



November 26, 2018

Jennifer Jones, Acting Director
Sunset Advisory Commission
P O Box 13066
Austin TX 78711-3066

Dear Ms. Jones:

On behalf of the Texas Windstorm Insurance Association (TWIA), I want to thank you and your review team for their work in examining TWIA. I commend the Project Team who worked diligently and gained a good understanding of the TWIA operations in a very short period.

Enclosed please find the Association's response to the Sunset Staff's recommendations. We greatly appreciate the opportunity to provide this additional information and we look forward to working with you, your staff and the Sunset Advisory Commission during the 86th Legislative Session.

Please contact me if you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Polak", with a stylized flourish at the end.

John W. Polak, CPCU
General Manager
Texas Windstorm Insurance Association
Texas FAIR Plan Association



TEXAS WINDSTORM
INSURANCE ASSOCIATION

Response to the Sunset Advisory Commission's Staff Report

November 2018



John W. Polak, CPCU
General Manager

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

General Response

TWIA agrees that our primary purpose of providing an adequate market for windstorm and hail insurance on the coast continues to be necessary. Since TWIA provides insurance to consumers who cannot obtain insurance through the private market, the affordability of insurance is an important issue to our Board and to our policyholders. We agree that this creates tension, but we also note that TWIA has operated with this tension for 47 years and we have always had sufficient resources to pay claims and meet our financial commitments. TWIA believes an insurance carrier *can* also be an insurer of last resort; however, we agree with the Sunset Staff Report that the role of the insurer of last resort should be clearly stated and the entity should be sufficiently funded to respond – in the short and long terms – to the risks being insured.

The current funding structure is sufficient to respond to a major Hurricane in a single year. This was demonstrated in the aftermath of Hurricane Harvey. As noted in the Sunset Report, Hurricane Harvey depleted the resources in the Catastrophe Reserve Trust Fund, but contrary to the assertion in the Sunset Report, the Association is not “broke.” TWIA remains solvent, with cash flow and liquidity sufficient to meet its financial obligations.

TWIA's funding structure provides another \$3 billion through a combination of public securities, insurance company assessments and reinsurance to pay claims resulting from Hurricane Harvey though our projected losses do not come close to requiring this amount of funds. In addition, TWIA's projections are that over \$100 million will be contributed to the CRTF in 2019 based on 2018 operations.

The important concern with TWIA's funding structure – which relies significantly on the issuance of debt – is the potential difficulties that arise when two major storms occur within a few years of each other whereby TWIA may not have the time necessary to replenish the CRTF and TWIA is still repaying principal and interest on the public securities that were issued to pay claims from the initial event. (The balance in the CRTF was approximately \$743 million when Hurricane Harvey struck the Texas coast. Those funds along with \$448 million in bond proceeds were used to pay Harvey claims.) The accumulation of debt servicing requirements from successive storms may challenge TWIA's overall debt capacity.

Response to Recommended Changes in Statute

1.1 Continue TWIA as an insurer of last resort.

TWIA agrees with this recommendation and has one comment on the recommendation regarding the depopulation program. The risk of hurricanes along the Texas coast is a threat to the economic sustainability of the Texas coast. There is a need to have an insurance company that will assume this risk when the private market will not. TWIA has served this function since 1971.

- Making TWIA less reliant on debt financing to pay claims would make TWIA's operations less susceptible to changes in the financial markets. With respect to the specific recommendation regarding "reversing the funding to alternate between member assessments and then bonds," the Association considers this to be a public policy decision for the Legislature to make. However, we are available as a resource to provide any needed information should the Legislature choose to address this recommendation.
- Increasing the number of declinations required to be eligible for TWIA coverage helps ensure that TWIA is truly a market of last resort and serving consumers who are unable to get coverage in the private market.
- Requiring TWIA to transfer any policy that receives an offer through the depopulation program must account for the contractual rights of agents and insurers and the financial obligations and commitments of TWIA.

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

- Require TWIA to recommend and the Texas Department of Insurance to approve actuarially sound rates within five years

Response: TWIA does not have any objection to this recommendation. Current statute requires TWIA rates to be "reasonable, adequate, not unfairly discriminatory, and nonconfiscatory as to any class of insurer." The Association believes this language is consistent with a requirement to have "actuarially sound rates."

- Direct TWIA and the Texas Department of Insurance to adopt an investment plan for the Catastrophe Reserve Trust Fund

Response: TWIA does not believe this recommendation would be beneficial because of TWIA's overriding need for liquidity. Texas Insurance Code 2210.4521 provides for investment of Catastrophe Reserve Trust Funds in excess of a "sufficient balance."

To date, TWIA has never accumulated funds in the CRTF in excess of this level and does not expect this level to be reached in the next several years, if ever. Further, as past loss experience demonstrates, TWIA is occasionally required to use all available funds to pay losses and expenses after a major catastrophe. Thus liquidity and preservation of principal must be paramount concerns in establishing an investment policy.

- 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.

Response: TWIA agrees with this recommendation.

- Direct the Texas Department of Insurance to reduce TWIA's commission rates paid to insurance agents to align TWIA's commission rates with the commission rates paid by the Texas FAIR Plan.

Response: TWIA is neutral on this recommendation. TWIA is comfortable with the current statutory structure under which final authority to set commissions rests with the Commissioner of Insurance.

- Remove requirements in statute that TWIA not compete with private industry and that TWIA function only as an insurer of last resort.

Response: TWIA is neutral on this recommendation. The language that TWIA not compete with the private market was added in 2009 by the 81st Texas Legislature (HB 4409). TWIA does not perceive that there have been any changes in how the market or the insurance plan has functioned as the result of this provision. In addition, it would be helpful to clarify how this recommendation relates to the recommendation in 1.1 that TWIA continue as an insurer of last resort.

- Abolish the depopulation programs required in statute and the declination requirement to qualify for coverage, effectively allowing TWIA to increase its revenue pool.

Response: TWIA agrees that the mandatory statutory depopulation program does not make a material difference in the size of the risk pool. We agree with this recommendation and support continued voluntary depopulation efforts. The Association believes the declination requirement is valuable and tends to encourage the placement of risks in the voluntary market. TWIA believes it would be helpful to clarify how this recommendation relates to the recommendation in 1.1 to strengthen the declination requirements.

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

General Response

TWIA agrees that in addition to the improvements that have already been made, there are opportunities for the renewal and payment processes to be streamlined, which will ultimately benefit applicants. Providing TWIA with clear statutory requirements and authority related to these processes assists TWIA in addressing policyholders' needs as we strive to balance fiduciary responsibilities and the best use of policyholder funds with customer service and sound technology and processes. TWIA notes that if adopted, implementing these recommendations will require development of IT systems. TWIA recommends that the recommendations allow sufficient lead time to complete the necessary programming associated with implementing the recommendations.

Response to Recommended Changes in Statute

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

TWIA agrees with this recommendation.

2.2 Authorize TWIA to accept installment premium payments.

TWIA agrees with this recommendation.

2.3 Authorize TWIA to accept credit card payments.

TWIA agrees with this recommendation. TWIA notes that TWIA has not conclusively been deemed a governmental entity and under current law may not be permitted to pass on the fees associated with credit card payments. If TWIA cannot pass the costs to consumers, the additional costs would have to be recouped through TWIA rates. For this reason, TWIA recommends that the statutory authorization for TWIA to accept credit card payments also include specific authority to pass any credit card processing fees forward to customers who elect to use the service.

Response to Recommended Management Actions

2.4 Establish separate insurance agent commission rates for new applications and automatic renewals.

TWIA agrees that the Board of Directors can consider the feasibility of recommending the commissioner establish commission rates for new applications and automatic renewals once the statute is amended to allow automatic renewals.

2.5 Direct TWIA to directly bill customers for premiums for automatic renewal.

TWIA agrees with this recommendation.

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

General Response

TWIA appreciates Sunset Staff's recognition of the dramatic improvements in claims handling that have been implemented since Hurricane Ike and the benefits of using the supplemental payment process. The improved processes were tried and proven in other storms that occurred in years following Hurricane Ike but Hurricane Harvey was the first major hurricane for which many of the statutory reforms enacted after Hurricane Ike were applied.

TWIA's goal is to resolve claims completely and ensure policyholders are adequately compensated without requiring the policyholder to use the formal claims resolution processes. TWIA's claim letters, web pages, consumer brochures and consumer presentations inform policyholders that our initial estimate of damages is only an estimate and policyholders should contact their claims representative if they believe the payment is inadequate to cover the cost of repairs.

TWIA uses the supplemental payment process to provide a means for policyholders to address issues that arise on a claim after the Association's initial determination of payment. TWIA agrees that authorizing the process in statute will improve policyholders' understanding of the claim handling process. TWIA seeks to handle supplemental issues arising on a claim thoroughly and promptly. We are committed to continuous improvement in our claims handling and data reporting processes.

Response to Recommended Changes in Statute

3.1 Authorize TWIA to issue supplemental payments.

TWIA agrees with this recommendation.

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

TWIA agrees with this recommendation.

Response to Recommended Management Actions

3.3 Direct TWIA to track and report more comprehensive information regarding claims handling performance.

TWIA agrees with this recommendation. TWIA agrees that providing a complete picture of our claims handling will be beneficial to all TWIA stakeholders. Implementation of this recommendation will be subject to the capabilities of our existing systems and technology.

3.4 Direct TWIA to develop a post hurricane communication plan with more input from stakeholders.

TWIA agrees with this recommendation.

3.5 Direct TWIA to fully implement a risk-based approach to monitoring insurance adjusters.

TWIA agrees with this recommendation though we will need more clarity on the improvements Sunset staff is recommending. TWIA employs multiple risk-based approaches to monitor claims. The approaches include: 1) requiring claims supervisors and claims managers to review each claim under their review regularly, 2) requiring all claims involving large losses and complex losses to be reviewed by senior claims staff, 3) requiring senior claims staff to review all complaints and stakeholder inquiries regarding claims handling activities, and 4) employing a sampling methodology to review high volume claims involving losses that are less complex. TWIA believes random sampling produces a sample size that reflects the size and distribution of the claims population and the adjusters handling those claims.

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

General Response

TWIA agrees with Sunset Staff's description of how the Assumption Reinsurance Depopulation Program operates. TWIA has an extensive communications program to advise agents and policyholders about the Assumption Reinsurance Depopulation Program. TWIA sends multiple notices to agents and TWIA policyholders who receive offers from insurance carriers participating in the Assumption Reinsurance Depopulation Program. When a policy is assumed, the policyholder receives notices from TWIA and the assuming carrier advising that the policy is assumed. The policyholder also receives a Certificate of Assumption to attach to their TWIA policy which provides information about the claim handling process and the assuming carrier's contact information.

Response to Recommended Changes in Statute

4.1 Eliminate the Assumption Reinsurance Depopulation Program.

TWIA recognizes that this is a matter of legislative public policy and is neutral on this recommendation.

Issue 5 TWIA's Process for Issuing Windstorm Certificates of Compliance Is Duplicative and Poses Risks to Public Safety.

General Response

TWIA agrees with the Sunset Staff's assessment of the windstorm code certification process.

Response to Recommended Changes in Statute

5.1 Transfer the issuance of WPI-8-Cs from TWIA to TDI.

TWIA agrees with this recommendation. TWIA suggests that if adopted, the statutory change include a period of transition to move the program from TWIA to TDI.

5.2 Remove the ability to obtain a WPI-8-C based on design alone.

TWIA agrees with this recommendation.

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

Response to Recommended Changes in Statute

6.1 Authorize TWIA to formally propose rules to the Texas Department of Insurance

TWIA agrees with this recommendation. TWIA believes working closely with TDI in the development of rules would improve the implementation and monitoring of rules pertaining to TWIA.

6.2 Apply the standard across-the-board requirement related to board member training.

TWIA does not believe it is necessary to codify what is already standard operating procedure as additional Insurance Code text. In October 2015 the Commissioner of Insurance appointed the entire TWIA Board of directors as required by SB 900, 84th Texas Legislature (2015). The TWIA staff, along with TDI staff, conducted a two-day training of the newly appointed members that covered the items included in the Sunset staff's recommendation. The materials developed for that training have been used to orient the one new Board members appointed since 2015. TWIA staff provide live, onsite training for new individual board members as they are appointed. The mandatory Attorney General Open Meetings training is also required.

6.3 Apply standard across-the-board requirements related to public membership.

TWIA does not agree with this recommendation. We understand the issue Sunset staff is seeking to address however the recommendation is too broad and would prohibit stakeholders with valuable perspectives from serving on the Board of Directors.

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

TWIA disagrees with this recommendation. TWIA has a rigorous ethics and conflict of interest policy and requires board members to make annual certifications and disclose relevant conflict information. We do not believe requiring an additional public disclosure would be practical or improve TWIA's operations.

6.5 Eliminate the duplicative *Bimonthly Report Card* reporting requirement and continue TWIA's two other required reports.

TWIA agrees with this recommendation.