INTRODUCTION

The Texas property and casualty industry has been described in many ways but the last year has proven the industry should be recognized for its resilience and commitment to the people of this great state. We finished 2020 wrestling with the impact of COVID-19 on businesses and consumers while adapting operations, communications, and customer service to respond to losses and life changing events for many.

After the vaccines began to be distributed in late 2020, we envisioned a slow transition to a “normal” year. Unfortunately, Mother Nature had other ideas and in February 2021, we experienced the worst winter storm in Texas history. Residents and businesses throughout the state endured an unprecedented winter storm which caused untold suffering and damages for millions of Texans. Power and water outages impacted almost all 29 million residents for several days, and as of the date this report was being prepared, our industry had paid over four billion dollars in insured losses and paid over 253,000 claims with over 86% being residential claims. After the winter storm, we then had a “typical” Texas Spring storm season with hail, tornadoes, and flooding throughout various parts of the state.

These events reinforce the need for and importance of a financially strong and responsive insurance market to help Texans recover and rebuild after small and large losses. The Insurance Council of Texas is honored to represent our member insurance companies, who are critical to the ongoing success of the Texas economy, and make commerce and everyday life possible by serving as the “backstop” against economic catastrophe for many.

On behalf of the ICT staff and board of directors, we present the 2021 State of the Texas Property & Casualty Insurance Market Report.

Albert Betts, Jr.
ICT Executive Director
Property and casualty insurance is a large part of the U.S. insurance industry market. U.S. insurance industry net premiums written totaled $1.32 trillion in 2019, with premiums recorded by property and casualty insurers accounting for 48%.*

Nationally, Direct Written Premium for Property & Casualty in 2020 was $728.7 billion.*

The insurance industry contributed $645.5 billion to the $20.9 trillion GDP in 2020.*

Property & Casualty and Life & Annuity insurance companies paid $24.7 billion in premium taxes in 2020, or $75 for every person living in the United States, according to the U.S. Department of Commerce.*

The Texas insurance industry impacts the state’s economy well beyond collecting premiums and paying losses, not only providing nearly 350,000 jobs, but paying taxes, investing in Texas bonds and securities, donating to charity and educational efforts, and serving Texans in their times of greatest need, especially after severe weather events.

Texas trails only California ($2.8 billion) in the amount of premium taxes paid, totaling $2.7 billion.

In 2019, there were 347,820 employees in insurance carrier and related activity in Texas. This is the 2nd most in the US, after California and before Florida.*

TEXAS OVERVIEW

Domestic Companies
Texas ranks: **1st**

*Texas leads the nation with 199 domestic property and casualty companies.*

Texas was 2nd in largest amount of direct premium written, behind California, and followed by Florida, New York and Illinois, according to S&P Global Market Intelligence.*

Private passenger auto is the largest by premiums written, while other lines, with larger number of companies writing, have significantly smaller premium volume.

Private passenger auto represents 57% of all policies written.

There were 1,158 groups and 2,995 companies writing property and casualty in Texas in 2020.

**Top five direct premiums written, by line**

- Private Passenger Auto: $22.2 billion
- Homeowners Multi Peril: $10.5 billion
- Commercial Auto: $4.2 billion
- General Liability: $3.3 billion
- Commercial Multi Peril: $2.2 billion

**45,989,773** Total policies written
**$52,134,081,983** in Direct Written Premium

**Top five lines by policies written**

- Private Passenger Auto: 26.9 million
- Homeowners Multi Peril: 7.2 million
- Inland Marine: 5.3 million
- General Liability: 2.5 million
- Residential Fire and Allied: 1.2 million

*Homeowners Multi Peril increased 6.8% from the number of policies written in 2019*

**Number of companies writing policies by line**

- General Liability
- Inland Marine
- Commercial Auto
- Workers’ Comp
- Commercial Multi Peril
2021 TEXAS WINTER STORM

For a week in February 2021, freezing temperatures and the near collapse of the state's power grid resulted in millions of Texans losing power.

In the aftermath, Texans faced many challenges as they recovered from the storm, including a shortage of contractors and plumbers, and managing the ongoing COVID-19 pandemic while allowing in-person claims handling.

As of July 2, 2021:

Paid losses exceed $4.1 billion.

- $6.17 billion in case incurred losses.
- 427,558 reported claims:
  - 370,097 residential
  - 31,394 commercial
  - 26,067 automobile

The average paid loss for this storm event is over $16,000.

According to information from III, the weighted average claim amount for water damage and freezing for homeowners is approximately $11,000.

Breakdown of paid losses by line:

Residential Property: ~$3 billion
Commercial Property: ~$1 billion
Auto: ~$90 million

How did this storm compare?*

- The costliest U.S. winter storms have approached $2 billion. Even with adjustment to inflation the February 2021 winter storm surpasses this.
- 1993 $2 billion insured (multiple states including Texas) (adjusted for inflation $3.57B)
- 2015 $2.1 billion insured (adjusted for inflation $2.295 billion)

The storm was the largest non-hurricane loss in Texas history.

Examples of Texas losses greater than $1 billion over the last five years*:

2017 - Hurricane Harvey - $19 billion in losses, private market losses and flood. Hurricane Harvey generated about 410,000 residential property claims.
2019 - DFW Tornado - $1.5 billion
2016 - San Antonio hailstorm -$1.4 billion

* iii factbook

Examples of Texas losses greater than $1 billion over the last five years*:
2021 TEXAS WINTER STORM

Regulatory Response

On February 12, 2021 Governor Greg Abbott issued a disaster declaration in response to the winter storm, declaring that the severe winter weather posed an imminent threat of widespread and severe property damage, injury, and loss of life due to prolonged freezing temperatures, heavy snow, and freezing rain statewide. TDI and DWC provided guidance to the industry through bulletins.

TDI

TDI issued a series of bulletins providing guidance and recommendations:

- Expectations that insurers work with their policyholders as they recover from the disaster, including suspending policy vacancy provisions as long as necessary and a grace period for premium payments.
- Reminder that insurers that may use nonresident and emergency adjusters to handle disaster-related claims.
- Reminder to public adjusters about state laws concerning advertisements, solicitation, and conflicts of interest.
- Reminder to insurers, adjusters, and contractors about homeowners’ entitlement to have their homes repaired by the person of their choice, unfair claim settlement practices, deductibles, and contractor requirements.
- Expectations regarding underwriting, rating, and nonrenewing, including considerations of credit score exceptions; considerations regarding nonrenewing or rating a residential or farm or ranch owners’ policy due to losses from natural causes; and the extension of prompt payment deadlines.
- Expectations that insurers consider the severity and unprecedented nature of the February 11-19, 2021, weather event when adjusting claims for frozen pipes and communicating with policyholders.

DWC

In response to Governor Abbott’s disaster declaration DWC issued a bulletin tolling various workers’ compensation deadlines, effective from February 12, 2021, through February 23, 2021, including:

- workers’ compensation claim notification and filing deadlines;
- medical billing deadlines;
- medical and income benefit payment deadlines;
- electronic data reporting deadlines; and
- medical and income benefit dispute deadlines.

TDI Data Calls Related to the Winter Storm

- A formal data call for property lines of insurance, to include any claims or losses with occurrence dates from February 11 through February 19 that resulted from any of the following causes of loss: freezing (including any resulting water damage), ice, snow, wind, or power outage. For automobile lines of insurance, they requested a report of all claims with accident dates from February 11 through February 19.
- TDI asked the Top 25 property and auto writers to provide data by March 12th, including number of claims, number of claims paid, and number of estimated aggregate incurred losses.
INDUSTRY FINANCIAL HEALTH AFTER COVID-19

As the COVID-19 pandemic emerged in early 2020 and continues today, insurers across the country and the world were impacted across all lines of business. The impact to property and casualty insurers is still being measured and analyzed, but there is no question that the economic consequences of COVID-19 are massive and ongoing.

In 2020, workers’ compensation, inland marine, and private passenger auto experienced the largest declines in Direct Premium Written, although most other lines saw significant impacts as well due to COVID-19, with workers’ compensation down $3.5 billion.

TOP 10 US INSURERS: COVID-19 LOSS & LOSS RESERVE ESTIMATES*

<table>
<thead>
<tr>
<th>Insurer</th>
<th>COVID-19 Loss &amp; Reserve Estimates (Billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Berkshire Hathaway</td>
<td>$1.401 billion</td>
</tr>
<tr>
<td>Chubb</td>
<td>$1.378 billion</td>
</tr>
<tr>
<td>AIG</td>
<td>$1.098 billion</td>
</tr>
<tr>
<td>Liberty Mutual</td>
<td>$680 million</td>
</tr>
<tr>
<td>Alleghany (TransRe)</td>
<td>$415 million</td>
</tr>
<tr>
<td>Markel</td>
<td>$360 million</td>
</tr>
<tr>
<td>American Financial</td>
<td>$95 million</td>
</tr>
<tr>
<td>Selective</td>
<td>$34 million</td>
</tr>
<tr>
<td>Hanover</td>
<td>$19 million</td>
</tr>
<tr>
<td>RLI</td>
<td>$17 million</td>
</tr>
</tbody>
</table>

Policyholder Surplus

Policyholder Surplus is the industry’s financial cushion against large insured events, periods of economic stress and financial market volatility. It is also a source of capital to underwrite new risks.

The property and casualty insurance industry entered the COVID-19 pandemic from a position of strength and was able to withstand the 9% surplus decline in the first quarter of 2020. 2020 ended with record surplus.

P/C Industry Net Income (after taxes)

COVID’s impact on net income is more modest than assumed early in the pandemic, with a 21% drop based on annualized data from the third quarter of 2020.

Source for this page: “COVID-19 & Insurance, One Year Later”, Dr. Robert Hartwig

Business Interruption Questions and Coverage

Generally, over the last year, courts across the country upheld policy language excluding coverage for pandemics. However, if legislation had been enacted to disregard or expand coverages, the economic costs would have been significant. - $52 billion to $431 billion depending on certain assumptions.

Monthly business interruption losses for small business vary widely depending on underlying assumptions, but expansive legislation would result in higher estimates: For all businesses <500 employees, business interruption losses range between $393B - $668B.

The potential for such losses for all businesses of all sizes is estimated at $1 - $1.1 trillion per month.
LOSSES

- Severe weather in Texas brings hail, wind, hurricanes, wildfire, flooding, tornadoes, and more.
- Texas has over a trillion dollars of coastal property at risk to hurricanes.
- Texas ranks at or near the top nationally in hail events, number of wildfires, number of tornadoes, flood and storm surge risk and more.
- Seven of the top ten costliest storm events have occurred in the last 15 years.

Total 2020 Direct Losses: $27.75 billion**

<table>
<thead>
<tr>
<th>Line of Business</th>
<th>Direct Losses Paid ($billions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Passenger Auto</td>
<td>15</td>
</tr>
<tr>
<td>Homeowners Multi Peril</td>
<td>10</td>
</tr>
<tr>
<td>Commercial Auto</td>
<td>5</td>
</tr>
<tr>
<td>General Liability</td>
<td>2</td>
</tr>
<tr>
<td>Commercial Multi-Peril</td>
<td>0</td>
</tr>
</tbody>
</table>

There was a 12% decrease in Private Passenger Auto direct losses from 2019, from $14.2 billion in 2019 to $12.5 billion in 2020. Losses decreased due to changes in driving habits due to the COVID-19 pandemic.

COMPLAINTS

Complaints for private passenger auto at TDI were down since 2019, even as more policies were written. In 2020 there were 503 complaints and 26,941,805 policies (.00187%); in 2019 there were 754 complaints and 26,505,104 policies written (.00284%).**

Complaints went down across all lines of business, with the exception of General Liability which increased from 11 complaints in 2019 to 28 in 2020.**

Workers’ compensation saw a 44% decrease in complaints from 2019 to 2020 (from 514 to 286).**

P&C Incurred Losses*

Texas ranks: 3rd totaling $36.6 billion in 2020

Natural Catastrophes

In 2020 insured losses from natural catastrophes totaled $97 billion according to Aon, an increase of 26% from 2019 losses of $77 billion in 2020 dollars but down from $100 billion-plus losses in 2017 and 2018.

In 2020, Texas was 1st in hail events, and 2nd in tornadoes and related deaths.
FLOOD

Nationally, as of September 2020, 60 insurance companies participated in the Write Your Own (WYO) program, started in 1983, in which insurers issue policies and adjust flood claims on behalf of the federal government under their own names.*

In 2019, net premiums written for private flood insurance totaled $287.2 million, down 46.9% from $540.9 million in 2018, according to NAIC data compiled by S&P Global Market Intelligence.

Premiums in 2019 were impacted by the largest writer of private flood insurance, FM Global, reclassifying private flood insurance into allied lines.

When 2018 net premiums written are restated to exclude premiums from FM Global, they totaled $307.9 million. On the restated basis, net premiums written for 2019, at $287.2 million, were down at the much lower rate of 6.7%.*

Direct premiums written (which are before reinsurance transactions) for private flood insurance totaled $522.6 million in 2019, up 45% from $360.1 million in 2018, excluding FM Global's 2018 private flood premiums.*

There were 41 private companies writing flood insurance in 2019, compared with 32 in 2018. The number of companies also excludes FM Global.*

Highest NFIP payouts, as of December 2019:
Hurricane Katrina (2005): $16.3 billion
Hurricane Harvey (2017): $8.9 billion
Superstorm Sandy (2012): $8.8 billion
U.S. auto insurers responded to the COVID-19 pandemic by returning over $14 billion to their customers nationwide in response to reduced driving during the pandemic, according to a Triple-I estimate.*

According to TDI’s report to the Texas Legislature, Texas insurers gave back $1.4 billion to Texas insureds.

In the U.S., Texas remains 2nd for DWP (auto liability and collision/comp combined), behind California and ahead of Florida.*

Private Passenger Auto leads all lines, by a wide margin, in direct losses paid of $12.5 billion, direct premiums written of $22.2 billion, and number of policies written, at 26.9 million.**

*iii factbook  **TDI Report

*incurred losses were losses occurring during a fixed period, whether they were adjusted or paid during the same period.

As of 2019, there was an estimated 8.3% uninsured motorists in Texas, and Texas ranked at the bottom end, 40 out of the 50 states, when it came to number of uninsured motorists.

Progressive Group claimed the top spot for the first time in 2020.

The top 10 writers represent 81.75% of the market.
HOMEOWNERS

TOP 10 HOMEOWNERS MULTI PERIL GROUPS
BY PREMIUMS WRITTEN, 2020*

- State Farm Group: $1.847 billion
- Allstate Insurance Group: $1.399 billion
- United Services Auto Assn. Group: $1.089 billion
- Farmers Insurance Group: $997 million
- Liberty Mutual Group: $670 million
- Travelers Group: $542 million
- Texas Farm Bureau Mutual Group: $257 million
- Nationwide Corp. Group: $253 million
- Progressive Group: $234 million
- Chubb Limited Group: $218 million

($millions) 0 500 1,000 1,500 2,000

Average homeowners premium**
Texas ranks: 7th

The average annual homeowners premium in Texas is $1,863.

Oklahoma leads the nation at $3,519, followed by Nebraska, Kansas, Arkansas, New Mexico, and South Dakota.

Hawaii has the least expensive average annual premiums.

Notes:

Homeowners Multi-Peril

- 2020 loss ratio is down from 2019 (54.13% from 58.72%)*
- Top 5 groups represent 56.95% of the market, down from 57.75% of the market in 2019*
- Total premium was $10,540,066,498. The top 5 groups represent 57% of the total premiums written*
- The number of policies for Homeowners Multi Peril was 7,279,455, which is an increase of 6.8% from the number of policies written in 2019*

Residential Fire & Allied Lines

- TWIA’s market share continues to slowly decline, declining by 1.47% from 2019 (26.69% from 28.17%)*
- Top 5 groups represent 66.28% of the market*
- Direct losses paid for Residential Fire and Allied lines increased by 1% from 2019 to 2020 - $493,296,298 from $488,713,406*

*TDI Report  **bankrate.com
The commercial market faced increasing challenges with commercial auto lawsuits. There is a 1 in 10 lawsuit-to-crash ratio in Texas.

Notes:
Generally, direct written premiums grew among the commercial lines.

Commercial Auto
- The top 10 represent 51.72% of the market
- Commercial auto premiums increased slightly by 1.66% from 2019 to 2020. (There was an 11% jump from 2018 to 2019)

Commercial Fire & Allied
- The top 10 represent 67.38% of the market
- There was a 15.6% growth in direct written premium from 2019 to 2020
- The loss ratio has grown from 29% in 2018, to 69.9% in 2019, to now 74.19% in 2020

Commercial Multi-Peril
- The top 10 represent 60.35% of the market
- There was a 4.27% growth in direct written premium from 2019 to 2020

Source for all figures on this page: TDI Report


**General Liability**

- The top 10 represent 50.08% of the market**

**Product Liability**

- The top 10 represent 73.46% of the market. (almost a 3% decrease from 2019)**

- Direct premium—after seeing an increase of 15.99% over 2018, direct written premium over 2019 dropped by 9.83%**

**Notes:**

**TDI Report**
87TH TEXAS LEGISLATIVE SESSION

The 87th Texas Legislature convened on January 12, 2021. There were 6,927 combined House and Senate bills filed. ICT tracked over 400 bills with potential impact to the industry; closely watching 68 deemed as significant.

Heading into the session, we expected bills and hearings on a variety of issues, including:

- Business interruption coverage
- Auto rates
- Auto repair and mandated parts
- Commercial litigation reform

- Replacement cost coverage
- TWIA rates and funding
- Model credit for reinsurance
- TDI and TDI-DWC biennial recommendations

Key P&C related bills that passed include:

- **Commercial Trucking Litigation Reform - HB 19 by Representative Jeff Leach/Senator Larry Taylor** - Creates a bifurcated process to determine liability and compensatory damages. Requires TDI to conduct a biennial study on the effect of HB 19 on commercial auto premiums, coverage, deductibles, and availability. Sets forth specific procedures by which the facts of a case are presented in court by both the plaintiff and defendant to determine negligence of a defendant and award fair compensation.

- **Nonrenewal for Failure to Cooperate - SB 1602 by Senator Larry Taylor/Representative Ed Thompson** - Prohibits an insurer from renewing a policy if the named insured fails or refuses to cooperate with the insurer in the investigation, settlement, or defense of the claim or action. The bill is limited to private passenger automobile insurance.

- **Credit for Reinsurance to Avoid Federal Preemption - HB 1689 by Representative Tom Oliverson/Senator Kelly Hancock** - A TDI biennial recommendation, which amends Chapter 493 to eliminate collateral requirements for certain insurers and prevent federal preemption.

- **Temporary License Changes - HB 2819 by Representative John Smithee/Senator Robert Nichols** - Allows TDI to deny a license application if they determine that grounds exist for license denial or disciplinary action. Extends the period a temporary license is good for from 90 days to 180 days. The temporary license changes were recommended by TDI in their biennial report to the legislature.

- **Prohibition of Political Discrimination- HB 3433 by Representative John Smithee/Senator Bryan Hughes** - Prohibits refusal to insure or renew insurance based on political affiliation or expression. It provides an exception if the refusal, limitation, or charge is based on sound underwriting or actuarial principles reasonably related to actual or anticipated loss experience or required or authorized by law or regulatory mandate.

- **Commercial Modernization Bill - SB 1367 by Senator Brandon Creighton/Representative Tom Oliverson** - Provides exemptions from the policy form and rate filing and review requirements imposed by statute for specialty business insurance products and most transactions negotiated by larger businesses; certain insurance products for large commercial risks; and 17 specified specialty commercial insurance lines. Allows for the commissioner to temporarily reinstate, for no longer than one year, rate filing requirements for commercial coverage included among the exempt list, if the Commissioner makes certain finding of fact that reasonable competition doesn't exist. Amends surplus lines provisions in Insurance Code 981.004 for diligent search requirements and surplus providing excess above the insured amount for the 17 lines included in the bill.

Ongoing Issues

- Replacement Cost
- County Mutual Exemptions
- Requirements for OEM Parts in Vehicle Repair

For a complete report of legislation tracked during the 87th Legislative Session, ICT members can visit the Legislative Updates page at insurancecouncil.org.
PROTECTING THE COAST

The private market writes the majority of the policies and coverage on the Texas coast. The Texas Windstorm Insurance Association (TWIA), Texas’ “insurer of last resort,” has steadily shrunk over the last few years.

Private market insurers are prepared to provide up to $1 billion in assessments annually to help pay TWIA’s potential losses. This is in addition to paying for losses for auto, residential, and commercial after a hurricane.

Additionally, as a result of legislation in 2019, insurers are liable for any reinsurance purchases that TWIA decides to make over the 1:100 PML.

Debate over TWIA’s funding and rates often garner coverage that overshadows the story of insurance coverage on the coast.

However, the private market plays a fundamental part in supporting the Texas coast.

The Private Market Protects the Coast

- The private market accounts for about 71% of the written premium for wind coverage in Tier 1 counties. This is more than 2:1. The private market accounts for 63% of the wind coverage exposure in Tier 1.
- The private market provides coverage for $82.7 billion in residential wind v. $48.7 billion for TWIA.
- The number of policies written by TWIA in 2020 decreased from 2019 by about 1.3% (2,445).

TExAS FAIR PLAN OPERATIONAL HIGHLIGHTS

Texas FAIR Plan direct written premiums for the year totaled $79.5 million, a decrease of $5.8 million, or 6.9%, from the $85.3 million for the same period in the prior year, due to continued declines in policy count.

At year end 2019 policies in force totaled 80,923.

2020’s year-end surplus was $6 million, or $6.1 million below the surplus at December 31, 2019 of $12.1 million.

*iii factbook  +iii report “High Risk Markets”
RESIDUAL MARKETS

The Texas Windstorm Insurance Association (TWIA) is the “insurer of last resort”, providing windstorm and hail insurance coverages to residential and commercial properties in counties along the Texas coast that cannot find coverage in the voluntary market.

TWIA funding relies in part on debt in the form of public securities.

TWIA Policies In Force, 2016-2020

- TWIA’s direct written premiums for 2020 totaled $369.6 million, which is $2.4 million less than their 2019 premiums.
- Reinsurance costs for the 2020-2021 program (ceded earned premium) totaled $106.9 million and incepted on June 1 using a combination of traditional reinsurance and catastrophe bonds.
- TWIA ceded $740,000 of depopulation premium for the year ended December 31, 2020.
- The deficit at the end of 2020 was $160.5 million and includes $227 million of outstanding public securities.
- According to TWIA’s residential rate adequacy analysis, TWIA’s fixed expenses for 2021 are 45.3% and variable expenses are 22.9%, meaning approximately 68% of premium revenue is already accounted for.

TWIA’s 2020 actuarial analysis found their rates to be inadequate by 44% for residential policies and 49% for commercial policies.

Ongoing TWIA Issues:
- Rates, including changing standards for rate setting and the idea of having TDI set rates through rulemaking
- Lowering the PML
- Insufficient funding
- Reinsurance needs
- Board Composition
- Hurricane Risk Modeling
- Location of headquarters

TWIA rate filing timeline:

In September 2020, independent actuarial consulting firm Wills Towers Watson (WTW), at the direction of the Actuarial & Underwriting Committee, conducted a rate adequacy analysis. They initially found rates to be inadequate by 32% for residential and 42% for commercial.

In December 2020, WTW issued a revised report showing that TWIA’s rates for residential policies are inadequate by 26%, and rates for commercial policies are inadequate by 44%.

At the December 2020 Board meeting, the Board voted to direct staff to file a 5% rate increase for both residential and commercial policies. TWIA submitted the rate filing to TDI but TDI rejected the filing, citing that TWIA failed to timely post the actuarial information prior to the board meeting.

TWIA Bills Passed in the 87th Texas Legislative Session

HB 769 by Representative Mayes Middleton/Senator Larry Taylor - This bill prohibits the TWIA Board from voting on rates if there is a vacancy. It also prohibits TWIA from purchasing reinsurance from an insurer or broker involved in the execution of a catastrophe model which they rely on for determining PML for the period covered by the reinsurance or adopting rates.

HB 3564 by Representative Dennis Paul/Senator Larry Taylor - Removes TDI’s ability to rescind a certificate of compliance after issuing the certificate. TDI could previously do so if they found the improvement did not comply with applicable building code under the plan of operation.

HB 2920 by Representative Jose Lozano/Senator Kelly Hancock - Establishes a grace period of not more than 10 days after the due date for the payment of a premium for the renewal of a policy. This was a recommendation by TWIA in their biennial report to the legislature.

SB 1448 by Senator Larry Taylor/Representative Greg Bonnen - Requires TWIA to obtain prior approval from commissioner for any filed rate increase and prohibits TWIA from filing any rate increase unless two-thirds of the TWIA board of directors’ votes to approve the rate. Due to the COVID-19 pandemic, the Windstorm Insurance Legislative Funding and Funding Structure Oversight Board, which was to study TWIA funding during the 86th Interim, was unable to meet and conduct their study. This bill provides for the study to be done this interim.
REGULATORY ACTIVITY

TDI Commissioner Kent Sullivan announced his resignation effective September 2020. As of the time this report was written a new TDI commissioner had not been appointed. Chief Deputy Commissioner Doug Slape is currently acting commissioner.

TDI dealt with operational changes due to COVID-19 and responded to inquiries on auto discounts, business interruption coverage, and contagious disease exclusions in policies. After the February 2021 winter storm, the agency focused on data calls to assess the scope of the storm's impact on consumers and the Texas property and casualty industry. TDI issued numerous bulletins and worked with stakeholders as Texans navigated this trying and difficult year.

TDI Data Call for North Texas Storms
TDI issued a data call for property insurance information on the October 20, 2019 wind, hail, thunderstorm, and flood event in North Texas. This data call requires reporting of catastrophe-related data by insurers under Insurance Code Chapter 38, Subchapter E and Insurance Code Section 38.001. The first report for data as of September 30, 2020, was due December 28, 2020. Subsequent reports are due on a quarterly basis, 30 days after the end of the quarter.

Rule Classifying Pet Insurance as Inland Marine Adopted
TDI adopted rule 28 TAC §5.5002, which classifies pet insurance as inland marine insurance. It also gives insurers more flexibility in how they offer it, allowing for pet insurance to be sold as individual or group insurance policies. ICT submitted comments in support of the proposal.

Electronic Submissions and Communications Rule Adopted
Proposed rule 28 TAC §1.1301 and §1.1302 regarding electronic submissions made to TDI and electronic communications from TDI was adopted. ICT generally supported the use of electronic submissions but sent comments suggesting a stakeholder meeting before the final rule adoption to work out details. TDI opted not to have a stakeholder meeting.

Review of Rules in Title 28, Administrative Code, Chapters 5, 7, 19, and 28 Completed
TDI did a review of rules in Title 28, Administrative Code, Chapters 5, 7, 19, 21, and 28. ICT submitted comments, which included specific recommendations for the repeal or amendment of various rules including elimination or reduction of loss control audits and the repeal of §5.401 (No Prior Rule). TDI completed its review in June 2021 and did not make any substantive changes to the rules.

Requirements for Named Driver Automobile Insurance
TDI adopted amendments to 28 TAC §5.204, relating to Motor Vehicle Safety Responsibility, and the repeal of 28 TAC §5.208, relating to Disclosures for Named Driver Automobile Insurance Policies. The amendments and repeal are in response to HB 259, passed during the 86th legislative session, which prohibits Texas automobile insurers from delivering, issuing for delivery, or renewing a named driver policy that was not also an operator's policy, defined by the bill as a policy that covers the named insured when operating an automobile the insured does not own.

The amendments and repeal eliminate the now unnecessary requirements for named driver automobile insurance, including disclosures from the agent or insurer and on the proof of insurance card and the policy.
REGULATORY ACTIVITY

TWIA Adopts Amendments Moving Certificate of Compliance Process to TDI
TDI adopted amendments to 28 TAC §§5.4603, 5.4604, 5.4609, 5.4640, and 5.4642; and repealed and replaced §5.4606. These sections implement SB 615 and HB 1900 passed by the 86th Texas Legislature, which moved the process for certifying that structures comply with windstorm building codes for both ongoing and completed improvements to TDI.

New Catastrophe Data Call Rule Adopted
TDI adopted the new 28 TAC Section 5.9502, relating to the Texas Catastrophe Event Statistical Plan for Personal and Commercial Risks (statistical plan). The amount of Texas direct written premiums the insurer reported in the prior calendar year will determine whether an insurer is required to report data for catastrophe each year. This is different from previous data calls that required all insurers to report. TDI will use the premiums an insurer reported on its Annual Statement to determine whether the insurer is required to report. TDI will activate the reporting after a catastrophe in Texas through a bulletin on their website and insurers are not required to report data under the statistical plan until TDI has activated the data reporting. The rule specifies that insurers are required to report their premium and loss experience after each catastrophe.

TWIA Loss Funding Rule Amendments Adopted
TDI adopted proposed amendments to 28 TAC §§5.4102, 5.4114, 5.4133, 5.4134, 5.4141, 5.4142, 5.4160-5.4162, 5.4164, 5.4167 and 5.4171 and new sections concerning TWIA’s loss funding. ICT had submitted comments, most of which were considered in the rule, including clarifying certain definitions and modifying title of §5.4161 to distinguish assessments for claims from assessments for excess reinsurance.

Motor Vehicle Crime Prevention Authority Rule Amended
TDI adopted amendments to 28 TAC §5.205, relating to the Motor Vehicle Crime Prevention Authority (MVCPA) pass-through fee. The amendments were necessary to implement changes made by Senate Bill 604 and HB 2048, passed in 2019. The rule reflects these changes, changing the name from Automobile Burglary and Theft Prevention Authority (ABTPA) to MVCPA and increased the fee from $2 to $4.

TDI Adopts Auto and Homeowners Bill of Rights
TDI adopted amended 28 TAC §5.9970 and new §5.9971, relating to the Auto Bill of Rights and the Homeowners Bill of Rights. Homeowners Bill of Rights are now separate from the Auto Bill of Rights.

Maintenance Tax and Examination Overhead Rules Adopted
TDI adopted amendments to the maintenance tax and examination overhead rules. 28 TAC §1.414 outlines how the agency will calculate maintenance taxes and fees insurers pay on premiums. The amendments provide for adjusting the rates of assessment for maintenance taxes and fees each year based on the gross premium receipts from the previous calendar year. 28 TAC §7.1001 outlines how the agency will calculate assessments to cover the expenses to examine insurance companies and self-insurance groups providing workers’ compensation insurance. TDI plans to hold an annual meeting to discuss proposed rates in order to give the public a reasonable opportunity to participate and submit comments before the rates are set.
INDUSTRY ISSUES

Cybercrime
Businesses increasing reliance on electronic data and computer systems, as well as an increase in remote work made cybercrimes and data breaches a significant threat. Data breaches can lead to potentially large liabilities.

Cyber Insurance Overview
Cybersecurity insurance protects businesses from various technology-related risks. Coverage is available in stand-alone policies or as part of package policies.

- In 2019, 580 insurers reported writing cyber insurance, up from 545 in 2018, according to NAIC data sourced from S&P Global Market Intelligence.
- Direct premiums written totaled $2.2 billion in 2019, from companies that can report premiums for stand-alone and coverage provided as part of package policies, up from $2.0 billion in 2018.
- Texas is number 3 in the states by number of cybercrime victims and by losses for 2020 with 38,640 and a loss of $313.6 million.
- Ransomeware attacks were the most common type of cyber claims in 2020, according to cyber insurer Coalition, Inc.
- According to the FBI, the Internet Crime Complaint Center received 791,790 complaints in 2020, up 69% from 2019.
- According to the FBI, losses from cyber incidents totaled $4.2 billion in 2020.

Cybersecurity Insurance, 2015-2019* ($000)

<table>
<thead>
<tr>
<th>Year</th>
<th>Direct premiums written (2)</th>
<th>Annual percent change</th>
<th>Direct losses paid</th>
<th>Direct paid loss ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>2015</td>
<td>$1,003,802</td>
<td>NA</td>
<td>$140,597</td>
<td>17.4%</td>
</tr>
<tr>
<td>2016</td>
<td>1,355,173</td>
<td>35.1%</td>
<td>196,344</td>
<td>16.6%</td>
</tr>
<tr>
<td>2017</td>
<td>1,859,283</td>
<td>37.2</td>
<td>226,261</td>
<td>14.0%</td>
</tr>
<tr>
<td>2018</td>
<td>2,008,086</td>
<td>8.0</td>
<td>393,732</td>
<td>21.6%</td>
</tr>
<tr>
<td>2019</td>
<td>2,245,755</td>
<td>11.8</td>
<td>458,385</td>
<td>22.7%</td>
</tr>
</tbody>
</table>

“Silent Cyber” Challenges
Insurers are facing challenges with “silent cyber”. “Silent cyber” is defined as when cyber-related losses stem from traditional property and liability insurance policies, such as commercial general liability that were not specifically designed to cover cyber risk. In some cases, an insurer may have to pay claims for cyber losses under a policy that wasn’t designed for that purpose. According to Marsh & McLennan Global, PCS Global Cyber, a division of Verisk, found that about 90 percent of the insurance industry’s losses from the 2017 NotPetya-related cyberattacks were due to silent cyber.

TDI Gender Study Results
TDI’s released findings of their two-part study on the relationship between gender, marital status, and pricing of auto insurance in the Texas market. The study found that overall men and women had similar average premiums, average losses, and average loss ratios. Where the effect of gender or marital status resulted in differences in average premium, these differences were generally supported by differences in average loss.

Construction Cost
Construction material cost has skyrocketed over the last year. This is attributed to factors, such as government worldwide issued stay-at-home orders, supply chain disruption, and increase in demand to build and renovate homes. Cost of lumber almost tripled in the last year. According to the National Association of Home Builders, increased lumber prices have added almost $36,000 to the price of a new home. How does this impact the Texas insurance market?

The cost of lumber and construction materials factors into the cost of rebuilding a home and fixing a home after damage. Texas is huge state, with a high occurrence of natural disasters. This rapid increase in construction cost may mean that many policyholders may be underinsured.
INDUSTRY ISSUES

Race and Insurance

NAIC Special (EX) Committee on Race and Insurance*

In July 2020, the NAIC established a special committee to address issues of race and insurance. The committee was initially charged with examining current practices or barriers that exist in the insurance sector that potentially disadvantage people of color and/or historically underrepresented groups. The committee created five workstreams to make recommendations on action steps in various areas: diversity in the insurance industry workforce, diversity in the NAIC and regulatory community, property and casualty, life & annuities, and health.

Workstream Three was charged with examining and determining which practices or barriers exist in the insurance sector in the property and casualty line of business. This includes developing analytical and regulatory tools to assist state insurance regulators in defining, identifying, and addressing unfair discrimination in property and casualty insurance in issues related to rating and underwriting, socioeconomic variables, and potential bias in underlying data. The workstreams continue to meet and work through 2021.

This is not the first time the issue of unfair discrimination in insurance has been a topic of discussion among state insurance regulators and the NAIC. In 1912, regulators conducted a study of fraternal benefit societies that targeted Black people with high-premium, low-value policies. In 1940s, the NAIC adopted the Unfair Trade Practices Act which prohibits unfair discrimination by insurers. In the 1960s and 70s, NAIC members took up redlining and insurance availability and race-based premiums in life insurance. Recently, the NAIC studied credit-based insurance scores and investigated racial premium differences in life insurance.

Texas Anti-Discrimination Laws

Texas law contains strong language in Insurance Code chapter 544 prohibiting discrimination in insuring or providing coverage or charging an individual a rate that is different from the rate charged to other individuals for the same coverage because of the individual's:

- race, color, religion, or national origin;
- age, gender, marital status, or geographic location; or
- disability or partial disability.

Insurance Code section 560.002(c)(3)(C), defines a rate as being unfairly discriminatory if the rate “...is based wholly or partly on the race, creed, color, ethnicity, or national origin of the policyholder or an insured.

Texas law also has some of the strictest regulations in the nation regarding the use of credit scoring. Insurance Code Section 559.051 permits the use of credit scoring, “…except for factors that constitute unfair discrimination, to develop rates, rating classifications, or underwriting criteria regarding lines of insurance subject to (Chapter 559)”. Other provisions within Insurance Code Chapter 559, Subchapter B, contain similar prohibitions against discrimination (e.g., an insurer may not use a credit score that is computed using factors that constitute unfair discrimination).

Other States**

Action on this issue has arisen in other states and is a trend to watch. In Colorado, SB 169 which requires insurance companies to demonstrate that their use of external data and algorithms do not discriminate on the basis of certain classes, was recently signed into law. The bill does not prohibit the use of credit history in setting insurance premiums, but it prevents insurers from using any external consumer data, information, algorithms, or predictive models that disproportionately harm members of any protected class.

In Washington State, Insurance Commissioner Mike Kreidler issued an emergency rule temporarily banning insurers from using credit scores for personal property for three years for new and renewed policies as of June 20, 2021 citing the federal CARES Act. Kreidler had previously introduced a bill eliminating credit scoring that failed to pass.

Sources: *NAIC **Propertyandcasualty360.com
INDUSTRY ISSUES

Auto Insurance & COVID-19

During the COVID-19 pandemic, as many people reduced the miles they drove, consumer groups and regulators focused on auto insurance rates, and whether rates should be reduced. In written testimony to the Texas House Insurance Committee on September 8, 2020, TDI noted that about 90% of the Texas personal auto market as measured by direct written premium had provided a refund, credit, or dividend, with total refunds exceeding $1.4 billion for Texas policyholders. Regardless, there was continued debate on what was considered reasonable for auto rates at this time. Auto insurance premiums are determined by a number of factors, including miles driven, weather events, location, severity of losses, auto theft, etc. Studies have now shown that while vehicle miles fell, traffic fatalities increased, most likely due to faster driving.

- A statistical projection of traffic fatalities for 2020 from the National Highway Traffic Safety Administration (NHTSA) shows that an estimated 38,680 people died in motor vehicle traffic crashes, up 7.2 percent from 36,096 fatalities in 2019.

- At the same time, vehicle miles traveled fell about 13.2 percent in 2020 from the prior year as stay at home orders due to COVID were in effect.

- The fatality rate per 100 million vehicle miles traveled increased to 1.37 from 1.11 in 2019. This is the highest level since 2007.

Traffic Fatalities

Building Codes

Following severe weather events like hurricanes, tornadoes, and the 2021 winter storm, questions arise about the need for strengthened building codes and standards in the state.

For 2021, Texas ranked 15 out of 18* for building codes and related factors with a score of 34. Florida ranked first with a score of 95 in 2021 which has been consistent over the past four years. Virginia ranks second with 94, followed by South Carolina (92), New Jersey (90) and Connecticut (89). The three bottom states were Delaware (17), Mississippi (29) and Alabama (30).

*The Insurance Institute for Business and Home Safety (IBHS) “Rating the States” report ranks the 18 Atlantic and Gulf states vulnerable to catastrophic hurricanes by comparing the quality of state building codes, state enforcement and contractor licensing. Rating based on the current statewide residential building code, the processes in place to ensure uniform code application, state and local enforcement programs, licensing and education of building officials, contractors, and subcontractors.
The Insurance Council of Texas was created when the Texas Insurance Advisory Association and Texas Automobile Insurance Services Office merged, effective September 1, 1996. For over 80 years, these two Texas-based associations had been the principal property and automobile insurance associations for companies operating in Texas.

The merger of these two organizations created a stronger and more efficient trade association through which insurers can collectively represent their interests in the regulatory process and stay abreast of those events that affect the business of insurance in Texas.

Sources:
TDI Annual Report on Market Conditions-

III Factbook
https://www.iii.org/publications/2021-insurance-fact-book

National Association of Home Builders Press Release

Bankrate.com: Average cost of homeowners insurance in 2021
https://www.bankrate.com/insurance/homeowners-insurance/homeowners-insurance-cost/