

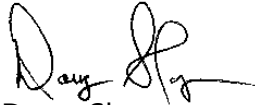
November 26, 2018

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

Honorable Members of the Texas Sunset Advisory Commission:

On behalf of the Texas Department of Insurance, please find attached our formal responses to the issues presented in the *Sunset Advisory Commission Staff Report on the Texas Windstorm Insurance Association*.

Respectfully,



Doug Slape  
Chief Deputy Commissioner  
Texas Department of Insurance

### **Issue 1: Findings (pg. 15)**

TWIA's current funding structure is geared toward higher costs and debt-based financing. In the aftermath of Hurricane Harvey, TWIA has depleted its savings account, is using premiums to pay debt service, and faces upcoming storm seasons with a shrinking revenue pool. Statute forces TWIA to first rely on premium funding and debt — repaid by future policyholders — to pay for hurricane claims, and does not contemplate consecutive years with major storms. When another storm hits, TWIA cannot retain any saved premiums for future hurricane claims and must tap the same resources again. Relying on premiums alone could be a sustainable model, but TWIA's rates are too low to fit this model.

---

#### **Response:**

The description of this issue is potentially confusing. TWIA is required to deposit any net gain from operations into the Catastrophe Reserve Trust Fund (CRTF) each year. In a year with no major storms, TWIA may have a net gain to deposit to the CRTF. In a major storm year, TWIA will likely exhaust all premiums to pay claims and have no net gain to deposit into the CRTF.

### **Issue 1: Findings (pgs. 17-18)**

TWIA needs a more sustainable structure to ensure it can fulfill its mission of providing an adequate windstorm insurance market along the coast.

Generate more revenue by investing the Catastrophe Reserve Trust Fund. To generate more revenue to cover future claims, insurance companies typically invest the premiums they collect over time. The comptroller of public accounts holds the Catastrophe Reserve Trust Fund outside the state treasury on behalf of the Texas Department of Insurance, who administers the fund. The Catastrophe Reserve Trust Fund generated only \$3.3 million (0.6 percent) in revenue in 2016, when it held nearly \$588 million. By not investing the fund and generating revenue when there are funds to invest, given due consideration to concerns of risk and liquidity, TWIA could be missing out on potential revenue to pay future claims.

---

#### **Response:**

All funds in the Catastrophe Reserve Trust Fund (CRTF) funds are currently invested by the Texas Treasury Safekeeping Trust Company (TTSTC) in overnight repurchase agreements.

Senate Bill 900 (84<sup>th</sup> legislative session) imposed a duty on the TWIA board to annually determine how much of the CRTF could remain highly liquid and how much should be

invested in less liquid investments to generate more investment income. In all years leading up to Hurricane Harvey, the TWIA board determined that all CRTF investments should remain highly liquid.

According to TTSTC, options for highly liquid investments are limited under the statutory guidelines of Government Code 404.024(j).

### **Issue 5: Background (pg. 43)**

#### ***Certificate of Compliance Options***

The state provides two types of certificates of compliance with windstorm code: the WPI-8 and the WPI-8-C.

#### **During construction – WPI-8**

To certify that a structure was built to windstorm code, TDI requires inspections throughout the construction process to ensure internal framing and structural supports meet windstorm code. TDI provides licensed engineer inspectors to property owners at no cost or, for larger or more complicated projects, property owners can hire inspectors or engineers pre-approved by TDI. Once the project is completed and all inspection documentation has been submitted and evaluated, TDI issues a WPI-8.

#### **Post-construction – WPI-8-C**

TWIA issues certificates of compliance for completed projects, where a constructed building did not receive inspections throughout the construction process. Statute provides two paths to get a WPI-8-C:

1. *Engineer-Designed Projects*: TWIA will issue a WPI-8-C after receiving documentation that a licensed professional engineer designed the construction project.
2. *Engineer-Inspected Construction*: TWIA will issue a WPI-8-C after receiving documentation that a licensed professional engineer completed a post-construction inspection confirming windstorm code compliance.

---

#### **Response:**

The highlighted statement may be misinterpreted. The inspectors provided by TDI are not licensed engineers. Furthermore, property owners can hire private inspectors or engineers, licensed as professional engineers by the Texas Board of Professional Engineers, if the inspector or engineer is registered with TDI to perform such inspections.

**Issue 6: Findings (pg. 49)**

Relying on TDI to proactively adopt necessary rules leaves TWIA with rules that are out of step with legislative changes and current practice. Although TDI has recently expedited issuance of rules, TDI does not always adopt rules in a timely manner. For example, TDI has yet to fully update TWIA's rules to implement statutory changes adopted in 2015 related to disbursements from the Catastrophe Reserve Trust Fund. TDI also has yet to update TWIA's rules to implement changes from legislation enacted in 2011 that directed TDI to adopt rules defining the term "actuarially justified" as it relates to premium discounts and surcharge credits on TWIA policies, instead deferring to TWIA to define this internally. TDI concluded that no rules were necessary, but adopting a clear definition in rule would have provided TWIA with clearer guidance and ensured compliance.

---

**Response:**

House Bill 3, enacted in 2011, refers to rules necessary to implement the premium discounts and surcharge credits for structures that exceed building code standards. TDI concluded that no rules were necessary because "actuarially justified" is a common phrase in the actuarial profession and is used elsewhere in the Texas Insurance Code.

"Actuarially justified" means the actuary's work complies with ratemaking principles and actuarial standards of practice set by the Casualty Actuarial Society (CAS) and the Actuarial Standards Board.

TWIA employs actuaries who hold professional designations bestowed by the CAS and as such they know what is meant by the term "actuarially justified."