



# Independent Insurance Agents of Texas

November 26, 2018

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

Dear Sunset Commission,

The Independent Insurance Agents of Texas (IIAT) appreciates the opportunity to offer this response to the Sunset Advisory Commission Staff Report. IIAT agrees with many of the points that were made by staff and we have pointed out where we are in agreement. However, there are a number of areas that we do not believe are accurate; incorrectly represent the voluntary market commission rate; or does not fully articulate the involvement agents play in the purchase and renewal of TWIA policies.

IIAT is concerned that some of the information in the "Findings" stated in ISSUE # 2 is inaccurate and misleading to the members of the Committee. Your reference to the "higher than average insurance agent commissions for renewals" is an overstatement when you compare the amount of work required of the agent in the renewal process. To compare commissions paid in the automated, streamlined, voluntary marketplace to those of TWIA is like comparing apples to oranges.

## **ISSUE # 1 – TWIA's Competing Statutory Mandates Leave Its Sustainability in Question**

### **Change in Statute**

#### **1.1 Continue TWIA as an insurer of last resort.**

- **Agree.** IIAT agrees that restructuring of the funding for TWIA must be addressed. Making the change the order of funding before issuance of bond debt would achieve the goal of lessening dependence on debt, but that alone will not totally solve the funding issue.

#### **Suggested changes:**

- Tie current year funding layers to losses in that year and require all losses in that year be paid by that available funding only. End the practice of using current and future premiums to fund prior losses before all layers of funding for that loss year are exhausted.
- Limiting the risk pool by strengthening its depopulation and declination program. While IIAT supports depopulation of TWIA, it comes at a price. Larger spread of risk and larger premium base will allow for more premiums to pay losses.

- **Disagree.** Increasing the declination requirement from one to two companies will do nothing to depopulate TWIA, but will add additional workload to consumers and agents. The recommendation to require TWIA to “transfer any policy” implies that TWIA will communicate with the voluntary marketplace to facilitate moving the coverage. We do not believe TWIA has the capabilities to transfer policy information.

**Suggested changes:**

- Do not amend the requirement to have one declination by increasing to two declinations.
- If TWIA is allowed to “decline” any application that has received coverage offer from the voluntary market, the offer should include a premium threshold of not more than 15% higher.

**1.2 Continue TWIA as an insurance company reliant primarily on premium funding**

- Require TWIA to recommend and the TDI to approve actuarially sound rates within five years.

**Agree,** depending on whom and how “actuarially” sound rate is determined.

**Suggested changes:**

- Clarify how and who will determine actuarially sound rate.
- Direct the Texas Department of Insurance to reduce TWIA’s commission rates paid to insurance agents to align with commission rates paid by Texas FAIR Plan.

**Disagree.** The current commission paid to agents is fair based on the work they perform to place new and renewal policies with TWIA. Agent commission rates are currently required to be fair and reasonable, taking into consideration the work required of agents and the prevailing market rates for renewal. The Insurance Commissioner has the authority to make commission changes currently and should continue to have that authority.

To arbitrarily pick the FAIR plan commission level does not take into consideration the work required, nor the service provided, by agents to consumers. The staff report made no reference to the difference in commission structure between independent agents and captive agents.

- The report comments on the low expense ratio of TWIA compared to the voluntary market. Much of the “cost savings” is due to the amount of work that is required of the agent. Many of the legislative changes over the years have increased the agent’s workload without any commission consideration. Flood coverage requirements, WPI-8 certification, and declination from the standard marketplace are all examples of additional responsibilities that have been imposed.

**Suggested changes:**

- Require complete modernization of TWIA processes, including but not limited to direct billing of policies, installment billing, credit card acceptance and automatic renewal of policies.
- Continue to allow the Commissioner to appropriately determine commission rates based on the work required to place business with TWIA. Allow the Commissioner to delineate prevailing market rates for independent agents and captive agents.

- Remove the requirements in statute that TWIA not compete with private industry and that TWIA function only as an insurer of last resort.  
**Agree.** Upon modernization, allow TWIA to offer a full homeowners policy in lieu of wind and hail only. This will allow TWIA to retain the non-wind and hail premium on the least catastrophic exposure that is currently retained by the voluntary markets.
- Abolish the depopulation program required in statute and the declination requirement to qualify for coverage, effectively allowing TWIA to increase its revenue pool.  
**Agree.**

## **ISSUE #2 – Inefficient Renewal Requirements and Payment Policies Increase Costs for Policyholders**

### **Change in Statute**

#### **2.1 Require TWIA to automatically offer policy renewal unless new information is necessary.**

- **Agree.** Requiring TWIA to offer automatic renewal option is the only way we have confidence that this will occur. For years IIAT has stressed the need for TWIA to modernize. Our confidence level in TWIA making changes that are not mandatory is very low. The current TWIA renewal process is more labor intensive and time consuming for agents than it is with any other company.

#### **2.2 Authorize TWIA to accept installment premium payments.**

- **Agree,** but must be required in statute. Based on past performance, this will be delayed or potentially never implemented unless clearly required of TWIA and a completion date mandated.

#### **2.3 Authorize TWIA to accept credit card payments.**

- **Agree,** but it must be required in statute. As above, should be required in statute and a completion date mandated.

### **Management Action**

#### **2.4 Establish separate insurance agent commission rate for new applications and automatic renewals.**

- **Disagree.** One could easily argue that the current commission level is too low based on agent involvement in the production of new and renewal application, the additional work of billing and collecting premiums, as well as the amount of time agents spend dealing with claims matters on behalf of their clients.  
The report points out that TWIA handled 76,056 Hurricane Harvey claims. What the report did not point out is that agents were involved in each of those 76,056 claims, as well. At the time of claim, even if the initial claim is reported directly to TWIA, it is highly likely that the agent will communicate with the insured, offer advice during the claims process and advocate for the client with TWIA in the vast majority of all claims.
- IIAT believes the current practice of having commissions set by the Insurance Commissioner based on a rate that is “fair and reasonable and takes into consideration the amount of work required of insurance agents and prevailing market rates” for renewals is correct. To otherwise arbitrarily reduce commissions to the FAIR plan rate as suggested in 1.2, without justification or consideration, would appear to be a punitive decision to the group that is on

the front line for consumers in dealing with an antiquated, and bureaucratic insurance market.

## **2.5 Direct TWIA to directly bill customers for premiums for automatic renewal**

- **Agree.** Again, the statute should be clear in requiring TWIA to offer a direct bill option. This along with the other billing modernizations suggested in the report will be an improvement to both consumers and agents alike.

## **ISSUE #3 – Despite Improvements in Claims Handling, TWIA’s Hurricane Harvey Response Highlights Difficulties for Policyholders**

### **Recommendations**

#### **Change in Statute**

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

- **Agree.** Changing the statute to assess replacement cost at the time of issuance would be in line with the practices in the voluntary marketplace. Implementation could be immediate upon change in statute.

## **ISSUE # 5 – TWIA’s Process for Issuing Windstorm Certificates of Compliance is Duplicative and Poses Risks to public Safety**

### **Recommendations**

#### **Change in Statute**

### **5.1 Transfer the issuance of WPI-8-C’s from TWIA to TDI.**

- **Agree.** IIAT also suggests that all WPI-8 and WPI-8-C certifications be housed online either with TDI or with TWIA to improve access to the certifications.

### **New Issues or Recommendations Not Included in Report**

#### **1. Upon modernization, allow TWIA to offer a full homeowners policy.**

- Allowing TWIA to write a full homeowners policy could increase premiums to TWIA by hundreds of millions of dollars per year. The much needed additional premium for the non-catastrophic exposures could be used to offset future rate increases, and it may serve as an incentive for the voluntary market to write more full policies in Tier 1 rather than risk losing the non-wind premiums.

Thank you for the opportunity to comment on the recommendations made by staff to the Sunset Advisory Commission. If we did not comment on a specific recommendation, we did not either approve or disapprove of the recommendation. Our members look forward to participating in the upcoming Sunset hearing on December 12<sup>th</sup> or 13<sup>th</sup> and we appreciate the consideration of our comments and recommendations.

I am available to any of the members prior to the hearing if additional clarification is needed. Again, thank you for the opportunity to participate in this process.

Regards,

A handwritten signature in black ink, appearing to read "Lee Loftis". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Lee Loftis

IIAT Government Affairs Director