

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION,

v.

SOUTHERN TITLE INSURANCE  
CORPORATION, Defendant.

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Case No. INS-2011-00239

**SECOND DIRECTIVE**  
**ADOPTING RECEIVERSHIP APPEAL PROCEDURE**

1. On December 20, 2011, in a case styled Commonwealth of Virginia ex rel. State Corporation Commission v. Southern Title Insurance Corporation and Manju S. Ganeriwala, Treasurer of Virginia, Case No. CL11-5660-RDT, the Circuit Court of the City of Richmond (“Court”) found that Southern Title Insurance Corporation (“Southern”) is in a condition, as a single insurance business enterprise, where any further transaction of business will be hazardous to the insureds, policyholders, creditors, and the public. Therefore, pursuant to Title 38.2, Chapter 15 of the Virginia Code, the Court issued its Final Order Appointing Receiver for Rehabilitation or Liquidation (“Receivership Order”), appointing the State Corporation Commission (“Commission”) of the Commonwealth of Virginia, as Receiver of Southern.

2. Also on December 20, 2011, pursuant to Title 38.2, Chapter 15 of the Virginia Code, the Commission entered its Order Appointing Deputy Receiver for Conservation and Rehabilitation, appointing Jacqueline K. Cunningham, the Commissioner of the Commission’s Bureau of Insurance, as Deputy Receiver (the “Order Appointing Deputy Receiver”).

3. In order to facilitate the orderly disposition of claims against Southern, the Deputy Receiver has concluded that a receivership appeal procedure (the “Receivership Appeal Procedure”) must be adopted for appeals or challenges of any decision or determination made by the Deputy Receiver, including, but not limited to, decisions or determinations concerning any specific claim or request for payment, other consideration, or other relief, asserted by any person against Southern, or the Deputy Receiver, including claims for administrative expenses, secured creditor claims, policyholder claims, and general creditor claims. The Receivership Appeal Procedure will be conducted under the sole jurisdiction of the Commission.

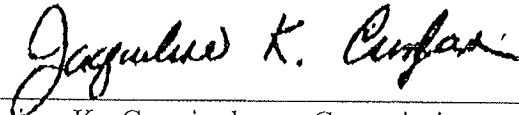
**THEREFORE**, in accordance with the powers granted to the Deputy Receiver in the Receivership Order and the Order Appointing Deputy Receiver, **THE DEPUTY RECEIVER**

**HEREBY DIRECTS AND ADOPTS FOR THE RECEIVERSHIP OF SOUTHERN THE RECEIVERSHIP APPEAL PROCEDURE ATTACHED HERETO AS EXHIBIT A.**

- a. The Receivership Appeal Procedure, attached hereto as Exhibit A and incorporated by reference, is hereby adopted to facilitate the orderly disposition or resolution of challenges or appeals of the Deputy Receiver's decisions or determinations concerning controversies involving Southern.
- b. The Receivership Appeal Procedure is the sole method of filing appeals or challenges of any decision or determination made by the Deputy Receiver.

The Second Directive is effective as of December 21, 2011. All of the foregoing is subject to further directives of the Deputy Receiver and orders of the State Corporation Commission of the Commonwealth of Virginia.

It is so directed:



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Jacqueline K. Cunningham, Commissioner of Insurance,  
Bureau of Insurance, State Corporation Commission,  
Commonwealth of Virginia, and Deputy Receiver of Southern  
Title Insurance Corporation

# EXHIBIT A

SOUTHERN TITLE INSURANCE CORPORATION,

*In Receivership for Rehabilitation or Liquidation*

## RECEIVERSHIP APPEAL PROCEDURE

THIS PROCEDURE GOVERNS APPEALS AND CHALLENGES OF ANY DECISION MADE BY THE DEPUTY RECEIVER OF SOUTHERN TITLE INSURANCE CORPORATION.

### A. GENERAL TERMS AND APPLICABILITY OF PROCEDURE

1. For purposes of this Receivership Appeal Procedure, the following terms shall have the meaning set out herein:
  - a. **Appealable Decision** means a decision of the Deputy Receiver that concerns a specific Claim made against Southern or the Deputy Receiver, whether or not arising under a policy or contract issued by Southern which affects, or may affect, a financial interest, contract right, or legal entitlement of the Claimant.
  - b. **Claim** means a request for payment, other consideration, or other relief, asserted by any person against Southern or the Deputy Receiver.
  - c. **Claim Determination** means the decision made by Southern or the Deputy Receiver as to any Claim asserted against Southern or the Deputy Receiver, including, but not limited to, any determination as to the priority to be afforded any Claim for purposes of Title 38.2-1509(B)(1) of the CODE OF VIRGINIA, or amount, if any, to be paid upon such Claim.
  - d. **Claimant** means a person or other legal entity asserting a Claim against Southern or the Deputy Receiver and, if a decision upon such a Claim is appealed, the person or other legal entity making such appeal.
  - e. **Commission** means the State Corporation Commission of the Commonwealth of Virginia.
  - f. **Commission Appeal Deadline** means the deadline before which a Claimant may appeal a Determination of Appeal, determined as follows:

- i. if the Deputy Receiver issues a Determination of Appeal, the Commission Appeal Deadline is thirty (30) days following the date reflected on the Deputy Receiver's Determination of Appeal;
  - ii. if the Deputy Receiver issues an Extension of Appeal, but does not issue a Determination of Appeal before the Extended Appeal Deadline, the Commission Appeal Deadline is thirty (30) days following the Extended Appeal Deadline;
  - iii. if the Deputy Receiver does not issue a Determination of Appeal, and does not issue an Extension of Appeal, the Commission Appeal Deadline is the sixtieth (60th) day following the date on which the Deputy Receiver actually received the Notice of Appeal.
- g. **Southern** means Southern Title Insurance Corporation, in Receivership.
- h. **Date of Decision** means:
  - i. with respect to the Deputy Receiver's decision on a specific Claim, the date shown on the Notice of Claim Determination;
  - ii. with respect to any non-Claim matter, the date the Deputy Receiver announces her decision; or
  - iii. with respect to any non-Claim matter that is not announced, the date the decision is made.
- i. **Deputy Receiver** means Jacqueline K. Cunningham, or her successor, as Commissioner of Insurance, State Corporation Commission, Commonwealth of Virginia, in (his or her) capacity as Deputy Receiver of Southern, and any other duly authorized representative.
- j. **Determination of Appeal** means the decision made by the Deputy Receiver upon an appeal of a Notice of Claim Determination.
- k. **Extended Appeal Deadline** means the date to which has been extended the deadline by which the Deputy Receiver must determine an appeal, as specified in an Extension of Appeal sent by the Deputy Receiver in accordance with paragraph B.8 of this Receivership Appeal Procedure.

1. **Extension of Appeal** means a decision by the Deputy Receiver to postpone the deadline by which a decision must be made upon an appeal, in accordance with paragraph B.8 of the Receivership Appeal Procedure.
  - m. **Insurance Policy Claims** shall mean Claims arising under policies or contracts of insurance issued or assumed by Southern, including specifically, but without limitation, any request for payment of any settlement, adjudication, or judgment upon such Claims approved or awarded by any court, administrative process, or other tribunal.
  - n. **Non Insurance Policy Claims** are all Claims against Southern other than Insurance Policy Claims, including, but not limited to, Claims of secured creditors, Claims of unsecured general creditors, Claims purporting to constitute costs or expenses of administration for purposes of Title 38.2-1509(B)(1) of the CODE OF VIRGINIA, and Claims of owners or equity holders.
  - o. **Notice of Appeal** means the notification by a Claimant to the Deputy Receiver of the Claimant's appeal of a Notice of Claim Determination in compliance with paragraph B.3 of the Receivership Appeal Procedure.
  - p. **Notice of Claim Determination** means the notification sent by Southern or the Deputy Receiver to a Claimant of the decision made on a specific claim.
  - q. **Petition** means a Petition for Review of the Deputy Receiver's Determination of Appeal as described in paragraph C.1.
  - r. **Supreme Court** means the Supreme Court of the Commonwealth of Virginia.
2. All appeals or challenges of any Claim Determination made by Southern, or the Deputy Receiver, must be submitted to the Deputy Receiver, as specified herein, to the exclusion of any other method of submitting or adjudicating the priority and payment of such Claims in any court, administrative process, or other tribunal, subject to the further order of the Commission. Appeals may only be made by such parties who have proper legal standing to bring such claims.
  3. Certain Insurance Policy Claims may entitle the Claimant to full or partial payment by a state insurance guaranty association. This Receivership Appeal Procedure does not apply to any claim asserted against a guaranty association, or to the decision of a guaranty association upon any such claim. This Receivership Appeal Procedure does apply to claims asserted by the insurance guaranty associations against the Deputy Receiver, or Southern.

4. Even though payment may not be made on a Non Insurance Policy Claim at the time the Claim is asserted, the Deputy Receiver may still determine the priority to be accorded such Claim under Title 38.2-1509(B)(1) of the CODE OF VIRGINIA without determining what amount, if any, should be paid on such Claim. In that event, the priority determination as to any such Non Insurance Policy Claim is itself an Appealable Decision.
5. The Deputy Receiver is authorized to determine any appeals or challenges of Claim Determinations made by Southern, as provided below.
6. Any person or entity is authorized to appeal to the Commission as provided below, any Determination of Appeal of the Deputy Receiver under paragraph A.5 above.
7. Any person or entity is authorized to appeal to the Supreme Court any Claim Determination of the Commission under paragraph A.6 above, subject to the Commission's Rules of Practice and Procedure and the Rules of the Supreme Court.
8. This Receivership Appeal Procedure is the sole method of asserting appeals or challenges of any Appealable Decision made by the Deputy Receiver, or Southern.
9. In order to challenge or seek review of any Appealable Decision of the Deputy Receiver, including any decision concerning a Claim against Southern, a Claimant must adhere strictly to the steps and deadlines established in this Receivership Appeal Procedure. **Failure to fully adhere to this Receivership Appeal Procedure will result in a waiver of the appeal, and the Deputy Receiver's decision as to the Appealable Decision will become final and non-appealable.**
10. The date by which an appeal must be presented is governed by the Date of Decision.
11. There are three levels of appeal which may be available to a Claimant: appeal to the Deputy Receiver, appeal to the Commission, and appeal to the Supreme Court. A Claimant may not appeal to the Commission without first appealing to the Deputy Receiver in the manner described below, and may not have the right to appeal to the Supreme Court without first appealing to the Commission.

**B. APPEAL TO THE DEPUTY RECEIVER:  
DEADLINE: 30 DAYS FROM DATE OF DECISION**

1. Decisions by the Deputy Receiver must be appealed within thirty (30) days following the Date of Decision.

2. Once the Deputy Receiver concludes her review of a specific Claim, the claimant will be sent a Notice of Claim Determination advising the Claimant of the disposition of the Claim. Such a notice may be sent to the Claimant with or without a copy of this "Receivership Appeal Procedure."
  
3. Within thirty (30) days after the Date of Decision regarding the matter being appealed, the Claimant must file with the Deputy Receiver and the Deputy Receiver must receive a "Notice of Appeal" containing a narrative or documentary explanation of the reason for the appeal and including all documents supporting the appeal. No particular form is necessary for this notice of appeal (a letter may be sufficient), but whatever is sent by the Claimant must be clearly labeled "NOTICE OF APPEAL" on the first page. It must also contain:
  - a. a copy of the Notice of Claim Determination or, if in writing, a copy of the other matter being appealed;
  - b. a full and detailed explanation of the appeal;
  - c. adequate documentation to support the appeal; and
  - d. the following or a substantially similar jurat so that the appeal is sworn:

State of _____,	
County of _____,	
BEFORE ME, the undersigned authority, on this day personally appeared _____ _____ known to me to be the person whose name is subscribed to the foregoing NOTICE OF APPEAL, and having by me been first duly sworn, upon his (her) oath depose and stated that the facts therein contained are true and correct to his (her) knowledge or belief.	
Given under my hand and seal of office on this _____ day of _____, 20_____.	
(Notary Seal)	_____ (Notary's Name)
	Notary public in and for _____ County, State of _____

4. Because the date on which the Deputy Receiver receives the Notice of Appeal is very important in determining the appeal, Claimants should employ a method of delivery that will enable them to know when the appeal is actually received by the Deputy Receiver.
5. The Claimant must present all grounds and bases for appeal to the Deputy Receiver in the Notice of Appeal. Any ground or basis not presented in the Notice of Appeal will be deemed waived and may not be presented for the first time to the State Corporation Commission unless the Commission determines that consideration of additional grounds or bases is necessary to attain the ends of justice.
6. The Notice of Appeal must be received by the Deputy Receiver at the following address no later than thirty (30) days after the Date of Decision.

*Claim Appeals*  
*Southern Title Insurance Corporation, in Receivership*  
*P.O. Box 399*  
*Richmond, Virginia 23218*

7. If the Notice of Appeal is not received at the above address within thirty (30) days after the Date of Decision, the right to appeal the Deputy Receiver's decision will be waived and that decision (including, but not limited to, a decision set out in a Notice of Claim Determination) will become final and non-appealable.
8. Except as noted below, the Deputy Receiver will advise the Claimant of her decision regarding the appeal by sending the Claimant a written "Determination of Appeal" on or before thirty (30) days after receipt of the Notice of Appeal. However, the Deputy Receiver may extend the time by which she must determine the appeal by up to ninety (90) additional days by sending the Claimant a written "Extension of Appeal" notification on or before thirty (30) days after receipt of the Notice of Appeal.
9. If the Deputy Receiver does not send the Claimant a written Determination of Appeal or an Extension of Appeal notification within thirty (30) days following receipt of the Notice of Appeal, the appeal will be deemed automatically rejected, and the Claimant will then have thirty (30) days within which to challenge the Deputy Receiver's decision.
10. If a Claimant believes that a Determination of Appeal is incorrect, or if for any other reason the Claimant is dissatisfied with the Deputy Receiver's disposition of the appeal, whether automatic or by specific Determination of Appeal, the Claimant may challenge such disposition by following the procedures set out below. However, such appeal may only proceed if the Claimant has timely filed a Notice of Appeal using the procedures set forth above.



**C. APPEAL TO THE STATE CORPORATION COMMISSION:  
DEADLINE: 30 DAYS FROM A DETERMINATION OF APPEAL; OR 30 DAYS  
FROM THE EXPIRATION OF AN EXTENSION OF APPEAL IF NO  
DETERMINATION, OR, IF NO DETERMINATION AND NO EXTENSION, 60  
DAYS FROM THE NOTICE OF APPEAL**

1. A Claimant may challenge the Deputy Receiver's Determination of Appeal on or before the Commission Appeal Deadline, by filing in the Commission's receivership proceedings a "Petition for Review of Deputy Receiver's Determination of Appeal" ("Petition") styled as follows:

COMMONWEALTH OF VIRGINIA STATE CORPORATION COMMISSION	
COMMONWEALTH OF VIRGINIA	
At the relation of the	
STATE CORPORATION COMMISSION,	
v.	Case No. INS-2011-00239
SOUTHERN TITLE INSURANCE CORPORATION, Defendant.	
In Re Claim of <u>(Claimant's Name)</u>	
PETITION FOR REVIEW OF DEPUTY RECEIVER'S DETERMINATION OF APPEAL	

2. The appeal may not present grounds or bases for appeal that were not presented in the preceding appeal to the Deputy Receiver unless the Commission determines that consideration of such grounds or bases is necessary to attain the ends of justice.
3. Except as provided in applicable sections of the Virginia Insurance Laws and the Orders of the Commission, proceedings regarding the Petition will be governed by the Rules of Practice and Procedures of the State Corporation Commission (the "Commission Rules").
4. Pursuant to Commission Rule 5 VAC 5-20-100(B), the Petition to the Commission shall contain (i) the identity of the parties, (ii) a statement of the action sought and the legal basis for the Commission's jurisdiction to take the action sought, (iii) a

statement of the facts, proof of which would warrant the action sought, (iv) a statement of the legal basis for the action, and (v) a certificate showing service upon the Deputy Receiver.

5. Any formal pleading or other related document or paper shall be considered filed with the Commission upon receipt of the original and required copies by the Clerk of the Commission at the following address:

State Corporation Commission  
Document Control Center  
1300 Main Street  
P.O. Box 2118  
Richmond, Virginia 23218

6. Service must also be made on the Deputy Receiver at

Southern Title Insurance Corporation, in Receivership  
P.O. Box 399  
Richmond, Virginia 23218

7. Failure to file the Petition as required under this Receivership Appeal Procedure waives any further right the Claimant may have to appeal, and the Deputy Receiver's Determination of Appeal becomes final.
8. Any finding, decision, judgment, order, or decree of the Commission made and entered in connection with such Petition shall be deemed a final judgment, order, or decree of the Commission as described in, and governed by, Commission Rule 5 VAC 5-20-220, as amended.
9. Subject to the Commission Rules and the Rules of the Supreme Court, a decision by the Commission upon a Petition may be appealable to the Supreme Court in accordance with its rules.

**D. QUESTIONS REGARDING THIS PROCEDURE MUST BE DIRECTED IN WRITING TO THE ADDRESS IN PARAGRAPH B.6 ABOVE.**

**E. THIS PROCEDURE MAY BE AMENDED BY THE DEPUTY RECEIVER AT ANY TIME AND, AS AMENDED, WILL APPLY TO APPEALABLE DECISIONS FOR WHICH THE DATE OF DECISION FIRST OCCURS AFTER THE AMENDMENT.**

**END OF RECEIVERSHIP APPEAL PROCEDURE**