TEXAS SENATE BUSINESS & COMMERCE COMMITTEE
Written Testimony at August 24, 2010 hearing
By COASTAL WINDSTORM INSURANCE COALITION [CWIC]
[CWIC is hosted by Galveston Windstorm Action Committee, Inc.]

TWIA is 'broken', please 'fix' it.

- Funding to pay claims is grossly inadequate;
- Language to assure actuarial rate development was repealed;
- Important regulatory oversight is significantly weakened.
- HB 4409 was passed with representations that it would restore the voluntary market, *reducing* TWIA exposure. It has grown 11% since January 2009.

FUNDING: 2008 TWIA exposure was $58 + Billion. HB 4409 identifies only $2.5 Billion per year in excess of current year premiums, plus reserves in the Catastrophe Reserve Trust Fund [CRTF] [zero in 2009] to pay claims. In 2009, the total HB 4409 funding was measured by catastrophe models to be adequate for only a 1 in 50 + year storm. [see graphic attached] WHAT HAPPENS IN THE EVENT OF A MORE SERIOUS STORM?

By mid 2010, TWIA exposure had grown approximately 11%, to $66 Billion, but the $2.5 Billion for claims had grown only a few hundred $Million. The cost and availability of the first $1 Billion for claims—needed quickly in the event of a catastrophe—is still in question. Will there be only $1.5 Billion no matter how much is needed?

In 2007, HB 2960 identified $3.5 Billion funding, but added a truth in legislation "Warning Label" that all claims may not be paid in the event of a major catastrophe. It failed principally because of the Warning Label. HB 4409 provides much less funding, but omits the Warning Label. It passed.

ACTUARIAL RATES: TWIA rates have always been actuarial rates. In its early [Texas Catastrophe Property Insurance Association—TCPIA] days, TWIA rates were based on the windstorm portion of actuarial "manual" rates. Later, when manual rates ended, the methodology used to develop statewide manual rates was inserted into the TWIA act to assure continuation of the actuarial methodology which had been used in Texas since the 1940s. Unfortunately HB 4409 repealed this language.

There seems to be a mistaken belief that only TWIA rates based on the review prepared by *TWIA'S employed actuary*, are actuarial.

Before HB 4409, TWIA rate filings were reviewed at hearings. They could be critiqued by other qualified actuaries, reviewed by the Texas Department of Insurance {TDI] actuaries, and were exposed to the full light of day before the commissioner ruled on the final actuarial rate. HB 4409 has eliminated much of that open process.

August 13, 2010, TWIA filed for a 5% increase based on the TWIA actuary's review; no hearing is required, input from any other actuaries is unlikely. TDI'S historical role is discouraged and handicapped. TWIA has stated at its board meeting that the 2010 process is intended to be continued until the rate reaches an amount which *its* actuary considers adequate [indicated August 13, 2010 to be +27% residential, +36% commercial]. Since the amount found to be 'adequate' usually changes upward from year to year, there is basis for concern whether 'enough' will ever be achieved.

Under HB 4409, TWIA has NO competitors. Yet the substitute, nonexistent 'marketplace regulation' is said to justify deregulation of TWIA. Policyholders are victims of this misunderstanding.

<u>REGULATION:</u> By its very nature as a monopoly, need for regulatory discipline of TWIA is obvious. HB 4409, however, reduces TDI oversight requirements and increases the authority of the TWIA board.

Specific areas of importance are aforesaid Rate regulation, and power to modify filings. A general repeal of notice and hearing provisions for commissioner orders reduces the opportunity for public input.

<u>VOLUNTARY MARKET:</u> It is beyond question that TWIA grows when voluntary insurers withdraw their willingness to offer windstorm peril [their 'market']. At many directors meetings, Jim Oliver, TWIA manager, has announced that one insurer or another has given notice that it will exclude wind coverage from, or entirely "non renew" and walk away from thousands of its policies. TWIA has prudently planned its computers, staffing, and other infrastructure based on this reality.

Details in TDI records of various insurers' notices indicating dates and numbers of policies should match TWIA policy count increases, confirming this causation.

From 1973 through 1984 TWIA averaged around the mid 40,000s of policies. After hurricane Alicia it increased to an average in the mid 50,000s of policies until 1994. Further withdrawals followed hurricane Andrew it averaged in the 70,000s from 1995 until 2002. From 2002 to 2005 policy count climbed steadily to 110,000. Following hurricanes Rita and Katrina, it jumped to 144,000 in 2006; to 216,000 in 2007, and to 230,000 today.

These surges have been a direct result of increased withdrawal by insurers from geographic parts or all of the Catastrophe Area. Generally, the trend has been to move ever farther away from the shore. Conversely, policy count trends have not paralleled TWIA rate changes.

The significance of this point is that ***insurers, not property owners,*** *have made the decisions, and taken the actions which* ***CAUSE*** *the original and continuing need for and the exponential growth of TWIA.* TWIA is just serving those Texans abandoned by their carriers.

The driving force in the 81st Legislature did not address itself to this *cause*, instead it considered ways to reduce TWIA exposure, a *symptom, but not the cause* of the symptom. The result took the form of HB 4409, which proposes to reduce TWIA exposure by adding red tape, increasing costs, and making TWIA less accessible to Texans in need—but not incentivizing insurers to write voluntarily.

<u>RECOMMENDATIONS:</u> *CWIC recommends remedial legislative action in 2011 designed to substantially restore the voluntary market.* .

The Act already contains the best and fairest incentive to write voluntarily: by writing its proportion of coverage in the Catastrophe Area voluntarily, any insurer can be "out" of TWIA participation assessments. This provision held down TWIA exposure until modifications to the Act were enacted starting in 1979, when insurers responsibility changed from 100% to 5.5% and in subsequent years including 2009, to only 1/10 of 1% today. The cost of NOT writing voluntarily has gotten lower and lower. If the cost had remained 100%, TWIA would be no concern today.

This is to recommend that TWIA member insurers' responsibility for their decisions be restored to 5.5% of TWIA exposure, as it was in 1979. In 1979, for assessments above $100 Million yearly, members were given free Texas reinsurance, a 5 year premium tax credit. At that time, $100 Million was

5.5% of total TWIA exposure. Changing member assessments to 5.5% of TWIA exposure in 2011 would increase the HB 4409 $800 Million maximum member assessments to approximately $3.6 Billion, increasing total claims funding to $6.3 Billion..

This incentive for voluntary writing should reduce TWIA to half or less. When this starts to happen, the stress on all parties gets lighter, Coastal markets approach 'normal' [that enjoyed by the rest of Texas]. The vicious cycle begins to change into a beneficial cycle.

The Act was enacted, and has been maintained, for the reason that Texans and the Texas economy have continuously needed legislative help. Insurers have caused that need. In 1971, insurers assisted in the drafting, and acquiesced in the passage of the Act which allocated an avoidable participation in 100% of TWIA functions. The Act saved Texans, and fairly allowed insurers a choice: to either write enough coverage voluntarily, or to participate proportionately in the TWIA "shared market".

Many HB4409 changes make it more difficult or more expensive for property owners' to obtain TWIA coverage when needed. To the extent new red tape reduces TWIA exposure—costing Texans—they benefit insurers who make the decisions. This effectively contradicts the purpose of the Act,

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