

**FILED**

MAY 12 2020

INSURANCE REGULATION  
Docketed by:                     



**OFFICE OF INSURANCE REGULATION**

**DAVID ALTMAIER**  
COMMISSIONER

IN THE MATTER OF:

CASE NO.: 263348-20-CO

CAPITOL PREFERRED INSURANCE COMPANY, INC.

CONSENT ORDER

THIS CAUSE came on for consideration upon a request filed with the FLORIDA OFFICE OF INSURANCE REGULATION ("OFFICE") by CAPITOL PREFERRED INSURANCE COMPANY, INC. ("CAPITOL PREFERRED" or "the Company") for approval to cancel approximately 27,500 policies with 45 days' notice. Approval of such a request requires a finding by the OFFICE that the early cancellation of some or all of the insurer's policies is necessary to protect the best interests of the public or policyholders and the OFFICE approves the insurer's plan for early cancellation of some or all of its policies. The early cancellation of policies permitted by Section 627.4133(2)(b)6., Florida Statutes is an extraordinary statutory remedy reserved to address insurers which are or may be in hazardous financial condition without the cancellation of some or all of its policies. After a complete review of the entire record and upon consideration thereof, and otherwise being fully advised in the premises, the OFFICE hereby finds as follows:

## INTRODUCTION

1. The OFFICE has jurisdiction over the parties and the subject matter of this proceeding.

2. CAPITOL PREFERRED is a domestic property and casualty insurer authorized to transact insurance business in the state of Florida pursuant to a Certificate of Authority issued by the OFFICE pursuant to Chapter 624, Part III, Florida Statutes.

3. CAPITOL PREFERRED has approximately 108,870 policies in force in Florida as of May 3, 2020, which primarily provide homeowners' insurance coverage.

4. CAPITOL PREFERRED has reported net losses of (\$5,130,111), (\$17,871,829), and (\$25,737,506) in its financial statements filed with the OFFICE for the years 2017, 2018, and 2019, respectively.<sup>1</sup> Losses by CAPITOL PREFERRED of the magnitude shown above are not sustainable, and if the underlying conditions that contributed to the losses remain unaddressed, continued losses may result in the Company being in hazardous financial condition.

5. CAPITOL PREFERRED provided documentation to the Office which reflects that without a reduction to the number of policies in force, the cost of catastrophe reinsurance for the 2020 Atlantic Hurricane Season will materially increase. The cost of reinsurance is based on a number of factors, including the number and type of policies in force, location of the policies, and the loss history associated with those policies. Catastrophe reinsurance is essential in the Florida property insurance market to provide insurers with enhanced ability to pay claims in the event of a catastrophic event.

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<sup>1</sup>Southern Fidelity Property & Casualty, Inc. merged with and into CAPITOL PREFERRED on February 28, 2019. The losses reflect the combined experience of the companies over the last 3 years.

## ANALYSIS OF POLICIES FOR EARLY CANCELLATION

6. Section 627.4133(2)(b)6, Florida Statutes, provides the following regarding the early cancellation of a property insurance policy:

*“Notwithstanding any other provision of law, an insurer may cancel or nonrenew a property insurance policy after at least 45 days’ notice if the office finds that the early cancellation of some or all of the insurer’s policies is necessary to protect the best interests of the public or policyholders and the office approves the insurer’s plan for early cancellation or nonrenewal of some or all of its policies. The office may base such finding upon the financial condition of the insurer, lack of adequate reinsurance coverage for hurricane risk, or other relevant factors. The office may condition its finding on the consent of the insurer to be placed under administrative supervision pursuant to s. 624.81 or to the appointment of a receiver under chapter 631.”*

7. CAPITOL PREFERRED’s initial formal request was for the approval of the early cancellation of approximately 27,500 policies with 45 days’ notice to policyholders. In conjunction with that request, CAPITOL PREFERRED provided financial projections which demonstrated that absent such action, it may not be able to maintain surplus as to policyholders sufficient to meet the requirements of Section 624.408, Florida Statutes.

8. In response to the request from CAPITOL PREFERRED, the OFFICE required the Company to provide a number of additional pro forma financial projections to allow the OFFICE to evaluate both the potential impacts to the Company’s financial condition as well as its impact on policyholders.

9. The 27,500 policies that CAPITOL PREFERRED requested to cancel consists primarily of a block of approximately 23,800 homeowners’ policies originally written in the voluntary market by its affiliate Southern Fidelity Property & Casualty, Inc. (hereinafter referred to as the “SFPCI Block”) and acquired by CAPITOL PREFERRED during a merger with that company on February 28, 2019. The SFPCI Block is comprised of mostly homeowners’ (HO-3)

policies but also includes approximately 12 tenant (HO-4) policies and 4,500 condominium unit owner (HO-6) policies. Based on documentation provided by the Company, and the financial projections reviewed by the OFFICE, the SFPCI Block materially contributed to both the Company's past and projected losses and to its projected reinsurance costs.

10. CAPITOL PREFERRED represented to the OFFICE that the SFPCI Block has generated significant losses. In December of 2019, the Company made a "use and file" rate filing with the OFFICE which implemented a 47.0% rate increase for the SFPCI Block effective February 15, 2020. The 47% rate increase was later amended by the Company to a 36.5% rate increase in late January of 2020. The use and file rate increase was the subject of a public rate hearing held by the OFFICE in February of 2020. The projections reviewed by the OFFICE indicate that even with a substantial rate increase the SFPCI Block will continue to generate unsustainable losses. The data and documentation provided by the Company in connection with this rate filing supported an overall average statewide increase of 33.5%, which is approved. Refunds for amounts charged in excess of this approved amount must be made and an accounting provided to the OFFICE by June 1, 2020, as required by paragraphs 14 and 15.

11. The OFFICE carefully analyzed the projected financial impact of the request by CAPITOL PREFERRED to cancel 27,500 of its in-force policies and required the Company to model different scenarios and assumptions. In addition, the OFFICE analyzed the projected financial impact resulting from the cancellation of only the SFPCI Block of approximately 23,800 policies. That analysis demonstrated that the cancellation of only the SFPCI Block produced substantially similar financial results for the Company when compared with the original 27,500 policy cancellation request. However, and importantly, the cancellation of only the SFPCI Block resulted in almost 4,000 fewer cancellations for policyholders.

## COMPANY REQUIREMENTS FOR EARLY CANCELLATION

12. Based on the documentation provided to the OFFICE, its internal analysis, and after review of other available options, the OFFICE finds that a more limited early cancellation of only the SFPCI Block of policies is in the best interests of the public, policyholders of CAPITOL PREFERRED, and the Florida property insurance market. This finding is based on the inability of the Company to sustain further losses of the magnitude reported in 2017, 2018, and 2019, the increased cost of catastrophe reinsurance coverage, and the determination that this targeted cancellation is the best option. The early cancellation of the SFPCI Block of policies with at least 45 days' advance notice to those policyholders is approved. CAPITOL PREFERRED's compliance with the corrective measures listed in paragraphs 13 through 22 below is material to the OFFICE's approval of this early cancellation.

13. CAPITOL PREFERRED must issue cancellation notices, to be approved in advance by the OFFICE, for the cancellation of the SFPCI Block only, providing at least 45 days' notice of cancellation to the policyholders. In addition, notices to the agents must be provided to the OFFICE for approval.

14. CAPITOL PREFERRED must refund unearned premiums to the affected policyholders or their mortgage companies or premium finance companies, as applicable, by no later than June 15, 2020 for each policy being cancelled.

15. By June 1, 2020 CAPITOL PREFERRED must provide an accounting to the OFFICE of all refunds that have been provided, and any that have not yet been provided to SFPCI policyholders for any premiums collected in excess of any rates approved by the OFFICE in connection with the February 2020 use and file rate filing.

16. CAPITOL PREFERRED must actively facilitate the placement of the SFPCI

policies with other insurers in the market by:

- a. Assisting in the replacement of these policies with its agency force; and
- b. Promptly posting or providing SFPCI policy level data to insurers within

3 calendar days of the execution of a non-disclosure agreement.

17. CAPITOL PREFERRED must continue to file monthly financial statements with the OFFICE until further notice. Those financial statements will be in the NAIC monthly statement format and submitted no later than the 21<sup>st</sup> of the following month. In addition, the Company will include in the monthly filing a listing of all policies in force by county and total insured value by county.

18. CAPITOL PREFERRED must limit its new and renewal business written to the number of policies shown in the proformas provided to the OFFICE by CAPITOL PREFERRED. Any change or increase to this new or renewal business limitation must be filed with and approved by the OFFICE. No policies from the SFPCI Block of policies may be rewritten on a different CAPITOL PREFERRED policy form or by an affiliated insurer.

#### REMEDIAL MEASURES FOR CONTINUED OPERATIONS

19. As a result of its operational results for the past three years, CAPITOL PREFERRED must submit an updated business plan to the OFFICE by 5:00 p.m. (EDT), July 1, 2020. The updated business plan must demonstrate the Company's ability to generate successful operating results by the implementation of underwriting changes, rate adjustments, operational savings, capital management, and other significant modifications to its current business model. The updated business plan for the period of July 1, 2020 through December 31, 2023 must include all assumptions used in its preparation, pro forma projections, cash flow analysis, and must include reinsurance necessary to provide coverage for at least a 130-year event. The updated

**business plan must reflect the effects of the following:**

- a. **Changes to be made in underwriting procedures that would limit capacity for new business and properly price and underwrite all business written or renewed;**
- b. **Pending litigation in which CAPITOL PREFERRED is named as a party;**
- c. **Capital funding and access to capital for the immediate 12 months;**
- d. **Open claims and additional efforts that could be made to successfully resolve them;**
- e. **Any projected adverse loss development;**
- f. **Proposed contracts for services by vendors or affiliates;**
- g. **Any additional reinsurance costs required; and**
- h. **Any material items from a proposed Strategic Plan that would impact the financial condition of CAPITOL PREFERRED.**

20. In addition to the updated business plan required in paragraph 19, CAPITOL PREFERRED must file with the OFFICE by December 31, 2020, a five-year Strategic Plan, which may be updated on a yearly basis and approved by its Board of Directors. The Strategic Plan must include a proposed timeline for any of the activities listed below which are expected to begin after the date the Strategic Plan is filed with the OFFICE. The Strategic Plan must address at a minimum the following:

- a. **Plans for new affiliates, acquisition and/or mergers;**
- b. **Plans for any new product offerings;**
- c. **Plans to raise capital and the use of that capital;**
- d. **Plans to assume blocks of business from another insurer or residual market;**

e. Plans to file an application to become an authorized insurer, add lines of business, or become an eligible surplus lines insurer in another state;

f. Plans to improve internal processes or procedures;

g. Plans to enhance cybersecurity of the Company and its affiliates.

21. Upon execution of this consent order and through December 31, 2020, CAPITOL PREFERRED may not, without the prior approval of the OFFICE:

a. Dispose of, convey, or encumber any of its assets;

b. Lend any of its funds;

c. Invest any of its funds except in accordance with its established investment policies in the ordinary course of business;

d. Transfer any of its property other than in the ordinary course of business;

e. Incur any debt, obligation, or liability other than in the ordinary course of business;

f. Merge or consolidate with another company;

g. Terminate, surrender, forfeit, convert, or lapse any insurance policy, certificate, or contract of insurance, except as permitted in accordance with its approved underwriting guidelines and rules in the ordinary course of business;

h. Release, pay, or refund premium deposits, accrued cash or loan values, unearned premiums, or other reserves on any insurance policy or certificate, except as permitted in accordance with its approved underwriting guidelines and rules in the ordinary course of business;

i. Make any material change in management or provide bonus or severance packages to any employee;



- j. Pay any dividends; or
- k. Enter into any new or amend any existing agreements with affiliates.

22. The OFFICE reserves the right to retain an individual or entity at the expense of CAPITOL PREFERRED to review all of the Company's direct and indirect expenses of its affiliates to determine if those expenses are fair and reasonable.

#### GENERAL TERMS

23. CAPITOL PREFERRED acknowledges and agrees that failure to comply with any of the terms of this Consent Order would constitute an immediate danger to the public and the OFFICE may immediately suspend, revoke, or take other administrative action as it deems appropriate upon the Certificate of Authority of CAPITOL PREFERRED in this state, in accordance with Sections 120.569(2)(n) and 120.60(6), Florida Statutes.

24. Any prior orders, consent orders, or corrective action plans that CAPITOL PREFERRED has entered into with the OFFICE prior to the execution of this Consent Order shall apply and remain in full force and effect for CAPITOL PREFERRED, except where provisions of such orders, consent orders, or corrective action plans have expired; have been superseded by subsequent orders, consent orders, or corrective action plans; or are inconsistent with this Consent Order.

25. Each party to this action shall bear its own costs and fees.

26. CAPITOL PREFERRED expressly waives its rights to a hearing in this matter, the making of findings of fact and conclusions of law by the OFFICE, and all further and other proceedings to which CAPITOL PREFERRED may be entitled, either by law or by rules of the OFFICE. CAPITOL PREFERRED hereby knowingly and voluntarily waive all rights to

challenge or to contest this Consent Order, in any forum now or in the future available to them, including the right to any administrative proceeding, state or federal court action, or any appeal.

27. CAPITOL PREFERRED agrees this Consent Order shall be deemed to be executed when the OFFICE has signed and docketed a copy of this Consent Order bearing the signature of CAPITOL PREFERRED, or its authorized representative, under the seal of a notary public, notwithstanding the fact that the copy may have been transmitted to the OFFICE electronically.

WHEREFORE, the agreement between CAPITOL PREFERRED INSURANCE COMPANY, INC., and the FLORIDA OFFICE OF INSURANCE REGULATION, the terms and conditions of which are set forth above, is APPROVED.

FURTHER, all terms and conditions contained herein are hereby ORDERED.

DONE and ORDERED this 12<sup>th</sup> day of May 2020.



*David Altmaier*

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David Altmaier, Commissioner  
Office of Insurance Regulation

By execution hereof, CAPITOL PREFERRED INSURANCE COMPANY, INC. consents to entry of this Consent Order, agrees without reservation to all of the above terms and conditions, and shall be bound by all provisions herein. The undersigned represents that he/she has the authority to bind CAPITOL PREFERRED INSURANCE COMPANY, INC. to the terms and conditions of this Consent Order. The undersigned also certifies that he/she has provided the signature below voluntarily and without coercion, based upon the assistance of legal counsel for CAPITOL PREFERRED INSURANCE COMPANY, INC.

CAPITOL PREFERRED INSURANCE COMPANY, INC.

By: *James Gregarella*

Print Name: JAMES GREGARELLA

Title: PRESIDENT & CEO

Date: 5-11-20

STATE OF FL

COUNTY OF Leon

The foregoing instrument was acknowledged before me by means of  physical presence

or  online notarization, this 11 day of May 2020, by James Gregarella  
as President & CEO for Capitol Preferred Insurance Co.  
(type of authority; e.g., officer, trustee, attorney in fact) (company name)

*Kristie Mock*  
(Signature of the Notary)

Kristie Mock  
(Print, Type or Stamp Commissioned Name of Notary)

Personally Known  OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

My Commission Expires: 6/8/2022



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