No. 08-0454

Official Order
of the
Commissioner of Insurance
of the
State of Texas
Austin, Texas

Date: MAY 19 2008

Subject Considered:

PETITION BY THE TEXAS WINDSTORM INSURANCE ASSOCIATION
REQUESTING APPROVAL OF A REINSURANCE PROGRAM
Docket No. 2683

General remarks and official action taken:

On May 1, 2008 came on for consideration by the Commissioner of Insurance (Commissioner) a petition filed by the Texas Windstorm Insurance Association (TWIA) requesting approval pursuant to the Insurance Code §2210.453 of a reinsurance program to be effective June 1, 2008. The TWIA reinsurance program approved in Commissioner's Order No. 07-0595 (July 11, 2007) expires on May 31, 2008.

The TWIA is composed of all insurers authorized to transact property insurance in this state and operates pursuant to Chapter 2210 of the Texas Insurance Code, the Texas Windstorm Insurance Association Act (Act), to provide windstorm and hail insurance to certain designated areas of the state. The purpose of the TWIA is to provide adequate windstorm and hail insurance coverage to residents and businesses in areas of this state that the Commissioner has designated as catastrophe areas.

The Insurance Code §2210.453(b) provides that with the approval of the Texas Department of Insurance (TDI), the TWIA may establish a reinsurance program that operates in addition to or in concert with the catastrophe reserve trust fund established under the Insurance Code §2210.452. The Insurance Code §2210.056(b)(4)(B) allows the TWIA to use its assets to purchase reinsurance covering losses.

On April 3, 2008, the TWIA filed a petition (P-0408-07) requesting approval of a new reinsurance program to be effective from June 1, 2008 through May 31, 2009. The TWIA petition included a letter requesting approval from the general manager of the TWIA, a graphic depiction of the coverage of the proposed reinsurance program, the recommended final line assignment for reinsurers for the three layers of the reinsurance program, the proposed reinsurance contract, and a financial summary of each recommended reinsurer of the proposed reinsurance program.

Under the proposed reinsurance program, the TWIA would retain the first $600 million in coverage that would be payable through the first $100 million assessment against the TWIA member insurers under the Insurance Code §2210.058(a)(1), and $500 million from the catastrophe reserve trust fund and other funds immediately available to the TWIA. The first layer of the reinsurance program provides $500 million in coverage of losses in excess of $600 million dollars, the second layer provides $500 million in coverage of losses in excess of $1.1 billion, and the third layer provides $500 million in coverage of losses in excess of $1.6 billion.

The proposed reinsurance program was strictly structured with offers from 63 reinsurers addressing the required total reinsurance commitments. The premium pricing for each reinsurer at each layer of the program was conditioned on placement within the program as presented in the proposal and on all three layers being purchased in their entirety.

Under the proposed reinsurance program, the agreement provides for a term of twelve months and includes a provision for reinstatement of any coverage amount exhausted by loss for an additional premium based on the original premium in the proposal, modified by the amount of unexhausted coverage still in effect and the remaining term of the contract. The cost of the reinstatement premium guaranteed by the reinsurance contract is also conditioned on reinsurers being placed within the program as presented and on all three layers being purchased in their entirety.

Only reinsurers that are rated "A-" or better by A.M. Best or Standard & Poor's and maintain adequate surplus are proposed to participate in the program. All reinsurers meet a $150 million minimum net worth requirement with net worth ranging from $358.5 million to $6.6 billion. Approximately 87% of the reinsurance coverage is placed with reinsurers that have a net worth of at least $1 billion. All of the proposed Lloyd's syndicates are secured by a trust established in the United States that has a balance in excess of $8.9 billion as of year end 2007 and a surplus in excess of $100 million.

For each layer of reinsurance, the premium is payable in four equal installments on June 1, 2008; September 1, 2008; December 1, 2008; and March 1, 2009. The estimated cost of the proposed reinsurance program is $184.125 million, which is approximately 49% of the TWIA estimated direct written premium for 2008.

The total direct and indirect liability exposure of the TWIA is now in excess of $65 billion. An unlimited assessment would have an undesirable effect on the voluntary market for property and casualty insurance and on the state as a whole. If a catastrophic event causing $2.1 billion in losses were to occur (which would be a storm estimated to occur approximately every 50 years, based on the results of proprietary catastrophe models), and the TWIA had not purchased $1.5 billion in reinsurance coverage, the TWIA would be able to pay approximately $184 million toward losses that otherwise would have been used to pay for reinsurance coverage. However, under a current provision of the Act, the member insurers would have to cover more than $1.3 billion in unreinsured losses via assessments, including an assessment of $1.1 billion subject to premium tax credits under the Insurance Code §2210.058(c).

The operation of the reinsurance program in addition to or in concert with the catastrophe reserve trust fund may prevent or delay a loss of revenue to the state, will make additional funds available for payment of losses in the event of a catastrophic storm, and may diminish disruption in the voluntary market.

Because the reinsurance proposal was a strictly structured offer, information concerning possible alternative options was not reasonably available for the Department to consider. If alternative commitments were sought and obtained, variations in amounts or structure of the program would require new calculations which could ultimately affect coverage as well as costs. The Commissioner is unwilling to risk delay in the implementation of the reinsurance program that might possibly incur higher cost within the various layers of reinsurance coverage or risk greater exposure of the TWIA and the general revenue of the state with lesser coverage. Therefore, the Commissioner is of the opinion that at this time, the reinsurance program as presented by the Petitioner should be approved.

Based on the facts expressed in this order, information filed in petition number P-0408-07, and the testimony and exhibits submitted at the hearing of May 1, 2008, the Commissioner has determined in accordance with the authority granted in the Insurance Code §2210.453 that a reinsurance program consisting of the proposal as detailed in petition number P-0408-07 should be approved.

IT IS THEREFORE ORDERED by the Commissioner of Insurance that a reinsurance program as detailed in petition number P-0408-07 is hereby approved.

IT IS FURTHER ORDERED that the Texas Windstorm Insurance Association's reinsurance program be effective June 1, 2008.

ANY OTHER RELIEF NOT HEREIN GRANTED IS DENIED.

AND IT IS SO ORDERED.

TEXAS DEPARTMENT OF INSURANCE

Mike Geeslin

MIKE GEESLIN
COMMISSIONER OF INSURANCE

RECOMMENDED BY:

David Nardecchia
Deputy Commissioner
Property and Casualty Program

AND

Doug Slape
Chief Analyst, Financial Analysis
Financial Program

Attest:

Gene C. Jarmon
General Counsel and Chief Clerk
Texas Department of Insurance

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