

By: Carona
(Smithee)

S.B. No. 734

Substitute the following for S.B. No. 734:

By: Smithee

C.S.S.B. No. 734

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the licensing of captive insurance companies;
3 authorizing fees and authorizing and imposing taxes.

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

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

7 CHAPTER 223A. CAPTIVE INSURANCE PREMIUM TAX

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

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

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

19 (b) Except as provided by Subsection (c), in determining a
20 captive insurance company's taxable premium receipts, the captive
21 insurance company shall include the total gross amounts of
22 premiums, membership fees, assessments, dues, revenues, and other
23 considerations for insurance written by the captive insurance
24 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 company
10 liable for the tax imposed by this chapter must file annually with
11 the comptroller a tax report on a form prescribed by the
12 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 by
16 rule may change the dates for reporting and paying taxes under this
17 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. (a)

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

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

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

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

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

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

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

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

26 (1) its affiliates have significant operations in this
27 state, as determined by the commissioner;

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

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

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

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

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

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

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

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

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

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

26 (b) The amount of capital and surplus determined by the
27 commissioner under Subsection (a) may not be less than \$250,000.

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

3 (1) United States currency;

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

9 (3) bonds of this state; or

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

13 Sec. 964.057. APPLICATION FOR CERTIFICATE OF AUTHORITY.

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

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

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

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

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

27 (A) the capital and surplus are the bona fide

1 property of the company; and

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

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

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

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

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

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

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

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

26 Sec. 964.058. EXAMINATION BY COMMISSIONER. (a) After the
27 application and application fee for a certificate of authority

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

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

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

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

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

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

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

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

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

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

26 (b) In evaluating the application, the commissioner shall
27 consider:

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

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

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

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

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

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

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

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

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

26 (3) issue a certified copy of the certificate of
27 authority to the applicant's incorporators or officers.

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

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

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

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

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

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

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

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

26 (3) its balance sheet, income statement, and statement
27 of cash flows, verified by two of its executive officers, before

1 March 1 of each year to provide sufficient detail to support a
2 premium tax return.

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

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

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

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

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

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

1 company.

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

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

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

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

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

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

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

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

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

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

24 Sec. 964.066. STANDARDS FOR RISK MANAGEMENT OF CONTROLLED
25 UNAFFILIATED BUSINESS. The commissioner may adopt rules
26 establishing standards to ensure that an affiliated company is able
27 to exercise control of the risk management function of any

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

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

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

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

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

26 (b) If the recipient of the information described by
27 Subsection (a) has the legal authority to maintain the confidential

1 or privileged status of the information and verifies that authority
2 in writing, the commissioner or another person may disclose the
3 information to any of the following entities functioning in an
4 official capacity:

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

7 (2) an authorized law enforcement official;

8 (3) a district attorney of this state;

9 (4) the attorney general;

10 (5) a grand jury;

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

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

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

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

27 (c) The commissioner may use information described by

1 Subsection (a) in the furtherance of a legal or regulatory action
2 relating to the administration of this code.

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

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

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

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

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

1 or municipality in proportion to the insurer's or health
2 maintenance organization's gross premium receipts.

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

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

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

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

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

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

24 SECTION 6. As soon as practicable after the effective date
25 of this Act, but not later than January 1, 2014, the commissioner of
26 insurance shall adopt rules and procedures necessary to implement
27 Chapter 964, Insurance Code, as added by this Act.

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