

FLORIDA DEPARTMENT OF FINANCIAL SERVICES

**DIVISION OF  
REHABILITATION  
& LIQUIDATION**

Annual Report  
**2019**



# DIVISION OF REHABILITATION & LIQUIDATION

## Mission Statement

Manage receiverships to maximize value to claimants and the public.

## Vision Statement

The Division's vision is to be a recognized and respected leader in the efficient administration of insurance receiverships.

## Value Statements

### Service

The Division's long and continuing tradition of public service is supported and sustained by a highly skilled and diverse workforce that responds rapidly and successfully to changes.

### Teamwork

The Division promotes and reinforces a corporate perspective and challenges its employees to work cooperatively across internal and external organizational boundaries.

### Excellence

The Division strives for continuous improvement, believing that competence, reliability, efficiency, and effectiveness are keys to excellence.

### Accountability

As an organization and as individuals, the Division accepts full responsibility for our performance and acknowledges our accountability for the ultimate outcome of all that we do.

### Diversity

Capitalizing on the varied experiences of its workforce is key to the Division's continued success.

### Integrity

The Division performs its work with the highest sense of integrity which requires the agency to be, among other things, honest and fair. Integrity is measured in terms of what is right and just, standards to which the Division is committed.

### Innovation

The implementation of ideas into new or improved processes, services, and systems is fundamental to the Division's continued success.

# Jimmy Patronis

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## Message from the Chief Financial Officer

On behalf of the Florida Department of Financial Services, I have the pleasure to present the Division of Rehabilitation and Liquidation's Fiscal Year 2018-2019 Annual Report.

This fiscal year, the Division continued to advocate on behalf of policyholders, creditors, and consumers impacted when their insurance company was ordered into receivership. The Division's mission is to manage receiverships maximizing value to claimants and the public. This mission is accomplished by using available resources to recover and liquidate assets while working to reduce receivership costs by streamlining and shortening the receivership life cycle. During Fiscal Year 2018-2019, the Division paid over \$50.5 million in distributions to claimants and guaranty associations. The Division continued to make great strides in effectively managing active receiverships, as demonstrated by successfully closing nine receiverships. This Annual Report provides additional information regarding the Division's activities and accomplishments during Fiscal Year 2018-2019. Consumers are encouraged to visit the Division's website at [www.myfloridacfo.com/division/receiver](http://www.myfloridacfo.com/division/receiver) to learn more about the receivership process and the companies in receivership.



Thank you for your interest in the work of the Division of Rehabilitation and Liquidation. I hope you find the information contained in this report and on the referenced website beneficial.

A handwritten signature in black ink that reads "Jimmy Patronis". The signature is written in a cursive, flowing style.

Jimmy Patronis  
Chief Financial Officer  
State of Florida



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# Division Overview

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## Role of the Division

The Florida Department of Financial Services (“Department”) is the Court appointed Receiver of any insurer placed into receivership in Florida to protect consumer interests. The role of the Division of Rehabilitation and Liquidation (“Division”) is to administer the receiverships on behalf of the Department as Receiver. The Division plans, coordinates, and directs the affairs of a company placed into receivership by the Court’s rehabilitation order or liquidation order, pursuant to Chapter 631, Florida Statutes. Generally, insurance companies are exempt from federal bankruptcy jurisdiction and are instead subject to specific state laws regarding receivership. Under Florida law, the Second Judicial Circuit Court in Leon County, Florida, (the “Receivership Court” or the “Court”) has jurisdiction over insurance company receivership matters. This 2018-2019 Annual Report provides a brief look at the role of the Division and the overall receivership process.

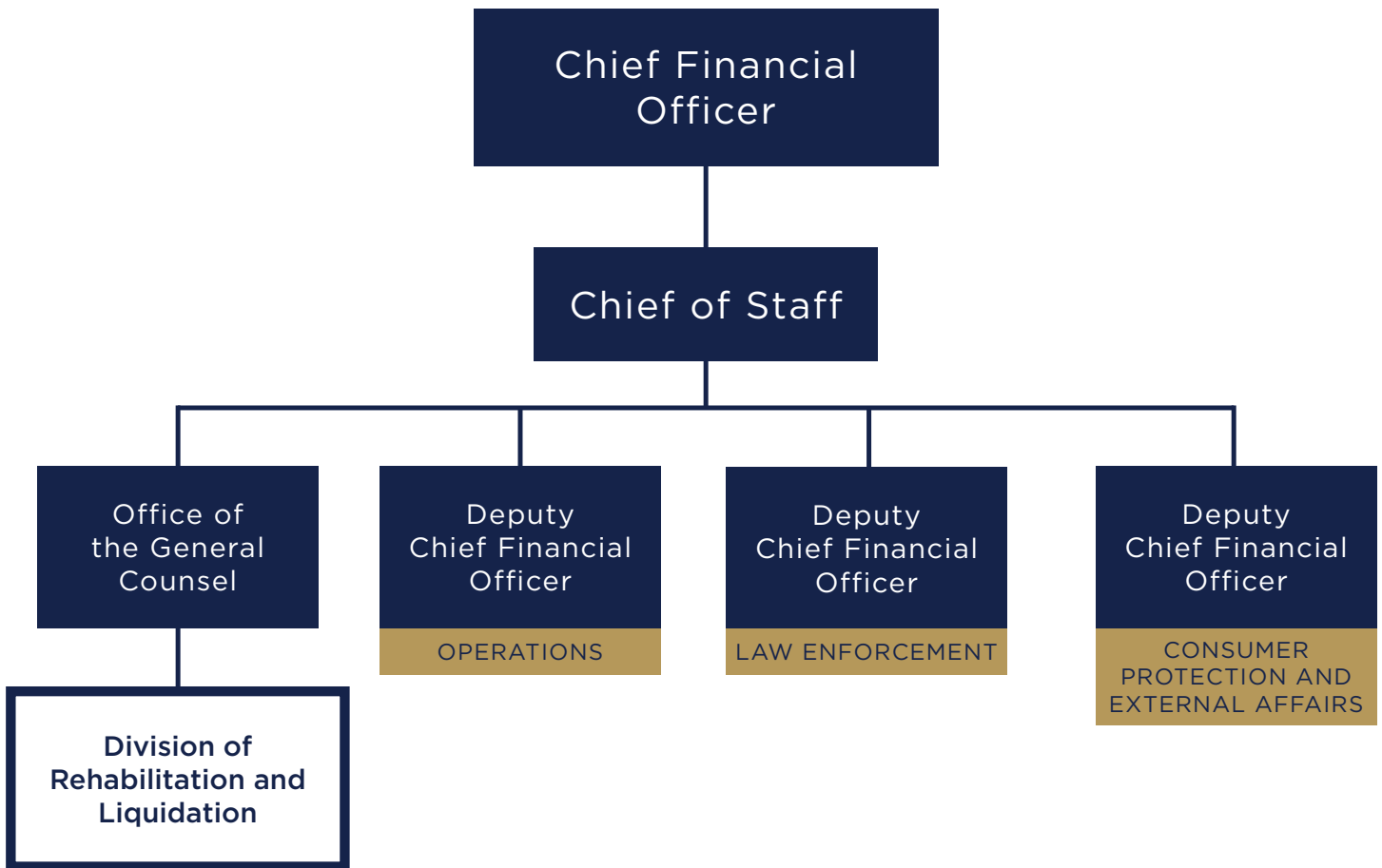
In rehabilitation, the Division implements a plan with the goal of allowing the company to return to the marketplace. Major tasks associated with a rehabilitation order include taking control of

and protecting the property and assets of the insurer, conducting the business of the insurer, and formulating a plan to remove the causes and conditions necessitating the rehabilitation. The rehabilitation is successful when the insurance company meets the solvency criteria set forth in the Florida Insurance Code, and the Receivership Court finds the causes that required rehabilitation have been removed. The Court then enters an order discharging the Department from its duties and closes the rehabilitation receivership.

When a liquidation order is entered, the insurance company is closed, outstanding policies are usually cancelled, and the process of collecting and selling the company’s assets begins. The goal of liquidation is to use the money acquired from selling the company’s assets to pay off the company’s debts and outstanding insurance claims. Major tasks associated with a liquidation order include marshaling and liquidating insurer assets, identifying and paying claims, distributing assets to claimants, and responding to consumer inquiries about the receivership process.

# Organizational Structure

The Division of Rehabilitation and Liquidation is one of 13 divisions within the Department. The Division performs its duties under the supervision of the Department’s General Counsel. The current Division Director is Toma L. Wilkerson. Figure 1 illustrates the relevant portion of the structure of the Department.



**Figure 1** *Partial View of Department Organizational Chart including the Division of Rehabilitation and Liquidation*

The Division is divided into seven functional areas (see Figure 2), each headed by a manager who reports to the Division Director. As of June 30, 2019, the Division has sixty-four (64) funded positions.



**Figure 2** *Division of Rehabilitation and Liquidation Organizational Structure in 2018-2019*



## Core Processes

The core processes of the Department, acting as Receiver under the direction of the Receivership Court, are illustrated in Figure 3. The process starts when the Receivership Court places an insurance company into receivership for purposes of rehabilitation or liquidation. In the “Company Control” process, the Division moves to take physical possession of the company’s assets, offices, records, and other property. The Division then immediately attempts to determine the true financial status of the company. Under an order of rehabilitation, the Division seeks to remedy the problems – typically financial impairment or insolvency – that resulted in the entry of the rehabilitation order. Efforts are made to evaluate a financial plan which can include: acquiring new funds, merging with other companies, selling parts of the business, hiring new management or exercising other remedial steps. All such activities are subject to scrutiny and final approval by the Receivership Court.

If rehabilitation is not possible, or is unsuccessful, the Division will petition the Receivership Court for an order of liquidation. At that time, the Division starts the “Company Asset Recovery and Asset Management” process, which involves marshaling all available assets and determining all liabilities of the company to ascertain the net value of the estate. During this phase, the Division will control and process all the business functions of the company in receivership and will recover company assets. Often, the Division needs to file litigation to best pursue and collect the assets of the company.

“Claims Processing” begins when notification of the company’s liquidation is provided to all those with an interest in the estate, including policyholders, creditors, and guaranty associations. Claims in the estate are received by the Division and evaluated. Distribution of payment to claimants is dependent upon the recommendation of the Division, approval by the Receivership Court, and the availability of funds in the estate. Insurance guaranty associations may be intricately involved in this claims processing stage by directly paying some of the policyholder and third-party claims of the failed insurance company. A great deal of communication and cooperation is required between the Division and the guaranty associations.

Following the final distribution of money to claimants, legal pleadings are filed that ultimately lead to the discharge of the company from receivership. It is during this “Company Discharge” process that the Division prepares and files the unclaimed property reports and final financial reports for the estate. The time required to close a receivership proceeding is largely determined by the amount and complexity of the assets to be monetized and the ability of the Division to make a final determination of an estate’s liability. The company discharge phase is complete when the Receivership Court issues an order discharging the Department from all duties, obligations, and liabilities in the administration of the receivership.

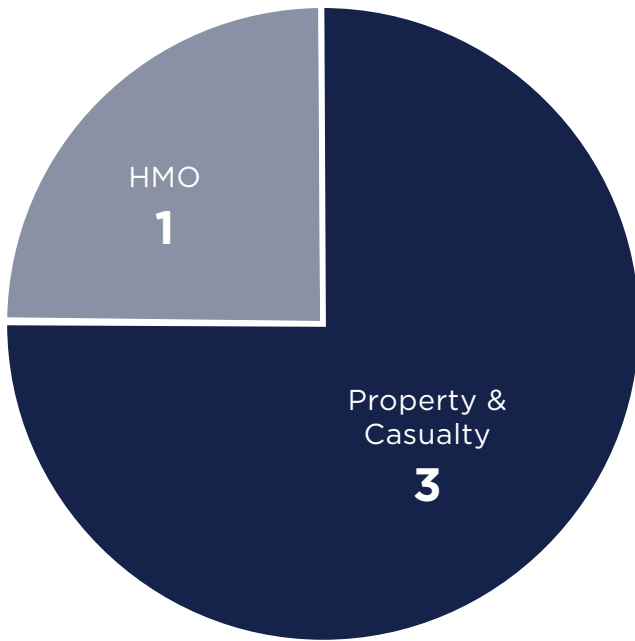
CORE PROCESS	PRIMARY TASKS
Company Control	<ul style="list-style-type: none"> <li>• Identify, secure and control company assets</li> <li>• Manage business functions</li> <li>• Implement receivership plan</li> </ul>
Company Asset Recovery/Asset Management	<ul style="list-style-type: none"> <li>• Collect and liquidate all company assets</li> <li>• Pursue litigation as necessary to collect assets</li> <li>• Maximize assets returned to receivership</li> </ul>
Claims Processing	<ul style="list-style-type: none"> <li>• Acquire claimant information</li> <li>• Proof-of-claim processing <i>(liquidation only)</i></li> <li>• Guaranty association claim processing <i>(liquidation only)</i></li> <li>• Claims evaluation <i>(liquidation only)</i></li> <li>• Interim distributions/ payment of available funds on allowed claims <i>(liquidation only)</i></li> <li>• Early Access distributions</li> </ul>
Company Discharge	<ul style="list-style-type: none"> <li>• Determination of final financial accounting</li> <li>• Final Distribution of available funds on allowed claims <i>(liquidation only)</i></li> <li>• Unclaimed property reporting</li> <li>• Destruction of non-permanent company records <i>(liquidation only)</i></li> </ul>

**Figure 3** Division's Core Processes

## Factors Contributing to Insolvency

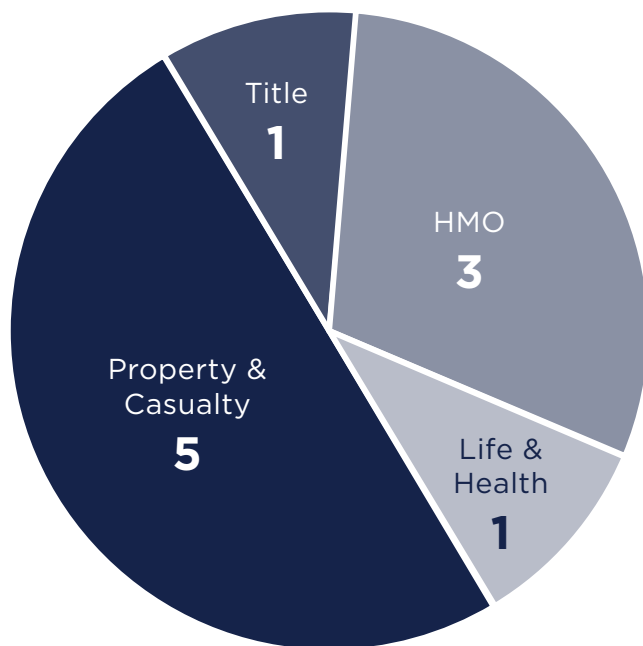
Pursuant to section 631.398, Florida Statutes, no later than the conclusion of any domestic insurer's insolvency proceeding, the Division shall prepare, or cause to have prepared, a summary report containing such information as is in the Division's possession relating to the history and causes of such insolvency, including a statement of the business practices of the insurer which led to its insolvency. Over the course of the last five fiscal years, the Division has closed 36 estates. Factors contributing to the insolvencies of these estates include the following:

- Inadequate capitalization or asset deterioration
- Improper management or fraud
- Insufficient claim reserves
- Rapid premium growth
- Inappropriate transactions with affiliates or subsidiaries
- Inadequate premium rates
- Natural disasters or catastrophic losses
- Change in business conditions
- Reinsurance market issues



**Figure 4**

*Type of Companies Entering Receivership in Last Five Years 2015-2019*



**Figure 5**

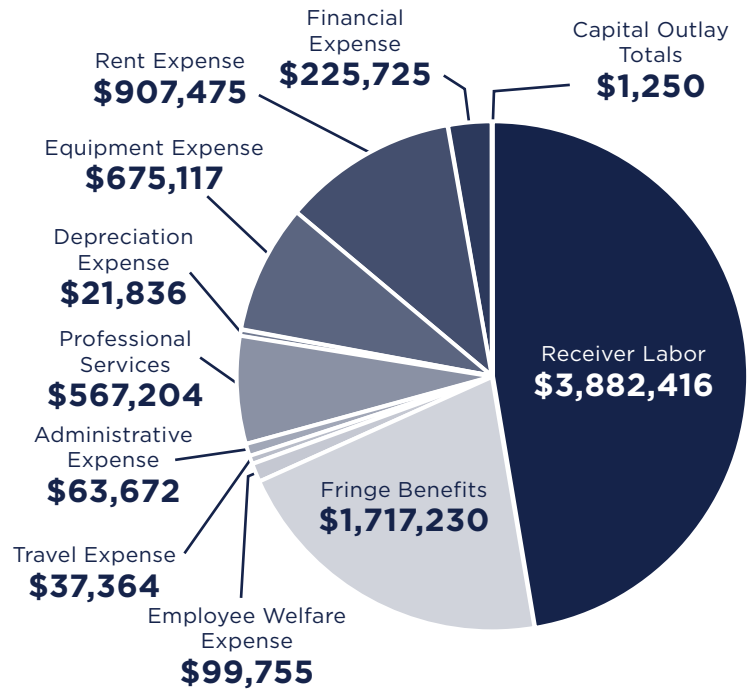
*Companies in Receivership by Lines of Business in Last Five Years as of June 30, 2019*

# Financial Update

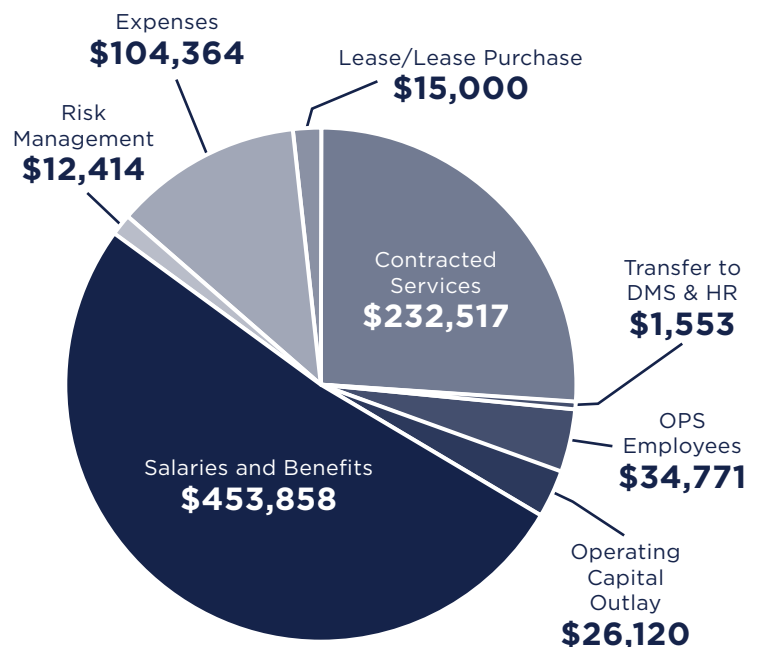
## Division Funding

The Division's overall cost of managing receiverships is paid for by recoveries from the estates that are in receivership, supplemented by funds from the state. The Division maintains staff that is paid from receivership funds. This staffing structure allows the Division's management to expand or downsize staff as necessary with the fluctuation of the number of estates being administered.

The Division's state budget is funded from sources such as licensing fees for insurance agents and insurance companies, and penalties, fines, and restitutions collected by the Department. These funds are deposited into the Insurance Regulatory Trust Fund. The budget supports one state position, certain projects and technological improvements that benefit future receivership estates. For the 2018-2019 fiscal year, the Division's operating state budget was \$880,597. The state budget funds expenses that are not directly related to administering specific receivership estates (and, therefore, cannot be funded by estates), but are required by statute or by the regulatory aspects of the Division's mission. Figure 6 displays the Division's Receivership Budget for the 2018-2019 fiscal year, and Figure 7 gives an overview of the Division's 2018-2019 state budget.



**Figure 6** *Division's Receivership Budget for FY 2018-2019*



**Figure 7** *State Budget FY 2018-2019*

# Accomplishments

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## Division Highlights

During the 2018-2019 fiscal year:

- The Division administered 17 companies in liquidation and two companies in rehabilitation.
- Nine companies were closed in the 2018-2019 fiscal year. These estate closures directly result from the Division's implementation of improved and more efficient processes allowing the Division to better streamline the life cycle of receivership estates.
- The Division distributed \$2.6 million in early access distributions to guaranty associations from two different estates. In addition to the early access distributions, the Division distributed \$47.9 million to claimants in four estates during the fiscal year.
- To facilitate distribution, the Division processed 3,753 Proofs of Claim, evaluated 601 claims, processed 66 filed objections, resolved 116 objections, processed 119 requests for an assignment of claim, reopened 692 claims and set up 196 new claims.
- The Division managed six distribution accountings, 10 discharge accountings and processed and filed unclaimed property reports in 50 states, the District of Columbia, and one US Territory for unclaimed amounts totaling \$2,986,439 from seven discharged receiverships.
- The Division recovered assets totaling \$20 million, excluding litigation recoveries.
- The Division recovered assets totaling approximately \$6 million through litigation.

*As in prior years, the Division continues to place a great emphasis on developing strategies to shorten the lifecycle of estates in receivership.*

# Significant Events

## Receiverships Opened and Closed During the Fiscal Year

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### Receiverships Opened

#### **Sawgrass Mutual Insurance Company**

Effective October 1, 2018, Sawgrass Mutual Insurance Company ("Sawgrass") was ordered into receivership for purposes of liquidation by the Court. Sawgrass was a homeowner's insurance company located in Sunrise, Florida.

All insurance policies issued by Sawgrass were cancelled on September 1, 2017. Heritage Property & Casualty Insurance Company ("Heritage") provided replacement policies for Sawgrass policyholders. Sawgrass had no active policies at liquidation. There were 72 claims outstanding at the date of liquidation.

### Receivership Closures

#### **Magnolia Insurance Company**

Effective April 30, 2010, Magnolia Insurance Company ("Magnolia") was ordered into receivership for purposes of liquidation by the Court. Magnolia was a Florida domestic property and casualty insurer based in Coconut Grove, Florida, that previously wrote homeowner's policies.

On December 19, 2017, the Department mailed distribution checks. Class 1 & Class 2 claims were paid 100% of the amounts approved for payment. Class 3 claimants were paid a pro-rata payment of 22.30% of the amounts approved for payment. Effective July 23, 2018, the Court entered an order discharging the Department as Receiver of Magnolia.

#### **Northern Capital Insurance Company**

Effective May 1, 2010, Northern Capital Insurance Company ("Northern Capital") was ordered into liquidation by the Court. Northern Capital was a Florida domestic property and casualty insurer, headquartered in Miami, Florida. Northern Capital wrote homeowner's multi-peril, inland marine and automobile insurance coverage in Florida.

On March 12, 2018, the Department mailed distribution checks. These checks represent 100% of Class 1 and Class 2 claims. Class 3 claimants received a pro-rata share of 75.89%. On September 14, 2018, the Court entered an order discharging the Department as Receiver of Northern Capital effective September 30, 2018.

#### **First Commercial Transportation and Property Insurance Company**

On August 24, 2009, First Commercial Transportation and Property Insurance Company ("FCTPIC") consented to and was placed into liquidation by the Court in and for Leon County, Florida. FCTPIC was a property and casualty insurer, located in Hialeah, FL. FCTPIC wrote commercial auto and commercial multi-peril coverage.

On May 4th, 2018, the Department mailed distribution checks. Claimants in class 1 and class 2 received 100% of their evaluated claim. Claimants in class 6 received a pro-rata share of 6.59% of their evaluated claim. On October 24, 2018, the Court entered an order discharging the Department as Receiver of FCTPIC effective October 31, 2018.



### **AequiCap Insurance Company**

On March 7, 2011, AequiCap Insurance Company ("AequiCap") was placed into liquidation by the Court. AequiCap was a property and casualty insurance company, located in Fort Lauderdale, Florida, which wrote commercial automobile, workers' compensation, and surety bonds.

Three distributions were made from this estate. Distribution checks were mailed to claimants in the AequiCap estate and three wire transfers were made to state guaranty associations. These checks represented 100% of the Class 1 claims and a pro-rata payment of 15.1641% of Class 2 claims. Effective November 30, 2018, the Court discharged the Department as Receiver of Aequicap.

### **First Commercial Insurance Company**

Effective August 24, 2009, First Commercial Insurance Company ("FCIC") was ordered liquidated by the Court. FCIC was a property and casualty insurer, located in Hialeah, FL, which wrote workers' compensation, commercial auto, and commercial multi-peril coverage.

On May 4th, 2018, distribution checks were mailed to claimants in class 1 and class 2. Class 1 claimants were paid at 100% and Class 2 claimants received a 7.52% pro-rata payment on their evaluated claim. The Department was discharged as Receiver of FCIC effective November 30, 2018.

### **Seminole Casualty Insurance Company**

Effective March 15, 2011, Seminole Casualty Insurance Company ("Seminole Casualty") was placed into receivership for the purposes of liquidation by the Court. Seminole Casualty was a Florida domestic property and casualty insurance company, located in Tamarac, Florida, which wrote primarily personal and commercial auto only in Florida and Maryland.

On May 21, 2018, distribution checks were mailed to claimants. These checks represented 100% of the Class 1 claims and 66.4389% of the Class 2 claims. The Department was discharged as Receiver of Seminole Casualty effective December 31, 2018.

### **Insurance Company of the Americas**

On January 24, 2018, Insurance Company of the Americas ("ICA") was placed into liquidation by the Court. ICA was a Florida workers' compensation insurer located in Lake Mary, Florida.

On January 9, 2019, distributions were made in the ICA estate. These payments represented 100% of Class 1 and 3.0257% of Class 2 claims. The Department was discharged as the Receiver of ICA effective January 18, 2019.

### **National Title Insurance Company**

On July 6, 2009, National Title Insurance Company ("National Title") was ordered into receivership for purposes of rehabilitation by the Court. National Title was a domestic Florida title insurer, headquartered in Miami, Florida. The company was authorized to write title insurance policies in Florida, Alabama, Georgia, Louisiana, Mississippi, South Carolina, and Tennessee.

During the course of this receivership, Florida's title insurance companies were assessed to cover the existing Florida claims and administrative expenses for National Title. These assessments totaled just over \$1,000,000. On February 27, 2019, the Court approved a Loss Portfolio Transfer Agreement to move all remaining Florida policy liabilities to Connecticut Attorneys Title Insurance Company. The Department was discharged as the Receiver of National Title effective March 31, 2019.

### **Florida Healthcare Plus, Inc.**

On December 10, 2014, the Court ordered Florida Healthcare Plus, Inc. ("FHCP") into rehabilitation for purposes of liquidation effective January 1, 2015. FHCP was a Florida domestic health maintenance organization, headquartered in Coral Gables, Florida, which wrote Medicare and Medicaid coverage.

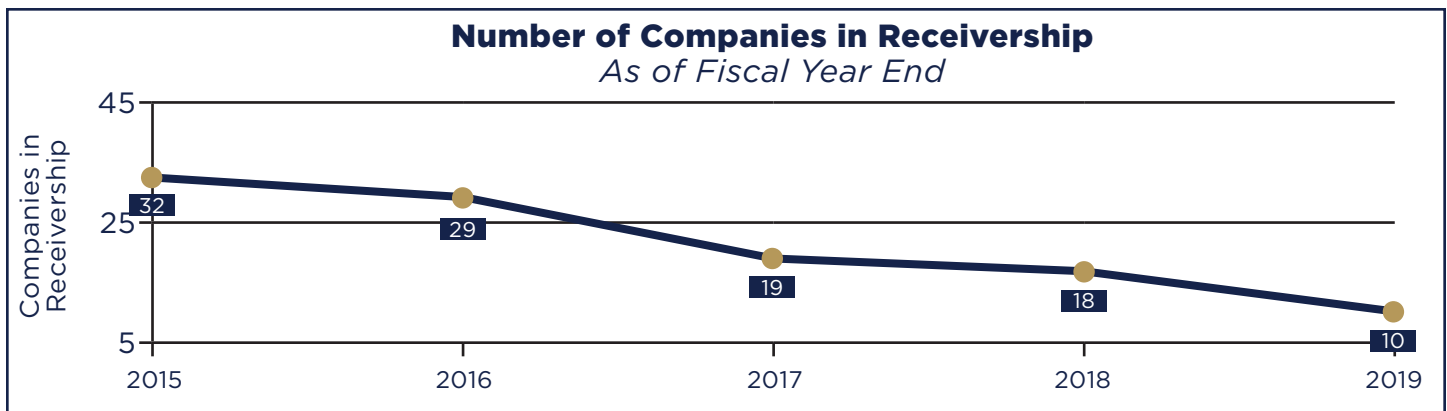
Distribution checks were mailed on January 30, 2019, for fully adjudicated claims. Distributions represented 55.84% of the recommended amounts of the Class 2 claims. The Court discharged the Department as the Receiver effective April 29, 2019.

# Distributions

The following list provides additional information about the Court ordered distributions to claimants and policyholders during the 2018-2019 fiscal year:

Claims Distribution Payments	Month of Distribution	Court Ordered Distribution Amount
Universal Health Care Insurance Company, Inc.	July 2018	\$24,819,539
Aequicap Insurance Company	July 2018	\$1,167,564
Aequicap Insurance Company	September 2018	\$477,470
Florida Healthcare Plus, Inc.	January 2019	\$13,484,418
Universal Health Care Insurance Company, Inc.	February 2019	\$2,764,388
National Group Insurance Company	April 2019	\$5,252,194
Early Access Distributions		
Universal Health Care Insurance Company, Inc.	October 2018	\$2,569,004
<b>TOTAL DISTRIBUTIONS</b>		<b>\$50,534,577</b>





**Figure 8** *Number of Companies in Receivership – Last Five Fiscal Years*

## Early Access

As deemed appropriate, section 631.397, Florida Statutes, allows the Division to advance funds to Florida’s guaranty associations and similar associations in other states for the administration and payment of covered claims. These advances are referred to as early access distributions and must be approved by the Receivership Court. An analysis of all estates to determine possible early access distributions is performed twice a year to maximize the amount distributed while taking care to reserve enough of the estate’s assets to cover the expected claims distributions to non-guaranty association claimants and the costs related to claims administration, asset recovery, and pending litigation.

There is a benefit to the public when the Division makes early access distributions to the guaranty associations. Each dollar the Division supplies to the guaranty associations for claims administration and payment is a dollar that the guaranty associations will not have to assess their member insurers. This, in turn, helps hold down the cost of policies to the insurance buying public by not having a portion of an assessment reflected in premiums charged to the policyholders.

The assessment processes of the Florida Insurance Guaranty Association, Inc. (“FIGA”) help to illustrate how the early access distributions ultimately help the insurance buying public. Pursuant to section 631.57(3)(a), Florida Statutes, FIGA is required to secure funds necessary for the payment of

covered property and casualty claims and to pay the reasonable costs of claims administration as necessary, to levy assessments against its member insurers. Pursuant to this law, the assessments levied against each insurer are limited to 2% of annual written premiums with an option for an additional emergency assessment also limited to 2% annually. When assessments are made, insurers may recoup their portion of the assessment from their policyholders as a part of their policy premium, under section 631.64, Florida Statutes. Similar statutory requirements for assessment against the members of Florida’s other guaranty associations are found in the following laws:

- Section 631.718, Florida Statutes, establishes the assessment authority of the Florida Life and Health Insurance Guaranty Association (“FLAHIGA”);
- Section 631.819, Florida Statutes, establishes the assessment authority of the Florida Health Maintenance Organization Consumer Assistance Plan (“FHMOCAP”); and
- Section 631.914, Florida Statutes, establishes the assessment authority of the Florida Workers’ Compensation Insurance Guaranty Association, Inc. (“FWCIGA”).

The early access distributions which the Division pays the guaranty associations reduces the amount the guaranty associations assess their members. In the 2018-2019 fiscal year, the Division paid \$2.6 million in early access distributions to guaranty associations.

## Appendix A

# Glossary

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**Admitted Company** – An insurance company licensed and authorized to do business in a state is called an admitted company in that state.

**Assets** – Property owned by an insurance company, including stocks, bonds, and real estate. Insurance accounting is concerned with solvency and the ability to pay claims. State insurance laws require a conservative valuation of assets, prohibiting insurance companies from listing assets on their balance sheets when the values are uncertain, such as furniture, fixtures, debit balances, and accounts receivables that are more than 90 days past due.

**Conservation** – The regulatory process by which an insurance company's affairs are administered to preserve the company's assets.

**DFS** – The abbreviation for the Florida Department of Financial Services.

**Domestic Insurance Company** – An insurer formed under Florida law.

**Early Access Distribution** – The process by which a guaranty association recovers from the Receiver a portion of the loss amount paid/and/or administrative expenses incurred by the guaranty association in settling a claim prior to the final distribution of an estate's assets.

**Estate** – A term used interchangeably with receivership in this report.

**FHMOCAP** – The abbreviation for the Florida Health Maintenance Organization Consumer Assistance Plan. Refer to Appendix C for detailed information related to FHMOCAP.

**FIGA** – The abbreviation for the Florida Insurance Guaranty Association. Refer to Appendix C for detailed information related to FIGA.

**FLAHIGA** – The abbreviation for the Florida Life and Health Insurance Guaranty Association. Refer to Appendix C for detailed information related to FLAHIGA.

**FWCIGA** – The abbreviation for the Florida Workers' Compensation Insurance Guaranty Association. Refer to Appendix C for detailed information related to FWCIGA.

**Guaranty Association (alternatively referred to as Guaranty Fund)** – A mechanism by which solvent insurers ensure that some of the policyholder and third-party claims against insurance companies that fail are paid. Such funds are required in all 50 states, the District of Columbia, and Puerto Rico, but the type and amount of claim covered by the fund varies from state to state. Such funds are supported by assessments levied against insurance companies writing business in those states. The Florida Guaranty Associations are as follows: the Florida Insurance Guaranty Association, the Florida Workers' Compensation Insurance Guaranty Association, the Florida Life and Health Insurance Guaranty Association, and the Florida Health Maintenance Organization Consumer Assistance Plan.

**Indemnity** – As used in an insurance or reinsurance context, indemnity refers to payment of loss to a claimant and/or policyholder. Such indemnity payment, in turn, serves as a basis for a claim against a reinsurer.

**Insolvency** – A company’s financial condition reflected by an excess of liabilities over the available assets required to meet those liabilities; i.e., a company’s inability to pay its debts.

**Liquidation** – The statutory process by which the affairs of an insolvent company are finalized and the company’s remaining assets are marshaled and ultimately distributed to policyholders and other creditors.

**Proof of Claim Form** – The form required by a Receiver to support a claim against an estate.

**Receiver** – An agent of the court that is appointed to be responsible for the conservation, rehabilitation and/or liquidation of an impaired or insolvent company. The receiver also has the duty as a court-appointed trustee to represent the court and all parties having an interest in the estate.

**Receivership** – The legal status of an impaired or insolvent company by which a court appointed receiver administers the affairs of such company.

**Rehabilitation** – A legal process by which a court-appointed individual or entity is assigned the responsibility to conserve the assets in an insolvent company and attempt to restore such company to a solvent condition. Rehabilitation can be used to remedy an insurer’s impairment/insolvency and may include a court approved plan to reduce or resolve the insurer’s liabilities and avoid liquidation.

**Reinsurance** – Insurance bought by insurers. Reinsurance effectively increases an insurer’s capital and its capacity to sell more coverage because it reduces the potential risk of losses for business written by the insurer.

**Reinsurer** – The insurance entity that accepts all or part of the liabilities of the ceding company in return for a stated premium and reinsurance agreement. A reinsurer does not pay policyholder claims. Instead, it reimburses insurers for claims paid by the insurer.

**Risk** – A term that refers to (1) uncertainty arising from the possible occurrence of given events, and (2) the insured or property to which an insurance policy relates.

## Appendix B

# History of the Division

The need for a specialized program to handle the duties of a receiver for troubled insurance companies began to emerge in 1957. In November of that year, Alabama General Insurance Company, a fire and casualty insurance company, was found to be insolvent and a state agent was needed to act as receiver to protect the assets of all parties who had an interest in the estate. For the next 10 years, the duties of receiver for troubled and insolvent insurance companies fell on five employees under the direction of the General Counsel at the Florida Department of Insurance (“DOI”).

During those 10 years, DOI was named Receiver for 15 more insurance companies. As the trend of insurance companies entering receivership continued to grow, Insurance Commissioner Broward Williams asked the 1967 Legislature for additional staff to manage the receiverships. The legislature approved 13 new positions, one of which was an attorney position. The addition of the attorney position paved the way for the staff to be separated from the Office of General Counsel. Commissioner Williams administratively created the Division of Rehabilitation and Liquidation in 1967 as recorded in the Florida Administrative Code, Chapter 4-38.13. It has operated as a separate division since September 1967. Tom Waddell became the Division’s first Director effective September 1, 1967 (see Table A for a listing of all Division Directors). The Division was initially housed in the Dorian Building on the corner of South Monroe and Pensacola Streets in Tallahassee,

the current location of the Leon County Courthouse. Chapter 4-38.003 of the Florida Administrative Code officially provided for the Division of Rehabilitation and Liquidation in 1975. The Division’s Miami Office was established in 1989, primarily as a result of multiple insolvencies in that region.

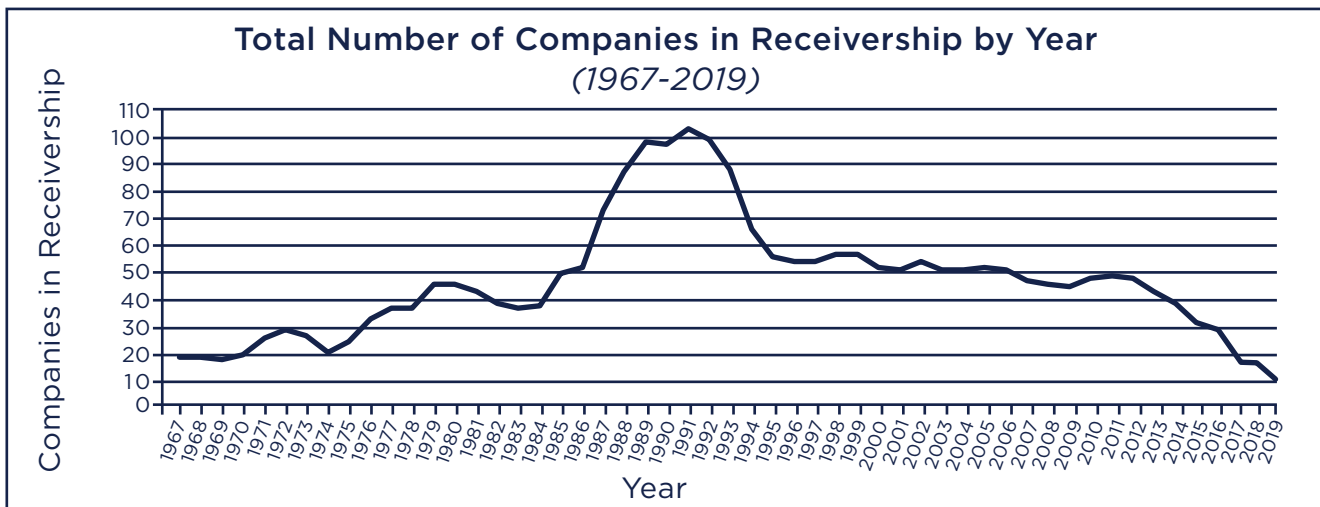
A receivership employment system was developed in the early years of the Division to provide managers with greater flexibility in staffing according to workload. Administrative costs to maintain a receivership staff were funded, as today, from the assets of the insolvent estates.

Receivership employees joined the state retirement plan with the enactment of Chapter 94-259, Laws of Florida. All receivership employees of the Division as of the effective date of the act were enrolled as members of the Florida Retirement System (“FRS”). The Division did not pay into FRS for past service of receivership employees, and receivership employees did not receive credit in FRS for receivership employment prior to the effective date of the act. Before joining FRS, the Division provided retirement benefits to the receivership employees in the form of Individual Retirement Account (IRA) contributions made payable jointly to the receivership employee and the financial institution where the employee deposited the IRA.

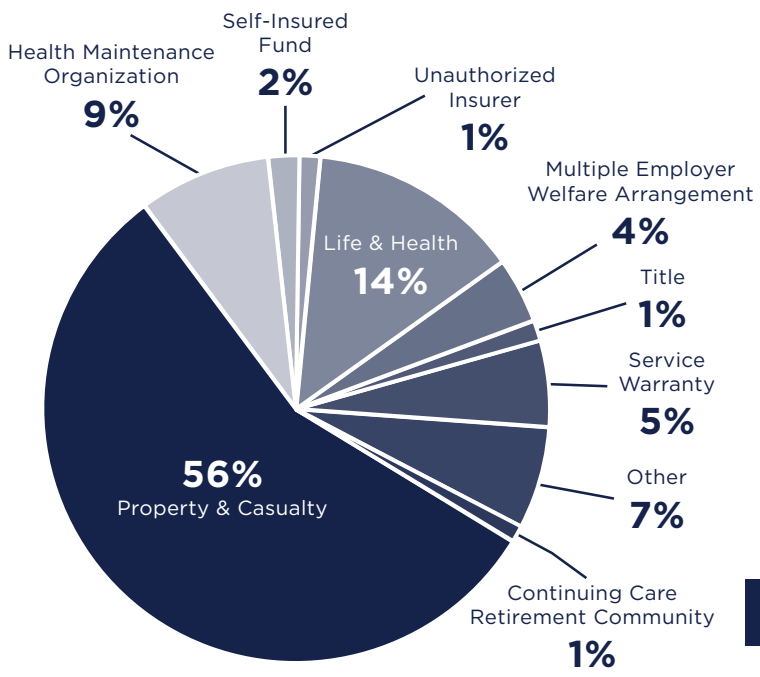
Division Director	Years of Service	Division Director	Years of Service
<b>Tom Waddell</b>	1967 - 1969	<b>Doug Shropshire</b>	1989 - 1991
<b>Charles Friend</b>	1969 - 1971	<b>Robert Johnson</b>	1991 - 1996
<b>L.E. Caruthers</b>	1971 - 1980	<b>Belinda Miller</b>	1996 - 1999
<b>Helen Hobbs</b>	1980	<b>Eric J. Marshall</b>	1999 - 2001
<b>James Brown</b>	1981 - 1982	<b>R. J. Castellanos</b>	2001 - 2008
<b>Gerald Wester</b>	1982 - 1983	<b>Wayne Johnson</b>	2008 - 2011
<b>Jerry D. Service</b>	1983 - 1988	<b>C. Sha`Ron James</b>	2011 - 2015
<b>Bill O’Neill</b>	1989	<b>Toma Wilkerson</b>	2015 - Present

The 1970 Legislature created the first of four guaranty associations, which are separate from state government, to ensure that money is available to pay outstanding claims when an insurance company no longer can meet its contractual obligations. Chapter 631, Florida Statutes, mandates examination and regulatory oversight of each guaranty association by the Department or by the Office of Insurance Regulation. Please see Appendices C through F of this report for the name, purpose, and contact information of all guaranty associations in Florida. Under current state law, only the Receivership Court's Order of Liquidation triggers action by the guaranty associations. There is no guaranty

association intervention under the Court's Order of Rehabilitation. Please refer to Appendix G, Summary of Rehabilitation v. Liquidation, for more information about activities that occur whenever an insurance company is in rehabilitation or in liquidation. Most licensed insurance companies are covered by one of the guaranty associations. Some exceptions are title insurance companies, warranty companies, continuing care retirement communities ("CCRCs"), multiple employer welfare arrangements ("MEWAs"), and bond companies. The Division and the guaranty associations work closely to protect the insurance consumers of Florida.



**Figure 9** Historical Data: Total Number of Companies in Receivership by Year, 1967-2019



**Figure 10** Historical Data: Types of Companies Entering Receivership, 1957-2019



## Appendix C

# Florida Guaranty Associations

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Guaranty associations are non-profit organizations created by statute that protect policyholders from severe losses and delays in claim payments due to insolvency of an insurance carrier. These entities provide a mechanism to resolve claims during such times. The state of Florida has the following associations:

### **Florida Insurance Guaranty Association ("FIGA"):**

FIGA was created to provide a mechanism for the payment of covered property and casualty claims under certain insurance policies because of the insolvency of an insurer. FIGA's membership consists of all Florida licensed direct writers of property or casualty insurance. Coverage limits for claims filed to FIGA are as follows: (1) Auto/Liability/Commercial Property Claims: \$300,000 (2) Homeowners Property Damage claims: \$500,000 (3) Condo Association claims: \$100,000 x the number of residential units. For more information on FIGA, visit [www.figafacts.com](http://www.figafacts.com).

### **Florida Workers' Compensation Insurance Guaranty Association ("FWCIGA")**

FWCIGA was created by statute in 1997 from the merger of the Florida Self-Insured Fund Guaranty Association, Inc. ("FSIFGA") and the workers' compensation insurance account of FIGA. Coverage limits for workers' compensation claims filed to FWCIGA are as follows: (1) Employer Injury claims: no limit (2) Employer Liability claims: \$300,000. For more information on FWCIGA, visit [www.fwciga.org](http://www.fwciga.org).

### **Florida Life and Health Insurance Guaranty Association ("FLAHIGA")**

FLAHIGA is a statutory entity created in 1979 when the Florida Legislature enacted the Florida Life and Health Insurance Guaranty Association Act (FLAHIGA Act). FLAHIGA is composed of all insurers licensed to sell direct life insurance, accident and health insurance, and certain annuities in the state of Florida. Coverage limits for claims filed to FLAHIGA are as follows: (1) Life Insurance Death Benefit: \$300,000 per insured life (2) Life Insurance Cash Surrender: \$100,000 per insured life (3) Health Insurance Claims: \$300,000 per insured life (4) Annuity Cash Surrender: \$250,000 for deferred annuity contracts per contract owner (5) Annuity in Benefit: \$300,000 per contract owner. For more information on FLAHIGA, visit [www.flahiga.org](http://www.flahiga.org).

### **Florida Health Maintenance Organization Consumer Assistance Plan ("FHMOCAP")**

FHMOCAP was created by statute in 1988 to protect persons enrolled for coverage with HMOs, subject to certain limitations, against the failure of their HMO to perform its contractual obligations due to its insolvency. The FHMOCAP only provides protection for "commercial" HMO members – those who have group coverage, generally through their employer, or persons who purchase individual coverage directly through the HMO. The benefit the plan provides is continued coverage up to a maximum of \$300,000 per person or 6 months. For more information on FHMOCAP, visit [www.flhmocap.com](http://www.flhmocap.com).

# Summary of Rehabilitation v. Liquidation

## REHABILITATION

## LIQUIDATION

Board of Directors are suspended temporarily – the Department assumes their authority but can delegate back certain authority at the Department’s option.

Company is dissolved by Court Order of Liquidation – the Department assumes authority over company affairs.

The Department, appointed by the court, is in charge. The Department’s Division of Rehabilitation and Liquidation administers the receiverships.

The Department, appointed by the court, is in charge. The Department’s Division of Rehabilitation and Liquidation administers the receiverships.

Financial activity is carried out through the company’s office systems utilizing its procedures.

Financial activity is ultimately carried out through the office of the Department’s Division of Rehabilitation and Liquidation after the company’s offices are closed.

Company continues to be responsible for paying claims.

A deadline for filing claims is established by court order. Guaranty associations, if applicable, pay covered policy claims. Claims not covered by a guaranty association are processed by the Department.

Payments are based on a court order which provides authority as to what the rehabilitator may pay.

Payments are based on a statutory priority scheme. A claims distribution is determined by the amount of available assets, if any, of the receivership estate. Claims are paid by class in order of the priorities set out in section 631.271, Florida Statute. Beginning with Class 1, all approved claims in a class must be paid in full before any payment is made to the next class. If there are insufficient funds to pay a class in full, all approved claims in that class are paid in equal pro rata shares.

Marshaling of assets by Department (finding and collecting property or debts due, selling them to convert to cash).

Marshaling of assets by Department (finding and collecting property or debts due, selling them to convert to cash).

## REHABILITATION

Litigation against the company is stayed by statute and court order. Litigation against the insureds is not stayed by statute, but may be stayed by court order. The company will continue to defend its insureds. There is no activity by a guaranty association during rehabilitation.

Proof-of-claim forms are not issued in a rehabilitation since claims normally continue to be paid.

Not applicable.

Not applicable.

Not applicable.

Not applicable.

The Department returns the company to a sound financial condition and ends the rehabilitation or, when it is not possible to return the company to the marketplace, the Department converts the receivership to a liquidation proceeding.

## LIQUIDATION

Litigation against the company is permanently stayed by statute and court order. Insureds are defended by the appropriate Guaranty Association.

Potential claimants are provided instruction on how they can file a claim in the liquidation proceeding. Upon return of required proof-of-claim forms and other information, claims adjusters for the Department evaluate the claims for priority and amount.

Evaluated claims are reported to the Second Judicial Circuit Court in Leon County, Florida, and the Department's recommendation of the priority and amount of the claim are approved subject to objection (the procedure whereby the claimant may disagree with the evaluation).

If objections are unresolved, the Department's attorneys will set the objection for a court hearing.

When all objections and appeals are concluded, the Department calculates the distribution that may be made to eligible claimants. The priority of claims is set out by statute. Upon obtaining court approval of the distribution, the Department sends payments to the claimants' last known addresses.

Undistributed funds are turned over to the Department's Division of Unclaimed Property.

The Department will evaluate all claims filed in the receivership proceeding, issue checks, prepare a final accounting, and obtain a court order discharging it from further responsibilities and closing the receivership/liquidation proceeding.





FLORIDA DEPARTMENT OF FINANCIAL SERVICES

DIVISION OF

# REHABILITATION & LIQUIDATION

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