

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

CASE NO.: 2017 CA 2421

In RE: The Receivership of
Guarantee Insurance Company,
a Florida Corporation

**DEPARTMENT'S MOTION FOR ORDER APPROVING PROCEDURE OF DEEMING
RETURN PREMIUM CLAIMS AS TIMELY FILED**

The Florida Department of Financial Services, Division of Rehabilitation and Liquidation, as Receiver of Guarantee Insurance Company (hereinafter "Department") hereby files its Motion for Order Approving Procedure of Deeming Return Premium Claims as Timely Filed, and as grounds therefor states the following:

1. On November 27, 2017, this Court entered a *Consent Order Appointing the Florida Department of Financial Services, as Receiver of Guarantee Insurance Company, for Purposes of Liquidation, Injunction, and Notice of Automatic Stay ("Liquidation Order")*. On January 30, 2018, this Court entered an *Order Clarifying Date and Time of Policy Cancellations*.

2. This Court has jurisdiction over the Guarantee Insurance Company ("GIC") receivership and is "authorized to enter all necessary and/or proper orders to carry out the purpose of" the Florida Insurers Rehabilitation and Liquidation Act, Section 631.021(1), Florida Statutes.

3. GIC was licensed in forty states and the District of Columbia and wrote business in thirty-one states and the District of Columbia at the time of liquidation.

4. Pursuant to the provisions of section 631.252, Florida Statutes, paragraph 17 of the Liquidation Order states "all policies of insurance or similar contracts of coverage that have not expired are cancelled on the date 30 days from the entry of this Order." The policies were canceled at 12:01 a.m. on December 27, 2017.

5. If a GIC policy was cancelled before the normal policy term expiration date, the policyholders may be entitled to a refund of the unearned premium. As used in this motion, the term “policyholder” refers to all GIC insureds whose policies were cancelled pursuant to the terms of the Liquidation Order, or whose policies were otherwise cancelled or changed, and who may be owed a refund of unearned premium (“return premium”).

6. During the normal course of handling the claims of a liquidated insurance company, the Department sends a notice to all potential claimants; the claimant completes a proof of claim (“POC”) form; the claimant files it with the Department; and the Department processes the filed POCs. After evaluation of the claims, the Department prepares an interim claims report, obtains approval of the interim claims report from the Court, and notices the claimants with the Department’s recommendations on the filed claims. Upon notice, the claimant has an opportunity to object to the class and/or amount of the claim. The Department makes a distribution, if funds are available, after all claims are finally adjudicated. This process takes considerable time and expense.

7. A claim for return premium falls within the definition of a “covered claim” that is paid by the applicable guaranty associations (“GAs”). Pursuant to section 631.181(2)(f), Florida Statutes, POCs for claims of return premium are not required if the Department certifies to the applicable GAs that the records of the insolvent insurer are sufficient to determine the amount of unearned premium owed to each policyholder. The Department sent such a notification to the applicable GAs by letter dated April 18, 2018.

8. To reduce the costs and increase the efficiency of the claims process, and in coordination with the applicable GAs, the Department proposes the following process provided for in section 631.181(2)(g), Florida Statutes, whereby the Department will deem as timely filed all potential claims in the GIC estate for return premium:

a. The Department will not require POCs from policyholders who have a potential claim for return premium in the GIC estate. Potential claims include the return premium claims of policyholder claimants who had a policy in force on the date of liquidation and all other return premium claims of policyholder claimants who the Department calculates are due return premium.

b. The policyholders identified in paragraph 8a do not need to do anything to file a claim for return premium or to have their claim accepted by the Department.

c. The return premium claims identified above will be considered as timely filed in the GIC estate.

d. Once the claims in the GIC estate have been evaluated, the Department will advise the claimants of the determination of the class and amount of their claims. The claimants will have an opportunity to object to the Department's evaluation.

e. If the Department cannot resolve the claimant's objection, the Department will schedule a hearing with the Receivership Court.

f. The procedure outlined above is not intended to waive guaranty association or coverage determination proof of claim filing requirements, to the extent that the guaranty fund statute or filing requirements are inconsistent.

9. The procedure outlined above will not affect the rights of any other claimants in the GIC estate.

10. The Department believes that these actions are in the best interests of the GIC estate, and, therefore, recommends that this Motion be granted and the process proposed above be authorized and approved.

WHEREFORE, the Department requests that this Court enter an order approving the procedure for deeming return premium claims as timely filed in the GIC estate.

RESPECTFULLY SUBMITTED on this 11 day of May 2018.

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