

Senate Committee
on
Business and Commerce
August 24, 2010

Texas Department of Insurance

Regulatory Update
TWIA and HB 4409

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Commissioner of Insurance

FUNDING RULE PROPOSAL

Purpose

- Amend the Texas Windstorm Insurance Association's (Association) plan of operation to implement loss funding requirements in the amendments to Chapter 2210 enacted by the 81st Texas Legislature (HB 4409).
- Incorporate these requirements into a single Administrative Code Division.
- Discuss each layer of funding in turn: (1) the Catastrophe Reserve Trust Fund (CRTF), (2) financing arrangements, (3) public securities, issued by the Texas Public Finance Authority (TPFA) in 3 classes.

How the Sections will Function

(1) §5.4101 - §5.4102 relate to general matters and definitions.

(2) §§5.4111 - 5.4114 update the existing rules for the CRTF and relocate existing CRTF rules to this dedicated division. The Association must first exhaust its CRTF funds before it can obtain public securities.

(3) §5.4121 provides for the Association's use of financing arrangements that are not issued by TPFA. These arrangements should provide immediate funding while the public securities are being issued.

(4) §5.4131 sets forth the information the Association will be required to present to the Commissioner for approval of the Association's request to the TPFA for the issuance of Class 1, 2, and 3 public securities. §5.4132 sets forth some of TPFA's statutory functions.

(5) §5.4133 and 5.4134 establish requirements for documenting the use of public security proceeds and provide for the use of excess public security proceeds.

(6) §5.4141 - 5.4142 (1) provides for the deposit of Association premium to the obligation reserve fund; (2) establishes the operating reserve fund for continued operation of the Association; and (3) provides for the use of excess amounts in the Class 1 obligation revenue fund.

(7) §5.4143 - 5.4145 (1) provides for the deposit of Class 2 public security premium surcharges and member assessments to the obligation reserve fund; (2) establishes requirements on the Association when holding these funds; and (3) provides for the use of excess Class 2 premium surcharges and member assessments.

(8) §5.4146 - 5.4145 (1) provides for the deposit of Class 3 public security member assessments to the obligation reserve fund; (2) establishes requirements on the Association when holding these funds; and (3) provides for the use of excess Class 3 member assessments.

PREMIUM SURCHARGES AND MEMBER ASSESSMENTS

Rule Proposal

Purpose

- Second set of Texas Windstorm Insurance Association (Association) loss funding rules.
- Amend the Association's plan of operation to implement loss funding requirements in the amendments to Chapter 2210 enacted by the 81st Texas Legislature (HB 4409).
- Incorporate these requirements into a single Administrative Code Division.
- Provides the necessary formulas and methodologies for determining and collecting the premiums surcharges for the Class 2 public securities and the member assessments for the Class 2 and Class 3 public securities pursuant to the HB 4409 amendments.

How the Sections will Function

(1) §§5.4161 - 5.4167 update the existing rules concerning member company assessments for the payment of Class 2 (30%) and Class 3 (100%) public security obligations and relocate the existing requirements to this dedicated division.

(2) §§5.4171 - 5.4172 establish general provisions and definitions related to Class 2 public security premium surcharges.

(3) §5.4173 establishes a procedure for the Association to request commissioner approval of premium surcharges to pay Class 2 (70%) public security obligations.

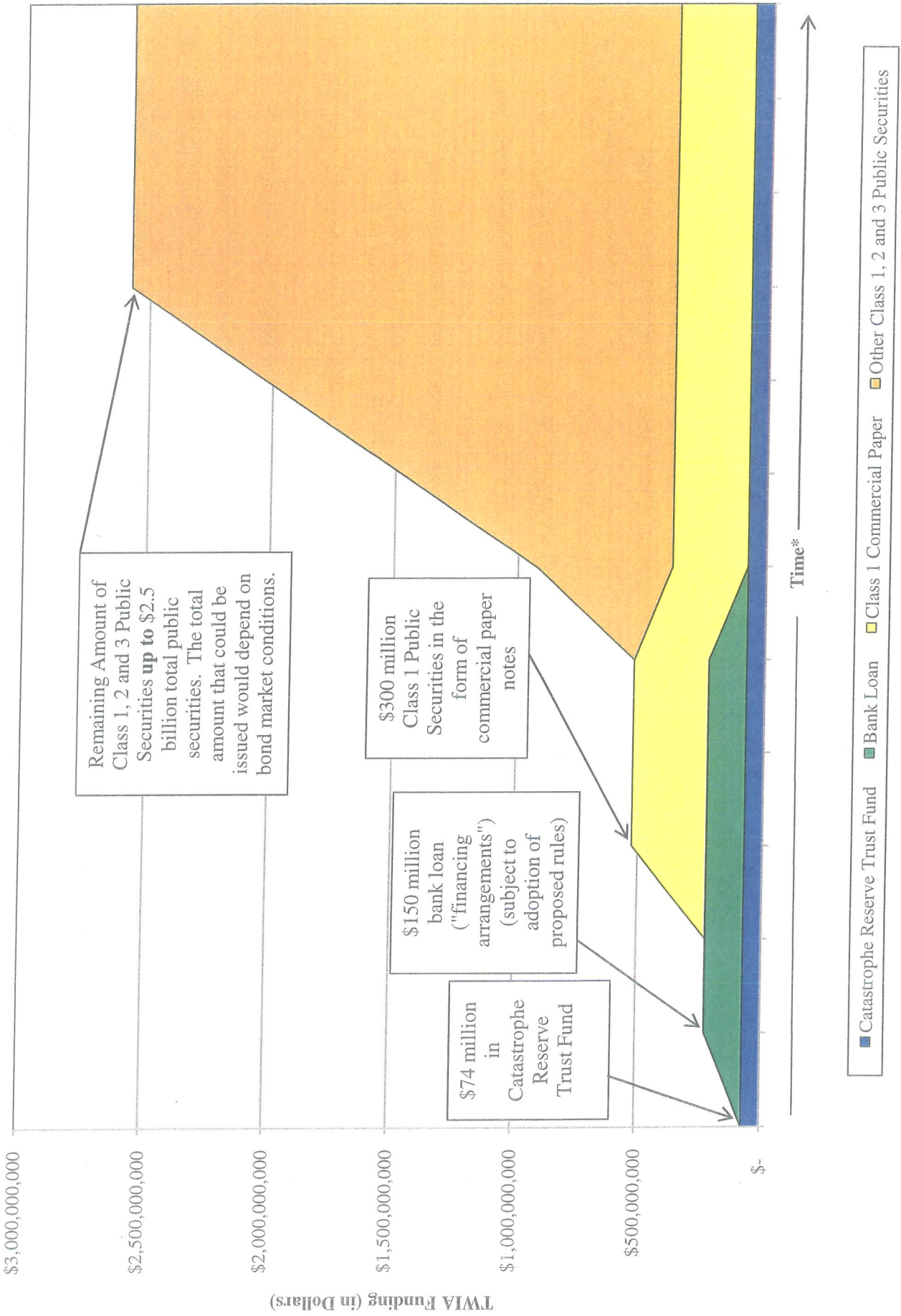
(4) §5.4181 - 5.4183 sets forth which premium is to be surcharged, and the methods for determining the surcharge for geographically rated policies (homeowners) and those policies that are rated by other standards (liability).

(5) §5.4184 - 5.4188 establish requirements applying the premium surcharge rate to a premium, collecting the premium surcharge, and remitting the premium surcharge to the Association.

(6) §5.4189 establishes that insurers must provide consumers with notice of the surcharge and the amount of the surcharge.

(7) §5.4190 - 5.4192 establish insurer reporting requirements to ensure that the premium surcharges are being fairly and accurately applied.

TEXAS WINDSTORM INSURANCE ASSOCIATION
 FUNDING UNDER HB 4409



*The time axis does not represent specific units of time. The chart is for illustrative purposes, meant to give a general idea of the order when funds may be available.

TEXAS WINDSTORM INSURANCE ASSOCIATION
FUNDING UNDER HB 4409

- TWIA's premiums in excess of losses and expenses (total amount will vary)
- Catastrophe Reserve Trust Fund (CRTF) (currently approx. \$74 million)
- Up to \$1.0 Billion in Class 1 Public Securities
 - Paid through TWIA's premium and other revenue.
 - Includes \$300 million in commercial paper notes
- Up to \$1.0 Billion in Class 2 Public Securities
 - 70% paid through premium surcharges to catastrophe area property and casualty policyholders*, including TWIA and FAIR Plan policyholders.
 - 30% paid through assessments to TWIA's insurer members**
- Up to \$500 million in Class 3 Public Securities
 - 100% paid through assessments to TWIA's insurer members**
- Other possible sources
 - Financing arrangements – this is debt issued by TWIA, not the Texas Public Finance Authority. These financing arrangements are not public securities.
 - Reinsurance – TWIA is still authorized to purchase reinsurance, although it has not purchased reinsurance for the 2010 storm season.

*Workers' compensation, federal flood, medical malpractice, and accident and health policies are exempted.

**Insurers may not recoup assessments through premium tax credits, although arguably insurers could recoup assessments through rates, and some insurers may recoup a portion or all of the assessment through reinsurance.