

Texas Captive Insurance Bills Finally Passed



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The Texas Legislature has finally passed new legislation which expands opportunities and streamlines regulation of captives in Texas. HB 1944 is sponsored by Representative Jim Murphy of Houston and HB 1187 by Representative Giovanni Capriglione of Southlake have each passed each house without a dissenting vote and are pending action by the Governor.

HB 1944 will make two significant changes in Texas law and address some more operational issues. The significant changes are (1) authorizing captive insurers to be organized and re-domesticated in the form of a reciprocal exchange and (2) to authorize credit for reinsurance ceded to non-affiliated and non-licensed insurance companies.

The bill authorizes reciprocal exchanges with attorney-in-fact entities organized in Texas and subscribers which are affiliated with the parent within the current law. Captive exchanges will otherwise be regulated as other captive insurers.

The new credit for reinsurance option allows Texas captive insurers to reinsure directly with offshore reinsurance markets. To qualify, the reinsurer will be required to meet these specific standards:

1. Domiciled in a jurisdiction qualified by the NAIC;
2. Policyholder surplus of \$250 or more;
3. Rated B+ or higher by a qualifying rating organization; and
4. Acceptable to the Commissioner of Insurance.

Additionally, the bill authorizes a captive insurance company to insure life insurance benefits for employee benefits subject to ERISA (Employee Retirement Income Security Act of 1974).

Among the clarifications provided by HB 1944 are:

1. Allowing capital and surplus to be held in the form of Texas county or municipal bonds.
2. Allowing a waiver of the requirement to provide an actuarial report with the captive's annual filing under certain circumstances.
3. Eliminating the requirement that the captive have a licensed claims adjuster if the claims are limited to first party claims of the parent and/or affiliates of the captive.
4. Simplifying the corporate formation process between the secretary of state and the Department of Insurance.

HB 1944 will be effective on the earlier of the date it is signed by the Governor or June 18, 2017.

HB 1187 authorizes a captive insurance company to reinsure credit life and disability insurance offered as part of, or directly relating to, the operational risks of an affiliate or controlled unaffiliated business. It will be effective September 1, 2017.

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