

# Executive Summary

Board of Governors Meeting, September 25, 2024

## Agency and Agent Appointment Agreements

### Topic

This Action Item seeks BOG approval to amend the current Agency Agreement and Agent Appointment Agreement to comply with current laws, regulations, and operational needs and to clearly communicate expectations to stakeholders.

### History

In order to write Citizens business, an insurance agency and any of its agents must execute either an Agency Agreement or Agent Appointment Agreement (collectively referred to as “Agreements”) with Citizens. The Agreements set forth the terms and obligations that an insurance agency and its appointed agents must comply with. The Agreements were last updated in 2016. Changes are necessary to ensure that they remain compliant with current laws, regulations, and operational needs, as well as to provide clear expectations to stakeholders.

Citizens staff met with the various agent associations and the Agent Roundtable (“ART”) to solicit feedback on these proposed changes, many of which have been incorporated within. A summary of the changes are as follows:

- Adds two definitions to create a specific page for Agents to refer to regarding performance standards and underwriting changes;
- Removes requirement for Board of Governors approval and ART/MAAC input to changes to discipline programs and performance standards for agents and agencies;
- Requires agents and agencies to independently and routinely monitor posted materials to ensure compliance with performance standards;
- Clarifies requirement of an agent/agency to market or remarket to all available private markets, not just Clearinghouse;
- Provides process for how Citizens will handle ownership of a book of business when an agent separates from an agency;
- Prohibits credential sharing when accessing Citizens Systems;
- Mandates premium be timely remitted to Citizens;
- Requires the establishment of a trust account to segregate Citizens premium from the agent’s/agency’s operating account;
- Restricts an agent/agency from assigning or transferring an interest in its operating or trust account to a third party;
- Expands Citizens ability to offset, deny, or recover commissions in certain situations;
- Provides additional grounds for administrative terminations;
- Strengthens and clarifies grounds for terminations for cause;
- Permits Citizens to send a courtesy copy of discipline via regular mail instead of certified mail;
- Enhances requirement for agent/agency to requests for information outside of a formal investigation, and requires a sworn, recorded statement upon request;

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- Establishes a process for policies that have been transferred to Citizens Insurance Services (“CIS”) after an agent/agency has been terminated;
- Moves the venue of challenges to agent/agency discipline to the Division of Administrative Hearings (“DOAH”);
- Requires mandatory, binding arbitration at DOAH for all other disputes related to the Agreements;
- Modifies indemnification language to provide clarity; and
- Minor changes to language and formatting.

## Recommendation

Citizens’ Staff proposes that the Board of Governors:

- a) Authorize staff to seek approval of the proposed changes to Citizens’ Agency Agreement and Agent Appointment Agreement;
- b) Authorize staff to implement the changes to the Agreements upon receiving approval from the BOG; and
- c) Authorize staff to take any action consistent with this Action Item.

# Agency and Agent Appointment Agreements

Board of Governors Meeting, September 25, 2024



## *Agency Agreement*

- Establishes Primary Relationship
- Executed by Agency Principal
- Commissions Paid to Agency
- Establishes standards for compliance
- Establishes control of Citizens business
- Agency Required to Manage Agents
- Not required to be appointed by Citizens with DFS

## *Agent Appointment Agreement*

- Establishes Secondary Relationship
- Executed by Full and Limited Agents (Producing 220's/9044's)
- Establishes standards for compliance
- Required by statute to appoint agents with DFS

The changes being requested will allow Citizens to:

- Strengthen agency and agent adherence to Performance Standards
- Remove BOG approval process for Performance Standards changes
- Strengthen requirements to re-market Citizens Business
- Strengthen language on requirements to transfer CPIC Book
- Strengthen prohibition on credential sharing
- Establish requirement for Trust Accounts to segregate policyholder funds
- Prohibit assignment or transfer of any interest in Operating or Trust Accounts

The changes being requested will allow Citizens to:

- Establish ability to “offset, deny or recover” commissions
- Expand reasons for Administrative Terminations
- Modify grounds for Terminations for Cause
- Eliminate “Certified Mail” notice requirement
- Enhance requirements to compel agent cooperation with inquires and investigations
- Define rules on policy transfers to Citizens Insurance Services
- Move all disputes with agencies and agents to DOAH
- Modify Indemnification between Agency/Agents and Citizens

**Agreement Section:** Definitions

**Applies To:** Agency and Agent

**Proposed Change:** Define “Source of Truth” for Agent Performance Requirements

**“Agent Discipline and Performance Standards Page”** is the page that is accessible on the Agent Portal where the applicable agent discipline and performance standards materials are posted, including, but not limited to, any discipline or performance standards established pursuant to Sections I.D. and VII.J. of this Agreement.

**“Agent Portal”** means the website accessible to the Agent through the use of a unique credential, where the Agent Guidelines as well as the Agent Discipline and Performance Standards Page may be found and accessed.

**Why:** Agents are required to adhere to Underwriting guidelines, bulletins, alerts, etc. These documents are housed in various sections of the Agent portal. With this change we will be creating a specific page for Agents to refer to regarding performance standards and underwriting changes.



# Agency and Agent Appointment Agreement Changes

**Agreement Section:** II. General Requirements

**Applies To:** Agency and Agent

**Proposed Change:** Requires engagement with Agency and Agent guidelines posted on Agent Portal

**C. Compliance with Citizens' Requirements.** The Agency agrees to comply with the Agent Guidelines and all other materials posted on the Agent Portal, as may be amended from time to time. The Agency hereby acknowledges and agrees that the parties continued performance under this Agreement binds the Agency to any subsequent amendment to the Agent Guidelines or the materials posted on the Agent Portal. The Agency agrees to independently and routinely monitor the Agent Portal to ensure compliance with any subsequent amendments to the Agent Guidelines or agent discipline and performance standards. If the Agency does not agree to be bound by any subsequent amendment to the Agent Guidelines or agent discipline and performance standards, the Agency agrees to immediately terminate this Agreement pursuant to Section VI.B.1.

**Why:** Hold agents accountable to comply with and monitor performance standards





# Agency and Agent Appointment Agreement Changes

**Agreement Section:** I. Agreement

**Applies To:** Agency and Agent

**Proposed Change:** Remove requirement for BOG approval and MAAC/ART input to changes to discipline programs and performance standards for agents and agencies

B. **Agency Performance.** The Agency acknowledges and agrees that Citizens has established and may, ~~with Agent Roundtable (ART) and Market Accountability and Advisory Committee (MAAC) input, and with Board of Governors (Board) approval, establish, and from time to time,~~ modify the discipline and performance standards for agencies. The Agency acknowledges and agrees that failure to abide by the Citizens' to strictly adhere to such performance standards is a basis for action pursuant to Sections VI. of this Agreement ~~and understands the failure to do so constitutes a material breach of this Agreement.~~

**Why:** Allow Citizens staff to respond to market, product and legislative changes by appropriately adjusting Performance Programs to ensure agents are complying with new requirements or standards. We can continue to work with the Agent Roundtable on impacts to agents and to provide visibility to MAAC on any changes.

**Agreement Section:** II. General Requirements

**Applies To:** Agency and Agent

**Proposed Change:** Better define requirement to present Citizens risks to private market

E.F. Citizens as the Residual Market Insurer. The Agency acknowledges that Citizens is a residual market entity and should be ~~a~~ marketed as the insurer of last resort when placing new and renewal business. ~~To the extent it is therefore essential that new risks must be initially~~ are marketed, and that all renewals be remarketed, to the Agency's other available markets through Citizens' Clearinghouse in accordance with ~~all~~ the applicable Agent Guidelines, ~~such efforts are considered reasonable efforts in compliance with this provision. However, to the extent that risks are not eligible for submission to Citizens' Clearinghouse, such risks must be marketed in accordance with applicable Agent Guidelines and Florida law.~~

**Why:** Prior language implied that presentation to the Clearinghouse was all that was required to meet the remarketing standard. Also, will allow us to require proof of remarketing efforts on lines of business not on Clearinghouse.

## Agreement Section: II. General Requirements

**Applies To:** Agent  
**Proposed Change:**

Strengthen language in regard to transfer of policies when an agent separates from an agency.

2. In the event of Agent's departure from the Agency, ~~Agency the Agent will, within 48 hours of such departure, provide written notice to Citizens within 48 hours of the such departure, and block the Agent's access to any Customer Records that are not owned by the Agent, particularly records containing Confidential Information. Citizens will then promptly deactivate the Agent's access to Citizens' Systems. Such prohibition will continue unless and until reinstated pursuant to the procedures established and maintained by Citizens;~~
3. ~~In the event of Agent's departure from the Agency, if the contract between Agent and Agency provides that Agent owns the Agent's Citizens book of business;~~
4.
- 5.3. ~~If the Agent's relationship with an Agency ends, Citizens agrees to transfer the Agent's book of business to a new insurance agency from the former agency only upon the former agency's written consent on a form approved by Citizens or as ordered by a court of competent jurisdiction. When a transfer of the Agent's book of business is authorized, the Agent agrees to act in good faith to be being transferred to a new agent (or agents), Agent shall assist Citizens and the former agency in effectuating in transitioning the Agent's book of business to the new agent (or agents) a smooth transition of the book of business to ensure there is no delay in transition and no harm to any policyholders so that is no Citizens policyholder is without an appointed agent to service his or her policy.~~
  - a. ~~If the Agent is moving to a new agency and the book of business is to follow him or her to such agency, the Agent shall be responsible for taking any steps required by Citizens to effectuate a smooth transition of the book of business.~~
- 6.4. ~~In the event that a transfer of the Agent's book of business to a new insurance agency is not authorized, the Agent will receive no commission on any such policy that remains with the former agency. In the event of the Agent's departure from the Agency, if the contract between Agent and Agency provides that Agency owns the book of business, the Agent remains responsible for cooperating with the Agency and Citizens in taking all necessary steps to ensure a smooth transition of the Agent's book of business to a new agent (or agents) within the Agency.~~

**Why:** Currently, Citizens is drawn into disputes of ownership on policies. This change will place the determination of ownership with the Agency Principal (AP), who will be the only one that can effectuate a book transfer. Any disputes will need resolution between agent and AP.

## Agreement Section: II. General Requirements

**Applies To:** Agency

**Proposed Change:**

Strengthen language in regard to transfer of policies when an agent separates from an agency.

L.M. **Departure of Agent(s) from Agency.** The Agency Principal shall notify Citizens, by way of email to [Agents@citizensfla.com](mailto:Agents@citizensfla.com), immediately, but no later than 48 hours after an Appointed Agent leaves, relocates or takes ~~an extended~~ leave of 30 calendar days or more from the Agency.

- ~~1. If an Agent's relationship with an Agency ends, Citizens agrees to transfer the Agent's book of business to a new insurance agency from the former Agency only upon the former Agency's written consent on a form approved by Citizens or as ordered by a court of competent jurisdiction. When a transfer of the Agent's book of business is authorized, the Agency agrees to act in good faith to assist Citizens in effectuating a smooth transition of the book of business to ensure there is no delay in transition and no harm to any policyholder.~~
- ~~2. In the event that a transfer of the Agent's book of business to a new insurance agency is not authorized, the Agent will receive no commission on any such policy that remains with the former agency.~~
- ~~1. At the time that the Agency notifies Citizens of an Appointed Agent's departure from the Agency, the Agency shall advise Citizens of how to appropriately handle the placement of the departing Appointed Agent's Citizens book of business. The Agency agrees that any directives it provides Citizens regarding the handling of the departing Agent's book of business will be in accordance with the contract between the Appointed Agent and the Agency.~~
- ~~2. If the contract between an Appointed Agent and Agency provides that Agency owns the book of business, and that Appointed Agent departs from the Agency, the Agency shall assist Citizens in transitioning the book of business to a new agent (or agents) of record who is also an Appointed Agent, authorized to write such line of business, so as to effectuate a smooth transition of the policies whereby no policyholder is without an agent of record servicing his or her policy for any period of time.~~
- ~~3. If the contract between the Appointed Agent and Agency provides that the Appointed Agent owns the book of business, upon his or her departure from the Agency, the Agency will be responsible for cooperating with the departing Appointed Agent and Citizens to ensure that all necessary steps are taken to effectuate a smooth transition of the Appointed Agent's book of business, whereby no policyholder is without an agent of record servicing his or her policy for any period of time.~~
- 4.3. Upon an Agent's departure from the Agency, the Agency is responsible for terminating the departing Agent's access to any Confidential Information that remains in the custody and control of the Agency.

**Why:** Currently, Citizens is drawn into disputes of ownership on policies. This change will place the determination of ownership with the AP, who will be the only one that can effectuate a book transfer. Any disputes will need resolution between agent and AP.



# Agency and Agent Appointment Agreement Changes

**Agreement Section:** III. Technology and Data Security Requirements

**Applies To:** Agency and Agent

**Proposed Change:** Strengthens language regarding Citizens system access and credential sharing

- B. **Access to Citizens Systems.** The Agency agrees that Citizens may limit or deny the Agency or any of the Agency Personnel's credentials to access Citizens Systems at any time during the term of this Agreement if Citizens, at its sole discretion, determines that such action is reasonably necessary to protect the security of Citizens Systems, the privacy of policyholder data, or the confidentiality of other such Confidential Information. The Agency Principal and any Agency Personnel who accesses Citizens Systems on the Agency's behalf is prohibited from sharing his or her credentials with anyone, including any other Agency Personnel. Any Agency Personnel who support the Agency's Citizens customers must have his or her own login credentials to access Citizens Systems. Should Citizens limit or deny credentials to access Citizens Systems pursuant to this subsection, the Agency may seek reinstatement through an appeal process. Nothing in this subsection shall be construed to limit Citizens' rights pursuant to any other provision of this Agreement.

**Why:** Given the increasing frequency of this issue, staff believes that including the prohibition on credential sharing in the Agreements would be more effective than simply addressing it in a Bulletin. This will strengthen the requirement and allow us to better enforce unauthorized access by 3<sup>rd</sup> parties facilitated by agents.

## **Agreement Section:** IV. Operational Requirements

**Applies To:** Agency and Agent

**Proposed Change:** Requires that the agency maintain a Trust Account and its requirement for submitting funds timely to Citizens

### **B. Premium Collection and Submission.**

- 1. Premium Payments.** All checks paid by or on behalf of the applicant or policyholder must be made payable to Citizens and remitted to Citizens in accordance with the provisions and procedures set forth in the Agent Guidelines. Premium payments must be submitted to Citizens without deduction for commission or other charges.
- 1-2. Trust Account and Submission.** The Agency must timely remit all funds collected to pay premium for a Citizens policy to Citizens without delay and must segregate all such funds from the Agency's or Agent's operating account.
- 3. Fees and Surcharges.** Neither the Agency nor any Agency Personnel may charge or collect any fee in excess of the applicable Citizens' premium (e.g., service, inspection, or photograph fees). This prohibition does not apply to bank charges for returned checks associated with payment of premium. Moreover, this provision does not prevent the Agency from collecting, from policyholders, the exact amount of any discount or other such fee charged by a credit card facility in connection with the use of a credit card to the extent that such collection is permitted by law. However, no charges, fees or surcharges can be communicated to the applicant or policyholder as being a part of the Citizens' premium.
- 4. Assignment.** Neither the Agent nor the Agency may assign or transfer any interest in the Operating or Trust Account to any third party, including, but not limited to, any lender.
- 2-5. Materiality.** Any breach of this subsection (IV.B.) is a material breach of this Agreement and constitutes grounds for termination under Section VI.B.3.b.

**Why:** Allows us to take action on an agency/agent that does not have a Trust account established when a remittance issue arises. Addresses influx of UCC issues Citizens has been be subject to.



# Agency and Agent Appointment Agreement Changes

## **Agreement Section:** V. Commissions

**Applies To:** Agency and Agent

**Proposed Change:** Establishes Citizens ability to Offset, Deny or Recover commissions on policies submitted outside of Citizens Guidelines or as permitted by law.

- D. Authority to Withhold, Offset, Deny, or Recover. Citizens reserves the right to withhold, ~~offset, or~~ deny, or recover payment of commission should the Agency's or any of its Agent's authority to conduct Citizens business be suspended or terminated or should the Agency otherwise not fully comply with the terms of this Agreement. Additionally, Citizens may withhold, ~~offset or~~ deny, or recover commissions on any policy or coverage that was not submitted in accordance with the Agent Guidelines, or as otherwise permitted by law.

**Why:** Current Agreements only allow us to withhold commissions. This change would give us the ability to recover (“clawback”) commissions if we have cause to do so.

## Agreement Section: VI. Suspension and Termination

### Applies To: Agency and Agent

### Proposed Change: Expand reasons for Administrative Terminations

2. **Administrative Terminations.** Notwithstanding any other provisions herein, this Agreement will be administratively terminated, by a date certain specified in a written notice, upon the occurrence of ~~any~~either of the following:
- a. ~~The Agency does not have an Agency Principal;~~
  - b. ~~The Agency does not have at least one Appointed Agent;~~
  - c. ~~The Agency has not timely provided documentation that Citizens has determined to be necessary to maintain the appointment;~~
  - d. ~~The Agency has failed to annually verify its Appointed Agents whose appointments are being renewed or pay renewal fees of those Appointed Agents pursuant to Section I.A. above;~~
  - e. ~~The Agency has not timely complied with any inquiry, request, investigation, adjustment, review or audit from Citizens;~~
  - f. ~~The Agency has failed to have sufficient coverage under its Errors and Omissions insurance;~~
  - g. ~~The Agency has failed to provide proof of compliance with the Errors and Omissions coverage requirement upon request by Citizens; or~~
  - a-h. ~~The termination of this Agreement is required by a change in Florida law.~~
- ~~Administrative Termination does not invoke the minimum termination period described below.~~

2. **Administrative Terminations.** Notwithstanding any other provisions herein, this Agreement will be administratively terminated, by a date certain specified in a written notice, upon the occurrence of any~~either~~ of the following:
- a. Any circumstance, including but not limited to the Agent's departure from the Agency or the termination of the ~~Agency's~~ Agency Agreement with Citizens, that results in the Agent no longer being affiliated with or otherwise conducting his or her business through an insurance agency that has an active Agency Agreement with Citizens, ~~provided that the Agent is not affiliated with a new insurance agency in compliance with Section II.N. on or before the termination date set forth in the written notice; or~~
  - b. ~~The termination of the Agent's appointment by the Department of Financial Services ("DFS") (unless such termination of the Agent's appointment coincides with the suspension, revocation, expiration, termination, or surrender of the Agent's Florida general lines agent's license as addressed below), provided that the appointment is not reinstated by DFS on or before the termination date set forth in the notice;~~
  - c. ~~The Agent has not maintained the minimum qualifying appointments with other carriers;~~
  - d. ~~The Agent or the Agency has not timely provided documentation that Citizens has determined to be necessary to maintain the appointment;~~
  - e. ~~The Agent has not timely completed his or her mandatory training as required by Citizens;~~
  - f. ~~The Agent has not timely complied with any inquiry, request, investigation, adjustment, review or audit from Citizens;~~
  - g. ~~The Agent has failed to have sufficient coverage under the Agency's Errors and Omissions insurance;~~
  - h. ~~The Agent has failed to provide proof of compliance with the Errors and Omissions coverage requirement upon request by Citizens;~~
  - i. ~~The termination of this Agreement is required by a change in Florida law; or~~
  - j. ~~The Agency has failed to renew the Agent's Agreement pursuant to Section I.E. above.~~

**Why:** Current agreement requires “for cause” terminations for reasons that are administrative in nature, which delays compliance on administrative issues and increases burden on Citizens for notice and remedy.



## Agreement Section: VI. Suspension and Termination

**Applies To:** Agency and Agent

**Proposed Change:** Modifies grounds for Termination for Cause. Replaces “fraud and criminal misconduct” threshold with “breach of fiduciary responsibilities” or “lack of competency” as thresholds for action

- b. Citizens may terminate this Agreement ~~or refuse to appoint an agent due to by providing written notice setting forth a date on which such termination will take effect (generally not less than 10 days), upon Citizens' determination that, at any point during the Agency's relationship with Citizens, any of the following conditions or actions occurred:~~
- i. Agency has abandoned its business;
  - ii. ~~Agency or any of its Agency Personnel has~~ breached a fiduciary duty(ies); committed fraud, breach of fiduciary duty, gross, willful or criminal misconduct in relation to the business of insurance; or
  - ii.iii. ~~Agency or any of its Agency Personnel has engaged in any deceptive or dishonest act or misrepresentation in connection with Citizens business misleading practices as prohibited under Florida law or regulation;~~
  - iv. ~~Agency has materially breached this Agreement, or any items incorporated by reference into this Agreement;~~
  - v. ~~Agency has failed to timely cure any deficiency identified in any disciplinary action issued by Citizens;~~
  - iii.vi. ~~Agency lacks the knowledge or technical competence to conduct Citizens business;~~
  - iv.vii. ~~Agency's willful, has failed~~ to timely comply with a request from Citizens pursuant to any inquiry, request, investigation, adjustment, review or audit; or
  - v.viii. ~~Agency's continuing failure to meet requirements specified as a term of a disciplinary suspension. Agency or Agency Personnel has transacted Citizens business on behalf of, for the benefit of, or under the direction of, an agent or agency or agent/agency personnel whose appointment with Citizens has been suspended or terminated.~~
- b. Citizens may terminate this Agreement ~~or refuse to appoint an agent due to by providing written notice setting forth a date on which such termination will take effect (generally not less than 10 days), upon Citizens' determination that, at any point during the Agent's relationship with Citizens, any of the following conditions or actions occurred:~~
- i. Agent has abandoned Agent's or Agency's business;
  - ii. ~~Agent or Agent Personnel has committed fraud, breached his or herof fiduciary duty(ies), gross, willful or criminal misconduct in relation to the business of insurance; or~~
  - ii.iii. ~~Agent or Agent Personnel has engaged in any deceptive or dishonest act or misrepresentation in connection with Citizens business misleading practices as prohibited under Florida law or regulation;~~
  - iv. ~~Agent has materially breached this Agreement, or any items incorporated by reference into this Agreement;~~
  - iii.v. ~~Agent has failed to timely cure any deficiency identified in any disciplinary action issued by Citizens;~~
  - iv. ~~Agent's failure to meet any requirements specified as a term of a disciplinary suspension~~
  - vi. ~~Agent has failed to comply with any condition of continued appointment as a Citizens' agent;~~
  - vii. ~~Agent lacks the knowledge or technical competence to conduct Citizens business;~~
  - v. ~~Agent's conduct demonstrates that the Agent is not capable of properly rendering services or fulfilling the Agent's obligation under this Agreement;~~
  - viii. ~~Agent has A willful failure~~ to timely comply with a request from Citizens pursuant to any inquiry, request, investigation, adjustment, review or audit;
  - vi.ix. ~~Agent has transacted Citizens business on behalf of, for the benefit of, or under the direction of, an agent or agency or agent/agency personnel whose appointment with Citizens has been suspended or terminated.~~

**Why:** Current agreement establishes high burden which limits ability for Citizens to take action against agents/agencies when there is evidence of consumer harm or unethical activity.



# Agency and Agent Appointment Agreement Changes

**Agreement Section:** VI. Suspension and Termination

**Applies To:** Agency and Agent

**Proposed Change:** Remove requirement to notify agent or agency of termination via Certified Mail

**C. Suspension and Termination Notices.** Citizens will provide any notice of suspension or termination by email at the official email address of the Agency, as contained in Citizens Systems. Citizens will also send a courtesy copy of any notice of disciplinary suspension or termination via ~~regular~~certified mail, ~~return receipt requested~~, to the Agency's mailing address of record, as contained in Citizens Systems. The date upon which any notice of suspension or termination is emailed to the Agency's last known email address reflected in Citizens Systems will be considered the operative date for service. For any notice of suspension or termination for cause, Citizens will state the factual basis of the action taken.

**Why:** Allows for efficiency by only utilizing an electronic process. Reduces costs for mailing and the administrative burden to Citizens.

**Agreement Section:** VI. Suspension and Termination

**Applies To:** Agency and Agent

**Proposed Change:** Enhance requirement to respond to **requests** for information outside of formal investigations and require sworn, recorded statements upon request

- D. **Requests and Investigations.** ~~Citizens will investigate reported or suspected misconduct by the Agency and make a determination as to whether misconduct occurred.~~ The Agency ~~must fully agree to~~ cooperate with ~~such any~~ investigation ~~initiated by Citizens related to Citizens business or the Agency's or Agency Personnel's performance under this Agreement,~~ including providing ~~Citizens with prompt full~~ access to ~~and allow copies of,~~ **original** records **in its native format** relating to Citizens business, ~~and~~ promptly and completely responding to **all** inquiries **for any information relating to Citizens business or the Agency's or Agency Personnel's performance, and providing a sworn, recorded statement to Citizens upon request.** ~~Citizens will impose discipline based on any misconduct found to have occurred.~~

**Why:** Currently agents and agencies are not compelled to respond to Citizens outside of a formal investigation of misconduct or a claim. Changes expand the agent's/agency's duty to respond to our requests and clarifies that Citizens is entitled to see the records in their original form. Also requires that a sworn, recorded statement be provided upon request.



# Agency and Agent Appointment Agreement Changes

## Agreement Section: VII. General Terms and Conditions

### Applies To: Agency and Agent

### Proposed Change: Define rules for transfers to Citizens Insurance Services

~~Citizens' Servicing of Policies. By entering into this Agreement, Agent agrees that if the Agent's appointment is terminated, Citizens may transfer any policy to the Citizens Insurance Services ("CIS") for servicing if the policy has not been transferred to a new Citizens' appointed agent within thirty (30) days of the Agent's termination. If a policy is transferred to CIS may service policies for which Agent is or has been the agent of record:~~

- ~~1. Citizens is not responsible for paying commissions on any such policy;~~
- ~~1.2. The policy is deemed surrendered by the Agent and a new Citizens' appointed agent may be assigned to the policy in accordance with Section VI.I. of this Agreement following a termination of the Agent's appointment;~~
- ~~2.3. The Agent shall remain liable for, and will hold Citizens harmless from, any errors, omission, or wrongful acts committed by the Agent in connection with the policy as necessary resulting from a suspension in accordance with Section VI.E. of this Agreement; and~~
- ~~3.4. Citizens is not liable to the Agent under any theory of law or equity for any injury to, or damages sustained by, the Agent due to the transfer of a policy to CIS, as necessary resulting from any limitation or denial of Agent's access to Citizens' Systems in accordance with Section III.B. of this Agreement;~~

~~The Agent further agrees that in such instances Citizens will be held harmless and released from any damages or liability to Agent, under any theory of law or equity, relating in any way to the policies that Citizens is servicing or has serviced (including, but not limited to any injury or damages related to the Agent's book of business and~~

~~expirations, the assumption of policies by private market carriers through depopulation, or the processing of cancellations, endorsements, nonrenewals, and/or renewals on such policies), except to the extent that, while servicing the policies, Citizens commits a wrongful act or omission that would give rise to a cause of action against Citizens by a policyholder.~~

Citizens' Servicing of Policies. By entering into this Agreement, Agency agrees that if the Agency's or any of its Agent's appointment is terminated, Citizens may transfer any policy to the Citizens Insurance Services ("CIS") for servicing if the policy has not been transferred to a new Citizens' appointed agent within thirty (30) days of the Agency's or Agent's termination. If a policy is transferred to CIS may service policies for which any of Agency's Appointed Agents is or has been the agent of record:

1. Citizens is not responsible for paying commissions on any policy;
2. The policy is deemed surrendered by the Agent and Agency and a new Citizens' appointed agent may be assigned to the policy;
3. The Agency shall remain liable for, and will hold Citizens harmless from, any errors, omission, or wrongful acts committed by the Agency or any of its Agency Personnel in connection with the policy; and
4. Citizens is not liable to the Agency under any theory of law or equity for any injury to, or damages sustained by, the Agency or any of its Agency Personnel due to the transfer of a policy to CIS, in accordance with Section VI.I. of this Agreement following a termination of the Agent's appointment;
1. As necessary resulting from a suspension in accordance with Section VI.E. of this Agreement;
3. As necessary resulting from any limitation or denial of Agent's access to Citizens' Systems in accordance with Section III.B. of this Agreement;

The Agency further agrees that in such instances, Citizens will be held harmless and released from any damages or liability to the Agency, under any theory of law or equity, relating in any way to the policies that Citizens is servicing or has serviced (including, but not limited to any injury or damages related to the Agency's book of business and expirations, the assumption of policies by private market carriers through depopulation, or the processing of cancellations, endorsements, nonrenewals, and/or renewals on such policies), except to the extent that, while servicing the policies, Citizens commits a wrongful act or omission that would give rise to a cause of action against Citizens by a policyholder.

**Why:** Allows for Citizens to appoint a new agent in lieu of CIS servicing the policy indefinitely. Clarifies indemnification when business is transferred to CIS.

**Agreement Section:** VII. General Terms and Conditions

**Applies To:** Agency and Agent

**Proposed Change:** Move challenges to Agent/Agency discipline to DOAH.

~~Challenges to Discipline~~Appeal. Any disciplinary suspension or termination of this Agreement by Citizens may be ~~appealed~~challenged by the Agent through a proceeding at the Division of Administrative Hearings. All ~~such challenges—appeals~~ must follow Citizens' Procedures for Challenging Intended Disciplinary Action—Appeal Procedures. The Agent agrees that these procedures may be amended hereafter by Citizens. These procedures, and any amendments hereafter, are posted on the Agent Discipline and Performance Standards Page. These procedures will provide the Agent with an opportunity to contest the disciplinary action taken ~~and present evidence that the action taken was based on a mistake of fact or law~~. However, administrative terminations, investigative suspensions, ~~and terminations without cause, and terminations for cause pursuant to Section VI.B.3.a. of this Agreement are not disciplinary in nature and cannot be~~ challenged~~appealed in accordance with the Disciplinary Action Appeal Procedures~~. Furthermore, the termination of an appointment resulting from the failure to renew is not disciplinary in nature and can may not be challenged by the Agent under any circumstances~~appealed~~. ~~With regard to any suspension or termination that is not disciplinary in nature and not subject to the Citizens' Disciplinary Action Appeal Procedures, Citizens will provide the Agent an opportunity to seek review of the action.~~

**Why:** Allows for transparency and consistency in the appeals process. Eliminates need for outside arbitrators and improves efficiency of process.



# Agency and Agent Appointment Agreement Changes

**Agreement Section:** VII. General Terms and Conditions

**Applies To:** Agency and Agent

**Proposed Change:** Require arbitration at DOAH for any dispute related to the Agreement (except for appeals).

- D. Florida Law, Jurisdiction, Venue and Service of Process.** This Agreement will be governed by the laws of the State of Florida. Except for matters subject to the process outlined in Section VII.J. of this Agreement, the parties agree to resolve any dispute based on or related to this Agreement through the use of mandatory binding arbitration under the Revised Florida Arbitration Code before the Division of Administrative Hearings in Leon County, Florida. The Agency hereby consents to personal jurisdiction in the courts of the State of Florida. The Agency agrees that service of process in any such arbitration proceeding ~~in any such court~~ may be effectuated by Certified Mail at the address for the Agency on record with Citizens. ~~The parties hereby agree that the exclusive venue for any litigation or arbitration based on or related to this Agreement shall be in Leon County, Florida.~~ The parties further acknowledge recognize and agree that the terms of Chapter 120, Florida Statutes, are not applicable to Citizens, this Agreement, or the relationship between Citizens and the Agency.

**Why:** Allows for transparency, consistency, and efficiency for any dispute related to the Agreement.

## **Agreement Section:** VII. General Terms and Conditions

**Applies To:** Agency and Agent

**Proposed Change:** Cleanup of indemnification language

**G. Indemnification.** The Agency shall indemnify and hold harmless Citizens, members of its Board of Governors~~Members~~, members of its Committees, and Citizens' officers, employees, and designees, ~~committees and committee members~~ from any liability, damage, claims or causes of action, in law or in equity, with regard to any and all liability losses, damage, claims, causes of actions~~damages~~, fees and expenses, in law or in equity, including legal fees or other expenses reasonably incurred or paid by Citizens ("Losses") on account of: 1) any ~~negligent or wrongful~~ act, error or omission of the Agency or its Agents in the rendering of any services, act or duty undertaken pursuant to this Agreement, ~~except to the extent that Citizens has caused such liability or damage~~, 2) any action brought by an insurance agent or agency or any other third party against Citizens and pertaining to the ownership, custody, or control of any Customer Records or Citizens business produced or serviced by or on behalf of the Agency, ~~provided that Citizens is not found to have acted negligently or wrongfully with regard to such matter~~, and 3) the investigation of any Security Incident and any reasonable efforts to respond to such Security Incident, as set forth in Section III of this Agreement~~(above)~~, ~~provided that Citizens is not found to have acted negligently or wrongfully with regard to such matter~~. Citizens shall indemnify and hold harmless the Agency and its officers, employees and Agents from any liability, damage, claims or causes of action with regard to any and all liability losses, damage, claims, causes of actions~~damages~~, fees and expenses, in law or in equity, including legal or other expenses reasonably incurred or paid by the Agency on account of any negligent or wrongful act found to have been committed by~~of~~ Citizens in the performance of any duty set forth in this Agreement except to the extent that the Agency or its Agents caused such liability or damage.

**Why:** Language clarified to strengthen when agency/agent indemnifies Citizens, and to be consistent with changes to indemnification language in other contracts throughout Citizens.

# Agency and Agent Appointment Agreements Action Item

**ACTION ITEM**

New Contract

Contract Amendment

Other Agency and Agent Appointment Agreements

**CONSENT ITEM**

Contract Amendment

Existing Contract Extension

Existing Contract Additional Spend

Previous Board Approval \_\_\_\_\_

Other

**Action Items:** Items requiring detailed explanation to the Board. When a requested action item is a day-to-day operational item or unanimously passed through committee it may be moved forward to the board on the Consent Index.

**Move forward as Consent:** This Action item is a day-to-day operational item, unanimously passed through committee or qualifies to be moved forward on the Consent Index.

**Consent Items:** Items not requiring detailed explanation to the Board of Governors. Consent items are contract extensions, amendments or additional spending authorities for items previously approved by the Board.

Item Description	Agency and Agent Appointment Agreements
<b>Purpose/Scope</b>	This Action Item seeks BOG approval to amend the current Agency Agreement and Agent Appointment Agreement to comply with current laws, regulations, and operational needs and to clearly communicate expectations to stakeholders.
<b>Contract ID</b>	N/A
<b>Budgeted Item</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Procurement Method</b>	N/A
<b>Contract Amount</b>	N/A
<b>Contract Terms</b>	N/A



## Agency and Agent Appointment Agreements Action Item

<b>Board Recommendation</b> (DOES NOT go through Committee)	Citizens' Staff proposes that the Board of Governors: <ul style="list-style-type: none"><li>a) Approve the proposed changes to Citizens' Agency Agreement and Agent Appointment Agreement;</li><li>b) Authorize staff to implement the changes to the Agreements upon receiving approval from the BOG; and</li><li>c) Authorize staff to take any action consistent with this Action Item.</li></ul>
<b>Contacts</b>	Jeremy Pope, Chief Administrative Officer Carl Rockman, Vice President of Agency and Market Services