

BILL ANALYSIS

Senate Research Center

C.S.S.B. 891
By: Carona
Economic Development
5/5/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

C.S.S.B. 891 amends current law relating to certain investments in certain Texas businesses by insurance companies and related organizations.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 228.001, Insurance Code, by adding Subdivisions (5-b), (5-c), (7-c), and (7-d) and amending Subdivisions (7-a) and (7-b), to define "match," "net profit realized on qualified investments," "profit share percentage," and "Program Three" and redefine "Program One" and "Program Two."

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

Sec. 228.0525. ACCEPTANCE OF PREMIUM TAX ALLOCATION CLAIMS. Requires that the rules adopted under Section 228.052 (Rules; Forms) provide that the comptroller of public accounts (comptroller) shall accept premium tax credit allocation claims on behalf of certified investors with respect to Program Three not later than January 1, 2012.

SECTION 3. Amends Section 228.101, Insurance Code, by adding Subsection (c), as follows:

(c) Requires that an application, with respect to Program Three, include a sworn statement by the managers of the applicant that:

(1) the applicant, if certified as a certified capital company, will, prior to decertification, secure match commitments in an amount equal to at least 150 percent of the company's Program Three allocation; and

(2) Section 3021(d) applies to a certified capital company under Program Three.

SECTION 4. Amends Section 228.107(a), Insurance Code, as follows:

(a) Requires each certified capital company, not later than January 31 of each year, to pay a nonrefundable renewal fee in an amount set by the comptroller that is sufficient to reimburse the comptroller for annual administrative costs of the program, not to exceed \$15,000 per certified capital company, rather than pay a nonrefundable renewal fee of \$5,000 to the comptroller. Requires the comptroller to notify each certified capital company of the amount of the fee not later than January 31 of the year preceding the year in which the fee is due.

SECTION 5. Amends Section 228.157(b), Insurance Code, to require a company, to make a distribution or payment other than a qualified distribution, to have performed certain actions,

including, with respect to Program Three, to have paid the state any applicable profit share percentage and secured match investments in an amount equal to at least 150 percent of the company's Program Three allocation under Section 228.101 (Application for Certification), or have been decertified under Section 228.3021.

SECTION 6. Amends Section 228.251, Insurance Code, by adding Subsection (d), as follows:

(d) Authorizes 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, 2017, for the 2016 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 2016.

SECTION 7. Amends Section 228.253(b), Insurance Code, to require the certified capital company to have filed the claim with the comptroller of 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.

SECTION 8. Amends Section 228.254, Insurance Code, 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:

- (1) \$200 million for Program One;
- (2) \$200 million for Program Two; and
- (3) \$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 in 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.

SECTION 9. Amends Section 228.255, Insurance Code, as follows:

Sec. 228.255. ALLOCATION OF PREMIUM TAX CREDIT. (a) Requires the comptroller, if the total premium tax credits claimed by all certified investors with respect to Program One, Program Two, or Program Three, as applicable, exceeds the total limits on premium tax credits established for that program by Section 228.254(a), to allocate the total amount of premium tax credits allowed under this chapter to certified investors in certified capital companies on a pro rata basis in accordance with this section.

(b) Requires the pro rata allocation for each certified investor to be the product of:

- (1) a fraction, the numerator of which is the amount of the premium tax credit allocation claim filed on behalf of the investor with respect to Program One, Program Two, or Program Three, as applicable, and the denominator of which is the total amount of all premium tax credit allocation claims filed on behalf of all certified investors with respect to that program; and

(2) the total amount of certified capital for which premium tax credits may be allowed with respect to that program under this chapter.

(c) Prohibits the maximum amount of certified capital for which premium tax credit allocation may be allowed on behalf of a single certified investor and the investor's affiliates with respect to Program One, Program Two, or Program Three, as applicable, whether by one or more certified capital companies, from exceeding the greater of:

(1) \$10 million; or

(2) 15 percent of the maximum aggregate amount available with respect to that program under Section 228.254(a).

SECTION 10. Amends Subchapter G, Chapter 228, Insurance Code, by adding Section 228.3021, as follows:

Sec. 228.3021. VOLUNTARY DECERTIFICATION OF CERTIFIED CAPITAL COMPANY. (a) Authorizes the comptroller to decertify a certified capital company on the written request of the company if the comptroller finds that the company has made qualified investments in an amount equal to 100 percent of the company's certified capital.

(b) Requires the comptroller to notify any appropriate state agency of a decertification of a certified capital company.

(c) Provides that, on being decertified by the comptroller, a certified capital company is not required to pay the annual renewal fee required by Section 228.107 (Renewal Fee; Late Fee; Exception).

(d) Prohibits a certified capital company, with respect to Program Three, from being decertified under this section before match investments have been made in an amount equal to at least 150 percent of the company's Program Three allocation under Section 228.101.

SECTION 11. Amends Section 228.351, Insurance Code, by adding Subsection (f) to provide that this subchapter does not authorize the recapture and forfeiture of premium tax credits following voluntary decertification of a certified capital company under Section 228.3021.

SECTION 12. Effective date: September 1, 2011.