

S U S A N

C O M B S

Instructions for Application for Certification as a Certified Capital Company for Program II

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS



GENERAL

House Bill 1741, passed by the 80th Texas Legislature, amended Subchapter B of Chapter 4, Texas Insurance Code, to allow for licensed insurance companies to invest an additional \$200 million in certified capital companies (CAPCOs). Certified capital companies are state-regulated, privately-owned and operated venture capital entities that invest funds in qualified businesses that do business in the State of Texas.

Applications for certification as a CAPCO will be accepted on or after Sept. 1, 2007. *(Tax Credit Allocation information will be submitted to the CAPCO upon its certification under the program. Requests for allocation of Tax Credits will be accepted beginning Dec. 15, 2007.)*

Enclosed is the Texas CAPCO certification package. It includes an Application for Certification form, a Biographical Affidavit form and a copy of the enabling legislation. The Application for Certification was drafted to reflect a corporate Applicant. An Applicant that is a limited liability company, partnership or trust should provide information comparable to that requested.

Newly formed CAPCOs should submit an original and two (2) copies of the Application and all supporting materials and attachments, with a non-refundable application fee of \$7,500.00 (made payable to the Comptroller of Public Accounts) to:

Texas Comptroller of Public Accounts
CAPCO Program Administrator
208 E. 10th Street, Fourth Floor
Austin, TX 78701

ANY APPLICATION THAT DOES NOT CONTAIN EVIDENCE OF THE MINIMUM \$500,000 INITIAL CAPITALIZATION WILL NOT BE DEEMED TO HAVE BEEN FILED AND WILL BE RETURNED.

THE 30-DAY CERTIFICATION PROCESS WILL BEGIN ON THE BUSINESS DAY FOLLOWING THE DATE THE PROPERLY COMPLETED APPLICATION FORM AND SUPPORTING DOCUMENTS AND ATTACHMENTS ARE STAMPED RECEIVED. AN INCOMPLETE OR IMPROPERLY COMPLETED APPLICATION WILL DELAY THE CERTIFICATION PROCESS.

Questions regarding submission of the Application and certification compliance or requirements should be directed to:

CAPCO Program Administrator
512-463-4124
FAX: 512-463-4368
Email: corrine.hall@cpa.state.tx.us

DEFINITIONS

As used in Item A.6, a *CAPCO Affiliate* means a CAPCO (certified in Texas or elsewhere):

- (a) in close connection, aligned, or associated with the Texas CAPCO Applicant; or
- (b) in which the Texas CAPCO Applicant has at least a 10% beneficial interest.

As used in Item A.7, an *Affiliate Company* means a legal entity that is in close connection, aligned, associated with, or has at least a 10% beneficial interest in the Texas CAPCO Applicant.

Headquartered

A CAPCO will be considered "headquartered" in Texas if it meets, at a minimum, the following requirements with respect to the Texas CAPCO Program:

- (a) The CAPCO has a principal office in Texas in which the main investment and administrative functions of the CAPCO are conducted;
- (b) The original principal books and records of the CAPCO are maintained in the Texas office; and
- (c) Not less than eighty percent (80%) of the CAPCO's operational expenses (with certain exceptions) are spent in Texas.

Plan of Operation

1. *Mission Statement* must state, at minimum, that the Applicant's purpose is to encourage and assist in the creation, development, and expansion of Texas qualified businesses, emphasizing viable small business enterprises which traditionally have had difficulty in attracting institutional venture capital, and to expand employment opportunities in Texas, thereby promoting the growth of the State's economy.
2. *Description of Business/Business Plan* must describe the proposed CAPCO in detail and include, at minimum:
 - (a) a description of its organizational structure;
 - (b) an analysis of the areas and types of proposed qualified businesses to be invested in;
 - (c) location(s) of the CAPCO;
 - (d) a description of its management structure, including job descriptions and personnel composition and experience;
 - (e) long- and short-range plans and objectives which have been adopted by the CAPCO;
 - (f) a description of any (or copies of any written) business policies which have been established governing accounting procedures, certified capital investments, loan and investment applications and the approval process, and dividend policy;
 - (g) any financial statements, including anticipated/projected growth of qualified and non-qualified business investments; and
 - (h) copies of any certified investor agreement forms.
3. *Organizational Structure* includes:
 - (a) an organizational chart listing all entities affiliated with the Applicant (i.e., parent, subsidiaries, and other related interests); and
 - (b) a statement disclosing any existing or potential conflicts of interest between the Applicant, members, managers, associates, or affiliates.
4. *Service Providers and Responsibilities* shall include, at minimum, a full description of the functions that the service provider has been contracted for.

CERTIFICATION

The Applicant must adopt and certify the resolution contained in Attachment 6 of the Application as follows:

1. If Applicant is a corporation, the above resolution should be adopted by its board of directors and certified by its President and Secretary.
2. If Applicant is a limited liability company, the resolution should be adopted by the members and certified by two members. (If there is only one member the certification should be by the sole member.)
3. If the Applicant is a partnership, the resolution should be adopted by the partners (or general partners in the case of a limited partnership) and certified by two partners or general partners, unless there is only one general partner in which case it should be certified by the sole general partner. (If the general partner is not a person but is an entity, the persons within the general partnership who would certify this document if the general partner itself was the Applicant should certify.)
4. If the Applicant is a trust, the resolution should be adopted by the trustees and certified by two trustees, or if there is only one trustee, by the sole trustee. (If the sole trustee is not a natural person, follow the same procedure outlined above for partnerships.)