



November 26, 2018

Sunset Advisory Commission
PO Box 13066
Austin, TX 78711

[Delivered by email to sunset@sunset.texas.gov]

Dear Sunset Review Staff,

RE: Response to Sunset Report for the Texas Windstorm Insurance Agency

Thank you for the opportunity to offer follow-up comments to the recently released staff report and recommendations for the Texas Windstorm Insurance Agency. We commend the staff's good work in describing the complicated and broken system our members encounter on a daily basis.

Generally, we agree with the issues identified, as well as the suggested approaches to address them. Our particular concerns, as submitted via the internet survey on September 5, 2018, appear to most closely align to those under Issue #3 related to policyholder difficulties following Hurricane Harvey.

Those comments are included with this letter. Perhaps the recommendations under Issue #3 are intended to reflect some or all of these issues, but it's not clear that is the case. So, we offer them again with the hope you find them useful as you refine and finalize the report.

As public insurance adjusters deeply involved with Texas policyholders after Hurricane Harvey, TAPIA members have an up-close and clear view of TWIA's response to consumers. We will be glad to share more about our experiences and provide additional information that may help to create a better solution for policyholders and the professionals who serve them.

Thank you for your time and interest.'

Sincerely,

Kaye Beneke, Executive Director

Cc: Gary Pennington, President
Loy Vickers, Vice President
Jim Beneke, Legislative Chair

Texas Association of Public Insurance Adjusters Response to TWIA Sunset Survey - Sept. 5, 2018
(originally submitted via SurveyMonkey)

1. Please provide the following contact information:

Kaye Beneke, Executive Director
Texas Association of Public Insurance Adjusters
TAPIA@mytapia.org

2. Would you like to be added to a low-volume email list to receive notifications on the TWIA Sunset review, such as the release of the staff report? Your information will be kept confidential.

YES

3. In your experience, could TWIA handle underwriting and renewing policies in a more fair, timely, and efficient manner?

No response at this time. Public adjusters are more involved with the claims handling side of TWIA's activities.

4. How has TWIA's handling of claims changed over time? In your experience, does TWIA handle claims in a timely, fair, and efficient manner?

- a. Feedback from our members suggests a clear pattern of reduced appraisal awards. This is harmful to consumers and will likely increase the number of suits filed against TWIA for nonpayment of claims.
- b. TWIA's reliance on NONLICENSED CONSULTANTS to negotiate claims appears to be on the rise. These consultants often refuse to provide to public adjusters working a claim with any documentation, credentials, business cards, or contact information. In some instance, PAs report, these consultants will not grant a reinspection of a property without a contractor's estimate. This is just one example of how nonlicensed and inexperienced consultants can delay and obstruct timely negotiations.
- c. TWIA's increased reliance on SPECIAL INVESTIGATORS is problematic for public adjusters attempting to negotiate claims in good faith on behalf of policyholders. The role of the investigators, nature of their work, employment relationship with TWIA, and authority to question public adjusters' credentials and contracts is unclear. Their involvement in cases often intimidates and confuses policyholders—and can interfere with the PA/policyholder relationship.
- d. TWIA routinely ignores the process of working out the claim with a public adjuster. The pattern seems to be to ignore the public adjuster and communicate directly with the insured to "cut deals" and offer "carrots" to people who are, sometimes, desperate. Public adjusters are licensed professionals who have the legal right to represent an insured in a claim in this state. TWIA needs to be directed to resolve claims with an insured's representative.

5. In your experience, are TWIA policy premiums fair and adequate? Too high? Too low?

It appears from our research that TWIA operating cost is 5% of the premium, nations lowest, yet they are charging premiums 12% higher than average. Meanwhile, TWIA's Board just voted to increase all premiums another 10%. All other insurance companies have to have TDI approval for a rate increase.

6. How could the state better ensure windstorm insurance coverage along the coast?

At some point, private carriers need to come back into the market. It might also be time to look at spreading the risk over a larger pool (like the state). It has already been shown that there is a

willingness for other companies to include windstorm coverage. The “Depopulation Policy” allows TWIA to sell off their policy to carriers willing to purchase them.

Also, insurers should not be allowed to write homeowners insurance (fire policies) in this state unless they are willing to also issue windstorm insurance. TWIA can then be eliminated altogether.

7. Should the state continue to use TWIA to write policies? Should the state abolish TWIA? Should the state restructure TWIA?

TWIA should be reformed. There have to be penalties applied to their bad actions. Currently there is no incentive to do the right thing. In fact, the incentive is to actually do the wrong thing. TWIA should fall under the same penalties as private insurers. They are made up of private insurers, when you get down to it.

8. Does TWIA and the TWIA board effectively communicate to stakeholders? How well does TWIA and the TWIA board seek and respond to feedback?

Feedback we received from PAs in the field suggests communication with TWIA is practically nonexistent—especially when there are questions about TWIA actions or decisions. They refuse to talk about it.

9. What letter grade would you give the overall quality of the Texas Windstorm Insurance Association?

A B C D X F

10. If you were to name three ways TWIA could improve, what would those be?

- a. Change TWIA’s poor and unfair claims handling process, including hiring unlicensed and unregulated “building consultants” who are acting as an adjuster without a license. Create accountability for claims delays and intentional claim low-balling. Finally, some PAs question TWIA’s hiring of licensed adjusters who are holding themselves out to be “building consultants.” We recommend a look at this practice and implications.
- b. Establish and enforce penalties for bad actions by TWIA employees, it’s representatives and subcontractors.
- c. Require TWIA to allow appraisal to be used as it is used within the industry and hold TWIA accountable if caught interfering with the appraisal process. TWIA is forcing policyholders into appraisal and not adequately adjusting some claims. Once the appraisal award is complete, TWIA is reducing and not paying the full amount of the appraisal award. This should include not directing their appraiser, the insured’s appraiser or the umpire regarding the appraisal to affect their desired outcome. Further, the TDI umpire appointment process should be abolished and umpires should be whoever the two appraisers agree upon or by court appointment which is in line with the rest of the industry on national basis. Beyond that, appraisers should appraise only and umpires should umpire only--NOT do both. It is s conflict of interest. Finally, appraisals should be limited to 60 days and each side should pay their own expenses and not split all expenses equally.

11. Please add any other comments about TWIA. If you suggest changes, please provide:

Carefully review the the data call and how it reports statistics of reopened claims by public adjusters or attorneys. Make changes to account for reality.

Background information on how the current system works and a description of what you would like see changed:

TWIA closes claims after a payment, even when they know living expenses, contents inventories, or structural damage assessments are not complete. This requires claims to be reopened several times. TWIA claims have an average reopen of five or more times. This leads to false data and numbers—giving the appearance that public adjusters are inflating claims or claims-running to attorneys. As of October 31, 2016, TWIA policy count was 258,031 with an exposure of approximately \$74.6 million. The average payout before TWIA closure was \$16,300.

Benefits of your recommendations: Better data will give a clearer picture of what actually happens with TWIA claims, remove the stigma about public adjusters and attorneys simply doing the job they were hired to do, and strengthen consumer confidence in the process.

Any potential difficulties that may arise from your recommendations. None that we're aware of.

***NOTE:** On behalf of TAPIA's Board and membership, thank you for this opportunity to submit a response to the survey. With the time we were given, we did our best to come up with the major issues provided by our public adjuster members who are handling numerous TWIA claims. Along the way, we have collected some documentation to support our comments, and continue to collect it. We will be glad to provide additional information and examples at any time. We know this is just the beginning of a long process. Please let us know if and how we can be of assistance along the way.*

Thank you,

Lorinda Mikesell, President
Loy Vickers, Legislative Chair
Kaye Beneke, Executive Director

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