FLORIDA INSURANCE GUARANTY ASSOCIATION

# ANNUAL REPORT 2020

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# OVERVIEW + HISTORY

## 2020 OVERVIEW

Guaranty Fund legislation was enacted in Florida in 1970 to ensure that insurance contracts would be honored, even when an insurance company fails. Although the Florida insurance market has changed significantly over the last 51 years, the Florida Insurance Guaranty Association ("FIGA" or "Association") remains the insurance safety net for policyholders and claimants. The Merriam-Webster dictionary defines "safety net" as "something that helps someone who is in a difficult situation." Fifty one years later, not only is FIGA still protecting Florida policyholders following an insurance company failure, but we continue to work to strengthen that safety net.

Insurance insolvencies are unpredictable. FIGA is notified when there is a court filing for a liquidation order against an insolvent insurance company impacting Florida policyholders. There is no way of knowing when the next insurance insolvency may occur. 2020 was a busy year for FIGA with the addition of 32,084 new claims. We started the year with 2,515 open claims, received 32,084 new claims, closed 26,195 claims, ending the year with 8,404 open claims. Florida Specialty Insurance Company, which was liquidated in October 2019, saw an additional 605 claims in 2020 bringing the total handled by FIGA to 3,615 as of December 31, 2020. Windhaven Insurance Company was liquidated January 6, 2020 bringing 25,232 claims to FIGA as of December 31, 2020. Windhaven National Insurance Company was liquidated March 5, 2020 bringing 6,244 claims to FIGA as of December 31, 2020. Gateway Insurance Company was liquidated in June 2020 and only brought two claims to FIGA. The Florida Specialty and Windhaven insolvencies were impacted by the two ongoing challenges in the Florida insurance marketplace; homeowner assignment of benefits (AOB) and automobile personal injury protection (PIP).

For assessment purposes, FIGA is divided into two separate accounts: The Auto Account and the All Other Account (Florida Statute 631.55). A more detailed review of the claims and liabilities by Account is provided below:

### Auto Claims Account

FIGA started 2020 with 19 open auto claims, received 31,477, closed 23,842, ending the year with 7,654. Total outstanding liabilities in the Auto Account at year end are **$46.1 million**.

### All Other Claims Account

The open claims count for all other lines of business (except auto) started the year at 2,496, 607 new claims were received and 2,387 were closed, resulting in a year-end inventory of 716 open claims. Total outstanding liabilities in the All Other Claims Account at year end are ***$21.9million***.

Over the next several pages, we have provided a summary of the information needed to understand why the guaranty fund was created, how it operates, and its financial status. Additional information can be found on our website: www.figafacts.com and on the Florida Division of Rehabilitation and Liquidation's website: www.myfloridacfo.com/division/receiver/ as well as in the Florida Statutes beginning at 631.50.

# WHAT IS A GUARANTY ASSOCIATION?

Insurance guaranty associations provide protection to insurance policyholders and beneficiaries of policies issued by an insurance company that has become insolvent and is no longer able to meet its obligations. All states, the District of Columbia, and Puerto Rico have insurance guaranty associations.

If an insurance company has insufficient funds to cover all of its obligations, state regulators will ask the state court to issue an order of liquidation appointing a receiver to identify creditors, collect and distribute available assets in accordance with statutory priorities and then close the receivership. The state guaranty associations are responsible for paying the policyholder claims and reporting those payments to the Receiver.

Guaranty associations ease the burden on policyholders and claimants of the insolvent insurer by immediately stepping in to assume responsibility for most policy claims following liquidation. The coverage guaranty associations provide is fixed by the policy or state law; they do not offer a replacement policy. If there were no insurance guaranty associations, policyholders and claimants would have to wait until the receivership closed before obtaining any compensation from their former insurance carrier.

As a safety net, individual Florida policyholders have up to **$300,000** in coverage for most insurance lines, with an additional **$200,000** for damages to structure and contents on residential homeowners' claims. Condominium association claims are limited to the lesser of policy limits or **$200,000 times the number of residential units**. While this may not totally replace the insurance policy issued by the insolvent carrier, it does serve to mitigate the insurance consumer's losses.


## PURPOSE

"To implement Florida Statute section **631.51** and to provide a mechanism for the payment of covered claims, to avoid excessive delay in payment and to avoid financial loss to claimants in the event of the insolvency of a member insurer.

## HISTORY & BACKGROUND OF FIGA

Florida Insurance Guaranty Association is an insurance guaranty fund created by Florida Statute 631.55 in 1970, to provide a mechanism for the payment of covered claims of insolvent property and casualty insurance companies in Florida. The initial legislation was in response to a number of insolvencies in the automobile insurance market, but the guaranty fund covers multiple lines written by licensed property and casualty carriers in the State of Florida. All property and casualty insurers defined in Florida Statute 631.52 are automatically members of FIGA as a condition of their authority to offer these lines of insurance.

This consumer safety net is governed by ***Part II of Chapter 631***, Florida Statutes, as well as a Plan of Operation established by its Board of Directors. The Board of Directors is comprised of not less than five or more than nine members who are elected by the member insurers. Elected board members are approved by the Chief Financial Officer who evaluates whether all areas of insurance are fairly represented and that the individuals have the requisite qualifications for service.

Assessments are levied based upon the premiums written by member companies in the state of Florida. Regular assessments are limited to **2% annually**. Emergency Assessments may only be used when the insolvency results from hurricane losses and were increased from **2%** to **4% annually** during the 2020 legislative session.

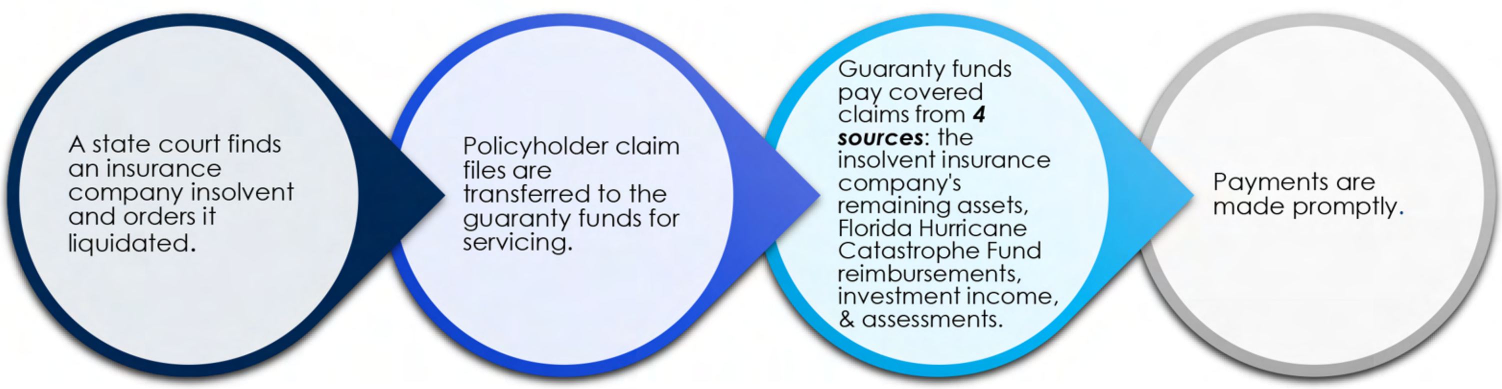
In 2004 the American Guaranty Fund Group ("AGFG") was created to function as the management company for FIGA and the Florida Workers' Compensation Insurance Guaranty Association ("FWCIGA"). AGFG's mission is to instill public confidence in the insurance industry by efficiently managing claims for guaranty associations to fulfill their statutory obligation. Both FIGA and FWCIGA were created by the legislature but provide services to different types of insurance policies; FIGA covers automobile insurance, property insurance and other liability lines of business (see Florida Statute 631.52); FWCIGA covers workers' compensation and employer's liability insurance. Initially AGFG was formed to facilitate the consolidation of executive management. In 2008 all employees of both organizations were consolidated in AGFG resulting in cost savings for each of the organizations and consistency in processes for Florida consumers. While the employees were consolidated, each organization retains its individual statutorily authorized Board of Directors. Additional information about American Guaranty Fund Group can be found on its website: **www.agfgroup.org**.

# THE LIQUIDATION PROCESS

There is no "typical" insurance insolvency, but in general the liquidation process proceeds as follows:

- The Receiver (in Florida this is the Florida Department of Financial Services, Division of Rehabilitation and Liquidation) gathers claim file data and makes other logistical preparations, including filing a petition in the state court for a determination of insolvency.
- The state court issues an Order of Liquidation and specifically appoints a Receiver and details the actions and authority allowed of the Receiver.
- The Order of Liquidation will provide a date for which all insurance policies will be cancelled.
- The Receiver transfers claim files and/or claim data to the individual state guaranty associations. These claims are typically transferred to the state where the claimant resides, or where the property is located, at the date of the insurance claim.
- The guaranty association staff begins to adjust and pay claims.
- The Receiver identifies creditors and collects the company's assets.
- The Receiver may distribute, on an interim basis, funds to the guaranty associations to assist them in paying the claims. They can make partial distributions to other creditors with the approval of the court and following the state statute for the priority of distributions (FS 631.271).
- After all assets are collected, a final distribution is made to the guaranty associations and other claimants, before the estate is closed.

## GUARANTY FUNDS AT WORK



## THE STATE BASED GUARANTY SYSTEM

Individual state guaranty funds were created to respond quickly to the concerns of policyholders when an insolvency occurs. Each state guaranty association has differences in their state laws. They can explain coverage benefits, the claim submission and payment process, and understand how to adjudicate claims promptly and efficiently for their state. Through membership in the National Conference of Insurance Guaranty Funds ("NCIGF"), the state based insurance guaranty system is able to enjoy the operational efficiencies of a national system while effectively responding to the often local concerns of insurance consumers experiencing the stresses associated with the failure of their insurance company.

FIGA monitors insurers that are in "run-off" phases under various regulatory controls in several jurisdictions. Participation in NCIGF has facilitated the oversight process for troubled companies. Collaborating with regulators and receivers is critical in preparing guaranty associations for their responsibilities in the event the companies are placed into liquidation. FIGA has a close working relationship with the Florida Office of Insurance Regulation as well as the Florida Division of Rehabilitation and Liquidation. Maintaining open communication between guaranty associations and the regulatory community is key to the overall success and efficient operation of the guaranty association system nationwide.

## NATIONAL CONFERENCE OF INSURANCE GUARANTY FUNDS

NCIGF is a not-for-profit organization whose members are the individual state guaranty fund associations. The NCIGF does not pay claims, but rather coordinates the multi-state claims-paying activities, monitors litigation that may affect multiple guaranty associations, and coordinates on legislative matters. In addition, they provide education and training seminars for guaranty funds and a national forum for discussion on matters impacting guaranty associations. They also serve as a liaison with the National Association of Insurance Commissioners, coordinating resources through the NCIGF to minimize costs and reduce the length of time it takes to respond to a multi-state insolvency.

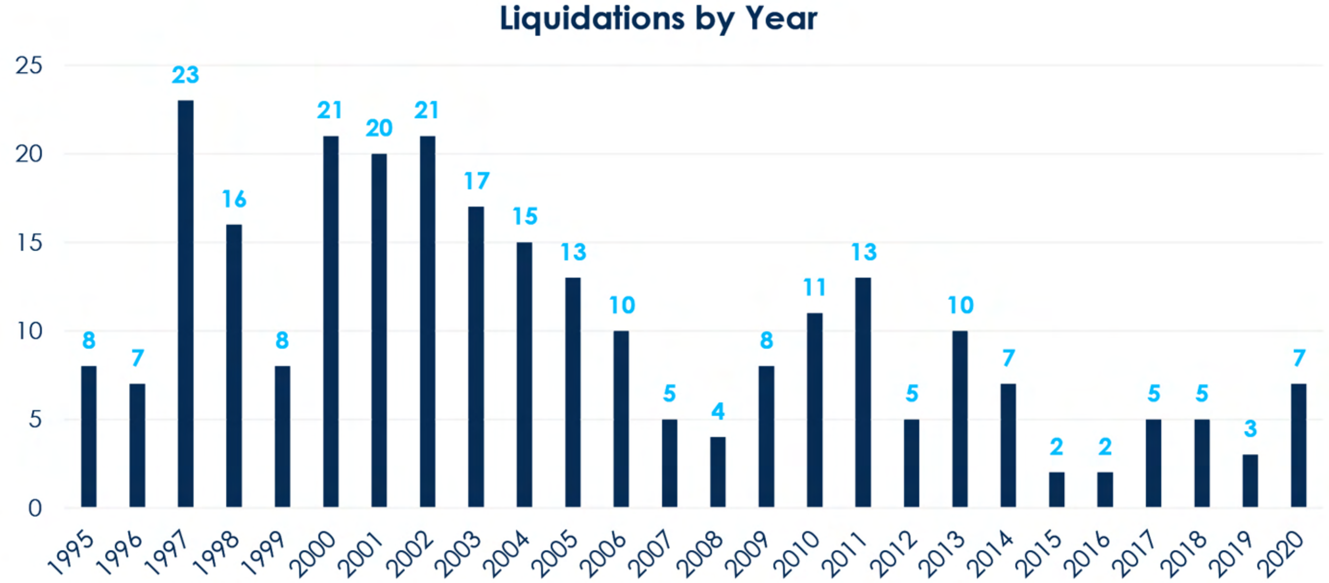
Information about the individual state guaranty associations can be found on the NCIGF website: **www.ncigf.org**. This information includes links to state liquidation statutes, a composite picture of current assessment actions, statistics on insolvency activity, as well as educational and training materials.

FIGA is an active member of the NCIGF.

# NEW INSOLVENCIES + DISCHARGED ESTATES

## 2020 LIQUIDATIONS

Across the country there were seven liquidations during 2020 that impacted property and casualty guaranty funds, ACCC Insurance Company ("Texas"), Alliance National Insurance Company ("New York"), American Service Insurance Company, American Country Insurance Company, Gateway Insurance Company ("Illinois" – ASI Pool), Windhaven Insurance Company ("Florida") and Windhaven National Insurance Company ("Texas"). Only the Gateway and two Windhaven insolvencies impacted the FIGA. Below is a chart providing the total number of liquidations by year from 1995 through 2020.




## FLORIDA SPECIALTY INSURANCE COMPANY

("Florida Specialty") was liquidated on October 2, 2019, by the Second Judicial Circuit Court in Leon County, Florida. Florida Specialty had 2,200 open claims reserved at $18.5 million as of the date of liquidation. As of December 31st, open claims increased to 3,615 with total incurred losses in excess of $79 million. FIGA received $20 million in early assess distributions from the Florida Receiver in the 3rd quarter of 2020 and additional distributions are expected. The current impact of the Florida Specialty insolvency is $61.8 million and the ultimate cost is still uncertain. The Court established proof-of-claim deadline was October 2nd. FIGA filed its proof timely on August 4, 2020.

## WINDHAVEN INSURANCE COMPANY

("Windhaven") was liquidated on January 6, 2020, by the Second Judicial Circuit Court in Leon County, Florida. As of the date of liquidation, Windhaven had over 15,000 open claims reserved at $38 million. As of December 31st, that number grew to 25,232 claims with total incurred losses of $52.4 million. The 12,000 lawsuits pending at liquidation have been reduced to 2,715. No estate distributions have been made on Windhaven. The Court set a deadline of January 6, 2021 for the filing of proof of claim notices and FIGA filed a timely proof on December 2, 2020.

## WINDHAVEN NATIONAL INSURANCE COMPANY

("Windhaven National") was liquidated on March 5, 2020, by the District Court in Travis County, Texas. As of the date of liquidation, Windhaven National had over 3,700 open claims reserved at $22.5 million. As of December 31st, that number grew to 6,244 claims with total incurred losses of $31.8 million. The Texas Court has not yet set a deadline for the filing of proof of claim notices. Once set the deadline will provide the Receiver with the information needed to determine the number and amount of outstanding liabilities and assist in determining the amount and timing of future estate distributions.

## GATEWAY INSURANCE COMPANY

("Gateway") was placed into liquidation on June 10, 2020 by the Circuit Court of Cook County, Illinois. Gateway is a member of the ASI Pool with sister companies Alliance National Insurance Company and American Country Insurance Company. The ASI Pool had nearly 10,000 policies in force at liquidation, but none in Florida. There were just two claims in Florida.

The Illinois Court has not yet set a deadline for the filing of proof of claim notices. Once set the deadline will provide the Receiver with the information needed to determine the number and amount of outstanding liabilities and assist in determining the amount and timing of future estate distributions.

## DISCHARGED ESTATES

Also during 2020, one estate was discharged and final estate distributions were made to FIGA:

**Aries Insurance Company**, was a Florida domiciled company that was liquidated November 14, 2002 and discharged June 17, 2020. A total of 33,314 claims were handled by the Association resulting in a cost of $167.0 million (there is still one open claim). Estate distributions totaled $39.3 million and the net cost to FIGA will be approximately $127.7 million.

# FUNDING SOURCES

## GUARANTY ASSOCIATION FUNDING SOURCES

Funding for FIGA comes primarily from four sources: distributions obtained from estates of insolvent insurers, investment income, reimbursements from the Florida Hurricane Catastrophe Fund ("FHCF"), and assessments levied on member insurers. Estate distributions are an essential funding source for the Association; the greater the level and frequency of distributions from receiverships, the smaller the need to assess member companies.

## ASSESSMENTS

Assessments are levied based upon the premiums written by member companies in the state of Florida. Regular Assessments are limited to **2%** annually although an **Emergency Assessment** may be used when the insolvency results from hurricane losses. Emergency Assessments were increased from 2% to **4% annually** during the 2020 legislative session.

Prior to 2015, insurance companies paid the assessment to FIGA and added a surcharge to each policy issued until they recouped the payment made to FIGA. However, in 2015 the Florida Legislature amended the assessment statute for FIGA to provide additional flexibility in its assessment process (FS 631.57). The legislation retained FIGA's ability to obtain funds quickly, but also introduced an option for insurers to remit assessments as they are collected (pass-through) over a 12-month policy term. Additional information about the change to the assessment process can be obtained at: **www.figafacts.com** by clicking on the link for "**2015 Assessment Change**".

No assessments were levied in 2020 and FIGA has sufficient funds to meet immediate cash flow needs.

**FIGA 2011 - 2020 Assessments**

| YEAR | ASSESSMENT % by Account | | COMMENTS |
|---|---|---|---|
| | Auto | All Other | |
| 2013 - 2020 | | | No Assessment |
| 2012 | | 0.900% | |
| 2011 | | | No Assessment |

# ESTATE DISTRIBUTIONS

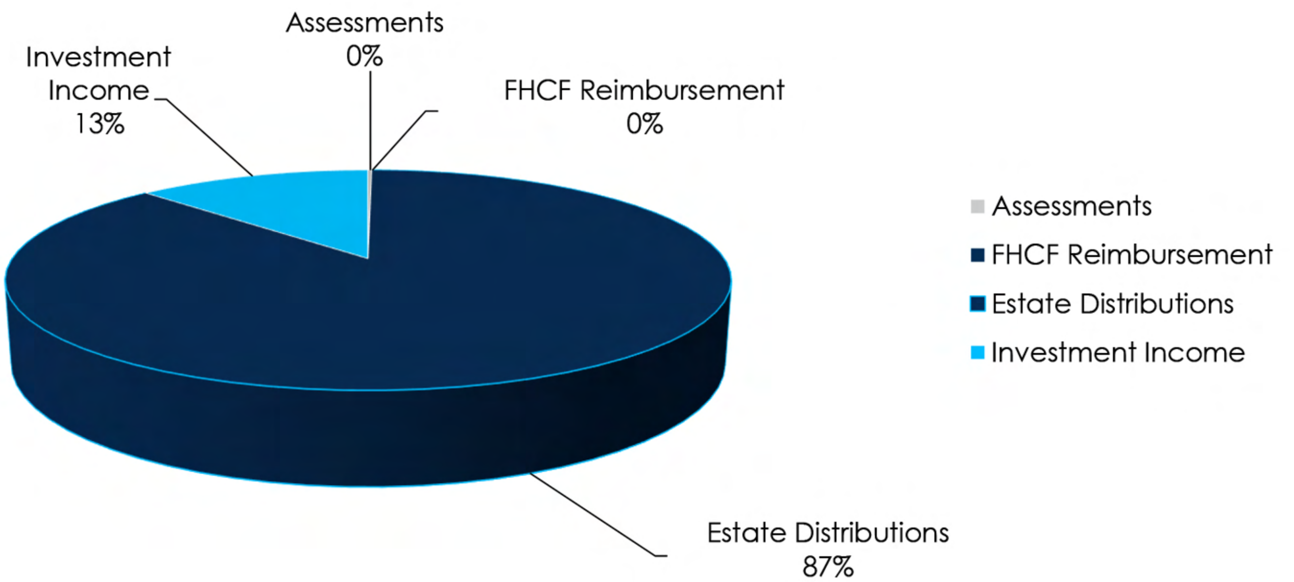
Periodically, Receivers review the assets and liabilities of each insolvent entity. If there are available funds to make partial distributions to creditors, the Receiver petitions the state court for approval. During 2020, FIGA received over **$25.4 million** in estate distributions from **22 insolvencies**.

Since the last assessment was levied in 2012, the majority of funding has come from estate distributions. The table below illustrates the funding sources (estate distributions, assessment, FHCF reimbursements, and investment income) since 2016.

| Funding Type | 2020 | 2019 | 2018 | 2017 | 2016 | 5-yr Total | 5-yr % |
|---|---|---|---|---|---|---|---|
| Assessments | - | 3,669 | 311,128 | 9,893 | 37,794 | 362,484 | 0% |
| FHCF Reimbursement | - | - | - | - | - | - | 0% |
| Estate Distributions | 25,365,306 | 25,894,591 | 30,810,523 | 33,176,355 | 43,744,322 | 158,991,097 | 87% |
| Investment Income | 5,153,255 | 6,970,855 | 5,206,066 | 3,267,095 | 2,324,509 | 22,921,780 | 13% |
| TOTALS: | 30,518,561 | 32,869,115 | 36,327,717 | 36,453,343 | 46,106,625 | 182,275,361 | 100% |

Since 2016, **87%** of the FIGA funding has come from estate distributions, **0%** from assessments, and **13%** from investment income. There have been no FCHF reimbursements since 2011. For 2020, the funding sources were **91%** estate distributions and **9%** investment income.

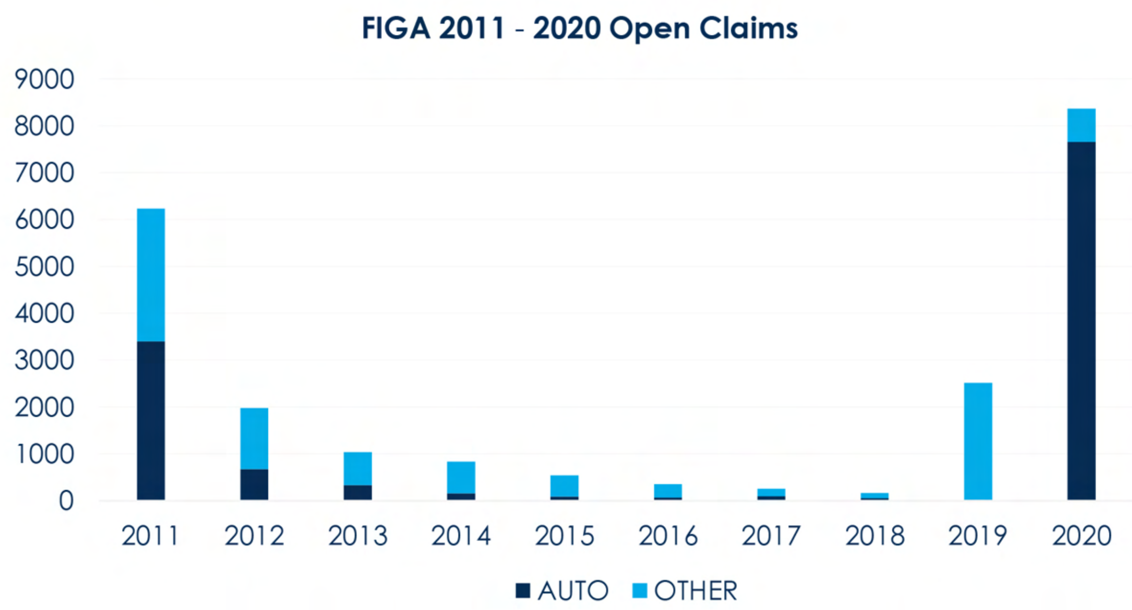
**Funding Sources 2016-2020**

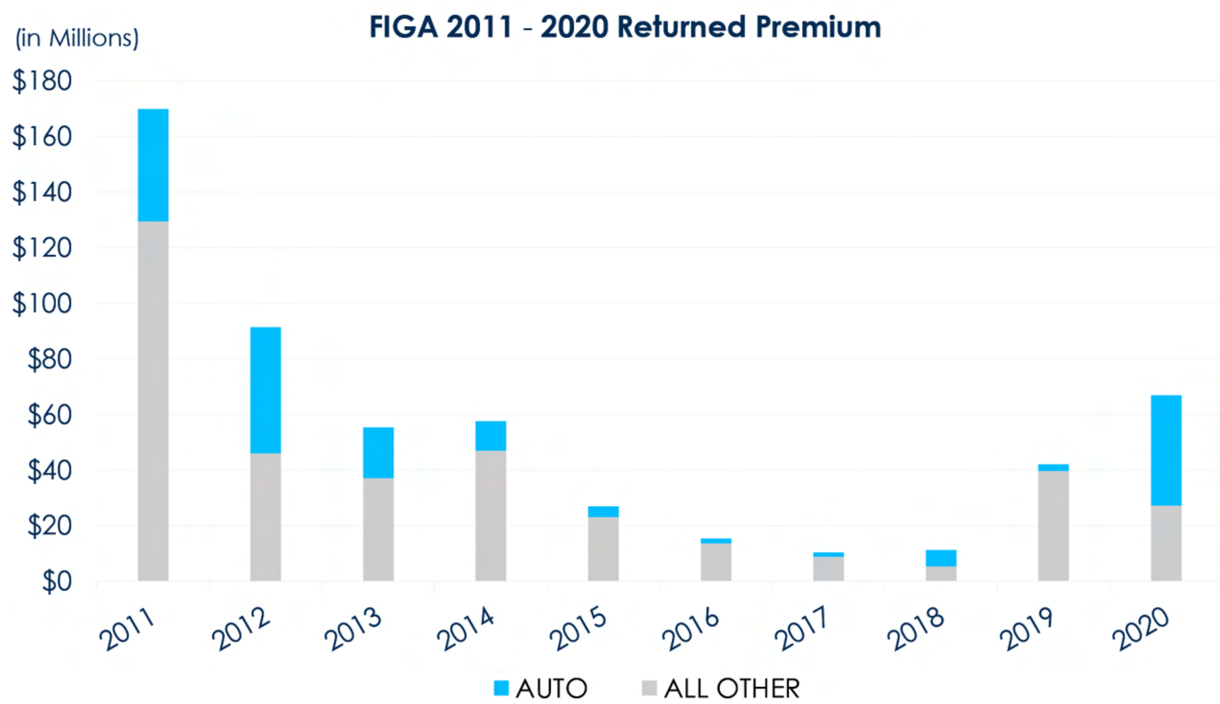


# **CLAIMS** ACTIVITY

At the beginning of 2020, the Association had **2,515 open** files. During the year, **32,084** new claims were transferred to FIGA. A total of **26,229 claims** were closed during the year resulting in an open claim count of **8,370** at year end. Outstanding reserves for those claims was estimated at **$68.0 million**.

The total net paid on claims for 2020 was **$66.8 million** compared to **$42.0 million** in 2019. Loss payments totaled $64.5 million while returned premium payments were **$2.3 million**. Payments were made on fifteen (**15**) different insolvent estates during the year.



# FINANCIAL INFORMATION

The FIGA Financial Statements are prepared on a modified basis of cash receipts and disbursements which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States ("GAAP"). The basis of presentation differs from GAAP because assessments receivable and accruals for loss and loss adjustment expenses are excluded, due to the difficulty in estimating those amounts until a liquidation actually occurs. The modified cash basis financial statements are used by most guaranty associations. To provide a more complete picture of the financial position of FIGA, it should be noted the Audited Financial Statements provide a footnote disclosure of the estimated claim liabilities.

As previously disclosed in this report, the outstanding claim liabilities at the end of 2020 were $68.0 million. The current cash held by FIGA is sufficient to cover all of the estimated liabilities. The Association reviews its cash and outstanding liabilities at each Board meeting to determine whether an assessment may be needed to cover upcoming claims payments.

ASSETS

LIABILITIES

REVENUE

EXPENSES

# FINANCIAL INFORMATION


## STATEMENTS OF FINANCIAL POSITION

| Modified Cash Basis (UNAUDITED) | As of 12/31/2020 | 12/31/2019 |
|---|---|---|
| **ASSETS** | | |
| Cash On Deposit & Cash Equivalent | 12,525,946 | 21,892,662 |
| Short Term Investments | 42,616,351 | 64,682,493 |
| **TOTAL CASH AND SHORT-TERM INVESTMENTS** | **55,142,297** | **86,575,155** |
| Long Term Investments | 172,670,196 | 188,744,936 |
| Accrued Interest Income | 835,214 | 1,220,469 |
| Fixed Assets, Net | 53,008 | 51,265 |
| Building, Net | 603,923 | 635,118 |
| Land | 310,000 | 310,000 |
| Other Assets | 371,625 | 413,557 |
| **TOTAL ASSETS** | **$229,986,263** | **$277,950,500** |
| **LIABILITIES AND NET ASSETS** | | |
| Accounts Payable - AGFG | - | - |
| **TOTAL LIABILITES** | **-** | **-** |
| Auto Account Balance | 53,234,708 | 99,223,133 |
| All Other Account Balance | 176,751,555 | 178,727,367 |
| **TOTAL NET ASSETS** | **229,986,263** | **277,950,500** |
| **TOTAL LIABILITIES AND ACCOUNT BALANCE** | **$229,986,263** | **$277,950,500** |


## STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS

| | For The Years Ended | | | |
|---|---|---|---|---|
| Modified Cash Basis (UNAUDITED) | AUTO<br>**12/31/2020** | ALL OTHER<br>**12/31/2020** | TOTAL YTD<br>**12/31/2020** | PREVIOUS YTD<br>**12/31/2019** |
| **REVENUE** | | | | |
| Assessments | - | - | - | 3,669 |
| Estate Distributions | 1,764,222 | 23,601,083 | 25,365,305 | 25,894,591 |
| Interest Income, (Net) | 1,698,193 | 3,455,062 | 5,153,255 | 6,970,855 |
| **TOTAL REVENUE** | **$3,462,415** | **$27,056,145** | **$ 30,518,560** | **$32,869,115** |
| **EXPENSES** | | | | |
| Claims Paid | 37,355,059 | 27,151,338 | 64,506,397 | 8,565,693 |
| Claims Handling Fees | 7,219,549 | 956,868 | 8,176,417 | 105,447 |
| Returned Premium | 2,245,141 | 28,338 | 2,273,479 | 33,420,991 |
| Direct Estate Expenses | 250,566 | 194,105 | 444,671 | 120,979 |
| General & Admin Expenses | 2,380,521 | 701,307 | 3,081,828 | 2,942,086 |
| **TOTAL EXPENSES** | **$49,450,836** | **$29,031,956** | **$78,482,792** | **$45,155,196** |
| Change In Net Assets | (45,988,421) | (1,975,811) | (47,964,232) | (12,286,081) |
| NET Assets - Beginning Of Period | 99,223,129 | 178,727,366 | 277,950,495 | 290,236,581 |
| **NET ASSETS - END OF PERIOD** | **$53,234,708** | **$176,751,555** | **$229,986,263** | **$277,950,500** |

# **BOARD** OF DIRECTORS

The **FIGA Board of Directors** is comprised of **nine (9)** members who meet at least semi-annually to discuss the operations of the Association. Board members are elected to four year terms and may be reappointed. The Florida Chief Financial Officer approves and appoints to the Board individuals recommended by the member insurers following an election process. Florida Statute 631.56 provides additional information about the Board.

The Board's 2020 meetings, as required by the Plan of Operation (available on FIGA's website), were held on February 27, 2020, April 8, 2020, September 11, 2020 and November 9, 2020. In addition, the Board has a Finance & Audit Committee which met April 8, 2020 and November 4, 2020. Participation at the meetings is always welcome. For information about upcoming meetings please call the Association (850) 386-9200 or visit the website.

Section 631.57, Florida Statutes, was amended during the 2020 legislative session to increase homeowner and condominium association policies from $100,000 per unit to $200,000 per unit and increase FIGA's emergency assessment capacity from 2% to 4% to cover the increased exposure. No assessment was recommended during 2020.

At the November 15, 2020 Board meeting, the $3.2 million general and administrative budget for was approved. This was a 5.9% increase from the 2020 budget, and reflected additional staff due to increased claim volume and increased technology expenses.

The fieldwork for the annual Independent Financial Audit performed by Thomas Howell Ferguson P.A. commenced in November with a target date for completion during the 1st quarter of 2021. The unaudited Financial Statements as of December 31, 2020 are included in this report. Copies of the Audited Financial Statements will be available on the Association's website upon completion.

Below is a listing of the FIGA Board of Directors as of December 31, 2020. At the 2020 Annual Meeting Kimberly Blackburn, Don Matz and Paula Lutes were elected to two-year terms as Chair, Vice Chair and Secretary-Treasurer, respectively. Don Matz serves as the Finance & Audit Committee Chair.

| FIGA OFFICERS | |
|---|---|
| **Kimberly Blackburn** | **CHAIRMAN** - Florida Farm Bureau Casualty Insurance Company |
| **Don Matz** | **VICE CHAIRMAN** – Tower Hill Insurance |
| **Paula Lutes** | **CORPORATE SECRETARY / TREASURER** - State Farm |

| MEMBERS | |
|---|---|
| **Pamela McQuaid*** | Liberty Mutual Insurance Company |
| **Ray Waugh** | Nationwide Insurance Company |
| **Renè Hernández** | Travelers Insurance Company |
| **Marc Dunbar** | Citizens Property Insurance Corporation |
| **Carly A. Hermanson** | Allstate Insurance Company |
| **Pamela G. Matthews** | United Services Automobile Association |

***Resigned 2/8/2021**

| FINANCE & AUDIT COMMITEE | |
|---|---|
| **Don Matz** | Tower Hill Insurance |
| **Mark Dunbar** | Citizens Property Insurance Corporation |
| **Pamela G. Matthews** | United Services Automobile Association |

# RECAP OF STATUTES + IMPORTANT LINKS

## FIGA STATUTES

| | |
|---|---|
| **631.51** | Purposes |
| **631.52** | Lines of Business Covered by FIGA |
| **631.55** | Auto & All Other Insurance Accounts |
| **631.56** | Board of Directors |
| **631.57 (1)** | Coverage Limits |
| **631.57 (3)** | Assessments |
| **631.271** | Priority of Claims |

## IMPORTANT LINKS

www.agfgroup.org
www.figafacts.com
http://www.myfloridacfo.com/division/receiver
www.ncigf.org

[**1**] 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;

[**2**] Assist in the detection and prevention of insurer insolvencies.

[**3**] Create a nonprofit corporation to administer and supervise the operation of such association; and

[**4**] Assess the cost of such protection among insurers.

FLORIDA STATUTE 631.51

# PURPOSE

FIGA

FLORIDA INSURANCE
GUARANTY ASSOCIATION


P.O. BOX 14249
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