

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 "Board" in accordance with Section 38-31-50 of the "South Carolina Property and Casualty Insurance Guaranty Association Act."

1. The Board shall consist of not less than five nor more than nine persons who are representatives of Member Insurers elected to the Board at the Tri-Annual Meeting of Member Insurers. Such election is subject to review and approval by the Director of Insurance. Each Member Insurer elected to the Board shall serve a three-year term and shall be eligible for re-election.
2. In preparation for the election at the Tri-Annual Meeting of Member Insurers, the Chairman shall appoint from among its members a Nominating Committee. The Nominating Committee shall recommend a slate of Member Insurers to serve on the Board. Two Member Insurer representatives on the Board shall be an officer or employee of domestic insurance companies if available and willing to serve.

The Chairman of the Nominating Committee shall announce the proposed slate to the Member Insurers sixty days prior to the election. Nominations are open to the floor for thirty days after the nominated slate has been sent to the Member Insurers. After thirty days, nominations from the floor are closed, and no other nominations are accepted. The nominations are then placed on a ballot for distribution to the Member Insurers for election. The Board shall be elected by a plurality vote of the Member Insurers, with votes cast on a weighted basis using Net direct written premiums in the lines of insurance to which this Act applies as a determining factor in the

number of votes allowed to each member insurer. "Net direct written premiums" shall be determined as set forth in Section 38-31-20.

Upon the election of the Board, the Association shall notify the Director of Insurance and request their written approval of the Board's nominations for appointment of Member Insurers to the Board. If, within 30 days following notification and request, the Director of Insurance 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 Insurer shall be filled for the remaining period of the term in the same manner as any initial appointment in accordance with Section 38-31-50. A Member Insurer 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 seat on the Board.
5. The members appointed to the Board shall elect as officers the following: Chairman, Vice-Chairman, a Secretary/Executive Director, Treasurer and other officers as may be necessary. The duties of the officers shall be such as prescribed by the Board. The Chairman and Vice-Chairman shall be representatives of Member Insurers 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 Fall Meeting of the Board. Officers shall be eligible for re-election.
7. The Chairman shall annually from among the Board, appoint a Nominating Committee to nominate officers. The Nominating Committee shall select nominees to succeed the existing officers of the Board. Such nominees shall be made known to the members of the Board at least thirty (30) days prior to the Fall Meeting of the Board. Other nominees may be submitted to the Board, but only if submitted no less than fifteen (15) days prior to the Fall 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 Fall 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; OR
2. levy an assessment or provide for a refund; OR
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, with the second meeting scheduled in October or November. The latter meeting shall be designated as the Annual Fall Meeting. At these meetings, the Board may:

1. Review the Plan and authorize the submission of proposed amendments, if any, to the Director of Insurance for approval.
2. Review each outstanding contract with servicing facilities and, to the extent possible, make any necessary corrections, improvements, or additions.
3. Review, among other things, operating expenses, early access funds, statutory deposits, Covered Claims costs and other factors to 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 deemed 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 "South Carolina Property and Casualty Insurance Guaranty Act." The Board may waive the collection from or refund to a Member Insurer when the amount will produce an assessment or refund 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, at 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. At their emergency meeting, the Board may among other things:
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, as defined in Section 38-31-20, of the insolvent insurer for each of the four categories 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's, liquidator's 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 for the prompt receipt and handling by the Association of Covered Claims. In this effort, the Board or designated servicing facility shall work with the receiver, liquidator or statutory successor and seek the liquidator's, receiver's, or statutory successor's approval to have the Board, or a designated servicing facility, take direct physical control of that portion of the insolvent insurer's records deemed necessary by the Board 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 the directives of the Board made pursuant to the Association's 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 such person by the Board. Such persons

may also include attorneys at law, insurance actuaries, accountants, claims staff and others whose advice or service is deemed necessary by the Board 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 designate to the Executive Director to 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 to the extent imposed by the requirements of Section 38-31-160 of the Act.
5. Consider and decide what assessment, if any, should be levied onto Member Insurers. If such assessment is deemed necessary, the Board shall levy such assessment 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 exempt or defer the collection from a Member Insurer when the amount produces an assessment that would cause the Member Insurer's financial statements to have less than the minimum statutory surplus required to transact business in any other jurisdiction. In the event that any Member Insurer's assessment is not paid within thirty (30) days from the date notice of assessment is distributed or provided to the Member Insurer, a penalty of one (1%) per cent of the late assessment per week, or any part thereof, shall be added to the Member Insurer'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, to suspend or revoke the certificate of authority of or to penalize a Member Insurer which fails to pay an assessment when due.
6. Take all legal steps deemed necessary to protect the Association's rights against the estates of the insolvent insurers or in relation to those insolvencies.
7. Consider and decide any other matter deemed by it to be necessary for the proper administration of the Association.

- E. "Special Called meetings" of the Board, in addition to emergency meetings, may be made by the Chairman or at the request of any two Board members. 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 Called meeting. At the discretion of the Chairman, such meetings may be held by conference call or other electronic conference method. Any Board member not present may consent in writing to any specific action taken by the Board. Any action approved by the Board members at regular meetings including those consenting in writing, shall be as valid a Board action as though such consenting members were present and voting. At any Special Called meeting, the Board may consider and decide only such matters as are designated in the written notice of the meeting, except administrative or employment 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. These expenses shall be submitted to the Board or its designee for approval and subsequent payment.

ARTICLE 3. Operations

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

- B. The Board may employ persons, firms, or corporations to perform administrative functions as are necessary for the Association's performance. The Board may designate the mailing address of a person, firm or corporation as an alternate 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 accounts for Association business may be made consistent with prudent fiscal policy. Any person to whom authority has been delegated may be bonded in an 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. Records of all transactions of the Association and the Board shall be kept at or be available through the Association's office.

- D. The Board may levy a non-pro rata assessment to Member Insurers to cover the reasonable costs of administering the Association. Such assessment will 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 Director of Insurance or an insolvency of a Member Insurer. The contract terms shall comply with the "South Carolina Property and Casualty Insurance Guaranty Association Act." Such contract terms may include, but not limited to:
 - 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 and deemed necessary for the handling of Covered Claims as defined in the "South Carolina Property and Casualty Insurance Guaranty Association Act." As described in the policies and procedures adopted from time to time by the Board, these procedures shall include the right to request from or offer to any person arbitration of a Covered Claim.

 - 5. Procedures for the printing or preparation of forms necessary for the proper handling of Covered Claims including electronic or printed forms deemed necessary.

 - 6. Requirements of bond for faithful performance.

 - 7. Any other provisions deemed necessary and desirable by the Board.

- F. To aid in the detection and prevention of insurer insolvencies, the Board may, upon majority vote, notify the Director of Insurance, or its designee, of any information indicating any Member Insurer may be insolvent or at the request of the Director of Insurance and with the majority vote of the Board make recommendations regarding any Member Insurer who is in a financial condition hazardous to the policyholders or the public.

ARTICLE 4. Records, Reports, and Association Data

- 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, in accordance with 38-31-120, will provide an annual report to the Director of Insurance, or its designee, and upon written request to any Member Insurer. This annual report may include a review of the Association's activities and a summary of its income and disbursements for the past year.
- C. The Association strives to protect the confidentiality, integrity, and availability of its information assets and will implement policies and procedures aimed at protecting the privacy and security of data collected by the Association in accordance with applicable state and federal law.

ARTICLE 5. Membership

- A. All insurers authorized to transact the kinds of insurance covered by the Act as set forth in 38-31-30 are required to be members of this Association as a condition of their authority to transact business in South Carolina. Any Member 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 license to transact the kinds of insurance covered by the Act; provided, however, such insurer shall remain a Member Insurer and be liable for all obligations including assessments based on insolvencies occurring prior to the termination of its license and any other obligations set forth in Section 38-31-20 (11).

- B. Any Member Insurer aggrieved by an action or decision of the Association shall within 30 days notification of the Association's action or decision appeal to the Board in writing before appealing to the Director of Insurance. If the 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 Director of Insurance in writing within 30 days after the action or decision of the Board or the expiration of the 30 days. Failure to submit this appeal within the time allotted shall bar any future appeal rights of the Association's actions or decisions. Any member may appeal the decision of the Director of Insurance to the Administrative Law Court within (30) thirty days after the decision of the Director of Insurance.

ARTICLE 6. Indemnification

- A. All persons and entities described in Section 38-31-150 of the Act (except the Director of Insurance and its representatives) shall be indemnified by the Association against all expenses incurred in the defense of any action, suit or proceedings brought against the person or entity on account of any action taken by them or the performance of these powers and duties set forth under the "South Carolina Property and Casualty Insurance Guaranty Association Act," unless such person or entity 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 their office including any breach of fiduciary responsibility. In the event of settlement before final adjudication, indemnity shall be provided only if the Association is advised by independent counsel that the person or entity did not, in counsel's opinion, commit such a breach of duty.
- B. The expense of any indemnification shall be paid for by the Member Insurers in a manner that 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.

Any duties, obligations, or liabilities imposed by Chapter 31 of Title 38 not specifically noted or described in the Plan shall nether the less be binding on the Board and the Association.