

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

In Re: Receivership of  
American Capital Assurance Corp.

Case No.: 2021-CA-0641

**FLORIDA DEPARTMENT OF FINANCIAL SERVICES'  
THIRD APPLICATION FOR ORDER AUTHORIZING EARLY ACCESS  
DISBURSEMENTS TO ELIGIBLE GUARANTY ASSOCIATIONS**

**COMES NOW**, the Florida Department of Financial Services, Division of Rehabilitation and Liquidation (“Department”) as Receiver of American Capital Assurance Corp. (“AmCap”), by and through the undersigned counsel, and hereby files this Third Application for Order Authorizing Early Access Disbursements to Eligible Guaranty Association, and requests this Court to authorize the Department to disburse funds in the amount of two million two hundred seventy thousand two hundred thirteen dollars (\$2,270,213) to eligible Guaranty Associations (hereinafter “GAs”). These funds are hereinafter referred to as early access funds. In support of its application, the Department states as follows:

1. AmCap was a corporation authorized pursuant to the Florida Insurance Code to transact business in the State of Florida.
2. On April 14, 2021, this Court entered a *Consent Order Appointing the Florida Department of Financial Services as the Receiver of American Capital Assurance Corp. for purposes of Liquidation, Injunction, and Notice of Automatic Stay* (“Liquidation Order”).
3. Pursuant to section 631.021(1), Florida Statutes, this Court has jurisdiction over the 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, sections 631.001 et seq., Florida Statutes (“the Act”).

4. Section 631.397, Florida Statutes, provides, in substance, that the Department may disburse assets out of AmCap's marshaled assets, as such assets become available, to each GA entitled to receive such funds contingent on each GA agreeing to return to the Department such previously disbursed funds as may be required to pay claims of secured creditors and claims having a higher priority than the claims of the GAs.

5. In accordance with section 631.397 and as ordered by the Court, the Department previously disbursed thirty-six million four hundred forty thousand six hundred sixty-nine dollars (\$36,440,669) to the eligible GAs as early access funds.

6. In compliance with section 631.397(2)(d), Florida Statutes, the Department has entered into Agreements with the eligible GAs which provide in substance that each GA shall return such early access disbursements as may be required to pay claims of secured creditors and claims falling within the priority scheme established by part I of Chapter 631, Florida Statutes. Further, each GA will not be entitled to share in the funds ultimately distributed from the AmCap receivership estate until such allocated distributions to which each GA is otherwise entitled exceed the previous disbursements ordered by this Court and the amount of early access disbursement requested in this application. A copy of the executed Early Access Agreement is attached hereto and incorporated herein by reference as **Exhibit A**.

7. The Department represents that in accord with section 631.397(2)(a), Florida Statutes, there are sufficient assets in the estate of AmCap to permit the proposed early access disbursements to the GAs, while reserving amounts for the payment of expenses of administration, the payment of claims of secured creditors to the extent of the value of the security held, and the payment of claims falling within the priorities established by Part I of Chapter 631, Florida Statutes. A copy of AmCap's Financial Statement of Affairs as of June 30, 2023, is attached hereto as **Exhibit B**.

8. A chart of GAs entitled to a disbursement from the AmCap receivership and the amount each is entitled to receive is attached hereto as **Exhibit C**.

9. In accord with section 631.397(2)(b), Florida Statutes, if additional assets become available in an amount sufficient to allow further early access disbursements, the Department will seek additional authority to disburse same.

10. The Department also represents that the proposed early access disbursement provides for the equitable allocation of disbursements to each association entitled thereto, consistent with section 631.397(2)(c), Florida Statutes.

**WHEREFORE**, the Department respectfully requests this Court enter an Order authorizing the disbursement of early access funds in the amount of two million two hundred seventy thousand two hundred thirteen dollars (\$2,270,213) to the eligible Guaranty Associations.

**Respectfully Submitted** on this the 27th day of October, 2023.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on October 27, 2023, a complete and accurate copy of the foregoing document was filed with the Clerk of Courts using the Florida Courts e-filing portal and was served on all email addresses listed in the portal for service in this matter.

By: /s/ \_\_\_\_\_

**Stephen H. Thomas, Jr.**

Florida Bar Number 14793

Florida Government Law Partners, PLLC

1309 Thomasville Road, Suite 320

Tallahassee, FL 32303

(850) 792-4936

Website: [www.flagov.law](http://www.flagov.law)

***Counsel for Department of Financial Services,  
Division of Rehabilitation and Liquidation***

# **Exhibit A**

**Florida Department of Financial Services, Division of Rehabilitation and  
Liquidation  
American Capital Assurance Corp. in Liquidation  
Statement of Affairs  
6/30/2023**

	<u>Estimated Realizable Value</u>
<b>ASSETS</b>	
Pooled Cash in SPIA Due from the Admin Fund	\$15,629,812.29
Accrued Interest Receivable	26,092.96
Reinsurance Recoverable	56,279.55
Accounts Receivable	2,767,404.50
Allowance - Accounts Receivables	(2,767,404.50)
Long Term Investments	374,010.64
Advance to Guaranty Associations	36,740,696.43
Total Assets	<u><u>\$52,826,891.87</u></u>

<b>LIABILITIES</b>	
Class 1 Administrative Claims	
Class 1 - Guaranty Associations	14,538,939.64
Class 2 Loss Claims	
Class 2 - Guaranty Associations	391,425,486.00
Class 2 - Other	24,500.00
Class 3 Unearned Premium Claims under Non-assessable Policies	
Class 3 - Guaranty Associations	31,549,927.48
Class 3 - Other	4,657,464.56
Class 5 Employee Claims	14,003.00
Class 6 General Creditor Claims	
Class 6 - Other	95,372,710.60
Class 7 State & Local Government Claims	37,264.77
Class 8 Late Filed Claims	19,187.50
Class 9 Surplus Notes/Unearned Premium Claims under Assessable Policies	
Class 9 - Other	11,935,758.39
Total Liabilities	<u>\$549,575,241.94</u>

<b>EQUITY</b>	
Contributed Equity - State of Florida	218,761.09
Estate Equity	(496,967,111.16)
Excess (Deficiency) of Assets over Liabilities	(\$496,748,350.07)
Total Liabilities and Equity	<u><u>\$52,826,891.87</u></u>

**Florida Department of Financial Services, Division of Rehabilitation and  
Liquidation**

**American Capital Assurance Corp. in Liquidation  
Statement of Cash Receipts and Disbursements  
From the Date of Liquidation through 6/30/2023**

	<u>Fiscal Year to Date</u>	<u>Since Date of Liquidation</u>
<b>CASH RECEIPTS</b>		
Premium Collections	\$0.00	\$501,199.07
Reinsurance Recoveries	6,387,629.76	17,786,875.15
Agents' Balances Recoveries	0.00	3,231,842.14
Subrogation and Salvage Recoveries	705.84	139,135.55
Litigation Recoveries	0.00	75.08
Tax Recoveries	502,066.79	1,345,378.25
Other Collections / Recoveries	<u>2,246.11</u>	<u>2,815,183.83</u>
Receipts Before Investment Activities	6,892,648.50	25,819,689.07
Interest and Dividend Receipts	306,418.04	636,310.20
Sale of Short Term Investment	0.00	5,373,475.52
Sale of Long Term Investment	<u>123,711.46</u>	<u>281,766.04</u>
Receipts From Investment Activities	<u>430,129.50</u>	<u>6,291,551.76</u>
Total Cash Receipts	<u><u>7,322,778.00</u></u>	<u><u>32,111,240.83</u></u>
<b>CASH DISBURSEMENTS &amp; DISTRIBUTIONS</b>		
Professional Fees and Expenses	132,581.75	624,871.40
Salaries and Fringe Benefits	161,577.42	1,361,840.32
Employee Welfare	1,408.20	5,862.12
Travel Expenses	1,342.29	10,182.55
Admin Expenses	3,177.60	425,271.44
Equipment and Furniture Expenses	45,556.37	229,702.84
Rent, Building and Equipment	4,221.55	7,486.59
Taxes	<u>(102.99)</u>	<u>683.15</u>
Disbursements	349,762.19	2,665,900.41
Distributions		
Administrative Claims (Class 1)	0.00	0.00
Loss Claims (Class 2)	0.00	0.00
Unearned Premium-Non-Assessable Policies Claims (Class 3)	0.00	0.00
Employee Claims (Class 5)	0.00	0.00
General Creditors Claims (Class 6)	0.00	0.00
Government Claims (Class 7)	0.00	0.00
Late Filed Claims (Class 8)	0.00	0.00
Surplus Notes/Unearned Premium-Assessable Policies Claims (Class 9)	0.00	0.00
Early Access-Guaranty Associations	<u>6,010,669.00</u>	<u>36,440,669.00</u>
Total Distributed	6,010,669.00	36,440,669.00
Disbursements & Distributions Before Investment Activities	6,360,431.19	39,106,569.41
Financial Expenses	<u>21,775.91</u>	<u>82,388.61</u>
Disbursements for Investment Activities	<u>21,775.91</u>	<u>82,388.61</u>
<b>Total Cash Disbursements &amp; Distributions</b>	<u><u>6,382,207.10</u></u>	<u><u>39,188,958.02</u></u>
<b>Net Increase (Decrease) in Cash</b>	<u><u>940,570.90</u></u>	<u><u>(7,077,717.19)</u></u>
<b>Beginning Cash Balance:</b>		
Beginning Cash	14,689,241.39	19,102,043.59
Adjustments to Beginning Cash	0.00	3,605,485.89
<b>Adjusted Beginning Cash Balance</b>	<u><u>14,689,241.39</u></u>	<u><u>22,707,529.48</u></u>
<b>Ending Cash Balance</b>	<u><u>15,629,812.29</u></u>	<u><u>15,629,812.29</u></u>

**Florida Department of Financial Services, Division of Rehabilitation and Liquidation**  
**American Capital Assurance Corp., in Liquidation**  
**Schedule of Accrued Interest Receivable**  
**For the Twelve Months Ended June 30, 2023**

**Accrued Interest Receivable**

<b>Description</b>		<b>Balance</b>			<b>Balance</b>
		<b>7/1/22</b>	<b>Accrued</b>	<b>Received</b>	<b>6/30/23</b>
State Treasury	SPIA, 4-20-0-010000-00000	6,356.81	293,068.52	(273,332.37)	26,092.96
Totals:		<u>6,356.81</u>	<u>293,068.52</u>	<u>(273,332.37)</u>	<u>26,092.96</u>

**Florida Department of Financial Services, Division of Rehabilitation and Liquidation**  
**American Capital Assurance Corporation in Liquidation**  
**Schedule of Reinsurance Recoverables - Net of Allowance**  
For Twelve Months Ended June 30, 2023

**Reinsurance Recoverables**

<b>Recovery Agent</b>	<b>7/1/22</b>	<b>Billed</b>	<b>Recovered</b>	<b>Adjustments</b>	<b>6/30/23</b>
Receiver	56,279.55	6,387,629.76	(6,387,629.76)		56,279.55
Total	56,279.55	6,387,629.76	(6,387,629.76)	0.00	56,279.55

**Allowance Reinsurance**

<b>Recovery Agent</b>	<b>7/1/22</b>	<b>Increases</b>	<b>Decreases</b>	<b>6/30/2023</b>
Receiver	0.00	0.00		0.00
Total	0.00	0.00	0.00	0.00

**Reinsurance Recoverables - Net of Allowance**

**56,279.55**

**Florida Department of Financial Services, Division of Rehabilitation and Liquidation**  
**American Capital Assurance Corp., in Liquidation**  
**Schedule of Accounts Receivable**  
For the Twelve Months Ended June 30, 2023

**Other Collection, Recovery Receivable**

<b>Description</b>	<b>Balance 7/1/22</b>	<b>Adjustments/ Payments</b>	<b>Balance 6/30/23</b>
Federal Income Tax Refunds 2016 & 2017 Amended Returns	2,767,404.50	0.00	2,767,404.50
	<u>2,767,404.50</u>	<u>0.00</u>	<u>2,767,404.50</u>

**Allowance - Other Collection, Recovery Receivable**

<b>Description</b>	<b>Balance 7/1/22</b>	<b>Adjustments/ Payments</b>	<b>Balance 6/30/23</b>
Federal Income Tax Refunds 2016 & 2017 Amended Returns	(2,767,404.50)	0.00	(2,767,404.50)
	<u>(2,767,404.50)</u>	<u>0.00</u>	<u>(2,767,404.50)</u>

<b>Total Other Collection, Recovery Receivable - Net of Allowances</b>	<u>0.00</u>
--	-------------

**Florida Department of Financial Services, Division of Rehabilitation and Liquidation**  
**American Capital Assurance Corp., in Liquidation**  
**Schedule of Long Term Investments**  
**For the Twelve Months Ended June 30, 2023**

**Bonds**

<b>Description</b>	<b>Balance 7/1/22</b>	<b>Adjustments Deposits/Transfers</b>	<b>Interest</b>	<b>Distributions/Fees</b>	<b>Balance 6/30/23</b>
Raymond James	330,935.05	5,345.59	0.00	0.00	336,280.64
	<u>330,935.05</u>	<u>5,345.59</u>	<u>0.00</u>	<u>0.00</u>	<u>336,280.64</u>

**Real Estate Investments**

<b>Description</b>	<b>Balance 7/1/22</b>	<b>Adjustments/ Fees</b>	<b>Interest</b>	<b>Distributions</b>	<b>Balance 6/30/23</b>
DCR VII Investments	139,309.00	22,132.46	0.00	(123,711.46)	37,730.00
	<u>139,309.00</u>	<u>22,132.46</u>	<u>0.00</u>	<u>(123,711.46)</u>	<u>37,730.00</u>

**Total Long Term Investments**

**374,010.64**

**Florida Department of Financial Services, Division of Rehabilitation and Liquidation**  
**American Capital Assurance Corp., in Liquidation**  
**Schedule of Advance to Guaranty Associations**  
**For the Twelve Months Ended June 30, 2023**

**Advance to Guaranty Associations**

<b>Description</b>	<b>Balance 7/1/22</b>	<b>Advanced</b>	<b>Recovered</b>	<b>Balance 6/30/23</b>
North Carolina (1)	300,027.43	0.00	0.00	300,027.43
Florida (FIGA)	26,600,000.00	5,984,502.00	0.00	32,584,502.00
Texas	2,800,000.00	0.00	0.00	2,800,000.00
South Carolina	670,000.00	0.00	0.00	670,000.00
Louisiana	350,000.00	14,515.00	0.00	364,515.00
Georgia	10,000.00	11,652.00	0.00	21,652.00
<b>Totals:</b>	<b>30,730,027.43</b>	<b>6,010,669.00</b>	<b>0.00</b>	<b>36,740,696.43</b>

(1) This statutory deposit was transferred to the North Carolina Insurance Guaranty Association and the Receiver will be pursuing an early access agreement.

**Florida Department of Financial Services, Division of Rehabilitation  
and Liquidation**  
**American Capital Assurance Corporation in Liquidation**  
**Notes to Financial Statements**  
**Dated June 30, 2023**

1. **Estate Information.** American Capital Assurance Corporation was a property and casualty organization domiciled in Florida placed in liquidation on April 14, 2021.
2. **Basis of Presentation.** The accompanying financial statements have been prepared on a modified cash basis of accounting using a fiscal year of July 1, 2022 through June 30, 2023. The assets are stated at their estimated realizable values, while the liabilities are stated at their gross filed amounts and are periodically adjusted as evaluated, adjudicated and/or paid. Interest is accrued and reinsurance receivables are only posted when billed to reinsurers. In addition, the statements do not provide accruals for all future administrative expenses to liquidate the estate or costs to pursue or litigate claims against others.
3. **Unaudited.** The accompanying financial statements have not been audited by an independent certified public accountant and no opinion is expressed on their compliance with generally accepted accounting principles.
4. **Pooled Investments.** The majority of the invested assets of the estates are combined into two main pooled accounts: The Receiver's operating account held at Wells Fargo and the Special Purpose Investment Account held at the State of Florida Treasury. Each estate's share of the pooled investments is presented on the accompanying financial statements as "Pooled Cash Due from the Admin Fund".
5. **Reinsurance.** Reinsurance receivables have resulted from losses that have been paid and billed to the reinsurer(s). The financial statements reflect the gross amount of the billed losses less an allowance for any receivable(s) where there is an uncertainty regarding collectability. The receivable amount may include paid losses that are ceded to one or more reinsurance contracts being collected on behalf of the Receiver by an intermediary or the Receiver's staff.
6. **Accounts Receivable.** These account receivables consist of an agreement with the Holding Company for amended tax returns for 2016 & 2017 resulting in a potential tax recovery. The financial statements reflect the gross amount of the potential tax recovery less an allowance for where there is an uncertainty regarding collectability.
7. **Long Term Investments.** The investments are state at fair value, which approximates market value. Market values are those provided by the depository trust institution or brokerage institution in possession of the securities at the balance sheet date. These investments consist of non-taxable municipal bonds and real estate investments.
8. **Advance to Guaranty Association(s).** Represents funds advanced to guaranty associations for the payment of covered claims and expenses. The guaranty association is obligated to promptly return any of these funds if the Receiver determines that repayment of claims of equal or superior priority is necessary.
9. **Claims.** Unless otherwise noted, the Statement of Affairs contains claim liabilities by priority class pursuant to 631.271, Florida Statutes. Unless otherwise stated, the claim liabilities reported are gross filed, un-adjudicated, and have not been reduced by any early access payments from the Florida Receiver. Claim liability numbers are based upon the most current available information and documentation provided to the Receiver from both internal and external sources. Due to the complexities in evaluating commercial property claims, statutory caps on coverage per building, net worth provisions of commercial policyholders and a future claim filing deadline, estimated claim values are expected to fluctuate.
  - Class 1, Class 2 and Class 3 claim liabilities are based upon Guaranty Association payments, estimates & Filed Claims.
  - All other classes are based on Filed Claims.
  - Due to the complexities in evaluating commercial property claims, statutory caps on coverage per building, and net worth provisions of commercial policyholders, estimated claims values are expected to fluctuate.

**Florida Department of Financial Services, Division of Rehabilitation  
and Liquidation  
American Capital Assurance Corporation in Liquidation  
Notes to Financial Statements  
Dated June 30, 2023**

- Filed Proof of Claims forms are currently being processed and all liabilities are subject to change.

10. **Interest Distributions.** For companies placed into receivership on or after July 1, 2012, Section 631.271, Florida Statutes authorizes the payment of interest on claims in Classes 1-9 prior to making any payment on shareholder claims. At this time, the Receiver does not anticipate having sufficient assets in this estate to pay all claims for Classes 1-9. Accordingly, this statement does not reflect an interest reserve for Classes 1-9 allowed claims.
11. **Federal Priority.** The federal government has taken the position that pursuant to 31 U.S.C.A. 3713 a federal government claim must be paid first, when a debtor to the United States is insolvent. The federal government has also taken the position that it is not subject to state insurance liquidation claim's proceedings deadlines. To establish finality, shield itself from potential liability, and ultimately discharge the estate, the Receiver will request a federal release from the U.S. Department of Justice.
12. **Contributed Equity – State of Florida.** The Receiver will, from time to time, expend public funds to carry out certain duties during the course of liquidating an insurance company. The Division accounts for these expenditures as a contribution of equity by the State.
13. **Excess (Deficiency) of Assets over Liabilities.** The excess or (deficiency) represents the estimated realizable value of assets after deducting the current estimate of liabilities. This excess or (deficiency) does not take into consideration any estimates for future administrative costs to liquidate the estate or costs to pursue or litigate claims against others.

# **Exhibit B**

**American Capital Assurance Corp., In Liquidation**  
**Early Access Agreement**

**This Early Access Agreement** is entered into on this the 1st day of November 2021, between the **Florida Department of Financial Services, as Receiver of American Capital Assurance Corp. (“Department”)**, and the undersigned **Insurance Guaranty Association(s) (“Guaranty Association”)**.

**WHEREAS, American Capital Assurance Corp., (“AmCap”)**, was a Florida domiciled corporation previously authorized to transact insurance business in the State of Florida and other states; and

**WHEREAS, on April 14, 2021, the Second Judicial Circuit Court in and for Leon County, Florida, (the “Court”)** entered its **Consent Order of Liquidation, Injunction, and Notice of Automatic Stay (“Liquidation Order”)**; and

**WHEREAS, section 631.397(1), Florida Statutes, provides, in relevant part, that the Department may apply to this Court for authorization to “disburse assets out of such insurer’s marshaled assets, as such assets become available, to each Guaranty Association entitled thereto” (“Early Access disbursement”)**; and

**WHEREAS, the Department will from time to time determine whether the AmCap receivership estate has sufficient liquid assets available to make an Early Access disbursement to the Guaranty Association;** and

**WHEREAS, if the Department determines that the AmCap receivership estate has sufficient liquid funds available to make an Early Access disbursement, the Department may apply to the Court for an order permitting the Department to make an Early Access disbursement to the Guaranty Association pursuant to section 631.397, Florida Statutes, for the partial payment of claims and/or administrative expenses;** and

**WHEREAS**, the Guaranty Association may only receive such a disbursement if the total amount of the contemplated disbursement plus the total amount of all Early Access disbursements already received by the Guaranty Association is less than the Guaranty Association's incurred claims and administrative expenses; and

**WHEREAS**, the Department and the Guaranty Association acknowledge and agree that neither the Department's review of the Guaranty Association's documentation for purposes of Early Access disbursement(s) nor this Early Access Agreement constitute an evaluation of or recommendation on any claim which the Guaranty Association may be entitled to under section 631.271, Florida Statutes;

**NOW THEREFORE**, the Department and the Guaranty Association agree as follows:

1. The Guaranty Association will respond in good faith to requests from the Department for information, files and documents. The Department will be permitted full access to the books, records, and files of the Guaranty Association pertaining to the handling and payment of covered claims and administrative expenses incurred by the Guaranty Association in fulfilling its obligations under its enabling statute.

2. Beginning with the quarter ending September 30, 2021, and on at least a quarterly basis thereafter, the Department shall produce a reasonably detailed and current statement of the Estate's financial condition. The statement will be in substantially the format published on the Department's website. The Department shall provide this information as soon as it is available following the close of each quarter.

3. The Guaranty Association will make reports to the Department no less frequently than quarterly, through the Secure Uniform Data Standard ("UDS") or in another form acceptable to the Department disclosing the status of the following items received, held or processed during the reporting period: current open claims count, open claims reserves,

claim payments, salvage or subrogation recoveries, if any, and such other items as may be reasonably required by the Department. The reports shall be sent to the Department electronically via the UDS server housed by the National Conference of Insurance Guaranty Funds (“NCIGF”) or mailed to the Department at to the address listed in Paragraph 11 below, or such other location designated by the Department

4. The Guaranty Association will utilize any payment received pursuant to this Agreement solely for the payment of covered claims, as defined by section 631.271, and Part II, Chapter 631, Florida Statutes, or the pertinent part of the relevant state statute applicable to the Guaranty Association, and for the payment of claims handling or administrative expenses, as defined by section 631.271(1)(a)(2), Florida Statutes, relating to the Receivership of AmCap.

5. The Guaranty Association will not be penalized, by offset or otherwise, by the amount of any special deposit or any other statutory deposit or asset of the insolvent insurer held in that state unless the Guaranty Association has actually received such deposit or asset.

6. The Guaranty Association agrees to return to the Department within 60 days all or any portion of any Early Access disbursements acquired by the Guaranty Association pursuant to this Agreement, with any income earned thereon, if the Department determines, at any time, that such repayment is necessary to pay claims or expenses which the Department determines to be of equal or superior priority. Should it be necessary for the Guaranty Association to make an assessment in order to return the relevant portion of the disbursement to the Department, the Guaranty Association shall have 90 days within which to return the disbursement. In the event the Guaranty Association is required to repay to the Department any Early Access disbursements, the Guaranty Association will pay the Department in cash or

other liquid assets as may be acceptable to the Department.

7. Pursuant to section 631.271, Florida Statutes, the Guaranty Association understands and agrees that any disbursement made pursuant to this Agreement constitutes partial payment on any claim which the Guaranty Association may have in the AmCap Receivership and that it will not share in any final distribution of assets from the AmCap Receivership until claimants of an equal priority receive an equal pro rata distribution on their claims. Any and all interest that the Guaranty Association earns on funds so disbursed shall also be considered Early Access disbursements for purposes of this Agreement.

8. Prior to the final distribution of the assets of AmCap, the Department will be given reasonable access to the financial accounts, records and procedures of the Guaranty Association with respect to the receipt of assets or the payment of covered claims. The Guaranty Association will, within 30 days after receipt of a written request from the Department, return to the Department any Early Access disbursements made pursuant to this Agreement which are more than the amount ultimately determined by the Department to be due the Guaranty Association as a final distribution of the assets of AmCap. The Department and the Guaranty Association shall cooperate in planning the destruction or other final disposition of the information, files and documents received by the Guaranty Association from AmCap or the Department.

9. The Guaranty Association's execution of this Agreement and acceptance of any amount distributed thereunder, shall be without prejudice to the Guaranty Association's rights with respect to final or other distributions from the estate of AmCap.

10. This Early Access Agreement shall be construed in accordance with Florida

law. Any legal action by either party to enforce or interpret this Agreement or the parties' obligations under this Agreement shall be commenced, litigated, and adjudicated in and by the Second Judicial Circuit Court, in and for Leon County, Florida. The Guaranty Association's submission to the aforementioned jurisdiction is strictly for the purposes of enforcement of this Agreement and not for any other purpose.

11. Any notice required to be given to the parties shall be given by regular United States mail, postage prepaid, addressed as follows:

Department: Toma Wilkerson [or her successor],  
Division Director  
Florida Department of Financial Services,  
Division of Rehabilitation and Liquidation  
325 John Knox Rd,  
Atrium Building, Suite 101  
Tallahassee, Florida 32303

Guaranty Assoc.: See address identified in signature block below.

12. This Agreement merges all prior offers and agreements of every kind as related to Early Access and expresses the full and final intent of the parties and shall be effective only upon Court approval. This Agreement shall not be modified, except by an instrument in writing, executed by the authorized representatives of the parties, and subject to Court approval.

13. This Agreement supersedes all earlier Early Access agreements and will apply to all future Early Access disbursements to the Guaranty Association. It will be attached to all future Early Access motions filed by the Department.

14. This Agreement may be executed in any number of counterparts, any or all of which may contain the signature of only one of the Parties, and all of which together shall be considered a single original document.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date last indicated below:

[THIS SECTION INTENTIONALLY LEFT BLANK]

[SIGNATURES OF THE PARTIES ARE ON THE FOLLOWING PAGES]

American Capital Assurance Corp., in Liquidation  
By and through Toma Wilkerson, Division Director Florida  
Department of Financial Services,  
Division of Rehabilitation and Liquidation

By: Wilkerson, Toma Digitally signed by Wilkerson,  
Toma  
Date: 2021.11.01 11:48:04 -04'00'

Printed Name: Toma L. Wilkerson

Date: 11/1/2021

Florida Insurance Guaranty Association

“Guaranty Association”

By: Thomas D. Streukens

Printed Name: Thomas D. Streukens

Title: Executive Director

Date: 10/5/2021

Address: P.O. Box 14249

Tallahassee, FL 32317

\_\_\_\_\_

Georgia Insurers Insolvency Pool

“Guaranty Association”

By: 

Printed Name: Frank Knighton, Jr.

Title: Executive Director

Date: 10/8/2021

Address: 3700 Crestwood Parkway, NW

Suite 400

Duluth, Georgia 30096

"Guaranty Association"

By: 

Printed Name: John C. Wells

Title: Executive Director

Date: 10/19/2021

Address: 2142 Qua. / Run

Baton Rouge LA 70808

---

South Carolina Property & Casualty Insurance Guaranty Association

“Guaranty Association”

By: 

Printed Name: J. Smith Harrison, Jr.

Title: Executive Director

Date: 10/5/2021

Address: SC Property & Casualty Insurance Guaranty

240 Stoneridge Drive, Suite 101

Columbia, SC 29210

“Guaranty Association”

By: Marvin Kelly

Printed Name: MARVIN KELLY

Title: EXECUTIVE DIRECTOR

Date: 10/5/21

Address: 9120 BURNET ROAD

AUSTIN, TX. 78758

---

# Exhibit C

**American Capital Assurance Corp.  
Early Access Disbursements to  
Eligible Guaranty Associations**

<b>Guaranty Association</b>	<b>Current Application</b>	<b>Previously Authorized</b>
<b>Florida (FIGA)</b>	\$2,234,033	\$32,584,502
<b>Georgia (GIIP)</b>	\$0	\$21,652
<b>Louisiana (LAIGA)</b>	\$36,180	\$364,515
<b>South Carolina (SCPCIGA)</b>	\$0	\$670,000
<b>Texas (TPCIGA)</b>	\$0	\$2,800,000
<b>Total</b>	<b>\$2,270,213</b>	<b>\$36,440,660</b>