

No. **2017-5226**

Official Order

of the

Texas Commissioner of Insurance

Date: September 21, 2017

Subject Considered:

**Extension of the Deadline for TWIA Claimants to
Demand Appraisal for Hurricane Harvey Claims**

The Texas Department of Insurance considers a September 7, 2017, request from the Texas Windstorm Insurance Association (TWIA) to extend the time limit for Hurricane Harvey claimants to demand appraisal. Hurricane Harvey was a weather-related event that occurred August 25, 2017, through August 31, 2017.

BACKGROUND

Insurance Code §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 §2210.574(c) allows the claimant to request, and TWIA to grant, an additional 30-day period to demand appraisal.

Under Insurance Code §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 §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.

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

FINDINGS OF FACT

1. By letter dated September 7, 2017, TWIA asked TDI to determine that good cause exists for the commissioner to extend the deadline for a claimant to demand appraisal by 60 days.

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2. The request provides that:
 - a. As of September 7, 2017, TWIA had received approximately 50,000 claims arising from Hurricane Harvey.
 - b. Approximately 95 percent of the claims were on residential or mobile home policies.
 - c. TWIA believes it is reasonable to anticipate
 - a shortage of qualified contractors in the affected areas that could promptly bid out work for damage that TWIA accepts,
 - that prices for labor and materials will fluctuate in the affected areas, and
 - that a claimant might not reasonably be able to dispute TWIA's payment determination for some time after the claim is processed.

CONCLUSIONS OF LAW

1. TDI has authority and jurisdiction over this matter under Insurance Code §2210.581.
2. Under 28 TAC §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
 - the number of claims TWIA has received arising from Hurricane Harvey, and
 - the reasonable anticipation of
 - a shortage of qualified contractors in the affected areas that could promptly bid out work for the damage TWIA accepts,
 - fluctuation in prices for labor and materials in the affected areas, and
 - the potential that claimants will not reasonably be able to dispute TWIA's payment determinations within the time required by Insurance Code §2210.574.
3. The deadline for a claimant to demand appraisal for disputes about the amount of loss TWIA will pay on claims arising from Hurricane Harvey should be extended 60 additional days. With the additional 60 days, a typical claimant will have a total of 120 days to demand appraisal after the date the claimant receives TWIA's required written notice accepting coverage in full or in part.
4. Under Insurance Code §2210.574(c), not later than the 15th day after the expiration of the 120-day period to demand appraisal, a claimant may still request that TWIA extend the 120-day 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

Based on these findings of fact and conclusions of law, and under the authority of Insurance Code §2210.581 and 28 TAC §5.4222, the Texas Department of Insurance orders that

- the deadline under Insurance Code §2210.574(b) for a claimant to demand appraisal for claims arising from Hurricane Harvey is extended 60 additional days.

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- a claimant will have a total of 120 days to demand appraisal after receiving TWIA's required written notice accepting coverage in full or in part.
- Insurance Code §2210.574(c) remains in effect: not later than the 15th day after the expiration of the 120-day period to demand appraisal, a claimant may still request that TWIA extend the 120-day period for an additional 30-day period in which the claimant may demand appraisal.



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Delegation Order 4506