

BILL ANALYSIS

Senate Research Center
82R5594 TJS-D

S.B. 891
By: Carona
Economic Development
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Certified Capital Company (CAPCO) program was established in 2001 to stimulate economic development with a focus on small and emerging businesses located throughout Texas. The comptroller of public accounts and the Texas Treasury Safekeeping Trust Company are responsible for administering the Texas CAPCO program. The legislation targets Texas-based small businesses for investment, with an emphasis on underserved businesses in early stages of development and in low-income and rural areas. The program is funded by the securitization of insurance premium tax credits. These premium tax credits are granted only after an investment is made in a CAPCO fund and may be redeemed at a maximum rate of 25 percent per year. At the current rate of investment of Programs One and Two already authorized by the legislature, the program is expected to be fully invested by 2012. If Program Three were not enacted until 2011 (effective 2012), there would be a lapse in funding for these small businesses. CAPCO Program Three will ensure continuity in the program so that investment continues in Texas small businesses. S.B. 891 provides for the certified CAPCO program to be reauthorized to avoid a disruption in investment.

As proposed, S.B. 891 amends current law relating to certain investments by insurance companies and related organizations.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 228.001, Insurance Code, by amending Subdivision (7-b) and by adding Subdivision (7-c), to redefine "Program Two" and define "Program Three."

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. (a) Requires that the rules adopted under Section 228.052 (Rules; Forms) provide that the comptroller shall accept premium tax credit allocation claims on behalf of certified investors with respect to Program Three not later than January 1, 2012.

(b) Provides that this section expires January 15, 2012.

SECTION 3. 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 4. Amends Section 228.253(b), Insurance Code, to require the certified capital company to have filed the claim with the comptroller of public accounts (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.

SECTION 5. 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 6. 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 7. Effective date: September 1, 2011.