

# Florida Insurance Guaranty Association, Incorporated

## Plan of Operation

### **ARTICLE I. PLAN OF OPERATION**

- A. Effective Date. This Plan of Operation, and any amendments thereto, shall become effective upon written approval of the Department of Financial Services.

### **ARTICLE II. NAME**

- A. Name. The corporation shall be known as the Florida Insurance Guaranty Association.
- B. Place of Business. The Association shall maintain its headquarters in Tallahassee, Florida.

### **ARTICLE III. PURPOSE**

- A. Creation. The Association has been established in accordance with the provisions of Section 631.55, Florida Statutes.
- B. Purposes. The purposes of the Association are as follows:
1. Provide a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer;
  2. Assist in the detection and prevention of insurer insolvencies;
  3. Create a nonprofit corporation to administer and supervise the operation of such association; and
  4. Assess the cost of such protection among insurers.

### **ARTICLE IV. DEFINITIONS**

- A. Statutorily Defined Terms. All defined terms in Section 631.54, Florida Statutes utilized in this Plan shall have the same meaning as set forth in that statute.
- B. Definitions. As used in this Plan, the term:

1. “Act” means the Florida Insurance Guaranty Association Act, enacted as Sections 631.50 through 631.70, Florida Statutes, together with any amendments thereto;
2. “Board” means the Board of Directors of the Association;
3. “Covered claim” means any claim within the definition provided in the Act for the term;
4. “Department” means the Florida Department of Financial Services;
5. “Office” means the Florida Office of Insurance Regulation;
6. “Plan” means this Plan of Operation and any subsequent amendments hereto;
7. “Receiver” means the Department acting under the statutory authority provided for in Chapter 631, Florida Statutes; the term also refers to Receivers in other states acting under the statutory authority provided for in those jurisdictions.

#### **ARTICLE V. BOARD OF DIRECTORS**

- A. Board of Directors and Composition. There shall be a Board of Directors in accordance with the provisions of Section 631.56, Florida Statutes, which shall act on the behalf of the member insurers.
1. Board Size. The Board shall consist of not less than five nor more than nine members who shall serve four year terms, and may be reappointed.
  2. Composition of the Board. The member insurers shall recommend appointment to the Board in the following manner:
    - a. The seven insurers with the largest number of votes cast on a cumulative weighted voting basis shall be recommended to the Department, unless the Citizens Property Insurance Corporation represents one of the top ten writers in the residential property insurance market, in which case six Board members shall be recommended for appointment on the basis of cumulative weighted voting and Citizens Property Insurance Corporation shall be the seventh recommendation.
    - b. Two additional Board members shall be recommended from among the Florida domestic insurers, one of whom shall be recommended by Florida domestic insurers on the basis of cumulative weighted voting, and one to be appointed by the Department.

- c. For the purpose of this section, cumulative weighted voting shall be on the basis of Florida net direct written premiums for all covered lines.
  - d. Vacancies shall be filled as provided in Section 631.56(1), Florida Statutes.
  - e. In the event of the entry of an order of receivership against an insurer whose representative is serving as a board member, such board member no longer qualifies due to loss of status as a member insurer, and shall be automatically terminated from board member status.
3. Department Approval. Recommendations of member insurers and their representatives shall be submitted to the Department for approval and appointment. A replacement must be submitted for approval and appointment by the Department in the same manner as original appointees.
  4. Initial Determination of Eligibility. In the event of a vacancy on the Board, or upon the expiration of the term of an existing Director, the Board shall hold an election to fill the position being vacated or with respect to whose term has expired. Upon such election, the Board shall notify the Department, and request approval for the replacement.
  5. Officers. Every two years, the members of the Board shall elect a Chairperson and such other officers as they may deem desirable from among its members.
  6. Duration of Officers' Term of Office. All officers shall serve until the next meeting of the Board at which elections take place, or until their respective successors are elected and qualified, or until an earlier resignation, removal from office, or death.
  7. Resignation. An officer may resign at any time by written notice delivered to the Executive Director at the principal office of the Association by hand-delivery, United States Mail, facsimile, email, or overnight courier. Unless otherwise specified in the notice, acceptance of such resignation shall not be necessary to make it effective.
  8. Vacancies. Whenever any vacancies shall occur in any office by death, resignation, removal or otherwise, the same shall be filled by the election process specified in subsection 9. of this Article, and as approved by the Department.
  9. Elections. Officers shall be elected by majority vote of the Board. At least thirty (30) days prior to the Board's election meeting, the Executive Director shall notify all Directors of the upcoming elections and request nominations for each office. All nominations received, together with such biographical information as may be available, shall be distributed to the Directors together with the notice of the meeting and other meeting materials.
  10. Election Process. In the event more than one (1) person has been nominated for a particular office, if there is a tie vote, the outgoing Chairperson shall cast the deciding vote.

- B. Quorum. 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 six Board members present is required to:
1. Approve a contract with a servicing facility and other professional service providers.<sup>1</sup>
  2. Borrow money pursuant to Section 631.57(2)(b), F.S.
  3. Certify an assessment to the Office.
  4. Submit proposed amendments to the Plan to the Department, and make the proposed amendments available to member insurers by posting on the FIGA website.
  5. Coordinate the assessment, payment and defeasance of bonds issued by a municipality or other governmental entity for the purpose of payment of covered claims which are a result of a hurricane, as authorized by the Florida Legislature.
- C. Meeting Procedures. Meetings of the Board shall be held anywhere within the state of Florida. The Chairperson shall call all meetings. The Chairperson shall preside at all meetings unless the Chairperson is absent from same, in which case the vice chair, or another Director appointed by the Chairperson for the purpose of presiding, shall preside at the meeting. A majority of the Directors present at a meeting, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of any adjournment of a meeting to another time or place shall be given to the directors who were not present at the time of adjournment and, unless such time and place are announced at the meeting, to the other Directors.
- D. Compliance with Sunshine Law. The Board shall give reasonable notice of all meetings to the public, in compliance with section 286.011, Florida Statutes.
- E. Annual Meeting. The Board shall hold an annual meeting each year. Proper notice shall consist of written notice of the time and place of the holding of the annual meeting, and matters to be considered at such meeting, by mailing or emailing a copy of such notice by the Chairperson of the Board or its Executive Director to each Board member and the Department with reasonable notice prior to any such meeting. At each annual meeting the Board shall:
1. Review the Plan and submit proposed amendments which have been approved by an affirmative vote of six (6) Board members, to the Department for approval or rejection.
  2. Review all outstanding contracts with professional service providers or servicing facilities and to the extent possible make necessary amendments.<sup>2</sup> Such review shall

---

<sup>1</sup> The Board shall review and approve all contracts executed by or on behalf of the Association in conformance with Article VIII. A. 16. of this Plan.

<sup>2</sup> The Board shall review and approve all contracts executed by or on behalf of the Association in conformance with

also include all contracts with servicing facilities and other professional service providers that are not currently outstanding, but were in force during any period of time since the Board's last review of outstanding contracts. "Service providers" includes attorneys, actuaries, accountants, claims adjusters, field adjusters, third party administrators, information technology providers, human resources consultants, general consultants, and any other vendors retained by or on behalf of the Association, but shall not include ministerial services outlined under Article VIII, Section C, item 9.

3. Review operating expenses and covered claims costs and determine whether an assessment is necessary for the proper administration of the Association. If such assessment is determined to be necessary, the Board shall certify the same to the Office which shall, if it finds such assessment necessary, levy such assessment in accordance with Section 631.57, F.S. The Board may recommend waiving the collection from or refund to member companies when the amount of such assessment or refund is \$50.00 or less.
  4. Review, consider and act on any other matters deemed by the Board to be necessary and proper for the administration of the Association, not in conflict with any other provisions of the Plan or Part II, Chapter 631 F.S.
- F. Special Meeting. Special meetings of the Board may be called by the Chairperson or a quorum of the Board, to be held at such times and places as may be necessary. Written notice, as specified in Article V.E herein, of the time and place of the holding of such special meetings, and the purpose therefore, shall be mailed to each member of the Board at least ten (10) days prior to any such meeting. The transaction of business at such meetings shall be in conformance with the provisions of Article V.B herein.
- G. Emergency Meeting. The Board may hold an emergency meeting promptly upon call of the Chairperson after receiving notice from the Department of the insolvency of any insurer.
- H. Compensation and Reimbursement. Members of the Board shall serve without compensation; but they may be reimbursed for necessary travel expenses incurred in attendance at Board meetings, in accordance with the FIGA Travel and Reimbursement Policy and resolutions adopted by said Board.
- I. Telephonic Meetings. The Board may conduct meetings by telephonic conference call, so long as said conference call permits the general public to be included as parties to the call, and to hear all Directors and other speakers in attendance at the meeting. A Director may participate telephonically in any Board meeting. Participation by such means shall constitute presence in person at a meeting.

## **ARTICLE VI. COMMITTEES**

- A. Establishment. The Board may, by duly adopted resolution, establish one or more Committees,

---

Article VIII. A. 16. of this Plan.

Approved by CFO on 6/12/2017 and by Board on May 11, 2017

each of which shall have and may exercise such authority as is provided in such resolution or in this Plan. Each Committee shall have two (2) or more members.

- B. Appointments/Qualifications. The Chairperson shall appoint the Committee Chairperson and members of the Finance and Audit Committee (all of whom shall be Directors), and all members of any other committees which are established pursuant to Article VI.A.
- C. Finance and Audit Committee. The Finance and Audit Committee shall have oversight for all matters pertaining to the Association's annual financial audit and investment of funds. The Finance and Audit Committee's oversight shall include, but not be limited to, the following responsibilities and authority: (i) recommending to the Board the selection of an independent auditor; (ii) conducting an annual meeting with the Association's independent auditors to discuss the audit reports and any recommendations for staff; (iii) recommending to the Board the need for special reports, opinions, analysis, or accounting consultations determined by the Finance and Audit Committee to be necessary based on findings and recommendations of the independent auditors; (iv) reviewing the Association's financial reporting processes and internal controls; (v) initiating investigations of improprieties or suspected improprieties, including the standing authority to retain special counsel or experts; (vi) recommending to the Board one (1) or more investment managers for the investment of the Association's funds; (vii) reviewing the Association's investment policies and recommending to the Board any changes with respect thereto; and, (viii) monitoring the investment managers in order to insure their compliance with the Association's investment policies.
- D. Actions. All rules pertaining to meetings, notices of meetings, voting and other requirements of the Board shall apply to Committees and their members.
- E. Quorum. For all Committee meetings, a quorum shall consist of a majority of the Committee members.

#### **ARTICLE VII. ASSESSMENTS**

- A. Certification of Assessments. The Association, in order to secure the funds for the respective accounts for the payment of covered claims and also to pay for the reasonable costs to administer the Plan, shall certify to the Office the necessity for it to levy assessments against member insurers in the proportion that each such insurer's net direct written premiums in this state in the classes protected by the account bears to the total of said net direct written premiums received in this state by all such insurers for the preceding calendar year for the kinds of insurance included within such account.
- B. Assessment Year. An assessment year shall be defined as the twelve month period beginning on the first calendar day of a quarter, including January 1, April 1, July 1, and October 1. In the order levying the assessment, the Office shall specify the percentage amount to be collected uniformly from all policyholders, of those insurers subject to the assessment, and the date on which the assessment year begins, which shall not begin before 90 days after the Board certifies the assessment.

- C. Recommendations for Assessments to be Paid Monthly. The Association, in its sole discretion, may make a recommendation to the Office to allow for a monthly installment of the assessment, for either the emergency or regular assessments. In order to make this recommendation, the Association must verify that it has projections of cash on hand for the payment of anticipated claims for at least 6 months. The order levying the assessment would specify that the assessment is due and payable monthly as funds are collected from insureds throughout the assessment year.
- D. Notification of Assessment. The Association shall notify and furnish each member insurer against which an assessment is levied a copy of the Board's certification and the Office's order levying the assessment. Each member insurer so assessed shall have at least thirty (30) days written notice as to the date the initial assessment levied is due and payable, and the date on which the assessment year begins.
- E. Limitation on Assessments. Each assessment shall be a uniform percentage. The Office may not levy against any member insurer assessments in any calendar year greater than that provided by the Florida Insurance Guaranty Association Act as written and as may be amended.
- F. Assessment as Advance. All assessments paid in advance by an insurer as a result of a levy by the Office shall be considered an advance of funds to the Association. The insurer may fully recoup such advances by applying the uniform assessment percentage levied by the Office to all policies of the same kind or line as were considered in determining the assessment liability of the insurer.
- G. Collection of Assessments. The Board shall collect any assessment made by the Office at such times as may be prescribed by the Board or by the Office.
- H. Assessment Estimate. Insurers that have written insurance in the calendar year before the year in which the assessment is certified by the Board shall make an initial payment based on net direct written premium from the previous calendar year, as set forth in the insurer's annual statement, multiplied by the uniform percentage of premium specified in the order. Insurers that did not write insurance in the previous calendar year under the lines assessed, but which are writing the insurance under those lines as of, or after, the date the Board certifies the assessment to the Office, shall pay an amount based on a good faith estimate of the amount of net direct written premium anticipated to be written for the assessment year, in the subject assessed lines, multiplied by the uniform percentage of premium specified in the order issued by the Office.
- I. Retention of Assessed Funds. The Association shall retain all funds collected from assessments for the payment of current or future claims.
- J. Reconciliation Reports. The Association shall prepare a form to be used by insurers in filing a reconciliation report for the assessments, which shall be provided to the insurers in advance of the time they are due. Insurers shall file reconciliation reports, within 90 days of the end of the assessment year, with the Association which indicate the amount of the initial payment made before the assessment year, indicating if the amount was based on prior year net direct written premium, or a good faith projection. The report shall also state the amount actually

collected during the assessment year.

- K. Underpayment of Assessments. If the insurer collected from its policyholders in the assessment year more than the amount initially remitted to the Association, the insurer shall pay the excess amount due to the Association, within ninety days after the end of the assessment year.
- L. Overpayment of Assessments. If the insurer collected from its policyholders in the assessment year less than the amount initially remitted to the Association, the Association shall give the insurer a credit in the amount against future assessments.
- M. No Liability for Uncollectible Emergency Assessments. An insurer shall not be liable for uncollectible emergency assessments.
- N. Final Reconciliation Report. The Association shall provide a final reconciliation report on all insurers to the Office within 120 days after each assessment year.
- O. No Cause of Action by Insured. Assessments are levied by the Office upon insurers, and no cause of action is created for a policyholder with respect to the levying of, or duty to pay, such assessments.
- P. Exemptions from Assessments. The Office may exempt or temporarily defer any insurer from a regular or emergency assessment if the Office finds the insurer is impaired or insolvent or if an assessment would result in the insurer's financial statement reflecting capital or surplus less than the sum of the minimum amount required by any jurisdiction in which the insurer is authorized to transact insurance.
- Q. Assessments on Premium Statements. The charges or recoupments shall be separately displayed on premium statements issued to policyholders, but may not be included in the rates filed and approved by the Office.

**ARTICLE VIII. DUTIES AND POWERS OF THE BOARD,  
CHAIRPERSON, AND EXECUTIVE DIRECTOR**

- A. Board Powers, Duties and Authority. The Board shall have the following powers, duties, and authority to:
  - 1. Undertake all actions as authorized, required or otherwise permitted by Part II of Chapter 631, Florida Statutes, and this Plan, for the operation and administration of the Association.
  - 2. Undertake all other lawful actions or undertakings permitted for Florida corporations that are not prohibited by, or contrary to, the provisions of the Part II of Chapter 631, Florida Statutes, and this Plan.
  - 3. Approve the opening of one or more insured bank accounts, in the State of Florida, for use in Association business. Reasonable delegation of deposit and withdrawal

authority to such accounts for Association business may be made to the Executive Director and Association Staff, consistent with prudent fiscal policy.

4. Borrow funds as the Board, in its judgment, deems necessary to carry out the intent of and to comply with the provisions of Part II, Chapter 631, Florida Statutes.
5. Certify to the Office of Insurance Regulation the need to levy assessments as authorized by the Statutes and Article VII of this Plan.
6. Hire, retain or terminate the Executive Director.
7. Review and approve audited financial statements of the Association.
8. Retain an independent accounting firm.
9. Review and approve travel policy and procedures.
10. Hire or retain a general counsel.
11. Approve the budget of the Association.
12. Approve investment policies and guidelines for the investment of all funds of the Association.
13. Adopt a code of business conduct and ethics and conflict of interest policies and procedures applicable to the Board and staff of the Association.
14. Approve all contracts for banking, investment management, financial products, loans, credit agreements, trust indenture, bond indebtedness or other financing agreements.
15. Approve all contracts with special purpose entities, bond counsel, financial advisors, investment banks, trust companies and other entities necessary to participate in the issuance of public or private financing in order to pay claims.
16. Approve all contracts executed by or on behalf of the Association with all vendors including, attorneys, actuaries, accountants, claims adjusters, field adjusters, third party administrators, information technology providers, human resources consultants, general consultants and any other vendors retained by or on behalf of the Association. However, this approval shall not be required for contracts for products or services used in the ordinary course of business as further defined in procurement policies and procedures adopted pursuant to Article VIII, Section A, item 17.
17. Adopt procurement policies and procedures.
18. At the option of the Board, contract with one or more bonded corporations to serve as a servicing facility when the Board receives notice from the Department of the insolvency of a member insurer. Any such delegation to a servicing facility must be approved by the Department. For purposes of this Plan, a servicing facility means a

corporation, association, or other organization which performs or will perform functions similar to the functions of the Association or its equivalent in two or more states, and which is delegated the full responsibility to perform all guaranty fund functions required to be executed by the Association under Part II of Chapter 631, Florida Statutes, with respect to one or more insolvent estates. A servicing facility may not borrow funds, sue or be sued in lieu of the Association, or accept service of process on behalf of the Association.

B. Chairperson Powers, Duties and Authority. The Chairperson shall have the following powers, duties, and authority to:

1. Preside at all meetings of the Board.
2. Establish committees of the Board.
3. Appoint the chairs and members of all Board committees and such appointment shall include at a minimum a Finance and Audit Committee.
4. Call regular and special meetings of the Board. However, upon written request of three members of the Board, the Chair shall call a meeting of the Board.
5. In the event of a conflict of interest involving the Executive Director, work directly with the General Counsel to resolve any such conflict, and to report such conflict to the Board.
6. Supervise the General Counsel, and delegate to the Executive Director, as appropriate, supervision of the General Counsel.
7. Maintain responsibility for the annual performance review of, and conduct compensation and benefit negotiations with, the Executive Director, subject to final approval of the Board.
8. Approve the borrowing of funds between the two Association accounts. The Chairperson shall review all Association staff requests for intra account borrowing and shall only approve such a request upon determining that:
  - a. The funds to be borrowed are needed to pay the claims and expenses of the borrowing account in order to avoid an undue delay in paying the accounts claims before additional funds can be obtained for that account.
  - b. The funds borrowed can be re-paid with interest before the lending account needs the borrowed funds to pay its claim obligations.

The Board shall be advised in writing within seven business days (excluding Saturday, Sunday, and legal holidays) of the decision to approve the borrowing of funds, including projected time frames for the duration of the loan to the borrowing account and the repayment schedule to the lending account. The interest charge on funds borrowed pursuant to this paragraph shall be fixed throughout the term of the loan at the Bank Prime Rate, as set by the Board of Governors of the Federal Reserve System

of the United States, on the day the funds are first borrowed.

C. Executive Director Powers, Duties and Authority. The Executive Director shall have the following powers, duties, and authority to:

1. Delegate to Board staff any responsibilities bestowed by the Board, Part II of Chapter 631, or this Plan.
2. Maintain responsibility for the day-to-day operation of the Association and for carrying out the purpose and objectives of the Association consistent with the directions and delegations of the Board, and the provisions of Part II of Chapter 631, Florida Statutes, and this Plan.
3. Establish a corporate headquarters of the Association in Tallahassee, Florida, unless otherwise approved by the Department, and take such measures as are necessary to establish and assure the efficient operation of such office.
4. Hire employees to perform the duties of the Association, within the parameters of the budget approved by the Board, and subject to any personnel directives, policies or procedures as may be adopted by the Board.
5. Retain independent contractors and vendors, subject to Board approval, under Article VIII, Section A, item 16, as necessary to carry out the business of the Association as set forth in Part II of Chapter 631, and this Plan. Such contractors and vendors may include, but shall not be limited to accountants, actuaries, reinsurance consultants, attorneys, claims adjusters, third party administrators, field adjusters, information technology consultants, appraisers, subrogation firms, private investigative firms and employee search firms.
6. Recommend to the Board and the Department whether a Servicing Facility should be retained for one or more insolvencies.
7. Supervise all administrative or professional vendors and independent contractors of the Association.
8. Open and maintain Association bank accounts as approved by the Board.
9. Incur necessary expenditures to conduct the business of the Corporation, including but not limited to, expenses for salaries, insurance, rent, office equipment, postage, facsimile transmittals, maintenance contracts for office equipment, stationery, information technology, janitorial, and any other similar ministerial service expenses necessary to operate the office and facilities of the Corporation.
10. Approve and prepare the payroll.
11. Recommend proposed assessments to the Board for each of the respective accounts, or for emergency assessments, as set forth in Part II of Chapter 631, Florida Statutes.
12. Coordinate and recommend to the Board for approval any loan, bond financing or

other credit agreements to assist the Association in its obligations to pay covered claims and to meet its expenses.

13. Arrange for proper and timely notice of all meetings of the Board or Committees, timely prepare the agenda with the approval of the Board or committee chair, as appropriate. Board members shall submit all requests to place an item on the agenda to the Executive Director.
14. Prepare proposed budgets, cash flow statements, investment reports, and other financial statements of the Association, for submission to the Board for review and approval.
15. Arrange for the annual financial audit.
16. Approve all travel, lodging, and other related expenses pursuant to a Board approved travel expense policy.
17. Maintain all books and records of the Association, in accordance with Chapter 119, Florida Statutes and the Records Retention and Management Policy.
18. Meet with the Department of Financial Services, the Office of Insurance Regulation, state receivers, and other guaranty funds to coordinate the operations of the Association.

#### **ARTICLE IX. PROCEDURES FOR HANDLING CLAIMS**

- A. Acceptance of Claims. The Association shall accept for processing all claims against insolvent insurers which are referred to it by the Receiver of an insolvent company on proof of claim forms developed and provided by the Receiver. All such claims must have been filed with the appropriate receiver prior to the deadline set by the court for filing claims in any particular receivership.
- B. Claims Personnel. The Association may furnish claims personnel to process covered claims with reasonable settlement authority. Settlement of claims in excess of that authority shall be subject to prior approval by a claims committee.
- C. Timeliness of Claims Handling. The Association, to the extent possible, shall expedite the handling of covered claims submitted to it by the Receiver.
- D. Notice of Rejection. If the Association rejects a claim on the ground that it is not a covered claim, it shall promptly so notify the claimant, as well as the Receiver, in writing, setting forth the reason for the rejection.
- E. Communication with the Receiver. When the Association pays a covered claim, it shall, upon the Receiver's request, furnish the Receiver a copy of any release, settlement agreement or the judgment on which payment has been made. The Association shall, upon request by the Receiver, furnish to the Receiver a concise statement why the claim was settled in the amount

paid.

- F. Reports to Receiver. The Association shall file statements with the Receiver of the insolvent insurer of the covered claims paid by the Association at such periods as the Receiver may specify and in a form approved by the Receiver.
- G. Release/Settlement Agreements. Any release or settlement agreement executed by the Association shall provide for the release or settlement of any claim against the Receiver, the insolvent insurer, and the insured only to the extent of the amount paid therefor.
- H. Contingent/Unliquidated Claims. The Association shall process any contingent or unliquidated covered claim filed by an insured of the insolvent insurer whether or not a third party or parties having a liability claim against said insured had filed with the Receiver.
- I. Public Records Exemption. Pursuant to Florida Statute section 631.582(1)(a), claims files are exempt from disclosure under Florida Statute section 119.07(1), until the termination of all litigation, settlement, and final closing of all claims arising out of the same incident. Portions of the claims files may remain exempt, as otherwise provided by law.

#### **ARTICLE X. RECORDS AND REPORTS**

- A. Minutes. A written record of the proceedings of each Board meeting shall be made. The original of this record shall be retained by the Association with copies being furnished to each Board member, the Department and, upon request, to any member insurer. All records and reports of the Association are subject to Chapters 119 and 286, Florida Statutes, regarding the Public Records and Government in the Sunshine, respectively; provided, however, that reports and recommendations made by the Board to the Department or Office under Section 631.62, Florida Statutes, upon any manner germane to the solvency, liquidation, rehabilitation, or conservation of any Insurer are confidential and exempt from the provisions of Section 119.07(1), Florida Statutes, and Section 24(a), Article I, of the Florida Constitution, until the termination of a delinquency proceeding.
- B. Annual Report. Not later than March 30 of each year, the Board shall make an annual report to the Department and the member insurers. Such report shall include a review of the Association's activities and a financial report for the preceding calendar year in a form approved by the Department.
- C. Reports. The Board shall file all required informational statements to the Receiver or liquidator of the insolvent insurer, pursuant to Section 631.60(3), Florida Statutes.
- D. Financial Records. The Association shall maintain such financial records as are necessary to properly reflect the assessments, receipts, and disbursements of all funds obtained by the Association. Such records shall also reflect the financial condition of the Association at any given period of time. Assets of the Association will be invested in accordance with the Board-approved Investment Policy. The Association shall make available its financial records to the Department when so requested.

## **ARTICLE XI. MEMBERSHIP**

- A. **Member Insurer.** Each person who writes any kind of insurance covered by the Florida Insurance Guaranty Act, including the exchange of reciprocal or interinsurance contracts, and who is licensed in the State of Florida, shall be a member of the Association, under section 631.54(8), Florida Statutes.
  
- B. **Cessation.** An insurer that ceases to be licensed to transact insurance in the State of Florida shall automatically cease to be a member of the Association, effective on the day following the termination or expiration of its license to transact the kinds of insurance covered by the Florida Insurance Guaranty Act; however, such insurer shall remain liable to the Association for any assessments therefore or thereafter based on insolvencies occurring prior to the termination of its license.
  
- C. **Appeal Process.** Any member insurer aggrieved by an action or decision of the Association shall appeal to the Board before appealing to the Department. 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 thirty (30) days, the member insurer may appeal to the Department within thirty (30) days after the action or decision of the Board or the expiration of the thirty (30) days.

## **ARTICLE XII. IMMUNITY AND INDEMNIFICATION**

- A. **Limited Liability.** There shall be no liability on the part of, and a cause of action may not arise or accrue against, any member insurer, the Association, its agents or employees, its Directors, the Chief Financial Officer, the Commissioner, or the Department or Office, or their representatives, for any action taken by them in the performance of their powers and duties under the Act and this Plan, pursuant to section 631.66, Florida Statutes.
  
- B. **Indemnity.** All persons described in section 631.66, Florida Statutes, except the Department or its representatives, shall be indemnified by the Association against all expenses incurred in the defense of any action, suit or proceeding brought against such person on account of any action taken or not taken by him in the performance of his powers and duties under The Florida Insurance Guaranty 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.
  
- C. **Indemnity Supplemental to Immunity.** This article is intended to operate as a supplemental and additional safeguard to, and not in place of, the immunity granted by section 631.66, Florida Statutes.

**ARTICLE XIII. CONFORMITY TO STATUTE**

- A. The Florida Insurance Guaranty Act, as written, and as may be amended, is incorporated as part of this Plan.

**ARTICLE XIV. PLAN AMENDMENTS**

- A. Authority/Voting Requirements. The Board may propose and adopt amendments to the Plan by an affirmative vote of six (6) Board members present during any duly noticed meeting of the Board.
- B. Notice of Proposed Amendment. Notice of any proposed amendment (including the text thereof) must be provided to each Director with reasonable notice prior to the meeting during which the amendment is to be considered.