

No. **2018-5463**

**Official Order
of the
Texas Commissioner of Insurance**

Date: April 18, 2018

Subject Considered:

Extension of Deadline to Demand Appraisal in TWIA Claims Arising from Hurricane Harvey

General remarks and official action taken:

The subject of this order is the April 16, 2018, request from the Texas Windstorm Insurance Association (TWIA) to extend the deadline for its claimants to demand appraisal for claims resulting from Hurricane Harvey.

The Commissioner considered the request and grants an extension of 30 days for Hurricane Harvey claims received on or before October 24, 2017, on commercial policies with five or more structures and combined item limits of liability of at least \$100,000.

The Commissioner also grants an extension of 60 days for all of TWIA's other Hurricane Harvey claims.

BACKGROUND

Insurance Code Section 2210.574(b) provides that if a claimant disputes the amount of loss TWIA will pay for a claim or part of a claim, the claimant may demand appraisal not later than the 60th day after the date the claimant receives TWIA's written notice accepting all or part of the claim. Insurance Code Section 2210.574(c) allows the claimant to request, and TWIA to grant, an additional 30-day period to demand appraisal.

Under Insurance Code Section 2210.574(f), if a claimant does not timely demand appraisal, the claimant waives the right to contest TWIA's determination of the amount of loss it will pay for the accepted claim or part of the claim.

Under Insurance Code Section 2210.581, the Commissioner for good cause may by rule extend any deadline established under Insurance Code Chapter 2210, Subchapter L-1. Extensions of deadlines may not exceed an aggregate of 120 days.

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28 Texas Administrative Code (TAC) Section 5.4222 authorizes the Commissioner to extend any appraisal-related deadline in 28 TAC Chapter 5, Subchapter E, Division 4 (except Section 5.4218). An extension request must be in writing and explain the good cause for the extension.

The following findings of fact and conclusions of law are adopted:

FINDINGS OF FACT

1. Hurricane Harvey was a weather-related event that occurred August 25, 2017, through August 31, 2017.
2. Commissioner's Order No. 2017-5226 extended by 60 days the deadline for a claimant to demand appraisal on Hurricane Harvey claims.
3. Commissioner's Order No. 2017-5261 extended by 30 days TWIA's deadline under Insurance Code Section 2210.573(d) to accept or deny Hurricane Harvey claims on commercial policies with five or more structures and combined item limits of liability of at least \$100,000 and that were received on or before October 24, 2017, the date of the order.
4. By letter dated April 16, 2018, TWIA asked the Commissioner to extend the deadline for claimants to demand appraisal by an additional 60 days, for a total of 180 days.
5. TWIA cites the following factors impacting claimants to demonstrate good cause for the Commissioner to extend the deadline:
 - a. inability to find and hire a qualified and trusted contractor to provide bids, or to start or complete repairs and re-construction;
 - b. higher deductibles and unforeseen overall increases in labor or material costs, resulting in claimants being unable to begin or complete repairs and reconstruction that was started; and
 - c. delays caused by lack of familiarity with claim dispute procedures and deadlines on the part of the claimant's public adjuster or attorney.
6. Hurricane Harvey is the largest storm to make landfall in Texas since 2008.
7. As of April 5, 2018, TWIA had fully or partially accepted over 40,000 claims arising from Hurricane Harvey.

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CONCLUSIONS OF LAW

1. TDI has authority and jurisdiction over this matter under Insurance Code Section 2210.581 and 28 TAC Section 5.4222.
2. Under Section 5.4222, good cause exists to extend the deadline for TWIA claimants to demand appraisal for claims arising from Hurricane Harvey. Good cause exists based on:
 - a. the number of claims TWIA has accepted arising from Hurricane Harvey;
 - b. inability to find and hire a qualified and trusted contractor to provide bids, or to start or complete repairs and re-construction;
 - c. higher deductibles and unforeseen overall increases in labor or material costs, resulting in claimants being unable to begin or complete repairs and reconstruction that was started; and
 - d. the potential that claimants will not reasonably be able to dispute TWIA's payment determinations within the time required by Insurance Code Section 2210.574 and Commissioner's Order No. 2017-5226 due to the factors cited in Finding of Fact No. 5, parts a. and b.
3. The deadline for a claimant to demand appraisal for disputes about the amount of loss TWIA will pay should be extended 30 additional days for claims that:
 - a. were received on or before October 24, 2017;
 - b. arise from Hurricane Harvey; and
 - c. are on commercial policies covering five or more structures with combined item limits of liability of at least \$100,000.

With the additional 30 days, a typical claimant in this category will have a total of 150 days to demand appraisal after the date the claimant receives TWIA's required written notice accepting coverage in full or in part.

4. The deadline for a claimant to demand appraisal for disputes about the amount of loss TWIA will pay should be extended 60 additional days for all other Hurricane Harvey claims. With the additional 60 days, a typical claimant in this category will have a total of 180 days to demand appraisal after the date the claimant receives TWIA's required written notice accepting coverage in full or in part.

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5. Under Insurance Code Section 2210.574(c), not later than the 15th day after the expiration of the period to demand appraisal, a claimant may still request that TWIA extend the period for an additional 30-day period in which the claimant may demand appraisal. If TWIA grants the request, the additional 30-day period to demand appraisal begins on the date the additional period is granted.

ORDER

It is ordered that:

1. The deadline for a claimant to demand appraisal for disputes about the amount of loss TWIA will pay is extended 30 additional days for claims that:
 - a. were received on or before October 24, 2017;
 - b. arise from Hurricane Harvey; and
 - c. are on commercial policies covering five or more structures with combined item limits of liability of at least \$100,000.
2. The deadline for a claimant to demand appraisal for disputes about the amount of loss TWIA will pay is extended 60 additional days for all other Hurricane Harvey claims.
3. Potential additional extensions of time remain available to claimants under Insurance Code Section 2210.574(c); not later than the 15th day after the expiration of the period to demand appraisal, a claimant may still request that TWIA extend the period for an additional 30-day period in which the claimant may demand appraisal.

/s/ Kent C. Sullivan

Kent C. Sullivan

Commissioner of Insurance