



TDI SUNSET REPORT

TCAIS members ask that any recommendations for changes at the Texas Department of Insurance focus on improvements that ensure continued market development that benefits consumers, insurers and the broader Texas economy.

Sunset Staff report issues related to homeowners and private passenger auto insurance:

RATE REGULATION	TWIA OVERSIGHT	ROLE OF TDI	ROLE OF OPIC
Market-based file-and-use system has improved the market, but there are lost benefits from a lack of transparency, predictability and full implementation in the rate review process.	TDI's involvement in TWIA, along with other restrictions in law, limit the Department's ability to effectively oversee TWIA as a market of last resort.	The State has a continuing need for the Texas Department of Insurance.	Texas needs consumer representation in insurance regulation, but no longer needs a separate agency (Office of Public Insurance Counsel) to advocate on behalf of consumers.

RATE REGULATION

TCAIS agrees with the staff findings - particularly the emphasis on the lack of Department transparency and predictability in the rate review process. *However, the question is not whether true market-based file-and-use is the right direction for Texas regulation, but rather how much potential we are losing as a result of the key findings of unpredictability, uncertainty, and lack of full implementation. A recent TDI report shows that the market has in fact improved under the file-and-use system; homeowners rates have declined an average of 13 percent and Texans now can shop for coverage and prices that fit their needs as 29 more insurance companies are competing for business in our state. A move to more consistently apply the current competitive file-and-use regulatory system and more clearly define TDI's authority will provide greater market predictability and ensure Texans reap the benefits of a truly competitive marketplace.*

TCAIS has concern about the staff's recommendation of a deemer system. *A deemer concept, if implemented as in the past, could be a step away from the file-and-use competitive market sought by the Legislature. In fact, the use of deemers is typically associated with prior approval systems. Past deemers used in Texas have resulted in heavy disapprovals by TDI based on lack of time for approval, or mass requests by TDI for companies to waive deemer dates to avoid such automatic disapprovals.*

The Legislature should institute an objective threshold that the Commissioner must meet before engaging in administrative efforts to reduce the rates of individual companies. *This would better address the general concern expressed by Sunset staff over the implementation and predictability of the file-and-use system. The Commissioner would maintain full rate regulation authority, but would not be expected to intervene when the market is operating properly. This structure would preserve proper consumer protections while allowing the marketplace to dictate rates and consumers to choose the product that best fits their needs and budget.*

TWIA OVERSIGHT

TCAIS recognizes, as does the Sunset staff, that TWIA stands at a "critical juncture." *TCAIS believes TWIA operates under a flawed, insufficient statutory structure that makes it extremely vulnerable to both weather losses and political pressures, and prevents the board from employing many sound business practices. While the TWIA board and staff have historically had the expertise to operate TWIA efficiently and mitigate some of the policy flaws, it has not had the proper authority to implement the sound business principles available under the statute because of the arcane system of hearing and approval by TDI.*

The staff recommendations will allow the TWIA board and staff authority to employ its insurance expertise with proper oversight but without undue, inefficient hearing and negotiation and will help properly focus the mission of TWIA as a market of last resort.



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ROLE OF THE TEXAS DEPARTMENT OF INSURANCE

TCAIS agrees with the findings and recommendations on this issue, and we urge the Commission and the Legislature to be precise in any statutory language defining the purpose of the Department. *Any statement of purpose should reflect the goal of a competitive market, and the balance and restraint necessary to regulate such a marketplace. The statement should in no way support the false paradigm that insurers and consumers are competing with one another. Rather, it should support the fundamental concept that, in a competitive marketplace, consumers benefit from competition between insurers.*

ROLE OF THE OFFICE OF THE PUBLIC INSURANCE COUNSEL

TCAIS generally agrees with both the recommendations and findings concerning OPIC. *The concerns raised by Sunset staff over the incomplete implementation of a competitive market structure have, in our view, been exacerbated by the de facto dual regulation of individual rate filings by OPIC. In fact, the OPIC workload summary includes the negotiation of 32 rate filings and 24 form filings, which suggests far more active interference with market-based filings than what is asserted by the Department.*

The authority for general regulation should lie with the Department, with the more focused role of consumer advocacy as a subset of that authority.

TCAIS POLICY SUMMARY

Thanks to the Legislature’s past efforts to establish insurance competition in Texas, our state is on the threshold of a truly healthy market for the first time in decades. Such a market will serve the interests of insurance consumers, companies, and the broader Texas economy that relies on available, affordable insurance. However, the health of our market is by no means assured. Sound policy decisions in the Sunset process will advance the transition to competition in the Texas insurance market to the benefit of Texas consumers and insurers.

ABOUT TCAIS

The Texas Coalition for Affordable Insurance Solutions (TCAIS) believes that a stable, competitive auto and homeowners insurance marketplace will best serve both buyers and sellers of insurance. TCAIS advocates legislative, regulatory, and individual action aimed at:

- * Increasing consumer choices of insurance companies, products and services;
- * Spurring price competition among insurers
- * Providing appropriate regulatory oversight;
- * Minimizing costs in the system
- * Fighting insurance fraud and abuse and
- * Providing an environment to attract new businesses and jobs to Texas.

TCAIS promotes these goals by engaging elected officials, regulators, the media and the public through ongoing research, communication, education and advocacy.