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APR 10 2023

INSURANCE REGULATION
Docketed by: AB

OFFICE OF INSURANCE REGULATION

MICHAEL YAWORSKY
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 308776-23

FLORIDA INSURANCE GUARANTY
ASSOCIATION, INC.
2023A ASSESSMENT

2023A FIGA ASSESSMENT ORDER
(ALL OTHER ACCOUNT)

THIS MATTER came on for consideration upon the submission by the Executive Director of the Florida Insurance Guaranty Association, Inc. (“FIGA”) on behalf of the Board of Directors, to the Office of Insurance Regulation (the “OFFICE”) of FIGA’s certification of the need for an assessment. A copy of the certification is marked “Exhibit A” and attached hereto. The OFFICE, having considered FIGA’s certification and being otherwise duly advised in the premises, hereby finds that:

1. The OFFICE has jurisdiction over the subject matter of, and the parties to this proceeding pursuant to Section 631.57(3)(e), Florida Statutes, and other applicable provisions of the Florida Insurance Code.
2. FIGA is a nonprofit corporation, created by the Legislature, and codified in the Florida Insurance Guaranty Association Act in Sections 631.50 through 631.70, Florida Statutes.
3. Section 631.695, Florida Statutes, authorizes two or more municipalities or counties to create a legal entity pursuant to s. 163.01(7)(g) to issue tax-exempt debt obligations

through an entity created by interlocal agreement. The Florida Insurance Assistance Interlocal Agency ("FIAIA") was created to issue such debt obligations to fund an assistance program in conjunction with, and with the consent of FIGA, for the purpose of paying Covered Claims.

4. FIGA is requesting that FIAIA issue tax-exempt revenue bonds to fund the Hurricane Covered Claims Assistance Program to provide for the payment of Covered Claims resulting from insurance companies that have become insolvent or may become insolvent as a result of losses incurred due to hurricane claims including but not limited to those incurred due to Hurricanes Irma, Michael and Ian.

5. FIGA is requesting that FIAIA issue a short term debt obligation in the form of a bond anticipation note (the "Series 2023A Bond Anticipation Note") in an amount of \$150,000,000 to provide interim funding with which to begin processing the payment of Hurricane Claims on an expedited basis, and thereafter to use its best efforts to issue its Insurance Assessment Revenue Bonds, Series 2023A (Hurricane Covered Claims Assistance Program) (the "Series 2023A Bonds") in an amount not to exceed \$750,000,000 to pay or repay the Series 2023A Bond Anticipation Note and to provide additional funding for the payment of Covered Claims.

6. Section 631.57(3)(e) 1 and 2 Florida Statutes, states:

1. In addition to assessments authorized in paragraph (a), and to the extent necessary to secure the funds for the account specified in s. 631.55(2)(b) for the direct payment of covered claims of insurers rendered insolvent by the effects of a hurricane and to pay the reasonable costs to administer such claims, or to retire indebtedness, including, without limitation, the principal, redemption premium, if any, and interest on, and related costs of issuance of, bonds issued under s. 631.695 and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, the office, upon certification of the board of directors, shall levy emergency assessments upon insurers holding a certificate of authority. The emergency assessments levied against any insurer may not exceed in any one calendar

year more than 4 percent of that insurer's written premiums in this state for the kinds of insurance within the account specified in s. 631.55(2)(b).

2. Emergency assessments authorized under this paragraph shall be levied by the office upon insurers in accordance with paragraph (f), upon certification as to the need for such assessments by the board of directors. If the board participates in the issuance of bonds in accordance with s. 631.695, emergency assessments shall be levied in each year that bonds issued under s. 631.695 and secured by such emergency assessments are outstanding in amounts up to such 4 percent limit as required in order to provide for the full and timely payment of the principal of, redemption premium, if any, and interest on, and related costs of issuance of, such bonds. The emergency assessments are assigned and pledged to the municipality, county, or legal entity issuing bonds under s. 631.695 for the benefit of the holders of such bonds in order to provide for the payment of the principal of, redemption premium, if any, and interest on such bonds, the cost of issuance of such bonds, and the funding of any reserves and other payments required under the bond resolution or trust indenture pursuant to which such bonds have been issued, without further action by the association, the office, or any other party. If bonds are issued under s. 631.695 and the association determines to secure such bonds by a pledge of revenues received from the emergency assessments, such bonds, upon such pledge of revenues, shall be secured by and payable from the proceeds of such emergency assessments, and the proceeds of emergency assessments levied under this paragraph shall be remitted directly to and administered by the trustee or custodian appointed for such bonds (Emphasis Added).

7. Insurance written in the account designated by Section 631.55(2)(b), Florida Statutes, is hereinafter referred to as the "All Other Account."

8. On March 31, 2023, FIGA's Board of Directors met and adopted a certain resolution or resolutions, to create the Hurricane Covered Claims Assistance Program and to authorize and request FIAIA to issue the Series 2023A Bonds and the Series 2023A Bond Anticipation Note (collectively, the "Bonds"). That resolution or resolutions also certify the need for an emergency assessment of 1% in accordance with Section 631.57(3)(e), Florida Statutes, and provide that the assessment be authorized in advance for each assessment year beginning

October 1, 2023, and continuing until the end of the assessment year in which all of the Bonds have been paid in full and are no longer outstanding.

9. The OFFICE, FIGA, FIAIA, and The Bank of New York Mellon Trust Company, N.A, expect to enter into a Covered Claims Payment Assistance Program Agreement, in substantially the form attached as “Exhibit B” which will delineate the duties of the parties and, among other requirements place a duty on the OFFICE to levy a 1% assessment on Member Insurers covered by the All Other Account, for multiple years until the Bonds have been paid in full and are no longer outstanding.

10. Member Insurers shall either:

A. collect and then remit to the FIGA, the assessments levied in this Order on a quarterly basis. For each assessment year, assessments collected for the quarter beginning October 1 and ending December 31, shall be remitted on or before January 31; assessments for the quarter beginning January 1 and ending March 31, shall be remitted on or before April 30; assessments for the quarter beginning April 1 and ending June 30, shall be remitted on or before July 31; and assessments for the quarter beginning July 1, and ending September 30, shall be remitted on or before October 30; or

B. if the Member Insurer elects not to recoup the assessment from policyholders, then the Member Insurer can make quarterly payments to the FIGA at the times referenced above in 10.A. in amounts equal to the amount of premium written by the Member Insurer in the previous quarter for the All Other Account multiplied by 1%.

11. Member Insurers shall file reconciliation reports with FIGA with respect to each assessment year. FIGA shall send a final reconciliation report on all Member Insurer's payments to the OFFICE on or before January 30 for each assessment year until the Bonds are no longer outstanding.

IT IS THEREFORE ORDERED THAT:

1. FIGA's certification for an emergency assessment is hereby **APPROVED.**

2. FIGA MEMBER INSURERS SHALL:

A. Apply a 1% emergency assessment on premium written on all new and renewal All Other Account policies issued between October 1 and September 30 (an "Assessment Year") for each Assessment Year beginning October 1, 2023, and continuing until all of the Bonds have been paid in full and are no longer outstanding;


B. Pay to the FIGA a quarterly assessment in accordance with the provisions of paragraph 10 of this Order and further instructions, forms and procedures provided by FIGA; and

C. Submit an annual reconciliation to FIGA on or before 3 months following the end of each assessment year.

3. FIGA shall send a notice to all Member Insurers and to the OFFICE on or before June 30 of the final Assessment Year in which the Bonds will have been repaid in full and are no longer outstanding, informing Member Insurers that they may end collection of the 1% emergency assessment on September 30 of that final Assessment Year.

DONE and **ORDERED** this 10th day of April, 2023.





Mike Yaworsky, Commissioner
Office of Insurance Regulation

NOTICE OF RIGHTS

Insurers should notify the Office of Insurance Regulation (the “Office”) if the assessment would result in the insurer’s financial statement reflecting an amount of capital or surplus less than the sum of the minimum amount required by any jurisdiction in which the insurer is authorized to transact insurance.

Pursuant to Section 631.58(3)(g), the Plan of Operation for the Florida Insurance Guaranty Association shall provide that any member insurer aggrieved by any final action or decision of the association may appeal to the Department of Financial Services (the “Department”) within thirty (30) days after the action or decision.

The Plan of Operation, Article VII (B) states that any member insurer aggrieved by an action or decision of the association shall appeal to the Board before appealing to the Department. If such member insurer is aggrieved by the final action or decision of the Board, or if the Board does not act on such complaint within thirty (30) days, the member insurer may appeal to the Department within thirty (30) days after the action or decision of the Board or the expiration of the thirty (30) days.

Pursuant to Section 631.59(4), Florida Statutes, the Office may suspend or revoke the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the Plan of Operation. As an alternative, the Office may levy a fine on any member insurer which fails to pay an assessment when due. Such fine may not exceed five (5) percent of the unpaid assessment per month, except that no fine shall be less than one hundred U.S. dollars (\$100) per month.



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April 4, 2023

Commissioner Michael Yaworsky
Office of Insurance Regulation
200 East Gaines Street
Tallahassee, FL 32399-0305

RE: FIGA BOARD EMERGENCYASSESSMENT CERTIFICATION

Dear Commissioner Yaworsky:

The Florida Insurance Guaranty Association (FIGA) Board of Directors, pursuant to a resolution adopted on March 31, 2023, at a duly noticed Board Meeting, hereby certifies to the Office of Insurance Regulation (Office) the need for an emergency assessment upon its member insurers. The emergency assessment is necessary to secure funds for the payment of covered claims, to pay the reasonable costs to administer such claims, including claims resulting from insurance companies that have become insolvent or may become insolvent as a result of losses incurred due to hurricanes including but not limited to Hurricanes Irma, Michael and Ian, and to secure bonds issued to generate revenues to pay claims, in accordance with Section 631.57(3)(e) Florida Statutes. The emergency assessment is needed for the "All Other Account" designated in Section 631.55(2)(b), Florida Statutes.

The Board moved and adopted a motion to certify the need for an emergency assessment on member insurers for 1.0% of the Florida All Other Account direct written premium. The Board requests that member insurers collect the 1.0% assessment from their policyholders over the Assessment Year starting October 1, 2023 through September 30, 2024 and automatically continue annually until any bonds secured by the pledged emergency assessment are paid in full and no longer outstanding.

Following the instructions provided by FIGA, members will remit quarterly payments to the association for each year the assessment is automatically in place. Emergency assessments collected for the quarter beginning October 1, and ending December 31, shall be remitted on or before January 31, assessments collected for the quarter beginning January 1, and ending March 31, shall be remitted on or before April 30, assessments collected for the quarter beginning April 1, and ending June 30, shall be remitted on or before July 31, assessments collected for the quarter beginning July 1, and ending September 30, shall be remitted on or before October 31. Member insurers will also file a reconciliation report with FIGA to remit the actual surcharge amount collected during the assessment period. Such quarterly payments shall be made on the quarterly dates set forth herein for each year that bonds issued and secured by the emergency assessments are outstanding.

Pursuant to Section 631.57(3)(e), Florida Statutes, and FIGA Plan of Operation, the Board requests the Office issue an order:

- 1) Applying a 1.0% emergency assessment on premium written by All Other Account members during the 12-month period beginning October 1, 2023 through September 30, 2024;
- 2) The 1.0% emergency assessment shall be automatically extended annually thereafter until any bonds secured by the emergency assessment are no longer outstanding;
- 3) Pay to FIGA quarterly all amounts collected under this assessment on further instructions, forms and procedures provided by FIGA;

The above request meets the 30-day notice requirement for insurers to remit assessments as well as the 90-day notice requirement to implement policy surcharges as set forth in Section 631.57, Florida Statutes. Upon the issuance of the emergency assessment levy, FIGA will notify all member insurers and provide a copy of the Notice of Rights along with instructions for payment remittances and reconciliations.

Thank you for your assistance in this matter. If you have any questions, please feel free to contact me at (850) 386-9200 or direct dial at (850) 523-1803.

Sincerely,



Corey Neal
Executive Director

cc: FIGA Board of Directors