

## **BILL ANALYSIS**

H.B. 1741

By: Flynn

Insurance

Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Certified Capital Companies (CAPCO) were created as a result of Senate Bill 601, which was passed in 2001 by the 77<sup>th</sup> Texas Legislature, and later amended by House Bill 2425, which was passed in 2003 by the 78<sup>th</sup> Legislature. The regulations for the Texas Certified Capital Companies program are contained in the Texas Administrative Code: Title 34. Public Finance Part 1. Comptroller of Public Accounts Chapter 3. Tax Administration, Subchapter GG. Insurance Tax 34 TAC §3.833.

The Texas CAPCO Program was established to create economic development with a focus on small and emerging business located throughout the State of Texas. The legislation targets certain low income and rural areas of the State with a guaranteed minimum level of investment. This investment is funded by the securitization of insurance premium tax credits. To accomplish this purpose, legislation was enacted establishing premium tax credits to be claimed by insurance companies that invested in state-approved Certified Capital Companies. These credits may not be utilized any earlier than 2009. Insurance companies were granted \$200 million in available tax credits upon investment in qualified debt instruments during 2005. These premium tax credits may be used at a maximum rate of 25 percent per year.

H.B. 1741 would provide for the Texas CAPCO program to be renewed for another round of financing.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1741 relates to certain investments by insurance companies and related organizations. The bill sets out to amend Article 4.51 of the Texas Insurance Code by adding several subdivisions.

First, "low-income community" has the meaning assigned by Section 45D(e) of the Internal Revenue Code of 1986. "Program One" is defined as the program for allocation and investment of certified capital under this chapter before January 1, 2007. "Program Two" is then defined as the program for allocation and investment of certified capital under this chapter on or after January 1, 2007.

The bill goes on to amend Article 4.52 of the Texas Insurance Code which concerns the duties of Comptroller, rules and implementation. The bill states that the comptroller shall administer this subchapter and shall adopt rules and forms as necessary to implement this subchapter. Also, it says that the rules must provide that the comptroller shall accept premium tax credit allocation claims on behalf of certified investors with respect to Program Two not later than January 1, 2008.

Next, H.B. 1741 amends Article 4.56 (b) of the Texas Insurance Code by adding "or low-income community" and amends Article 4.57 (a), (b), (c) of the Texas Insurance Code by adding "or low-income community" to conform to the meaning assigned by Section 45D(e) of the Internal Revenue Code of 1986.

H.B. 1741 then amends Article 4.65 of the Texas Insurance Code by requiring that a certified investor who makes an investment of certified capital in the year of investment earn a vested credit against state premium tax liability equal to 100 percent of the certified investor's investment of certified capital, subject to the limits imposed by this subchapter. (a-1) is added

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and states that with respect to credits earned as a result of investments under Program One, beginning with the tax report due March 1, 2009, for the 2008 tax year, a certified investor may take up to 25 percent of the vested premium tax credit in any taxable year of the certified investor. The credit may not be applied to estimated payments due in 2008.

The bill further amends 4.65 by adding (a-2) which states that with respect to credits earned as a result of investments made under Program Two, beginning with the tax report due March 1, 2013, for the 2012 tax year, a certified investor may take up to 25 percent of the vested premium tax credit in any taxable year of the certified investor. The credit may not be applied to estimated payments due in 2012.

H.B. 1741 amends Article 4.66 (a) of the Texas Insurance Code by adding "with respect to Program One or Program Two, as applicable," and changes the bill also changes Article "4.52 (2)" to "4.52".

Next, H.B. 1741 amends Article 4.67 of the Texas Insurance Code by allowing for the total amounts of certified capital for which premium tax credits may be allowed under this subchapter for all years in which premium tax credits are allowed to be split in to two programs; \$200 million for Program One and \$200 million for Program Two. The total amount of certified capital for which premium tax credits may be allowed for all certified investors under this subchapter may not exceed the amount that would entitle all certified investors in certified capital companies to take total credits of \$50 million in a year with respect to Program One and \$50 million in a year with respect to Program Two. Further, a certified capital company and its affiliates may not file premium tax credit allocation claims with respect to Program One or Program Two, as applicable, in excess of the maximum amount of certified capital for which premium tax credits may be allowed for that program as provided in this article.

H.B. 1741 amends Article 4.68 (a) of the Texas Insurance Code by stating that if the total premium tax credits claimed by all certified investors with respect to Program One or Program Two, as applicable, exceeds the total limits on premium tax credits established for that program by Article 4.67 (a) of this code, the comptroller shall allocate the total amount of premium tax credits allowed under this subchapter to certified investors in certified capital companies on a pro rata basis in accordance with this article.

Lastly, H.B. 1741 further amends Article 4.68 (b), (c) and (e) of the Texas Insurance Code. The bill adds "with respect to Program One or Program Two, as applicable," and "with respect to that program" to Article 4.68 (b). Article 4.68 (c) is amended to include "Article 4.52" which would replace "Article 4.52 (2)". Article 4.68 (e) adds "with respect to Program One or Program Two, as applicable," and "with respect to that program".

### **EFFECTIVE DATE**

September 1, 2007.