TEXAS WINDSTORM INSURANCE ASSOCIATION

Legislative & External Affairs Committee Meeting Materials

May 21, 2024

Contents

Executive Summary

Biennial Report to Legislature

Texas Insurance Code Section 2210.0025 requires the Texas Windstorm Insurance Association (TWIA) Board of Directors to submit to the Commissioner of Insurance, the Senate Committee on Business and Commerce, the House Committee on Insurance, and the Sunset Advisory Commission a written report relating to the operations of the association during the preceding biennium. The report is due on or before December 31 in the year prior to a legislative session and must include:

I. Any proposed changes in the law relating to regulation of the association and a statement of the reasons for the changes; and
II. Any information regarding association operations or procedures that is requested by the department to be addressed in the report.

Materials Overview

The Board of Directors has directed the Legislative and External Affairs Committee (the "LEA Committee") to develop potential legislative recommendations for inclusion in the 2024 Biennial Report for the Board's consideration.

This document includes prior legislative recommendations from the 2022 Biennial Report[1] that were either not filed or passed by the 88th Legislature, Regular Session (2023), with comments from staff suggesting the LEA Committee continue to consider or not consider a recommendation. This document also includes new topics for the committee's consideration received from Board members and Association staff.

The LEA Committee will present its final recommendations to the Board, and the recommendations approved by the Board will be included in the Biennial Report to the Legislature as required by statute.

[1] Available on TWIA.org (https://www.twia.org/wp-content/uploads/2022-Biennial-Report-to-88th-Legislature-1.pdf)

Topics for Consideration

Item #	Source	Topic	Description
Items 1-6 are legislative recommendations from the 2022 Biennial Report that were either not filed or passed by the 88th Legislature, Regular Session (2023).			
1	2022 Biennial Report ***Not Filed***	**Expert Panel**	Modify statute and regulations to eliminate TIC Section 2210.578 requiring the use of Expert Panel recommendations.
2	2022 Biennial Report ***Not Passed***	**FORTIFIED Home Construction**	Consider the feasibility and possible public funding of FORTIFIED home construction and other mitigation programs.
3	2022 Biennial Report ***Not Passed***	**Premium & Maintenance Tax**	Exempt TWIA from premium and maintenance taxes.
4	2022 Biennial Report ***Not Filed***	**Appraisal Process**	Allow TWIA to have a formal objection process related to issues or concerns with a policyholder's selected appraiser or umpire.
5	2022 Biennial Report ***Not Filed***	**Payment of Appraisal Costs**	Revise the statutory provision requiring TWIA and the policyholder to split the cost of their respective appraisers to require each party to pay their own appraisal costs.
6	2022 Biennial Report ***Not Filed***	**Depopulation**	Authorize TWIA to activate and deactivate the Assumption Reinsurance Depopulation Program according to market fluctuations.
Items 7-12 are new topics for the LEA Committee's consideration.			
7	Proposed by Board Member	**Premium Financing**	Prohibit the use of premium financing for the payment of premiums.
8	Proposed by Staff	**Multidistrict Litigation**	Eliminate or make optional TIC Section 2210.575(e) requiring actions against the Association be presided over by a judge appointed by the judicial panel on multidistrict litigation.
9	Proposed by Staff	**TWIA/TFPA Merger Study**	Recommend the Legislature consider interim charges to study a merger of TWIA and TFPA to create a single residual market property insurer.
10	Proposed by Staff	**Premiums Used to Pay Losses**	Revise TIC Section 2210.071 prohibiting the use of current year premiums to pay losses occurring in prior years.

Item #	Source	Topic	Description
11	Proposed by Staff	**Public Security Funding**	Options to address concerns with the issuance of public securities in TWIA's funding structure.
12	Proposed by Staff	**Reinsurance Funding**	Options to reduce the Association's reinsurance costs.
Items 13-17 are other topics provided by the Board for the LEA Committee's consideration.			
13	Proposed by Board Member	**Roof Coverage**	Require all roofs to have ACV coverage and exclude roofs older than 15 years from being covered by the TWIA policy.
14	Proposed by Board Member	**Indirect Damage Coverage**	Exclude coverage for indirect damage from the TWIA policy.
15	Proposed by Board Member	**Rate Glidepath**	Institute mandatory rate increases for 5 years that would move TWIA closer to rate adequacy.
16	Proposed by Board Member	**Rating Changes**	Modify the rating structure to allow for higher commercial rates from residential rates and different rates in areas where the exposure concentration exceeds normal UW guidelines (i.e., Galveston and Corpus Christi).
17	Proposed by Board Member	**Member Company Assessments**	Increase the amount of member company assessments from $1 to $2 billion.

2022 Biennial Report Recommendations

The 2022 Biennial Report to the 88th Texas Legislature included the following legislative recommendations. Staff comments suggesting the LEA Committee continue to consider or not consider a recommendation are included below.

The legislative recommendation summaries as they appeared in the 2022 Biennial Report are included in *Appendix A*.

1 Expert Panel

Staff Comments for Consideration: Staff recommends the LEA Committee no longer consider this legislative recommendation.

- The Association's policy and exposure growth since 2022 has increased the number of structures subject to the program by nearly 1,000 (or 12%).
- In addition to the litigation protections the Expert Panel recommendations provide to the Association related to the settlement of "slab claims", the Expert Panel program provides for a proactive and structured method by which to resolve these claims, potentially leading to lower loss adjustment expense, reduced claim cycle times, and more accurate claim settlements.
- The increasing frequency of adverse weather patterns coupled with sea level rise have increased the risk for "slab claims" now and in the future.
- The Association has had annual data, software license, and maintenance costs of $4.2 million since the Association's contract with the vendors to implement the recommendations expired in 2022; however, staff is working with the vendors to update the program and find ways to lower the costs due to favorable changes in technology and data availability.

2 FORTIFIED Home Construction

Staff Comments for Consideration: Staff recommends that the LEA Committee continue to consider this legislative recommendation.

- The recommendation was filed by Rep. J.M. Lozano (Calhoun, Kleberg, Refugio, San Patricio Counties) as House Bill 4354[2] during the 88th legislative session and passed the House but was not considered in the Senate.

[2] House Bill 4354 is included in *Appendix B*.

3 Premium & Maintenance Tax

Staff Comments for Consideration: Staff recommends that the LEA Committee continue to consider this legislative recommendation.

- TWIA's policy count and exposure growth in the past few years increased this annual expense to $11.4 million in 2023.
- The recommendation was filed by Rep. Ed Thompson (Brazoria County) as House Bill 2366[3] during the 88th legislative session and was passed by the House but was not considered in the Senate.
- The recommendation was also included in Sen. Mayes Middleton's (Brazoria, Galveston, Harris Counties) TWIA Omnibus bill, Senate Bill 1217, which passed the Senate but was not passed by the House.

4 Appraisal Process

Staff Comments for Consideration: Staff recommends the LEA Committee no longer consider this legislative recommendation.

- There was no interest from legislators in this recommendation during the 88th legislative session.
- Staff do not believe this is a significant issue.

5 Payment of Appraisal Costs

Staff Comments for Consideration: Staff recommends the LEA Committee no longer consider this legislative recommendation.

- There was no interest from legislators in this recommendation during the 88th legislative session.
- Further review of this topic has shown that the inequality of appraisal costs between the policyholder and the Association is minimal.

6 Depopulation

Staff Comments for Consideration: Staff recommends the LEA Committee no longer consider this legislative recommendation.

- Rounds 6 and 7 of TWIA's Assumption Reinsurance Depopulation Program were deactivated by default due to a lack of insurance carrier interest in participating in the program.
- Staff continue to support a depopulation mechanism to facilitate the transfer of policies into the private market.

[3] House Bill 2366 is included in *Appendix B*.

New Topics

7 Premium Financing – TWIA Board Topic

Subject: TWIA's 2019 Sunset bill allowed the Association to accept partial premium payments to issue a policy and allowed policyholders to pay the Association directly via credit card or another electronic payment method. Although these law changes enabled TWIA to offer interest-free installment payment options (2-Pay, 4-Pay, and 10-Pay), more than 1,500 policyholders continue to use premium financing for the payment of their premiums.

- 83% of policies were paid in full in 2023 despite the availability of the three installment payment options.
- As of December 31, 2023, TWIA had 1,522 policies in force that were premium financed. Out of this total, 1,122 were residential policies and 400 were commercial policies.
- TWIA recently distributed targeted communications to agents and policyholders to create more awareness and encourage the adoption of TWIA's interest-free payment options.

Possible Solution: Revise statute to explicitly prohibit the use of premium financing for the payment of policy premiums based on the availability of TWIA's interest-free payment plans.

- Texas Insurance Code Chapter (TIC) 2210 and the TWIA Plan of Operation do not contain an explicit requirement that TWIA must accept or that it may reject payment via premium finance companies.
- TIC Chapter 651 governs Financing of Insurance Premiums; this and Chapter 2210, along with the TWIA Plan of Operation, contain procedural requirements related to the refund of TWIA policy premiums to premium financiers, which indicate the Texas Legislature and the Texas Department of Insurance contemplate the use of these arrangements by TWIA policyholders.

8 Multidistrict Litigation – Staff Topic

Subject: TIC Section 2210.575(e) requires all suits concerning denied claims to be presided over by a judge appointed by the Judicial Panel on multidistrict litigation (MDL). However, the statute does not provide a procedure for securing that appointment, and the existing rules on multidistrict litigation (Government Code Section 74.161 et seq.) do not contemplate appointing presiding judges in individual cases. As a result, no litigant has ever requested an appointment by the MDL panel in the 12-plus years the law has been in effect.

- Plaintiff Stephen Pruski raised this issue in his appeal of a judgment against him. The Corpus Christi Court of Appeals agreed and ruled that all judgments entered without an MDL-appointed judge are void.

- The Texas Supreme Court recently released its opinion reversing the Court of Appeals and agreeing with TWIA that the lack of an MDL-appointed judge does not void a judgment.

Possible Solution: Eliminate the provision requiring an MDL-appointed judge or make the appointment optional to prevent collateral attacks on settled judgments.

- Eliminating or modifying the requirement would reduce future litigation costs and simplify ongoing litigation.
- Clarifying the procedural rules relating to litigation will benefit TWIA policyholders, their legal representatives, and the Association by eliminating uncertainty around this dispute resolution requirement.

9 TWIA & TFPA Merger Study – Staff Topic

Subject: While many operational efficiencies have already been gained, merging TWIA and TFPA may have additional benefits, specifically regarding catastrophe funding.

Possible Solution: Recommend the Legislature consider interim charges to study a merger of TWIA and TFPA to create a single residual market property insurer.

- Merging TWIA and TFPA could improve TWIA's ability to fund catastrophe losses by accessing a statewide base, similar to current TFPA funding.
- TWIA- and TFPA-specific products, processes, and governing statutes and rules could be maintained in separate programs to avoid disruption to policyholders or administration.
- This solution has been successfully implemented in Florida and Louisiana, two of the largest residual market property states.

10 Premiums Used to Pay Losses – Staff Topic

Subject: TIC Section 2210.071(b) prohibits TWIA from paying insured losses with premium and other revenue earned in a subsequent year.

- It is relatively common for the estimated ultimate payment on claims to change over time, both favorably and adversely, even after the year in which the claim occurs. This is especially true for events taking place late in the year, late reported claims, and disputed claims.
- For catastrophe years in which insured losses and operating expenses exceed premium and other revenue, adverse development occurring in a subsequent year can be paid in accordance with TIC Chapter 2210 Subchapter B-1.
- For all other years, there is no other source of funds available to pay for adverse development after the net gain from operation for that year has been transferred to the Catastrophe Reserve Trust Fund (CRTF).

Possible Solution: Revise TIC Section 2210.071(b) to limit its prohibition to catastrophe years resulting in losses in excess of premiums.

- This would continue to require all claims occurring in catastrophe years resulting in excess losses, such as 2008 (Dolly and Ike) and 2017 (Harvey), to be paid in accordance with the statutory funding sources outlined in Subchapter B-1.
- It would also allow, in any other year, adverse development to be paid from premiums earned in the year in which the development is incurred, consistent with statutory accounting principles that recognize changes in loss estimates in the period they become known.

11 Public Security Funding – Staff Topic

Subject: TWIA catastrophe funding as described in TIC Section 2210 Subchapter B-1 includes up to $1 billion in public securities. There are numerous potential issues with the use of public securities as part of TWIA's funding:

- Public securities may not be fully marketable or funded sufficiently quickly.
- TWIA's current repayment structure imposes a financial burden on the Association and its current and future policyholders in the years following a catastrophic event.
- The repayment of public securities reduces and, in some cases, may prevent contributions to the CRTF in the years following a catastrophe event.

Possible Solutions: Recommend the Legislature consider one or more of the following changes to current TWIA funding statutes to address these concerns:

- **Replace public securities with a loan from the State's Economic Stabilization Fund.**
  - This change could provide funds to pay Association losses at a reduced cost to TWIA policyholders and coastal residents.
  - Additionally, it would allow the State to earn a competitive interest rate from a loan provided to a state-created entity subject to both legislative and regulatory oversight and therefore with little risk of default.
- **Allow early repayment of public securities by identifying a source of State or statewide funding.**
  - At a certain point, especially if multiple catastrophe years require the issuance of public securities, the cost to repay public securities cannot be reasonably borne by TWIA policyholders and coastal residents.
  - Having a broader repayment base, whether through statewide assessments or other more direct means, such as payments made from State funds, would increase the sustainability of TWIA funding after one or more catastrophic events.

- **Allow public securities to be backed by the State.**
    - This change would significantly reduce the repayment cost for TWIA policyholders and coastal residents at minimal risk to State funds, given the repayment mechanisms already present in statute.
- **Replace the existing separate public security repayment mechanisms with a single, ordered source of repayment for all bond classes.**
    - Repayment would be prioritized for TWIA policyholders, coastal residents, and then statewide residents, and limits could be imposed on the total amount to be repaid from each group, both for a single catastrophe year and cumulatively for multiple years.
- **Reverse the order of public securities and member company assessments within each of the three classes of funding.**
    - This change would make the public securities less likely to be needed to pay losses and provide more time before those funds would be necessary after a catastrophic event.
    - This could be done in conjunction with allowing member companies to recoup assessments either in whole or in part.

12 Reinsurance Funding – Staff Topic

Subject: TIC Section 2210.453(b) requires TWIA to maintain total available loss funding not less than the 100-year probable maximum loss (PML) and requires the purchase of reinsurance or similar mechanisms as necessary.

- As TWIA exposures continue to grow, the Association's PML will also grow. Since the amount of statutory funding available from public securities and assessments is fixed, this significantly increases both the amount and cost of reinsurance required to be purchased.
- Increased reinsurance costs reduce contributions to the CRTF and increase the indicated rate need for TWIA.

Possible Solution: Recommend the Legislature consider one or more of the following changes to current TWIA funding statutes to address these concerns:

- **Adjust the statutory funding in line with changes in TWIA exposures.**
    - This change could be done either directly based on exposure change from year to year or proportional to changes in the modeled probable maximum loss, effectively keeping the statutory funding as a fixed percentage of total funding.
    - Either method would directly reduce the amount of reinsurance needed and its cost to TWIA policyholders.
- **Authorize a mechanism to maintain the CRTF at a minimum level through a statewide assessment pool or other State source.**

- Increasing the CRTF's available balance directly decreases the amount of reinsurance that must be purchased.
- This is especially important in the years immediately after a catastrophic event, as the CRTF will have been used, most likely in its entirety, to fund losses.

- **Require TWIA's premium and maintenance taxes to be deposited directly into the CRTF.**
  - This would cause a significant increase to CRTF balances annually and result in a relatively small reduction in the overall amount of tax revenue received by the State.

TEXAS WINDSTORM INSURANCE ASSOCIATION

Appendix A: 2022 Biennial Report Legislative Recommendation Summaries

1 Expert Panel

Subject: Although the Expert Panel's recommendations apply to less than 5% of Association policies, the Association has paid more than $11 million over the last five years to implement the recommendations and expects to have annual expenses of about $1.8 million for ongoing software maintenance and data analysis costs.

- Statute requires the Association to use guidelines adopted by the Insurance Commissioner based on recommendations provided by experts ("Expert Panel").
- The recommendations are intended to assist the Association in determining the extent to which wind, waves, tidal surges, or rising water caused a loss to insurable property when very little of the property remains. These losses are referred to as "slab claims."
- TWIA implemented the Expert Panel recommendations as adopted by the Commissioner on June 1, 2018.
- TWIA's contract with the vendors to implement the recommendations expires on April 30, 2022. However, additional annual expenses to maintain the program after the contract expires in 2022 will be approximately $1 million to $1.25 million.

TWIA Expert Panel Costs 2013-2022	
Expert Panel Members 2013 - 2018	$1,441,977
Implementation 2017-2018	$4,517,754
Maintenance 2017-2022	$8,295,812
Total Costs 2013 - 2022	**$14,255,543**

Possible Solution: Modify statute and regulations to eliminate the requirements to use the Expert Panel's recommendations and guidelines adopted by the Commissioner.

- If the Legislature would prefer TWIA to retain and use the Expert Panel's recommendations, consider transferring the costs to the Texas Department of Insurance.
- If the Legislature and TDI repealed the Expert Panel methodology, TWIA would use methods commonly used by the insurance industry to evaluate slab claims, including hiring engineers and weather experts who can help the Association assess the nature of the property damage. Alternative processes would likely create some delays in claim processing.

2 FORTIFIED Home Construction

Subject: TWIA does not have any programs associated with FORTIFIED home construction.

- FORTIFIED is a nationally recognized building method that goes beyond building codes to strengthen residential and commercial buildings against specific natural hazards such as high winds and hurricanes. FORTIFIED standards are based on more than 20 years of scientific research and real-world testing by the Insurance Institute for Business & Home Safety (IBHS).
- More resilient construction can improve both the availability and affordability of insurance coverage and can lead to less community damage, reduced costs of emergency management and disaster recovery resources, and lower insurance losses after a catastrophic event.
- Other coastal states, notably Alabama and North Carolina, have encouraged FORTIFIED home construction for both new and existing homes through a combination of public grants and policy endorsements covering upgrades to the FORTIFIED home construction standards.

Possible Solution: Consider providing funding support from the State of Texas, the CRTF, or other sources for FORTIFIED home construction.

- Alternatively, given recent discussions among the TWIA Actuarial & Underwriting Committee and the TWIA Board of Directors, consider expanding the scope of this recommendation to include TWIA incentives or public funding support for all types of wind mitigation efforts, such as retrofitting existing construction with upgraded opening protections, roof attachments, and other certified improvements.
- In the absence of a request for public funding, implementing this possible solution would not require a legislative change.

3 Premium & Maintenance Tax

Subject: Texas premium and maintenance taxes impact rate indications and lessen the affordability of TWIA policies.

- TWIA has spent $7-8 million in premium and maintenance taxes annually for the past five years. Before 2017, when policy counts and, therefore, written premiums were higher, TWIA incurred more than $9 million in some years.

Year	Premium Tax	Maintenance Tax & Other	Total
2010	$6.2 Million	$1.2 Million	$7.3 Million
2011	$6.5 Million	$1.2 Million	$7.7 Million
2012	$7.1 Million	$1.3 Million	$8.4 Million
2013	$7.6 Million	$1.4 Million	$9.0 Million
2014	$7.9 Million	$1.5 Million	$9.4 Million
2015	$8.1 Million	$1.5 Million	$9.6 Million
2016	$7.8 Million	$1.5 Million	$9.3 Million
2017	$6.8 Million	$1.3 Million	$8.0 Million
2018	$6.3 Million	$1.2 Million	$7.5 Million
2019	$6.0 Million	$1.1 Million	$7.1 Million
2020	$5.9 Million	$1.1 Million	$7.0 Million
2021	$6.3 Million	$1.2 Million	$7.5 Million

Possible Solution: Exempt TWIA from paying premium and maintenance taxes.

- A reduction in expenses has a corresponding impact on rate indications. Elimination of premium and maintenance taxes would reduce TWIA expenses by roughly 1.86% of the annual written premium.

4 Appraisal Process

Subject: TDI rule requires appraisers to disclose potential conflicts of interest when appointed, but it does not disqualify appraisers with conflicts of interest from engaging in an appraisal. Additionally, there are no methods by which an appraiser can be challenged or disqualified before the appraisal's completion.

- The appraisal process is based partly on the appointed appraisers' independence and disinterest. TDI rule requires appraisers to disclose potential conflicts of interest when appointed.
- Many potential conflicts in the rule focus on the appraiser's financial motivations to minimize or maximize the claim's value regardless of its merits.
- However, none of the potential conflicts outlined in the TDI rule disqualifies the appraiser from engaging in an appraisal.
- As a result, policyholder appraisers appointed to Hurricane Harvey claims rarely followed the disclosure rules, and even when potential conflicts existed, they continued to engage in the appraisal process.
    - For example, several Public Adjusters and repair contractors routinely appointed themselves or their employees as the appraiser for their clients, despite having a financial interest in the outcome of the claim.
- Moreover, an appraiser cannot be challenged or disqualified before the appraisal's completion. Instead, the parties can only raise an appraiser's misconduct by filing a suit to set aside the award and begin a new appraisal.

Possible Solution: Allow TWIA to have a formal objection process related to issues or concerns with a policyholder's selected appraiser or umpire.

- TWIA proposes adding an objection process to the current rules governing appraisal to balance the need to remove those who participate in the process in bad faith with the imperative of keeping the appraisal process streamlined and inexpensive for the policyholder.
- The Association proposes referring objections to the TDI Ombudsman, and to the extent this would add additional expense to the Ombudsman's budget, TWIA would bear that expense.

5 Payment of Appraisal Costs

Subject: Statute requires TWIA and the policyholder to split appraisal costs. But, the overall cost of an appraisal can be imbalanced, with the policyholder paying a higher share than they would if they were only responsible for the costs of their appraiser.

- The appraisal process for handling TWIA claims is established in Texas Insurance Code and states, "the claimant and the association are responsible in equal shares for paying any costs incurred or charged in connection with the appraisal, including a fee charged under Subsection (e)."
- The appraisers TWIA hires charge an hourly rate for their service.
- As the appraisal process is designed to be separate and independent from TWIA's claim handling, TWIA provides little direction and oversight of appraisers.
- TWIA often experiences situations in which the amount of work that a TWIA appraiser performs on a file exceeds the amount of work performed by the policyholder's appraiser.
- The TWIA appraiser may also charge a higher rate than the rate charged by the policyholder's appraiser.
- The result of these scenarios is that the cost of TWIA's appraiser is often higher than the cost of the policyholder's appraiser, sometimes substantially so.

Possible Solution: Revise the statute to require each party to pay for their appraiser instead of splitting the total cost of both appraisers.

- In Hurricane Harvey appraisals on residential claims, TWIA's appraisal expense averaged about $500 higher than the policyholder's.
- If the appraisal award is a nominal amount, payment of the fees may significantly reduce the policyholder's final payment.
- This difference in costs can also cause disputes with the policyholder and may be detrimental to TWIA's efforts to settle a claim. Allowing TWIA and the policyholder to pay their own appraisal costs may eliminate the negative issues incurred in the appraisal process.

6 Depopulation

Subject: Participation in the Assumption Reinsurance Depopulation Program ("Assumption Program") has dramatically declined over the past five years. Regardless of the volume from year to year, TWIA must perform the same complex steps.

- The Assumption Program seeks to provide TWIA policyholders with alternative wind and hail insurance options in the private market.
- TWIA provides policy data to participating companies, who then make offers to assume, or transfer, TWIA policies.
- The participation of insurers, agents, and policyholders in the program is entirely voluntary.

Assumption Reinsurance Depopulation Program Participation					
Program Year	**2016-2017**	**2017-2018**	**2018-2019**	**2019-2020**	**2021-2022**
Participating Carriers	4	3	2	2	1
Policies Selected by Carriers	102,171	109,356	75,039	64,380	32,318
Agent-Approved Offers	18,047	3,091	3,967	1,866	210
Policies Assumed	11,164	1,634	2,080	1,002	125

- The Sunset Commission staff detailed the complexity and inefficacy of the Assumption Program in their 2018-2019 report. That report explains in more depth the following findings:
  1. The Assumption Reinsurance Depopulation Program is administratively complex, creating unnecessary confusion.
     a. Policyholder confusion delays claim payments.
     b. The complexity of the program requires logistical and financial gymnastics.
  2. The industry's interest in the Assumption Reinsurance Depopulation Program is limited and the benefits to policyholders are questionable.
  3. Insurance agent interest in and ability to participate in the Assumption Reinsurance Depopulation Program is limited.
     a. Insurance agents have expressed concerns about the program's viability.
     b. Many insurance agents contractually cannot sell depopulation policies.
- While Sunset staff recommended that the Sunset Commission eliminate the Assumption Program, the Commission elected to modify certain logistical elements of the program's timeline to make it less complex.

Possible Solution: Authorize TWIA to activate and deactivate the Assumption Reinsurance Depopulation Program as necessary according to market fluctuations.

Appendix B: Legislative Recommendation Bill Language

1 FORTIFIED Home Construction Bill Language

By: Lozano H.B. No. 4354

A BILL TO BE ENTITLED

AN ACT

relating to a mitigation and preparedness program and a fortified homes program administered by the Texas Windstorm Insurance Association.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2210.454, Insurance Code, is amended to read as follows:

Sec. 2210.454. MITIGATION AND PREPAREDNESS PROGRAM [~~PLAN~~]. (a) Subject to a plan approved by the [~~The~~] commissioner, the association may administer [~~shall annually develop and implement~~] a mitigation and preparedness program [~~plan~~].

(b) Each [~~state fiscal~~] year, the association [~~department~~] may fund the mitigation and preparedness program [~~plan~~] using money from the catastrophe reserve trust fund not to exceed $500,000 annually [~~available funds~~].

(c) The association must design the mitigation and preparedness program [~~plan must provide for actions to be taken in the seacoast territory by the commissioner, or by a local government, state agency, educational institution, or nonprofit organization designated by the commissioner in the plan, to implement programs~~] to:

(1) improve preparedness for windstorm and hail catastrophes; and

(2) reduce potential losses in the event of such a catastrophe[~~; and~~

[~~(3) provide research into the means to:~~

[~~(A) reduce those losses;~~

[~~(B) educate or inform the public in determining the appropriateness of particular upgrades to structures; or~~

[~~(C) protect infrastructure from potential damage from those catastrophes~~].

(d) Money [~~in excess of $1 million~~] may not be used under this section if the commissioner determines that an expenditure [~~of investment income~~] from the trust fund would jeopardize the actuarial soundness of the association [~~fund~~] or materially impair the ability of the association [~~fund~~] to serve the state purposes for which the association [~~fund~~] was established.

SECTION 2. Subchapter J, Chapter 2210, Insurance Code, is amended by adding Section 2210.456 to read as follows:

Sec. 2210.456. FORTIFIED HOMES PROGRAM. (a) Subject to a plan approved by the commissioner, the association may administer a fortified homes program.

(b) Each year, the association may fund the fortified homes program using money from the catastrophe reserve trust fund not to exceed $500,000 annually.

(c) The fortified homes program must be designed to:

(1) improve preparedness for windstorm and hail catastrophes; and

(2) reduce potential losses in the event of such a catastrophe.

(d) Money may not be used under this section if the commissioner determines that an expenditure from the trust fund would:

(1) jeopardize the actuarial soundness of the association; or

(2) materially impair the ability of the association to serve the state purposes for which the association was established.

SECTION 3. This Act takes effect September 1, 2023.

3 Premium & Maintenance Tax Bill Language

By: Thompson of Brazoria H.B. No. 2366

A BILL TO BE ENTITLED

AN ACT

relating to the applicability of premium and maintenance taxes to the Texas Windstorm Insurance Association.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 221.001(b), Insurance Code, is amended to read as follows:

(b) This chapter does not apply to:

(1) a fraternal benefit society, including a fraternal benefit society operating under Chapter 885;

(2) a group hospital service corporation operating under Chapter 842;

(3) a stipulated premium company operating under Chapter 884;

(4) a mutual assessment association, company, or corporation regulated under Chapter 887;

(5) a purely cooperative or mutual fire insurance company carried on by its members solely for the protection of their own property and not for profit, except as provided by Section 221.002(b)(13); [~~or~~]

(6) a farm mutual insurance company operating under Chapter 911, unless the company is acting as a fronting insurer; or

(7) the Texas Windstorm Insurance Association.

SECTION 2. Section 252.005, Insurance Code, is amended to read as follows:

Sec. 252.005. EXCEPTION. This chapter does not apply to:

(1) a farm mutual insurance company operating under Chapter 911, unless the company is acting as a fronting insurer as defined by Section 221.001(c); [~~or~~]

(2) a mutual insurance company engaged in business under Chapter 12, Title 78, Revised Statutes, before that chapter's repeal by Section 18, Chapter 40, Acts of the 41st Legislature, 1st Called Session, 1929, as amended by Section 1, Chapter 60, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929, that retains the rights and privileges under the repealed law to the extent provided by those sections; or

(3) the Texas Windstorm Insurance Association.

SECTION 3. The changes in law made by this Act do not affect tax liability accruing before the 2023 calendar year. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for enforcement of the liability for those taxes. SECTION 4. This Act takes effect September 1, 2023.