



MEMORANDUM

DATE: September 18, 2019

TO: Marianne Baker, Texas Department of Insurance, Property & Casualty Lines

FROM: Cindy Johnson, Manager, Legal & Compliance

RE: New TWIA "Endorsement No. (TWIA) 804 – Replacement Cost Coverage A (Dwelling) with Actual Cash Value Coverage for Roof Coverings"

On August 16, 2019, in accordance with Title 28 Texas Administrative Code 5.4911, Texas Windstorm Insurance Association ("TWIA") submitted the new "Endorsement No. (TWIA) 804 – Replacement Cost Coverage A (Dwelling) with Actual Cash Value Coverage for Roof Coverings" for Commissioner approval. TWIA created this endorsement as part of its effort to implement provisions of House Bill 1900 and Senate Bill 615 passed during the 86th Texas legislative session. House Bill 1900 and Senate Bill 615 amend subsections 2210.207(c) and (d) of the Texas Insurance Code to require replacement cost coverage determination for a TWIA dwelling policy be made at the time of policy issuance rather than at the time of loss.

The proposed amended TWIA Dwelling Policy, if approved by the Commissioner under separate filing (SERFF Tracking Number TWIA-132048886), will now by default provide coverage on an Actual Cash Value basis. However, if on the effective date of an Association policy, the total amount of insurance applicable to a dwelling, or other qualifying structure insured under Coverage A, is equal to 80 percent or more of the full replacement cost of the dwelling or equal to the maximum amount of insurance otherwise available through the Association, TWIA will automatically add "Endorsement No. (TWIA) 802 – Replacement Cost Coverage A (Dwelling)", if approved by the Commissioner under separate filing (SERFF Tracking Number TWIA-132048147), which will extend coverage applicable to the dwelling to replacement cost coverage.

Alternatively, if the dwelling otherwise qualifies for replacement cost coverage and the roof coverings alone are not in a condition eligible for replacement cost coverage, this "Endorsement No. (TWIA) 804 – Replacement Cost Coverage A (Dwelling), Except Roof Coverings" will be added to the policy with a reduction in premium in lieu of "Endorsement No. (TWIA) 802 - Replacement Cost Coverage A (Dwelling)." "Endorsement No. (TWIA) 804 – Replacement Cost Coverage A (Dwelling) with Actual Cash Value Coverage for Roof Coverings" will only provide Actual Cash Value for roof coverings and the remaining portions of the dwelling will be covered on a Replacement Cost basis.



Please note, this proposed process is consistent with the current process in place for Texas FAIR Plan Association. TWIA's use of "Endorsement No. (TWIA) 804 – Replacement Cost Coverage A (Dwelling) with Actual Cash Value Coverage for Roof Coverings," if approved, will require acknowledgement by the policyholder and will be accompanied by a Notice of Actual Cash Value.

On September 19, TWIA submitted a revised version of the new "Endorsement No. (TWIA) 804 – Replacement Cost Coverage A (Dwelling) with Actual Cash Value Coverage for Roof Coverings" to include additional legislative mandates not previously addressed. Specifically, House Bill 1900 and Senate Bill 615 amended Subchapter L-1, Chapter 2210 of the Texas Insurance Code by adding Section 2210.5741. For policies issued on or after January 1, 2020, a claimant may request a replacement cost payment by submitting documentation of the completion and cost of repairs not later than the 545th day after the claimant receives TWIA's notice of acceptance of the claim.

Additionally, House Bill 2102 amended Subtitle F, Title 5, Insurance Code is amended by adding Chapter 707. Section 707.004 allows an insurer issuing a property insurance policy with replacement cost coverage to refuse to pay a claim for withheld recoverable depreciation or a replacement cost holdback under the policy until the insurer receives reasonable proof of payment by the policyholder of any applicable deductible.

Attached please find a clean copy of the revised newly created endorsement.