

By: Flynn (Senate Sponsor - Janek) H.B. No. 1741
(In the Senate - Received from the House April 16, 2007;
April 17, 2007, read first time and referred to Committee on
Business and Commerce; May 2, 2007, reported favorably by the
following vote: Yeas 8, Nays 0; May 2, 2007, sent to printer.)

A BILL TO BE ENTITLED
AN ACT

relating to certain investments by insurance companies and related
organizations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 4.51, Insurance Code, is amended by
adding Subdivisions (16), (17), and (18) to read as follows:

(16) "Low-income community" has the meaning assigned
by Section 45D(e), Internal Revenue Code of 1986.

(17) "Program One" means the program for allocation
and investment of certified capital under this chapter before
January 1, 2007.

(18) "Program Two" means the program for allocation
and investment of certified capital under this chapter on or after
January 1, 2007.

SECTION 2. Article 4.52, Insurance Code, is amended to read
as follows:

Art. 4.52. DUTIES OF COMPTROLLER; RULES; IMPLEMENTATION.
The comptroller shall administer this subchapter and shall adopt
rules and forms as necessary to implement this subchapter. The
rules must provide that:

~~[(1) the comptroller shall begin accepting
applications for certification as a certified capital company not
later than the 30th day after the date the rules are adopted; and~~

~~[(2)] the comptroller shall accept premium tax credit
allocation claims on behalf of certified investors with respect to
Program Two [on a date] not later than January 1, 2008 [the 120th
day after the date the rules are adopted].~~

SECTION 3. Article 4.56(b), Insurance Code, is amended to
read as follows:

(b) At least 50 percent of the amount of qualified
investments required by Subsection (a)(2) of this article must be
placed in early stage businesses. At least 30 percent of the amount
of qualified investments required by Subsections (a)(1) and (2) of
this article must be placed in a strategic investment or low-income
community business.

SECTION 4. Article 4.57, Insurance Code, is amended to read
as follows:

Art. 4.57. EVALUATION OF BUSINESS BY COMPTROLLER. (a) A
certified capital company may, before making an investment in a
business, request from the comptroller a written opinion as to
whether the business in which it proposes to invest is a qualified
business, an early stage business, or a strategic investment or
low-income community business.

(b) The comptroller shall, not later than the 15th business
day after the date of the receipt of a request under Subsection (a)
of this article, determine whether the business meets the
definition of a qualified business, an early stage business, or a
strategic investment or low-income community business, as
applicable, and notify the certified capital company of the
determination and an explanation of its determination or notify the
certified capital company that an additional 15 days will be needed
to review and make the determination.

(c) If the comptroller fails to notify the certified capital
company with respect to the proposed investment within the period
specified by Subsection (b) of this article, the business in which
the company proposes to invest is considered to be a qualified
business, early stage business, or a strategic investment or
low-income community business, as appropriate.

SECTION 5. Article 4.65, Insurance Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) A certified investor who makes an investment of certified capital shall 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) With respect to credits earned as a result of investments made under Program One, beginning [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.

(a-2) 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.

SECTION 6. Article 4.66(a), Insurance Code, is amended to read as follows:

(a) A premium tax credit allocation claim must be prepared and executed by a certified investor on a form provided by the comptroller. The certified capital company must file the claim with the comptroller on the date on which the comptroller accepts premium tax credit allocation claims on behalf of certified investors with respect to Program One or Program Two, as applicable, under rules adopted under Article 4.52 ~~[4.52(2)]~~ of this code. The premium tax credit allocation claim form must include an affidavit of the certified investor under which the certified investor becomes legally bound and irrevocably committed to make an investment of certified capital in a certified capital company in the amount allocated even if the amount allocated is less than the amount of the claim, subject only to the receipt of an allocation under Article 4.68 of this code.

SECTION 7. Article 4.67, Insurance Code, is amended to read as follows:

Art. 4.67. TOTAL LIMIT ON CREDITS. (a) The total amount of certified capital for which premium tax credits may be allowed under this subchapter for all years in which premium tax credits are allowed is:

- (1) \$200 million for Program One; and
- (2) \$200 million for Program Two.

(b) 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.

(c) 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.

SECTION 8. Articles 4.68(a), (b), (c), and (e), Insurance Code, are amended to read as follows:

(a) 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.

(b) The pro rata allocation for each certified investor shall be the product of:

(1) a fraction, the numerator of which is the amount of the premium tax credit allocation claim filed on behalf of the

investor with respect to Program One or Program Two, as applicable,
and the denominator of which is the total amount of all premium tax
credit allocation claims filed on behalf of all certified investors
with respect to that program; and

(2) the total amount of certified capital for which
premium tax credits may be allowed with respect to that program
under this subchapter.

(c) Not later than the 15th day after the date on which the
comptroller accepts premium tax credit allocation claims on behalf
of certified investors under rules adopted under Article 4.52
[~~4.52(2)~~] of this code, the comptroller shall notify each certified
capital company of the amount of tax credits allocated to each
certified investor. Each certified capital company shall notify
each certified investor of their premium tax credit allocation.

(e) The maximum amount of certified capital for which
premium tax credit allocation may be allowed on behalf of any one
certified investor and its affiliates with respect to Program One
or Program Two, as applicable, whether by one or more certified
capital companies, may not exceed the greater of:

(1) \$10 million; or
(2) 15 percent of the maximum aggregate amount
available with respect to that program under Article 4.67(a) of
this code.

SECTION 9. This Act takes effect September 1, 2007.

* * * * *