September 27, 2018

Kent Sullivan, *Commissioner*
Texas Department of Insurance
PO Box 149104
Austin, Texas 78714-9104

Dear Commissioner Sullivan:

As members of the Texas coastal legislative delegation, we respectfully urge you to disapprove the 10 percent annual rate increase on residential and commercial Texas Windstorm Insurance Association (TWIA) policyholders as filed by the board on August 14, 2018.

Comments on Proposed Rate Hike

TWIA's 10 percent annual rate filing is unfair, excessive and unreasonable only one year following the landfall of Hurricane Harvey.

Today, homeowners from the Coastal Bend through the Upper Gulf Coast continue their recovery from wind and flood damage caused by Hurricane Harvey. Some claims and Federal Emergency Management Agency (FEMA) reimbursements remain outstanding. The restoration of businesses and homes is ongoing, and local tax bases face uncertainty as their values depend on residents' capacity to adjust to higher costs associated with building, and now insuring, those structures. The lingering economic effects of Harvey have negatively impacted many TWIA policyholders and any rate increase at this pivotal point would be unfair and unreasonable.

TWIA's 2017 storm season funding plan provides an unprecedented $4.9 billion available to pay Hurricane Harvey losses. This amount represents $700 million above the statutory minimum required under Senate Bill 900 as passed by the 84th Texas Legislature. Furthermore, the amount available to pay 2017 losses is much greater than TWIA's Hurricane Harvey total loss estimate of $1.6 billion. The adoption of a rate increase should be considered unfair, excessive and unreasonable until the current level of funding is proven to be inadequate to pay projected losses.

The Commissioner has precedent to deny a rate increase filed in the aftermath of an event.

On October 15, 2009, approximately one year after Hurricane Ike made landfall, Texas Department of Insurance (TDI) Commissioner Mike Geeslin disapproved the Association's manual rate filing for a 10% rate increase on all types of risks written by the Association. TDI Commissioner's order 09-0836 recognized *"that Texans living along the coast are still recovering from the effects of Hurricanes Dolly and Ike, and increases in Association rates at this time would only further exacerbate the burdens they are facing."* The Commissioner's findings acknowledged a rate increase on TWIA policyholders, directly following a large event, would only stifle the livelihood of those who are desperately working to rebuild their homes and businesses.

TWIA's unique funding structure, recently reformed and carefully crafted by the Texas Legislature in 2015, cannot be compared to traditional property and casualty insurers when determining policyholder rates.

To compare the state's insurer of last resort with for-profit property and casualty insurers is ill-advised and a blatant disregard of state law. Texas Insurance Code (TIC) Section 2210.355(b) requires the Commissioner to consider certain factors specific to TWIA, ranging from profit margins for purposes of replenishing the Catastrophe Reserve Trust Fund (CRTF) *to* policyholder surcharges *to* payment of public security obligations, just to name a few.

Unlike traditional property and casualty insurers, TWIA may pay losses using a combination of pre and post event public securities, catastrophe bonds, policyholder surcharges if necessary, member assessments and other alternative financing. These unconventional financing methods have been thoughtfully and carefully delegated to TWIA by the Texas Legislature to help mitigate adverse insurance risk to our state as a whole.

Furthermore, TIC Chapter 2210, sets forth a modified "file and use" rate filing process that establishes clear guidelines for a maximum residential and commercial TWIA policy rate that can be filed and adopted without prior approval from the Insurance Commissioner. Unlike traditional property and casualty insurers, certain rates filed by TWIA that exceed the statutory rate cap must follow a process overseen by the department and provide a public comment period before final adoption. These differences set TWIA separate and apart from private carriers operating for-profit in the Texas property and casualty market.

Therefore, traditional risk assessments and catastrophe modeling used by the private market during the ratemaking process fail to take into consideration the comprehensive TWIA funding system adopted by the legislature.

TWIA is statutorily mandated to utilize its full funding authority in a given storm year to pay losses, leaving future earned premium to pay ongoing business expenses and rebuild reserves.

TWIA's 2017 funding capacity to pay Harvey claims equals $4.9 billion. To date, TWIA has utilized its premium, CRTF and its first layer of Class 1 public securities to pay for approximately $1.3 billion of the total $1.6 billion ultimate loss estimate - entirely borne and paid for by TWIA policyholders.

In addition, TDI has approved TWIA assessments on member insurance companies totaling approximately $280 million, leaving another $220 million in potential assessments before moving to the next layer of public securities available to pay Harvey losses.

Therefore, the TWIA board must work diligently to ensure claim losses associated with Hurricane Harvey are paid according to the 2017 funding structure in effect at the time of the event and that net premium earnings are used to begin rebuilding the CRTF. It is important to emphasize that at no time can a rate increase be used to supplant, offset, defer, delay or replace member insurer assessments required under Chapter 2210.

TWIA's internal process to recommend rates to its full board by the Actuary and Underwriting subcommittee is inherently flawed and undermines the intent of the state legislature.

The TWIA Actuary and Underwriting subcommittee's role is to review and recommend a rate to the full TWIA board for purposes of the Association's annually required rate filing for residential and commercial policies. However, the subcommittee's majority is composed of members employed directly by the insurance industry, and their employers hold a financial interest in TWIA's annual rate filing process.

While their financial interests vary, the subcommittee's recommendation is inherently flawed and directly undermines the intent of the legislature. In 2015, the Texas Legislature made significant changes to the composition of the full TWIA board to ensure fair and equitable representation of all stakeholders. These changes were specifically designed to ensure balance among three major stakeholder groups: first tier coastal counties, non-coastal representatives and industry representatives actively writing and renewing wind and hail insurance along the coast. The full TWIA board is comprised of nine total members, divided equally among the three major stakeholder groups.

Therefore, any rate recommendation made by the subcommittee, entirely composed of insurance industry representatives, circumvents the will of the state legislature and violates the spirit of the law, especially when some board members have expressed their reluctance to vote against the recommendations made by the Actuary and Underwriting subcommittee. The subcommittee's current composition must be changed, its recommendation disregarded and any future subcommittee must include equal representation of all stakeholders including coastal homeowners and businesses.

We urge you to carefully consider the aforementioned facts as well as the unique legislative characteristics of TWIA and its mission to serve as the state's wind and hail insurer of last resort for homeowners and businesses living and working along the Texas coast.

Respectfully,

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