

AN ACT

relating to the licensing of captive insurance companies;  
authorizing fees and authorizing and imposing taxes.

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

SECTION 1. Subtitle B, Title 3, Insurance Code, is amended  
by adding Chapter 223A to read as follows:

CHAPTER 223A. CAPTIVE INSURANCE PREMIUM TAX

Sec. 223A.001. DEFINITION. In this chapter, "captive insurance company" means a captive insurance company holding a certificate of authority under Chapter 964.

Sec. 223A.002. APPLICABILITY OF CHAPTER. This chapter applies to a captive insurance company holding a certificate of authority under Chapter 964.

Sec. 223A.003. TAX IMPOSED; RATE. (a) An annual tax is imposed on each captive insurance company that receives gross premiums subject to taxation under this chapter. The rate of the tax is one-half percent of the company's taxable premium receipts for a calendar year.

(b) Except as provided by Subsection (c), in determining a captive insurance company's taxable premium receipts, the captive insurance company shall include the total gross amounts of premiums, membership fees, assessments, dues, revenues, and other considerations for insurance written by the captive insurance company in a calendar year from any kind of insurance written by the

1 company on each kind of property or risk without regard to the  
2 location of the property or risk.

3 (c) The following premium receipts are not included in  
4 determining a captive insurance company's taxable premium  
5 receipts:

6 (1) premium receipts received from another authorized  
7 insurer for reinsurance;

8 (2) returned premiums and dividends paid to  
9 policyholders; and

10 (3) premiums excluded by another law of this state.

11 (d) In determining a captive insurance company's taxable  
12 premium receipts, a company is not entitled to a deduction for  
13 premiums paid for reinsurance.

14 (e) The annual minimum aggregate tax to be paid by a captive  
15 insurance company under this chapter is \$7,500 and the annual  
16 maximum aggregate tax to be paid by a company under this chapter is  
17 \$200,000. Gross premiums subject to taxation under this chapter  
18 are not subject to taxes, surcharges, or other regulatory  
19 assessments or fees under this code other than insurance  
20 maintenance taxes as provided by Section 964.068.

21 Sec. 223A.004. TAX DUE DATES. (a) The total tax imposed by  
22 this chapter is due and payable not later than March 1 after the end  
23 of the calendar year for which the tax is due.

24 (b) A captive insurance company that had a net tax liability  
25 for the previous calendar year of more than \$1,000 shall make  
26 semiannual prepayments of tax on March 1 and August 1. The tax paid  
27 on each date must be equal to 50 percent of the total amount of tax

1 the company paid under this chapter for the previous calendar year.  
2 If the company did not pay a tax under this chapter during the  
3 previous calendar year, the tax paid on each date must be equal to  
4 the tax that would be owed on the aggregate of the gross premiums  
5 for the two previous calendar quarters.

6 (c) The comptroller may refund any overpayment of taxes that  
7 results from the semiannual prepayment system prescribed by this  
8 section.

9 Sec. 223A.005. TAX REPORT. (a) A captive insurance  
10 company liable for the tax imposed by this chapter must file  
11 annually with the comptroller a tax report on a form prescribed by  
12 the comptroller.

13 (b) The tax report is due on the date the tax is due under  
14 Section 223A.004(a).

15 Sec. 223A.006. CHANGE IN DUE DATES. (a) The comptroller  
16 by rule may change the dates for reporting and paying taxes under  
17 this chapter to improve operating efficiencies within the agency.

18 (b) A change by the comptroller in a reporting or payment  
19 date must retain the system of semiannual prepayments prescribed by  
20 Section 223A.004.

21 Sec. 223A.007. CREDIT FOR FEES PAID. (a) A captive  
22 insurance company is entitled to a credit on the amount of tax due  
23 under this chapter for all examination and evaluation fees paid to  
24 this state during the calendar year for which the tax is due. The  
25 limitations provided by Sections 803.007(1) and (2)(B) for a  
26 domestic insurance company apply to a captive insurance company.

27 (b) The credit provided by this section is in addition to

1 any other credit authorized by statute.

2 Sec. 223A.008. FAILURE TO PAY TAXES. A captive insurance  
3 company that fails to pay all taxes imposed by this chapter is  
4 subject to Section 203.002 of this code and Subtitles A and B, Title  
5 2, Tax Code.

6 SECTION 2. Subtitle H, Title 6, Insurance Code, is amended  
7 by adding Chapter 964 to read as follows:

8 CHAPTER 964. CAPTIVE INSURANCE COMPANIES

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 964.001. DEFINITIONS. (a) In this chapter:

11 (1) "Affiliated company" or "affiliate" has the  
12 meaning assigned by Section 823.003 and includes a parent entity  
13 that controls a captive insurance company.

14 (2) "Captive insurance company" means a company that  
15 holds a certificate of authority under this chapter to insure the  
16 operational risks of the company's affiliates or risks of a  
17 controlled unaffiliated business.

18 (3) "Captive management company" means an entity  
19 providing administrative services to a captive insurance company.

20 (4) "Control" means the power to direct, or cause the  
21 direction of, the management and policies of an entity, other than  
22 the power that results from an official position with or corporate  
23 office held in the entity. The power may be possessed directly or  
24 indirectly by any means, including through the ownership of voting  
25 securities or by contract, other than a commercial contract for  
26 goods or nonmanagement services.

27 (5) "Controlled unaffiliated business" means a

1 person:

2 (A) that is not an affiliate;

3 (B) that has an existing contractual  
4 relationship with an affiliate under which the affiliate bears a  
5 potential financial loss; and

6 (C) the risks of which are managed by a captive  
7 insurance company under Section 964.066.

8 (6) "Operational risk" means any potential financial  
9 loss of an affiliate, except for a loss arising from an insurance  
10 policy issued by a captive or insurance affiliate.

11 (7) "Redomestication" means the transfer to or from  
12 this state of the insurance domicile of an authorized captive  
13 insurer.

14 (b) Notwithstanding Section 30.003, in this chapter,  
15 "person" has the meaning assigned by Section 311.005, Government  
16 Code.

17 Sec. 964.002. APPLICABILITY OF OTHER LAWS. (a) Except as  
18 otherwise provided by this chapter, this code does not apply to a  
19 captive insurance company except:

20 (1) Title 2;

21 (2) Chapter 223A and Subtitles A and C, Title 3;

22 (3) Chapter 401;

23 (4) Chapter 441;

24 (5) Chapter 443; and

25 (6) Chapter 803.

26 (b) A captive insurance company operating under this  
27 chapter is subject to the Business Organizations Code, including

1 the requirement to be authorized by the secretary of state, to the  
2 extent those laws do not conflict with this chapter.

3 (c) Chapter 823 applies to a captive insurance company only  
4 if the company is affiliated with another insurer that is subject to  
5 Chapter 823.

6 SUBCHAPTER B. CAPTIVE INSURANCE COMPANIES

7 Sec. 964.051. AUTHORITY TO WRITE DIRECT BUSINESS.

8 (a) Except as provided by this section, a captive insurance  
9 company may write any type of insurance, but may only insure the  
10 operational risks of the company's affiliates and risks of a  
11 controlled unaffiliated business.

12 (b) A captive insurance company may not issue:

13 (1) life insurance;

14 (2) annuities;

15 (3) accident and health insurance for the company's  
16 parent and affiliates, except to insure employee benefits that are  
17 subject to the Employee Retirement Income Security Act of 1974 (29  
18 U.S.C. Section 1001 et seq.);

19 (4) title insurance;

20 (5) mortgage guaranty insurance;

21 (6) financial guaranty insurance;

22 (7) residential property insurance;

23 (8) personal automobile insurance; or

24 (9) workers' compensation insurance.

25 (c) A captive insurance company may not issue a type of  
26 insurance, including automobile liability insurance, that is  
27 required, under the laws of this state or a political subdivision of

1 this state, as a prerequisite for obtaining a license or permit if  
2 the law requires that the liability insurance be issued by an  
3 insurer authorized to engage in the business of insurance in this  
4 state.

5 (d) A captive insurance company is authorized to issue a  
6 contractual reimbursement policy to:

7 (1) an affiliated certified self-insurer authorized  
8 under Chapter 407, Labor Code, or a similar affiliated entity  
9 expressly authorized by analogous laws of another state; or

10 (2) an affiliate that is insured by a workers'  
11 compensation insurance policy with a negotiated deductible  
12 endorsement.

13 Sec. 964.052. AUTHORITY TO PROVIDE REINSURANCE. (a) A  
14 captive insurance company may provide reinsurance to an insurer  
15 covering the operational risks of the captive insurance company's  
16 affiliates or risks of a controlled unaffiliated business that the  
17 captive insurance company may insure directly under Section 964.051  
18 and:

19 (1) employee benefit plans offered by affiliates;

20 (2) liability insurance an affiliate must maintain as  
21 a prerequisite for obtaining a license or permit if the law requires  
22 maintenance of the liability insurance; and

23 (3) workers' compensation insurance and employer  
24 liability policies issued to affiliates if the insurer that  
25 directly issues workers' compensation insurance and employer's  
26 liability policies or its licensed, if required by law,  
27 administrator or adjuster:

1           (A) services all claims incurred during the  
2 policy period; and

3           (B) complies with all requirements for an insurer  
4 under this code, including Chapter 462, and under Title 5, Labor  
5 Code.

6           (b) A captive insurance company shall provide notice to the  
7 commissioner of a reinsurance agreement that the company becomes a  
8 party to not later than the 30th day after the date of the execution  
9 of the agreement.

10           (c) A captive insurance company shall provide notice of a  
11 termination of a previously filed reinsurance agreement to the  
12 commissioner not later than the 30th day after the date of  
13 termination.

14           (d) A captive insurance company may take credit for reserves  
15 on risks or portions of risks ceded to reinsurers under Subchapter  
16 C, Chapter 492, and Subchapter C, Chapter 493.

17           Sec. 964.053. FORMATION. (a) A captive insurance company  
18 must be formed for the purpose of engaging in the business of  
19 insurance under this chapter.

20           (b) A captive insurance company may be formed and operated  
21 in any form of business organization authorized under the Business  
22 Organizations Code except a risk retention group or general  
23 partnership. A captive insurance company may only be formed as a  
24 nonprofit corporation if it is controlled by a nonprofit  
25 corporation.

26           (c) The certificate of formation of a captive insurance  
27 company must include:



1           (1) the name of the company, which may not be the same  
2 as, deceptively similar to, or likely to be confused with or  
3 mistaken for any other existing business name registered in this  
4 state;

5           (2) the location of the company's principal business  
6 office;

7           (3) the type of insurance business in which the  
8 company proposes to engage;

9           (4) the number of directors or members of the  
10 governing body of the company;

11           (5) the number of authorized shares and the par value  
12 of the company's capital stock for a captive insurance company  
13 formed as a corporation;

14           (6) the amount of the company's initial capital and  
15 surplus; and

16           (7) any other information required by the commissioner  
17 as necessary to explain the company's objectives, management, and  
18 control.

19           (d) The board of directors or governing body of a captive  
20 insurance company formed in this state must have at least three  
21 members, and at least one of the members must be a resident of this  
22 state.

23           (e) The certificate of formation or bylaws of a captive  
24 insurance company must authorize a quorum of the board of directors  
25 or governing body to consist of not fewer than one-third of the  
26 fixed number of directors or members of the governing body.

27           Sec. 964.054. RESERVES AND ACCOUNTING BASIS. (a) A

1 captive insurance company shall maintain reserves in an amount  
2 stated in the aggregate to provide for the payment of all losses or  
3 claims for which the captive insurance company may be liable and  
4 that are:

5 (1) incurred on or before the date of the annual report  
6 under Section 964.060, whether reported or unreported; and

7 (2) unpaid as of the date of the annual report under  
8 Section 964.060.

9 (b) In addition to the reserves required by Subsection (a),  
10 a captive insurance company shall maintain reserves in an amount  
11 estimated to provide for the expenses of adjustment or settlement  
12 of the losses or claims described by Subsection (a).

13 (c) The captive insurance company shall use generally  
14 accepted accounting principles as an accounting basis except that a  
15 captive insurance company that is required to hold a certificate of  
16 authority under another jurisdiction's insurance laws shall use  
17 statutory accounting principles.

18 Sec. 964.055. CERTIFICATE OF AUTHORITY REQUIRED. (a) An  
19 entity may not engage in business as a captive insurance company  
20 domiciled in this state unless it holds a certificate of authority  
21 issued by the department to act as a captive insurance company. A  
22 captive insurance company, when permitted by its certificate of  
23 formation, may apply for a certificate of authority under this  
24 chapter.

25 (b) An entity does not qualify for a certificate of  
26 authority under this chapter unless:

27 (1) its affiliates have significant operations in this

1 state, as determined by the commissioner;

2 (2) its board of directors or governing body holds at  
3 least one meeting each year in this state;

4 (3) it maintains its principal office and books and  
5 records in this state, unless the commissioner grants an  
6 application to relocate the entity's books and records under  
7 Chapter 803; and

8 (4) it complies with Section 804.101 or 804.102.

9 Sec. 964.056. CAPITAL AND SURPLUS REQUIREMENTS. (a) The  
10 department may not issue a certificate of authority to a captive  
11 insurance company unless the company possesses and maintains  
12 unencumbered capital and surplus in an amount determined by the  
13 commissioner after considering:

14 (1) the amount of premium written by the captive  
15 insurance company;

16 (2) the characteristics of the assets held by the  
17 captive insurance company;

18 (3) the terms of reinsurance arrangements entered into  
19 by the captive insurance company;

20 (4) the type of business covered in policies issued by  
21 the captive insurance company;

22 (5) the underwriting practices and procedures of the  
23 captive insurance company; and

24 (6) any other criteria that has an impact on the  
25 operations of the captive insurance company determined to be  
26 significant by the commissioner.

27 (b) The amount of capital and surplus determined by the

1 commissioner under Subsection (a) may not be less than \$250,000.

2 (c) The capital and surplus required by Subsection (a) must  
3 be in the form of:

4 (1) United States currency;

5 (2) an irrevocable letter of credit, in a form  
6 approved by the commissioner and not secured by a guarantee from an  
7 affiliate, naming the commissioner as beneficiary for the security  
8 of the captive insurance company's policyholders and issued by a  
9 bank approved by the commissioner;

10 (3) bonds of this state; or

11 (4) bonds or other evidences of indebtedness of the  
12 United States, the principal and interest of which are guaranteed  
13 by the United States.

14 Sec. 964.057. APPLICATION FOR CERTIFICATE OF AUTHORITY.

15 (a) To obtain a certificate of authority for a captive insurance  
16 company, the incorporators or organizers must pay to the  
17 commissioner an application fee and file with the commissioner an  
18 application for the certificate of authority, which must include:

19 (1) a financial statement certified by two principal  
20 officers;

21 (2) a plan of operation and projections, which must  
22 include an actuarial report prepared by a qualified independent  
23 actuary;

24 (3) the captive insurance company's certificate of  
25 formation;

26 (4) an affidavit by the incorporators, organizers, or  
27 officers of the captive insurance company stating that:

1           (A) the capital and surplus are the bona fide  
2 property of the company; and

3           (B) the certificate of formation is true and  
4 correct; and

5           (5) if the application provides for the issuance of  
6 shares of stock or other type of equity instrument without par  
7 value, a certificate authenticated by the incorporators or officers  
8 stating:

9           (A) the number of shares or other type of equity  
10 instrument without par value that are subscribed; and

11           (B) the actual consideration received by the  
12 captive insurance company for those shares or other type of equity  
13 instrument.

14           (b) If the commissioner is not satisfied with the affidavit  
15 filed under Subsection (a)(4), the commissioner may require that  
16 the incorporators, organizers, or officers provide at their expense  
17 additional evidence as described by Subsection (a) before the  
18 commissioner takes action on the application.

19           (c) The application fee required under this section is  
20 \$1,500 or a greater amount set by the commissioner by rule as  
21 necessary to recover the cost of administering this section.

22           (d) Notwithstanding Subsection (c), for a complete  
23 application filed on or before December 30, 2018, the application  
24 fee may not exceed \$1,500. This subsection expires January 1, 2019.

25           (e) Fees collected under this section shall be deposited to  
26 the credit of the Texas Department of Insurance operating account.

27           Sec. 964.058. EXAMINATION BY COMMISSIONER. (a) After the

1 application and application fee for a certificate of authority  
2 under Section 964.057 are filed with the department and the  
3 applicant has complied with all legal requirements, the  
4 commissioner shall conduct an examination of the applicant to  
5 determine whether:

6 (1) the minimum capital and surplus requirements of  
7 Section 964.056 are satisfied;

8 (2) the capital and surplus are the bona fide property  
9 of the applicant; and

10 (3) the applicant has fully complied with applicable  
11 insurance laws.

12 (b) The commissioner may appoint a competent and  
13 disinterested person to conduct the examination required by this  
14 section. The examiner shall file an affidavit of the examiner's  
15 findings with the commissioner. The commissioner shall record the  
16 affidavit.

17 Sec. 964.059. ACTION ON APPLICATION. (a) The commissioner  
18 shall determine whether:

19 (1) the capital structure of the applicant meets the  
20 requirements of this chapter;

21 (2) the officers or directors of the applicant have  
22 sufficient insurance experience, ability, standing, and good  
23 record to make success of the captive insurance company probable;

24 (3) the applicant is acting in good faith; and

25 (4) the applicant otherwise satisfies the  
26 requirements of this chapter.

27 (b) In evaluating the application, the commissioner shall

1 consider:

2 (1) the amount and liquidity of the applicant's assets  
3 relative to the risks to be assumed;

4 (2) the adequacy of the expertise, experience, and  
5 character of each individual who will manage the applicant;

6 (3) the overall soundness of the applicant's plan of  
7 operations and the projections contained in that plan;

8 (4) whether the applicant's affiliates have  
9 significant operations located in this state; and

10 (5) any other factors the commissioner considers  
11 relevant to determine whether the applicant will be able to meet its  
12 policy obligations.

13 (c) If the commissioner determines that the applicant has  
14 not met the standards set out by Subsection (a), the commissioner  
15 shall deny the application in writing, giving the reason for the  
16 denial. On the applicant's request, the commissioner shall hold a  
17 hearing on a denial. Not later than the 30th day after the date the  
18 commissioner receives the applicant's request for a hearing, the  
19 commissioner shall set a hearing date.

20 (d) If the commissioner does not deny the application under  
21 Subsection (c), the commissioner shall approve the application and:

22 (1) issue to the applicant a certificate of authority  
23 to engage in business as provided for in the applicant's  
24 certificate of formation;

25 (2) certify and file the approved document with the  
26 department; and

27 (3) issue a certified copy of the certificate of

1 authority to the applicant's incorporators or officers.

2 (e) A certificate of authority issued to a captive insurance  
3 company under this section may not be sold.

4 Sec. 964.060. ANNUAL REPORT. (a) A captive insurance  
5 company holding a certificate of authority under this chapter is  
6 not required to file a report, except as provided by this section,  
7 Chapter 223A, and Subtitle C, Title 3.

8 (b) A captive insurance company that holds a certificate of  
9 authority to engage in captive insurance business in this state  
10 shall file with the commissioner:

11 (1) on or before March 1 of each year, a statement of  
12 the company's financial condition, verified by two of its executive  
13 officers and filed in a format prescribed by the commissioner; and

14 (2) on or before June 1 of each year, a report of its  
15 financial condition at last year-end with an independent certified  
16 public accountant's opinion of the company's financial condition.

17 (c) A captive insurance company may make a written  
18 application to the commissioner for filing its annual report  
19 required under this section on a fiscal year-end. If an alternative  
20 filing date is granted, the company shall file:

21 (1) the annual report not later than the 60th day after  
22 the date of the company's fiscal year-end;

23 (2) the report of its financial condition at last  
24 year-end with an independent certified public accountant's opinion  
25 of the company's financial condition not later than the 150th day  
26 after the date the annual report is due; and

27 (3) its balance sheet, income statement, and statement



1 of cash flows, verified by two of its executive officers, before  
2 March 1 of each year to provide sufficient detail to support a  
3 premium tax return.

4 Sec. 964.061. INVESTMENTS. (a) A captive insurance  
5 company is not subject to a restriction on allowable investments,  
6 except as provided by this section.

7 (b) A captive insurance company may make loans to its  
8 affiliates with the prior approval of the commissioner. Each loan  
9 must be evidenced by a note approved by the commissioner. A captive  
10 insurance company may not make a loan of the minimum capital and  
11 surplus funds required by this chapter.

12 (c) The commissioner may prohibit or limit an investment  
13 that threatens the solvency or liquidity of a captive insurance  
14 company.

15 Sec. 964.062. AMENDMENTS TO CERTIFICATE OF FORMATION. A  
16 captive insurance company may not amend its certificate of  
17 formation unless the amendment has been filed with and approved by  
18 the commissioner.

19 Sec. 964.063. NOTICE OF DIVIDENDS. A captive insurance  
20 company shall notify the commissioner in writing when issuing  
21 policyholder dividends.

22 Sec. 964.064. PROHIBITION ON JOINING OR CONTRIBUTING TO  
23 CERTAIN ENTITIES AND FUNDS. A captive insurance company may not  
24 join or contribute financially to any plan, pool, association, or  
25 guaranty or insolvency fund in this state, and a captive insurance  
26 company, its insured, or any affiliate is not entitled to receive  
27 any benefit from a plan, pool, association, or guaranty or

1 insolvency fund for claims arising out of the operations of the  
2 company.

3 Sec. 964.065. SUSPENSION OR REVOCATION OF CERTIFICATE OF  
4 AUTHORITY. The commissioner, after notice and an opportunity for  
5 hearing, may revoke or suspend the certificate of authority of a  
6 captive insurance company for:

7 (1) insolvency or impairment of required capital or  
8 surplus to policyholders;

9 (2) failure to submit an annual report, as required by  
10 Section 964.060;

11 (3) failure to comply with the provisions of its own  
12 charter or bylaws;

13 (4) failure to submit to examination, as required by  
14 Chapter 401;

15 (5) failure to pay the cost of examination, as  
16 required by Chapter 401;

17 (6) failure to pay any tax or fee required by this  
18 code;

19 (7) removal of its principal office or books and  
20 records from this state without prior approval of the commissioner;

21 (8) use of practices that render its operation  
22 detrimental to the public or its condition unsound; or

23 (9) failure to otherwise comply with the laws of this  
24 state.

25 Sec. 964.066. STANDARDS FOR RISK MANAGEMENT OF CONTROLLED  
26 UNAFFILIATED BUSINESS. The commissioner may adopt rules  
27 establishing standards to ensure that an affiliated company is able

1 to exercise control of the risk management function of any  
2 controlled unaffiliated business to be insured by the captive  
3 insurance company. Until rules under this section are adopted, the  
4 commissioner may approve the coverage of these risks by a captive  
5 insurance company.

6 Sec. 964.067. CAPTIVE MANAGERS. Before providing captive  
7 management services to a licensed captive insurance company, a  
8 captive management company shall register with the commissioner by  
9 providing the information required on a form adopted by the  
10 commissioner.

11 Sec. 964.068. MAINTENANCE TAX. A captive insurance company  
12 is subject to maintenance tax under Subtitle C, Title 3, on the  
13 correctly reported gross premiums from writing insurance on risks  
14 located in this state as applicable to the individual lines of  
15 business written by the captive insurance company.

16 Sec. 964.069. RULEMAKING AUTHORITY. The commissioner may  
17 adopt reasonable rules as necessary to implement the purposes and  
18 provisions of this chapter.

19 Sec. 964.070. CONFIDENTIALITY. (a) Any information filed  
20 by an applicant or captive insurance company under this chapter is  
21 confidential and privileged for all purposes, including for  
22 purposes of Chapter 552, Government Code, a response to a subpoena,  
23 or evidence in a civil action. Except as provided by Subsections  
24 (b) and (c), the information may not be disclosed without the prior  
25 written consent of the applicant or captive insurance company to  
26 which the information pertains.

27 (b) If the recipient of the information described by

1 Subsection (a) has the legal authority to maintain the confidential  
2 or privileged status of the information and verifies that authority  
3 in writing, the commissioner or another person may disclose the  
4 information to any of the following entities functioning in an  
5 official capacity:

6 (1) a commissioner of insurance or an insurance  
7 department of another state;

8 (2) an authorized law enforcement official;

9 (3) a district attorney of this state;

10 (4) the attorney general;

11 (5) a grand jury;

12 (6) the National Association of Insurance  
13 Commissioners if the captive insurance company is affiliated with  
14 an insurance company that is part of an insurance holding company  
15 system as described in Chapter 823;

16 (7) another state or federal regulator if the  
17 applicant or captive insurance company to which the information  
18 relates operates in the entity's jurisdiction;

19 (8) an international insurance regulator or analogous  
20 financial agency if the captive insurance company is affiliated  
21 with an insurance company that is part of an insurance holding  
22 company system as described in Chapter 823 and the holding company  
23 system operates in the entity's jurisdiction; or

24 (9) members of a supervisory college described by  
25 Section 823.0145, if the captive insurance company is affiliated  
26 with an insurance company that is part of an insurance holding  
27 company system as described in Chapter 823.

1       (c) The commissioner may use information described by  
2 Subsection (a) in the furtherance of a legal or regulatory action  
3 relating to the administration of this code.

4       Sec. 964.071. REDOMESTICATION. (a) An authorized foreign  
5 or alien captive insurance company licensed under laws of any  
6 jurisdiction may become a domestic captive insurance company in  
7 this state on a determination by the commissioner that the  
8 authorized foreign or alien captive insurance company has complied  
9 with all of the requirements of this chapter for the issuance of a  
10 certificate of authority to, and the Business Organizations Code  
11 for converting to an entity of this state for, a domestic captive  
12 insurance company of the same type.

13       (b) A domestic captive insurance company, on the approval of  
14 the commissioner, may transfer its domicile. On the transfer, the  
15 captive insurance company ceases to be a domestic captive insurance  
16 company. The commissioner shall approve any proposed transfer  
17 unless the commissioner determines the transfer is not in the best  
18 interest of the policyholders.

19       (c) The commissioner may postpone or waive the imposition of  
20 any fees or taxes under this code for a period not to exceed two  
21 years for any foreign or alien captive insurance company  
22 redomesticating to this state.

23       SECTION 3. Subsection (b), Section 203.001, Insurance Code,  
24 is amended to read as follows:

25       (b) Except as otherwise provided by this code or the Labor  
26 Code, an insurer or health maintenance organization subject to a  
27 tax imposed by Chapter 4, 221, 222, 223A, 224, or 257 may not be

1 required to pay any additional tax imposed by this state or a county  
2 or municipality in proportion to the insurer's or health  
3 maintenance organization's gross premium receipts.

4 SECTION 4. Subdivision (11), Section 228.001, Insurance  
5 Code, is amended to read as follows:

6 (11) "State premium tax liability" means:

7 (A) any liability incurred by any person under  
8 Chapter 221, 222, 223, 223A, or 224; or

9 (B) if the tax liability imposed under Chapter  
10 221, 222, 223, or 224 is eliminated or reduced, any tax liability  
11 imposed on an insurer or other person that had premium tax liability  
12 under Subchapter A, Chapter 4, or Article 9.59 as those laws existed  
13 on January 1, 2003.

14 SECTION 5. Subsection (a), Section 171.052, Tax Code, is  
15 amended to read as follows:

16 (a) Except as provided by Subsection (c), an insurance  
17 organization, title insurance company, or title insurance agent  
18 authorized to engage in insurance business in this state now  
19 required to pay an annual tax under Chapters 221, 222, 223, 223A,  
20 and 224 [~~Chapter 4 or 9~~], Insurance Code, measured by its gross  
21 premium receipts is exempted from the franchise tax. A nonadmitted  
22 insurance organization that is required to pay a gross premium  
23 receipts tax during a tax year is exempted from the franchise tax  
24 for that same tax year.

25 SECTION 6. As soon as practicable after the effective date  
26 of this Act, but not later than January 1, 2014, the commissioner of  
27 insurance shall adopt rules and procedures necessary to implement

1 Chapter 964, Insurance Code, as added by this Act.

2 SECTION 7. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2013.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 734 passed the Senate on April 16, 2013, by the following vote: Yeas 29, Nays 0; and that the Senate concurred in House amendments on May 20, 2013, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 734 passed the House, with amendments, on May 16, 2013, by the following vote: Yeas 139, Nays 1, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor