



DEPARTMENT OF FINANCIAL SERVICES

Division of Rehabilitation and Liquidation  
[www.floridainsurancereceiver.org](http://www.floridainsurancereceiver.org)

ADDRESS  
ADDRESS  
ADDRESS  
ADDRESS

Si necesita una versión en español de este aviso, visite el sitio web de la  
División de Rehabilitación y Liquidación [www.floridainsurancereceiver.org](http://www.floridainsurancereceiver.org)  
(If you need a Spanish version of this notice, visit the Receiver's website at [www.floridainsurancereceiver.org](http://www.floridainsurancereceiver.org))

## **NOTICE TO AGENT OR BROKER – August 31, 2009**

### **Regarding the Liquidation of First Commercial Insurance Company and Cancellation of Automobile Service Warranty Policies**

Effective on August 24, 2009, First Commercial Insurance Company ("FCIC") was ordered liquidated by the Second Judicial Circuit Court in Leon County, Florida. The Florida Department of Financial Services was previously appointed as Receiver of FCIC. Unfortunately, the company's financial condition prohibited any realistic chance for a successful rehabilitation. A copy of the liquidation order for FCIC is available on the Receiver's website, [www.floridainsurancereceiver.org](http://www.floridainsurancereceiver.org).

FCIC primarily wrote workers' compensation, commercial auto, general liability and commercial multi-peril insurance policies in Florida and Georgia. After appointment as Receiver for purposes of rehabilitation, the Receiver discovered that FCIC also sold over 2,000 automobile service warranty policies. These policies were not reflected on the books and records of the company. The associated premium was never reported on FCIC's Financial Statements. The Receiver is investigating this matter further.

#### **POLICY CANCELLATION:**

**By Court Order, all automobile service warranty policies written by FCIC were canceled as of 11:59:59 p.m. on the date of liquidation, August 24, 2009.** See paragraph 16 on page 11 of the FCIC Liquidation Order.

The Receiver has obtained information which indicates that you sold automobile service warranty policies for FCIC, thus making you an agent of the company. The Receiver is sending this notice of the receivership proceeding to all of the FCIC agents of record in order to provide them with information to better assist them in advising the FCIC policyholders who are their clients. **As you are an agent for FCIC, you are advised that the liquidation order significantly affects the company's policyholders and legally imposes certain obligations on you. The Florida Department of Financial Services, as Receiver of FCIC expects you to contact your**

policyholder clients and assist them with any questions they may have regarding the receivership proceeding.

As agent for FCIC and pursuant to Section 631.341, Florida Statutes, you are also expected to provide a written notice of the receivership to the policyholders. A copy of Section 631.341, Florida Statutes, is found at the end of this notice. At this time, the Receiver intends to send a notice of the liquidation proceeding to each of the FCIC warranty policyholders. Please note, however, that you are still responsible for providing notice to these policyholders under Section 631.341, Florida Statutes. Also, your written notice to the policyholders should be sent by registered or certified mail.

When providing the policyholders with notice of the liquidation and the warranty policy cancellation, you should also inform them that the claims filing deadline for filing a claim in the FCIC receivership proceeding is 11:59 p.m. on August 17, 2010.

**PREMIUM ISSUES:**

In accordance with Section 631.155, Florida Statutes, paragraph S on page 7 of the FCIC Liquidation Order, all premiums and unearned commissions you collected on behalf of FCIC must be accounted for and paid directly to the Receiver within 30 days. No agent, broker, premium finance company or other person may use premium monies owed to FCIC for refund of unearned premium or for any purpose other than payment to the Receiver. Violation constitutes contempt of Court. You have the right to appear before the Court and show cause if you feel that you are not required to account to the Receiver.

Until further notice, any and all payments on your account should be mailed to the Receiver at:

**Florida Department of Financial Services  
Receiver of First Commercial Insurance Company  
Attn: Warranty Premium Issues  
Post Office Box 0817  
Miami, FL 33152-0817**

**Premium Refunds/Unearned Premium:** Since there is no guaranty association, warranty policyholders will need to file a claim for any unearned premium in the FCIC receivership proceeding. Instructions for filing claims in the receivership will be provided to the policyholders at a later date.

Warranty policyholders who use credit cards or other automatic deduction methods for paying premium on these policies should be advised to discontinue their premium payments. You may need to assist these policyholders in notifying any premium finance company, bank, or credit card company that they use regarding these matters.

**CLAIMS ISSUES (FOR LOSSES INCURRED PRIOR TO 11:59 P.M. ON AUGUST 24, 2009):**

There is no guaranty association coverage for automobile service warranty policies. Warranty policyholders with claims for losses incurred prior to the policy cancellation will need to file a claim in the FCIC receivership estate. The claims procedure which is the sole method for obtaining claims payment from a receivership estate is set out in Part I of Chapter 631, Florida Statutes. Proof of Claims forms will be available to potential claimants within the next few months. These forms will explain the procedure for filing claims in the FCIC receivership estate. In the meantime, policyholders with automobiles currently being repaired will need to pay for any necessary repairs and save their receipts and other documentation to support any claim they may later file in the estate. It will not be necessary for policyholders to obtain authorization from the Receiver before incurring repair expenses. Again, the deadline for filing claims in the FCIC receivership is 11:59 p.m. on August 17, 2010.

Under the Court's supervision of a company in liquidation, the Receiver is charged with gathering (marshaling) the company's assets, converting them into cash and distributing the cash to claimants of the company. Chapter 631, Florida Statutes, establishes a set of priorities for the payment of claims. There are ten classes of claims. All

approved claims in a class must be paid in full before any payment is made to the next lower class. Within a class, all approved claims are paid equal pro rata shares if there are not sufficient funds to pay the class in full. All claims payments depend upon the availability of assets. Please be aware that it may be several years before claims payments, if any, are distributed from the FCIC estate.

**CONTACTING THE RECEIVER:**

Please contact the Receiver by using the “Contact Us” form at the Receiver’s website, [www.floridainsurancereceiver.org](http://www.floridainsurancereceiver.org). You may also contact the Florida Department of Financial Services, as Receiver, at (850) 413-3081.

Your anticipated cooperation and assistance in these matters is greatly appreciated.

**AGENTS DUTY TO THEIR POLICYHOLDERS  
IN AN INSOLVENCY OF AN INSURANCE COMPANY**

**Section 631.341, Florida Statutes (2009)**

**631.341 Notice of insolvency to policyholders by insurer, general agent, or agent.—**

(1) The receiver shall, immediately after appointment in any delinquency proceeding against an insurer in which the policies have been canceled, give written notice of such proceeding to each general agent and licensed agent of the insurer in this state. Each general agent and licensed agent of the insurer in this state shall forthwith give written notice of such proceeding to all subagents, producing agents, brokers, and service representatives writing business through such general agent or licensed agent, whether or not such subagents, producing agents, brokers, and servicing representatives are licensed or permitted by the insurer and whether or not they are operating under a written agency contract.

(2) Unless, within 15 days subsequent to the date of such notice, all agents referred to in subsection (1) have either replaced or reinsured in a solvent authorized insurer the insurance coverages placed by or through such agent in the delinquent insurer, such agents shall then, by registered or certified mail, send to the last known address of any policyholder a written notice of the insolvency of the delinquent insurer.

(3) The license, permit, or certificate of authority of any person, firm, or corporation which fails to comply with the provisions of this section is subject to revocation as otherwise provided by law.

(4) If such person, firm, or corporation is not licensed or permitted or the holder of a certificate of authority under any section of this code, such person, firm, or corporation, or the officers and directors thereof, are, upon failure to comply with the provisions of this section, guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000.

**History.**--s. 750, ch. 59-205; s. 15, ch. 70-27; s. 809(1st), ch. 82-243; s. 24, ch. 83-38; ss. 187, 188, ch. 91-108; s. 4, ch. 91-429; s. 68, ch. 2002-206.