



CONSTITUTION

INSURANCE PLACEMENT FACILITY OF DELAWARE

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CONSTITUTION

of the

INSURANCE PLACEMENT FACILITY OF DELAWARE

ARTICLE I

NAME

- Section 1. This organization shall be an unincorporated association and shall be known as the Insurance Placement Facility of Delaware, hereinafter referred to as the "Facility". Its headquarters shall be at Philadelphia, Pennsylvania.

ARTICLE II

AIMS AND PURPOSES

- Section 1. The aim and purposes of the Facility shall be to provide basic property insurance so as to effectuate the purposes of the Delaware FAIR Plan Act, as amended.
- Section 2. The Facility shall attempt:
- 2.1 To encourage stability in the property insurance market for property located in the State of Delaware;
 - 2.2 To encourage, with the least possible administrative expense and detail, access to and availability of basic property insurance as defined by the FAIR Plan Act.
 - 2.3 To encourage the improvement of the condition of properties located in the State of Delaware;
 - 2.4 To provide for the formulation and administration by the Insurance Placement Facility of Delaware of a plan assuring fair access to insurance requirements in order that no property shall be denied basic property insurance through the normal insurance market provided by the private property insurers except after a physical inspection of such property and a fair evaluation of its individual underwriting characteristics;
 - 2.5 To publicize the purposes and procedures of the Plan to the end that no one may fail to seek its assistance through ignorance thereof;
 - 2.6 To provide for the formulation and administration of the Facility and of procedures and rules, whereby property insurers shall share equitably the

responsibility for insuring insurable property for which basic property insurance cannot be obtained through the normal insurance market; and

2.7 To enable participating insurers to comply with the Delaware FAIR Plan Act.

ARTICLE III

MEMBERSHIP

- Section 1. Each insurer which is authorized to write and is engaged in writing, within the State of Delaware on a direct basis, basic property insurance or any component thereof contained in a multiple peril policy, shall be a Member of this Facility. Other insurers may become Members, provided they are eligible unlicensed insurers.
- Section 2. Each Member shall participate in the writings, profits, losses and expenses of the Facility in any particular year in the same proportions that its respective premiums written during the second preceding calendar year bear to the total of such premiums written by all Members during said second preceding year. The participation of all Members shall be thus determined annually and shall be fixed for a period of one calendar year.
- Section 3. If a Member's authority to write basic property insurance within the State of Delaware is involuntarily terminated by action of the Insurance Commissioner during a calendar year, then with respect to all policies issued for the balance of the year the share of the Member terminated shall be spread among and assumed by the remaining Members in accordance with their participation in the Facility for that year.
- Section 4. In the event any Member fails to pay, upon lawful assessment, its proportionate part of any loss or expense and such failure is due to (i) insolvency or (ii) any other circumstance and the Board of Directors determined that such assessment cannot be collected within a reasonable period of time, such unpaid loss or expense shall be paid by the remaining Members, each contributing in the manner provided in Section 2 of this Article III of the Constitution for the distribution of losses and expenses, but without regard to the premium writing of the defaulting Member. The defaulting Member shall remain liable to the Facility for the full amount of any such unpaid assessment and any collection made by the Facility against such assessment shall be credited and paid back to the other Member companies in the same proportions as shall have been utilized in calculating each company's contribution toward such defaulted assessment.
- Section 5. No amount which could otherwise be distributed under this Constitution shall be distributed to a Member when membership has been terminated, or to the liquidator, receiver, conservator, or statutory successor of such Member until the obligation of such Member to the Facility has been completed, and said amounts shall be applied as a set-off against said

obligation to the extent necessary to complete said obligation. Any balance remaining shall be thereafter remitted to the Member or to the liquidator, receiver, conservator, or statutory successor of the Member pursuant to appropriate written application.

Section 6. The following powers are reserved to the Members:

- 6.1 To elect and remove with cause the members of the Board of Directors, provided; however, the Board of Directors may fill vacancies which may occur between the Annual Meeting of the Facility Members;
- 6.2 To adopt and amend the Facility's Constitution and By-Laws, as provided in this Constitution and in the By-Laws, subject to such other approval as may be required by law.

ARTICLE IV

MEETINGS OF FACILITY MEMBERS

- Section 1. The Facility Members shall hold an Annual Meeting each year (which meeting shall be known as the Annual Meeting of the Facility). Special meetings of the Members may also be held from time to time.
- Section 2. Voting at meetings of Facility Members shall be weighted in accordance with the participation of each Member in the Facility (as defined in Article III, Section 2 of this Constitution).

ARTICLE V

BOARD OF DIRECTORS

- Section 1. The Facility shall be governed by a Board of Directors consisting of eleven (11) Members. Membership of the Board of Directors shall be by companies, and each Member company elected to the Board shall designate a person to represent it at all meetings of the Board and shall file such designation with the President. Such Member company shall have the right to name an alternate to act on its behalf.

ARTICLE VI

PRESIDENT

- Section 1. The chief operating officer and the chief executive officer of the Facility shall be its President, who shall be appointed by the Board of Directors.

ARTICLE VII

SYNDICATE POLICY

- Section 1. Policies of insurance shall be issued in such form that each Member of the Facility shall be either a direct insurer or a direct reinsurer thereunder the proportion of participation determined in accordance with Article III of this Constitution. With respect to any policy, each Member's participation at inception of the policy shall continue throughout the term of the policy. The liability of each Member under any such policy shall be several, each for itself, and not joint, and no Member shall be liable under any such policy, for the obligation of any other Member thereunder.
- Section 2. The Members of the Facility shall execute and deliver to the Facility such written powers of attorney as the Board of Directors shall determine to be necessary and advisable to enable the Facility to execute syndicate policies on behalf of the companies participating therein.

ARTICLE VIII

INDEMNIFICATION

- Section 1. Indemnification may be provided by the Facility by specific By-Laws consistent with existing law.

ARTICLE IX

ASSESSMENTS

- Section 1. The Board of Directors shall determine the expense of operating the Facility and of any cash reserves required to be maintained and shall from time to time assess each Member its share of the expense and such reserves in accordance with its participation in the Facility and in accordance with the laws of the State of Delaware. The Board may set a minimum assessment to be paid by any Member.
- Section 2. Each Member shall make payment of any assessments within thirty (30) days of receipt of notice of the assessment.

ARTICLE X

BY-LAWS

- Section 1. Following the adoption of this Constitution, the Board of Directors shall cause to be written By-Laws of the Insurance Placement Facility of Delaware.

ARTICLE XI

SAVING CLAUSE

- Section 1. If any section of this Constitution is declared illegal or in violation of public policy, such declaration shall not destroy the application of effect of the other sections of this Constitution.

ARTICLE XII

AMENDMENTS TO THE CONSTITUTION

- Section 1. This Constitution may be adopted, amended, repealed or suspended at any meeting of the Members of the Facility, by a two-thirds ($\frac{2}{3}$) majority vote (with voting weighted as set forth in Article III, Section 2 and Article IV, Section 2) of all Members.
- Section 2. Written notice of proposed changes to this Constitution shall be sent to the President of the Facility and to the Board of Directors at least ninety (90) days in advance of any action on such changes by the Members. The President or the Chairman shall send the proposed changes to the Members sixty (60) days before the meeting set for a vote on the proposed changes.
- Section 3. Amendments to this Constitution also may be initiated by resolution of the Board of Directors.
- Section 4. Final action on an amendment, repeal, or suspension of this Constitution is the exclusive responsibility of the Members of the Facility. Upon adoption by the Members and approval of the Insurance Commissioner, the revised Constitution is intended to control all legal acts and resolutions of the Members and Directors of the Facility, in conjunction with the By-Laws.
- Section 5. This Constitution and any amendment, repeal, or suspension are subject to the approval of the Insurance Commissioner of Delaware. This Constitution and any amendment, repeal, or suspension shall not be effective until submitted to the Insurance Commissioner of Delaware and approved by him/her in the manner prescribed by law.

ARTICLE XIII

DISSOLUTION

- Section 1. This Facility shall be dissolved when the Delaware FAIR Plan has expired and all obligations under policies issued by the Facility have been discharged.

Section 2. Upon dissolution, the Board of Directors shall have the power and duty to collect all accounts, assets or funds belonging to the Facility or to its Members resulting from the operations of the Facility; pay debts and obligations of the Facility and of its Members resulting from the operations of the Facility; transfer and convey all good will which may have accrued to the Facility or its Members resulting from the operations of the Facility; adjust, as between Members, all rights and interest in the Facility and in the proceeds thereof and in the relations of the Members of the Facility to each other resulting from the operations of the Facility; and take all other steps and actions as may be deemed by the Board of Directors to be necessary to carry into full effect the foregoing provisions and for liquidating and terminating the affairs of the Facility.

ARTICLE XIV

EFFECTIVE DATE

- Section 1. This Constitution shall become effective thirty (30) days after the latter of the following events, both of which must occur for it to become effective;
- a) Approval by the Members of the Facility; and
 - b) Approval by the Insurance Commissioner of Delaware.