



MEMO

To: Texas Sunset Commission

From: Beaman Floyd
Executive Director
Texas Coalition for Affordable Insurance Solutions

Date: 11/20/2018

Re: Response to the Sunset Commission Staff Report to the 86th Legislator on the Texas Windstorm Insurance Association

Thank you on behalf of the Texas Coalition for Affordable Insurance Solutions (“TCAIS”) for the opportunity to provide comment on the Sunset Advisory Commission Staff Report on the Texas Windstorm Insurance Commission (“TWIA”). We appreciate the efforts of the commission to produce quality public policy research, opportunities for stakeholder dialogue, and forums for public testimony on the complex structures of our state. We look forward to working with commission members and staff on critical issues related to TWIA as we move forward through the coming legislative session.

Comments on Staff Recommendations

Recommendations 1.1, 1.2

TCAIS disagrees with the premise indicated by the two separate recommendations that they are somehow mutually exclusive. Our experience here and in other states demonstrates that insurers of last resort are and should be reliant on premium funding, and should have actuarially sound rates, even when not competing with the private market. In fact, rates commensurate with risk are a key factor in preventing insurers of last resort from becoming predatory structures in a competitive market. In addition, moving marketplace funding to the very bottom of the excess funding structure (the flipping of the bonding and assessment layers), as contemplated by the first bullet under 1.1, would discourage depopulation and

actuarial soundness, and distribute primary TWIA risk statewide. Thus, we find the “either/or” concept in the separate recommendations something of a false dichotomy. TCAIS recommends that the commission combine and edit its current recommendations into a single recommendation that both limits TWIA as an insurer of last resort and requires specific sound insurance principles. Our suggestion for a unified recommendation would be as follows:

- Limit TWIA’s risk pool by strengthening its voluntary market depopulation and declination programs. This recommendation would require TWIA policyholders and applicants to receive two letters declining to provide windstorm insurance coverage from insurance companies that are actively writing windstorm insurance on the coast that year.
- Require TWIA to present a report detailing actuarial sound rates to the Texas Department of Insurance
- Require TWIA to present and the Texas Department of Insurance to approve rates that make material progress toward actuarial soundness, when rates are determined to be insufficient.
- Direct TWIA and the Texas Department of Insurance to adopt an investment plan for the Catastrophe Reserve Trust Fund.
- Amend TWIA’s statute to allow TWIA to purchase reinsurance to protect a portion of its Catastrophe Reserve Trust Fund, in line with the operations of many private insurance companies.

In addition, TCAIS observes that other measures may be needed to maximize TWIA alternatives and insurance capital in the coastal region, depopulate TWIA in ways other than direct assumption by market insurers, and foster better understanding of the economic realities and perils of TWIA rates and premium. TCAIS would add the following recommendations:

- Amend the surplus lines insurance statute to allow surplus lines insurers to write where only TWIA coverage is available.
- Direct the Texas Department of Insurance to study the current Catastrophe Area as defined in Sec 2210.005 to determine whether the geography of the catastrophe area should be reduced.
- Direct the Texas Department of Insurance to perform a biennial study of coastal risk to include comparative analysis of other gulf coast and Atlantic states, comparisons of aggregate insurance premiums, long term economic impacts of rate decisions, and risk reducing activities among various jurisdictions.

With regard to the last bullet, TCAIS is concerned that some of the staff recommendations in section 1 rely on unsubstantiated economic assumptions. In particular, this report refers several times to the possibility that an increase in TWIA rates “may” lead to a reduction in the buying of insurance or general economic harm. However, the report offers no research or comparative

analysis that puts Texas rates in perspective relative to other states exposed to tropical risk, nor does it offer economic impact research to prove the broad harm of rate increases. TCAIS believes that structures for the generation of more objective analysis on TWIA would help the TWIA board, stakeholders, and policymakers have better policy discussions.

TCAIS would also reiterate its long-held position that change to TWIA to improve its adherence to insurance principles should be done carefully and incrementally, to guard against economic shocks to consumers on the path to sustainability and responsibility. Though our pursuit of more realistic rates and funding should be constant, it should also be careful.

Recommendations 2.1-2.3

TCAIS agrees that TWIA should be authorized to provide its customers good, proven consumer options for renewal and payment, so long as it does not disincentivize TWIA depopulation.

Recommendations 2.4-2.5

TCAIS would urge caution in state mandates related to the relationship between TWIA, agents, and consumers. The legislature should fully consider unintended consequences before mandating any change.

Recommendations 3.1-3.5

TCAIS has no position on these recommendations. TCAIS observes that TWIA is subject to significant review of its claims operations, and would urge that policymakers consider whether more review could impede operations without materially increasing data.

Recommendation 4.1

TCAIS supports this recommendation.

Recommendations 5.1, 5.2

TCAIS has no position on Recommendation 5.1. TCAIS supports recommendation 5.2, which comports with our long-held support of both establishment and enforcement of stronger building codes in Texas.

Recommendations 6.1-6.5

TCAIS recognizes the reasons behind Recommendation 6.1, but is concerned that the offered solution creates a straight up or down action by TDI that might actually slow the rulemaking

process. We also observe that TDI is sometimes positioned to see the bigger picture of the insurance marketplace and TWIA's impact outside of its own operational sphere. TCAIS suggests that TWIA have a procedure for submitting draft rules to TDI, thus taking advantage of TWIA's expertise, but that TDI be able to amend a draft rather than resubmit to TWIA prior to adoption.

TCAIS generally supports the across the board recommendations found in 6.2-6.5, though we would like additional information on what constitutes "participating in the management of a business entity or other organization in the insurance industry," which could be construed over-broadly.

Again, thank you for the chance to comment. If you have any questions concerning these responses or other questions where TCAIS might be helpful, please do not hesitate to contact us.