

## **BILL ANALYSIS**

Senate Research Center

S.B. 2585  
By: Averitt  
Business & Commerce  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In Texas, certified capital companies (CAPCO) were created as a result of S.B. 601 passed in 2001, by the 77<sup>th</sup> Legislature, and later amended by H.B. 2425 passed in 2003, by the 78<sup>th</sup> Legislature. The regulations for the CAPCO program are contained in the Texas Administrative Code at Title 34 (Public Finance), Part 1 (Comptroller of Public Accounts), Chapter 3 (Tax Administration), Subchapter GG (Insurance Tax). The Texas CAPCO program was established to create economic development with a focus on small and emerging business located throughout the State of Texas. The legislation targets certain low income and rural areas of the state with a guaranteed minimum level of investment. This investment is funded by the securitization of insurance premium tax credits. To accomplish this purpose, legislation was enacted establishing premium tax credits to be claimed by insurance companies that invested in state approved certified capital companies. Those credits may not be utilized earlier than 2009. The insurance companies were granted \$200 million in available tax credits upon investment in qualified debt instruments during 2005. These premium tax credits may be used at a maximum rate of 25 percent per year.

This bill provides for the Texas CAPCO program to be renewed for another round of financing.

As proposed, S.B. 2585 relates to reauthorization of small business incentive program.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the comptroller of public accounts is modified in SECTION 2 (Section 228.0525, Insurance Code) and SECTION 4 (Section 228.253, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. (a) Amends Section 288.001, Insurance Code, as added by Chapter 730, Acts of the 80th Legislature, Regular Session, 2007, to conform to the amendment of Article 4.51, Insurance Code, by Section 1, Chapter 303 (H.B. 1741), Acts of the 80th Legislature, Regular Session, 2007, by adding Subdivisions (5-a), (7-a), and (7-b), and further amends it by amending added Subdivision (7-b) and adding Subdivision (7-c), to define "low-income community," "Program One," "Program Two," and "Program Three."

(b) Repealer: Section 1 (relating to the definition of "low-income community," "Program One," and "Program Two"), Chapter 303 (H.B. 1741), Acts of the 80th Legislature, Regular Session, 2007, which amended former Article 4.51, Insurance Code, by adding Subdivisions (16), (17), and (18).

SECTION 2. Amends Subchapter A, Chapter 228, Insurance Code, by adding Section 228.0525, as follows:

Sec. 228.0525. ACCEPTANCE OF PREMIUM TAX ALLOCATION CLAIMS. (a) Requires that the rules adopted under Section 228.052 (Rules; Forms) provide that the comptroller of public accounts (comptroller) is required to accept premium tax credit allocation claims on behalf of certified investors with respect to Program Three not later than January 1, 2010.

(b) Provides that this section expires January 15, 2010.

SECTION 3. Amends Section 228.251, Insurance Code, by adding Subsection (d), to authorize a certified investor, with respect to credits earned as a result of investments made under Program Three, beginning with the tax report due March 1, 2015, for the 2014 tax year, to take up to 25 percent of the vested premium tax credit in any taxable year of the certified investor. Prohibits the credit from being applied to estimated payments due in 2014.

SECTION 4. (a) Amends Section 228.253(b), Insurance Code, to conform to the amendment of Article 4.66(a), Insurance Code, by Section 6, Chapter 303 (H.B. 1741), Acts of the 80th Legislature, Regular Session, 2007, and further amends it, to require the certified capital company to have filed the claim with the comptroller on the date on which the comptroller accepted premium tax credit allocation claims on behalf of certified investors with respect to Program One, Program Two, or Program Three, as applicable, under the comptroller's rules.

(b) Repealer: Section 6 (relating to a premium tax credit allocation claim on behalf of certified investors with respect to Program One or Program Two), Chapter 303 (H.B. 1741), Acts of the 80th Legislature, Regular Session, 2007, which amended former Article 4.66(a), Insurance Code.

SECTION 5. (a) Amends Section 338.254, Insurance Code, to conform to the amendment of Article 4.67, Insurance Code, by Section 7, Chapter 303 (H.B. 1741), Acts of the 80th Legislature, Regular Session, 2007, and further amends it, as follows:

Sec. 228.254. TOTAL LIMIT ON PREMIUM TAX CREDITS. (a) Provides that the total amount of certified capital for which premium tax credits may be allowed under this chapter for all years in which premium tax credits are allowed is \$200 million for Program One, \$200 million for Program Two, and \$200 million for Program Three.

(b) Prohibits the total amount of certified capital for which premium tax credits may be allowed for all certified investors under this chapter from exceeding the amount that would entitle all certified investors in certified capital companies to take total credits of \$50 million a year with respect to Program One, \$50 million in a year with respect to Program Two, and \$50 million in a year with respect to Program Three.

(c) Prohibits a certified capital company and the company's affiliates from filing premium tax credit allocation claims with respect to Program One, Program Two, or Program Three, as applicable, in excess of the maximum amount of certified capital for which premium tax credits may be allowed for that program as provided by this section.

(b) Repealer: Section 7 (relating to the total limit on credits), Chapter 303 (H.B. 1741), Acts of the 80th Legislature, Regular Session, 2007, which amended former Article 4.67, Insurance Code.

SECTION 6. (a) Amends Section 228.255, Insurance Code, to conform to the amendment of Article 4.68, Insurance Code, by Section 8, Chapter 303 (H.B. 1741), Acts of the 80th Legislature, Regular Session, 2007, and further amends it, as follows:

Sec. 228.255. ALLOCATION OF PREMIUM TAX CREDIT. Makes conforming changes.

(b) Repealer: Section 8 (relating to certain tax credits and tax allocation with respect to Program One or Program Two), Chapter 303 (H.B. 1741), Acts of the 80th Legislature, Regular Session, 2007, which amended former Articles 4.68(a), (b), (c), and (e), Insurance Code.

SECTION 7. (a) Provides that in accordance with Section 311.031(c) (relating to the provision that the repeal of a statute by a code does not affect an amendment, revision, or reenactment of the statute by the same legislature that enacted the code), Government Code, which gives effect

to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Sections 228.001, 228.253, 228.254, and 228.255, Insurance Code, as set out in Sections 1, 4, 5, and 6 of this Act, respectively, gives effect to changes made by Chapter 303 (H.B. 1741), Acts of the 80th Legislature, Regular Session, 2007.

(b) Provides that to the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions and corrections in enacted codes.

SECTION 8. Effective date: September 1, 2009.