



DEPARTMENT OF FINANCIAL SERVICES

Division of Rehabilitation and Liquidation
www.floridainsurancereceiver.org

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División de Rehabilitación y Liquidación www.floridainsurancereceiver.org
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NOTICE TO AGENT OR BROKER – August 31, 2009

Regarding the Liquidation of First Commercial Insurance Company and First Commercial Transportation and Property Insurance Company

Effective on August 24, 2009, First Commercial Insurance Company ("FCIC") and its 100% owned subsidiary, First Commercial Transportation and Property Insurance Company ("FCTPIC"), were ordered liquidated by the Second Judicial Circuit Court in Leon County, Florida. The Florida Department of Financial Services was previously appointed as Receiver of both FCIC and FCTPIC. Unfortunately, the companies' financial condition prohibited any realistic chance for a successful rehabilitation of either company. Copies of the liquidation orders for FCIC and FCTPIC are available on the Receiver's website, www.floridainsurancereceiver.org.

The Receiver is sending this notice of the receivership proceedings to all of the FCIC/FCTPIC agents of record in order to provide them with information to better assist them in advising the FCIC/FCTPIC policyholders who are their clients. **As you are an agent of record, you are advised that the liquidation orders significantly affect the companies' policyholders and legally impose certain obligations on you. The Florida Department of Financial Services, as Receiver of both FCIC and FCTPIC expects you to contact your policyholder clients and assist them with any questions they may have regarding the receivership proceedings.**

As agent for FCIC/FCTPIC and pursuant to Section 631.341, Florida Statutes, you are also expected to provide a written notice of the receivership, by registered or certified mail, to policyholders whose policy has not been replaced or reinsured with a solvent authorized insurer. 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 proceedings to each of the FCIC/FCTPIC policyholders. Please note, however, that you are still responsible for providing notice to policyholders under Section 631.341, Florida Statutes. When providing notice of the liquidation to the policyholders, you should also inform them that the claims filing deadline for filing a claim in the receivership proceedings for both companies is 11:59 p.m. on August 17, 2010. You should also inform them of any applicable filing deadlines for pursuing claims with the relevant guaranty association(s).

POLICY CANCELLATION: FCIC primarily wrote workers' compensation, commercial auto, general liability and commercial multi-peril insurance policies in Florida and Georgia. FCTPIC wrote commercial auto insurance coverage in Florida. Together, the companies have approximately 18,000 in-force policies. For ease in reference, the lines of business written by the two companies are addressed separately.

Automobile Service Warranty Policies (FCIC):

- Basic Information: After appointment as Receiver for purposes of rehabilitation, the Receiver discovered that FCIC sold over 2,000 automobile service warranty policies. These policies were not reflected on the books and records of the company, nor was the associated premium reported on FCIC's Financial Statements. The Receiver is investigating this matter further.
- **Cancellation Date: All automobile service warranty policies written by FCIC are cancelled 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.
- Guaranty Association: There is no guaranty association coverage.
- Other Information: If you sold FCIC warranty policies to any of your policyholders, you should contact them immediately to let them know of the policy cancellation and assist them in obtaining coverage with another insurer as may be applicable.

Georgia Policies (FCIC):

- Basic Information: FCIC has approximately 100 in-force policies written for Georgia policyholders.
- **Cancellation Date: These FCIC Georgia policies are cancelled effective 12:01 a.m. on September 23, 2009, unless otherwise terminated prior to that date.** See paragraph 15 on page 11 of the FCIC Liquidation Order.
- Guaranty Association: Claims of Georgia policyholders may be covered by the Georgia Insurers Insolvency Pool. See the claims section below for further details.

FCTPIC Policies:

- Basic Information: FCTPIC wrote commercial auto insurance coverage or "for hire" transportation insurance coverage and has approximately 550 in-force policies in Florida.
- **Cancellation Date: The FCTPIC policies are cancelled effective 12:01 a.m. on September 23, 2009, unless otherwise terminated prior to that date.** See paragraph 15 on page 11 of the FCTPIC Liquidation Order.
- Guaranty Association: FCTPIC's policies are covered by the Florida Insurance Guaranty Association (see below for further information).
- Other Information: The Receiver previously mailed a notice to all of the FCTPIC policyholders informing them of the rehabilitation proceeding and that their policies would not be renewed. This may result in some confusion since the policies are now canceled no later than September 23, 2009. For this reason, the FCTPIC policyholders may need your additional help in understanding their policy status.

All other policies (FCIC):

- Cancellation Date: With the exception of the automobile service warranty policies (which are addressed above), all policies are cancelled effective 12:01 a.m. on September 23, 2009, unless otherwise terminated prior to that date. Paragraph 15 on page 11 of the FCIC Liquidation Order provides as follows:
 "....pursuant to the provisions of Section 631.252, Florida Statutes, all policies of insurance or similar contracts of coverage that have not expired are canceled effective 12:01 a.m. on the date 30 days after the entry of the Liquidation Order. Policies or contracts of coverage with normal expiration dates prior to the dates otherwise applicable under this paragraph, or which are terminated by insureds or

lawfully canceled by the Receiver or insurer before such date, shall stand canceled as of the earlier date.”

- **Guaranty Association(s):** The workers’ compensation policies are covered by the Florida Workers’ Compensation Insurance Guaranty Association. The property and casualty insurance policies are covered by the Florida Insurance Guaranty Association. See below for further details.

Until further notice, all questions relating to current FCIC and FCTPIC policy and coverage issues through 12:01 a.m. on September 23, 2009, should be directed to FCIC/FCTPIC at (866) 570-2184.

POLICY TRANSITION PLAN:

The Receiver has reviewed several proposals regarding the transition of the FCIC/FCTPIC policies to other insurers. These proposals would benefit the policyholders in that they offer a potentially smoother transition of the policies to other insurance companies and also benefit the FCIC/FCTPIC creditors in that there would be a fee paid to the estate by the selected insurer for any policies retained by the insurer. Within the next few days, the Receiver anticipates that it will be in a position to request Court approval of the proposed agreement with the selected insurer. Assuming that the Court approves the agreement, the Receiver or the selected insurer will send you information on the agreement along with an introductory letter with more details regarding the company’s offer. To confirm that any such correspondence received is, in fact, from the selected insurer, please check the Receiver’s website, www.floridainsurancereceiver.org after September 3, 2009 for updates on this issue and copies of any relevant Court orders.

PREMIUM ISSUES:

In accordance with Section 631.155, Florida Statutes, paragraph S on page 7 of the FCIC Liquidation Order, and paragraph S on page 7 of the FCTPIC Liquidation Order, all premiums and unearned commissions you collected on behalf of FCIC/FCTPIC 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/FCTPIC 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, please remit premiums and unearned commissions to FCIC/FCTPIC as normal.

Premium Refunds/Unearned Premium:

- **Automobile Service Warranty Policies (FCIC):** 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.
- **Florida Policyholders:**
 - **Property and Casualty Policies (FCIC and FCTPIC):** The Florida Insurance Guaranty Association (“FIGA”) will pay unearned premium claims after the Receiver completes its processing of the policy records and sends the unearned premium records to FIGA. A \$100 statutory deductible will be taken from the amount owed.
 - **Workers’ Compensation Policies (FCIC):** The Florida Workers’ Compensation Insurance Guaranty Association (“FWCIGA”) will pay certain unearned premium claims, in accordance with Florida Statutes, after the Receiver completes its processing of the policy records and sends the unearned premium records to FWCIGA. No statutory deductible applies to unearned premium claims on these workers’ compensation policies.
- **Georgia Policyholders:**
 - **Property and Casualty Policies/Workers’ Compensation Policies (FCIC):** The Georgia Insurers Insolvency Pool will pay certain unearned premium claims in accordance with Georgia statutes. The guaranty association does not pay unearned premium claims for any policy that is auditable.

The Receiver, FIGA and FWCIGA will coordinate all claims for the FCIC/FCTPIC Georgia Policyholders with the Georgia Insurers Insolvency Pool. Claims which are not covered by the Georgia Insurers Insolvency Pool may still be filed as claims in the receivership estate.

CLAIMS ISSUES (FOR LOSSES INCURRED PRIOR TO 12:01 A.M. ON SEPTEMBER 23 , 2009):

FOR PROPERTY & CASUALTY CLAIMS OF FLORIDA POLICYHOLDERS:

With the entry of the liquidation order, the Florida Insurance Guaranty Association (“FIGA”) has been activated to help pay outstanding claims for property and casualty policies. Auto service warranty policies are not covered by FIGA. The processing and payment of pending covered claims will be made by FIGA (subject to the lesser of policy limits or FIGA’s maximum cap). The maximum amount FIGA will cover is \$300,000 with special limits applying to (1) damages to structure and contents on homeowners’ claims and (2) condominium and homeowners’ association claims. For damages to structure and contents on homeowners’ claims, the FIGA cap is an additional \$200,000. For condominium and homeowners’ association claims the cap will be \$100,000 multiplied by the number of units in the association. No claim will be paid in excess of this cap. All claims are subject to a \$100 deductible over and above any deductible identified in the FCIC/FCTPIC policy. A policyholder may file a claim in the FCIC or FCTPIC receivership for the \$100 deductible and for amounts over the cap. The Receiver will send proof of claim forms and instructions for filing a claim. For additional general information regarding FIGA, please visit the guaranty association’s website at www.figafacts.com.

Claimants who need to check on the status of an existing claim should call the Florida Insurance Guaranty Association at 1-866-928-4310 (toll-free). Consumers who need to report a new claim are directed to contact their agent or contact FIGA at the referenced phone number.

All policyholders should be informed that the deadline for filing claims in the FCIC/FCTPIC receiverships is 11:59 p.m. on August 17, 2010. Proof of Claims forms will be available to potential claimants within the next few months. Per Section 631.68, Florida Statutes, the deadline for settling a claim or filing suit against FIGA is August 17, 2011 (i.e., one year after the Receiver’s claim filing deadline).

FOR WORKERS’ COMPENSATION CLAIMS OF FLORIDA POLICYHOLDERS:

With the entry of the liquidation order on FCIC, the Florida Workers’ Compensation Insurance Guaranty Association (“FWCIGA”) has been activated to help pay outstanding workers’ compensation claims. The processing and payment of pending covered claims will be made by FWCIGA subject to policy limits, if any. **Claimants who need to check on the status of an existing claim should call FWCIGA’s third party administrator, United Self Insured Services (“USIS”) at 1-800-444-9098, extension 531 (toll free). Policyholders who need to report a new claim are directed to fax the First Notice of Injury to USIS at fax number 407-352-5788 or the First Notice of Injury can be scanned and emailed to USIS at claimreporting@usis-tpa.com.** Additional general information regarding the FWCIGA may be found on the guaranty association’s website at www.fwciga.org.

FOR CLAIMS OF GEORGIA POLICYHOLDERS:

The liquidation order activates the Georgia Insurers Insolvency Pool to help pay certain outstanding claims for property and casualty policies and indemnity claims for workers’ compensation policies of Georgia policyholders. The Receiver, FIGA and FWCIGA will coordinate all claims for the FCIC/FCTPIC Georgia policyholders with the Georgia Insurers Insolvency Pool. Claims which are not covered by the Georgia Insurers Insolvency Pool may still be filed as claims in the receivership estate. For general information regarding the Georgia Insurers Insolvency Pool, please call (770) 621-9835.

CONTACTING THE RECEIVER:

Please contact the Receiver by using the “Contact Us” form at the Receiver’s website, www.floridainsurancereceiver.org if you have any non-claims related questions regarding the receiverships (for claims questions, please refer to the phone numbers provided under Claims Issues). You may also contact the Florida Department of Financial Services, as Receiver, at (850) 413-3081 or toll free at 1-800-882-3054.

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.