

No. 12-0028

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

Date: January 10, 2012

Subject Considered:

APPROVAL OF TEXAS WINDSTORM INSURANCE ASSOCIATION
INSURANCE POLICY APPLICATIONS,
ENDORSEMENTS, AND MANUAL RULES
PURSUANT TO 28 TAC §5.4911

Commercial application,
Link #107744, TDI #9212516423, Reference No. P-0510
Residential and manufactured home applications,
Link #107743, TDI #9212516422, Reference No. P-0510
Endorsements TWIA 310 and TWIA 320, and manual rules,
Link #110420, TDI #9212521235, Reference No. P-1010-10
Endorsement TWIA 220 and manual rules,
Link #112314, TDI #9212524606, Reference No. P-0111-01

The Commissioner makes the following findings of fact and conclusions of law:

1. *Application Forms.*

a. On April 23, 2010, TWIA submitted its commercial, residential, and manufactured home application forms for approval, as required by 28 Texas Administrative Code (TAC) §5.4911(h). Section 5.4911(h) allows TWIA to continue to use the insurance policy application forms unless the commissioner disapproves them.

b. Notice of the application form submission was published in the May 14, 2010, edition of the *Texas Register* at 35 TexReg 3895. The Department received written comments. A public hearing was not requested or held.

c. TWIA revised and resubmitted the applications in response to public comments, Department concerns, and House Bill 3 (HB 3), 82nd Legislature, 2011, 1st Called Session. The revised applications are attached to this Order as Exhibit A.

d. TWIA requests approval of the commercial, residential, and manufactured home applications, effective immediately.

e. TWIA's proposed application forms in Exhibit A are consistent with Insurance Code Chapter 2210 and will allow TWIA to continue to provide windstorm and hail insurance in the catastrophe area.

f. The applications should be approved for use by TWIA, effective immediately.

2. *Amendments to Endorsements TWIA 310 and TWIA 320.*

a. On October 4, 2010, TWIA submitted amendments to endorsements TWIA 310 and TWIA 320 (Extensions of Coverage). The amendments clarify that the TWIA policy does not cover additional living expenses (ALE) for voluntary or mandatory evacuations. The amendments also clarify that ALE coverage only applies to primary residences and not to secondary residences.

b. To match current endorsement TWIA 320, TWIA changed the applicable limit for ALE on endorsement TWIA 310 from 10% to 20% of the applicable limit of liability in the dwelling policy.

c. Notice was published in the October 22, 2010, edition of the *Texas Register* at 35 TexReg 9552. The Department did not receive any written comments. A public hearing was not requested or held.

d. TWIA revised and resubmitted the endorsements in response to Department concerns. TWIA also amended its manual rules to reflect the effective

dates of the endorsements. The revised endorsements are attached as Exhibits B and C. The manual rules are attached as Exhibit E.

e. TWIA proposes to begin using the amended endorsements with TWIA's dwelling policy between June 1, 2012, and July 1, 2012, for new business and between August 1, 2012, and August 31, 2012, for renewals.

f. Proposed endorsements TWIA 310 and TWIA 320, in Exhibits B and C, are consistent with Insurance Code §2210.208 and TWIA's obligation to provide windstorm and hail insurance in the catastrophe area.

g. Endorsements TWIA 310 and TWIA 320 should be approved for use by TWIA. For new business, TWIA should be ordered to begin using these amended endorsements beginning June 1, 2012, but no later than July 1, 2012. For renewals, TWIA should be ordered to begin using these amended endorsements beginning August 1, 2012, but no later than August 31, 2012. The update to the effective dates in the manual rules should be approved effective March 1, 2012. TWIA should notify the Department when TWIA begins using these endorsements.

3. *New Endorsement TWIA 220.*

a. On January 31, 2011, TWIA submitted new mandatory endorsement TWIA 220 (Automatic Adjusted Building Cost Endorsement) for use with its dwelling policy. TWIA also requested withdrawal of optional endorsement TWIA 200 (Adjusted Building Cost Endorsement). TWIA submitted amendments to its manual rules to implement endorsement TWIA 220 and the withdrawal of TWIA 200.

b. Notice was published in the February 18, 2011, edition of the *Texas Register* at 36 TexReg 1190. The Department did not receive any written comments. A public hearing was not requested or held.

c. TWIA proposes to begin using the endorsement with its dwelling policy between March 1, 2012, and March 31, 2012, for new business and between May 1, 2012, and May 31, 2012, for renewals. Endorsement TWIA 220 is attached as Exhibit D.

d. TWIA submitted amendments to its manual rules in response to Department concerns and HB 3. The amendments provide instructions for using

endorsement TWIA 220. The amended manual rules are attached in Exhibit E. TWIA proposes the amended manual rules to be effective March 1, 2012.

e. Proposed endorsement TWIA 220 in Exhibit D is consistent with TWIA's obligation to provide windstorm and hail insurance in the catastrophe area.

f. Endorsement TWIA 220 should be approved for use by TWIA. For new business, TWIA should be ordered to begin using the new endorsement beginning March 1, 2012, but no later than March 31, 2012. For renewals, TWIA should be ordered to begin using the new endorsement beginning May 1, 2012, but no later than May 31, 2012. TWIA should notify the Department when TWIA begins using this endorsement.

g. Endorsement TWIA 200 should be withdrawn from use by TWIA effective March 31, 2012, for new business and May 31, 2012, for renewals. Endorsement TWIA 200 should continue in effect for all policies issued with that endorsement before those dates.

h. The amended manual rules in Exhibit E specify how TWIA is to provide coverage under endorsement TWIA 220. The procedure is consistent with TWIA's obligation to provide windstorm and hail insurance in the catastrophe area. The manual rules should be approved for use by TWIA, effective March 1, 2012. TWIA should not be required to use the manual rules for endorsement TWIA 220 until TWIA begins using TWIA 220.

4. *Authority.* Pursuant to TAC §5.4911, the Commissioner may, after an opportunity for comment and public hearing, approve endorsements, manual rules, and application forms submitted by TWIA to implement Insurance Code Chapter 2210.

THEREFORE, THE COMMISSIONER APPROVES:

1. The TWIA policy applications in Exhibit A, effective immediately;
2. Endorsements TWIA 310 and TWIA 320, in Exhibits B and C. The endorsements clarify that the TWIA policy does not cover ALE for voluntary or mandatory evacuations, and that ALE only applies to primary residences and not to secondary residences. For new business, TWIA may begin to use these amended endorsements on June 1, 2012, and must begin to use

them no later than July 1, 2012. For renewals, TWIA may begin to use these amended endorsements on August 1, 2012, and must begin to use them no later than August 31, 2012. TWIA must notify the Department when TWIA begins using these endorsements;

3. Endorsement TWIA 220 in Exhibit D. TWIA 220 is a mandatory automatic building cost adjustment. For new business, TWIA may begin to use the new endorsement on March 1, 2012, and must begin to use it no later than March 31, 2012. For renewals, TWIA may begin to use the new endorsement on May 1, 2012, and must begin to use it no later than May 31, 2012. TWIA must notify the Department when TWIA begins using this endorsement;
4. Endorsement TWIA 200, which is an optional building cost adjustment, is withdrawn from use by TWIA effective March 31, 2012, for new business and May 31, 2012, for renewals. Endorsement TWIA 200 continues in effect for all policies issued with that endorsement before those dates; and
5. The amendments to the manual rules concerning endorsement TWIA 220, TWIA 310, and TWIA 320, in Exhibit E, for use by TWIA effective March 1, 2012. TWIA must use the amended manual rules on or after March 1, 2012.

AND IT IS SO ORDERED.

TEXAS DEPARTMENT OF INSURANCE

**Eleanor Kitman
Commissioner of Insurance**