

08-0338
No. _____

Official Order
of the
Commissioner of Insurance
of the
State of Texas
Austin, Texas

Date APR 18 2008

Subject Considered:

PETITION BY THE TEXAS WINDSTORM INSURANCE ASSOCIATION
FOR APPROVAL OF A TWIA DWELLING POLICY ENDORSEMENT
COVERING LOSS OF RENTAL INCOME
Docket No. 2680

General remarks and official action taken:

On this day, came on for consideration by the Commissioner of Insurance (Commissioner) a petition filed by the Texas Windstorm Insurance Association (TWIA) requesting approval of a new endorsement for the TWIA Dwelling Policy to cover loss of rental income, manual rules for the new endorsement, and rates for the proposed new coverage. The Insurance Code §2210.351 requires that TWIA file with the Department of Insurance (Department) each manual of rules or rates and each rating plan that TWIA proposes to use, indicating the character and the extent of the coverage contemplated, accompanied by the proposed policy and endorsement forms; and authorizes the Commissioner to approve, disapprove or modify in writing the proposed manual of rules or rates, each proposed rating plan, and the proposed policy and endorsement forms.

TWIA is composed of all insurers authorized to transact property insurance in this state and operates pursuant to Chapter 2210 of the Insurance Code. The purpose of TWIA is to provide adequate windstorm and hail insurance coverage to residents and businesses in areas of this state that the Commissioner has designated as catastrophe areas.

On September 20, 2007, TWIA filed a petition (Ref. No. P-0907-13) proposing the approval of a new endorsement for the TWIA Dwelling Policy to cover loss of rental income. Along with the petition, TWIA filed: (i) the proposed endorsement form; (ii) proposed changes to the manual rules; (iii) rating factors for the loss of rental income coverage; and (iv) a table of proposed modified extended coverage premiums.

The Insurance Code §2210.008 provides that the Commissioner, after notice and hearing, may issue any orders considered necessary to carry out the purposes of the Texas Windstorm Insurance Association Act, including but not limited to, maximum rates, competitive rates, and policy forms. Notice of a hearing on the proposal was published in the *Texas Register* on January 4, 2008, and the hearing was held January 29, 2008, at 9:30 a.m., in Room 100 of the William P. Hobby, Jr., State Office Building, 333 Guadalupe Street in Austin, Texas.

TWIA's statutory mandate is to provide windstorm insurance for insurable properties in designated catastrophe areas. TWIA has experienced rapid growth and its direct and indirect liability exposure increased from approximately \$41.5 billion as of December 31, 2006 to approximately \$64 billion as of December 31, 2007.

TWIA's rapid growth presents increased concerns about the potential consequences of the occurrence of a major windstorm catastrophe that could result in significant TWIA losses. The funding structure put in place by Chapter 2210 of the Insurance Code provides a procedure and method for the funding of TWIA losses in the event that windstorm losses exceed TWIA's premium and revenue. That funding procedure and method includes reinsurance and assessments to member companies. One particular assessment to member companies based upon the occurrence of specific circumstances and conditions may be credited by a member company against its premium tax obligations. The member companies' credit against premium tax obligations could have an impact upon state revenues for the period of time permitted by Chapter 2210 of the Insurance Code.

In view of the increase in liability exposure for TWIA from \$41.5 billion to \$64 billion in the most recent calendar year, the additional impact of any further increase to TWIA liability exposure must be carefully weighed. In considering the filing and the information provided, the Commissioner was not persuaded that the data presented by TWIA was sufficiently credible to gauge the impact on overall TWIA liability exposure of authorizing coverage for loss of rental income under the TWIA Dwelling Policy. Further, sufficient information was not provided to the Department to establish that this coverage is not reasonably available through the private market in the designated catastrophe areas.

Finally, the Insurance Code §2210.208(f)(1) provides that TWIA is not required to provide coverage for loss of use, if the loss is loss of rent or loss of rental value.

In light of TWIA's significant growth and increased liability exposure, the current funding structure, the lack of persuasive data that would provide sufficiently reliable estimates to indicate the potential impact on TWIA's liability exposure by adding coverage for loss of rental income under the TWIA Dwelling

