

SOUTH CAROLINA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION

PLAN OF OPERATION

ARTICLE 1. Plan of Operation

This Plan of Operation hereinafter referred to as the Plan, shall become effective upon written approval of the Director of Insurance.

ARTICLE 2. Board of Directors

- a. There shall be a Board of Directors in accordance with Section 38-31-50 of the "South Carolina Property and Casualty Insurance Guaranty Association Act."
 1. The Board of Directors shall consist of not less than five nor more than nine persons who are representatives of elected member companies. Elected member companies shall serve three-year terms, and shall be eligible for re-election.
 2. In preparation for the Tri-Annual Meeting of Member Companies, the Chairman shall appoint from among its members a Nominating Committee. The Nominating Committee shall recommend a slate of companies to serve on the Board of Directors. Two member company representatives on the board shall be an officer or employee of domestic insurance companies

The Chairman of the Nominating Committee shall announce the proposed slate to the member companies sixty days prior to the election. Nominations are open to the floor for thirty days after the announced slate. After thirty days, nominations are closed and no other nominations are accepted. The nominations are then placed on a ballot for distribution to the member companies for election. Such Board shall be elected by a plurality vote of the member insurers, with votes cast on a weighted basis using total net direct written premiums in the lines to which this Act applies as a determining factor in the number of votes allowed to each member insurer.

Upon the election of the Board of Directors, the Association shall notify the Director of insurance and request his written approval of the Board. If, within ten days following such notification and request, the Director does not order a new election, the Board shall be deemed approved.

3. Vacancies on the Board created by the resignation or removal of a member company shall be filled for the remaining period of the term by appointment by the Director of Insurance to serve the unexpired term. A member company on the Board may change its representative by notifying the Executive Director in writing.
4. Member insurers belonging to affiliated groups or under common ownership or control shall not hold more than one membership on the Board of Directors.
5. The members appointed to the Board of Directors shall elect a Chairman, Vice-Chairman, a Secretary/Executive Director, and a Treasurer and such other officers as may be necessary, whose duties shall be such as prescribed by the Board of Directors. The Chairman and Vice-Chairman shall be representatives of member companies elected to the Board.
6. The terms of office for each officer shall be one (1) year with the terms to expire and new officers elected each year at the annual meeting of the Board of Directors. Officers shall be eligible for re-election.
7. The Chairman shall annually from among its members, appoint a Nominating Committee. The Nominating Committee shall select nominees to succeed the officers of the Board of Directors. Such nominees shall be made known to the members of the Board at least thirty (30) days prior to the annual meeting of the Board. Other nominees may be submitted to the Board, but no less than fifteen (15) days prior to the annual meeting, upon the petition of not less than three (3) members of the Board. In the event there is more than one nominee for each office, a vote shall be taken by the Board at the annual meeting, and the nominee(s) receiving the greatest number of votes shall be declared to be elected to fill the office(s) in question.

B. A majority of the Board shall constitute a quorum for the transaction of business and the acts of a majority of the Board members present at a meeting at which a quorum is present shall be the acts of the Board; except that an affirmative vote of a majority of the full Board is required to:

1. approve a contract with a servicing facility;
2. levy an assessment or provide for a refund;
3. borrow money.

C. The Board shall meet semi-annually at a place and date designated by the Chairman. One meeting shall be held in April or May, and in October or November. The latter meeting shall be designated as the Annual Meeting and at this meeting, the Board shall:

1. Review the Plan and submit proposed amendments, if any, to the Director of Insurance for approval or rejection.
2. Review each outstanding contract with servicing facilities and, to the extent possible, make any necessary corrections, improvements, or additions.
3. Review operating expenses and covered claims costs and determine if an assessment, or a refund of a prior assessment, and the amount of either is necessary for the proper administration of the Association. If such assessment or refund is determined to be necessary, the Board shall levy such assessment or make such refund in accordance with Section 38-31-60 (c) (iii) and Section 38-31-60 (m) of the "South Carolina Property and Casualty Insurance Guaranty Act." The Board may waive the collection from or refund to a member insurer when the amount produced an assessment or refund of less than \$25.00.
4. Review, consider and act on other matters deemed by it to be necessary and proper for the administration of the Association.

5. Elect officers of the Board to serve for the following year.
- D. The Board, in the discretion of the Chairman, may be called to an emergency meeting after receiving notice from the Director of Insurance of the insolvency of any member insurer. At least forty-eight hours oral or written notice shall be given each Board member.
1. Consider and decide what method or methods, as permitted under the "South Carolina Property and Casualty Insurance Guaranty Association Act" shall be adopted to pay and discharge covered claims of the insolvent insurer for each of the four categories of kinds of insurance as identified in Section 38-31-40 of the Act, but in no event shall an insolvent insurer be appointed as a servicing facility. If the Board decides to appoint a servicing facility, every effort should be made to secure the receiver, liquidator or statutory successor's participation in such contract to assist the Association in the performance of its legally imposed duties. Every effort should also be made to permit the Association to directly pursue all reinsurance recoveries permitted to the insolvent insurer.
 2. Consider and decide what immediate action, if any, should be taken to assure the proper retention of the records of the insolvent insurer necessary to the prompt, economical handling by the Association of covered claims. In this effort, the Board or designated servicing facility shall work closely with the receiver, liquidator or statutory successor and seek the liquidator's, receiver's, or statutory successor's approval of having the Board, or a designated servicing facility, take direct physical control of that portion of the insolvent insurer's records deemed by the Board to be necessary for the discharge of its duties imposed by law.
 3. Consider and decide what persons, if any, should be hired by the Association to implement and carry out broad directives of the Board made pursuant to its statutorily imposed duties. Such persons may include an Executive Director who shall be knowledgeable about insurance matters, conversant with the law as it relates to covered claims, and administratively capable of implementing the Board's directives, and who would have such authority as is properly delegated

to him by the Board. Such persons may also include attorneys at law, insurance actuaries, accountants, claims staff and others whose advice or service is deemed by the Board to be necessary to the discharge of its duties. The Board may agree to compensate such persons to best serve the interest of the Association.

4. Consider and decide to what extent and in what manner the Board shall review and contest settlements and releases or judgments, orders, decisions, verdicts and findings to which the insolvent insurer or its insureds were parties in accordance with Section 38-31-60(d) and Section 38-31-160 of the Act.
5. Consider and decide what assessment, if any, should be levied or whether any refund should be made to member insurers. If such assessment or refund is determined to be necessary, the Board shall levy such assessment or make such refund in accordance with Section 38-31-60(c) and Section 38-31-60(m) of the Act. Notices of assessments shall be in sufficient detail to enable member insurers to understand the action taken by the Board. The Board may waive the collection from or refund to a member insurer when the amount produces an assessment or refund of less than \$25.00. In the event that any member's assessment is not paid within thirty (30) days from the date notice of assessment is mailed to the member, a penalty of one (1%) per cent of the late assessment per week, or any part thereof, shall be applied to the member's assessment. The imposition of this penalty by the Association is separate and distinct from the powers of the Director of Insurance, pursuant to Section 38-31-80 of the Code of Laws of South Carolina, to suspend or revoke the certificate of authority of or to penalize a company which fails to pay an assessment when due.
6. Take all legal steps deemed necessary to protect the Association's rights against the estate of the insolvent insurers.
7. Consider and decide any other matter deemed by it to be necessary for the proper administration of the Association.

- E. The Board may determine a schedule of such regular meetings as it may deem appropriate, and special meetings of the Board may be called by the Chairman and shall be called at the request of any two Board members and not less than five (5) days written notice shall be given to each Board member of the time and place and purpose or purposes of any special meeting. Any Board member not present may consent in writing to any specific action taken by the Board. Any action approved by the required number of Board members at such regular meeting including those consenting in writing, shall be as valid a Board action as though such consenting members were present and voting. At any special meeting, the Board may consider and decide only such matters as are designated in the written notice of the meeting, except administrative matters.

- F. Members of the Board shall serve without compensation, but they may be reimbursed for necessary travel expenses incurred in attendance at Board meetings. Such expenses shall be submitted to the Board for approval and subsequent payment.

ARTICLE 3. Operations

- A. The official address of the Association shall be the address of the Executive Director of the Association unless otherwise designated by the Board.

- B. The Board may employ such persons, firms, or corporations to perform such administrative functions as are necessary for the Board's performance of the duties imposed on the Association. The Board may use the mailing address of such a person, firm or corporation as the official office address of the Association. Such persons, firms or corporations shall keep such records of its activities as may be required by the Board.

- C. The Board may open one or more bank accounts for use in Association business. Reasonable delegation of deposit and withdrawal authority to such accounts for Association business may be made consistent with prudent fiscal policy. Any person to whom such authority has been delegated shall be bonded in such amount as may be required by the Board. The Board may borrow money from any person or organization including a member insurer, or from an appointed servicing facility, as the Board in its judgment deems advantageous for the Association.

D. The Board may levy a non-pro rata assessment to cover the reasonable costs of administering the Association, such assessment to be credited against any subsequent pro rata assessment.

E. The Board may contract with one or more persons, firms, or corporations to serve as servicing facilities should the Board receive notice from the Commissioner or an insolvency of a member insurer. Such contract terms shall comply with the "South Carolina Property and Casualty Insurance Guaranty Association Act" and be subject to the approval of the Commissioner. Such contract terms may include:

1. Terms of payment to the servicing facility.
2. Extent of authority delegated to the servicing facility.
3. Procedures for giving the receiver timely notice, sufficient to protect the Association's right of subrogation against the receiver, liquidator, or statutory successor, of each and every covered claim not otherwise reported to the receiver, liquidator or statutory successor.
4. Procedures contemplated for the handling of covered claims as defined in the "South Carolina Property and Casualty Insurance Guaranty Association Act." These procedures shall include the right to request from or offer to any person arbitration of his covered claim.
5. Procedures for the printing or preparation of forms necessary for the proper handling of covered claims.
6. Requirement of bond for faithful performance.
7. Any other provisions deemed necessary and desirable by the Board of Directors.

F. To aid in the detection and prevention of company insolvencies, the Board of Directors may, upon majority vote, notify the Director of Insurance of any

information indicating any member company may be insolvent or in a financial condition hazardous to the policyholders or the public.

ARTICLE 4. Records and Reports

- A. A written record of the proceedings of each Board meeting shall be made. The original of this record shall be retained by the Executive Director with copies being furnished to each Board member and the Director of Insurance, and upon written request to any member insurer.
- B. The Board shall make an annual report to the Director of Insurance and, upon written request, any member insurer. Such report shall include a review of the Association's activities and an accounting of its income and disbursements for the past year.

ARTICLE 5. Membership

- A. All insurers authorized to transact the kinds of insurance covered by the Act shall be members of this Association. Any insurer which ceases to be an admitted insurer shall cease to be a member of the Association on the day following the termination or expiration of its business to transact the kinds of insurance covered by the Act; provided, however, such insurer shall remain liable for any assessments based on insolvencies occurring prior to the termination of its license.
- B. Any member insurer aggrieved by an action or decision of the Association shall appeal to the Board in writing before appealing to the Director of Insurance. If such member insurer is aggrieved by the final action or decision of the Board or if the Board does not act on such complaint within 30 days, the member insurer may appeal to the Commissioner in writing within 30 days after the action or decision of the Board or the expiration of the 30 days.

ARTICLE 6. Indemnification

- A. All persons described in Section 38-31-150 of the Act (except the Director of Insurance and his representatives) shall be indemnified by the Association against all expenses incurred in the defense of any action, suit or proceedings

brought against such person on account of any action taken by him the performance of his powers and duties under the "South Carolina Property and Casualty Insurance Guaranty Association Act," unless such person shall be finally adjudged to have committed a breach of duty involving gross negligence, bad faith, dishonesty, willful misfeasance or reckless disregard of the responsibilities of his office. In the event of settlement before final adjudication, such indemnity shall be provided only if the Association is advised by independent counsel that such person did not, in counsel's opinion, commit such a breach of duty.

- B. The expense of such indemnification shall be paid for by the member companies in such manner as the Board may determine, subject to the approval of the Director of Insurance.
- C. This Article is intended to operate as a supplement and additional safeguard to, and not in place of, the immunity granted by Section 38-31-150 of the Act.

ARTICLE 7. Conformity of Statute

Chapter 31 of Title 38 of the South Carolina Insurance Code as written, and as may be amended, is incorporated as part of this Plan.