Appeal using the procedures set forth above.

C. APPEAL TO THE STATE

CORPORATION COMMISSION: DEADLINE: 30 DAYS FROM A DETERMINATION OF APPEAL; OR, IF NO DETERMINATION, 60 DAYS FROM NOTICE OF APPEAL; OR, 30 DAYS FROM THE EXPIRATION OF AN EXTENSION OF APPEAL IF NO DETERMINATION.

1. You may challenge the Deputy Receiver's determination of your appeal *no later than thirty (30) days after the date reflected on the Deputy Receiver's DETERMINATION OF APPEAL or no later than thirty (30) days following an automatic rejection*, by filing a "PETITION FOR REVIEW OF DEPUTY RECEIVER'S DETERMINATION OF APPEAL" in the receivership proceeding identified as follows:

Commonwealth of Virginia
State Corporation Commission

COMMONWEALTH OF VIRGINIA, *ex rel.*
STATE CORPORATION COMMISSION

and

STEVEN T. FOSTER,
COMMISSIONER OF INSURANCE
Applicants

v.

CASE NO. INS 940218

HOW INSURANCE COMPANY,
HOME WARRANTY CORP., AND
HOME OWNERS WARRANTY CORP.
Respondents.

In re Claim of [*your name*]

2. An appeal of the Deputy Receiver's DETERMINATION OF APPEAL, whether automatic or by specific decision, and only after compliance with section B above, must be filed with the State Corporation Commission in the receivership proceeding no later than the applicable date as specified below:

- a. the thirtieth (30th) day following the date shown on the Deputy Receiver's DETERMINATION OF APPEAL; or
- b. if no such written DETERMINATION OF APPEAL *and* no EXTENSION OF APPEAL notification is sent to you, the sixtieth (60th) day following the date on which the Deputy Receiver actually received your NOTICE OF APPEAL; or
- c. if an EXTENSION OF APPEAL notification is sent to you, but no DETERMINATION OF APPEAL is sent to you, then within thirty (30) days of the expiration of the date to which the EXTENSION OF APPEAL extended the time of response by the Deputy Receiver.

3. Your appeal may not present grounds or bases for appeal that were not presented in the preceding appeal to the Deputy Receiver; unless the Commission determines that consideration of such grounds or bases is necessary to attain the ends of justice.

4. Except as provided in applicable sections of the Virginia Insurance Laws and the Orders of the State Corporation Commission, proceedings regarding your PETITION FOR REVIEW OF DEPUTY RECEIVER'S DETERMINATION OF APPEAL ("Petition") will be governed by the Rules of Practice and Procedure of the State Corporation Commission ("the Rules").

5. Any formal pleading or other related document or paper shall be considered filed with the Commission upon receipt of the original and required copies by the Clerk of the Commission at the following address: State Corporation Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216. Service must also be made upon the Deputy Receiver at HOW, In Receivership, P.O. Box 152087, Irving, Texas 75015-2087 or, if service is being made by hand or overnight delivery or other means requiring a street address, at HOW, In Receivership, 300 Burnett Street, Fort Worth, Texas 76102-2799. Failure to file your Petition as required under this Receivership Appeal Procedure waives any further right you have to appeal and the Deputy Receiver's determination of your appeal becomes final.

6. Any finding, decision, judgment, order or decree of the Commission made and entered in connection with such PETITION FOR REVIEW OF DEPUTY RECEIVER'S DETERMINATION OF APPEAL shall be deemed a final judgment, order or decree of the Commission as described in, and be governed by, Rules 8:9 and 8:10 of the Rules.

D. QUESTIONS REGARDING THIS PROCEDURE MUST BE DIRECTED *IN WRITING* TO THE ADDRESS IN PARAGRAPH B.6., ABOVE.

REPAIR COST QUESTIONNAIRE FOR BUILDERS

Instructions:

PLEASE PRINT CLEARLY IN INK. It is important that you answer every question and enter all the information requested in this questionnaire so that we can process your firm's claim. If an answer to a question is not known or the information requested is not readily available, do not leave the space blank as this will only delay the processing of the claim. If the answer to a question is not known, please indicate "UNKNOWN" in the blank space. If the information requested is not readily available, please provide a brief statement to that effect and indicate where or from whom such information can be obtained. If you need additional space, please use the back side of the last page or attach additional pages to the last page with a reference number indicating which question the information is intended to answer. All information submitted on any back page or additional pages shall be deemed to be incorporated by reference herein as if fully set forth on this questionnaire. You must swear in the presence of a notary public to the truth and completeness of all information your firm provides in support of its claim, as provided on the last page of this questionnaire.

Builder Name: _____

Contact Person: _____ Phone Number: _____

HOW Enrollment Number (see home owner certificate): _____

1) Describe Home: Foundation Types: Slab on Grade: _____ Basement: _____
Block: _____ Poured: _____ Pier & Beam: _____ Crawl Space: _____
Roof Framing: Truss: _____ Conventional: _____
Manufacturer: _____

2) Engineer's and architect's name, address and phone number: _____

Were there changes from the engineer or architect's design? Yes _____ No _____

If yes, please explain: _____

3) Was the foundation engineered? _____ If yes, engineer's name, address and phone number: _____

4) Were there any problems during construction? _____ If yes, explain: _____

5) What was the developer's name, address, and phone number? _____

6) Name, address, and phone number of subcontractors who worked on the structural components that are defective or damaged: _____

7) At the time of construction, was there anything unusual about the property or drainage? _____

If yes, were special provisions taken? _____

Were final as-built elevations obtained? _____

8) Did the home owner notify your firm of any defect or damage during the builder's warranty period? _____

If so, please indicate who made the repairs, when they were made, and what was done: _____

9) Were any inspections done prior to sale of the home? Yes _____ No _____ If yes, please indicate who performed the inspections and when they were performed: _____

10) Who installed slab/foundation/footings (name, address and telephone number)? _____

11) Who tensioned the foundation cable (if applicable) (name, address and telephone number)? _____

12) What is the name, address, and telephone number of the framing contractor used in the construction of this home? _____

13) Were piers used in the original construction? Yes _____ No _____ If yes, who installed them (name, address and telephone number)? _____

Location of piers? _____

14) Did your firm provide any of the following services: (check all applicable)
_____ landscaping _____ decks _____ patios _____ pool _____ spa _____ septic

15) During original construction, did anyone other than your firm or its subcontractors perform any work? Yes _____ No _____ If yes, please explain: _____

16) Please describe the home and the property on which it is situated (check all applicable):

_____ frame _____ stucco _____ brick _____ stone _____ one-story _____ two-story

17) Is the home currently occupied? Yes _____ No _____ If not, please explain why and when the home became vacant? _____

18) Does your firm have a Commercial General Liability Insurance Carrier? _____ If yes, please provide company name, policy number, effective dates, agent's name, and phone number: _____

(Please attach a complete copy of the policy with all endorsements.)

Company name: _____ - _____ Policy #: _____

Effective dates: _____

Agent's name and number: _____

19) Was your firm or any of its subcontractors bonded at the time of construction? Yes _____ No _____ If yes, please provide copies of the bonds.

20) Does your firm know if the home owner has made any changes to the home and property? Yes _____ No _____ If yes, what was done, when, and by whom? _____

21) Have there been any recent windstorms, hail storms, floods, mudslides, earthquakes, volcanic eruptions, wind-driven water, changes in the underground water table, or other occurrences that may have damaged the home or any of its structural components? _____

22) When did the home owner first notify your firm of the defect or damage made the basis of this claim? _____

23) Did the defect or damage worsen after your firm was first notified? Yes _____ No _____ If yes, please explain: _____

24) Please describe who made the repairs to which your firm's claim relates, when they were made, and what was done (attach invoices, paid receipts, cancelled checks, and other supporting documentation): _____

25) Explain why you believe the defect or damage repaired would have been covered by the HOWIC Warranty: _____

26) Please describe all prior claims for repair costs your firm has filed with HOWIC for the home in question: _____

27) Has the home had problems in any of the following areas: plumbing, wastewater, gas, oil, electric lines, ductwork or heating system? Yes _____ No _____
If yes, please explain the problems and provide any relevant documentation relating to these problems: _____

28) Was there any item which affected the health or safety of the occupants of the home? Yes _____ No _____ If yes, please fully explain: _____

29) Are there any windows or doors which do not operate? Yes _____ No _____ If yes, please fully explain the condition and location of the non-functioning door or window: _____

30) Were the costs of repair covered by your Commercial General Liability Insurance Policy, a liability policy issued to any of your subcontractors, or any other form of insurance? Yes _____ No _____ Please explain: _____

31) Explain the results of your firm's efforts, if any, to exhaust all other potential sources of recovery relating to your claim (*i.e.*, recovery efforts directed toward subcontractors, engineers, architects, insurance carriers): _____

Please attach copies of all relevant correspondence and, if available, copies of applicable insurance policies related to your exhaustion of other potential sources of recovery.

32) If your firm filed a lawsuit against third parties seeking recovery for the defect or damage made the basis of your firm's claim with HOWIC, provide a concise statement of the status of the case or its disposition, as well as information on all attorneys' fees incurred for this litigation:

33) Does your firm have any engineer's reports or plans of repair relating to the defect or damage repaired? Yes _____ No _____ If yes, please attach copies to this questionnaire.

34) Did your firm obtain three **itemized** repair estimates from independent third parties (*i.e.*, contractors with whom your firm has no business relationship or affiliation) before the repairs were made? Yes _____ No _____ If yes, please attach copies of these estimates to this questionnaire. **Failure to provide these estimates may cause the claim to be denied.** The estimates must describe the method and basis by which the estimated cost of repair was derived.

35) Please enclose photographs or a videotape of the defect or damage (before and after repair), as well as photographs or a videotape of the front and back of the home. **Photographs or a videotape are required.** Attached to this **Exhibit C** is a list of "helpful hints" that contains useful information for the submission of certain Major Structural Defect claims.

36) Were the costs of repair incurred by your firm in consideration of your receipt of a legally enforceable assignment or release of the home owner's rights to receive payment for these costs of repair under the HOWIC Warranty? Yes _____ No _____ If yes, please attach a copy of the assignment or release. A legally enforceable assignment or release is required.

37) Explain why you believe the costs of repair are reasonable and necessary under the circumstances: _____

38) Does any portion of the repair costs include engineering fees or other costs your firm incurred in evaluating the problem? Yes _____ No _____ If yes, please explain: _____

39) Does any portion of the repair costs represent any form of "profit" or "fee" to your firm? Yes _____ No _____ If yes, please explain: _____

40) Does any portion of the repair costs constitute an "overhead" or "administrative" expense of your firm? Yes _____ No _____ If yes, please explain: _____

41) List any additional information that is pertinent to this claim: _____

Executed by the undersigned, individually and on behalf of the firm making the claim for repair costs, at _____ (city and state), this _____ day of _____, _____.

Signature: _____

Name/Title: _____

STATE OF _____

COUNTY OF _____

BEFORE ME, the undersigned authority, on this day personally appeared _____ of _____, known to me to be the person whose name is subscribed to the foregoing Repair Cost Questionnaire for Builders, and having by me been first duly sworn, upon his or her oath, deposed and stated that he or she is a duly-authorized representative of the firm making the claim, and that all information provided by his or her firm in the Repair Cost Questionnaire for Builders or otherwise in support of its claim for repair costs is and will be true and complete to the best of his or her knowledge and belief.

Given under my hand and seal of office on this _____ day of _____, _____.

(Notary Seal)

Notary Public, State of _____

Printed/Typed Name of Notary

*** DO NOT FORGET to include estimates for repair and photographs or a videotape of the damage to the home with this form. Any information submitted to support your claim will become the property of the Companies and will *not* be returned.**

THIS QUESTIONNAIRE IS PROVIDED ONLY AS A GUIDE TO HELP YOU ILLUSTRATE THE EXACT NATURE OF THE CLAIMED DEFECT AND REPAIRS. YOU MAY BE REQUIRED TO PROVIDE ADDITIONAL INFORMATION TO ESTABLISH THAT HOWIC WARRANTY COVERAGE EXISTS FOR YOUR FIRM'S CLAIM. THE DEPUTY RECEIVER RESERVES THE RIGHT TO ADJUDICATE YOUR FIRM'S CLAIM FOR REPAIR COSTS IN THE MANNER HE CONSIDERS APPROPRIATE UNDER THE CIRCUMSTANCES.

**Helpful Hints For Submission Of Evidence
To Verify Your Major Structural Defect Claim**

The following suggestions are not mandatory requirements, but following these suggestions in preparing your evidence to be submitted to the Companies in connection with the Major Structural Defect claim may help in making a more expedient and accurate determination of your claim.

1. If you are submitting a claim regarding cracks or separation in walls, foundations, concrete slabs, ceilings, support beams, bricks, floors (including wood flooring), or cracks or separation in any other area:
 - A. Place a ruler over the crack before taking the picture or video.
 - B. Make sure when you are taking the picture or video that you are close enough to see the measurement.
 - C. If it is a vertical displacement crack (*i.e.*, a crack in the floor which makes the floor unlevel), please place a ruler perpendicular to the crack to show the size of the displacement.
2. In the case of floors which are not level or walls which are not plumb (*i.e.*, level): place a leveler on the item or show the unlevelness in some other manner before taking the picture or video.

PLEASE DISTINGUISH WHETHER ITEMS ARE EXTERIOR OR INTERIOR, IDENTIFY ROOMS WHERE DEFECTS ARE LOCATED, AND LABEL PHOTOGRAPHS WITH YOUR NAME, CLAIM NUMBER, AND WHAT THE PHOTOGRAPH DEPICTS.

THESE SUGGESTIONS ARE PROVIDED ONLY AS A GUIDE TO HELP YOU ILLUSTRATE TO US THE EXACT NATURE OF THE CLAIMED MAJOR STRUCTURAL DEFECT AND, THEREFORE, RELIANCE ON THESE SUGGESTIONS DOES NOT NECESSARILY PROVE THE EXISTENCE OF A DEFECT CLAIM. THE COMPANIES AND THE DEPUTY RECEIVER RESERVE AND RETAIN THE RIGHT TO ASSERT ANY AND ALL DEFENSES SUCH THAT NOTHING HEREIN SHALL CONSTITUTE A WAIVER OF ANY RIGHTS, SETOFFS, COUNTERCLAIMS OR OTHER REASONS FOR DENIAL OR DETERMINATION OF YOUR CLAIM AS MAY BE AVAILABLE UNDER APPLICABLE LAW AND THE CIRCUMSTANCES.

CONTACT INFORMATION FOR MILBURN HOMES

If you have any questions or claims regarding a home constructed by **Milburn Homes** in Austin, Texas, please contact **Milburn Homes** at its office shown below:

Milburn Homes
4515 Seton Center Pkwy., #200
Austin, TX 78759
Attn: Mike Thomas
Telephone: (512) 345-4663
Facsimile: (512) 345-6080

CONTACT INFORMATION FOR THE RYLAND GROUP

If you have any questions or claims regarding a home constructed by **The Ryland Group ("Ryland")**, please contact **Ryland** at its offices shown below opposite the city in which you reside (or if you do not reside in any of the cities shown below, at the regional office shown below for the region in which you reside):

SOUTHWEST REGION

Persons in **Texas** who do not reside in one of the cities listed below should contact the Southwest Regional Office at:

Southwest Regional Office
3420 Executive Center Dr., Suite 309
Austin, TX 78731
(512) 343-7009
Attn: Region President

Houston, Texas
Jim Lemming, President
350 Glenborough, Suite 110
Houston, TX 77067
(281) 873-8000

Dallas/Ft. Worth, Texas
John Hutchinson, President
12000 Ford Road, Suite 320
Dallas, TX 75234
(972) 247-8960

San Antonio, Texas
(Scott Felder Homes)
Tim Rice, President
14800 San Pedro, Suite 116
San Antonio, TX 78232
(210) 496-8030

Austin, Texas
(Scott Felder Homes)
Bob Solomon, President
5316 Highway 290 W., Suite 100
Austin, TX 78735
(512) 343-7009

WEST REGION

Persons in **California** should contact the West Regional Office as noted below. Persons in **Utah, Arizona, and Colorado** who do not reside in one of the cities listed below should also contact the West Regional Office at:

West Regional Office
21800 Burbank Blvd., 3d Floor
Woodland Hills, CA 91367
(818) 598-4400
Attn: Region President

Phoenix, Arizona
Corky Houchard, President
4725 N. Scottsdale Road, Suite 250
Scottsdale, AZ 85251
(602) 946-4858

Salt Lake City, Utah
John Johnson, President
6995 Union Park Center, Suite 400
Midvale, UT 84047
(801) 255-4500

Denver, Colorado
Bill Butler, President
8787 Turnpike Drive, Suite 220
Westminster, CO 80030
(303) 426-0111

SOUTHEAST REGION

Persons in **North Carolina, Florida, South Carolina, and Georgia** who do not reside in one of the cities listed below should contact the Southeast Regional Office at:

Southeast Regional Office

26750 U.S. Highway 19 N., Suite 301
Clearwater, FL 34621
(813) 669-2423
Attn: Region President

Charlotte, North Carolina

Jon Hardy, President
4801 E. Independence Blvd., Suite 412
Charlotte, NC 28212
(704) 531-9135

Orlando, Florida

Steve O'Dowd, President
605 E. Robinson Street, Suite 750
Orlando, FL 32801
(407) 872-1203

Tampa, Florida

Bill Wright, President
26750 U.S. Highway 19 N., Suite 301
Clearwater, FL 34621
(813) 669-2423

Greenville, South Carolina

Larry Nicholson, President
25 Woods Lake Road, Suite 210
Greenville, SC 29607
(864) 271-3550

Atlanta, Georgia

Chuck Fuhr, President
1000 Holcomb Woods Parkway
Suite 112
Roswell, GA 30076
(770) 587-1667

MID-ATLANTIC REGION

Persons in **Delaware and New Jersey** should contact the Mid-Atlantic Regional Office as noted below. Persons in **Maryland and Pennsylvania** who do not reside in one of the cities listed below should also contact the Mid-Atlantic Regional Office at:

Mid-Atlantic Regional Office

12150 Monument Dr., Suite 100
Fairfax, VA 22033
(703) 691-2250
Attn: Region President

Baltimore, Maryland

Jim Joyce, President
1447 York Road, Suite 705
Lutherville, MD 21043
(410) 821-5311

Philadelphia, Pennsylvania

Steve Baldwin, President
20000 Horizon Way, Suite 700
Springdale Road
Mt. Laurel, NJ 08054
(609) 231-0009

Persons in **Virginia** or the **District of Columbia** should contact:

Virginia/Washington, D.C.

Tom Jordan, President
4350 Fair Lakes Court North
Suite 300
Fairfax, VA 22033
(703) 968-0700

MIDWEST REGION

Persons in **Ohio, Indiana, Illinois, and Minnesota** who do not reside in one of the cities listed below should contact the Midwest Regional Office at:

Midwest Regional Office

8845 Governor's Hill Drive
Suite 100
Cincinnati, OH 45249
(513) 677-8854
Attn: Region President

Cincinnati, Ohio

Greg Hothem, President
8600 Governor's Hill Drive
Suite 220
Cincinnati, OH 45249
(513) 677-2400

Indianapolis, Indiana

Alan Goldsticker, President
7400 N. Shadeland Avenue, Suite 250
Indianapolis, IN 46250
(317) 845-0674

Chicago, Illinois

David Craft, President
1051 Perimeter Drive, Suite 400
Schaumburg, IL 60173
(708) 995-9900

Minneapolis/St. Paul, Minnesota

Wayne Soojian, President
900 E. 79th Street, Suite 101
Minneapolis, MN 55420
(612) 854-6365

HOME OWNER SURVEY

As part of the receivership process, the Deputy Receiver is undertaking an effort to better understand the operation of the Companies. Hopefully, through your answers to the few questions set forth below, the Deputy Receiver will be able to more completely identify the sources of the problems that led to the receivership of the Companies. Your assistance in that process, through the return of the completed survey, is appreciated.

1. Please indicate the complete address (including city and state) of your residence which is covered by the HOWIC Warranty:

2. Prior to purchasing your first home that was covered by a HOWIC Warranty, were you aware of the existence of HOWIC?

_____ Yes _____ No

3. If you were aware of the existence of HOWIC prior to the time that you purchased your first home that was covered by a HOWIC Warranty, how did you become aware of it?

_____ Newspaper Articles	_____ Newspaper Advertisements
_____ Magazine Articles	_____ Magazine Advertisements
_____ Other Advertising or Marketing Materials	_____ Conversation with Builders
_____ Marketing Materials from Builders	_____ Conversation with Real Estate Broker or Agent
_____ Marketing Materials from Real Estate Broker or Agent	_____ Conversations with Friends or Relatives
_____ Other (Briefly Describe) _____	

4. If you were aware of the existence of HOWIC prior to the time that you purchased your first home with a HOWIC Warranty, please briefly describe the following:

- a. What was your understanding of the HOWIC Warranty before you purchased your home?

- b. Did the existence of the HOWIC Warranty affect your decision to purchase the home? _____ Yes _____ No If yes, please briefly explain:

5. Did your understanding about the HOWIC Warranty change after you purchased the home with the HOWIC Warranty? _____ Yes _____ No If yes, please explain how your understanding changed.

6. Please describe the materials you received about the HOWIC Warranty prior to the time or at the time you closed the purchase of your first home covered by a HOWIC Warranty.

Please return this survey to the following address:

HOW Companies
P.O. Box 901021
Fort Worth, Texas 76101-2021