



MEMORANDUM

DATE:

TO: Marianne Baker, Texas Department of Insurance, Property & Casualty Lines

FROM: Cindy Johnson, Manager, Legal & Compliance

RE: Amended "TWIA Dwelling Policy" and Endorsement No. (TWIA) 365 – Replacement Cost Coverage B (Personal Property)

On August 16, 2019, in accordance with Title 28 Texas Administrative Code 5.4911, Texas Windstorm Insurance Association ("TWIA") submitted the amended "TWIA Dwelling Policy" for Commissioner approval. TWIA amended the policy as part of its effort to implement provisions of House Bill 1900 and Senate Bill 615 passed during the 86th Texas legislative session. Specifically, House Bill 1900 and Senate Bill 615 amend subsections 2210.207(c) and (d) of the Texas Insurance Code to require replacement cost coverage determination for a TWIA Dwelling Policy be made at the time of policy issuance rather than at the time of loss.

The proposed amended "TWIA Dwelling Policy", if approved by the Commissioner, will now by default provide coverage on an Actual Cash Value basis. However, if on the effective date of an Association policy, the total amount of insurance applicable to a dwelling, or other qualifying structure insured under Coverage A, is equal to 80 percent or more of the full replacement cost of the dwelling or equal to the maximum amount of insurance otherwise available through the Association, TWIA will automatically add the new "Endorsement No. (TWIA) 802 – Replacement Cost Coverage A (Dwelling)," if approved under separate filing (SERFF Tracking Number TWIA-132048147), which will extend coverage applicable to the dwelling to replacement cost coverage. Following this method, TWIA's determination of replacement cost coverage will take place at the time of application, renewal or policy change.

Senate Bill 442, also passed during the 86th legislative session, requires an insurer to include a disclosure regarding flood coverage with the policy documents provided to the policyholder at time of policy issuance or renewal. Despite TWIA's position that this requirement is not applicable to TWIA, the prescribed disclosure language has been included in this amended "TWIA Dwelling Policy."

On September 19, TWIA submitted a revised version of the Amended "TWIA Dwelling Policy" and revised "Endorsement No. (TWIA) 365 – Replacement Cost Coverage B (Personal Property)" to include additional legislative mandates not previously addressed. Specifically, House Bill 1900 and Senate Bill 615 amended



Subchapter L-1, Chapter 2210 of the Texas Insurance Code by adding Section 2210.5741. For policies issued on or after January 1, 2020, a claimant may request a replacement cost payment by submitting documentation of the completion and cost of repairs not later than the 545th day after the claimant receives TWIA's notice of acceptance of the claim.

Additionally, House Bill 2102 amended Subtitle F, Title 5, Insurance Code is amended by adding Chapter 707. Section 707.004 allows an insurer issuing a property insurance policy with replacement cost coverage to refuse to pay a claim for withheld recoverable depreciation or a replacement cost holdback under the policy until the insurer receives reasonable proof of payment by the policyholder of any applicable deductible.

Attached please find attached a redlined version of the existing policy showing the proposed changes, as well as a revised clean copy of the proposed revised policy.