

BILL ANALYSIS

Senate Research Center
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S.B. 667
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2013, the 83rd Legislature passed S.B. 734, authorizing captive insurance companies to be domiciled in Texas for the first time. Captive insurance companies are a type of licensed insurance company that is used to insure the risk of the company's own affiliates or controlled unaffiliated parties. Captive insurance companies do not insure the general public.

A total of 37 U.S. states and a number of foreign jurisdictions permit the formation of captive insurance companies, which have been in existence in the United States since 1972. With more than 6,500 of them operating globally, the use of captive insurance companies is a proven and valuable tool that helps businesses reduce or stabilize their cost of risks.

S.B. 734 opened the door for Texas businesses to create their own captive insurance companies or to re-domesticate captive insurance companies they may have formed elsewhere back to Texas. In the first year under the new law, Texas licensed six new captive insurers and re-domesticated nine more.

The purpose of S.B. 667 is to make these opportunities in the Texas captive statute available to more Texas businesses. It will encourage the many Texas businesses with captive insurers in other jurisdictions to re-domesticate to Texas. Additionally, the bill will make it more attractive and efficient for more Texas businesses to form their captives in Texas by permitting Texas captives to pool risk with other captives subject to approval by the Texas Department of Insurance (TDI); authorize a Texas captive to accept risks from and cede risks to or take credit for reserves on risks ceded to certain risk pools and affiliated captives, subject to approval by TDI; and clarify the requirements for dividends to be paid to owners of captive insurers.

As proposed, S.B. 667 amends current law relating to reinsurance, distributions, and pooling arrangements by captive insurance companies.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of insurance in SECTION 3 (Section 964.063, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 964.052, Insurance Code, to read as follows:

Sec. 964.052. REINSURANCE.

SECTION 2. Amends Section 964.052, Insurance Code, by adding Subsection (e), as follows:

(e) Authorizes a captive insurance company, with the approval of the commissioner of insurance (commissioner), notwithstanding Section 964.064 (Prohibition on Joining or Contributing to Certain Entities and Funds), to accept risks from and cede risks to or take credit for reserves on risks ceded to:

(1) a captive reinsurance pool composed only of other captive insurance companies holding a certificate of authority under this chapter or a similar law of another jurisdiction; or

(2) an affiliated captive insurance company holding a certificate of authority under this chapter or a similar law of another jurisdiction.

SECTION 3. Amends Section 964.063, Insurance Code, as follows:

Sec. 964.063. New heading: DIVIDENDS. (a) Creates this subsection from existing text. Requires a captive insurance company to notify the commissioner in writing when issuing policyholder dividends.

(b) Authorizes a captive insurance company, with the commissioner's approval, to issue dividends or distributions to the holders of an equity interest in the captive insurance company. Requires the commissioner to adopt rules to implement this subsection.

SECTION 4. Amends Subchapter B, Chapter 964, Insurance Code, by adding Section 964.072, as follows:

Sec. 964.072. APPROVAL OF CAPTIVE REINSURANCE POOLS. Authorizes the commissioner, before determining whether to approve a captive insurance company's participation in a captive reinsurance pool under Section 964.052 (Authority to Provide Reinsurance), to:

(1) require that the captive insurance company provide to the commissioner evidence that the captive reinsurance pool:

(A) is composed only of other captive insurance companies holding a certificate of authority under this chapter or a similar law of another jurisdiction; and

(B) will be able to meet the pool's financial obligations; and

(2) impose any other limitation or requirement on the captive insurance company that is necessary and proper to provide adequate security for the captive insurance company.

SECTION 5. Effective date: upon passage or September 1, 2015.