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COASTAL WINDSTORM INSURANCE COALITION  
2402 Postoffice Street • Galveston, TX 77550 • (409) 684-0948  
hfreudenburg@hotmail.com

December 1, 2018

Texas Sunset Advisory Commission  
P.O. Box 13066  
Austin, Texas 78711

Dear Sunset Commission:

The Coastal Windstorm Insurance Committee (CWIC) appreciates the efforts by the Sunset Commission staff in putting together the report, as well as our opportunity to comment on the issues and suggested changes in the report. After reviewing the report, there are a lot of good points and discussion topics raised, but there are also some areas that go outside the scope of the Sunset process and are better suited for debate through the normal legislative process.

In some of these areas, Sunset staff is acutely aware that their recommendations could significantly affect policy, but in other areas it seems there is confusion. CWIC appreciates the opportunity to clear this up, as well as comment on some specific recommendations. We have not commented on every recommendation in order to magnify our larger concerns, but please note we may do so in the future depending on myriad factors.

Chapter 325 of the Texas Government Code is the Sunset Act, and Sec. 325.011 specifically, outlines the criteria for review allowed by the Sunset process. Nowhere in the list is it contemplated that the Sunset process would alter legislative policy decisions.

The report recognizes this, stating:

“Sunset staff cannot make recommendations to address TWIA’s performance, operations, and structure without endorsing one policy direction over another, which is a matter for the Legislature to decide.”

This understanding is prevalent in Issue 1, but problematically, not throughout their recommendations, particularly in Issue 2 or 4.

Issue 1: TWIA’s Competing Statutory Mandates Leave Its Sustainability in Question.

Recommendations:

- 1.1 Continue TWIA as an insurer of last resort, (or)
- 1.2 Continue TWIA as an insurance company reliant primarily on premium funding.



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2302 Postoffice Street • Galveston, TX 77550 • (409) 682-4934  
hfreudenburg@cwiccoalition.com

- Disagree. Regardless of the recommendations listed, Sunset staff is not in a position to make recommendations and only clouded the issues by doing so.
- Suggested Changes.
  - Present additional analysis on why the voluntary market retreated from the coast in 2005, and what funding changes have occurred since in order to better understand how we go to the current situation
  - Present additionally analysis on the size of the Property and Casualty market in Texas compared to the size and risk to the market by back-stopping TWIA
  - Review and expand on the alternatives that Sunset staff mentioned but did not make recommendations on

### Issue 2: Inefficient Renewal Requirements and Payment Policies Increase Costs for Policyholders.

Adopting any of these recommendations in a vacuum misses the big picture. The Sunset staff report correctly points out that only about 30% of the collected premiums get deposited into the Catastrophe Reserve Trust Fund (CRTF). 25% of collected premium go to purchasing re-insurance annually, 16% goes to servicing previous debt, and 16% goes to insurance agent commissions. Singularly pulling any of those into a separate issue ignores the policy implications across the board to TWIA.

- Suggested change: Issue 2 should be treated in the same vein as the other large expenditures, and must be rolled into Issue 1 as a policy issue to be determined by the Legislature and not evaluated by Sunset staff as per statutory requirements.

### Issue 3: Despite Improvements in Claims Handling, TWIA's Hurricane Harvey Response Highlights Difficulties for Policyholders.

CWIC applauds efforts by TWIA staff to highlight and address difficulties for policyholders. We ask that the Committee – when addressing payment issues for policyholders – looks to make sure that delayed, incremental, or supplemental type payments are not made in conjunction with increased rates. This could lead to a spiral of never-ending debt for coastal Texans.

#### Key Recommendations

3.2 Require TWIA to only assess the replacement cost of a property at the time TWIA issues or renews the policy.

- Agree. Sound policy required in private marketplace. There's no reason TWIA should not assess in the manor as other insurers.





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2302 Postoffice Street • Galveston, TX 77550 • (409) 682-0414  
hfreudenburg@twiainsur.com

- Additional consideration. The Sunset Committee staff should look at the process for which maximum liability limits are determined to increase transparency in the process.

### Issue 4 TWIA's Assumption Reinsurance Depopulation Program Is Unnecessarily Complicated and Inefficient.

#### Key Recommendation

##### 4.1 Eliminate the Assumption Reinsurance Depopulation Program.

- Further clarification is needed. There are currently two depopulation programs, and Issue 1.2 discusses eliminating all depopulation programs, yet in Issue 4 staff only recommends eliminating the more administratively burdensome program. On its face, there appears to be policy implications to determining which program to eliminate. For that reason, Issue 4 should be rolled into Issue 1.

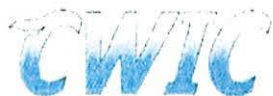
### Issue 6 TWIA Lacks Certain Good Government Standards That Would Enhance Responsiveness, Transparency, and Accountability.

##### 6.4 Require TWIA board members to publicly disclose specific conflicts of interest.

- Agree, but should go further. Instead of specific conflicts of interest, the language should say "any existing or potential conflicts of interest."
- Additionally, and given TWIA's reliance on committees, consultants, contractors, and staff, the accountability measure should extend to all groups and staff within TWIA, not just to the board members.

CWIC also has suggestions for additional issues and recommendations for the Sunset Committee and staff to consider its deliberations on how to improve TWIA.

- Increase transparency in its rate determinations.
  - Public rate hearings were terminated in 2009, and actuarial standards for rate developments were repealed which were replaced by theoretical modeling
  - Insurers with vested interested interests in the outcome have been included in determining those models concluding rate inadequacy, yet the modeling for making those decisions has been declared confidential
- Any determination affecting rates should include analysis on how premiums should go towards rebuilding the CRTF and not paying off other debts first – the current structure requires premiums to subsidize reinsurance, etc.



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2302 Postoffice Street • Galveston, TX 77550 • (409) 683-1949  
hfreudenbur@gmail.com

- Review the process for bond payment “drop down” – its currently unclear what triggers each round of funding layer, and how long it takes for those funding layers to go into effect
- Whether TWIA should continue to be exempt from prompt payment of claims, and whether they should continue paying maintenance taxes
- Given Sunset staff’s concern for board member conflicts of interest, the Sunset Committee should take another look at the TWIA board make-up and see if the current structure still makes sense

CWIC also applauds the Sunset staff for making several significant clarifications. Most notably is that TWIA is solely funded by policy holders as well as statutory requirements for member companies, and not in any way funded by the State of Texas. As stated in the staff report:

- TWIA does not receive any appropriations from the General Revenue Fund or any tax dollars.
- Bonds issued by TWIA are not backed by the full faith and credit of the state, and
- The number of TWIA policies increased significantly after costly storms in the early 2000s, including Hurricane Katrina, resulted in private insurers leaving coastal windstorm markets

CWIC would also like to add that any change to the funding structure cannot affect other areas of the state. First, Texas’ Property & Casualty market is \$50 billion+ annually in written premium. Their TWIA payouts since 2005 have been insignificant in comparison. Additionally, any assessments made to the carriers are not allowed to be recouped through surcharges or tax credits by statute. Please see, Insurance Code Sec. 2210.0725, 2210.074, and 2210.0742.

Again, we appreciate the opportunity to comment on the staff report and look forward to working with Sunset staff and the Committee going forward. Please don’t hesitate to reach out if there is any additional clarification requested, or if we can answer any questions about the above comments. Thank you again.

Sincerely,

Henry Freudenburg  
Chairman

Coastal Windstorm Insurance Committee