

SUBJECT: Providing certain authority to captive insurance companies

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Frullo, G. Bonnen, Guerra, Meyer, Paul, Sheets, Workman

0 nays

2 absent — Muñoz, Vo

SENATE VOTE: On final passage, April 9 — 31-0 on local and uncontested calendar

WITNESSES: *(On House companion bill, HB 1700)*

For — Joshua Magden, Texas Captive Insurance Association; *(Registered, but not testify:* Kinnan Golemon, Shell Oil Company; Amanda Martin, Texas Association of Business)

Against — None

On — Jamie Walker, Texas Department of Insurance

BACKGROUND: SB 734 by Carona, enacted by the 83rd Legislature in 2013, authorized companies in Texas to create their own captive insurance companies. Captive insurance companies are regulated by the Texas Department of Insurance and must meet certain standards provided by the department. Under Insurance Code, sec. 964.051, captive insurance companies in Texas may not issue life insurance, workers' compensation insurance, or other specified forms of insurance.

DIGEST: SB 667 would allow a captive insurance company to join other captive insurance companies to create a reinsurance pool.

A captive insurance company, with the approval of the commissioner of insurance, could accept risks from, cede risks to, or take credit for reserves on risks ceded to a captive reinsurance pool composed only of other captive insurance companies or affiliated captive insurance companies

with a certificate of authority. The certificate could be issued under Insurance Code, ch. 964, which regulates captive insurance companies, or under a similar law of another jurisdiction.

Before determining whether to approve a captive insurance company's participation in a captive reinsurance pool, the commissioner could require that the reinsurance pool:

- be composed only of other captive insurance companies with a certificate of authority under ch. 964 or a similar law of another jurisdiction; and
- be able to meet its financial obligations.

The commissioner could impose any other limitations or requirements necessary and proper to provide adequate security for the captive insurance company.

SB 667 also would allow captive insurance companies, with the commissioner's approval, to issue dividends or other distributions to people who owned an equity interest in the company. The commissioner would adopt rules to implement this provision.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS  
SAY:**

SB 667 would make the state more attractive to large companies that currently are unable to create a captive insurance company in Texas without collaborating with other captive insurance companies.

Captive insurance companies can save large companies a substantial amount of money. When a company that is large enough to create its own captive insurance company seeks to relocate, it usually is being courted by many different locations. Because of the cost savings of having a captive insurance company, a state's insurance laws can be a critical factor in deciding where to relocate.

Any concerns about a captive insurance company having unethical intentions are not relevant to the kinds of captive insurance companies allowed to operate in Texas. The law relating to captive insurance companies in Texas is very narrow — it is primarily concerned with companies insuring their own equipment and facilities. If the captive insurance company failed, then the company itself would be directly liable to pay the claim. The commissioner of insurance applies the same diversification and solvency standards to captive insurance companies as are applied to other insurance companies.

OPPONENTS  
SAY:

SB 667 could expand the presence of captive insurance companies in the state. While current state law keeps captive insurance companies within narrow confines, this bill could represent a trend toward giving them greater leeway. Captive insurance companies taking on larger roles in the company creates a possibility that the captive insurance company could be caught in a conflict of interest between the profit motives of the company and the best interest of employees.

NOTES:

The House companion bill, HB 1700 by Smithee, was placed for second-reading consideration on the May 13 General State Calendar but was not considered.