

**FILED**

AUG 02 2022

**INSURANCE REGULATION**  
Docketed by: AS



**OFFICE OF INSURANCE REGULATION**

**DAVID ALTMAIER**  
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 298695-22

CITIZENS PROPERTY  
INSURANCE CORPORATION

IMMEDIATE FINAL ORDER

TO: Barry Gilway, President  
2101 Maryland Circle  
Tallahassee, FL 32303

THIS CAUSE came before the FLORIDA OFFICE OF INSURANCE REGULATION (“OFFICE”) for review of a reinsurance proposal for CITIZENS PROPERTY INSURANCE CORPORATION (“CITIZENS”) to offer an endorsement implementing a temporary plan to offer reinsurance arrangements as an extraordinary remedy for specific insurers that do not have an acceptable Financial Stability Rating from Demotech, Inc. as required for the secondary mortgage market. This reinsurance proposal was developed in response to an announcement by Demotech, Inc. that it intended to effectuate widespread downgrades of Florida domestic insurers. The sudden loss of an acceptable financial strength rating for numerous insurers, effective during the Atlantic Hurricane Season, would have a significant, immediate and adverse impact on the welfare of Florida insurance consumers, insurers, agents, and the overall property insurance market. The majority of policies from downgraded insurers would likely be forced to seek coverage from CITIZENS as a result of the loss of the financial strength rating. This temporary reinsurance

arrangement allows those insurers to remain viable, to continue to provide coverage for Floridians, and to keep policies out of CITIZENS. Under the reinsurance arrangement, CITIZENS would only be responsible for losses in excess of covered claims as defined in Section 631.54(4), Florida Statutes and only if one of the downgraded insurers became insolvent. If an insurer covered by the reinsurance arrangement is declared insolvent, the Florida Insurance Guaranty Association (“FIGA”) shall carry out its statutory duties under Part II of Chapter 631, Florida Statutes, and pay claims as set forth in the statute. In the event that on a particular claim CITIZENS’ obligations pursuant to a CITIZENS’ Agreement to Provide Cut Through Endorsements (“Cut Through Agreement”) are triggered, FIGA will be responsible for adjusting the claim and discharging all of its obligations to the extent required pursuant to Chapter 631, Florida Statutes. Following a complete review of the entire record, and upon consideration thereof, and being otherwise fully advised in the premises, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter and the parties herein.
2. CITIZENS was created by statute with the public purpose to ensure the existence of an orderly market for property insurance for Floridians and Florida businesses.
3. CITIZENS’ plan of operation Section 7(B) provides it “shall have all powers reserved for or available to corporations and authorized insurers in the State.”
4. CITIZENS is authorized by Section 627.351(6), Florida Statutes to write personal and commercial residential property insurance and commercial nonresidential property insurance.
5. Pursuant to the foregoing statutes and CITIZENS’ plan of operation, CITIZENS is authorized to reinsure personal and commercial residential property insurance policies and commercial nonresidential property insurance policies.

6. The Federal National Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac”) require that property insurance policies for properties with a mortgage backed by Fannie Mae or Freddie Mac must be written by a property insurance carrier meeting certain financial rating requirements.

7. Fannie Mae and Freddie Mac each provide an exception to the property insurance carrier rating requirements provided that an insurer is covered by a reinsurer who assumes by endorsement 100% of the insurer’s liability for any covered loss payable but unpaid by the insurer by reason of insolvency.

8. CITIZENS submitted an endorsement (“Endorsement” attached as Exhibit A) to the OFFICE for review and approval, which would be issued to the relevant Florida policyholders of the authorized insurers that participate in this reinsurance program (“Participating Insurer(s)”). (See Exhibit B). CITIZENS and the Participating Insurer will execute the Endorsement and the Participating Insurer will attach it to each policy of the Participating Insurer that is subject to the Cut Through Agreement.

9. In addition to the Endorsement, CITIZENS has submitted its Cut Through Agreement (Exhibit C) and its Priority of Claims and Claims Adjustment Agreement with FIGA (Exhibit D) for the OFFICE’s review. CITIZENS’ reinsurance proposal, which includes all of the aforementioned documents, qualifies as an acceptable reinsurance arrangement.

10. Pursuant to the reinsurance proposal, the Endorsement provides for CITIZENS to become immediately liable for 100% of any loss payable on a policy of the Participating Insurer in the event the Participating Insurer is declared insolvent pursuant to Chapter 631, Florida Statutes. In the event of such insolvency, CITIZENS shall discharge the obligation to ensure that

100% of losses payable under such policy are satisfied by assuming liability for any covered loss that exceeds the limits of FIGA.

WHEREFORE, pursuant to Sections 120.569(2)(n), 120.68, 627.351(6), 627.410, Florida Statutes, the OFFICE recognizes that CITIZENS PROPERTY INSURANCE CORPORATION is authorized to act as a reinsurer and is ORDERED to offer the temporary reinsurance arrangement to Participating Insurers as identified by the OFFICE. The Endorsement to be issued by Participating Insurers and CITIZENS is APPROVED for immediate use.

FURTHER, all terms and conditions contained herein are ORDERED.

DONE AND ORDERED this 2 day of August 2022.



David Altmaier  
David Altmaier, Commissioner  
Office of Insurance Regulation

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek a review of this Order pursuant to sections 120.569(2)(n) and 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure. Review proceedings must be instituted by filing a petition or notice of appeal with the General Counsel, acting as the agency clerk, at 200 E. Gaines Street, 645 Larson Building, Tallahassee, Florida 32399-4206, and a copy of the same with the appropriate district court of appeal within thirty (30) days of rendition of this Order.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this IMMEDIATE FINAL ORDER was sent by e-mail to: Barry Gilway, President, Citizens Property Insurance Corporation, at [Barry.Gilway@citizensfla.com](mailto:Barry.Gilway@citizensfla.com) on this 2<sup>nd</sup> day of August, 2022.

  
Anoush Arakalian Brangaccio  
FBN: 5126  
General Counsel  
Office of Insurance Regulation  
Larson Building  
200 East Gaines Street  
Tallahassee, FL 32399-4206  
Phone: (850) 413-4116  
Fax: (850) 922-2543  
Anoush.Brangaccio@flor.com  
www.flor.com

**ASSUMPTION OF LIABILITY ENDORSEMENT**

Attached to and forming a part of Policy No. \_\_\_\_\_ issued by the primary insurer (Reinsured) named below:

Named Insured: \_\_\_\_\_

Property Address: \_\_\_\_\_  
\_\_\_\_\_

For value received, the undersigned Reinsurer hereby agrees that in the event of the insolvency of the Reinsured, the undersigned will immediately become liable for 100% of any loss payable under the above identified policy subject to the other terms of said policy. In the event of the insolvency of the Reinsured, the Reinsurer shall discharge the obligation to ensure that 100% of losses payable under the above identified policy are satisfied by assuming liability for any covered loss that exceeds the limits of the Florida Insurance Guaranty Association.

As a condition precedent hereunder, the Reinsurer shall be subrogated to all rights of the Named Insured and Mortgagee or Beneficiary to the extent of such payment.

The coverage provided under this endorsement will cease on June 1, 2023, unless terminated earlier upon 90-days written notice to the Named Insured, the Reinsured, and the Mortgagee.

It is further understood and agreed that when this endorsement is attached to a Homeowner's Policy, it applies only to Section I of said Policy.

\_\_\_\_\_  
(Reinsured)

\_\_\_\_\_  
(Reinsurer)

By \_\_\_\_\_

By \_\_\_\_\_

\_\_\_\_\_  
(Official Title)

\_\_\_\_\_  
(Official Title)

Date \_\_\_\_\_

Date \_\_\_\_\_

The OFFICE finds that authorized insurers that have been downgraded by Demotech, Inc. from a Financial Stability Rating of “A” on or after August 1, 2022, that are in compliance with the Florida Insurance Code are eligible to participate in the reinsurance program offered by CITIZENS. (“Participating Insurers”). The OFFICE will notify CITIZENS as insurers are deemed eligible to participate in the reinsurance program. The OFFICE will maintain a current list of such Participating Insurers on its website. As of the issuance of this Immediate Final Order, the following insurer is eligible to participate:

1. United Property & Casualty Insurance Company.

## **AGREEMENT TO PROVIDE CUT THROUGH ENDORSEMENTS**

Citizens Property Insurance Corporation (“Citizens”) and \_\_\_\_\_ (“Company”) hereby enter this Agreement to Provide Cut Through Endorsements (“Agreement”) and state as follows:

WHEREAS, Citizens is a government entity that is an integral part of the State created pursuant to Section 627.351(6), Florida Statutes.

WHEREAS, Citizens’ public purpose is to ensure that there is an orderly market for property insurance for residents and businesses in Florida.

WHEREAS, Company is a Florida domestic property insurer and has experienced a downgrade of its Demotech rating, and as such no longer meets the property insurance carrier rating requirements of the Federal National Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac”) for insurers issuing policies covering dwellings with mortgages owned by these entities. (For purposes of this Agreement, Company’s property insurance policies covering properties located in Florida are “Covered Policies.”)

WHEREAS, the absence of affordable property insurance for Freddie Mac or Fannie Mae financed homes by downgraded insurers threatens the public health, safety, and welfare and likewise threatens the economic health of the State and would result in a huge increase in policies issued by Citizens, which is not in the best interests of the State. The State therefore has a compelling public interest and a public purpose to assist in assuring that property in the State of Florida is insurable for Freddie Mac or Fannie Mae financed homes so that those policies don’t have to be written by Citizens and that they are insured at affordable rates so as to facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid the negative effects otherwise resulting to the public health, safety, and welfare, to the economy of the State, and to the revenues of the State and local governments which are needed to provide for the public welfare. It is necessary, therefore, to provide affordable property insurance to applicants who are in good faith entitled to procure insurance through the voluntary market utilizing Freddie Mac or Fannie Mae financed dwellings but are unable to do so as a result of the downgrading of certain insurers.

WHEREAS, Fannie Mae and Freddie Mac each provide an exception to the property insurance carrier rating requirements provided that Company is covered by a reinsurer who assumes by endorsement 100% of Company’s liability for any covered loss payable but unpaid by the insurer for reason of insolvency.

WHEREAS, OIR and the Board have the right and obligation to modify Citizens’ plan to achieve the public purposes for which Citizens was formed.

WHEREAS, pursuant to an order issued by the Office of Insurance Regulation (“OIR”), Citizens is authorized to contract with Company for such endorsement.



WHEREAS, the OIR has provided reasonable assurances to Citizens that Company is in compliance with the Florida Insurance Code.

THEREFORE, it is agreed as follows:

1. This Agreement shall expire no later than June 1, 2023, unless terminated earlier.
2. For the Company's Covered Policies and provided this Agreement is still in effect, upon a determination pursuant to Chapter 631 that the Company is insolvent, Citizens will immediately become liable for 100% of any loss payable under the above identified Covered Policies subject to the other terms of said policies. Citizens shall discharge the obligation to ensure that 100% of losses payable under Covered Policies are satisfied by assuming liability for any covered loss that exceeds the limits of the Florida Insurance Guaranty Association ("FIGA").
3. Citizens will not be responsible for any losses if the determination of insolvency occurs after this Agreement ceases to be in effect.
4. Only policies issued by Company to cover properties in the State of Florida may be Covered Policies.
5. Citizens reserves the right, under this Agreement to raise any defenses available to any claims for which coverage is sought pursuant to this Agreement.
6. This Agreement does not allow contributions or assessments to be made against Fannie Mae or Freddie Mac or to become a lien on any property insured under a Covered Policy that is superior to Fannie Mae's or Freddy Mac's lien.
7. Nothing in this Agreement shall be construed or interpreted to operate as a waiver of any privileges or immunities enjoyed by Citizens pursuant to Section 627.351(6)(s), Florida Statutes, or any other provision of Florida or Federal law or any provision of the United States or Florida Constitutions.
8. Nothing in this Agreement shall be construed to subject Citizens to the jurisdiction of any court outside of the State of Florida.
9. Nothing in this Agreement shall be construed to alter, limit, or modify the obligations of FIGA to pay liabilities for Covered Losses pursuant to its authority or obligations under Florida law.
10. Nothing in this Agreement shall be construed to alter, limit, or modify the obligations of any of Company's reinsurers under any reinsurance agreement.

11. Nothing in this Agreement shall be construed to make Citizens liable to duplicate payments that Company or any policyholder thereof has already received pursuant to an insurance policy or from any other source.
12. Company shall be responsible for mailing any endorsements in accordance with the requirements of Fannie Mae, Freddie Mac, and OIR.
13. Upon Citizens' request the Company shall provide Citizens full access to any underwriting and claims information related to Covered Policies.
14. Upon execution of this Agreement, the Company shall provide Citizens a full list of Covered Policies along with any data requested by Citizens related to such policies.
15. This Agreement may be terminated prior to its expiration upon the issuance of 90-days written notice to the Company, the named insured, and the mortgagee on any Covered Policy.
16. Company will be responsible for the costs associated with mailing any notices required under this Agreement or otherwise required to continue to comply with the exceptions to Fannie Mae and/or Freddie Mac's property insurer carrier rating requirements.
17. This Agreement will become effective on the date that authorized representatives of both Citizens and the Company have executed and delivered this Agreement. This Agreement may be signed in counterparts.

AGREED to and signed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITIZENS PROPERTY INSURANCE CORPORATION

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Barry Gilway, CEO

COMPANY

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CHIEF EXECUTIVE OFFICER/PRESIDENT

## PRIORITY OF CLAIMS AND CLAIMS ADJUSTMENT AGREEMENT

Citizens Property Insurance Corporation (“Citizens”) and the Florida Insurance Guaranty Association (“FIGA”) hereby enter into this Priority of Claims and Claims Adjustment Agreement (“Agreement”) and agree as follows:

WHEREAS, Pursuant to Section 631.51, Florida Statutes, FIGA exists to provide a mechanism for the payment of covered claims under certain insurance policies to avoid excessive delay in payment and to avoid financial loss to claimants or policyholders because of the insolvency of an insurer.

WHEREAS, Pursuant to Section 631.57(2)(d), Florida Statutes, FIGA may become a party to such contracts as are necessary to carry out the purpose of Part II of Chapter 631.

WHEREAS, Citizens is an integral part of the State of Florida, created pursuant to Section 627.351(6), Florida Statutes, and has entered into an Agreement to Provide Cut Through Endorsements (“Cut Through Agreement”) with various insurers listed on Exhibit A and all additional insurers that become parties to a Cut Through Agreement (each a “Company”) so as to ensure that the Companies which have been downgraded by Demotech do not fail to meet the property insurance carrier requirements of the Federal National Mortgage Association (“Fannie Mae”) and the Federal Home Loan Mortgage Corporation (“Freddie Mac”).

WHEREAS, Citizens and FIGA have a common interest and purpose in ensuring that each Company may continue to provide coverage to policyholders whose insured properties are financed by Fannie Mae or Freddie Mac and that, in the event of an insolvency of a Company, such policyholders’ claims will be paid.

THEREFORE, the Parties agree:

1. In the event that a Company is declared insolvent, FIGA shall carry out its statutory duties under part II of Chapter 631 and pay claims as set forth in that statute. In the event that on a particular claim Citizens’ obligations pursuant to a Citizens’ Cut Through Agreement are triggered, FIGA will be responsible for adjusting the claim and discharging all of its obligations to the extent required pursuant to Chapter 631, Florida Statutes.
2. In such instance, Citizens and FIGA will develop a process for communicating claim information and payment information on Company policies that are covered under Citizens’ Cut Through Agreements (such policies are hereinafter referred to as “Covered Policies”). FIGA shall adjust the portion of a claim which is in excess of the statutory limits of FIGA, and provide a recommendation to Citizens on such claims on whether to pay or defend such claim amounts that are subject to coverage under the Citizens’ Cut Through Agreements. Citizens shall reimburse

FIGA for its share of the allocated loss adjustment expenses on such claims, which are defined as amounts over and above the usual and customary costs FIGA incurs to adjust its portion of the claim, including attorneys' fees incurred in the event FIGA determines to pay a claim and Citizens chooses to defend such claim.

3. Nothing in this Agreement shall prevent Citizens from relying upon its own claims handling and claims adjusting processes to the extent that Citizens assumes the adjustment or defense of any claim.
4. Citizens and FIGA agree that each is entitled to all underwriting and claim information related to any Covered Policy, which will be provided by the Receiver to FIGA and shared with Citizens.
5. Citizens and FIGA agree that, should Citizens be served with a suit on a Covered Policy, FIGA will be responsible for defending the suit to the same extent it would be so required under Chapter 631, Florida Statutes. If the suit involves a dispute over an amount in excess of the FIGA coverage limits, or outside of the definition of a covered claim in Section 631.54(4) but is within the coverage of the Company insurance policy and therefore covered by Citizens through its Cut Through Agreement, Citizens will be responsible for reimbursing FIGA for its allocated loss adjustment expenses including attorneys' fees and costs for that portion of the suit.
6. Nothing herein shall make FIGA responsible for losses that it would otherwise not be responsible for under Chapter 631, Florida Statutes.
7. Nothing herein shall obligate FIGA to pay more than it is otherwise obligated to pay under Chapter 631, Florida Statutes.
8. To the extent that a loss on a Covered Policy is payable under the terms of such policy, and to the extent that the liability of such loss exceeds the limits of what FIGA is otherwise legally obligated to pay under Chapter 631, Florida Statutes, payment of such excess amount will be the responsibility of Citizens. Citizens is not responsible for payment of any unearned premium.
9. Upon the termination or expiration of a Cut Through Agreement between a Company and Citizens, this Agreement shall automatically terminate with respect to that Company.
9. This Agreement shall be effective on the date that it has been executed and delivered by the authorized representatives of Citizens and FIGA. This Agreement may be signed in counterparts.

**<<SIGNATURE PAGES TO FOLLOW>>**

AGREED to and signed this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

CITIZENS PROPERTY INSURANCE CORPORATION

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Barry Gilway, CEO

FLORIDA INSURANCE GUARANTY ASSOCIATION

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Corey Neal, Executive Director