

No. **4152**

**Official Order
of the
Commissioner of Insurance**

Date: OCT 12 2015

Subject Considered:

**Annual Inflation Adjustments to the Maximum Liability Limits for Risks
Insured by the Texas Windstorm Insurance Association
Docket No. 2780**

The commissioner of insurance considers the Texas Windstorm Insurance Association's proposal to adjust the maximum liability limits for TWIA windstorm and hail insurance policies delivered, issued for delivery, or renewed on or after January 1, 2016, based on the BOECKH Index, as required by Insurance Code §2210.502. The commissioner conducted a public hearing on the proposed adjustments on October 8, 2015.

After considering TWIA's filing and supplements, staff analysis, and all written and oral testimony presented at the hearing, the commissioner adopts the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. On August 24, 2015, TWIA filed its proposal (Reference No. P-0815-03) to adjust the maximum liability limits for TWIA windstorm and hail insurance policies delivered, issued for delivery, or renewed on or after January 1, 2016, from the January 1, 2015, limits based on the BOECKH Index, as required by Insurance Code §2210.502.
2. The commissioner held a public hearing on the proposed adjustments on October 8, 2015.
3. In the hearing, Mr. Jim Murphy testified on behalf of TWIA in support of the proposal. The requested increases in each maximum limit of liability,

based on the weighted average BOECKH Index factors that measures changes in construction costs, are

- (a) a 1.9 percent increase, from \$1,773,000 to \$1,807,000, for a dwelling, including an individually owned townhouse unit, and the corporeal movable property located in or about the dwelling, and as an extension of coverage, away from those premises, as provided under the policy,
- (b) a 1.9 percent increase, from \$374,000 to \$381,000, for individually owned corporeal movable property located in an apartment unit, residential condominium unit, or townhouse unit that is occupied by the owner of that property, and as an extension of coverage, away from those premises, as provided under the policy, and
- (c) a 1.9 percent increase, from \$4,424,000 to \$4,508,000, for a commercial building and the corporeal movable property located in that structure, and as an extension of coverage, away from those premises, as provided under the policy.

Mr. Murphy also testified that a reinsurance program TWIA had in place in 2004 became unavailable, triggering an increase in dwelling liability limits from \$435,000 in 2004 to \$1,500,000 in 2005. When asked, Mr. Murphy stated TWIA had not actively solicited reinsurance before proposing the adjustment of liability limits.

- 4. Mr. Brian Ryder appeared on behalf of TDI in an informational capacity, and submitted an exhibit, "TWIA Limits of Liability History." Mr. Ryder testified that increasing the limits of liability for dwellings from \$435,000 in 2004 to \$1,500,000 in 2005 was not related to BOECKH Index factors, but was requested because a "per risk" reinsurance program used by TWIA either became too expensive or was not available.
- 5. Mr. Joe Woods of the Property Casualty Insurance Association of America testified in opposition to the TWIA proposal. Mr. Woods stated the Texas residual insurance market is out of line with other states, citing dwelling liability limits for Florida of \$900,000 (to be reduced to \$800,000 in 2016 and \$700,000 in 2017), and noting that Louisiana also has lower limits than Texas (dwelling maximum limit of liability in Louisiana is currently \$750,000). Mr. Woods also testified that TWIA's depopulation program would be helped by not increasing current liability limits.
- 6. Mr. Henry Freudenburg submitted a written comment on behalf of the Coastal Windstorm Insurance Coalition (CWIC). CWIC requested that the commissioner increase TWIA's maximum limits of liability to:

(a) \$2,000,000 for a dwelling, including an individually owned townhouse unit, and the corporeal movable property located in or about the dwelling, and as an extension of coverage, away from those premises, as provided under the policy, and

(b) \$5,000,000 for a commercial building and the corporeal movable property located in that structure, and as an extension of coverage, away from those premises, as provided under the policy.

7. Representative Wayne Faircloth submitted written comments and requested that TWIA's maximum limits of liability be increased to:

(a) \$2,000,000 for a dwelling, including an individually owned townhouse unit, and the corporeal movable property located in or about the dwelling, and as an extension of coverage, away from those premises, as provided under the policy,

(b) \$400,000 for individually owned corporeal movable property located in an apartment unit, residential condominium unit, or townhouse unit that is occupied by the owner of that property, and as an extension of coverage, away from those premises, as provided under the policy, and

(c) \$5,000,000 for a commercial building and the corporeal movable property located in that structure, and as an extension of coverage, away from those premises, as provided under the policy.

Representative Faircloth requested that, alternatively, the commissioner increase TWIA's maximum limits of liability consistent with TWIA's current request.

8. Since January 1, 2005, TWIA's maximum liability limit for dwellings, including individually owned townhouse units, and the corporeal movable property located in or about the dwelling, and as an extension of coverage, away from those premises, as provided under the policy, if adjusted for BOECKH Index factors, would have increased to \$602,000.

9. Since January 1, 2005, TWIA's maximum liability limit for individually owned corporeal movable property located in an apartment unit, residential condominium unit, or townhouse unit that is occupied by the owner of that property, and as an extension of coverage, away from those premises, as provided under the policy, if adjusted for the BOECKH Index factors, would have increased to \$215,000.

10. Since January 1, 2005, TWIA's maximum liability limit for commercial buildings and the corporeal movable property located in those structures, and as an extension of coverage, away from those premises, as provided under the policy, if adjusted for the BOECKH Index factors, would have increased to \$2,645,000.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter under Insurance Code §2210.504.
2. TWIA's board of directors must propose inflation adjustments to the maximum liability limits for its windstorm and hail insurance policies no later than September 30 of each year in compliance with Insurance Code §2210.502(a).
3. The commissioner must, after notice and hearing, approve, disapprove, or modify the proposed inflation adjustments to the maximum liability limits no later than 60 days after the date TWIA files the proposed inflation adjustments in compliance with Insurance Code §2210.504.
4. The commissioner gave proper and timely notice of the hearing in compliance with Insurance Code §2210.504(a).

Based on the above findings of fact and conclusions of law, the commissioner finds that TWIA's proposal to adjust the maximum limits of liability is not necessary at this time. The commissioner denies TWIA's proposal to adjust the maximum limits of liability for TWIA windstorm and hail insurance policies delivered, issued for delivery, or renewed on or after January 1, 2016.



David C. Mattax
Commissioner of Insurance