



**Texas Windstorm
Insurance Association**

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**Statistical Report
As of 10/31/10**

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**TWIA Funding after
Hurricane Ike**

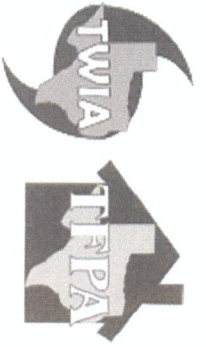
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Slab Claim Letter

4

Unsealed Shingle Letter

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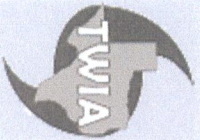


Texas Windstorm Insurance Association Texas FAIR Plan Association

Updated as of 10/31/2010

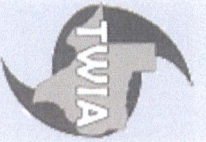
James W. Oliver
General Manager

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TWIA Overview

- The Texas Windstorm Insurance Association (TWIA), known as the Texas Catastrophe Property Insurance Association (TCPPIA) until September 1, 1997, was established by the Texas Legislature in 1971 as a mechanism to provide wind and hail coverage to applicants unable to obtain insurance in the voluntary market. The Legislature's action was a response to market constrictions along the Texas Gulf Coast after several hurricanes.
- Since its inception, the legislature has made it clear that TWIA was to write limited coverage for wind and hail in order to provide for the "orderly economic growth of the Coastal counties." Persons who own businesses and/or residences in the following counties are eligible for coverage through TWIA: Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kennedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, Willacy. In addition, portions of Harris County east of Highway 146 are also eligible.
- TWIA operates on a daily basis as an insurance company by issuing policies, collecting premiums and paying losses. All calendar-year earnings (profits) of the Association, if any, are transferred to a state-owned Catastrophe Reserve Trust Fund (CRTF). The State Controller holds the CRTF money in the name of the Texas Department of Insurance. These funds are to be used after a serious storm, or series of storms, to pay loss and loss adjustment expenses. Approximately \$470 million was available for the 2008 hurricane season. The fund in its entirety was used to pay claims related to Hurricane Dolly and Hurricane Ike.
- At present there is approximately \$74 million in the CRTF.
- *Pursuant to legislation adopted in 2009, TWIA funding in excess of premiums and the CRTF is provided by up to \$2.5 billion in public securities. These securities are repaid at various levels from TWIA premiums, catastrophe area surcharges, and assessments to TWIA member companies. TWIA may purchase reinsurance in addition to or in concert with this funding.*



2010 Maximum Limits of Liability

<u>Coverage</u>	<u>2010 Limits</u>
Dwellings and Individually Owned Townhouses and Corporeal Movable Property	\$1,773,000
Individually Owned Corporeal Movable Property in Apartments, Condominiums, or Townhouses	\$374,000
Commercial Buildings and Corporeal Movable Property	\$4,424,000
Governmental Buildings and Corporeal Movable Property	\$4,424,000

Pursuant to Texas Insurance Code §2210.502, maximum limits are adjusted annually as approved by the Commissioner of Insurance



Liability In-Force 2000 – 2009

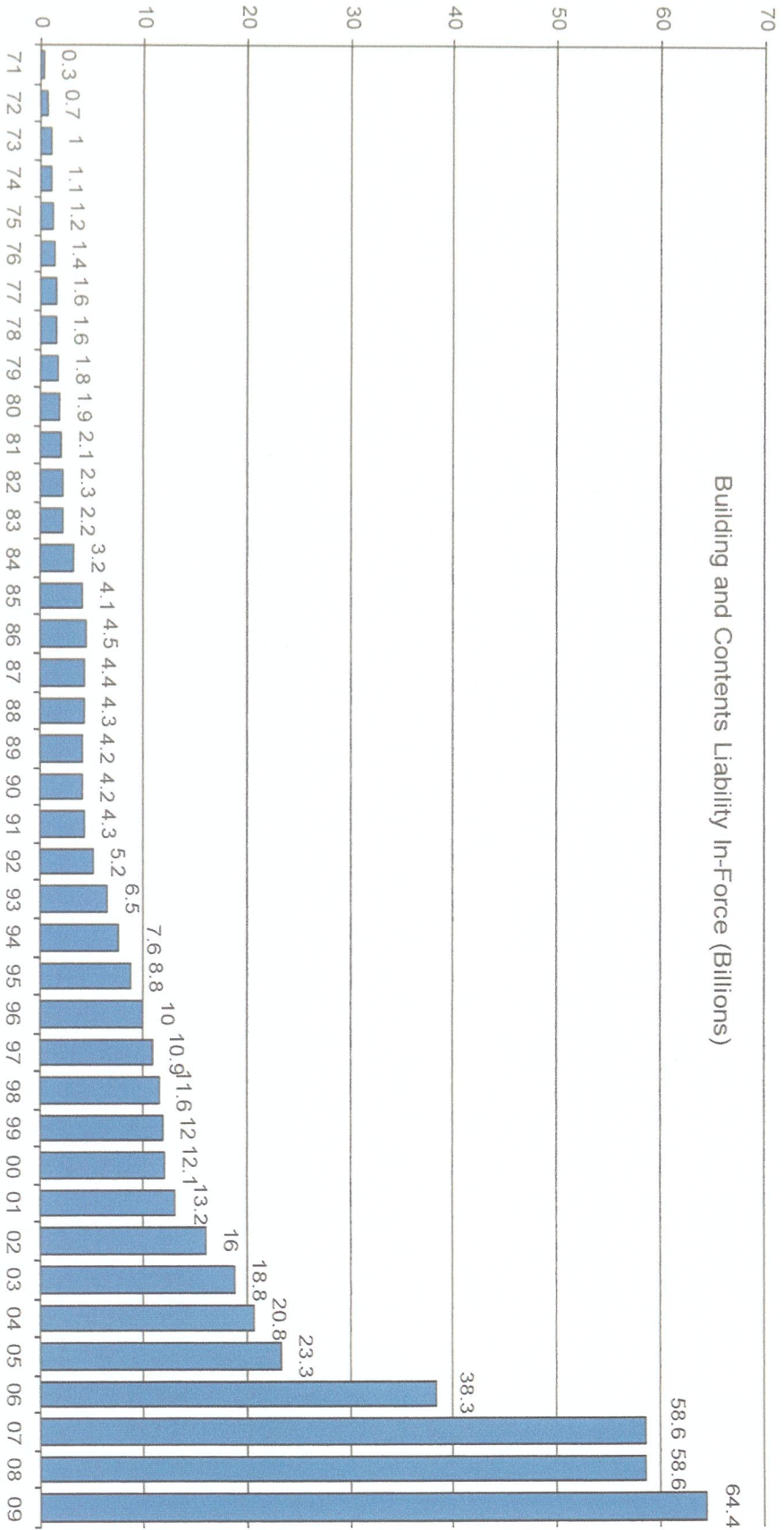
Year	Gross In-Force Liability	Percentage Change Over Prior Year
2000	12,052,604,254	0.67%
2001	13,249,406,793	9.93%
2002	16,003,048,280	20.78%
2003	18,824,457,208	17.63%
2004	20,796,655,763	10.48%
2005	23,263,934,405	11.86%
2006	38,313,022,160	64.69%
2007	58,641,546,243	53.06%
2008	58,585,060,464	-0.10%
2009	64,405,791,112	9.94%

Notes:

Exposures shown are building and contents only



Historical Growth





Total Exposure
Evaluated as of 10/31/10

Buildings and Contents	\$67,560,444,812
Additional Living Expense	\$ 6,107,866,258
Business Income	<u>\$ 433,696,585</u>
Total	\$74,102,007,655



Statistical Report

Evaluated as of 10/31/10

County	Policies In-Force				Liability In-Force			
	at 10/31/09	at 10/31/10	# Gain	% Gain	at 10/31/09	at 10/31/10	# Gain	% Gain
Aransas	6,568	6,683	115	1.80	2,009,185,586	2,062,862,689	53,677,103	2.70
Brazoria	42,205	45,407	3,202	7.60	11,743,477,026	12,733,670,140	990,193,114	8.40
Calhoun	4,071	4,222	151	3.70	882,503,517	923,710,179	41,206,662	4.70
Cameron	16,081	17,233	1,152	7.20	5,030,486,237	4,873,812,854	-156,673,383	-3.10
Chambers	4,366	5,324	958	21.90	1,305,163,398	1,578,987,963	273,824,565	21.00
Galveston	64,896	67,611	2,715	4.20	19,523,726,469	21,070,064,585	1,546,338,116	7.90
Harris	2,778	3,074	296	10.70	745,732,412	850,120,627	104,388,215	14.00
Jefferson	25,853	28,451	2,598	10.00	6,477,798,491	6,958,842,017	481,043,526	7.40
Kenedy	22	23	1	4.50	6,712,215	8,763,122	2,050,907	30.60
Kleberg	1,271	1,453	182	14.30	422,756,267	418,139,487	-4,616,780	-1.10
Matagorda	4,121	4,650	529	12.80	895,864,261	1,001,483,169	105,618,908	11.80
Nueces	46,749	48,665	1,916	4.10	12,744,579,293	12,669,664,289	-74,915,004	-0.60
Refugio	449	458	9	2.00	118,601,241	122,917,215	4,315,974	3.60
San Patricio	8,253	8,437	184	2.20	2,082,270,052	2,153,302,115	71,032,063	3.40
Willacy	495	580	85	17.20	145,271,672	134,104,361	-11,167,311	-7.70
Total:	228,178	242,271	14,093	6.18	64,134,128,137	67,560,444,812	3,426,316,675	5.34

Notes: Exposures shown are building and contents only



Distribution By County and Class of Business

Evaluated as of 10/31/10

County	Policies In-Force			Total	Exposures In-Force			Total
	Residential	Commercial	Governmental		Residential	Commercial	Governmental	
Aranas	6,184	489	10	6,683	1,709,801,614	333,258,617	19,802,458	2,062,862,689
Brazoria	43,746	1,610	51	45,407	11,382,001,129	1,112,792,206	238,876,805	12,733,670,140
Calhoun	3,888	320	14	4,222	735,358,308	145,182,619	43,169,252	923,710,179
Cameron	15,767	1,417	49	17,233	2,913,483,973	1,597,714,451	362,614,430	4,873,812,854
Chambers	5,106	212	6	5,324	1,437,632,995	112,425,466	28,929,502	1,578,987,963
Galveston	64,270	3,260	81	67,611	17,354,093,859	3,010,724,319	705,246,407	21,070,064,585
Harris	2,933	139	2	3,074	741,697,318	108,018,807	404,502	850,120,627
Jefferson	26,538	1,879	34	28,451	5,404,298,487	1,462,288,104	92,255,426	6,958,842,017
Kenedy	21	0	2	23	2,681,357	40,000	6,041,765	8,763,122
Kleberg	1,323	121	9	1,453	236,410,847	77,406,630	104,322,010	418,139,487
Matagorda	4,301	332	17	4,650	792,971,045	161,303,726	47,208,398	1,001,483,169
Nueces	45,278	3,330	57	48,665	9,508,367,031	2,868,519,160	292,778,098	12,669,664,289
Refugio	401	49	8	458	76,415,255	26,277,530	20,224,430	122,917,215
San Patricio	7,935	474	28	8,437	1,768,037,202	329,481,369	55,783,544	2,153,302,115
Willacy	520	53	7	580	91,654,844	24,108,733	18,340,784	134,104,361
Total	228,211	13,683	377	242,271	54,154,905,264	11,369,541,735	2,035,997,813	67,560,444,812

Notes:
 Residential statistics include mobile homes
 Exposures shown are building and contents only
 Governmental policies are defined as those with at least one governmental item



Residential Distribution By AOI and Occupancy

Evaluated as of 10/31/10

Amount of Insurance	Primary Residential Dwellings			Secondary Residential Dwellings		
	Dwellings	Total Exposure	Average Limits	Dwellings	Total Exposure	Average Limits
\$0 - \$25,000	441	8,175,000	18,537	2,337	36,758,000	15,729
\$25,001 - \$50,000	3,048	132,361,000	43,426	4,508	185,908,000	41,240
\$50,001 - \$75,000	11,131	732,035,000	65,765	7,301	468,598,000	64,183
\$75,001 - \$100,000	22,569	2,022,364,000	89,608	7,616	674,195,000	88,524
\$100,001 - \$125,000	25,591	2,918,885,000	114,059	5,372	609,535,000	113,465
\$125,001 - \$150,000	27,839	3,859,209,000	138,626	4,820	668,226,000	138,636
\$150,001 - \$175,000	23,601	3,852,224,000	163,223	3,253	529,811,000	162,868
\$175,001 - \$200,000	19,971	3,763,780,000	188,462	2,628	498,047,000	189,516
\$200,001 - \$225,000	12,104	2,573,462,000	212,613	1,484	317,215,000	213,757
\$225,001 - \$250,000	9,838	2,346,531,000	238,517	1,330	319,852,000	240,490
\$250,001 - \$300,000	11,408	3,132,607,000	274,597	1,515	420,771,000	277,737
\$300,001 - \$400,000	9,027	3,092,560,000	342,590	1,509	521,164,000	345,370
\$400,001 - \$500,000	2,856	1,267,146,000	443,679	634	286,349,000	451,655
\$500,001 - \$1,000,000	1,974	1,277,794,000	647,312	551	362,570,000	658,022
\$1,000,001 - \$1,500,000	164	199,272,000	1,215,073	72	89,241,000	1,239,458
\$1,500,001 - \$1,773,000	9	14,652,000	1,628,000	9	14,795,000	1,643,889
Total All Limits	181,571	31,193,057,000	171,795	44,939	6,003,035,000	133,582

Notes: Exposures shown are building only

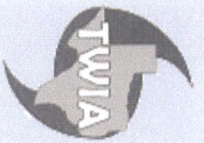


Non-Residential Distribution By AOI and Class

Evaluated as of 10/31/10

Amount of Insurance	Commercial Risks			Governmental Risks		
	Structures	Exposure	Average Limits	Structures	Exposure	Average Limits
\$0 - \$25,000	2,777	33,347,000	12,008	1,003	9,200,000	9,172
\$25,001 - \$50,000	1,735	68,307,000	39,370	562	22,560,000	40,142
\$50,001 - \$75,000	1,404	90,532,000	64,481	286	17,430,000	60,944
\$75,001 - \$100,000	1,680	151,612,000	90,245	189	16,610,000	87,884
\$100,001 - \$150,000	2,924	374,843,000	128,195	257	31,937,000	124,268
\$150,001 - \$200,000	2,677	475,552,000	177,644	147	25,835,000	175,748
\$200,001 - \$250,000	2,097	480,036,000	228,916	114	25,626,000	224,789
\$250,001 - \$400,000	4,488	1,446,488,000	322,301	225	70,045,000	311,311
\$400,001 - \$500,000	1,644	743,805,000	452,436	111	50,283,000	453,000
\$500,001 - \$750,000	2,158	1,327,078,000	614,957	151	94,196,000	623,815
\$750,001 - \$1,000,000	959	833,191,000	868,812	120	106,019,000	883,492
\$1,000,001 - \$1,500,000	760	925,447,000	1,217,693	122	149,532,000	1,225,672
\$1,500,001 - \$2,000,000	375	660,143,000	1,760,381	70	121,967,000	1,742,386
\$2,000,001 - \$3,000,000	285	714,707,000	2,507,744	69	168,951,000	2,448,565
\$3,000,001 - \$4,000,000	199	711,481,000	3,575,281	69	246,228,000	3,568,522
\$4,000,001 - \$4,424,000	174	747,403,000	4,295,420	146	628,804,000	4,306,877
Total All Limits	26,336	9,783,972,000	371,506	3,641	1,785,223,000	490,311

Notes: Exposures shown are building only

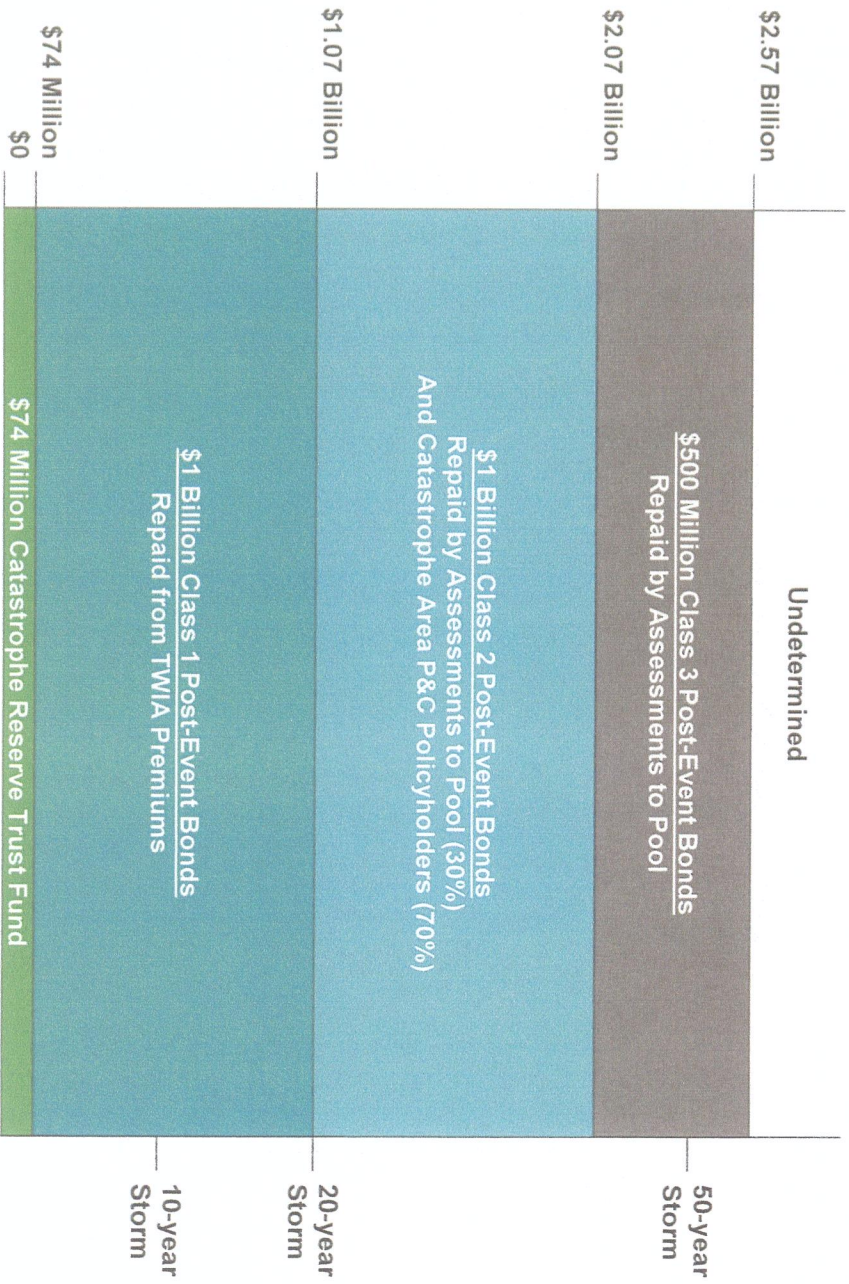


Catastrophe Modeling Results

Probability	Return Period	Average of AIR and RMS Models		Percent Change
		As of 12/31/08	As of 12/31/09	
10.00%	10	\$466 Million	\$461 Million	-1%
5.00%	20	\$1.0 Billion	\$1.0 Billion	1%
2.00%	50	\$2.3 Billion	\$2.3 Billion	3%
1.00%	100	\$3.6 Billion	\$3.8 Billion	4%
0.40%	250	\$5.7 Billion	\$5.9 Billion	5%
0.20%	500	\$7.1 Billion	\$7.4 Billion	4%
Average Annual Loss		\$213 Million	\$216 Million	1%
TWIA Modeled Limits		\$63.7 Billion	\$70.5 Billion	11%



TWIA 2010 Funding



PML's based on average of AIR and RMS models as of 12/31/09



TFPA Overview

- The Texas FAIR Plan Association was established by the Texas legislature in 1997. An actual need for the FAIR Plan did not occur until 2002 when Insurance Commissioner Jose Montemayor activated the FAIR Plan for the entire State of Texas to write homeowners policies during the “mold crisis”. In 2002 many insurance companies had decided not to write new homeowners policies. The FAIR Plan was initiated in order to provide a market for persons who had been declined by two or more insurance companies for coverage. The FAIR Plan grew rapidly in 2002, 2003 and 2004. As the problems in the homeowners market eased in 2005, policy counts began to fall back.
- At its high point in 2005, the FAIR Plan wrote 134,000 policies throughout the State of Texas. At its low point in 2006, the FAIR Plan wrote 78,000 policies. In the second half of 2006 the FAIR Plan began to grow again because homeowners markets tightened in the first- and second-tier counties. In particular, a need developed in Harris and Ft. Bend Counties. Policy counts continue to reduce in most areas of the state other than first- and second-tier counties. Overall, policy counts are increasing.



Statistical Report

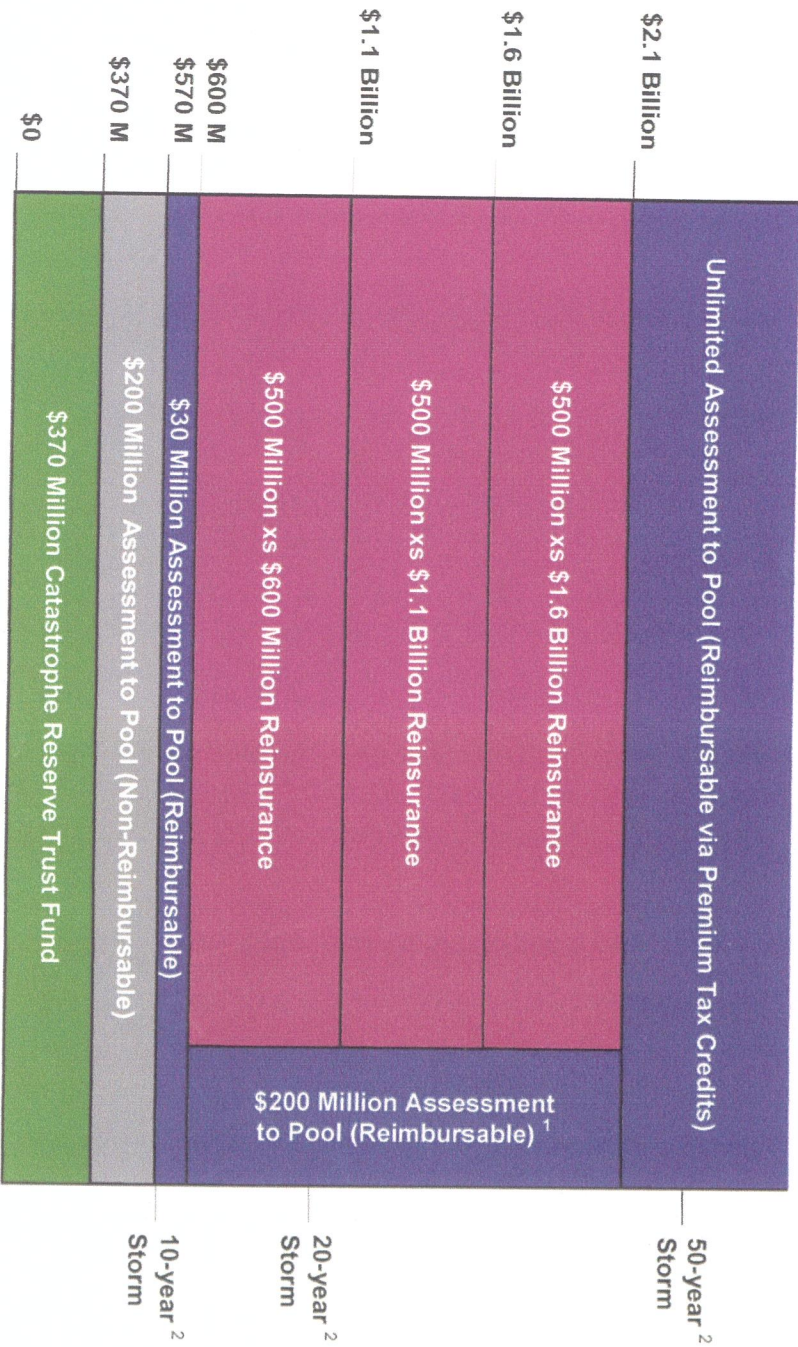
Evaluated as of 10/31/10

County	Policies In-Force		Annual Growth		Liability In-Force		Annual Growth	
	10/31/09	10/31/10	Actual	%	10/31/09	10/31/10	Actual	%
Harris	45,359	56,862	11,503	25.36%	7,130,316,309	9,240,289,615	2,109,973,306	29.59%
Fort Bend	4,545	5,468	923	20.31%	889,990,102	1,074,037,323	184,047,221	20.68%
Dallas	4,672	4,188	(484)	(10.36%)	691,698,049	626,153,156	(65,544,893)	(9.48%)
Tarrant	3,065	3,081	16	0.52%	461,791,294	473,424,673	11,633,379	2.52%
Galveston	2,501	2,647	146	5.84%	522,823,110	555,682,979	32,859,869	6.29%
Nueces	1,472	1,466	(6)	(0.41%)	206,515,488	209,366,587	2,851,099	1.38%
Bexar	1,331	1,209	(122)	(9.17%)	172,292,965	162,445,917	(9,847,048)	(5.72%)
Brazoria	945	1,121	176	18.62%	201,063,083	233,595,921	32,532,838	16.18%
Hidalgo	1,190	1,062	(128)	(10.76%)	152,906,875	140,898,585	(12,008,290)	(7.85%)
El Paso	637	739	102	16.01%	104,365,161	132,091,890	27,726,729	26.57%
Montgomery	580	707	127	21.90%	89,875,664	115,137,509	25,261,845	28.11%
Jefferson	593	667	74	12.48%	96,417,791	112,871,711	16,453,920	17.07%
Travis	582	581	(1)	(0.17%)	90,826,343	92,053,350	1,227,007	1.35%
Calhoun	419	419	37	9.69%	74,438,796	82,453,515	8,014,719	10.77%
Collin	416	390	(26)	(6.25%)	83,216,668	84,372,828	1,156,160	1.39%
Denton	367	360	(7)	(1.91%)	69,241,180	71,455,440	2,214,260	3.20%
Gameron	277	302	25	9.03%	48,023,200	55,343,500	7,320,300	15.24%
Orange	265	237	(28)	(10.57%)	40,523,524	32,308,760	(8,214,764)	(20.27%)
Johnson	254	233	(21)	(8.27%)	41,181,641	39,289,021	(1,892,620)	(4.60%)
Arañas	228	225	(3)	(1.32%)	52,384,474	51,809,314	(575,160)	(1.10%)
Chambers	153	200	47	30.72%	36,015,200	48,157,210	12,142,010	33.71%
Matagorda	168	183	15	8.93%	31,238,521	34,928,532	3,690,011	11.81%
Victoria	181	140	(41)	(22.65%)	23,489,322	20,494,931	(2,994,391)	(12.75%)
San Patricio	123	125	2	1.63%	23,636,620	26,107,500	2,470,880	10.45%
Liberty	115	123	8	6.96%	14,063,557	14,208,420	144,863	1.03%
Top 25 Counties	70,401	82,735	12,334	17.52%	1,348,334,937	1,728,978,187	380,643,250	20.98%
All Other Counties	2,689	2,747	58	2.16%	397,583,776	423,486,086	25,902,310	6.51%
Statewide Total	73,090	85,482	12,392	16.95%	11,745,918,713	14,152,464,273	2,406,545,560	20.49%



TWIA 2008 Second-Event Funding

Available for Hurricane Ike



¹ \$200 million assessed to pay reinsurance reinstatement premium
² PML's based on average of AIR and RMS models as of 11/30/07



MEMORANDUM

DATE: November 19, 2010

TO: TWIA Board of Directors
Cliff Craig
David Franklin
Alice Gannon
Mike Gerik
Garry Kaufman
Peter Kelly
Joseph Minor
Craig Nadziejka
Georgia Neblett
Bob Shepard

FROM: James W. Oliver
General Manager

RE: Letter to the Windstorm Insurance Legislative Oversight Committee Regarding
TDI v. TWIA Decision on Unsealed Shingles

I'm attaching a copy of a letter that I sent to the Windstorm Oversight Committee. This letter briefly explains the judge's actual decision.

If anyone has a question, please contact me.

Attachment



Texas Windstorm
Insurance Association

James W. Oliver
General Manager

November 19, 2010

To the Honorable Members of the Windstorm Insurance Legislative Oversight Committee

The Honorable John Carona, Co-Chair
The Honorable Robert Duncan
The Honorable Mike Jackson
The Honorable Leticia Van de Putte
Texas Senate
P.O. Box 12068
Austin, Texas 78711

The Honorable Larry Taylor, Co-Chair
The Honorable John Smithee
The Honorable Todd Hunter
The Honorable Ryan Guillen
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768

RE: Texas Department of Insurance (TDI) v. Texas Windstorm Insurance Association
(TWIA) Decision on Unsealed Shingles

Dear Honorable Members:

We have seen or heard several interpretations of the recent decision by the State Office of Administrative Hearings about the TDI v. TWIA proposal for decision (PFD) related to unsealed shingles. In fact, an assistant public counsel with the Office of Public Insurance Counsel (OPIC) circulated a memo that we believe misstates the PFD. For this reason, we are writing a letter intended to clarify and state the actual findings of the administrative law judge in this case.

- The 139-page PFD deals first and foremost with the central contention that TWIA should have paid to replace composition shingle roofs when the shingles are unsealed after a hurricane, even though there is no evidence that the shingles were sealed before the storm or that wind caused the shingles to become unsealed.

The judge specifically found that unsealed shingles are common on asphalt shingle roofs, there are many causes of unsealed shingles, and the existence of unsealed shingles on a roof does not establish that the shingles were unsealed by wind.

- The judge said that TWIA should not pay a claim just because an unsealed shingle exists.

“The preponderant evidence showed that TWIA had a reasonable basis for denying claims for unsealed shingles absent evidence that the shingles were unsealed by windstorm during the coverage period.”

Texas Windstorm Insurance Association

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- The judge said that TWIA paid for unsealed shingles where the evidence clearly reflected that wind unsealed the shingles.

“There is no evidence in the record indicating that TWIA refused to pay for unsealed shingles that were clearly shown to be unsealed by Hurricanes Dolly or Ike.”

- The judge rejected the Texas Department of Insurance’s contention that TWIA engaged in bad faith by failing to properly investigate or pay valid claims.

The judge found it “was not a close issue.” “The evidence does not indicate that TWIA’s liability was reasonably clear at any time encompassed in the record.”

- TWIA management handled unsealed shingle claims correctly. While a few employees acted contrary to TWIA policies, they were a very small minority.

“There was not preponderant evidence in the record establishing that TWIA knowingly misrepresented pertinent facts or provisions of the dwelling policy.”

“TWIA’s formal policy was to treat unsealed shingles as covered damage under the dwelling policy if there was evidence that they were caused by windstorm.”

- TDI stopped cooperating with TWIA and turned to litigation.

“Despite having a history of working collaboratively with TWIA, TDI staff did not attempt to work collaboratively with TWIA to address TDI’s concerns about the manner in which TWIA was adjusting unsealed shingle claims, prior to filing this enforcement action.”

There are still some outstanding issues to be resolved related to this action on unsealed shingles, which will be settled over the next few months. For example, TWIA has asked the judge to reconsider her narrow finding that a few TWIA claims representatives misstated TWIA’s claim policies and thereby made misrepresentations in letters to policyholders. However, it is important to note that the judge concluded that nearly all of TDI’s allegations should be dismissed. TDI chose to litigate this issue rather than work with TWIA to resolve any concerns. Interestingly, TDI’s witnesses in the trial indicated that they had not even heard of the issues related to unsealed shingles until months after the landfall of Hurricane Ike. TWIA is hopeful that, in the future, TDI will work cooperatively with TWIA to address any concerns rather than spend valuable time and resources in contested litigation.

Very truly yours,



James W. Oliver

cc: Hon. Rick Perry, Governor
Hon. David Dewhurst, Lt. Governor
Hon. Joe Strauss, Speaker
D. Beck, OPIC
TWIA Board of Directors

Texas Windstorm Insurance Association

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MEMORANDUM

DATE: December 3, 2010

TO: TWIA Board of Directors
Cliff Craig
David Franklin
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Peter Kelly
Joseph Minor
Craig Nadziejka
Georgia Neblett
Bob Shepard

FROM: James W. Oliver
General Manager

RE: Letter to Windstorm Insurance Legislative Oversight Committee Regarding
Slab Claims

Attached is a copy of a letter that I sent to the Windstorm Insurance Legislative Oversight Committee. I sent this letter because there has been considerable discussion, numerous questions, etc., about the settlement.

If anyone has questions, please call me.

Attachment

cc: L. Daniel
M. Holbrook
S. Incerto
M. Perkins
A. Schramek
R. Warren
D. Weber
M. Wilson
R. Wilson
TWIA Managers



Texas Windstorm
Insurance Association

James W. Oliver
General Manager

December 3, 2010

To the Honorable Members of the Windstorm Insurance Legislative Oversight Committee

The Honorable John Carona, Co-Chair
The Honorable Robert Duncan
The Honorable Mike Jackson
The Honorable Leticia Van de Putte
Texas Senate
P.O. Box 12068
Austin, Texas 78711

The Honorable Larry Taylor, Co-Chair
The Honorable John Smithee
The Honorable Todd Hunter
The Honorable Ryan Guillen
Texas House of Representatives
P.O. Box 2910
Austin, Texas 78768

RE: Hurricane Ike Slab Claim Settlements

Dear Honorable Members:

Considerable discussion has followed TWIA's settlement of "slab" claims with law firms representing policyholders whose dwellings were completely destroyed by Hurricane Ike. There has been much speculation in the news media and elsewhere regarding this settlement, its financial impact on TWIA and the possible impact on the budget of the State of Texas. This letter is intended to provide you with the background, context and financial impact of the settlement. I am providing a general overview that will be followed by answers to specific questions.

General Overview

TWIA identified slab claims as those where policyholders' dwellings were completely destroyed by Hurricane Ike, leaving nothing but sand or little more than a slab, broken pilings and/or a foundation. To date, policyholders have reported 2,741 claims that TWIA has identified as slabs.

Commentators have described slab claims as posing a "deceptively simple question" of how much damage was caused by wind (which TWIA covers) as opposed to flood (which TWIA does not cover). While TWIA adjusted these claims based on the best scientific data available, the Association would have been subject at trial to second guessing by retained experts focused on raising doubts in the minds of jurors who were themselves negatively impacted by the storm. Recognizing that, without physical evidence, science can only make educated guesses about what likely happened to a dwelling during Hurricane Ike, trial attorneys quickly seized upon slab

claims as potentially lucrative lawsuits. Moreover, the question of whether wind or water caused damage to policyholders' dwellings would be presented by those persons who had lost everything in the storm (often with little or no flood insurance) to fellow members of a community devastated by the storm. Simply stated, it would be very difficult for TWIA to successfully try these cases before sympathetic peers and friends in the communities negatively affected by the storm.

Historical Results on Litigated Slab Claims by Other Insurers

After Hurricane Katrina in 2005, Allstate took the first slab case to trial in *Weiss v. Allstate*. Even though the policyholder had accepted \$350,000 in federal flood insurance based on flood damage, the jury said that Allstate should pay the policyholder \$2.8 million for wind damage and other penalties. USA Today has reported that State Farm resolved its approximately 1,000 Katrina slab cases by agreeing to pay at least 50% of the value of the insured property as wind damage in a global settlement valued as high as \$500 million.

Trying thousands of lawsuits in court in a difficult venue that includes sympathetic juries and experts fighting experts, coupled with the insurance industry's history of dealing with these types of claims, all added up to TWIA's staff needing to negotiate a global settlement of slab claims in order to resolve pending cases and curtail future litigation that would have continued for many years and could have put TWIA at risk for billions in payments.

Did TWIA prepare to handle slab claims before Hurricane Ike hit?

The simple answer is "yes". TWIA staff began considering possible approaches to handling these types of claims in 2007, well before Hurricane Ike hit Texas. Reports, lawsuits and court actions from Florida and, in particular, Louisiana/Mississippi after Hurricane Katrina were carefully reviewed. TWIA staff worked with engineers, meteorologists and other experts to figure out what worked and what did not work in the aftermath of hurricanes in other states to investigate and adjust these claims. There is no simple answer. TWIA staff determined that the Association would have to secure the best possible meteorological, engineering and other scientific information and consider each policyholder's claim individually on its own merit.

Why did it take so long (almost two years) for TWIA to settle with policyholders who had "slab claims"?

TWIA actually began paying policyholders within two months after the storm and completed most slab claim adjustments and payments by Spring 2009. Litigation started in January 2009 and almost all slab lawsuits were settled by September 2010. Determining the amount of wind vs. flood (surge) damage is extremely difficult and will always be subject to disagreement and to litigation. There is simply not enough of the structure or other evidence left behind to conclusively prove what caused the damage. In the first Katrina slab case to go to trial, plaintiff counsel noted, "In most slab cases, it is almost impossible to determine what, exactly, happened." Thus, each slab claim had to be considered on its own merit. The variables among these claims were significant, as follows:

- Coverages varied significantly
 - ✓ Some persons had adequate flood insurance, some had no flood insurance, some had not enough flood insurance
 - ✓ Some persons had enough wind insurance; most did not.
- Dwelling statistics varied significantly
 - ✓ Dwelling ages varied from one year to 50 or more years
 - ✓ Some dwellings were built to modern building codes. Many were not.
 - ✓ Buildings were of different construction types
 - ✓ Elevations above ground/sea level varied.
 - ✓ Distance from Gulf varied.

How did TWIA adjust these slab claims?

- In 2007, before Hurricane Ike, TWIA retained consultants from Texas Tech University to consider possible approaches to investigating and assessing slab claims.
- After Hurricane Ike hit, TWIA located and hired management and staff from an independent adjusting firm that had extensive experience working on slab claims in Mississippi.
- In October 2008, TWIA staff decided to advance, unconditionally to all policyholders with slab claims, 10% of their dwelling coverage and 5% of their contents. Commercial claims received advances of 5% of building coverage, 5% on contents and 5% on business income (if these coverages were purchased on the policy). These advances were completed in November/December 2008 because TWIA knew that it would take months to collect the necessary scientific information to adjust each claim.
- While engineering analysis was conducted, TWIA completed a statistical analysis of 387 dwellings on the Bolivar Peninsula that were not completely destroyed by Hurricane Ike to determine the appropriateness of the amounts paid. (The loss ratios developed from the statistical analysis showed that the 10% advance was reasonable based on information available at the time.) TWIA proceeded with engineering analysis for each building.
- When the engineering analysis was completed, TWIA paid the higher of the engineering or statistical analysis. (With each payment or telephone communication with policyholders, TWIA staff asked policyholders to provide any information possible that indicated that payments should be different from those provided. TWIA staff had its experts in engineering, meteorology and claims adjustment, evaluate information provided, research all information provided by policyholders and offer advice about the accuracy of that information and its possible effects on payments.)

Why did TWIA settle if its experts felt that the Association had paid a reasonable amount?

- Absence of definitive physical evidence, as discussed above.
- Sympathetic policyholders – many of whom had little or no flood insurance – who would appeal to a jury and could only be “made whole” by windstorm insurance proceeds.
- The substantial cost of litigating upwards of 2,700+ expert-intensive slab lawsuits.

- Plaintiffs' bar mobilized around these cases and retained experts willing to opine that wind damage far exceeded TWIA's loss adjustments.
- Jury empathy, as evidenced by the Weiss judgment discussed above.
- Overall exposure from slab lawsuits possibly in the billions.
- Difficulty of reversing findings on the amount of "windstorm damage" on appeal.

How did the slab settlements affect the overall TWIA paid losses for Hurricane Ike?

- TWIA expects to pay about \$2.1 billion in loss and loss adjustment expenses for Hurricane Ike. The settlement represents about 7% of the total payments.
- To date, TWIA's funding sources for Hurricane Ike have included the following:
 1. \$370 million from the Catastrophe Reserve Trust Fund (CRTF)
 2. \$430 million assessments of property and casualty insurance companies
 3. \$1.5 billion from reinsurance, less reinstatement premiums

Because the funding sources mentioned are co-mingled, it is not possible to say exactly what settlements were paid from what source. However at the time the slab settlement occurred, monies from the CRTF and assessments from the insurance companies had been paid and TWIA was relying on recoveries from reinsurance companies.

Need for a Legislative Answer

As this letter indicates, adjusting "slab" claims presents difficult issues and situations for windstorm insurers that exclude flood losses. While there were lessons learned from the Ike experience, should TWIA be faced with slab claims in the future, there is no clear way to handle these claims that will remain true to science and evidence (and thus, fulfill TWIA's duty to its other policyholders to pay claims appropriately) and yet avoid litigation. Unless TWIA pays its policy limits regardless of the facts of the claim, plaintiff lawyers (particularly those whose clients have little or no flood coverage) will attempt to leverage the inherent uncertainty of slab claims into higher payments. Accordingly, TWIA believes that the legislature should take up this issue to address the extraordinary risk of slab litigation, provide direction on how slab claims should be adjusted or provide direction to the Texas Department of Insurance to work with TWIA to establish appropriate rules for handling slab claims prior to the next hurricane season.

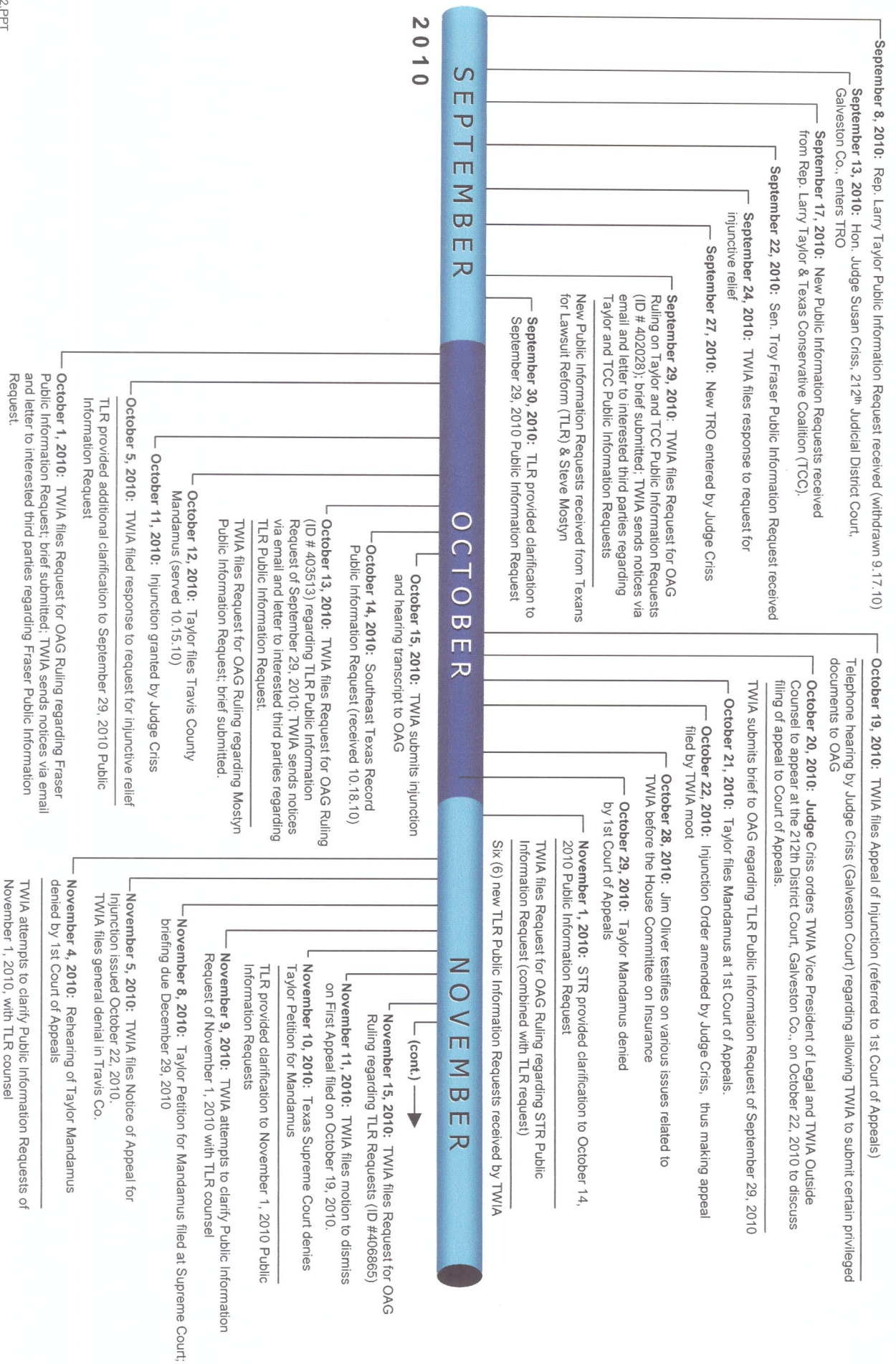
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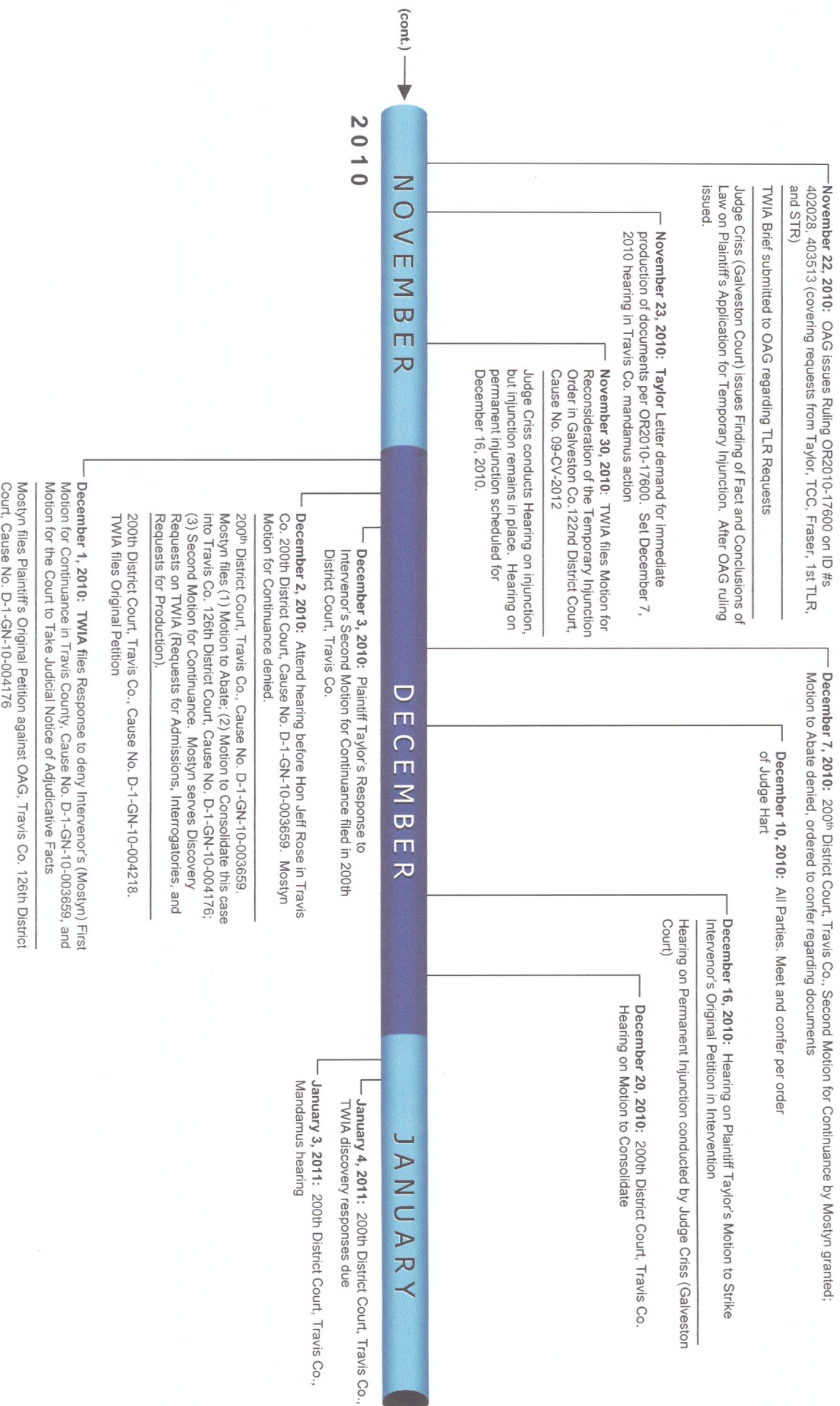
James W. Oliver

cc: Hon. Rick Perry, Governor
 Hon. David Dewhurst, Lt. Governor
 Hon. Joe Strauss, Speaker
 Mike Geeslin, Commissioner of Insurance
 TWIA Board of Directors

Pending Public Information Requests to Texas Windstorm Insurance Association T I M E L I N E



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***Pending Public Information Requests to
Texas Windstorm Insurance Association Regarding Claims Litigation
Timeline***

Date	Party of Interest	Action
09.08.10	Rep. Larry Taylor	Public Information Request received (withdrawn 9.17.10)
09.13.10	212 th District Court, Galveston Co. (Hon. Susan Criss)	Galveston Court enters TRO
09.17.10	Rep. Larry Taylor; Texas Conservative Coalition (TCC)	New Public Information Requests received
09.22.10	Sen. Troy Fraser	Public Information Request received
09.24.10	TWIA	TWIA files response to request for injunctive relief
09.27.10	212 th District Court, Galveston Co. (Judge Criss)	New TRO entered
09.29.10	TWIA	Request for AG Ruling on Taylor and TCC Public Information Requests filed (ID # 402028); Brief submitted Notices sent via email and letter to interested third parties regarding Taylor and TCC Public Information Requests
	Texans for Lawsuit Reform (TLR); Steve Mostyn	New Public Information Requests received
9.30.10	TLR	Provided clarification to September 29, 2010 Public Information Request
10.01.10	TWIA	Request for AG Ruling filed regarding Fraser Public Information Requests; Brief submitted Notices sent via email and letter to interested third parties regarding Fraser Public Information Requests

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Date	Party of Interest	Action
10.05.10	TWIA	Response to request for injunctive relief
	TLR	Provided additional clarification to September 29, 2010 Public Information Request
10.11.10	212 th District Court, Galveston Co. (Judge Criss)	Injunction granted by Galveston Court
10.12.10	Rep. Larry Taylor	Taylor files Travis County Mandamus (served 10.15.10)
10.13.10	TWIA	Request for OAG Ruling filed (ID # 403513) regarding TLR Public Information Request Notices sent via email and letter to interested third parties regarding TLR Public Information Requests of September 29, 2010
	TWIA	Request for OAG Ruling filed regarding Mostyn; Brief submitted
10.14.10	Southeast Texas Record (STR)	Public Information Request (received 10.18.10)
10.15.10	TWIA	TWIA submits injunction and hearing transcript to OAG
10.19.10	TWIA	TWIA Appeal of injunction filed (referred to 1 st Court of Appeals)
	212 th District Court, Galveston Co. (Judge Criss)	Telephone hearing regarding allowing TWIA to submit certain privileged documents to OAG
10.20.10	212 th District Court, Galveston Co. (Judge Criss)	Orders TWIA Vice President of Legal and TWIA Outside Counsel to appear at the 212 th District Court, Galveston County, on October 22, 2010 to discuss filing of appeal to Court of Appeals
	TWIA	Brief submitted to OAG regarding TLR Public Information Request
10.21.10	Rep. Larry Taylor	Taylor files Mandamus at 1 st Court of Appeals

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Date	Party of Interest	Action
10.22.10	212 th District Court, Galveston Co. (Judge Criss)	Galveston Injunction Order amended thus making appeal filed by TWIA moot
10.28.10	House Committee on Insurance	Jim Oliver testifies on various issues related to TWIA
10.29.10	First Court of Appeals	Taylor Mandamus denied by 1 st Court of Appeals
11.01.10	STR	Provided clarification to October 14, 2010 Public Information Request Request for AG Ruling filed (combined with TLR request)
	TLR	Six (6) new Public Information Requests received by TWIA
11.04.10	First Court of Appeals	Rehearing of Taylor Mandamus denied by 1 st Court of Appeals
	TWIA	Attempts to clarify Public Information Requests of November 1, 2010, with TLR counsel
11.05.10	TWIA	Notice of Appeal filed for Injunction issued October 22, 2010 TWIA files general denial in Travis Co.
11.08.10	Rep. Larry Taylor	Taylor Petition for Mandamus filed at Supreme Court; briefing due December 29, 2010
11.09.10	TWIA	Attempts to clarify Public Information Request of November 1, 2010, with TLR counsel
11.10.10	Texas Supreme Court	Denies Taylor Petition for Mandamus
	TLR	Provided clarification to November 1, 2010 Public Information Requests
11.11.10	TWIA	Motion to Dismiss filed on First Appeal filed on October 19, 2010
11.15.10	TWIA	Request for OAG Ruling filed regarding TLR Requests (ID #406865)

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Date	Party of Interest	Action
11.22.10	OAG	Ruling OR2010-17600 issued on ID #s 402028, 403513 (covering requests from Taylor, TCC, Fraser, 1 st TLR, and STR)
	TWIA	Brief submitted to OAG regarding TLR Requests
	212 th District Court, Galveston Co. (Judge Criss)	Issued Finding of Fact and Conclusions of Law on Plaintiff's Application for Temporary Injunction. After OAG ruling issued.
11.23.10	Rep. Larry Taylor	Letter demand for immediate production of documents per OR2010-17600. Set December 7, 2010 hearing in Travis Co. mandamus action.
11.30.10	TWIA	Files Motion for Reconsideration of the Temporary Injunction Order in Galveston Co. 122 nd District Court, Cause No. 09-CV-2012.
	212 th District Court, Galveston Co. (Judge Criss)	Hearing on injunction, but injunction remains in place. Hearing on permanent injunction scheduled for December 16, 2010.
12.1.10	TWIA	Files Response to deny Intervenor's (Mostyn) First Motion for Continuance in Travis Co. 200 th District Court, Cause No. D-1-GN-10-003659, and Motion for the Court to Take Judicial Notice of Adjudicative Facts
	Mostyn	Files Plaintiff's Original Petition against OAG, Travis Co. 126 th District Court, Cause No. D-1-GN-10-004176

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Date	Party of Interest	Action
12.2.10	Mostyn	200 th District Court, Travis Co., Cause No. D-1-GN-10-003659. Files (1) Motion to Abate; (2) Motion to Consolidate this case into Travis Co. 126 th District Court, Cause No. D-1-GN-10-004176; (3) Second Motion for Continuance in 200 th District Court, Travis Co. Serves Discovery Requests on TWIA (Requests for Admissions, Interrogatories, and Requests for Production).
	200 th District Court, Travis Co. (Hon. Jeff Rose)	Attend hearing in Travis Co., 200 th District Court, Cause No. D-1-GN-10-003659. Mostyn Motion for Continuance denied.
	TWIA	200 th District Court, Travis Co., Cause No. D-1-GN-10-004218. Original Petition filed.
12.3.10	Rep. Larry Taylor	Plaintiff's Response to Intervenor's Second Motion for Continuance filed in 200 th District Court, Travis Co.
12.7.10	200 th District Court, Travis Co.	Second Motion for Continuance by Mostyn granted; Motion to Abate denied, ordered to confer regarding documents
12.10.10	All Parties	Meet and confer per order of Judge Hart
12.16.10	Rep. Larry Taylor	Hearing on Plaintiff's Motion to Strike Intervenor's Original Petition in Intervention
	212 th District Court, Galveston Co. (Judge Criss)	Hearing on Permanent Injunction
12.20.10	200 th District Court, Travis Co.	Hearing on Motion to Consolidate
1.3.11	200 th District Court, Travis Co.	Mandamus hearing
1.4.11	200 th District Court, Travis Co.	TWIA discovery responses due