



TEXAS WINDSTORM
INSURANCE ASSOCIATION



Revised TWIA Plan of Operation

March 21, 2016



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I. Overview

A. Background

In March, 2010 TWIA filed, with the Texas Department of Insurance (TDI), proposed changes to the Plan of Operation (Plan) to incorporate changes required by the enactment of HB 4409 in 2009. In November 2011, TWIA filed additional changes to the Plan to incorporate the changes required by the enactment of HB 3 in 2011. In December 2011, TWIA notified TDI that the Board wanted to study the proposed HB 3 changes. In August 2012, TWIA advised TDI that we did not anticipate any supplemental filing for changes in connection with HB 3. After considering the TWIA filings, TDI in 2014 requested that TWIA complete a comprehensive revision of the Plan to improve readability and eliminate any redundant or unnecessary provisions. TWIA Staff and Counsel now propose the revisions summarized herein to the Plan to accomplish those objectives.

B. General Organization

The required contents of the Plan are set forth in Section 2210.152, Insurance Code and in various other sections of Chapter 2210. The proposed Plan incorporates changes required by Legislative enactments from 2009 to present (HB 4409, HB 3 and SB 900) and reorders the Plan into a user-friendly format. The proposed Plan also incorporates a rule to address the Agent Suspension program required by 28 TAC 5.4902.

The proposed Plan retains the Division structuring of the current Plan and numbers the Divisions consecutively from Division 1 to Division 7. The revised Divisions are as follows:

Division 1 Plan of Operation

This Division contains rules concerning A) Association Governance and Operations, B) Building Code and C) Loss Funding, including Catastrophe Reserve Trust Fund, Financing Arrangements, and Public Securities.

Division 2 Consumer Assistance; Claims Processes

This Division contains rules of the Coastal Outreach Program, the appraisal and mediation processes, and the expert panel.

Division 3 Depopulation Programs



This Division contains the rules recently adopted by TDI concerning the voluntary market and assumption reinsurance depopulation programs.

Division 4 Inspections for Windstorm and Hail Insurance

This Division contains rules concerning the windstorm inspection manual, appointment of inspectors and the list of items that do not require an inspection.

Division 5 Rates

This Division contains rules regarding the establishment and application of building code credits.

Division 6 Windstorm Building Code Advisory Committee on Specifications and Maintenance

This Division consists of one rule which prescribes the form that must be used to propose changes in the building code requirements or the Plan for consideration by the Windstorm Building Code Advisory Committee on Specifications and Maintenance.

Division 7 Eligibility and Forms

This Division contains rules pertaining to eligibility requirements, the agent suspension program and TWIA policy forms, rules and underwriting guidelines.

C. Primary Scope of Review

The proposed revisions address required changes in Divisions 1 and 7. These Divisions contained the sections that required updating to incorporate legislative enactments. Division 1 also contained the outdated formatting that is no longer used for Administrative Code rules.

The structure of Division 1 was revised to provide specific section references for each section and section numbers for each major section. This improves the readability and makes it easier to find provisions of the Plan.

Division 1 was also streamlined by 1) eliminating provisions of the Plan that merely duplicated language in the Insurance Code; 2) editing sections throughout the Plan to make them more concise; and 3) eliminating outdated, unnecessary language.



II. Summary of Changes

A. Substantive changes made to comply with statutes

1. HB 3 changes

- [Page 22] Edited Application, Acceptance, Rejection, Inspection language in order to allow insureds to directly submit applications for renewals, as required by statute.

2. HB 4409 changes

- [Page 1] Added a Purpose section; this section takes its language from the statute. This was part of the proposed revisions submitted to TDI in 2011 in accordance with HB 4409 requirements.
- [Page 5] Removed language regarding meetings of the members of the association; this language was previously put forward for removal in 2010 after the passage of HB 4409 rendered the language unnecessary.
- [Pages 7-12] Removed references, throughout section regarding Board, to election of Board members and edited section accordingly; Board members are no longer elected.
- [Page 8] Added language regarding removal of Board member by Commissioner.
- [Page 9] Removed requirement of statement of purpose for meetings.
- [Pages 8-9] Eliminated duplicative notice language and removed language from several places referencing public notice requirement. [Also moved remaining notice requirement (“Whenever any notice is required to be given to any director of the association under the provision of this section a waiver thereof in writing signed by the person or persons, including the Department, entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice”) to earlier part of section.]
- [Page 11] Removed unnecessary language describing methods for filling vacant Board seats, as well as outdated language differentiating members appointed by the commissioner from those who are elected, as all are now appointed.
- [Page 11] Added language to allow for meetings to be conducted other than in person.
- [Page 17] Added public securities to the list of payables.
- [Page 17] Added funding and public securities language.
- [Page 155] Added language describing consequences for agents who fail audits under the newly required agent audit procedures.



3. SB 900 changes

- [Page 17] Revised language regarding investment of CRTF funds.

B. Changes to language for purposes of streamlining, simplifying, clarifying and/or modernizing:

- [Pages 1-5] Shortened and simplified the definitions section and removed unnecessary or outdated explanations (e.g., reference to State Board of Insurance).
- [Page 2] In the Net Direct Premiums definition, eliminated start date reference—as this is no longer necessary—and simplified description of calculations by consolidating parts, removing repetitive language, and reorganization portions to improve readability.
- [Page 2] Added a definition for “Public Securities.”
- [Page 5] Simplified language describing Membership to improve readability.
- [Page 7] Removed detailed description of Board makeup and instead referenced statute (“as provided in the Act”).
- [Page 7] Simplified Board section by adding language regarding Board appointing Committees as needed and eliminating superfluous descriptions of Committees.
- [Page 7] Clarified language regarding Board compensation to state that Board members will receive no compensation other than reimbursement for expenses.
- [Page 9] Edited meeting notice requirements to provide for email and other electronic delivery methods, and removed language specific to delivery by telegram.
- [Page 9] Added qualifying language regarding voting directors [changed from “A majority of the number of directors fixed by this section” to “A majority of the number of directors authorized to vote fixed by this section”].
- [Page 9] Removed presumption of assent language from Board meeting section.
- [Page 10] Removed redundant language directing the composition of the executive committee.
- [Page 11] Added language to allow for meetings to be conducted by means other than in person (such as over the web, etc.); some of this language also tracks HB 4409 changes.
- [Page 11] Removed detailed descriptions of secretary-treasurer functions and added simple language allowing powers and duties to be assigned by the Board.
- [Pages 12-15] Removed unnecessary introductory clauses from Legal Counsel section, to simplify and improve readability. Reorganized, consolidated and simplified language throughout Legal Counsel section in order to shorten the section and improve readability.
- [Page 15] Removed fiscal year description.
- [Pages 15-16] Simplified, consolidated and reorganized Indemnification section.



- [Page 16] Removed detailed annual reporting description that followed indemnification section; filing the report is required by statute, but this language is not required for the Plan.
- [Page 16] Updated Collection, Investment and Allocation of Funds section to allow for flexibility--so that a representative other than the secretary-treasurer may carry out the collection duty.
- [Page 17] Removed allocation procedure language—that is not required to be in the Plan—in order to allow flexibility within the applicable laws and regulations.
- [Page 17] Removed detailed language regarding use of funds—as this language is merely a recitation of statute and is not required to be a part of the Plan—and replaced old language with a statement that use of funds is governed by applicable law and documents authorizing issuance of public securities.
- [Page 22] Edited language in Application, Rejection, Inspection, Acceptance section to allow for premium payment in installments.
- [Pages 24-25] Edited Claim Settlement Guidelines section to include only a reference to the statute instead of a complete description.
- [Page 26] Removed some repetitive language regarding/describing insurable property.
- [Page 27] Added excluded causes of loss to align with current manufactured home policy and to parallel dwelling policy.

C. Organizational changes—sections or subsections moved within the Code

- [Pages 6-12] Reorganized Board section for readability.
- [Pages 9, 15] Moved waiver of notice language to earlier in section.
- [Pages 21, 158] Moved application form approval language to a later section in the document.
- [Pages 24, 156] Moved Minimum Retained Premium into the “Plan of Operation” section of the Code.
- [Pages 7, 10] Moved Board compensation and powers clauses to the beginning of the section.

D. Other minor corrections to language, such as name change, etc.

- Updated the statutory references in the definitions section and elsewhere from “The Texas Catastrophe Property Insurance Pool Act” to “Chapter 2210.”
- Updated the Association name (from TCPIA) throughout the document.
- [Pages 25-29] Changed references to “Mobile Homes” to read “Manufactured Homes.”
- [Pages 25-29] Updated references to federal and state laws and agencies governing manufactured housing.