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INSURANCE PROPOSALS FOR THE DISTRICT OF COLUMBIA

GOVERNMENT

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HEARINGS

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BEFORE THE

SUBCOMMITTEE ON
BUSINESS, COMMERCE, AND TAXATION

OF THE

COMMITTEE ON
THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 4083 and H.R. 5687

TO IMPROVE THE LAWS RELATING TO THE REGULATION
OF INSURANCE IN THE DISTRICT OF COLUMBIA,
AND FOR OTHER PURPOSES

(DISTRICT OF COLUMBIA INSURANCE ACT)

H.R. 7218

TO IMPROVE THE LAWS RELATING TO THE REGULATION
OF INSURANCE COMPANIES IN THE DISTRICT OF COLUMBIA
(HOLDING COMPANY SYSTEM REGULATORY ACT)

H.R. 6186

TO AMEND THE DISTRICT OF COLUMBIA REVENUE ACT OF
1947 REGARDING TAXABILITY OF DIVIDENDS RECEIVED
BY A CORPORATION FROM INSURANCE COMPANIES

APRIL 5 AND JULY 16, 1973

Printed for the use of the
Committee on the District of Columbia

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1973

20-374 O

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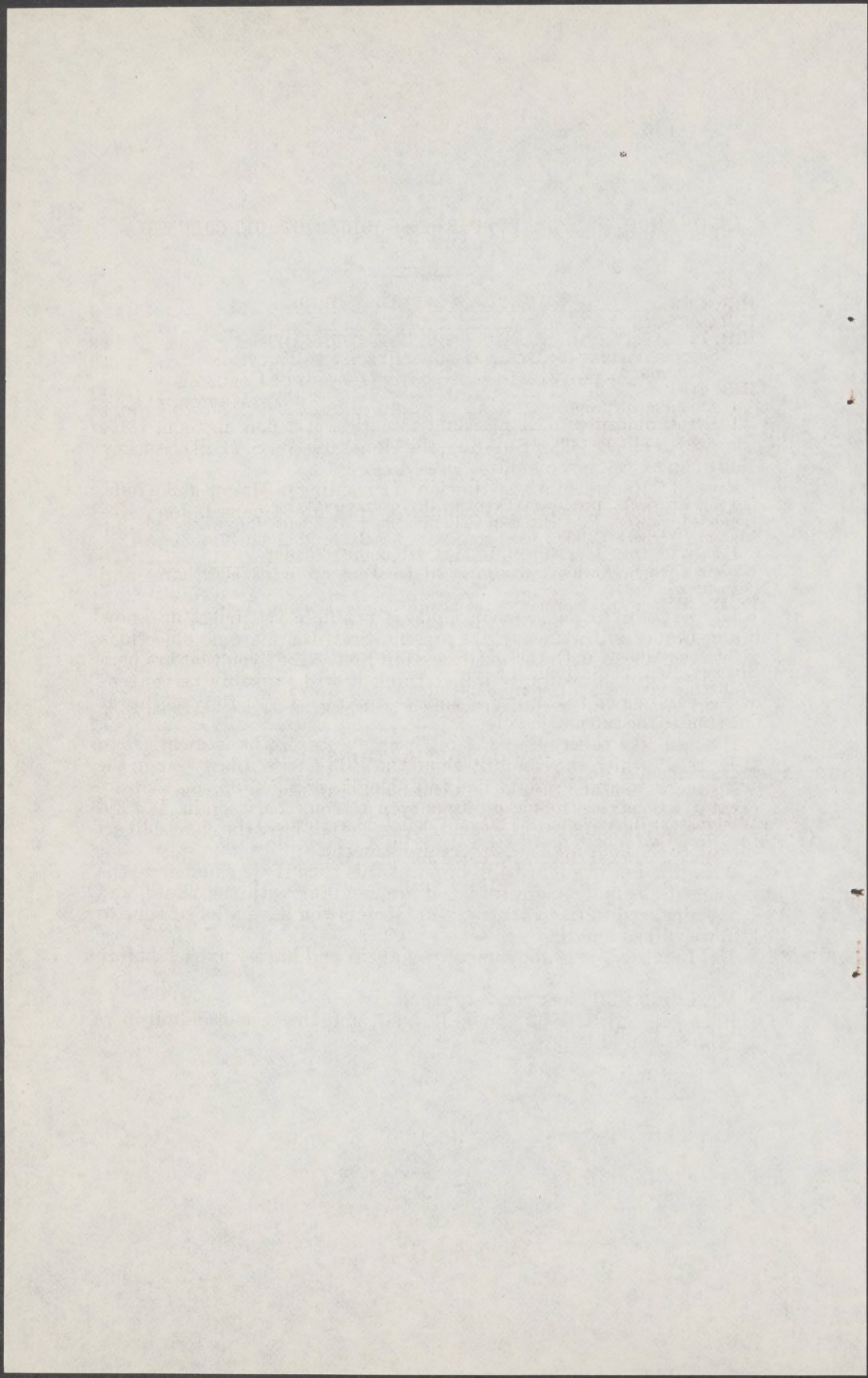
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INSURANCE PROPOSALS FOR THE DISTRICT OF COLUMBIA

THURSDAY, APRIL 5, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON BUSINESS, COMMERCE AND TAXATION
OF THE COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m. in room 1310, Longworth House Office Building, the Honorable W. S. (Bill) Stuckey Chairman of the Subcommittee, presiding.

Present: Representatives Stuckey (Presiding), Mann, and Gude, Also present: Robert B. Washington Jr., Chief Counsel, John Hogan, Minority Counsel.

Mr. STUCKEY. The subcommittee will come to order.

This afternoon we are supposed to start off with H.R. 2524 and H.R. 5659.

Mr. STUCKEY. Congressman Gude is not here yet, but I do know the insurance bill witnesses are present. So if there are no objections we will go ahead with the insurance bill first. All of you that are here to testify on the insurance bill, I think it will probably be convenient—we are not too crowded today—for all of you to come up at one time to the table.

I would like to say that the bill we have before us is identical to H.R. 13595 which the committee and the House passed last year in the 92d Congress, and I would like to apologize to those of you that are present for having to impose upon you to come back again. We did pass the bill last year; unfortunately we did not have the chance to get the bill to the floor in the rush for adjournment.

Also, I think it might be in order at this time if we summarize the statements, because I am sure you are familiar with the issues, and I have listened to them all last year. Unless you have a lot of time to kill, we will summarize.

Mr. Lombard, it is good to see you again and have you back before us.

Mr. LOMBARD. Thank you very much, sir.

[The bills, H.R. 4083 and H.R. 5687, and the memorandum in re H.R. 4083 and H.R. 5687, follow:]

93D CONGRESS
1ST SESSION

H. R. 4083

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 1973

Mr. STUCKEY introduced the following bill; which was referred to the Committee on the District of Columbia

A BILL

To improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "District of Columbia
4 Insurance Act".

5 TITLE I—DISTRICT OF COLUMBIA POST ASSESS-
6 MENT INSURANCE GUARANTY ASSOCIATION
7 ACT

8 SEC. 101. This title shall be known and may be cited as
9 the "District of Columbia Insurance Guaranty Association
10 Act".

11 SEC. 102. The purpose of this title is to provide a

1 mechanism for the payment of covered claims under certain
2 insurance policies to avoid excessive delay in payment and
3 to avoid financial loss to claimants or policyholders because
4 of the insolvency of an insurer, to assist in the detection and
5 prevention of insurer insolvencies, and to provide an associa-
6 tion to assess the cost of such protection among insurers.

7 SEC. 103. This title shall apply to all kinds of direct in-
8 surance, except life, title, disability, and mortgage guaranty
9 insurance.

10 SEC. 104. As used in this title—

11 (1) The term "Commissioner" means the Commissioner
12 of the District of Columbia or his designated agent.

13 (2) The term "covered claim" means an unpaid claim,
14 including one for unearned premiums, which arises out of and
15 is within the coverage and not in excess of the applicable
16 limits of an insurance policy to which this title applies issued
17 by an insurer, if such insurer becomes an insolvent insurer
18 after the effective date of this title and (a) the claimant or
19 insured is a resident of the District of Columbia at the time
20 of the insured event; or (b) the property from which the
21 claim arises is permanently located in the District of Colum-
22 bia. Such term shall not include any amount due any
23 reinsurer, insurer, insurance pool, or underwriting asso-
24 ciation, as subrogation recoveries or otherwise.

25 (3) The term "insolvent insurer" means (a) an in-

1 surer authorized to transact insurance in the District of Co-
2 lumbia, either at the time the policy was issued or when the
3 insured event occurred, who has been determined to be
4 insolvent by a court of competent jurisdiction.

5 (4) The term "member insurer" means any person who
6 (a) writes any kind of insurance to which this title applies,
7 including the exchange of reciprocal or interinsurance con-
8 tracts, and (b) is licensed to transact insurance in the
9 District of Columbia.

10 (5) The term "net direct written premiums" means
11 direct gross premiums written in the District on insurance
12 policies to which this title applies, less return premiums
13 thereon and dividends paid or credited to policyholders on
14 such direct business. Such term does not include premiums
15 on contracts between insurers or reinsurers.

16 (6) The term "person" includes individuals, corpora-
17 tions, associations, exchanges, and partnerships.

18 SEC. 105. There is created a nonprofit unincorporated
19 legal entity to be known as the District of Columbia Insur-
20 ance Guaranty Association (hereafter in this title referred to
21 as the "Association"). All member insurers shall be and
22 remain members of the Association as a condition of their
23 authority to transact insurance in the District of Columbia.
24 The Association shall perform its functions under a plan of
25 operation established and approved by the Commissioner and

1 shall exercise its powers through a Board of Directors (here-
2 after in this title referred to as the "Board"). For purposes
3 of administration and assessment, the Association shall be
4 divided into three separate accounts: (a) the workmen's
5 compensation insurance account; (b) the automobile insur-
6 ance account; and (c) the account for all other insurance to
7 which this title applies.

8 SEC. 106. (a) The Board shall consist of not less than
9 five nor more than nine persons serving terms as estab-
10 lished in the plan of operation. The members of the Board
11 shall be selected by member insurers subject to the ap-
12 proval of the Commissioner. Vacancies on the Board shall
13 be filled for the remaining period of the term in the same
14 manner as initial appointments. If no members are selected
15 within sixty days after the effective date of this title, the
16 Commissioner may appoint the initial members of the
17 Board.

18 (b) In approving selections to the Board, the Com-
19 missioner shall consider among other things whether all
20 member insurers are fairly represented.

21 (c) Members of the Board may be reimbursed from the
22 assets of the Association for expenses incurred by them as
23 members of the Board.

24 SEC. 107. (a) The Association shall—

25 (1) be obligated to the extent of the covered claims

1 existing prior to the determination of insolvency and
2 arising within thirty days after the determination of
3 insolvency, or before the policy expiration date if less
4 than thirty days after the determination, or before the
5 insured replaces the policy or causes its cancellation, if
6 he does so within thirty days of the determination, but
7 such obligation shall include only that amount of each
8 covered claim which is in excess of \$100 and is less
9 than \$300,000, except that the Association shall pay
10 the full amount of any covered claim arising out of a
11 workmen's compensation policy; except in no event
12 shall the Association be obligated to a policyholder or
13 claimant in an amount in excess of the obligation of the
14 insolvent insurer under the policy from which the claim
15 arises;

16 (2) be deemed the insurer to the extent of its obliga-
17 tion on the covered claims and to such extent shall have
18 all rights, duties, and obligations of the insolvent insurer
19 as if the insurer had not become insolvent;

20 (3) allocate claims paid and expenses incurred
21 among the three accounts separately, and assess mem-
22 ber insurers separately, according to subsection (b) of
23 this section, for each account amounts necessary to pay
24 the obligations of the Association under paragraph (1)
25 of this subsection subsequent to an insolvency, the ex-

1 penses of handling covered claims subsequent to an in-
2 solvency, the cost of examinations under section 112
3 and other expenses authorized by this title;

4 (4) investigate claims brought against the Associ-
5 ation and adjust, compromise, settle, and pay covered
6 claims to the extent of the Association's obligation and
7 deny all other claims and may review settlements, re-
8 leases and judgments to which the insolvent insurer or
9 its insureds were parties to determine the extent to
10 which such settlements, releases and judgments may be
11 properly contested;

12 (5) notify such persons as the Commissioner di-
13 rects under section 109 (b) (1) ;

14 (6) handle claims through its employees or through
15 one or more insurers or other persons designated, subject
16 to the approval of the Commissioner, as servicing facili-
17 ties, except such designation may be declined by a mem-
18 ber insurer; and

19 (7) reimburse each servicing facility for obligations
20 of the Association paid by the facility and for expenses
21 incurred by the facility while handling claims on behalf
22 of the Association, and pay the other expenses of the
23 Association authorized by this title.

24 (b) The assessments of each member insurer under
25 paragraph (2) of subsection (a) of this section shall be in

1 the proportion that the net direct written premiums of the
2 member insurer for the preceding calendar year on the kinds
3 of insurance in the account bears to the net direct written
4 premiums of all member insurers for the preceding calendar
5 year on the kinds of insurance in the account. Each member
6 insurer shall be notified of the assessment not later than
7 thirty days before it is due. No member insurer may be
8 assessed in any year on any account an amount greater than
9 2 per centum of that member insurer's net direct written
10 premiums for the preceding calendar year on the kinds of
11 insurance in the account. If the maximum assessment, to-
12 gether with the other assets of the Association in any account,
13 does not provide in any one year in any account an amount
14 sufficient to make all necessary payments from that account,
15 the funds available shall be prorated and the unpaid portion
16 shall be paid as soon thereafter as funds become available.
17 The Association may exempt or defer, in whole or in part,
18 the assessment of any member insurer, if the assessment
19 would cause the member insurer's financial statement to
20 reflect amounts of capital or surplus less than the minimum
21 amounts required for a certificate of authority by any juris-
22 diction in which the member insurer is authorized to transact
23 insurance. Each member insurer may set off against any
24 assessment, authorized payments made on covered claims and
25 expenses incurred in the payment of such claims by the

1 member insurer if they are chargeable to the account for
2 which the assessment is made.

3 (c) The Association may—

4 (1) employ or retain such persons as are necessary
5 to handle claims and perform other duties of the Asso-
6 ciation;

7 (2) borrow funds necessary to effect the purposes
8 of this title in accord with the plan of operation;

9 (3) sue or be sued;

10 (4) negotiate and become a party to such contracts
11 as are necessary to carry out the purpose of this title;

12 (5) perform such other acts as are necessary or
13 proper to effectuate the purpose of this title; and

14 (6) refund to the member insurers in proportion
15 to the contribution of each member insurer to that ac-
16 count that amount by which the assets of the account
17 exceed the liabilities, if, at the end of any calendar year,
18 the Board finds that the assets of the Association in any
19 account exceed the liabilities of that account as estimated
20 by the Board for the coming year.

21 SEC. 108. (a) (1) The Board shall submit to the Com-
22 missioner a plan of operation and any amendments thereto
23 necessary or suitable to assure the fair, reasonable, and
24 equitable administration of the Association. The plan of op-

1 eration and any amendments thereto shall become effective
2 upon approval in writing by the Commissioner.

3 (2) If the Board fails to submit a suitable plan of op-
4 eration within ninety days following the effective date of
5 this title or if at any time thereafter the Board fails to sub-
6 mit suitable amendments to the plan, the Commissioner shall,
7 after notice and hearing, adopt and promulgate such reason-
8 able rules as are necessary or advisable to effectuate the pro-
9 visions of this title. Such rules shall continue in force until
10 modified by the Commissioner or superseded by a plan sub-
11 mitted by the Board and approved by the Commissioner.

12 (b) All member insurers shall comply with the plan of
13 operation.

14 (c) The plan of operation shall—

15 (1) establish the procedures whereby all the pow-
16 ers and duties of the Association under section 107 will
17 be performed;

18 (2) establish procedures for handling assets of the
19 Association;

20 (3) establish the amount and method of reimburs-
21 ing members of the Board under section 106;

22 (4) establish procedures by which claims may be
23 filed with the Association and establish acceptable forms
24 of proof of covered claims;

1 (5) establish regular places and times for meetings
2 of the Board;

3 (6) establish procedures for records to be kept of
4 all financial transactions of the Association, its agents,
5 and the Board;

6 (7) provide that any member insurer aggrieved
7 by a final action or decision of the Association may ap-
8 peal to the Commissioner within thirty days after the
9 action or decision;

10 (8) establish the procedures whereby selections for
11 the Board will be submitted to the Commissioner; and

12 (9) contain additional provisions necessary or
13 proper for the execution of the powers and duties of
14 the Association.

15 (d) The plan of operation may provide that any or
16 all powers and duties of the Association, except those under
17 subsections 107 (a) (3) and (b) (2), are delegated to a
18 corporation, association, or other organization which per-
19 forms or will perform functions similar to those of this
20 Association, or its equivalent, in two or more States. Such
21 a corporation, association, or organization shall be reim-
22 bursed as a servicing facility would be reimbursed and shall
23 be paid for its performance of any other functions of the
24 Association. A delegation under this subsection shall take
25 effect only with the approval of both the Board and the

1 Commissioner, and may be made only to a corporation, as-
2 sociation, or organization which extends protection in a
3 manner substantially similar to that provided by this title.

4 (e) Notice of claims to the receiver or liquidator of the
5 insolvent insurer shall be deemed notice to the Association
6 or its agent and a list of such claims shall be periodically
7 submitted to the Association or similar organization in an-
8 other State by the receiver or liquidator.

9 SEC. 109. (a) The Commissioner shall—

10 (1) notify the Association of the existence of an
11 insolvent insurer not later than three days after he
12 receives notice of the determination of the insolvency;
13 and

14 (2) upon request of the Board provide the Associa-
15 tion with a statement of the net direct written premiums
16 of each member insurer.

17 (b) The Commissioner may—

18 (1) require that the Association notify the in-
19 sureds of the insolvent insurer and any other interested
20 parties of the determination of insolvency and of their
21 rights under this title by mail at their last known address,
22 where available, or by publication in a newspaper of
23 general circulation, if sufficient information for notifica-
24 tion by mail is not available;

25 (2) suspend or revoke, after notice and hearing, the

1 certificate of authority to transact insurance in the Dis-
2 trict of Columbia of any member insurer which fails to
3 pay an assessment when due or fails to comply with the
4 plan of operation, or levy a fine on any member
5 insurer which fails to pay an assessment when due, except
6 such fine shall not exceed 5 per centum of the unpaid
7 assessment per month, except that no fine shall be less
8 than \$100 per month; and

9 (3) revoke the designation of any servicing facil-
10 ity if he finds claims are being handled unsatisfactorily.

11 (c) All final orders or decisions of the Commissioner
12 made under this Act shall be subject to review in accordance
13 with section 11 of the District of Columbia Administrative
14 Procedures Act (D.C. Code, sec. 1-1510).

15 SEC. 110. (a) Any person recovering under this title
16 shall be deemed to have assigned his rights under the policy
17 to the Association to the extent of his recovery from the Asso-
18 ciation. Every insured or claimant seeking the protection of
19 this title shall cooperate with the Association to the same
20 extent as such person would have been required to cooperate
21 with the insolvent insurer. The Association shall have no
22 cause of action against the insured of the insolvent insurer
23 for any sums it has paid out except such causes of action as
24 the insolvent insurer would have had if such sums had been
25 paid by the insolvent insurer. In the case of an insolvent

1 insurer operating on a plan with assessment liability, pay-
2 ments of claims of the Association shall not operate to reduce
3 the insured's liability to the receiver, liquidator, or statutory
4 successor for unpaid assessments.

5 (b) The receiver, liquidator, or statutory successor of
6 an insolvent insurer shall be bound by settlements of covered
7 claims by the Association or a similar organization in another
8 State. The court having jurisdiction shall grant such claims
9 priority equal to that which the claimant would have been
10 entitled in the absence of this title against the assets of the
11 insolvent insurer.

12 (c) The Association shall periodically file with the re-
13 ceiver or liquidator of the insolvent insurer statements of the
14 covered claims paid by the Association which shall preserve
15 the rights of the Association against the assets of the in-
16 solvent insurer.

17 SEC. 111. (a) Any person having a claim against an
18 insurer under any provision in an insurance policy, other
19 than a policy of an insolvent insurer which is also a covered
20 claim, shall be required to exhaust first his right under such
21 policy. Any amount payable on a covered claim under this
22 title shall be reduced by the amount of any recovery under
23 such insurance policy.

24 (b) Any person having a claim which may be recov-
25 ered under more than one insurance guaranty association

1 or its equivalent shall seek recovery first from the associa-
2 tion of the place of residence of the insured except that if it
3 is a first party claim for damage to property with a per-
4 manent location, he shall seek recovery first from the asso-
5 ciation of the location of the property, and if it is a work-
6 men's compensation claim, he shall seek recovery first from
7 the association of the residence of the claimant. Any recov-
8 ery under this title shall be reduced by the amount of recov-
9 ery from any other insurance guaranty association or its
10 equivalent.

11 SEC. 112. (a) To aid in the detection and prevention
12 of insurer insolvencies—

13 (1) it shall be the duty of the Board, upon majority
14 vote, to notify the Commissioner of any information in-
15 dicating any member insurer may be insolvent or in a
16 financial condition hazardous to the policyholders or the
17 public; and

18 (2) the Board may, upon majority vote, request
19 that the Commissioner order an examination of any
20 member insurer which the Board in good faith believes
21 may be in a financial condition hazardous to the policy-
22 holders or the public.

23 (b) An examination may be conducted, under this sec-
24 tion, as a National Association of Insurance Commissioner
25 examination or may be conducted by such person as the

1 Commissioner designates. The cost of such examination shall
2 be paid by the Association and the examination report shall
3 be treated as are other examination reports. In no event
4 shall such examination report be released to the Board prior
5 to its release to the public, but this shall not preclude the
6 Commissioner from complying with subsection (c) of this
7 section. The Commissioner shall notify the Board when the
8 examination is completed. The request for an examination
9 shall be kept on file by the Commissioner but it shall not be
10 open to public inspection prior to the release of the examina-
11 tion report to the public.

12 (c) It shall be the duty of the Commissioner to report
13 to the Board when he has reasonable cause to believe that
14 any member insurer examined or being examined at the re-
15 quest of the Board may be insolvent or in a financial condi-
16 tion hazardous to the policyholders or the public.

17 (d) The Board may, upon majority vote, make reports
18 and recommendations to the Commissioner upon any matter
19 germane to the solvency, liquidation, rehabilitation, or con-
20 servation of any member insurer. Such reports and recom-
21 mendations shall not be considered public documents.

22 (e) The Board may, upon majority vote, make recom-
23 mendations to the Commissioner for the detection and pre-
24 vention of insurer insolvencies.

25 (f) The Board shall, at the conclusion of any insurer

1 insolvency in which the Association was obligated to pay
2 covered claims, prepare a report on the history and causes of
3 such insolvency, based on the information available to the
4 Association, and submit such report to the Commissioner.

5 SEC. 113. The Association shall be subject to examina-
6 tion and regulation by the Commissioner. The Board shall
7 submit, not later than March 30 of each year, a financial
8 report for the preceding calendar year on a form approved
9 by the Commissioner.

10 SEC. 114. The Association shall be exempt from pay-
11 ment of all fees and taxes levied or collected by the District
12 of Columbia, except taxes levied on real or personal property.

13 SEC. 115. The rates and premiums charged for insur-
14 ance policies to which this title applies shall include amounts
15 sufficient to recoup a sum equal to the amounts paid to the
16 Association by the member insurer less any amounts returned
17 to the member insurer by the Association and such rates
18 shall not be deemed excessive because they contain an
19 amount reasonably calculated to recoup assessments paid by
20 the member insurer.

21 SEC. 116. There shall be no liability on the part of
22 and no cause of action of any nature shall rise against,
23 any member insurer, the Association or its agents or em-
24 ployees, the Board, or the Commissioner or his representa-

1 tives for any action taken by them in the performance of their
2 powers and duties under this title.

3 SEC. 117. All proceedings in which the insolvent insurer
4 is a party or is obligated to defend a party in any court in
5 the District of Columbia shall be stayed for sixty days from
6 the date the insolvency is determined to permit proper de-
7 fense by the Association of all pending causes of action. As to
8 any covered claims arising from a judgment under any de-
9 cision, verdict, or finding based on the default of the insolvent
10 insurer or its failure to defend an insured, the Association
11 either on its own behalf or on behalf of such insured may
12 apply to have such judgment, order, decision, verdict, or find-
13 ing set aside by the same court or administrator that made
14 such judgment, order, decision, verdict, or finding and shall
15 be permitted to defend against such claim on the merits.

16 SEC. 118. (a) The Commissioner shall by order termi-
17 nate the operation of the District of Columbia Insurance
18 Guaranty Association as to any kind of insurance afforded
19 by property or casualty insurance policies with respect to
20 which he has found, after hearing, that there is in effect a
21 statutory or voluntary plan which—

22 (1) is a permanent plan which is adequately
23 funded or for which adequate funding is provided; and

24 (2) extends or will extend to District of Colum-

1 bia policyholders and residents protection and benefits
2 with respect to insolvent insurers not substantially less
3 favorable and effective to such policyholders and resi-
4 dents and the protection and benefits provided with re-
5 spect to such kind of insurance under this title.

6 (b) The Commissioner shall by the same such order
7 authorize discontinuance of future payments by insurers to
8 the District of Columbia Insurance Guaranty Association
9 with respect to the same kinds of insurance, except assess-
10 ments and payments shall continue, as necessary, to liquidate
11 covered claims of insurers adjudged insolvent prior to said
12 order and the related expenses not covered by such other
13 plan.

14 (c) In the event the operation of any account of the
15 District of Columbia Insurance Guaranty Association shall
16 be so terminated as to all kinds of insurance otherwise within
17 its scope, the Association as soon as possible thereafter shall
18 distribute the balance of moneys and assets remaining in said
19 account (after discharge of the functions of the Association
20 with respect to prior insurer insolvencies not covered by such
21 other plan, together with related expenses) to the insurers
22 which are then writing in the District of Columbia policies
23 of the kinds of insurance covered by such account, and which
24 had made payments into such account, pro rata upon the
25 basis of the aggregate of such payments made by the respec-

1 tive insurers to such account during the period of five years
 2 next preceding the date of such order. Upon completion of
 3 such distribution with respect to all of the accounts speci-
 4 fied in section 105, this title shall be deemed to have expired.

5 TITLE II—AMENDMENT OF THE LIFE INSUR-
 6 ANCE ACT OF THE DISTRICT OF COLUMBIA
 7 TO INCREASE CAPITAL REQUIREMENTS OF
 8 LIFE INSURANCE COMPANIES

9 SEC. 201. Chapter 3 of the Life Insurance Act (D.C.
 10 Code, secs. 35-501—35-541) is amended as follows:

11 (1) Section 8 (a) of such chapter (D.C. Code, sec.
 12 35-508 (a)) is amended (A) by striking out in the
 13 first sentence "\$200,000" and inserting in lieu thereof
 14 "\$1,000,000", and (B) by striking out in the last sen-
 15 tence "\$150,000" and inserting in lieu thereof "\$1,500,-
 16 000".

17 (2) Section 8 (b) of such chapter (D.C. Code, sec.
 18 35-508 (b)) is amended (A) by inserting "or subse-
 19 quent amendment" immediately after "subsection", and
 20 (B) by inserting "or the minimum surplus required of
 21 a mutual company" immediately after "stock company".

22 (3) Paragraph (10) (b) (ii) of section 35 of such
 23 chapter (D.C. Code, sec. 35-535 (10) (b) (ii)) is
 24 amended by striking out "\$300,000" and "\$150,000"

1 and inserting in lieu thereof "\$1,500,000" in each such
2 place.

3 (4) Paragraph (15) (ii) of section 35 of such
4 chapter (D.C. Code, sec. 35-535 (15) (ii)) is amended
5 by striking out "\$300,000" and "\$150,000" and in-
6 serting in lieu thereof "\$1,500,000" in each such place.

7 SEC. 202. The amendments made by this title shall take
8 effect thirty days after the date of enactment of this Act.

9 TITLE III—AMENDMENT OF THE LIFE INSUR-
10 ANCE ACT OF THE DISTRICT OF COLUM-
11 BIA TO INCREASE GROUP TERM LIFE IN-
12 SURANCE AMOUNT LIMITATIONS

13 SEC. 301. Sections 10 (1) (d), 10 (3) (d), 10 (4) (d),
14 (10) (6) (d), and 10 (9) (d) of chapter V of the Life Insur-
15 ance Act (D.C. Code, secs. 35-710 (1) (d), (3) (d),
16 (4) (d), (6) (d), and (9) (d)), are amended (1) by strik-
17 ing out "\$20,000" and inserting in lieu thereof "\$30,000";
18 (2) by striking out "\$40,000" and inserting in lieu thereof
19 "\$100,000"; and (3) by striking out "150" and inserting in
20 lieu thereof "300".

21 SEC. 302. The first sentence of section 11 of chapter V
22 of the Life Insurance Act (D.C. Code, sec. 35-711), is
23 amended (1) by striking out "and" between clauses (b) and

1 (c), (2) by striking out the colon at the end of clause (c)
2 and inserting in lieu thereof a semicolon and (3) by insert-
3 ing immediately thereafter a new clause (d) as follows: "and
4 (d) that subject to the terms of the policy any person insured
5 under a group life insurance contract, whether issued before
6 or after the effective date of this clause, may make to any
7 person, other than his employer, an absolute or collateral
8 assignment of any or all the rights and benefits conferred on
9 him by any provision of such policy or by law, including
10 specifically, but not by way of limitation, any right to desig-
11 nate a beneficiary or beneficiaries thereunder and any right
12 to have an individual policy issued upon termination either
13 of employment or of said policy of group life insurance, but
14 nothing herein shall be construed to have prohibited an in-
15 sured from making an assignment of all or any part of his
16 rights and privileges under the policy before the effective
17 date of this clause and, subject to the terms of the policy,
18 an assignment by an insured before or after the effective
19 date of this clause is valid for the purposes of vesting in the
20 assignee all rights and privileges so assigned, but without
21 prejudice to the insurer on account of any payment it may
22 make or individual policy it may issue prior to receipt of
23 notice of the assignment:".

1 TITLE IV—AMENDMENT OF THE FIRE AND
2 CASUALTY ACT REGULATING THE BUSINESS
3 OF FIRE, MARINE, AND CASUALTY INSUR-
4 ANCE IN THE DISTRICT OF COLUMBIA

5 SEC. 401. Sections 13 and 14 of chapter II of the Fire
6 and Casualty Act (D.C. Code, secs. 3-1316 and 35-1317),
7 are amended to read as follows:

8 **“§ 13. Minimum capital and surplus requirement**

9 “Every stock company authorized to do business in the
10 District shall have and shall at all times maintain a paid-up
11 capital stock of not less than \$300,000, and a surplus of not
12 less than \$300,000. Every domestic mutual company and
13 every domestic reciprocal company shall have and shall at
14 all times maintain a surplus of not less than \$300,000, and
15 every foreign or alien mutual company and every foreign
16 or alien reciprocal company shall have and shall at all times
17 maintain a surplus of not less than \$400,000.

18 **“§ 14. Corporations heretofore formed**

19 “No company shall be exempt from the provisions of
20 this subsection by reason of its having been incorporated in
21 the District or elsewhere prior to the effective date of this
22 subsection, except that, in the case of companies authorized
23 in the District on the date of approval of this subsection and
24 continuously thereafter without any increase of authority, the
25 minimum capital and surplus required of a stock company,

1 and the minimum surplus required of a mutual or reciprocal
2 company, or of a Lloyd's organization by the laws of the Dis-
3 trict heretofore applicable shall not be increased by this sub-
4 section, and provided also that in the case of such continu-
5 ously authorized companies the provisions of section 24 re-
6 lating to the names of companies, and the provisions of sec-
7 tion 25 relating to the amount of surplus necessary to the
8 issuance of policies having no provision for contingent liabil-
9 ity, shall not be applicable."

10 SEC. 402. Section 25 of chapter II of the Fire and
11 Casualty Act (D.C. Code, sec. 35-1329) is amended by
12 striking out "\$300,000" and inserting in lieu thereof
13 "\$600,000".

14 TITLE V—AMENDMENT OF AMOUNT OF CON-
15 TRACT WITH THE GOVERNMENT OF THE
16 DISTRICT OF COLUMBIA FOR WHICH A
17 SURETY BOND IS REQUIRED

18 SEC. 501. The first section of the Act entitled "An Act
19 in relation to contracts with the District of Columbia" ap-
20 proved June 28, 1906 (D.C. Code, sec. 1-805), and the
21 first section of the Act of August 3, 1968 (D.C. Code, sec.
22 1-804a) (relating to contracts with the District of Colum-
23 bia), are each amended by striking out "\$2,000" wherever
24 it appears in each such first section and inserting in lieu
25 thereof "\$10,000".

93^d CONGRESS
1ST SESSION

H. R. 5687

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1973

Mr. Diggs (by request) introduced the following bill; which was referred to the Committee on the District of Columbia

A BILL

To improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "District of Columbia
4 Insurance Act".

5 TITLE I—DISTRICT OF COLUMBIA POST ASSESS-
6 MENT INSURANCE GUARANTY ASSOCIATION
7 ACT

8 SEC. 101. This title may be cited as the "District of
9 Columbia Insurance Guaranty Association Act".

10 SEC. 102. The purpose of this title is to provide a
11 mechanism for the payment of covered claims under certain

1 insurance policies to avoid excessive delay in payment and
2 to avoid financial loss to claimants or policyholders because
3 of the insolvency of an insurer, to assist in the detection and
4 prevention of insurer insolvencies, and to provide an asso-
5 ciation to assess the cost of such protection among insurers.

6 SEC. 103. This title shall apply to all kinds of direct
7 insurance, except life, title, disability, and mortgage guaranty
8 insurance.

9 SEC. 104. As used in this title:

10 (1) The term "Commissioner" means the Commissioner
11 of the District of Columbia or his designated agent.

12 (2) The term "covered claim" means an unpaid claim,
13 including one for unearned premiums, which arises out of and
14 is within the coverage and not in excess of the applicable
15 limits of an insurance policy to which this title applies issued
16 by an insurer, if such insurer becomes an insolvent insurer
17 after the effective date of this title and (a) the claimant
18 or insured is a resident of the District of Columbia at the
19 time of the insured event; or (b) the property from which
20 the claim arises is permanently located in the District of
21 Columbia. Such term shall not include any amount due any
22 reinsurer, insurer, insurance pool, or underwriting associa-
23 tion, as subrogation recoveries or otherwise.

24 (3) The term "insolvent insurer" means (a) an insurer
25 authorized to transact insurance in the District of Columbia

1 either at the time the policy was issued or when the insured
2 event occurred and (b) determined to be insolvent by a
3 court of competent jurisdiction.

4 (4) The term "member insurer" means any person
5 who (a) writes any kind of insurance to which this title
6 applies, including the exchange of reciprocal or interinsur-
7 ance contracts, and (b) is licensed to transact insurance in
8 the District of Columbia.

9 (5) The term "net direct written premiums" means
10 direct gross premiums written in the District on insurance
11 policies to which this title applies, less return premiums there-
12 on and dividends paid or credited to policyholders on such
13 direct business. Such term does not include premiums on con-
14 tracts between insurers or reinsurers.

15 (6) The term "person" includes individuals, corpora-
16 tions, associations, exchanges, and partnerships.

17 SEC. 105. There is created a nonprofit unincorporated
18 legal entity to be known as the District of Columbia Insur-
19 ance Guaranty Association (hereafter in this title referred
20 to as the "Association"). All member insurers shall be and
21 remain members of the Association as a condition of their
22 authority to transact insurance in the District of Columbia.
23 The Association shall perform its functions under a plan
24 of operation established and approved by the Commissioner
25 and shall exercise its powers through a Board of Directors

1 (hereafter in this title referred to as the "Board"). For
2 purposes of administration and assessment, the Association
3 shall be divided into three separate accounts: (a) the work-
4 men's compensation insurance account; (b) the automobile
5 insurance account; and (c) the account for all other in-
6 surance to which this title applies.

7 SEC. 106. (a) The Board of the Association shall
8 consist of not less than five nor more than nine persons
9 serving terms as established in the plan of operation. The
10 members of the Board shall be selected by member insurers
11 subject to the approval of the Commissioner. Vacancies
12 on the Board shall be filled for the remaining period of the
13 term in the same manner as initial appointments. If no
14 members are selected within sixty days after the effective
15 date of this title, the Commissioner may appoint the initial
16 members of the Board.

17 (b) In approving selections to the Board, the Commis-
18 sioner shall consider among other things whether all member
19 insurers are fairly represented.

20 (c) Members of the Board may be reimbursed from the
21 assets of the Association for expenses incurred by them
22 as members of the Board.

23 SEC. 107. (a) The Association shall—

24 (1) be obligated to the extent of the covered claims

1 existing prior to the determination of insolvency and
2 arising within thirty days after the determination of in-
3 solvency, or before the policy expiration date if less than
4 thirty days after the determination, or before the insured
5 replaces the policy or causes its cancellation, if he does so
6 within thirty days of the determination, but such obliga-
7 tion shall include only that amount of each covered claim
8 which is in excess of \$100 and is less than \$300,000,
9 except that the Association shall pay the full amount of
10 any covered claim arising out of a workmen's compensa-
11 tion policy; except in no event shall the Association be
12 obligated to a policyholder or claimant in an amount in
13 excess of the obligation of the insolvent insurer under the
14 policy from which the claim arises;

15 (2) be deemed the insurer to the extent of its ob-
16 ligation on the covered claims and to such extent shall
17 have all rights, duties, and obligations of the insolvent
18 insurer as if the insurer had not become insolvent;

19 (3) allocate claims paid and expenses incurred
20 among the three accounts separately, and assess member
21 insurers separately, according to subsection (b) of this
22 section, for each account amounts necessary to pay the
23 obligations of the Association under paragraph (1) of
24 this subsection subsequent to an insolvency, the expenses

1 of handling covered claims subsequent to an insolvency,
2 the cost of examinations under section 112, and other
3 expenses authorized by this title;

4 (4) investigate claims brought against the Associa-
5 tion and adjust, compromise, settle, and pay covered
6 claims to the extent of the Association's obligation and
7 deny all other claims and may review settlements, re-
8 leases and judgments to which the insolvent insurer or its
9 insureds were parties to determine the extent to which
10 such settlements, releases and judgments may be prop-
11 erly contested;

12 (5) notify such persons as the Commissioner directs
13 under section 109 (b) (1) ;

14 (6) handle claims through its employees or through
15 one or more insurers or other persons designated, sub-
16 ject to the approval of the Commissioner, as servicing
17 facilities, except such designation may be declined by a
18 member insurer; and

19 (7) reimburse each servicing facility for obligations
20 of the Association paid by the facility and for ex-
21 penses incurred by the facility while handling claims
22 on behalf of the Association, and pay the other expenses
23 of the Association authorized by this title.

24 (b) The assessments of each member insurer under
25 paragraph (2) of subsection (a) of this section shall be

1 in the proportion that the net direct written premiums of
2 the member insurer for the preceding calendar year on
3 the kinds of insurance in the account bears to the net direct
4 written premiums of all member insurers for the preceding
5 calendar year on the kinds of insurance in the account.
6 Each member insurer shall be notified of the assessment not
7 later than thirty days before it is due. No member insurer
8 may be assessed in any year on any account an amount
9 greater than 2 per centum of that member insurer's net
10 direct written premiums for the preceding calendar year on
11 the kinds of insurance in the account. If the maximum assess-
12 ment, together with the other assets of the Association in
13 any account, does not provide in any one year in any ac-
14 count an amount sufficient to make all necessary payments
15 from that account, the funds available shall be prorated and
16 the unpaid portion shall be paid as soon thereafter as funds
17 become available. The Association may exempt or defer,
18 in whole or in part, the assessment of any member insurer,
19 if the assessment would cause the member insurer's finan-
20 cial statement to reflect amounts of capital or surplus less
21 than the minimum amounts required for a certificate of
22 authority by any jurisdiction in which the member insurer
23 is authorized to transact insurance. Each member insurer
24 may set off against any assessment, authorized payments
25 made on covered claims and expenses incurred in the pay-

1 ment of such claims by the member insurer if they are
2 chargeable to the account for which the assessment is made.

3 (c) The Association may—

4 (1) employ or retain such persons as are neces-
5 sary to handle claims and perform other duties of the
6 Association;

7 (2) borrow funds necessary to effect the purposes
8 of this title in accord with the plan of operation;

9 (3) sue or be sued;

10 (4) negotiate and become a party to such contracts
11 as are necessary to carry out the purpose of this title;

12 (5) perform such other acts as are necessary or
13 proper to effectuate the purpose of this title; and

14 (6) refund to the member insurers in proportion
15 to the contribution of each member insurer to that ac-
16 count that amount by which the assets of the account
17 exceed the liabilities, if, at the end of any calendar year,
18 the Board of Directors finds that the assets of the Asso-
19 ciation in any account exceed the liabilities of that ac-
20 count as estimated by the Board for the coming year.

21 SEC. 108. (a) (1) The Board shall submit to the Com-
22 missioner a plan of operation and any amendments thereto
23 necessary or suitable to assure the fair, reasonable, and equi-
24 table administration of the Association. The plan of operation

1 and any amendments thereto shall become effective upon ap-
2 proval in writing by the Commissioner.

3 (2) If the Board fails to submit a suitable plan of op-
4 eration within ninety days following the effective date of this
5 title or if at any time thereafter the Board fails to submit
6 suitable amendments to the plan, the Commissioner shall,
7 after notice and hearing, adopt and promulgate such reason-
8 able rules as are necessary or advisable to effectuate the pro-
9 visions of this title. Such rules shall continue in force until
10 modified by the Commissioner or superseded by a plan sub-
11 mitted by the Board and approved by the Commissioner.

12 (b) All member insurers shall comply with the plan
13 of operation.

14 (c) The plan of operation shall—

15 (1) establish the procedures whereby all the powers
16 and duties of the Association under section 107 will be
17 performed;

18 (2) establish procedures for handling assets of the
19 Association;

20 (3) establish the amount and method of reimburs-
21 ing members of the Board under section 106;

22 (4) establish procedures by which claims may
23 be filed with the Association and establish acceptable
24 forms of proof of covered claims;

1 (5) establish regular places and times for meetings
2 of the Board;

3 (6) establish procedures for records to be kept of
4 all financial transactions of the Association, its agents,
5 and the Board;

6 (7) provide that any member insurer aggrieved
7 by a final action or decision of the Association may ap-
8 peal to the Commissioner within thirty days after the
9 action or decision;

10 (8) establish the procedures whereby selections
11 for the Board will be submitted to the Commissioner;
12 and

13 (9) contain additional provisions necessary or
14 proper for the execution of the powers and duties of the
15 Association.

16 (d) The plan of operation may provide that any or all
17 powers and duties of the Association, except those under
18 subsections 107 (a) (3) and (b) (2), are delegated to a
19 corporation, association, or other organization which performs
20 or will perform functions similar to those of this Association,
21 or its equivalent, in two or more States. Such a corporation,
22 association, or organization shall be reimbursed as a servic-
23 ing facility would be reimbursed and shall be paid for its
24 performance of any other functions of the Association. A
25 delegation under this subsection shall take effect only with

1 the approval of both the Board and the Commissioner, and
2 may be made only to a corporation, association, or orga-
3 nization which extends protection in a manner substan-
4 tially similar to that provided by this title.

5 (e) Notice of claims to the receiver or liquidator of the
6 insolvent insurer shall be deemed notice to the Association
7 or its agent and a list of such claims shall be periodically
8 submitted to the Association or similar organization in another
9 State by the receiver or liquidator.

10 SEC. 109. (a) The Commissioner shall—

11 (1) notify the Association of the existence of an
12 insolvent insurer not later than three days after he re-
13 ceives notice of the determination of the insolvency;
14 and

15 (2) upon request of the Board provide the Asso-
16 ciation with a statement of the net direct written pre-
17 miums of each member insurer.

18 (b) The Commissioner may—

19 (1) require that the Association notify the insureds
20 of the insolvent insurer and any other interested parties
21 of the determination of insolvency and of their rights
22 under this title by mail at their last known address,
23 where available, or by publication in a newspaper of
24 general circulation, if sufficient information for notifica-
25 tion by mail is not available;

1 (2) suspend or revoke, after notice and hearing,
2 the certificate of authority to transact insurance in the
3 District of Columbia of any member insurer which fails
4 to pay an assessment when due or fails to comply with
5 the plan of operation, or levy a fine on any member
6 insurer which fails to pay an assessment when due, ex-
7 cept such fine shall not exceed 5 per centum of the un-
8 paid assessment per month, except that no fine shall be
9 less than \$100 per month; and

10 (3) revoke the designation of any servicing facility
11 if he finds claims are being handled unsatisfactorily.

12 (c) All final orders or decisions of the Commissioner
13 made under this Act shall be subject to review in accordance
14 with section 11 of the District of Columbia Administrative
15 Procedure Act (D.C. Code, sec. 1-1510).

16 SEC. 110. (a) Any person recovering under this title
17 shall be deemed to have assigned his rights under the policy
18 to the Association to the extent of his recovery from the
19 Association. Every insured or claimant seeking the protec-
20 tion of this title shall cooperate with the Association to the
21 same extent as such person would have been required to
22 cooperate with the insolvent insurer. The Association shall
23 have no cause of action against the insured of the insolvent
24 insurer for any sums it has paid out except such causes of
25 actions as the insolvent insurer would have had if such sums

1 had been paid by the insolvent insurer. In the case of an
2 insolvent insurer operating on a plan with assessment lia-
3 bility, payments of claims of the Association shall not op-
4 erate to reduce the insured's liability to the receiver, liqui-
5 dator, or statutory successor for unpaid assessments.

6 (b) The receiver, liquidator, or statutory successor of
7 an insolvent insurer shall be bound by settlements of covered
8 claims by the Association or a similar organization in an-
9 other State. The court having jurisdiction shall grant such
10 claims priority equal to that which the claimant would
11 have been entitled in the absence of this title against the
12 assets of the insolvent insurer.

13 (c) The Association shall periodically file with the
14 receiver or liquidator of the insolvent insurer statements
15 of the covered claims paid by the Association which shall
16 preserve the rights of the Association against the assets
17 of the insolvent insurer.

18 SEC. 111. (a) Any person having a claim against an
19 insurer under any provision in an insurance policy, other
20 than a policy of an insolvent insurer which is also a covered
21 claim, shall be required to exhaust first his right under
22 such policy. Any amount payable on a covered claim under
23 this title shall be reduced by the amount of any recovery
24 under such insurance policy.

25 (b) Any person having a claim which may be recovered

1 under more than one insurance guaranty association or its
2 equivalent shall seek recovery first from the association of
3 the place of residence of the insured except that if it is a
4 first party claim for damage to property with a permanent
5 location, he shall seek recovery first from the association of
6 the location of the property, and if it is a workmen's com-
7 pensation claim, he shall seek recovery first from the asso-
8 ciation of the residence of the claimant. Any recovery under
9 this title shall be reduced by the amount of recovery from
10 any other insurance guaranty association or its equivalent.

11 SEC. 112. (a) To aid in the detection and prevention
12 of insurer insolvencies—

13 (1) it shall be the duty of the Board, upon majority
14 vote, to notify the Commissioner of any information in-
15 dicating any member insurer may be insolvent or in a
16 financial condition hazardous to the policyholders or the
17 public; and

18 (2) the Board may, upon majority vote, request
19 that the Commissioner order an examination of any
20 member insurer which the Board in good faith believes
21 may be in a financial condition hazardous to the policy-
22 holders or the public.

23 (b) An examination may be conducted, under this sec-
24 tion, as a National Association of Insurance Commissioner
25 examination or may be conducted by such person as the

1 Commissioner designates. The cost of such examination
2 shall be paid by the Association and the examination
3 report shall be treated as are other examination reports. In
4 no event shall such examination report be released to the
5 Board prior to its release to the public, but this shall not pre-
6 clude the Commissioner from complying with subsection
7 (c) of this section. The Commissioner shall notify the Board
8 when the examination is completed. The request for an
9 examination shall be kept on file by the Commissioner but it
10 shall not be open to public inspection prior to the release of
11 the examination report to the public.

12 (c) It shall be the duty of the Commissioner to report
13 to the Board when he has reasonable cause to believe that
14 any member insurer examined or being examined at the
15 request of the Board may be insolvent or in a financial con-
16 dition hazardous to the policyholders or the public.

17 (d) The Board may, upon majority vote, make reports
18 and recommendations to the Commissioner upon any matter
19 germane to the solvency, liquidation, rehabilitation, or con-
20 servation of any member insurer. Such reports and recom-
21 mendations shall not be considered public documents.

22 (e) The Board may, upon majority vote, make rec-
23 ommendations to the Commissioner for the detection and
24 prevention of insurer insolvencies.

25 (f) The Board shall, at the conclusion of any insurer

1 insolvency in which the Association was obligated to pay
2 covered claims, prepare a report on the history and causes
3 of such insolvency, based on the information available to
4 the Association, and submit such report to the Commissioner.

5 SEC. 113. The Association shall be subject to examination
6 and regulation by the Commissioner. The Board shall sub-
7 mit, not later than March 30 of each year, a financial report
8 for the preceding calendar year on a form approved by the
9 Commissioner.

10 SEC. 114. The Association shall be exempt from pay-
11 ment of all fees and taxes levied or collected by the District
12 of Columbia, except taxes levied on real or personal property.

13 SEC. 115. The rates and premiums charged for insurance
14 policies to which this title applies shall include amounts suf-
15 ficient to recoup a sum equal to the amounts paid to the As-
16 sociation by the member insurer less any amounts returned
17 to the member insurer by the Association and such rates shall
18 not be deemed excessive because they contain an amount rea-
19 sonably calculated to recoup assessments paid by the member
20 insurer.

21 SEC. 116. There shall be no liability on the part of, and
22 no cause of action of any nature shall rise against, any mem-
23 ber insurer, the Association or its agents or employees, the
24 Board, or the Commissioner or his representatives for any

1 action taken by them in the performance of their powers
2 and duties under this title.

3 SEC. 117. All proceedings in which the insolvent in-
4 surer is a party or is obligated to defend a party in any court
5 in the District of Columbia shall be stayed for sixty days
6 from the date the insolvency is determined to permit proper
7 defense by the Association of all pending causes of action. As
8 to any covered claims arising from a judgment under any
9 decision, verdicts, or findings based on the default of the
10 insolvent insurer or its failure to defend an insured, the Asso-
11 ciation either on its own behalf or on behalf of such insured
12 may apply to have such judgment, order, decision, verdict,
13 or finding set aside by the same court or administrator that
14 made such judgment, order, decision, verdict, or finding and
15 shall be permitted to defend against such claim on the merits.

16 SEC. 118. (a) The Commissioner shall by order termi-
17 nate the operation of the District of Columbia Insurance
18 Guaranty Association as to any kind of insurance afforded
19 by property or casualty insurance policies with respect to
20 which he has found, after hearing, that there is in effect
21 a statutory or voluntary plan which—

22 (1) is a permanent plan which is adequately
23 funded or for which adequate funding is provided; and

24 (2) extends or will extend to District of Columbia

1 policyholders and residents protection and benefits with
2 respect to insolvent insurers not substantially less favor-
3 able and effective to such policyholders and residents
4 than the protection and benefits provided with respect
5 to such kind of insurance under this title.

6 (b) The Commissioner shall by the same such order
7 authorize discontinuance of future payments by insurers to
8 the District of Columbia Insurance Guaranty Association
9 with respect to the same kinds of insurance, except assess-
10 ments and payments shall continue, as necessary, to liquidate
11 covered claims of insurers adjudged insolvent prior to said
12 order and the related expenses not covered by such other
13 plan.

14 (c) In the event the operation of any account of the
15 District of Columbia Insurance Guaranty Association shall
16 be so terminated as to all kinds of insurance otherwise within
17 its scope, the Association as soon as possible thereafter shall
18 distribute the balance of moneys and assets remaining in said
19 account (after discharge of the functions of the Association
20 with respect to prior insurer insolvencies not covered by such
21 other plan, together with related expenses) to the insurers
22 which are then writing in the District of Columbia policies
23 of the kinds of insurance covered by such account, and which
24 had made payments into such account, pro rata upon the
25 basis of the aggregate of such payments made by the respec-

1 tive insurers to such account during the period of five years
2 next preceding the date of such order. Upon completion of
3 such distribution with respect to all of the accounts specified
4 in section 105, this title shall be deemed to have expired.

5 TITLE II—AMENDMENT OF THE LIFE INSUR-
6 ANCE ACT OF THE DISTRICT OF COLUMBIA
7 TO INCREASE CAPITAL REQUIREMENTS OF
8 LIFE INSURANCE COMPANIES

9 SEC. 201. Chapter 3 of the Life Insurance Act (D.C.
10 Code, secs. 35-501—35-541) is amended as follows:

11 (1) Section 8 (a) of such chapter (D.C. Code,
12 sec. 35-508 (a)) is amended (A) by striking out in
13 the first sentence "\$200,000" and inserting in lieu
14 thereof "\$1,000,000", and (B) by striking out in the
15 last sentence "\$150,000" and inserting in lieu thereof
16 "\$1,500,000".

17 (2) Section 8 (b) of such chapter (D.C. Code,
18 sec. 35-508 (b)) is amended (A) by inserting "or
19 subsequent amendment" immediately after "subsection",
20 and (B) by inserting "or the minimum surplus required
21 of a mutual company" immediately after "stock
22 company".

23 (3) Paragraph (10) (b) (ii) of section 35 of such
24 chapter (D.C. Code, sec. 35-535 (10) (b) (ii)) is
25 amended by striking out "\$300,000" and "\$150,000"

1 and inserting in lieu thereof "\$1,500,000" in each such
2 place.

3 (4) Paragraph (15) (ii) of section 35 of such
4 chapter (D.C. Code, sec. 35-535 (15) (ii)) is amended
5 by striking out "\$300,000" and "\$150,000" and insert-
6 ing in lieu thereof "\$1,500,000" in each such place.

7 TITLE III—AMENDMENT OF THE LIFE INSUR-
8 ANCE ACT OF THE DISTRICT OF COLUMBIA
9 TO INCREASE GROUP TERM LIFE INSURANCE
10 AMOUNT LIMITATIONS

11 SEC. 301. Sections 10 (1) (d), 10 (3) (d), 10 (4) (d),
12 10 (6) (d), and 10 (9) (d) of chapter V of the Life Insur-
13 ance Act (D.C. Code, secs. 35-710 (1) (d), (3) (d),
14 (4) (d), (6) (d), and (9) (d)), are amended (1) by strik-
15 ing out "\$20,000" and inserting in lieu thereof "\$30,000";
16 (2) by striking out "\$40,000" and inserting in lieu thereof
17 "\$100,000"; and (3) by striking out "150" and inserting in
18 lieu thereof "300".

19 SEC. 302. The first sentence of section 11 of chapter V
20 of the Life Insurance Act (D.C. Code, sec. 35-711),
21 is amended (1) by striking out "and" between clauses (b)
22 and (c), (2) by striking out the colon at the end of clause
23 (c) and inserting in lieu thereof a semicolon and (3) by
24 inserting immediately thereafter a new clause (d) as fol-
25 lows: "and (d) that subject to the terms of the policy
26 any person insured under a group life insurance contract,

1 whether issued before or after the effective date of this clause,
2 may make to any person, other than his employer, an absolute
3 or collateral assignment of any or all the rights and benefits
4 conferred on him by any provision of such policy or by law,
5 including specifically, but not by way of limitation, any
6 right to designate a beneficiary or beneficiaries thereunder
7 and any right to have an individual policy issued upon ter-
8 mination either of employment or of said policy of group
9 life insurance, but nothing herein shall be construed to have
10 prohibited an insured from making an assignment of all
11 or any part of his rights and privileges under the policy be-
12 fore the effective date of this clause and, subject to the terms
13 of the policy, an assignment by an insured before or after
14 the effective date of this clause is valid for the purposes of
15 vesting in the assignee all rights and privileges so assigned,
16 but without prejudice to the insurer on account of any pay-
17 ment it may make on individual policy it may issue prior
18 to receipt of notice of the assignment:”.

19 TITLE IV—AMENDMENT OF THE FIRE AND
20 CASUALTY ACT REGULATING THE BUSINESS
21 OF FIRE, MARINE, AND CASUALTY INSUR-
22 ANCE IN THE DISTRICT OF COLUMBIA

23 SEC. 401. Sections 13 and 14 of chapter II of the Fire
24 and Casualty Act (D.C. Code, secs. 35-1316 and 35-
25 1317), are amended to read as follows:

1 **“§ 13. Minimum capital and surplus requirement**

2 “Every stock company authorized to do business in the
3 District shall have and shall at all times maintain a paid-up
4 capital stock of not less than \$300,000, and a surplus of not
5 less than \$300,000. Every domestic mutual company and
6 every domestic reciprocal company shall have and shall at
7 all times maintain a surplus of not less than \$300,000, and
8 every foreign or alien mutual company and every foreign or
9 alien reciprocal company shall have and shall at all times
10 maintain a surplus of not less than \$400,000.

11 **“§ 14. Corporations heretofore formed**

12 “No company shall be exempt from the provisions of
13 this subsection by reason of its having been incorporated in
14 the District or elsewhere prior to the effective date of this
15 subsection, except that, in the case of companies authorized
16 in the District on the date of approval of this subsection and
17 continuously thereafter without any increase of authority, the
18 minimum capital and surplus required of a stock company,
19 and the minimum surplus required of a mutual or reciprocal
20 company, or of a Lloyd’s organization by the laws of the
21 District heretofore applicable shall not be increased by this
22 subsection, and provided also that in the case of such con-
23 tinuously authorized companies the provisions of section 24
24 relating to the names of companies, and the provisions of sec-
25 tion 25 relating to the amount of surplus necessary to the

1 issuance of policies having no provision for contingent liabil-
2 ity, shall not be applicable.”

3 SEC. 402. Section 25 of chapter II of the Fire and
4 Casualty Act (D.C. Code, sec. 35-1329) is amended by
5 striking out “\$300,000” and inserting in lieu thereof
6 “\$600,000”.

7 TITLE V—AMENDMENT OF AMOUNT OF CON-
8 TRACT WITH THE GOVERNMENT OF THE DIS-
9 TRICT OF COLUMBIA FOR WHICH A SURETY
10 BOND IS REQUIRED

11 SEC. 501. The first section of the Act entitled “An Act
12 in relation to contracts with the District of Columbia” ap-
13 proved June 28, 1906 (D.C. Code, sec. 1-805), and the
14 first section of the Act of August 3, 1968 (D.C. Code, sec.
15 1-804a) (relating to contracts with the District of Colum-
16 bia), are each amended by striking out “\$2,000” wherever
17 it appears in each such first section and inserting in lieu
18 thereof “\$10,000”.

MEMORANDUM IN RE:

H.R. 4088 (Stuckey) and H.R. 5687 (Diggs).—To improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes.

Purpose:

To amend certain existing insurance law in the District of Columbia to provide a greater degree of protection to consumers from financial loss due to company insolvency; to increase the limitation on the amount of group term life insurance that can be issued; and to increase the amount of a contract with the District Government for which a bond is required.

Provisions and Precedents:

Title I.—Establishes a post-assessment insurance guaranty fund to be known as District of Columbia Insurance Guaranty Association. Association obligated, in event an insurance company becomes insolvent, to pay all covered claims of policyholders. Funds to be provided through annual assessments to be levied on each member insurance company; maximum assessment 2% of net direct written premiums in any one year. (Life, title, disability and mortgage guaranty companies excepted from this Title.) Additional responsibility includes aiding in the detection and prevention of insolvencies.

Title I based on model legislation prepared by National Association of Insurance Commissioners; adopted by 47 states, under active consideration in other three.

Title II.—Increases from \$200,000 to \$1,000,000 the amount of capital and surplus each domestic stock and mutual life insurance company is required to have in order to transact business in the District.

Forty-six states have higher requirements than the District has presently.

Title III.—Increases amount of coverage available under group term life insurance to maximums of \$100,000, or 300% of compensation, maximum; \$30,000 minimum. (Presently limits are \$40,000 or 1½% compensation Maximum; \$20,000 minimum.) An assignment of rights provision is included permitting an individual covered under a group life policy to obtain an exclusion under Federal estate laws.

Presently, 27 states have no limits on amounts of group term life coverage; 19 have higher limits than the District. Thirty-seven states have an assignment of rights provision.

Title IV.—Amends Fire and Casualty Act to increase the amount of capital and surplus required of all property and casualty companies licensed under the Fire and Casualty Act from \$300,000 to \$600,000; to increase the surplus requirement for domestic mutual companies from \$150,000 to \$300,000; and to increase the amount for foreign mutuals from \$200,000 to \$400,000. The increased requirements would apply only to new companies wishing to be licensed in the District.

Adjustments would bring District requirements in line with most states.

Title V.—Increases from \$2,000 to \$10,000 the amount of a contract with the District Government for which a bond is required.

Need for Legislation:

Title I.—There is presently no protection for consumers against company insolvencies. The District's record is remarkable regarding insolvencies of companies domiciled here but it is imperative to plan for the possibility of insolvencies occurring in a company operating nationwide which has District policyholders.

Title II.—Provides greater protection to consumers and recognizes the effects of inflation on capitalization requirements. The capital and surplus requirements for life insurance companies were last revised in 1964 by PL 88-556.

Title III.—These proposed amount limitations will make District requirements comparable to other state laws.

Title IV.—Acts as a safeguard against financially inadequate companies entering the local market. (The capital and surplus requirements under the Fire and Casualty Act were determined in 1940 and have not been revised since.)

Title V.—An increase to \$10,000 will be more in line with present costs and also will provide small contractors with a greater opportunity of dealing with the District Government without being required to be bonded in contracts involving less than \$10,000.

Cost:

No cost to District or Federal Government.

History:

In the 92nd Congress, S. 2208, an identical bill to H.R. 4083, passed the Senate April 27, 1972. Hearings were held by the House District Subcommittee on Public Health, Welfare, Housing and Youth Affairs on September 11, 1972; S. 2208 passed the full Committee September 27, 1972. The measure did not get to the House floor in the rush to adjourn.

H.R. 4083 and H.R. 5687 are supported by the District Government; the Commissioner submitted the original draft legislation on June 1, 1971.

STATEMENT OF EDWARD P. LOMBARD, SUPERINTENDENT OF INSURANCE, GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. LOMBARD. The five Titles in this insurance bill as you say and the statements are all in support of the five Titles. The first one, the State Post Assessment and Sovereignty Bill is of vital interest to individuals out there in the District of Columbia, who could be hurt on any day of this week or next month, and they could lose their home or their property if an insurance company failed to live up to its insurance contract.

Under this bill the insurance industry would move in and prorate the cost among them and prevent this happening to any individual in the city or any businessman. So the public interest is extremely well served by having this as one of the first items of District legislation.

I certainly hope personally that it is passed as soon as possible to protect the people in the city.

Mr. STUCKER. Excuse me, Mr. Lombard, I was conferring on some good questions that we had come up with. If you like we will make your whole statement as part of the record and any other statement that any of the Members have. As I said earlier, I am sure you are aware that this is the same bill that was passed by the Senate last year, and their amendments were incorporated in the House bill.

Mr. LOMBARD. That is correct, sir.

[The prepared statements of Mr. Lombard, Mr. Stringer and Mr. Nangle follow:]

STATEMENT OF EDWARD P. LOMBARD, SUPERINTENDENT OF INSURANCE OF THE GOVERNMENT OF THE DISTRICT OF COLUMBIA

Mr. Chairman and Members of the Sub-Committee: I appreciate the opportunity to testify in support of HR 4083, a bill designed to insure full performance of insurance contracts sold in the District of Columbia and to otherwise update certain of the insurance laws.

Your Committee on September 11, 1972 conducted a public hearing on a similar bill, namely S 2208 (92nd Congress), after the Senate had passed this bill on April 25, 1972, and a favorable report was issued on October 3, 1972. Time did not permit for action to be completed by the 92nd Congress.

HR 4083 is based on recommendations by the Commissioner of the District of Columbia, the D.C. Bar Association, and other testimony which led to improvements of last year's bill. HR 4083 contains all improvements resulting from the legislative process of hearing all interested parties.

It is hoped that the record established last year and the enclosed Title by Title, and in some instances even Section by Section, analysis of the bill will expedite the hearing process and be helpful to your favorable consideration.

The enactment of all of the Titles is considered to be necessary to improve the protection of the residents of the District of Columbia.

The purposes of HR 4083 are as follows:

Title I. To establish a post-assessment insurance guaranty fund to be administered by a nonprofit unincorporated legal entity known as the District of Columbia Insurance Guaranty Association.

Title II. To increase from \$200,000 to \$1,000,000 the amount of paid-in capital stock each domestic capital stock life insurance company is required to have and from \$150,000 to \$1,500,000 the surplus each domestic mutual life insurance company is required to have in order to transact business in the District of Columbia.

Title III. To increase the amount of coverage that is available under group term life insurance to a maximum of \$30,000 unless 300 per centum of the annual compensation exceeds this amount the maximum shall not exceed the lesser of \$100,000 and 300 per centum.

To remove uncertainty as to interpretations of the Revenue Ruling 69-54, 1969-1 C.B. 221 by the United States Internal Revenue Service an amendment to provide statutory provisions for the assignment of interests in group life insurance is added.

Title IV. To increase the amount of paid-up capital stock and surplus required of all stock companies and the amount of surplus for all non-assessable mutual companies licensed under the Fire and Casualty Act from \$300,000 to \$600,000; to increase the surplus requirement for domestic mutual companies from \$150,000 to \$300,000; and to increase the amount for foreign mutuals from \$200,000 to \$400,000; and

Title V. To increase from \$2,000 to \$10,000 the amount of a contract with the District government for which a bond is required.

TITLE I—DISTRICT OF COLUMBIA POST ASSESSMENT INSURANCE GUARANTY ASSOCIATION ACT

The provisions of this title closely follow the National Association of Insurance Commissioners (NAIC) Model Bill now enacted by forty-six states. Presently if a company licensed by one of 46 states becomes insolvent, its policyholders in all those states (including those surrounding the District of Columbia) are protected but policyholders of the District have no protection. A few people could be involved or thousands.

The purpose of this title is to protect residents of the District of Columbia from insolvencies of casualty companies authorized to do business in the District of Columbia.

The provisions shall apply to the kinds of direct insurance specified. (section 103) It is understood that the term "life insurance" enumerated as one of the excepted types of insurance, includes endowment and accidental death insurance and annuities, and that the term "Disability" insurance includes health and accidental dismemberment insurance. The reason for the exemption is due to the fact that failures have occurred primarily among companies in the property and liability field of insurance. (So far nine states have enacted bills dealing with life and accident and health insurance. These bills were enacted separately because the problems are somewhat different).

Otherwise the definitions of the terms are self-explanatory, nevertheless it should be pointed out that the term "claims" is used in a broad sense to include (as stated) unearned premiums in order to give full protection not only to the persons who have suffered a loss but also to persons who have *not* suffered an *actual* loss but who have paid premiums which are payable in advance (section 104).

The District of Columbia Insurance Guaranty Association is created as a non-profit unincorporated legal entity to administer the plan, with rights, duties and obligations similar to those of a company as regards the adjusting and settling of claims. (section 105)

The obligation of the Association is limited to covered claims unpaid prior to insolvency, and to claims arising within 30 days after insolvency, or until the policy is canceled or replaced by the insured, or expires, whichever is earlier. The basic principle is to permit policyholders to make an orderly transition to other companies. (section 107)

There are no reasons for the Association to become in effect an insurer in competition with member insurers. Furthermore control of policies is to properly remain in the hands of the liquidator. (section 107)

The funding is to be accomplished by assessments levied on each member insurer, to be computed in proportion to the insurance each member insurer writes

in the District of Columbia. No member insurer shall be assessed an amount greater than two (2) percent of the member's net direct written premiums in any one year. (section 107)

An administrative framework for orderly management is provided for through the creation of a Board of Directors (sections 106 and 107). Safeguards are vested in the Commissioner of the District of Columbia who may delegate his authority. (section 119) and, at the same time, there are sufficient guarantees to assure performance by the Board of Directors. A Plan of Operation is to be established (section 108) containing broad "must" provisions under the overall supervision of the Commissioner of the District of Columbia who is given sufficiently broad authority—mandatory and discretionary (section 109). These are supplemental to authorities now contained in the insurance statutes.

In order to accomplish the goal—protection of the insurance buying public—in a more meaningful way and to afford even better protection, provisions were made to aid in the *detection* and *prevention* of insurer insolvencies. (section 112)

Examinations are provided for (section 112) by the Commissioner of the District of Columbia and his relationship to the Board of Directors of the Association is defined (section 112).

Provisions are included (section 118) for the termination of the Association in case specified conditions exist, provided the rights of the insured are substantially protected.

TITLE II—MINIMUM FINANCIAL REQUIREMENT OF LIFE INSURANCE COMPANIES

Title II has the effect of increasing capital and surplus requirement of stock life insurance companies and corresponding surplus requirement of mutual life insurance companies, authorized to do business in the District of Columbia.

D.C. Code, section 35-508 was enacted in 1934 during a period of unprecedented depression. The combined amount for capital and surplus of \$150,000 for stock and the amount for surplus of \$100,000 for mutual life insurance companies then required may have been adequate for the protection of policyholders.

The Act of May 4, 1950 increased the minimum surplus of \$150,000 for mutual life insurance companies.

The last amendment by an Act of August 31, 1964 increased the minimum capital to \$200,000. The requirement that surplus shall at all times be equal to at least 50 per centum of such capital stock remained unchanged, making the combined total \$300,000.

The Amendment here proposed would require a combined capital and surplus in an aggregate amount of \$1,500,000 for stock life insurance companies and a surplus of also \$1,500,000 for mutual life insurance companies, in lieu of the present requirement of \$300,000 and \$150,000 respectively.

Over the years there has been a general trend throughout the nation to increase the minimum capital and surplus requirement for stock life insurance companies and to increase the surplus requirement for mutual life insurance companies to the same level. As of June 1971 only 2 states had a lower requirement, 4 states had an equal requirement, and 44 states a requirement which was considerably higher than the current requirement of the District of Columbia. The proposed increases in financial requirement are comparable to the requirement in other states. As of June 1971 27 states now require a combined amount of \$750,000 or more, and of those, 6 require \$1,500,000 or more. These requirements are being steadily updated.

Adequacy of capital and surplus is of course essential to the protection of policyholders, it is particularly important in the first few years of a company's operation. The company is then most subject to the great hazards of inexperience. To permit persons to operate a life insurance company without an adequate amount of capital and surplus may be of benefit to promoters but it jeopardizes the security of dependent beneficiaries. This becomes a very serious matter when it is realized that usually at a man's death his estate consists principally of proceeds of life insurance policies.

The "grandfather clause" in the Act of August 31, 1964 is clarified in the proposed section 203 of Title II and is to apply again in a similar fashion as first enacted, for stock life insurance companies, and is now made applicable to mutual life insurance companies, authorized to do business in the District of Columbia.

Since the combined capital and surplus for stock companies, and the surplus for mutual companies are used as a basis for special and excess investments, section 202 of Title II merely carries the proposed changes to the other sections of the law which refer to such provisions.

CAPITAL AND SURPLUS REQUIREMENTS AS OF JUNE 1971

State	Capital	Surplus	Combined
Alabama	\$200,000	\$300,000	\$500,000
Alaska	200,000	150,000	350,000
Arizona	100,000	(1)	150,000
Arkansas	300,000	² 300,000	600,000
California	500,000	500,000	1,000,000
Colorado	200,000	100,000	300,000
Connecticut	1,000,000	(³)	3,000,000
Delaware	350,000	200,000	550,000
District of Columbia	200,000	(1)	300,000
Florida	500,000	750,000	1,250,000
Georgia	200,000	² 200,000	400,000
Hawaii	250,000	(1)	375,000
Idaho	500,000	500,000	1,000,000
Illinois	600,000	(1)	⁴ 900,000
Indiana	400,000	600,000	1,000,000
Iowa	350,000	400,000	750,000
Kansas	300,000	² 300,000	600,000
Kentucky	500,000	750,000	1,250,000
Louisiana	100,000	200,000	300,000
Maine	500,000	1,000,000	1,500,000
Maryland	500,000	750,000	1,250,000
Massachusetts	800,000	800,000	1,600,000
Michigan	1,000,000	² 500,000	1,500,000
Minnesota	450,000	450,000	900,000
Mississippi	200,000	300,000	500,000
Missouri	200,000	200,000	400,000
Montana	150,000	150,000	300,000
Nebraska	500,000	500,000	1,000,000
Nevada	300,000	750,000+50%	1,200,000
New Hampshire	800,000	200,000	1,000,000
New Jersey	900,000	³ 1,700,000	⁴ 2,600,000
New Mexico	100,000	² 200,000	300,000
New York	1,000,000	2,000,000	3,000,000
North Carolina	600,000	600,000	1,200,000
North Dakota	650,000	350,000	1,000,000
Ohio	400,000	600,000	1,000,000
Oklahoma	250,000	(1)	375,000
Oregon	(³)	(³)	500,000
Pennsylvania	1,100,000	(1)	1,650,000
Rhode Island	(³)	(³)	750,000
South Carolina	300,000	300,000	600,000
South Dakota	400,000	425,000	825,000
Tennessee	750,000	(1)	1,125,000
Texas	100,000	100,000	200,000
Utah	200,000	500,000	700,000
Vermont	(³)	(³)	2,000,000
Virginia	500,000	300,000	800,000
Washington	500,000	500,000	1,000,000
West Virginia	1,000,000	(1)	1,500,000
Wisconsin	500,000	(1)	750,000
Wyoming	250,000	100,000	350,000

¹ 50 percent.² Special surplus may be required.³ Flexible.⁴ Increase pending.

Note: The tabulation shows the initial minimum capital and surplus requirements in each state for foreign stock life insurance companies, writing life and disability insurance, assuming youngest qualifying age if age is a requirement. Percentage surplus requirements are shown when applicable and expressed in the combined column as an amount applied to minimum capital required.

Summary

Less than \$300,000	2
\$300,000 (including the District of Columbia)	5
More than \$300,000 but less than \$750,000	14
\$750,000	3
More than \$750,000 but less than \$1,500,000	19
\$1,500,000	2
More than \$1,500,000	6
Total	51

Comparison with District of Columbia minimum requirements

Lower	2
Equal	4
Higher	44
Total	50

TITLE III—LIBERALIZATION OF AMOUNT LIMITATIONS

The current version of section 35-710 was originally created in 1934 and amended in 1940, 1950, 1960, 1961, 1962, and 1966. However, the amount limitations pertaining to group term life insurance were not fixed until 1950 to be a flat amount of \$20,000 per risk. In 1966, this amount was changed not to exceed the lesser of \$40,000 and 150% of compensation with a lower limit of \$20,000.

Title III has the effect of increasing these limits to the lesser of \$100,000 and 300% of compensation with a lower limit of \$30,000. The amount limits still follow the pattern established by the 1966 legislation but compensate for the forces of inflation.

As of June 1971 only 4 states had the same limits as the District of Columbia. 19 states had higher limits and 27 states had no limits. Since that time an additional state eliminated the limits. The tendency in recent years is to increase or eliminate the limits. Group life insurance coverage is written in a manner that at times persons are covered who reside outside the state in which most members of the group are residing. The situation in the District of Columbia is quite different. Many associations have their headquarters in the District of Columbia, therefore, in some cases the members of the group are dispersed over many, if not all the states.

Changes in the amount limits under the group life law should be such that they are as compatible as possible with laws in other states. Some overlap cannot be avoided but it should not be such that other states feels a need to create laws to make their citizens ineligible for group life coverage under a master policy issued in the District of Columbia.

Assignment of Incidents of Ownership

The current version of D.C. Code, section 35-710 neither prohibits nor expressly permits the assignment of incidents of ownership. Such assignment, therefore, may be made if contained in a group life insurance policy as a contractual right of the insured certificate holder.

The purpose of amending D.C. Code, section 35-711 is to make certain that the proceeds attributable to an interest in a group life insurance policy which has been completely assigned by the owner thereof will be excludable from the assignor's estate for Federal estate tax purposes.

Section 2042 of the Federal Internal Revenue Code of 1954 provides that there shall be included in the Federal gross estate of a decedent proceeds of insurance on his life which are receivable either by his executor or, if he possessed any incidents of ownership in the policy at his death, by any other beneficiary. In Revenue Ruling 69-54, 1969-1C.B. 221, the United States Internal Revenue Service ruled in effect that an insured could not assign all his incidents of ownership in group life insurance unless both the group policy and applicable state law permit an absolute assignment of all his incidents of ownership, including the right to convert group coverage into individual insurance upon termination of employment. The Federal Government has since lost several court cases which in effect hold that State law need not specifically permit such an assignment so long as it does not prohibit assignment, and the Internal Revenue Service has announced its agreement with one of these cases. However, the Service has not modified Revenue Ruling 69-54.

In view of the uncertainty in the Federal estate tax law, 37 states (at latest count), including Maryland and Virginia, have passed legislation specifically permitting the assignment of interests in group life insurance. (The amendment is based on the Maryland, Texas, Illinois and New York statutes.)

The amendment adds a new clause (d) which provides that, subject to the terms of the policy, any person insured under a group life insurance contract may assign any or all of his rights and benefits under the policy to any person other than his employer. The proposed clause (d) makes it clear that any such assignment is valid whether it is made before or after the effective date of the clause. On the other hand, proposed clause (d) protects the insurer on account of any payment which it may make or any individual policy which it may issue prior to receipt by it of notice of the assignment.

Group—Term life insurance statutory amount limits

Limits:	Number of States
20/40/150 percent (including District of Columbia)-----	5
Higher limits-----	19
No limits-----	27
Total-----	51

LIMITS—20/40/150 PERCENT

Arizona, Arkansas, District of Columbia, Montana, and Pennsylvania.

HIGHER LIMITS

Colorado, Florida, Hawaii,¹ Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan,³ Minnesota, Mississippi, Missouri, New Jersey, New Mexico, New York, North Dakota, Oregon, Rhode Island, South Carolina, Texas,² West Virginia, and Wisconsin.

NO LIMITS

Alabama, Alaska, California,⁴ Connecticut, Delaware, Georgia, Idaho, Iowa, Maryland, Massachusetts, Michigan,³ Minnesota, Mississippi, Missouri, New Jersey, New Mexico, New York, North Dakota, Oregon, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

TITLE IV—AMENDMENT OF THE FIRE AND CASUALTY ACT—MINIMUM CAPITAL AND SURPLUS REQUIREMENTS

This title would double the current minimum capital and surplus requirements for fire and casualty stock companies other than surety insurance companies and eliminate the different requirement for the latter type. Domestic and foreign stock insurers alike other than domestic surety insurance companies are required to have a paid-up capital stock of \$150,000 and in addition must maintain a surplus of not less than \$150,000. These limits were established in 1940 and this title would increase the capital figure to \$300,000 and the surplus figure to \$300,000. The law currently provides for a paid-up capital stock of \$500,000 and a surplus of not less than \$250,000 for domestic surety insurance companies. The more favored treatment for foreign stock surety insurance companies is being eliminated. There is little reason to believe that surety insurance should be treated differently than workmen's compensation, liability insurance or multi-line commercial insurance contracts.

Domestic mutual insurance companies and domestic reciprocal companies currently are required under D. C. Code, section 35-1316 to maintain a surplus of not less than \$150,000. This requirement is to be increased to \$300,000. Foreign mutual insurance companies currently under D. C. Code, section 35-1316 are required to maintain a surplus of not less than \$200,000. This amount is to be increased to \$400,000. Mutual domestic or foreign companies under D.C. Code, Section 35-1329 (non-assessable premiums) are now required to maintain a surplus of \$300,000. This amount is to be increased to \$600,000. Accounting only for change in the value of the dollar that has occurred in the past 30 years, this doubling of the capital and/or surplus requirement is fully justified.

The changes will bring the District of Columbia more in line with the requirements of other states. For instance, in Maryland similar requirements in the property field range from \$500,000 to \$1,000,000 dependent upon how many lines of insurance are being written. In Virginia the comparable figure is \$800,000.

As in the past the "grandfather clause" (D. C. Code, section 35-1317) as modified will apply to companies continuously doing business in the District of Columbia without adding a new line of business not previously authorized.

A need exists to increase these minimum requirements since at the present levels the District of Columbia is a target for small insurance companies from other states who seek to spread into jurisdictions having a low requirement.

¹ For union groups 20/40/150 percent.

² Under certain conditions limits apply to permanent insurance as well.

³ For union groups \$20,000.

⁴ Trusteed plans limited to \$50,000.

⁵ Some discretionary groups limited to \$25,000.

These are the companies that have presented the most problems to the regulators and have in other states produced insolvencies over the years. Without adequate requirements residents of the District will be exposed to the dangers inherent in under-capitalized insurance companies, at the same time the increased minimum requirements were set at a level to make it still possible for domestic companies to be formed in the District of Columbia.

TITLE V

The original statute in 1906 required a surety bond to protect the District Government in matters of work performance by a contractor exempting work in an amount of \$2,000 or less. Maintaining the spirit of the law and even if one is only to account for inflation, an increase to \$10,000 is warranted and needed to preserve a realistic approach in dealing with small contractors. The updating in this respect by such increase will provide greater latitude for the District Government in dealing with small contractors.

STATEMENT OF JOHN STRINGER, COUNSEL THE AMERICAN MUTUAL INSURANCE ALLIANCE ON H.R. 4083

I am John Stringer, Washington Counsel of the American Mutual Insurance Alliance. We are the major national association of mutual property and casualty insurance companies, which write casualty and property coverages in all fifty states and the District of Columbia.

We very much appreciate the opportunity of presenting our views on H.R. 4083. Titles II, III, and V of the Bill deal with matters outside the scope of property and casualty insurance, and I shall accordingly restrict my comments to Titles I and IV.

TITLE I—DISTRICT OF COLUMBIA POST ASSESSMENT INSURANCE GUARANTEE ASSOCIATION ACT

The Alliance has been a leading advocate of state regulation and voluntary action by the insurance industry both to help prevent insurance company insolvencies and to protect consumers against the effects of insolvencies.

We have, for instance, endorsed and actively supported amendments to state insurance codes designed to strengthen the insurance regulator's hand in dealing with high-risk insurance companies, to increase insurance department control over reserving practices of domestic insurers and to provide insurance regulators with specific power to regulate management contracts.

Moreover, we have supported legislation¹ requiring that uninsured motorist coverage with insolvency protection be included in all automobile liability insurance policies. As a result of similar legislation enacted in 39 states, and the voluntary actions of insurers in the remaining of the states and the District of Columbia, more than 90% of all auto liability insurance policies now in effect in this country contain uninsured motorist coverages with insolvency clauses protecting policyholders and their families in cases where they cannot collect from a negligent driver because his insurer became insolvent.

However, the Alliance recognizes that the economic consequences of insurance company insolvencies affect a broader spectrum of the American public than those who just purchase automobile liability insurance. Accordingly, we have strongly supported and urged the enactment of legislation designed to extend insolvency protection to include non-car-owning pedestrians, coverage for vehicle damage, property insurance policyholders—virtually all claimants and insureds of insolvent property and casualty insurance.

The Alliance strongly urges the Subcommittee to favorably report Title I of H.R. 4083—a post insolvency assessment plan. This legislation would create an insolvency program in which all licensed carriers in the District of Columbia would be required to participate. If an insolvency occurs, these carriers, through an assessment, would provide funds out of which claimants and policyholders of insolvent insurers would be compensated. Title I is substantially similar to model legislation proposed for enactment in each state by the National Association of Insurance Commissioners.

¹ *Auto Insurance Reform*—statement of the AMIA before the Business, Commerce and Judiciary Subcommittee of the Senate District of Columbia Committee, September 29, 1971—page 57.

Most insolvencies can be traced to three categories of cause:²

1. Uncontrollable events or acts of God, such as economic depressions and catastrophic losses as those resulting from hurricanes or floods. Examples are the insurers who became insolvent due to the fall in value of their assets, chiefly securities, during the Great Depression.

2. Poor management, involving inadequate underwriting standards, marketing errors which reduce premium volume, underreserving and inept investment techniques.

3. Dishonest management, that converts company funds for personal use of falsified assets.

It is evident from these causes of insolvency that some may be detected far enough in advance for the regulator to stop the deterioration before it causes insolvency, or at least before it invades the funds set aside for obligations to policyholders or claimants.

Nevertheless, it is also evident from the cause of insolvency that in spite of the best efforts of competent regulators, some insolvencies can not be detected in time. One commentator, conversant with the subject, has pointed out:

"Expansion of and improvement in the quality of examination and audits of annual statements will curb insolvency. Still, crimes are committed regardless of the number of policemen hired and insolvencies will occur regardless of the thoroughness or frequency of examination—."³

Therefore, the American Mutual Insurance Alliance, recognizing its responsibility to work for an improved "insurance environment" believes that it is imperative that a post-insolvency assessment plan be enacted.

Prior to May 1969, only eight states had laws providing some form of insurance insolvency protection for their citizens. No state had a law providing coverage for all lines of property and casualty insurance.

In 1970, twenty states enacted post-assessment insolvency laws covering virtually all lines of property and casualty insurance. Thus, combined with the four states passing similar laws in late 1969, this brought to 24 the number of states with insolvency-fund laws covering all property and casualty lines.

In 1971 and 1972, twenty one additional states adopted post-assessment insolvency fund laws covering virtually all lines of property and casualty insurance, bringing the total to 45. To this figure must be added the newly enacted New Mexico statute. In addition, New Jersey has insolvency laws applicable to automobile and workmen's compensation insurance.

Thus, 47 states provide insolvency protection to 96% of the countrywide property and casualty insurance premium volume. Only Alabama, Arkansas, Oklahoma, and the District of Columbia do not have such protective legislation.

The American Mutual Insurance Alliance is pledged to securing the enactment of consumer protection laws against insurance company insolvencies in all 50 states and the District of Columbia. We shall continue to press for the enactment of this consumer protection program until all the states and the District of Columbia have taken appropriate action. Accordingly, we urge the enactment of Title I of H.R. 4083.

TITLE IV—INCREASE THE MINIMUM CAPITAL AND SURPLUS REQUIREMENT FOR PROPERTY AND CASUALTY INSURANCE COMPANIES

Title IV would double the minimum capital and surplus which property and casualty insurance companies licensed and authorized to do business in the District of Columbia shall maintain at all times.

The existing requirement was enacted 40 years ago, and, it is obvious that if the requirement was adequate then it no longer is today. The adjustment is in line with increases in minimum capital and surplus requirements which have been adopted by many state legislatures.

We support Title IV. It must be recognized that the minimum capital and surplus requirement is but one tool available to the insurance superintendent to control the solvency of insurance companies. Although there are a number of very reputable domestic companies that would not meet the newer requirements, we believe that their continued operations are protected by Section 14 of the Fire and Casualty Act. These companies have demonstrated in the past sound

² "The Public Interest Now in Property and Liability Insurance Regulations"—State of New York Insurance Department, January 7, 1969.

³ Testimony of Dr. Richard M. Heins before the National Association of Insurance Commissioners, Subcommittee on Insolvency, Proceedings of NAIC, 1963, Volume I, page 41.

fiscal management, and they provide an invaluable service to District of Columbia residents. Some of those companies specialize in certain lines of insurance and their expertise in those specialties goes far beyond that of the larger companies.

Conclusion

The high level of insurance regulation in the District of Columbia has served District residents well. There has not been a single insolvency of a domestic insurer in the District since the mid 1930's.

The enactment of Title I of H.R. 4083 will protect District of Columbia residents from losses resulting from insurance company insolvencies which are beyond the control of the District insurance regulator.

Title IV will update one of the existing tools available to the District of Columbia Superintendent to insure that the excellent insolvency record presently existing in the District will continue in the future.

We urge the adoption of this legislation.

PREPARED STATEMENT OF JOHN J. NANGLE, WASHINGTON COUNSEL, NATIONAL ASSOCIATION OF INDEPENDENT INSURERS

NAII is a voluntary national trade association of some 533 insurers of all types, both stock and non-stock, whose membership provides a representative cross-section of the casualty and fire insurance business in America. Our companies range in size from the smallest one-state entrepreneurs to the very largest national writers; they reflect all forms of merchandising—*independent agency, exclusive agency, and direct writer*—and they include companies serving not only the general market but also those specializing in serving particular consumer groups such as farmers, teachers, government employees, military personnel, and truckers.

The independent companies have long been recognized as the most competitive and progressive segment of the fire-casualty insurance business. They have originated by far most of the many policy coverage innovations and improvements in the past twenty-five years. Their aggressive price competition has saved the insuring public more than \$10 billion in premiums in the last decade alone. Our companies have continued to expand the voluntary market availability of automobile insurance at a faster rate than the rate of increase in new vehicle registration. We estimate that our companies write approximately 54% of the insured vehicles in the District of Columbia.

There are five titles to H.R. 4083 and inasmuch as Titles I and IV are the only ones germane to the interests of our member companies, we will confine this brief statement to these titles.

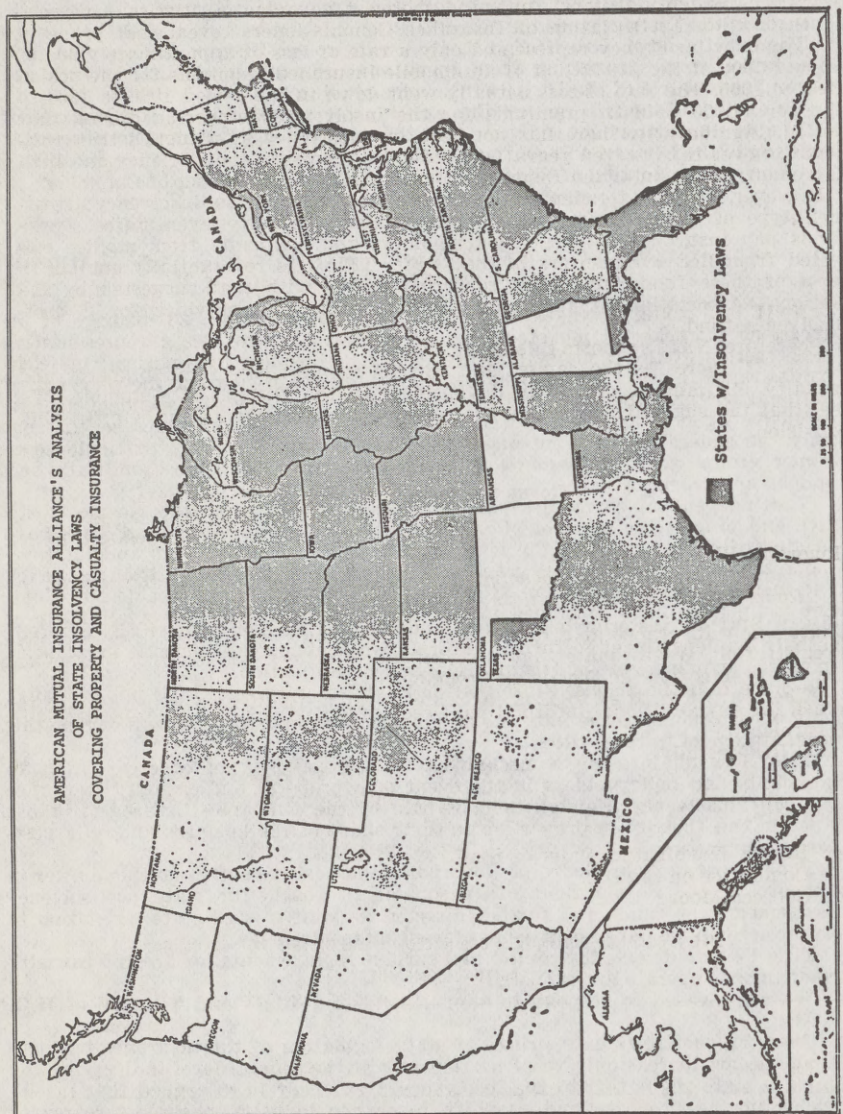
Title I would provide a mechanism for the payment of covered claims to claimants and policyholders in the event of a property and casualty insurance company insolvency. Funds would be paid by the companies licensed for those lines in the District in proportion to their share of the business and on a post-assessment basis.

Four years ago, our Board of Governors took positive action on this matter in support of the development of reasonable proposals for state post-solvency assessment-type funds and further directed its staff to seek state legislation to better accomplish our objectives in preventing insolvencies.

Title IV would raise the capital and surplus requirements for fire and casualty companies to operate in the District.

We are pleased to respond in support of both Title I and Title IV of H.R. 4083.

Over the past few years, critics of state regulation of the insurance business have become increasingly vocal particularly at the federal level in decrying the gaps in state regulation in the insolvency area. They have argued that insolvencies in the property and casualty insurance industry have left scores of policyholders and claimants without recourse because of the lack of some type of state mechanism for protection of these individuals. In view of all this, a bill was introduced in the 91st Congress to establish a Federal Insurance Guaranty Corporation to provide the coverage said to be lacking in individual assessments against insurance companies out of which will be paid claims of policyholders and claimants of insolvent insurers. A more subtle effect of the proposal would



have been the pre-emption by the federal government of the power of the states to regulate insurance.

This federal intrusion into an area of regulation that has been traditionally a matter for the states to handle has been of serious concern to state regulators and the supporters of this type of regulation, particularly when a close look at the facts indicates that the insolvency problem is really very minor and that the states had already begun to alleviate it through the inclusion of insolvency protection under statutory uninsured motorist coverage. Statistics developed by the National Association of Insurance Commissioners reveal that property and casualty insolvency represented only a rate of loss of approximately 60¢ of every \$1,000 of the \$10 billion of automobile insurance premiums for the period 1960 to 1965. The rate of loss actually went down in the period 1966 to 1968 to 49¢ per \$1,000 paid in premiums for the insolvencies occurring during that period. Significantly, there has not been an insolvency affecting District residents in over thirty-seven years. Of course, this connotes the efficiency and high degree of regulation of the Insurance Department of the District of Columbia.

However, in order to silence the critics of state regulation, insolvency assessment-type of guaranty funds came into existence in forty-seven states. These funds pay insurance claims of policyholders and claimants from monies collected from licensed insurers in that state. Title I is substantially similar to most of these funds in that it conforms closely with that suggested by the National Association of Insurance Commissioners and provides for a post-insolvency fund.

Therefore, NAIH supports this legislation.

Title IV increases the capital and surplus requirements for a property and casualty insurance company to do business in the District of Columbia. We feel that the suggested increases are reasonable requirements and support this provision.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
DEPARTMENT OF INSURANCE,
Washington, D.C., April 6, 1973.

Honorable W. S. STUCKEY, JR.,
Chairman, House District Subcommittee on Business, Commerce and Taxation,
Room 1310, Longworth Building, Washington, D.C.

DEAR SIR: In yesterday's hearing conducted by you on H.R. 4083, you requested this department to furnish information showing the domestic insurance companies by name, year of organization, and capitalization.

We hope that the enclosed information is satisfactory. Please do not hesitate to ask for any additional information. Needless to say we will be more than glad to furnish it.

Respectfully,

MAXIMILIAN WALLACH,
Deputy Superintendent and Actuary.

Enclosure.

cc: Robert Washington, Chief of Staff
Committee on the D.C.
cc: Rebecca Moore

LIFE INSURANCE COMPANIES, DOMICILED IN THE DISTRICT OF COLUMBIA
MUTUAL COMPANIES

Company	Year of organization	Surplus	
		Initial	As of Dec. 31, 1972
Acacia Mutual Life Insurance Co.	1869	(1)	\$31,231,627
Mutual Life Insurance Company of Washington, D.C.	1948	(2)	1,590,531

¹ Started as a Fraternal and Mutualized by Act of Congress.

² Started as a Mutual Company reinsuring a Fraternal and another Mutual Company (1964).

Note: Current statutory minimum \$150,000.

STOCK COMPANIES

Company	Year of organization	Capital (C) and Surplus (S)	
		Initial	As of Dec. 31, 1972
AAA Life Insurance Co.....	1969	C \$1,000,000 S 800,000	\$1,000,000 1,120,657
American Capital Life Insurance Co.....	1960	C 200,000 S 1,114,287	215,138 528,311
American Citizens Life Insurance Corp.....	1949	C 100,000 S 180,000	200,000 445,013
Equitable Life Insurance Co.....	1902	C 100,000 S 222,227	10,012,071 31,511,110
General Services Life Insurance Co.....	1955	C 100,000 S 325,000	250,000 867,977
Government Employees Life Insurance Co.....	1949	C 200,000 S 628,887	4,465,771 11,529,971
Peoples Life Insurance Co. of Washington, D.C.....	1903	C (?) S -----	7,027,080 27,473,560
United Services Life Insurance Co.....	1939	C 100,000 S 250,000	2,376,000 13,076,503
Washington Life Insurance Co. ³ c/o Lincoln National Life, Fort Wayne, Ind.....	1941	C 100,000 S 60,000	100,000 231,240

¹ W. Va. 1885 reincorporated in District of Columbia 1902.

² By reinsurance.

³ Dormant.

Note: The initial surplus shown includes subsequent changes.

Current statutory minimum: Capital (C) \$200,000; Surplus (S) 50 percent of prevailing capital.

Note: Companies (stock or mutual) in order to be authorized in other States need to meet the requirements of the respective States. A company newly formed now with minimum capital and surplus can only be admitted in 6 out of the 50 States if a stock company or in 2 out of 50 States if a mutual company.

However, any company operating under a grandfather clause in another State, meeting District of Columbia minimum, if complying with other requirements may be admitted in District of Columbia as long as current minimum remains unchanged.

Mr. STUCKEY. I would like to ask a few brief questions. Do you have a list of the domestic insurance companies in the District and their license dates?

Mr. LOMBARD. I have a listing here, Mr. Chairman, of the domestic property insurance companies that would be possibly affected by the new increased capital requirements. I will be glad to leave several of those with you.

[The document referred to follows:]

DISTRICT OF COLUMBIA, LICENSED PROPERTY INSURANCE COMPANIES, DEC. 31, 1972

Name of company	Organized	Original capitalization
Abbey.....	1939	\$10,000
Amalgamated.....	1938	20,000
American Homeowners.....	1873	100,000
Bankers Mutual.....	1936	10,000
Columbia Mutual.....	1938	20,000
Columbia Title.....	1887	150,000
Criterion Insurance.....	1961	3,000,000
Firemens.....	1837	200,000
Government Employees Insurance.....	1937	200,000
Guardian Insurance.....	1967	325,000
Hamilton.....	1959	375,000
Home Casualty.....	1882	10,000
National Union.....	1865	100,000
Tri-State.....	1938	10,000

The seven domestic companies who have a million dollars or less in policyholder surplus are listed. Five of those companies, at the moment, do have less than the new limits, but we have not attempted

to place any additional capitalization requirements on these companies unless they would broaden their scope of activity.

For instance two of the taxicab companies—we actually have three in the taxicab industry—I would not assume that they would move into any new fields. It is a speciality field, and two of the companies are dormant companies and having already become dormant because of the problems of surviving, I would think that it would be proper not to have them start up again, unless they were to be properly capitalized.

I know of no domestic or foreign company that has any objection to this increased capital limit. In fact, only six foreign companies are below the million dollar mark, and only one of those below the \$600,000 mark, and that company is owned by a very large life insurance company and would not have any problem if it needed to perform capital into this company. So the domestic companies are aware of this change; they have no objection that I know of whatsoever.

Mr. STUCKEY. So, basically you are saying that there will not be any effect; that the increase in capital and surplus on the present companies—

Mr. LOMBARD. It will not affect them unless it would broaden their authority, and they have not made a point that it would not affect them.

Mr. STUCKEY. And there have been no objections from any of your companies?

Mr. LOMBARD. No objections whatsoever.

Mr. STUCKEY. What is the claim experience for domestic companies? Can they presently pay their bills?

Mr. LOMBARD. We have had a history in the District of insurance company difficulty and problems, but they have not extended to the policyholders. During the period of 3 years, between 1965 and 1968, five of our domestic property insurance companies went out of business with substantial loss to their stockholders.

But, with a cushion, even the cushion we had of the surplus and capital requirements, the Department working with the companies was able to protect the policyholders, as in the case of one company here whose present resources are \$137,000; 5 or 6 years ago they had resources of \$700,000 or \$800,000. Now, they have paid their claims. In fact, all of the companies that went out of business, five of them, paid their claims and managed to keep from going completely insolvent.

But an increased surplus requirement will provide more of a cushion than we had then, and should the same thing happen again, there would be more of a margin of safety for the public.

Mr. STUCKEY. I think this is one of the really worthy parts of the bill, and, of course, the bill was intended to do just that—to give a greater protection to the policy holders from any financial loss or insolvency on the down part of the insurance companies. And I would like to add that my knowledge is that no one has opposed the bill.

Mr. LOMBARD. That is correct, sir. The larger companies, especially State Farm, one of the largest mutual companies, at the beginning of this venture into these guarantee funds made the point that there should be a coupling of this bill with control by the regulator of large sums of monies from the companies, and there was a lot in their

approach. They did not like to have their mutual policyholders pay for improper stock of mutual operations; but they are not pushing that, and in the District of Columbia, I think, the fact that we have a good record with respect to solvencies, and because of the nature of the structure of the industry here, they did not push their approach.

So that was the only philosophical objection that I know of, and that has been withdrawn on that premise.

Mr. STUCKEY. Thank you, Mr. Lombard.

Does anyone else have any statements that they would like to make at this time; yes, sir?

STATEMENT OF ARNOLD W. WOLPERT, DIRECTOR, ECONOMICS BENEFITS, SPECIAL SERVICES DIVISION, NATIONAL EDUCATION ASSOCIATION

Mr. WOLPERT. Congressman, my name is Arnold Wolpert; I am with the National Education Association. I have a prepared statement, which I would like to leave for replacement in the record.

We support the bill. We are interested in increasing or raising the limits on group insurance, which is the interests of our members nationwide. We are in full support of it.

Mr. STUCKEY. Thank you, Mr. Wolpert. You scared me for a minute; I thought finally we found some opposition to the bill.

(The prepared statement of Mr. Wolpert follows:)

STATEMENT OF ARNOLD W. WOLPERT, NATIONAL EDUCATION ASSOCIATION

My name is Arnold W. Wolpert. I represent the National Education Association as Director, Economic Benefits, Special Services Division. In that capacity, I supervise the operation of insurance programs sponsored by the Association for its 1.2 million members.

I appear here as a representative of the consumers of insurance rather than as a representative of the insurance industry. I appear in support of HR 4083, a Bill dealing with the regulation of insurance in the District of Columbia. The particular matter of interest to the NEA and its members is Title III, Section 301, which provides that the ceiling on the amount of group term life insurance that persons may purchase be raised.

H.R. 4083 is a good Bill in that it proposes to raise the present ceilings of \$20,000 flat, \$40,000 maximum to \$30,000 flat, \$100,000 maximum. This is a needed change. In fact, HR 4083 would be even better if it raised those ceilings to an even higher level say, \$50,000 flat—or removed them entirely.

Limits on the amount of group term life insurance that could be offered or purchased were first placed into state insurance codes 30 to 50 years ago when group term insurance began to be popular. The theory was that persons should not depend entirely on group term insurance to satisfy their life insurance needs. We agree. However, experience has shown that even when there are no limits on the purchase of group term life insurance, people tend to take care of their life insurance needs with a balanced program.

The recent trend among states has been to remove or to substantially raise the limits on group life insurance sales and purchases.

Since this Bill was first introduced in the 92nd Congress, three states have liberalized their group term insurance limits. North Carolina raised the limit to a flat \$100,000. Maryland and Pennsylvania removed their limits altogether. Virginia has already removed that State's limit entirely several years ago. Thirty-one states now have no limits on the amount of group term life insurance its residents may purchase. Four more states have limits which are already higher than the ones being proposed by H.R. 4083. Only three other states, Arizona, Arkansas and Montana limit as tightly as does the District of Columbia the amount of group term insurance that may be purchased or furnished. The District

of Columbia limits have not been adjusted since 1951 and are among the lowest in existence anywhere.

The NEA is interested in this Bill and in a more realistic ceiling on group term insurance offerings because it wishes to provide adequate, up-to-date insurance and still keep its program here in the District of Columbia where the NEA is located. The NEA has developed a special Life Insurance Program for its members and their families. The Program is administered by the Prudential Insurance Company. It has been in operation for 12 years. It insures almost a quarter of a million lives. It has developed its own reserves and has improved its benefits on 11 different occasions. Association members have been asking for the opportunity to purchase larger blocks of coverage. We would like to be able to offer it to them. We are now in a position to increase the benefits of our two larger plans by an aggregate of ten per cent without having to increase the premiums.

The low ceiling on group term life insurance in the District of Columbia prevent us from offering to teachers nationwide the amounts of insurance they need and want.

On behalf of those teachers, our members, we urge early enactment of this Bill.

GROUP LIFE INSURANCE LIMITS.

MAXIMUM PER EMPLOYEE PERMITTED BY LAW UNDER POLICIES ISSUED TO AN EMPLOYER¹

State	Maximum	Other limits
		Maximum limited to percent of employee's annual pay if in excess of lower amount
Arizona.....	\$20/100,000	150
Arkansas.....	20/40,000	150
Colorado.....	21/50,000	150
District of Columbia.....	20/40,000	150
Florida.....	20/100,000	200
Hawaii.....	30/50,000	150
Illinois.....	20/50,000	250
Indiana.....	25/75,000	200
Kansas.....	50,000	200
Kentucky.....	25	200
Louisiana.....	20/50,000	200
Maine.....	25/100,000	150
Montana.....	20/40,000	150
New Hampshire.....	80,000	200
North Carolina.....	100,000	200
Ohio.....	40/75,000	250
South Carolina.....	20/60,000	200
Texas.....	20/50,000	200
West Virginia.....	20/50,000	200
Wisconsin.....	50/75,000	200

¹ States having no limit (31): Alabama, Alaska, California, Connecticut, Delaware, Georgia, Idaho, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming.

² No limit.

Note: Base higher than proposed for District of Columbia in H.R. 4803 (4): Kansas, North Carolina, Ohio, and Wisconsin.

Mr. PRICE. Sir, can I assume that all of the statements that I have submitted will be included in the record?

Mr. STUCKEY. Right, all of the statements that have been submitted will be made a part of the record.

Mr. ROBINSON. As you know the Mayor has submitted a report on this bill and the companion bill; which at this time I would like to have included in the record. It points out certain discrepancy between the two bills and recommends a course of action to correct those.

Mr. STUCKEY. It will be made a part of the record, and the chairman also has a statement that I would like to make a part of the record at this time.

(The prepared statement of Mr. Price, the report from Mayor Washington and the prepared statement of Mr. Stuckey follow:)

PREPARED STATEMENT OF ROBERT N. PRICE, VICE PRESIDENT AND GENERAL COUNSEL,
PEOPLES LIFE INSURANCE CO.

I am Robert N. Price, Vice President and General Counsel of Peoples Life Insurance Company, Washington, D.C. This consolidated statement in support of H.R. 4083 is made on behalf of the following domestic District of Columbia life insurance companies:

Acacia Mutual Life Insurance Company
Equitable Life Insurance Company
Government Employees Life Insurance Company
Peoples Life Insurance Company
United Services Life Insurance Company

H.R. 4083 is an omnibus bill divided into Titles I through V. This statement is principally concerned with Titles II and III which relate to life insurance and life insurance companies. We specifically support those Titles.

The amendment proposed in Title II would increase the capital and surplus requirements for stock and mutual life insurance companies authorized to do business in the District of Columbia. Over the years, various states have increased the capital and surplus requirements of life insurers as a further safeguard to the security of policyholders. It is particularly important that the policyholders be protected in the early years of a company's operation. The proposed increases in the capital and surplus requirements would bring the District of Columbia more in line with the requirements of the various other states and would provide greater safety to policyholders of companies authorized to do business in the District of Columbia.

Title III would increase the maximum amounts of group life insurance to the lesser of \$100,000 or 300% of compensation with a lower limit of \$30,000. More than half of the states currently have no limits on the amounts of group life insurance while a lesser number have higher limits than the District of Columbia, and a few have the same limits. The proposed amendment would offset the effects of inflation in the years since the last increase in the group life insurance limits and it would bring the limit more in line with those applicable in other states. Such an increase would permit the full employee benefits under the federal income tax laws which exclude from personal income tax the premiums paid by an employer for group life insurance up to \$50,000.

We believe that there should be some limit on the amount if group life insurance and that the proposed limits are reasonable. Subject to a right to convert, group insurance terminates when the employment terminates, and an individual with only group insurance may find himself without adequate protection if his job terminates. At retirement, most group insurance either terminates or reduces to a paid-up amount. For these reasons, an individual may not find it advisable to have all his protection in the form of group insurance.

The present District of Columbia Code neither permits nor prohibits the assignment of group life insurance. The above companies firmly believe that said Code should include an amendment permitting the assignment of group life insurance. The exercise of an assignment of rights under a group life insurance policy would permit a covered individual to obtain valuable benefits under the federal estate tax laws. The Codes of forty-one of the states permit such assignments.

Titles I and IV are concerned with casualty insurance companies and the type of insurance written by them. Insofar as these Titles afford additional policyholder protection, the above named companies generally support the requested amendments.

The amendment requested in Title V would increase the amount of a contract with the District of Columbia for which no bond is required, and in view of the inflation in recent years, the higher amount would appear reasonable.

On behalf of the companies identified above, I wish to express my thanks to the Chairman and members of the Subcommittee for the opportunity to present their views.

THE DISTRICT OF COLUMBIA,
Washington, D.C., February 2, 1973.

THE HONORABLE
THE SPEAKER,
United States House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: The Government of the District of Columbia has the honor to submit herewith for the consideration of Congress a draft bill "To improve the laws relating to the regulation of insurance in the District of Columbia, and for other purposes."

The purpose of the proposed legislation is to amend existing law in the District of Columbia relating to insurance in order to provide a greater degree of protection to consumers from financial loss due to company insolvency; to increase the limitation on the amount of group term life insurance that can be issued in the District; and to increase the amount of a contract with the District Government for which a bond is required.

Title I is based on model legislation prepared by the National Association of Insurance Commissioners which has been adopted or is currently under active consideration in most States. This title would establish a post-assessment insurance guaranty fund to be administered by a nonprofit unincorporated legal entity known as the District of Columbia Insurance Guaranty Association. The Association would be obligated, in the event an insurance company became insolvent, to pay all covered claims of the policyholders of the insolvent company. The Association would have the same rights, duties, and obligations in regard to adjusting and settling claims that the individual company would have had if it had not become insolvent.

Funds for the insolvency fund as well as for operating expenses would be provided through annual assessments to be levied on each member insurance company. All companies licensed to transact business in the District of Columbia and writing lines covered in the Act would be required to belong to the Association. The assessments would be proportional to the amount of insurance each member company writes in the District of Columbia. However, no member company would be assessed an amount greater than 2 percent of that member's net direct written premiums in any one year.

The Association would be administered by a Board of Directors chosen by the member companies and subject to the approval of the Commissioner of the District of Columbia. The Board would adopt a plan of operation, also subject to approval by the Commissioner.

In addition to its role as financial guarantor for policyholders, the Association would have the responsibility of aiding in the detection and prevention of insolvencies. The Board, upon majority vote, would notify the Commissioner of any hazardous financial condition of any member company; request the Commissioner to have an examination conducted at the Association's expense; and make general reports and recommendations to the Commissioner on matters relating to the concerns of the Association.

The Commissioner would inform the Association of insolvencies not later than three days after receiving notice of a determination of insolvency. The Commissioner would be authorized to require the Association to notify all the insureds of the insolvent company of their rights under this title. The Commissioner would also report to the Board of Directors when he has cause to believe an insolvency is about to occur in any of the member companies.

Title I of the bill would provide for termination of the District of Columbia Insurance Guaranty Association in the event that legislation is enacted creating a national guaranty fund with benefits and protections as favorable as those that would be provided policyholders under this title, or in the event a voluntary plan is created which provides equally favorable safeguards to policyholders.

It is imperative that protection against company insolvencies be afforded District consumers as soon as possible. At the present there is no such protection and although the District's record in regard to insolvencies of companies domiciled here has been remarkable, we cannot fail to plan for the possibility of insolvencies occurring in a company operating nationwide which has District policyholders.

We feel that the approach taken in this title will provide adequate and

efficient protection to the public, both in terms of the amount in the fund and the method of paying out claims.

Title II of the proposed legislation would amend the Life Insurance Act to increase from \$200,000 to \$1,000,000 the amount of paid-up capital stock each domestic stock life insurance company is required to have in order to transact business in the District of Columbia. This amount would provide greater protection to consumers and would recognize the effects of inflation on capitalization requirements for insurance companies. The capital and surplus requirements for life insurance companies were last revised in 1964 by Public Law 88-556.

Title III would amend the Life Insurance Act to increase the amount of coverage that is available under group term life insurance to maximums of \$30,000, \$100,000, and 300 percent of compensation with the varying maximums based on compensation. These proposed amount limitations would make District requirements comparable to other State laws.

Title IV would amend the Fire and Casualty Act to increase the amount of paid-up capital stock and surplus required of all stock companies licensed under the Fire and Casualty Act from \$300,000 to \$600,000; to increase the surplus requirement for domestic mutual companies from \$150,000 to \$300,000; and to increase the amount for foreign mutuals from \$200,000 to \$400,000. Title IV would also increase the surplus requirement for mutual companies issuing non-assessable policies from \$300,000 to \$600,000. The increased requirements would apply only to new companies wishing to be licensed in the District and not to companies continuously transacting business here provided there is no change in the scope of their operations. The capital and surplus requirements under the Fire and Casualty Act were determined in 1940 and have not been revised since.

Adequacy of capital and surplus requirements is essential to the protection of policyholders. It is particularly important in the first few years of a company's operations when the company is most subject to the hazards of financial inexperience. The amendments proposed in titles II and IV of this draft legislation would act as a safeguard against financially inadequate companies entering the local market.

Title V would increase from \$2,000 to \$10,000 the amount of a contract with the District Government for which a bond is required. We have learned that the \$2,000 requirement is unnecessarily low and that an increase to \$10,000 would be more in line with present costs and also would provide small contractors with a greater opportunity of dealing with the District Government without being required to be bonded in contracts involving less than \$10,000.

The above proposals represent some of the most immediate needs for revision or amendment of local insurance laws, and accordingly we urge enactment of the attached bill.

Sincerely yours,

WALTER E. WASHINGTON.

STATEMENT OF THE HONORABLE W. S. (BILL) STUCKEY, JR.,

The purpose of the proposed legislation is to amend existing laws in the District of Columbia relating to insurance in order to provide a greater degree of protection to consumers from financial loss due to company insolvency; to increase the limitation on the amount of group term life insurance that can be issued in the District—expressly permitting the assignment of interest in a group life insurance policy; and to increase the amount of a contract with the District government for which a bond is required.

Specifically, the provisions of H.R. 4083, an omnibus bill originally requested by the Government of the District of Columbia, may be summarized as follows:

Title I: Establishes a post-assessment insurance guaranty fund to be known as the District of Columbia Insurance Guaranty Association, obligated, in the event an insurance company becomes insolvent, to pay all covered claims of policyholders.

Title II: Increases from \$200,000 to \$1,000,000 the amount of paid-up capital each domestic capital stock and mutual life insurance company is required to have in order to transact business in the District.

Title III: Increases amount of coverage available under group term life insurance to maximums of \$100,000 or 300 per cent of compensation; \$30,000 minimum. Permits assignment of group life insurance.

Title IV: Increases the amount of paid-up capital stock and surplus required of all stock companies licensed under the Fire and Casualty Act from \$300,000 to \$600,000; increases the surplus requirement for domestic mutual companies from \$150,000 to \$300,000; and increases the amount for foreign mutuals from \$200,000 to \$400,000.

Title V: Increases from \$2,000 to \$10,000 the amount of a contract with the District government for which a bond is required.

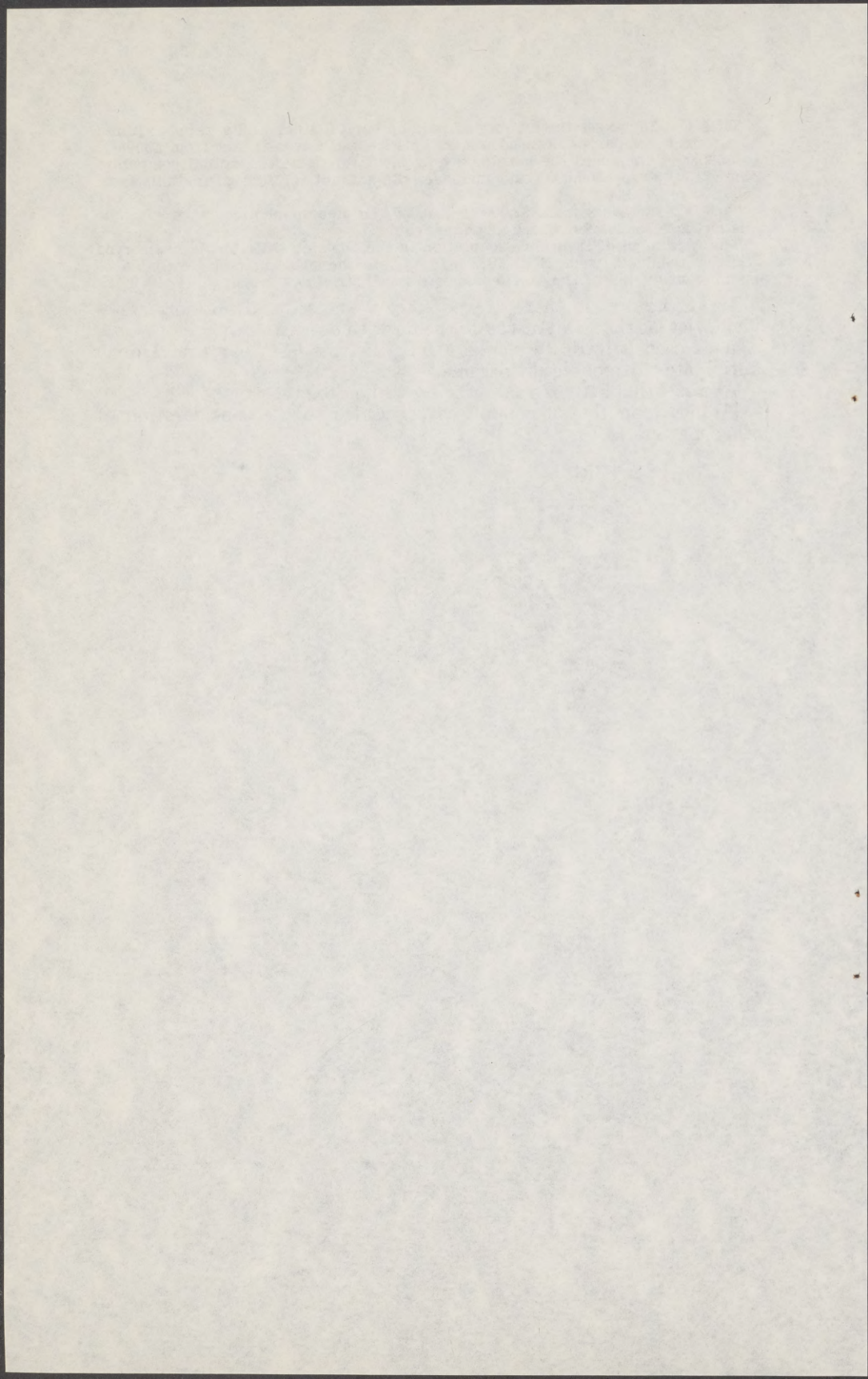
The high level of insurance regulation in the District of Columbia has served District residents well. H.R. 4083 will update the existing tools available to insure continuance of the excellent record the District now has.

Mr. STUCKEY. If there are no more witnesses and no more statements, let me thank all of you for being with us here today.

As I said before, we passed a bill like this last year, and I don't anticipate any trouble at this time.

Again, I thank all of you for being with us today.

[Whereupon the subcommittee proceeded to the consideration of other matters.]



HOLDING COMPANY SYSTEM REGULATORY ACT

MONDAY, JULY 16, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON BUSINESS,
COMMERCE, AND TAXATION OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 1310, Longworth House Office Building, Hon. W. S. Stuckey, Jr. (chairman of the subcommittee) presiding.

Present: Representatives Stuckey (presiding) and Broyhill.

Also present: Robert B. Washington, Jr., chief counsel; Dale MacIver, counsel; James T. Clark, legal consultant; John E. Hogan, minority counsel; Jacques DePuy, Rebecca Moore, and Leonard O. Hilder, professional staff members.

Mr. STUCKEY. The Subcommittee on Business, Commerce, and Taxation will come to order.

This morning our first bill is H.R. 7218, introduced by Chairman Diggs at the request of the District of Columbia government. It is the Holding Company System Regulatory Act of the District of Columbia government and its intent is to provide controls, to be exercised by the Commissioner of the District of Columbia, over presently unregulated merger or acquisition of domestic insurance companies with or by noninsurance interests.

[The bill, H.R. 7218, follows:]

[H.R. 7218, 93d Cong., 1st sess. by Mr. Diggs on April 19, 1973]

A BILL To improve the laws relating to the regulation of insurance companies in the District of Columbia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Holding Company System Regulatory Act".

SEC. 2. DEFINITIONS.—As used in this Act, unless the context otherwise requires—

(a) "affiliate" (an "affiliate" of, or person "affiliated" with a specific person), means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by or is under common control with, the person specified;

(b) "commissioner" means the Commissioner of the District of Columbia or his designated agent;

(c) "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or cor-

porate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 per centum or more of the voting securities of any other person;

(d) "District" means the District of Columbia;

(e) "insurance holding company system" consists of two or more affiliated persons, one or more of which is an insurer;

(f) "insurer" includes any company defined by section 2, chapter I, of the Life Insurance Act (D.C. Code, sec. 35-302) and by section 3, chapter I, of the Fire and Casualty Act (D.C. Code, sec. 35-1303), authorized to do the business of insurance in the District, except that it shall not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a State or political subdivision of a State;

(g) "person" is an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function.

(h) "security holder" of a specified person is one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing;

(i) "subsidiary" of a specified person is an affiliate controlled by such person directly, or indirectly through one or more intermediaries;

(j) "voting security" includes any security convertible into or evidencing a right to acquire a voting security.

SUBSIDIARIES OF INSURERS

SEC. 3. (a) AUTHORIZATION.—Any domestic insurer, either by itself or in cooperation with one or more persons, may, subject to the limitation stated in subsection (b) of this section, organize or acquire one or more subsidiaries. Such subsidiaries may conduct any kind of business or businesses and their authority to do so shall not be limited by reason of the fact that they are subsidiaries of a domestic insurer.

(b) LIMITED ADDITIONAL INVESTMENT AUTHORITY.—(1) The total amount which a domestic insurer may invest in the common stock, preferred stock, debt obligations, and other securities of the subsidiaries referred to in subsection (a) of this section shall not exceed the lesser of (A) 5 per centum of such insurer's assets, or (B) in the case of a capital stock company, 50 per centum of the excess of its capital, surplus, and contingency reserves over the then required statutory minimum capital and surplus, or, in the case of a mutual company, 50 per centum of the excess of its surplus and contingency reserves over the then required statutory minimum surplus.

(2) In calculating the amount of such investments, there shall be included (A) total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary, whether or not represented by the purchase of capital stock or issuance of other securities, and (B) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation.

(c) EXEMPTIONS FROM INVESTMENT RESTRICTIONS.—The investments permitted under this section shall be in addition to the investments in common stock, preferred stock, debt obligations, and other securities permitted under sections 35 and 41 of chapter III of the Life Insurance Act (D.C. Code, secs. 35-535 and 35-541) and section 18, chapter II, of the Fire and Casualty Act (D.C. Code, sec. 35-1321), and the investments under this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in the aforesaid sections of law applicable to such investments of insurers.

(d) QUALIFICATION OF INVESTMENT: WHEN DETERMINED.—Whether any investment pursuant to this section meets the applicable requirements thereof is to be determined immediately after such investment is made, taking into account the then outstanding principal balance of all previous investments and debt obliga-

tions and the value of all previous investments in equity securities as of the date of the new investment.

(e) **CESSATION OF CONTROL.**—If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within three years from the time of the cessation of control or within such further time as the Commissioner may prescribe, unless at any time after such investment was made, such investment meets the requirements for investment under sections 35 and 41, chapter III, of the Life Insurance Act (D.C. Code, secs. 35-535 and 35-541) and section 18, chapter II, of the Fire and Casualty Act (D.C. Code, sec. 35-1521), and the insurer has notified the Commissioner thereof.

ACQUISITION OF CONTROL OF OR MERGER WITH DOMESTIC INSURER

SEC. 4. (a) FILING REQUIREMENTS.—No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, or enter into any agreement to exchange securities for, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer if, after the consummation thereof, such person would directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of such insurer, and no person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer, unless, at the time any such offer, request, or invitation is made or any such agreement is entered into, or prior to the acquisition of such securities if no offer or agreement is involved, such person has filed with the Commissioner and has sent to such insurer, and such insurer has sent to its shareholders, a statement containing the information required by this section and such offer, request, invitation, agreement, or acquisition has been approved by the Commissioner in the manner hereinafter prescribed. For purposes of this section a domestic insurer shall include any other person controlling a domestic insurer unless such other person is either directly or through its affiliates primarily engaged in business other than the business of insurance.

(b) **CONTENT OF STATEMENT.**—The statement to be filed with the Commissioner hereunder shall be made under oath or affirmation and shall contain the following information:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (a) is to be effected (hereinafter called "acquiring party"), and

(A) If such person is an individual, his principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years;

(B) If such person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as such person and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such person and such person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of such person, or who perform or will perform functions appropriate to such positions. Such list shall include for each such individual the information required by subparagraph (A) of this subsection.

(2) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration: *Provided*, That where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests.

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each such acquiring party (or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence), and similar unaudited information as of a date not earlier than ninety days prior to the filing of the statement.

(4) Any plans or proposals which each acquiring party may have to liquidate such insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management.

(5) The number of shares of any security referred to in subsection (a) which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (a), and a statement as to the method by which the fairness of the proposal was arrived at.

(6) The amount of each class of any security referred to in subsection (a) which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.

(7) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (a) in which any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into.

(8) A description of the purchase of any security referred to in subsection (a) during the twelve calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor.

(9) A description of any recommendations to purchase any security referred to in subsection (a) made during the twelve calendar months preceding the filing of the statement, by any acquiring party, or by anyone based upon interviews or at the suggestion of such acquiring party.

(10) Copies of all tender offers for, requests or invitations for tenders of exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (a), and (if distributed) of additional soliciting material relating thereto.

(11) The terms of any agreement, contract, or understanding made with any broker-dealer as to solicitation of securities referred to in subsection (a) for tender, and the amount of any fees, commissions, or other compensation to be paid to broker-dealers with regard thereto.

(12) Such additional information as the Commissioner may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders and securityholders of the insurer or in the public interest. If the person required to file the statement referred to in subsection (a) is a partnership, limited partnership, syndicate, or other group, the Commissioner may require that the information called for by paragraphs (1) through (12) shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group, and each person who controls such partner or member. If any such partner, member, or person is a corporation or the person required to file the statement referred to in subsection (a) is a corporation, the Commissioner may require that the information called for by paragraphs (1) through (12) shall be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than 10 per centum of the outstanding voting securities of such corporation. If any material change occurs in the facts set forth in the statement filed with the Commissioner and sent to such insurer pursuant to this section, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commissioner and sent to such insurer within two business days after the person learns of such change. Such insurer shall send such amendment to its shareholders.

(c) **ALTERNATIVE FILING MATERIALS.**—If any offer, request, invitation, agreement, or acquisition referred to in subsection (a) is proposed to be made by means of a registration statement under the Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a State law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (a) may utilize such documents in furnishing the information called for by that statement.

(d) **APPROVAL BY COMMISSIONER; HEARINGS.**—

(1) The Commissioner shall approve any merger or other acquisition of control referred to in subsection (a) unless, after a public hearing thereon, he finds that:

(A) After the change of control the domestic insurer referred to in subsection (a) would not be able to satisfy the requirements for the

issuance of a license to write the line or lines of insurance for which it is presently licensed;

(B) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in the District or tend to create a monopoly therein;

(C) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders or the interests of any remaining securityholders who are unaffiliated with such acquiring party;

(D) The terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (a) are unfair and unreasonable to the securityholders of the insurer;

(E) The plans or proposals which the acquiring party has to liquidate the insurer, sell its asset or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest; or

(F) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer or of the public to permit the merger or other acquisition of control.

(2) The public hearing referred to in paragraph (1) shall be held within thirty days after the statement required by subsection (a) is filed, and at least twenty days' notice thereof shall be given by the Commissioner to the person filing the statement. Not less than seven days' notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the Commissioner. The insurer shall give such notice to its securityholders. The commissioner shall make a determination within thirty days after the conclusion of such hearing. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected thereby shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments, and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the Superior Court of the District of Columbia. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.

(e) MAILINGS TO SHAREHOLDERS; PAYMENT OF EXPENSES.—All statements, amendments, or other material filed pursuant to subsection (a) or (b), and all notices of public hearings held pursuant to subsection (d), shall be mailed by the insurer to its shareholders within five business days after the insurer has received such statements, amendments, other material, or notices. The expenses of mailing shall be borne by the person making the filing. As security for the payment of such expenses, such person shall file with the Commissioner an acceptable bond or other deposit in an amount to be determined by the Commissioner.

(f) EXEMPTIONS.—The provisions of this section shall not apply to—

(1) any offers, requests, invitations, agreements, or acquisitions by the person referred to in subsection (a) of any voting security referred to in subsection (a) which, immediately prior to the consummation of such offer, request, invitation, agreement, or acquisition, was not issued and outstanding;

(2) any offer, request, invitation, agreement, or acquisition if, under the terms thereof, the consummation of the transaction contemplated thereunder would result in the ownership by security holders of the domestic insurer of stock possessing at least 80 per centum of the total combined voting power of all classes of stock of the acquiring party entitled to vote; and

(3) any offer, request, invitation, agreement, or acquisition which the Commissioner by order shall exempt therefrom as (A) not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or (B) as otherwise not comprehended within the purposes of this section.

(g) VIOLATIONS.—The following shall be violations of this section:

(1) The failure to file any statement, amendment, or other material required to be filed pursuant to subsection (a) or (b); or

(2) The effectuation or any attempt to effectuate an acquisition of control of, or merger with, a domestic insurer unless the Commissioner has given his approval thereto.

(h) **JURISDICTION; CONSENT TO SERVICE OF PROCESS.**—The Superior Court of the District of Columbia is hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in the District who files a statement with the Commissioner under this section, and over all actions involving such person arising out of violations of this section, and each such person shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the Commissioner to be his true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding arising out of violations of this section. Copies of all such lawful process shall be served on the Commissioner and transmitted by registered or certified mail by the Commissioner to such person at his last known address.

REGISTRATION OF INSURERS

SEC. 5. (a) **REGISTRATION.**—Every insurer which is authorized to do business in the District and which is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this Act. Any insurer which is subject to registration under this section shall register within sixty days after the effective date of this Act or fifteen days after it becomes subject to registration, whichever is later, unless the Commissioner for good cause shown extends the time for registration, and then within such extended time. The Commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of its domiciliary jurisdiction.

(b) **INFORMATION AND FORM REQUIRED.**—Every insurer subject to registration shall file a registration statement on a form provided by the Commissioner, which shall contain current information about—

(1) the capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(2) the identity of every member of the insurance holding company system;

(3) the following agreements in force, relationships subsisting, and transactions currently outstanding between such insurer and its affiliates:

(A) loans, other investments, or purchases, sales or exchanges or securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) purchases, sales, or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(E) all management and service contracts and all cost-sharing arrangements, other than cost allocation arrangements based upon generally accepted accounting principles; and

(F) reinsurance agreements covering all or substantially all of one or more lines of insurance of the ceding company.

(4) other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

(c) **MATERIALITY.**—No information need be disclosed on the registration statement filed pursuant to subsection (b) if such information is not material for the purposes of this section. Unless the Commissioner by rule, regulation, or order provides otherwise, sales, purchases, exchanges, loans, or extensions of credit, or investments, involving one-half of 1 per centum or less of an insurer's admitted assets as of the thirty-first day of December next preceding shall not be deemed material for purposes of this section.

(d) AMENDMENTS TO REGISTRATION STATEMENTS.—Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the Commissioner within fifteen days after the end of the month in which it learns of each such change or addition: *Provided*, That subject to subsection (c) of section 6, each registered insurer shall so report all dividends and other distributions to shareholders within two business days following the declaration thereof.

(e) TERMINATION OF REGISTRATION.—The Commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(f) CONSOLIDATED FILING.—The Commissioner may require or allow two or more affiliated insurers subject to registration hereunder to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(g) ALTERNATIVE REGISTRATION.—The Commissioner may allow an insurer which is authorized to do business in the District and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (a) and to file all information and material required to be filed under this section.

(h) EXEMPTIONS.—The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the Commissioner by rule, regulation, or order shall exempt the same from the provisions of this section.

(i) DISCLAIMER.—The presumption of control as defined by section 2(c), may be rebutted by a showing made in the manner herein provided that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and an opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect. Any person may file with the Commissioner a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with such person unless and until the Commissioner disallows the disclaimer. The Commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

(j) VIOLATIONS.—The failure to file a registration statement or any amendment thereto required by this section within the time specified for such filing shall be a violation of this section.

STANDARDS

SEC. 6. (a) TRANSACTIONS WITH AFFILIATES.—Material transactions by registered insurers with their affiliates shall be subject to the following standards:

(1) the terms shall be fair and reasonable;

(2) the books, accounts, and records of each party shall be so maintained as to clearly and accurately disclose the precise nature and details of the transactions; and

(3) the insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) ADEQUACY OF SURPLUS.—For the purposes of this section in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered.

(1) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(2) the extent to which the insurer's business is diversified among the several lines of insurance;

- (3) the number and size of risks insured in each line of business;
 - (4) the extent of the geographical dispersion of the insurer's insured risks;
 - (5) the nature and extent of the insurer's reinsurance program;
 - (6) the quality, diversification, and liquidity of the insurer's investment portfolio;
 - (7) the recent past and projected future trend in the size of the insurer's surplus as regards policyholders;
 - (8) the surplus as regards policyholders maintained by other comparable insurers;
 - (9) the adequacy of the insurer's reserves; and
 - (10) the quality and liquidity of investments in subsidiaries made pursuant to section 3. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his judgment such investment so warrants.
- (c) **DIVIDENDS AND OTHER DISTRIBUTIONS.**—(1) No insurer subject to registration under section 5 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until (A) thirty days after the Commissioner has received notice of the declaration thereof and has not within such period disapproved such payment, or (B) the Commissioner shall have approved such payment within such thirty-day period.
- (2) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of (A) 10 per centum of such insurer's surplus as regards policyholders as of the thirty-first day of December next preceding or (B) the net gain from operations of such insurer, if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.
- (3) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the Commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until (A) the Commissioner has approved the payment of such dividend or distribution or (B) the Commissioner has not disapproved such payment within the thirty-day period referred to above.

EXAMINATION

SEC. 7. (a) POWER OF COMMISSIONER.—Subject to the limitation contained in this section and in addition to the powers which the Commissioner has under the insurance laws of the District relating to the examination of insurers, the Commissioner shall also have the power to order any insurer registered under section 5 to produce such records, books, papers, or other information in the possession of the insurer or its affiliates as shall be necessary to ascertain the financial condition or legality of conduct of such insurer. In the event such insurer fails to comply with such order, the Commissioner shall have the power to examine such affiliates to obtain such information.

(b) **PURPOSE AND LIMITATION OF EXAMINATION.**—The Commissioner shall exercise his power under subsection (a) only if the examination of the insurer under and as is provided for by the insurance laws of the District is inadequate or the interests of the policyholders of such insurer may be adversely affected.

(c) **USE OF CONSULTANTS.**—The Commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the Commissioner's staff as shall be reasonably necessary to assist in the conduct of the examination under subsection (a). Any persons so retained shall be under the direction and control of the Commissioner and shall act in a purely advisory capacity.

(d) **EXPENSES.**—Each registered insurer producing for examination records, books, and papers pursuant to subsection (a) shall be liable for and shall pay the expense of such examination in accordance with the provisions of section 19, chapter II, of the Life Insurance Act (D.C. Code, sec. 35-418) and section 10, chapter II, of the Fire and Casualty Act (D.C. Code, sec. 35-1313), pertaining to examination expense.

SEC. 8. CONFIDENTIAL TREATMENT.—All information, documents, and copies thereof obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to section 7 and all information reported pursuant to section 5, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the Commissioner or any other person, except to insurance departments of other States, without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event he may publish all or any part thereof in such manner as he may deem appropriate.

SEC. 9. RULES AND REGULATIONS.—The Commissioner may, upon notice and opportunity of all interested persons to be heard, issue such rules, regulations, and orders as shall be necessary to carry out the provisions of this Act.

INJUNCTIONS; PROHIBITIONS AGAINST VOTING SECURITIES; SEQUESTRATION OF VOTING SECURITIES

SEC. 10. (a) INJUNCTIONS.—Whenever it appears to the Commissioner that any insurer or any director, officer, employee or agent thereof has committed or is about to commit a violation of this Act or of any rule, regulation, or order issued by the Commissioner hereunder, the Commissioner may apply to the Superior Court of the District of Columbia for an order enjoining such insurer or such director, officer, employee, or agent thereof from violating or continuing to violate this Act or any such rule, regulation, or order, and for such other equitable relief as the failure of the case and the interests of the insurer's policyholders, creditors, shareholders, or the public may require.

(b) VOTING OF SECURITIES; WHEN PROHIBITED.—No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this Act or of any rule, regulation, or order issued by the Commissioner hereunder may be voted at any shareholders' meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the insurer or unless the Superior Court of the District of Columbia has so ordered. If an insurer or the Commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this Act or of any rule, regulation, or order issued by the Commissioner hereunder the insurer or the Commissioner may apply to the Superior Court of the District of Columbia to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of section 4 of any rule, regulation, or order issued by the Commissioner thereunder to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors, shareholders, or the public may require.

(c) SEQUESTRATION OF VOTING SECURITIES.—In any case where a person has or is proposing to acquire any voting securities in violation of this Act or any rule, regulation, or order issued by the Commissioner hereunder, the Superior Court of the District of Columbia may, on such notice as the court deems appropriate, upon the application of the insurer or the Commissioner seize or sequester any voting securities of the insurer owned directly or indirectly by such person, and issue such orders with respect thereto as may be appropriate to effectuate the provisions of this Act. Notwithstanding any other provisions of law, for the purposes of this Act the situs of the ownership of the securities of domestic insurers shall be deemed to be in the District.

SEC. 11. CRIMINAL PROCEEDINGS.—Whenever it appears to the Commissioner that any insurer or any director, officer, employee, or agent thereof has committed a willful violation of this Act, the Commissioner may cause criminal proceedings to be instituted in the District against such insurer or the responsible director, officer, employee, or agent thereof. Any insurer which willfully violates this Act may be fined not more than \$1,000. Any individual who willfully violates

this Act may be fined not more than \$1,000 or, if such willful violation involves the deliberate perpetration of a fraud upon the Commissioner, imprisoned not more than two years or both.

SEC. 12. RECEIVERSHIP.—Whenever it appears to the Commissioner that any person has committed a violation of this Act which so impairs the financial condition of a domestic insurer as to threaten insolvency or make the further trans-action of business by it hazardous to its policyholders, creditors, shareholders, or the public, the Commissioner may proceed as provided under the insurance laws of the District to take possession of the property of such domestic insurer and to conduct the business thereof.

SEC. 13. REVOCATION, SUSPENSION, OR NON-RENEWAL OF INSURER'S LICENSE.—Whenever it appears to the Commissioner that any person has committed a violation of this Act which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the Commissioner may, after giving notice and an opportunity to be heard, suspend, revoke, or refuse to renew such insurer's license or authority to do business in the District for such period as he finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

SEC. 14. JUDICIAL REVIEW; MANDAMUS.—(a) Any person aggrieved by any act, determination, rule, regulation, or order or any other action of the Commissioner pursuant to this Act may appeal therefrom to the District of Columbia Court of Appeals, in accordance with the District of Columbia Administrative Procedure Act.

(b) Any person aggrieved by any failure of the Commissioner to act or make a determination required by this Act may petition the Superior Court of the District of Columbia for a writ in the nature of a mandamus or a peremptory mandamus directing the Commissioner to act or make such determination forthwith.

SEC. 15. CONFLICT WITH OTHER LAWS.—All laws and parts of laws of the District inconsistent with this Act are hereby superseded with respect to matters covered by this Act.

SEC. 16. SEPARABILITY OF PROVISIONS.—If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are separable.

SEC. 17. EFFECTIVE DATE.—This Act shall take effect thirty days after the date of its enactment.

The first witness this morning is Mr. Edward Lombard, superintendent of insurance. He is accompanied by Mr. Wallach, deputy superintendent of insurance.

Gentlemen, we are delighted to have you before the committee again. It is good to see you again.

STATEMENT OF EDWARD P. LOMBARD, SUPERINTENDENT OF INSURANCE, DISTRICT OF COLUMBIA GOVERNMENT; ACCOMPANIED BY MAXIMILLIAN WALLACH, DEPUTY SUPERINTENDENT OF INSURANCE

Mr. LOMBARD. Mr. Chairman, I believe there is a statement or will be a statement from the Mayor, and the department will submit a statement for the record, if you would like us to.

This Holding Company Act (H.R. 7218) is an effort to bring to the District of Columbia a model act that has already been enacted in 30-some States, with more coming. We have, obviously, a desire that this law be enacted in the District so that our domestic industry will not have to respond to 37 different States whenever anything of this nature

occurs, so that our law will be on the books and our domestic industry will not be burdened by this almost impossible task of responding to a similar act in so many other States.

If this law is enacted here, then there will be this uniform approach to obtaining the information concerning any prospective merger, with the proper reports to the District government and to eliminate the necessity for these companies to respond to similar bills all over the United States.

If there is any question as to the detail of the bill, Mr. Wallach will be very glad to respond to any questions.

Mr. STUCKEY. Thank you, Mr. Lombard.

Mr. Wallach, do you have any statement you might make this morning?

BACKGROUND

Mr. WALLACH. I will be glad to answer any questions and furnish a statement in writing; or if you want me to, I can give you a brief summary, due to the time element. Either way, Mr. Chairman.

Briefly, insurance has been regulated in some States for over 100 years. Model legislation is quite frequently developed by the National Association of Insurance Commissioners, and the D.C. Department of Insurance used that model in this case as a base.

The primary goal is to provide solvency of the insurers. In addition, of course, regulation is to insure the fair treatment of policyholders in the availability of insurance.

Conservative investment by insurers, in part required by statute, and required to purchase insurance on a voluntary basis, has led to quality investment and economic survival in the past.

In most recent years, diversification has led to reorganization whereby additional related services have been provided by corporations affiliated with the insurer. In some instances, the insurer established one or more subsidiaries. At other times, outside corporations have acquired control of one or more insurers.

After considerable studies, the NAIC in 1969 developed model legislation, known as the Insurance Holding Company System Regulatory Act, to provide proper procedures, granting the Insurance Commissioner additional statutory authority as well as charging him with the responsibility to protect policyholders, so that financial injury or erosion of their acquired rights is avoided.

In the 92d Congress, S. 3298 was introduced, and in this Congress we are now dealing with H.R. 7218, which was introduced in April of this year. The purpose is to confer statutory authority in the Commissioner, in this area of regulating insurance holding companies, in a similar way that is now being done in at least 37 States.

This bill follows closely the NAIC bill. It recognizes the need for diversification of investments, contains liberalization applicable to subsidiaries, and has sufficient quantitative tests to protect this type of liberalization. It contains a disclosure provision, provides for filing requirement standards to protect policyholders as well as security holders.

It provides for standardization, broad notification, has reasonable exemptions to provide flexibility, and it also is aimed, as the Superintendent said before, to provide relief so that the domestic companies

do no longer have to file identical information in all of the States in which they operate.

It provides for enforcement, court injunction, and penalties in the case of violations.

In summary, it will enable the District government to update its laws to be in line with what has happened over the last several years in other States in this area.

Mr. STUCKEY. Thank you, Mr. Wallach.

Let me ask you a question, I guess really both of you. We have received no opposition to this bill, and to my knowledge it is a noncontroversial bill; it is simply updating, bringing the District of Columbia laws in line with what they should be. Is this correct?

Mr. LOMBARD. That is correct; yes, sir. We know of no opposition to this bill from any source.

Mr. STUCKEY. I feel a little funny having a bill before us with the District of Columbia government not opposing some part of it.

SCOPE OF H.R. 7218

Why does this bill apply only to insurance companies instead of the holding company situation?

Mr. WALLACH. In the case of a holding company, you have to deal with one or more insurers and several noninsurers. At the current time, nobody could walk in and take over a company, and the Superintendent of Insurance would not have any facility to—never mind approaching it, but even looking into it. This will provide for a regular procedure, hearing documentation, and a close examination as to what extent, if any, policyholders or security holders will be concerned by such a takeover. That is one of the important traditions.

The other important tradition is to maintain a process whereby the insurer could no longer declare extraordinary dividends without filing it with the Department and have a proper review. So that everybody is aware, due to disclosure and other management tools, what is going on at all times.

Mr. LOMBARD. Let me just add briefly to that. The insurance laws were written to protect the public, and traditionally the insurance Commissioners want to deal in that direction. They want to be involved with protection of policyholders and, unfortunately, on some occasions to the distrust of stockholders of insurance companies. So that when the Commissioners are brought into the problem of regulating matters other than in, just let's say in, the best interests in the long run of the policyholders, are brought into this business of becoming involved with operations that are akin to the stock market operations, they do so rather reluctantly.

But as Mr. Wallach has said, when you get a combination of insurance companies and noninsurance companies operating through the holding company system, then the Commissioner must go beyond the individual insurance company, which has been rather easy to regulate, and get into this complication of having noninsurance persons who normally are beyond his reach involved in something that is, in the long run, going to be very important to the policyholder.

Mr. STUCKEY. Would the terms of this bill apply to the insurers of a parent company and establish a holding company?

Mr. WALLACH. There are different types of systems. One system is a downstream holding company system, where the controlling company is the noninsurer. And in that system are one or more insurance companies. The act will apply to both.

In other words, it will apply whenever an insurer anyplace along the line is involved in a holding company system.

Mr. STUCKEY. Do you feel provisions of the bill will adequately meet the needs to perceive as a Commissioner?

Mr. LOMBARD. Yes. This is basically a model bill, meaning that there have been tremendous processes at work to produce this. The Commissioners from 50 States, including a great number of elected Commissioners, working over a period of time with industry committees, and I think the end product, a model bill from the National Association of Insurance Commissioners, has retained consideration for all of the various interests, and is in the public interest or it would not be a model NAIC.

Mr. STUCKEY. Thank you very much. We appreciate your testimony, sir.

[Memorandum from the Department of Insurance filed for the record follows:]

DISTRICT OF COLUMBIA DEPARTMENT OF INSURANCE

BACKGROUND

Insurers are regulated by the states and the District of Columbia in some instances for over one hundred years. Model legislation is often developed by the National Association of Insurance Commissioners (NAIC) of which the D.C. Insurance Department is a statutory member.

The primary goal of state insurance regulation is to provide for continued solvency of insurers. In addition, of course, regulation is to assure the fair treatment of policyholders and availability of insurance among others.

Conservative investments by insurers in part required by statute and in part pursued by insurers on a voluntary basis, have led to quality investments and economic survival in years of depressions in the past.

In more recent years diversifications has led to reorganizations whereby additional related services have been provided by corporations affiliated with the insurer. In some instances, the insurer established one or more subsidiaries, at other times "outside" corporations have acquired control of one or more affiliated insurers.

After considerable studies the NAIC in 1969 developed model legislation known as "The Holding Company System Regulatory Act" to provide proper procedures for mergers and acquisitions granting the Insurance Commissioner additional statutory authority as well as charging him with the responsibility to protect policyholders, so that financial and/or managerial erosion of their acquired rights are avoided.

In the 92nd Congress S-3298 was introduced, and in this the 93rd Congress H.R. 7218 was introduced on April 19, 1973, to confer statutory authority on the Commissioner in the area of regulating insurance holding companies in a similar way as is now being done in at least 37 states.

H.R. 7218 closely follows the NAIC model.

ANALYSIS OF H.R. 7218—INVESTMENT

Recognizing the need for diversification, investment liberalizations, as applicable to subsidiaries, have been provided subject to quantitative tests contained in section 3 of the bill.

DISCLOSURE

A filing requirement in case of acquisitions or mergers, is established in section 4 of the bill providing for disclosures to the Commissioner and shareholders. Financial information as well as plans for material changes of the business, corporate structure or management are to be revealed.

Material is to be filed for the purpose of protecting policyholders, security holders or when in the public interest.

The hearing procedure is utilized to establish a record of facts as a basis for the Commissioner's approval, or disapproval, if stated criteria are not met. Broad notification is to be made by required mailings.

Reasonable exemptions are provided to accomplish flexibility.

REGISTRATION

By means of registration required by section 5 and procedural requirements to accomplish such registration data are to be made available to the Commissioner to reveal intra corporate transactions and existence of a control relationship.

STANDARDS

In addition to the disclosure contained in the registration, section 6 contains standards which should govern transactions between affiliates, monitor

the insurer's adequacy of surplus, and prohibit extra ordinary dividends or other distributions without prior approval by the Commissioner.

EXAMINATION

In order to bring about compliance, the Commissioner in section 7 is given powers to examine insurers and affiliates, the use of consultants and the right to assess expenses. The confidentiality of the information is dealt with in section 8.

ENFORCEMENT

The Commissioner is given regulatory powers in section 9; court injunctions are provided in section 10. Criminal proceedings in section 11, receivership in case of impairment in section 12, revocation, suspension or non-renewal of insurer's license in section 13, and judicial review in section 14.

CONFLICT AND SEPARABILITY OF PROVISIONS

Sections 15 and 16 provide proper safeguards.

EFFECTIVE DATE

Section 17 provides for the Act to take effect thirty days after the date of its enactment.

SUMMARY

The Act provides satisfactory liberalization of investment laws, and procedures to disclose and examine mergers and acquisitions pertaining to D.C. domiciled companies. Foreign companies, if subject to substantially similar provisions contained in the acts of other states, are exempt. This permits sound and fair development of regulation at the state level. It also means an administrative relief from duplication of filings and reporting now required of D.C. domiciled companies in the other states.

Foreign companies domiciled in states which have not as yet passed similar legislation, will be subject to this Act.

The provisions of the bill will enable the District of Columbia to update its laws and attain the desirable level of holding company insurance regulations now existing in at least 37 states.

Mr. STUCKEY. Our next witness is Mr. Robert Price, the vice president of Peoples Life Insurance Co.

Our next witness is Mr. Robert Price, the vice president of Peoples Life Insurance Co.

STATEMENT OF ROBERT PRICE, VICE PRESIDENT, PEOPLES LIFE INSURANCE CO.

Mr. PRICE. Good morning, Mr. Chairman. I had intended to make a few remarks to summarize my statement. However, I find that most of those would be repetitive of what Messrs. Lombard and Wallach have said.

In the interest of time, I will not do so, but I would request that my statement in its entirety be incorporated in the record.

Mr. STUCKEY. It will be included as part of the record.

[The complete prepared statement of Mr. Price, above-referred to, follows:]

PREPARED STATEMENT OF ROBERT N. PRICE

I am Robert N. Price, vice president and general counsel of Peoples Life Insurance Co., Washington, D.C. This consolidated statement in support of H.R.

7218 is made on behalf of the following domestic District of Columbia life insurance companies:

Acacia Mutual Life Insurance Co.
 Equitable Life Insurance Co.
 Government Employees Life Insurance Co.
 Peoples Life Insurance Co.
 United Services Life Insurance Co.

A model bill to regulate insurance holding companies was approved by the National Association of Insurance Commissioners in June 1969, and is known as the Insurance Holding Company System Regulatory Act. As of January 1973, 37 states have adopted this model bill with slight variations and modifications which were necessary for compatibility with their code. H.R. 7218 is the model bill for the District of Columbia Insurance Code with minor changes which have already been described to the committee.

During the past three decades, there have been major social, economic and political changes which have exerted great influence on the market for insurance and the services which insurance companies can perform for their policyholders and the public. They have given rise to sound and legitimate reasons why some insurance companies have found it advantageous to utilize a holding company operation. The severe restrictions imposed by state statutes applicable to the insurance business have prevented insurers from serving new and changing needs of the insurance buyer and the total economy, particularly in the areas of investment, underwriting and the provisions of a wide spectrum of financial services.

Three major trends have impelled insurers to diversify their activities. The first is the long-run trend of inflation which has accelerated in the past two decades. The second trend is the persistent decline in the underwriting profits of property-liability insurers. And the third is the increased attention to the concept of "one-stop" financial service. To diversify their activities, many insurers have gone to the holding company system.

There are valid and beneficial economic, social and legal advantages that can accrue to many insurers in a holding company system. These advantages would also benefit the policyholders as insurers are able to increase underwriting capacity and to provide a broader spectrum of services. Nevertheless, there should be effective state supervision of insurers in their relationship with holding companies. Such supervision is a proper and natural extension of the responsibility of state regulatory authority to assure, in the public interest, the solvency of the insurer and the protection and fair treatment of policyholders.

The business of insurance has long been recognized as so affected with the public interest as to require extensive and detailed regulation. The objective of insurance regulation is to assure the solvency of the insurer and to protect the interests of the policyholder. The model holding company act is a logical extension of this broad regulation.

The Act is designed to provide a framework for the control of insurance holding company activities through registration of the insurance company with the District of Columbia and regulation by the District of the insurers' transactions with the other members of the holding company system. To avoid conflicting or multiple state regulation, responsibility is vested exclusively in the District, and registration in the District is required only of domestic insurers and those foreign insurers whose states do not have similar legislation.

The regulatory framework is predicated upon full and complete disclosure of all significant transactions between an insurer and its parent, subsidiaries and sister companies. These transactions must be reported according to accepted accounting principles and must adhere to specified standards of fairness and reasonableness. The Superintendent may examine the insurer's books and he may direct the insurer to produce any necessary records of other members of the holding company system.

Recognizing that diversification through subsidiaries is not inconsistent with the public interest, the Act permits insurers to invest additional amounts in subsidiaries, provided always that remaining surplus is adequate to protect policyholder interests. Tests for determining whether remaining surplus would be adequate are included.

Any person attempting to take control of or to merge with an insurer must disclose to the Superintendent relevant information about both himself and the

takeover transactions, and the soliciting material must be filed prior to its use. The Superintendent may disapprove any attempted acquisition of or change in control over an insurer if the takeover party could not satisfy specific standards designed to protect the interests of policyholders, shareholders and the public.

In paragraph (f) (2) entitled "Exemptions" in Sec. 4 on page 15 of the Bill, it is felt that a clarification of the phrase "acquiring party" is necessary, and it is respectfully requested that the following language be inserted between "vote" and ";" in the last line of paragraph (f) (2) :

"or at least 80 per centum of the total combined voting power of all classes of stock of the person in control of the acquiring party entitled to vote."

H.R. 7218 will serve a twofold purpose. First, it will provide a framework for a District of Columbia insurer to enter a holding company system and once it has done so, it will avoid the duplication of regulation in every state where the insurer is licensed which has similar legislation. Secondly, the safeguards that are included will provide adequate protection for the policyholders and the shareholders. For these reasons, the Companies listed above support this legislation and earnestly request its passage.

On behalf of these companies, I wish to express my thanks to the chairman and members of the subcommittee for the opportunity to present our views.

Mr. PRICE. Thank you, sir.

Mr. STUCKEY. I wish we could have all of the bills run so smoothly.

Does anyone who is present today have any additional comments he would like to make regarding H.R. 7218?

[No response.]

Mr. STUCKEY. If not, we will move on to H.R. 6186.

Mr. BROYHILL. Mr. Chairman, are you going to hold a hearing on H.R. 6186?

Mr. STUCKEY. Yes.

Mr. BROYHILL. I understand Mr. Phillips has an amendment to H.R. 7218.

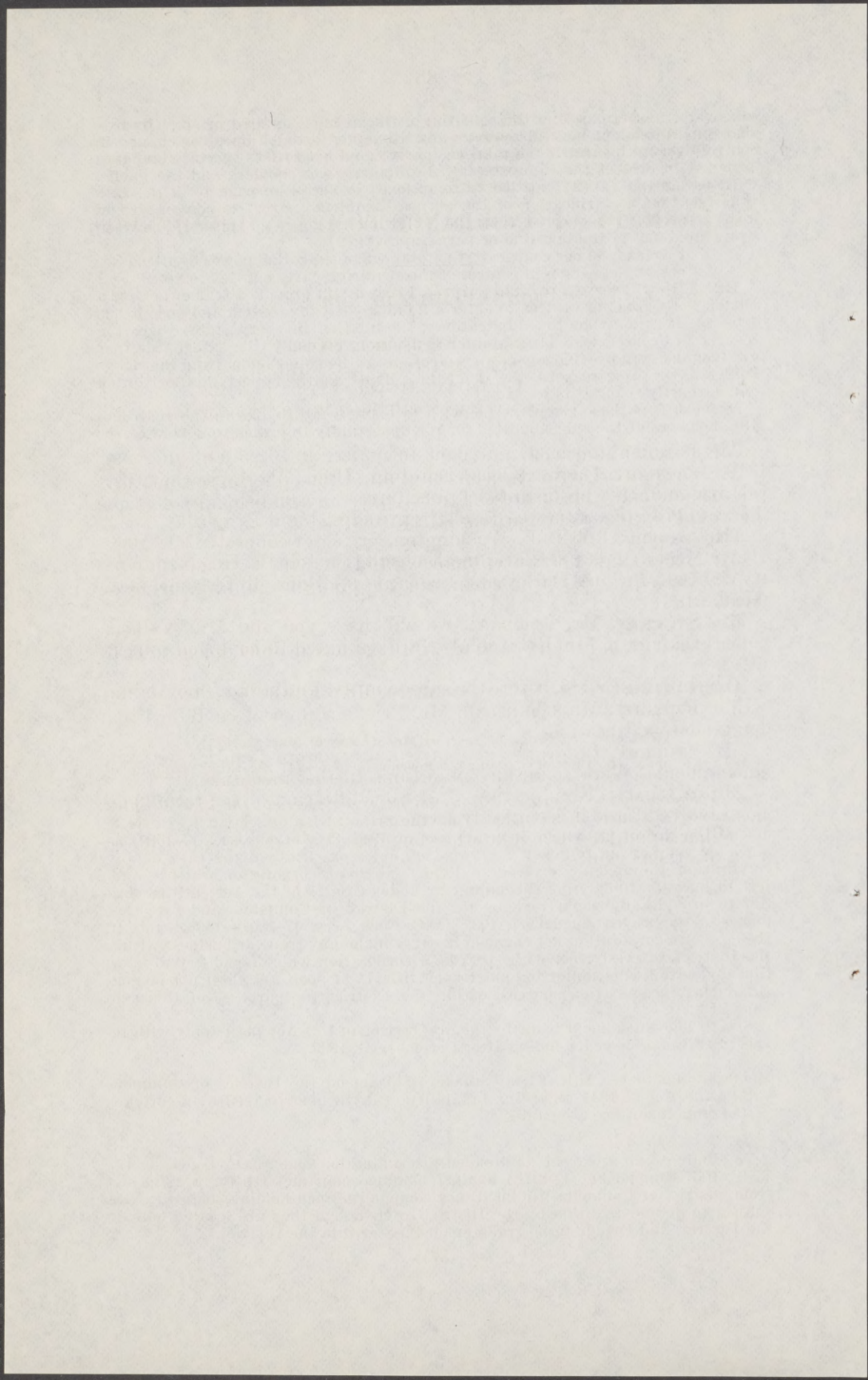
Did you present that to the committee, Mr. Phillips?

Mr. PHILLIPS. Mr. Chairman, Mr. Price's statement contained that suggested modification.

Mr. STUCKEY. Before we get started, are you all familiar with the amendment? Were there any objections to the amendment?

Mr. WALLACH. No objection. Just a modification of the term "person involved," and it is perfectly all right.

[Whereupon, at 10:25 a.m., the committee moved to the consideration of other business.]



TAXABILITY OF INSURANCE COMPANY DIVIDEND

MONDAY, JULY 16, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON BUSINESS,
COMMERCE, AND TAXATION OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:25 a.m. in room 1310, Longworth House Office Building, Hon. W. S. Stuckey, Jr. [chairman of the subcommittee] presiding.

Present: Representatives Stuckey [presiding] and Broyhill.

Also present: Robert B. Washington, Jr., chief counsel; Dale MacIver, counsel; James T. Clark, legal consultant; John E. Hogan, minority counsel; Jacques DePuy and Leonard O. Hilder, professional staff members.

Mr. STUCKEY. Mr. Lombard, we will have you and Mr. Wallach come back again. Mr. Robinson, we are delighted to have you join us also.

[The bill, H.R. 6186, before the subcommittee and staff memorandum will be included at this point.]

[H.R. 6186, 93d Cong., 1st sess. by Mr. Stuckey on Mar. 27, 1973]

A BILL To amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first proviso of section 1 of title X of the District of Columbia Revenue Act of 1947 (D.C. Code, sec. 47-1580) is amended to read as follows: "Provided, however, That, in the case of any corporation, the amount received as dividends from a corporation which is subject to taxation under this subchapter or under title II of the Act entitled "An Act to provide additional revenue for the District of Columbia, and for other purposes", approved August 17, 1937 (D.C. Code, secs. 47-1801-1808), and, in the case of a corporation not engaged in carrying on any trade or business within the District, interest received by it from a corporation which is subject to taxation under this subchapter or under such title II of such Act shall not be considered as income from sources within the District for purposes of this subchapter"

SEC. 2. The amendment made by the first section of this Act shall apply with respect to all taxable years ending after December 31, 1969.

Memorandum in re: H.R. 6186 (Stuckey), to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies

PURPOSE

To eliminate an apparent unintended discrimination under D.C. Code sec. 47-1580 (1967 Supplement V-1972) against holding companies receiving dividends from District of Columbia life insurance companies. Such holding companies are subject to double taxation by the District even though they are located outside the District and engage in no trade or business within the District.

PROVISIONS

1. The amount received as dividends from a corporation which is subject to taxation under D.C. law and, in the case of a corporation not engaged in carrying on any trade or business within the District, interest received by it from a corporation which is subject to taxation under D.C. law shall not be considered as income from sources within the District.

2. Above amendment shall apply with respect to all taxable years ending after December 31, 1969.

BACKGROUND

D.C. Code sec. 47-1571(a) (1967 Supplement V-1972) imposes an income tax upon every corporation "for the privilege of carrying on or engaging in any trade or business within the District and of receiving income from sources within the District." Although D.C. Code sec. 47-1580 provides that dividends paid by a corporation which is subject to the income tax shall not constitute, in the hands of a receiving corporate stockholder, income from sources within the District, this provision has been construed to be inapplicable to a corporation receiving dividends from a District of Columbia life insurance company on the ground that the exemption for intercorporate dividends is stated to be applicable only when the distributing corporation "is subject to the income tax." Insurance companies, because of difficulties encountered in determining their net income, are not subject to the normal District of Columbia corporate income tax, but instead are subject to a net premiums tax imposed "in lieu of" other taxes, D.C. Code sec. 47-1806 (1967 ed.).

Since the net premiums tax on life insurance companies is designed to be a complete substitute for the corporate income tax, there appears to be no reason for treating the dividends a holding company receives from a District of Columbia insurance company differently from the dividends it receives from other corporations, particularly when the holding company conducts no business in the District and the greater part of the insurance company's receipts are from non-District sources.

The purpose of D.C. Code sec. 47-1580 is to insure that at the corporate level income is taxed only once and not a second time when distributed as dividends to a corporate shareholder. This treatment is generally consistent with the federal income tax law. Dividend income is taxed a second time when eventually distributed to individual shareholders.

Enactment of these provisions of the D. C. Code, which impose a double tax on the earnings of certain life insurance companies, appears to have been inadvertent and to have occurred when there were no D. C. life insurance companies operating as a part of a holding company structure and before the current trend began toward the use of such organizations.

PRECEDENTS

There is no other jurisdiction which construes its income tax laws in such a manner as to penalize the use of life insurance holding companies as presently is the case in the District of Columbia.

COST

Peoples Life, the principal company affected by the adverse taxation, was acquired by Capital Holding Company, Louisville, Kentucky, in 1969. No dividends were paid in 1969 by Peoples, the first year the second tax became applicable. In 1970, \$69,071 and in 1971, \$84,308 were paid to the District as taxes on dividends the holding company received from the D.C. insurance company. No dividends were paid in 1972 to avoid the second tax.

HISTORY

A public hearing on H.R. 6186 was held by the Subcommittee on Business, Commerce and Taxation on July 16, 1973. Witnesses providing testimony in support of the legislation included: Edward P. Lombard, Superintendent of Insurance and Maximillian Wallach, Deputy Superintendent of Insurance, District of Columbia Government; Homer D. Parker, Chairman of the Board, Capital Holding Corporation; Ernest L. Hogan, President, Peoples Life

Insurance Company and Herbert Martin, Vice President, Acacia Mutual Life Insurance Company on behalf of Acacia as well as Equitable, Government Employees, Peoples and United Services Life Insurance Companies. There was no testimony opposing the legislation, as amended, and no expression of opposition has been received by your Committee.

In executive session, November 2, 1973, section 2, allowing repeal of the tax to be retroactive to 1969, was deleted, as requested by the District Government.

STATEMENT OF EDWARD P. LOMBARD, SUPERINTENDENT OF INSURANCE, D.C. GOVERNMENT, ACCOMPANIED BY MAXIMILLIAN WALLACH, DEPUTY SUPERINTENDENT OF INSURANCE; AND WILLIAM A. ROBINSON, ASSISTANT CORPORATION COUNSEL

Mr. LOMBARD. Mr. Chairman, I believe there is a statement from Mayor Washington, which Mr. Robinson may have here.

Mr. STUCKEY. We will make the statement from the Commissioner of the District part of the record.

[The statement from Mayor Washington, above-referred to, follows:]

THE DISTRICT OF COLUMBIA,
Washington, D.C., July 16, 1973.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: The Government of the District of Columbia has for report H.R. 6186, a bill "To amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies."

Section 1 of the bill would amend existing law to provide that dividends and interest declared by an insurance company whose net premium receipts are subject to the 2 per cent premium tax imposed by section 6 of title II of the District of Columbia Revenue Act of 1937 (D.C. Code, sec. 47-1806), shall not, when paid to a parent corporation, be considered as income from sources within the District and thus subject to the District's franchise tax. Section 2 of the bill would make this amendment retroactive to all taxable years ending after December 31, 1969, thus enabling corporations which have paid franchise taxes on such dividends during those years to refunds thereof.

Present District of Columbia tax laws impose an income or franchise tax upon corporations for the privilege of carrying on or engaging in trade or business within the District and of receiving other income derived from sources within the District. An exception to this general requirement (D.C., Code, sec. 47-1580) provides that the amount received as dividends by any corporation from a corporation subject to payment of such income or franchise tax shall not be treated as income from sources within the District. Domestic insurance companies, however, are not taxed under the District's income tax laws, but rather pay a net premium tax in lieu of the franchise tax. Accordingly, this exception to the franchise tax law has been construed as inapplicable to certain dividend and interest payments made to corporate stockholders by local insurance companies.

The contention that under existing law dividend income, depending upon its source, receives unequal treatment in that parent corporations or holding companies need not pay taxes on such dividends when the subsidiary or paying corporation is subject to the District's franchise tax is understandable and not unreasonable from an equity standpoint. It must be pointed out, however, that enactment of H.R. 6186 would result in immediate revenue loss to the District Government and a potential greater loss in future years. The precise amount of such revenue loss is difficult to estimate since it appears that the existence of this tax liability has in some cases inhibited local insurance companies from declaring dividends which would become subject to taxation as income from

sources within the District. However, under the retroactive provisions of section 2 of the bill, one corporation alone would be eligible for a refund of approximately \$165,000 for taxes paid in 1970 and 1971.

Because of the inequities which, under certain circumstances, may result in the double taxation of dividends and interest distributed by insurance companies to corporate stockholders, the District Government is not opposed to the enactment of section 1 of H.R. 6186. We are, however, constrained to object to the passage of section 2 of the bill in view of its impact upon District revenues. The financial loss to the District which would result from the refund of those portions of the franchise tax attributable to dividends and interest paid to corporations by local insurance companies in 1970, 1971, and 1972 is considerable and may seriously affect the District's ability to fund public services in the fiscal year beginning July 1, 1973, if the full amount of such tax reimbursements is required to be made in that year.

We recommend, therefore, that section 2 of H.R. 6186 be deleted.

Subject to this recommendation, the District Government offers no objection to the enactment of H.R. 6186.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely yours,

WALTER E. WASHINGTON,
Mayor-Commissioner.

Mr. LOMBARD. We have a short statement which might be read into the record. Of course, the Department in turn follows the statement from Mayor Washington and are in agreement with his position, and he is in favor of this bill.

The elimination of this tax would seem to be a very fair thing and one of the statements indicates that it was almost inadvertent that the tax situation ended up as it has. It appears to be unfair in its present status and it would appear that it would be extremely reasonable to eliminate it.

I will ask Mr. Wallach if he would read the short statement from the Department.

STATEMENT OF MAXIMILLIAN WALLACH, DEPUTY SUPERINTENDENT OF INSURANCE

TAXES UNDER PRESENT LAW

Mr. WALLACH. The premiums received by authorized insurance companies on risks in the District of Columbia are subject to a 2-percent tax. Insurers are also subject to real estate taxes. These taxes are in lieu of all other taxes, as provided in the D.C. Code, section 47-1806, and are payable whether the insurer is experiencing gains or losses.

Insurers domiciled in the District of Columbia are also subject to these types of taxes in every State in which they operate with regard to the risks located or the real estate they own in these States.

The imposition of double taxation by D.C. Code, section 47-1580, whether intentionally or unintentionally, on dividends or interests paid by insurers to a corporate noninsurer parent was a moot question prior to corporate reorganizations. Even now the provision does not create tax revenues in the case of a "down-stream" holding company type corporate structure, since by definition such parent is an insurer and

therefore exempt from taxes other than those imposed on premiums and real estate.

NEED FOR LEGISLATION

A holding company system, consisting of insurers and noninsurers, with the latter receiving dividends from the former is at a competitive disadvantage as compared with a "down-stream" holding company, under otherwise equal conditions, since it is exposed to double taxation.

In view of the centralized control inherent in a holding company system, the non-insurer parent is able to change the domicile of the insurer, by moving the operations outside the District of Columbia, and thereby avoids paying the tax.

The migration of insurers creates a temporary economic waste for the insurer but improves its long-term competitive situation. The by-product, however, is long-term economic losses to the District of Columbia and hardships for the employees of the insurer to a differing degree depending whether or not they are able to relocate or find other employment.

As more reorganizations, utilizing the concept of the holding company system are to occur, insurers will reincorporate outside the District of Columbia, move their home offices, and new insurance companies will also be formed outside the District of Columbia rather than here, to avoid paying additional taxes which would be due to the change in the organizational structure but not due to the generation of additional income since none is generated.

Long-term planning applicable to the location of insurers is heavily influenced by taxation on the State level.

If insurers, to avoid the additional tax, will move their corporate offices, the tax will not become due. The move will be economically harmful to the District of Columbia and the lack of formation of new insurers here will reduce the creation of new employment opportunities.

This testimony is to express the concern over possible adverse economic repercussions caused if the bill H.R. 6186 is not enacted. In neither case will tax revenues be created.

AMENDMENT PROPOSED

Section 2 of the bill contains retroactive features. This department could not identify any reasons to support the enactment of section 2, despite the apparent need for the other provisions of the bill.

Mr. STUCKEY. Thank you, Mr. Wallach.

Mr. Robinson.

Mr. ROBINSON. Mr. Chairman, you have before you the report from the mayor as to the merits of this bill. Without reading it, I would like to point out certain paragraphs in here which express more clearly the position of the District government. Beginning on page 2, I would like to repeat for the record the following excerpt from the Mayor's report.

RECOMMENDATION

The contention that under existing law dividend income, depending upon its source, receives unequal treatment in that parent corporations or holding com-

panies need not pay taxes on such dividends when the subsidiary or paying corporation is subject to the District's franchise tax is understandable and not unreasonable from an equity standpoint. It must be pointed out, however, that enactment of H.R. 6186 would result in immediate revenue loss to the District Government and a potential greater loss in future years. The precise amount of such revenue loss is difficult to estimate since it appears that the existence of this tax liability has in some cases inhibited local insurance companies from declaring dividends which would become subject to taxation as income from sources within the District. However, under the retroactive provisions of Section 2 of the bill, one corporation alone would be eligible for a refund of approximately \$165,000 for taxes paid in 1970 and 1971.

Because of the inequities which, under certain circumstances, may result in the double taxation of dividends and interest distributed by insurance companies to corporate stockholders, the District Government is not opposed to the enactment of Section 1 of H.R. 6186. We are, however, constrained to object to the passage of Section 2 of the bill in view of its impact upon District revenues. The financial loss to the District which would result from the refund of those portions of the franchise tax attributable to dividends and interest paid to corporations by local insurance companies in 1970, 1971, and 1972 is considerable and may seriously affect the District's ability to fund public services in the fiscal year beginning July 1, 1973, if the full amount of such tax reimbursements is required to be made in that year.

We recommend, therefore, that Section 2 of H.R. 6186 be deleted.

Subject to this recommendation, the District Government offers no objection to the enactment of H.R. 6186.

AMENDMENT PROPOSED

Mr. STUCKEY. Mr. Robinson, in other words, the District of Columbia government is in favor of the bill as long as it is not retroactive?

Mr. ROBINSON. That is correct.

Mr. STUCKEY. It is my understanding the insurance companies are not strongly objecting to eliminating the retroactive part; is that correct?

Mr. ROBINSON. That is correct. We would recommend section 2 not be enacted.

Mr. STUCKEY. What you should do is make it retroactive with the understanding that they will donate it back to the District of Columbia government.

Mr. ROBINSON. If they would put it in writing, that would be desirable.

Mr. STUCKEY. Mr. Broyhill?

Mr. BROYHILL. The section you read, Mr. Robinson, which stated "It must be pointed out, however, that enactment of H.R. 6186 would result in immediate revenue loss to the District government and a potential greater loss in future years"; how do you feel it would result in a greater loss in future years, if a failure to act causes other companies not to become established here, and may very well cause some of the companies who are operating here to move out of the city?

Mr. ROBINSON. That is right, Mr. Broyhill.

Of course, the matter of whether insurance companies do or do not leave the District is not a certainty; it is sort of conjectural. We are assuming that phrase you just quoted, that if the insurance companies remain here, there is a possibility should the bill be enacted there would be continuing revenue loss to the District of Columbia.

Mr. STUCKEY. Will the gentleman yield?

Mr. BROYHILL. Yes.

Mr. STUCKEY. Isn't it a fact one company is now considering moving out of the District?

Mr. ROBINSON. I so understand, Mr. Chairman.

Mr. STUCKEY. So it is a reality that we are speaking of; not only will some move out, but we are certainly not encouraging any to move in that we can't collect taxes on. Is that not correct?

Mr. ROBINSON. That is true. What we are saying, if they do remain here and if the bill is enacted, there is a possibility.

Mr. STUCKEY. The possibility is not very good that they are going to continue to remain here. You can't have your cake and eat it, too.

Mr. ROBINSON. That is correct.

Mr. BROYHILL. The reason I wanted to get that part of the statement clarified is that I feel this is a fair and equitable tax to start with. But, in looking at this from the revenue standpoint, if we take this bill to the floor and it can be stated that this will result in greater loss of revenue in the future, it may cause some of our colleagues to feel that the existing law is not too inequitable and that it brings revenue in. Some of us are pretty much impressed with the statements that have been made that some of these insurance companies may be forced to leave the District of Columbia, if something is not done to amend the act by passing this bill.

And if that is the case, then it would mean an increase in revenue in the future by passing this bill.

Is that possible, Mr. Robinson?

Mr. ROBINSON. Looking at it from an overall picture, Mr. Broyhill, your statement may be correct. All we are saying is at present there is a tax liability and, obviously, if it is eliminated, then there wouldn't be taxes. As you correctly point out, the District government feels it has an obligation to report to the Congress any time there is a possibility of a revenue loss from taxation of dividends to the District government.

Mr. STUCKEY. Will the gentleman yield?

Mr. BROYHILL. Yes.

Mr. STUCKEY. Isn't it also true there is no other political jurisdiction that has this particular double tax? You don't know?

Mr. ROBINSON. I don't know of any.

Mr. STUCKEY. So it is peculiar to the District of Columbia and it is something this bill will correct and it needs correction.

Mr. ROBINSON. It is for those various reasons which you and Mr. Broyhill have indicated that the District government does not offer any objection to the enactment of section 1 of the bill.

Mr. STUCKEY. I think you will find that this is the only jurisdiction that has this double tax.

Mr. BROYHILL. Do any of you people who represent the D.C. government feel that this provision of double taxation is fair and equitable?

Mr. ROBINSON. I don't think so, Mr. Chairman.

Mr. BROYHILL. If it is not fair and equitable, why would you oppose the retroactive provision, which provides for a refund of unfair and inequitable taxes collected because of unfair and unreasonable law?

Mr. ROBINSON. Mr. Broyhill—

Mr. BROYHILL. Because of loss of revenue only? I can appreciate that.

Mr. ROBINSON. There is an essential difference between a prospective tax refund or a tax loss, as the case may be, as in comparison with one

which has already gone into the District of Columbia revenues, and which, if section 2 of the bill were enacted, would require a refund be made. That money, of course, has been obligated. It has been expended by the District and would require an adjustment occurring in the future budgets in order to make the refund.

As we pointed out in our statement, that sum may be considerable.

Mr. BROYHILL. That is my point. I am not arguing that point. Your primary objection to section 2 is the loss of revenue.

Mr. ROBINSON. That is correct.

Mr. BROYHILL. And not the inequity.

That is all.

Mr. STUCKEY. I have no further questions. We certainly appreciate your testimony.

Mr. STUCKEY. Our next witness is Mr. Parker, chairman of the board of Capital Holding Corp.

Mr. Parker, we are delighted to have you with us this morning.

**STATEMENT OF HOMER D. PARKER, CHAIRMAN OF THE BOARD,
CAPITAL HOLDING CORP.**

Mr. PARKER. Mr. Chairman and members of the subcommittee, my name is Homer Parker. I am chairman of the board of Capital Holding Corp. Capital is a Delaware corporation which has its only place of business in Louisville, Ky.

I, too, am delighted to be here, Mr. Chairman.

Let me say at the inception here, to the statement raised by section 2 of this bill: Capital takes the position that this was levied against us and is a tax that is really not right in every respect. We realize the problem and Capital takes the position that while we don't agree with the premises, we are a lot more interested in the future on this tax problem than we are about what has happened in the past.

Mr. STUCKEY. Thank you, Mr. Parker. I think that will make it a lot easier to pass this bill than to correct the inequities that have existed in the past.

Mr. PARKER. Mr. Chairman, you have a copy of the report we have sent to Mayor Washington. We have also sent to each member of the subcommittee a copy of a report that I am about to give.

Mr. STUCKEY. If you would like, we would be delighted to have you summarize.

Mr. PARKER. I am going to say you are entitled to my sales talk on it. If you would like, we would file it with the committee.

Mr. STUCKEY. We will appreciate it very much and will make it a part of the record.

[The complete prepared statement of Mr. Parker, above referred to, follows:]

**PREPARED STATEMENT BY HOMER D. PARKER, CHAIRMAN OF THE BOARD,
CAPITAL HOLDING CORP.**

Mr. Chairman and members of the subcommittee—my name is Homer Parker. I am Chairman of the Board of Capital Holding Corporation. Capital is a Delaware corporation which has its only place of business in Louisville, Kentucky.

I am pleased to be here today to testify in support of H.R. 6186 and to answer, to the extent that I can, any questions which you may have on how this legislation will affect Capital.

We have provided each member of the subcommittee with a copy of the written statement submitted to Mayor Washington with respect to H.R. 6186, and copies of the statement which I am making now have also been distributed to subcommittee members.

Passage of this bill is extremely important to Capital Holding Corporation. In our judgment, it is essential to the continued existence within the District of Columbia of life insurance companies which are operated as a part of a holding company structure. Its passage will bring District law into conformity with both federal and State law regarding the taxation of intercorporate dividends and it will encourage District of Columbia life insurance companies to remain and expand their operations here. Its passage will also remove a serious impediment to the location here of other life companies operated within a holding company structure.

On the other hand, we believe that failure to enact legislation of this nature will more than offset the salutary effect of the regulatory climate which presently exists for life insurance companies operating in the District and will in fact, cause such companies to move to locations outside the District, with a consequent loss to the District of both revenue and jobs.

During the past 15 years, there has been a significant trend within the life insurance industry to conduct business within a holding company structure. There are now more than 50 such companies operating in the United States. From the partial list attached to this statement you will see that these companies represent an important and substantial part of the industry.

The reasons for this industry trend are easily identifiable:

1. the greater flexibility afforded management when operations are conducted within a holding company structure,
2. the increased financial strength of the group, and
3. the operating efficiencies which can be achieved within such a structure.

The Capital Holding Corporation group is a case in point.

Capital was formed in 1969 by Commonwealth Life Insurance Company, an operating company located in Louisville, Kentucky. When Capital was organized, Commonwealth was its only subsidiary. Today, Capital owns a casualty insurance company, a real estate holding company, a finance company, and eight life insurance companies which do business in 43 states and the District of Columbia.

Capital provides its affiliates with management assistance and a variety of technical services, including investment counselling, actuarial services, and data processing services. Investment results have been improved, a greater variety of better insurance policies are being offered for sale to customers, and with the introduction of new cost controls the various operating companies have become more efficient. All in all, the competitive ability of the various members of the Capital group has been substantially improved.

This brings me to the subject at hand—Capital's ownership of Peoples Life Insurance Company.

Peoples is a District of Columbia corporation which became a member of the Capital group in December, 1969. At that time, Peoples' shareholders exchanged Peoples' stock which they owned for Capital Holding Corporation stock.

Peoples is one of the more important members of the Capital group. It is a well managed profitable life insurance company which does business in 14 states and the District of Columbia.

Under existing District law Peoples pays a tax on its premiums received from District of Columbia sources. This is a tax imposed in lieu of the corporate income tax. Most jurisdictions tax life insurance companies in this manner, because it is difficult to determine exactly what their net income is for income tax purposes.

It is the fact that insurance companies pay this "in lieu" net premiums tax, rather than the corporate income tax, which leads to the problem H.R. 6186 is designed to solve.

Most business corporations operating in the District of Columbia pay the corporate income tax. When they in turn, by way of a dividend, pay a part of their earnings up to a corporate shareholder, those earnings are specifically exempted by District law from being taxed a second time in the hands of the corporate shareholder. This, generally, is also the result under the Internal Revenue Code, and under the income tax laws of the various states. Corporate earnings are taxed only once at the corporate level. (Of course, earnings paid out as dividends to individual stockholders are taxed in the hands of such stockholders.)

The difficulty with existing District law, as interpreted by the Finance and Revenue Division, is the fact that the exemption for intercorporate dividends is said to apply only where the corporation paying the dividend is subject to the corporate income tax.

Thus, even though the net premiums tax is imposed in lieu of the corporate income tax, the fact that Peoples pays the net premiums tax, rather than the corporate income tax, has been construed as barring application of the exemption provision to, for example, the dividends which Peoples pays to Capital.

If Peoples' earnings are to be taxed twice at the corporate level (that is, in Peoples' hands and again in Capital's hands), the tax burden on those earnings, assuming Peoples pays the same dividends it paid in 1972, will be increased each year by over \$100,000. This is a tax burden which Capital cannot afford to bear, and one which no other jurisdiction imposes on life insurance company operations. This is the reason Peoples has ceased to pay dividends and why consideration has been given to removing Peoples from the District of Columbia.

My testimony this morning will confirm that Capital's management has no wish to take Peoples outside Washington, D.C. We believe its location here is an asset. Recently Peoples expanded its operations by acquiring licenses to do business in three additional states. Capital's management has faith in Peoples and intends to keep it in the District and use it as a vehicle for building a more substantial business enterprise—assuming the existence of an equitable tax structure in the District, a tax structure which places the District on a par with competing jurisdictions and does not penalize life insurance company operations conducted within a holding company structure.

Enactment of H.R. 6186 will eliminate the difference in treatment of dividends paid by corporations paying the regular corporate income tax and life insurance companies paying the net premiums tax and will conform the District's law for taxing life insurance company operations with the laws applicable to such operations in other jurisdictions.

In conclusion, we respectfully urge the subcommittee to act favorably with respect to this bill.

Thank you very much for giving me the opportunity to testify this morning. I will be glad to try to answer any questions you may have.

ATTACHMENT TO STATEMENT OF HOMER D. PARKER

PARTIAL LIST OF LIFE INSURANCE COMPANY HOLDING COMPANIES OPERATING IN THE UNITED STATES

Aetna Life and Casualty
 All American Life and Financial Corporation
 American General Insurance Company
 CNA Financial Corporation
 Chubb Corporation
 Connecticut General Insurance Corporation
 Gulf Life Holding Company
 INA Corporation
 Integon Corporation
 Liberty Corporation
 Lincoln National Corporation
 Monumental Corporation
 NLT Corporation
 Nationwide Corporation
 Richmond Corporation
 Southland Financial Corporation
 Transamerica Corporation
 The Travelers Corporation
 USLIFE Corporation
 Washington National Corporation

Mr. STUCKEY. If you would like to summarize, it would be helpful, now that we have pretty much agreement on section 2.

Mr. PARKER. That is our position.

Mr. STUCKEY. Thank you.

Our next witness is Mr. Hogan, President of Peoples Life Insurance Co.

STATEMENT OF ERNEST L. HOGAN, PRESIDENT, PEOPLES LIFE INSURANCE CO.

Mr. HOGAN. Mr. Chairman and members of the subcommittee, I am delighted to have the opportunity to be here. Each of you has a copy of my statement with reference to the bill.

I would like for it to be filed with the committee.

Mr. STUCKEY. With no objection.

[The complete prepared statement of Mr. Hogan, above referred to, follows:]

PREPARED STATEMENT BY ERNEST L. HOGAN, PRESIDENT, PEOPLES LIFE INSURANCE CO.

Mr. Chairman and members of the subcommittee—my name is Ernest L. Hogan. I am President of Peoples Life Insurance Company, a corporation which was organized in the District of Columbia in 1903 and which has always had its home office in the District. Peoples stock, other than a few shares, is now owned by Capital Holding Corporation, a Kentucky corporation which engages in no business in the District of Columbia.

I am here today to urge this subcommittee to recommend the passage of H.R. 6186.

H.R. 6186 is a bill—

—that will eliminate unintended discrimination against companies which receive dividends from District of Columbia life insurance companies;

—that will bring District of Columbia law (as it applies to the tax treatment of the receipt of such dividends) into conformity with federal law and the laws of the various states; and

—that will create a climate of equitable taxation which will encourage life insurance companies to remain in the District of Columbia and to expand their operations here.

Peoples has always had its home office in the Nation's Capital and has represented to its policyholders that it is a District of Columbia corporation. To change its domicile now would require considerable explanations to be made to policyholders.

The management of both Capital Holding Corporation and Peoples Life want Peoples to remain in the District of Columbia. Our relationship with the District Government has been a long and mutually satisfactory one. In addition, our relations with the Congress, and particularly with the House District Committee, have been most satisfactory. Some of the members of this subcommittee may recall the assistance we received from this body in the mid-1950's, when our new home office was constructed near the present location of the Kennedy Center.

At present, Peoples employs over 300 persons in the District of Columbia. Peoples pays to the District each year real property taxes in excess of \$100,000, and it also pays to the District each year premiums taxes on business sold in the District (as do other insurance companies), and withholding, sales, and unemployment compensation taxes.

The net premiums tax which Peoples pays to the District is a tax imposed, as provided in the District of Columbia Code, "in lieu of" the District's corporate income tax. It is imposed on the premiums which Peoples receives from District of Columbia residents. Peoples also pays to other jurisdictions substantial net premiums taxes on the premiums which it receives from policyholders in those states. In 1972, Peoples paid \$939,664 of premiums taxes and accrued income taxes of \$1,832,000.

If an additional tax is imposed when Peoples pays dividends to Capital Holding Corporation, then there is double taxation at the corporate level. In such event, the tax burden becomes intolerable.

We believe this conclusion is confirmed by the fact that no state imposes such a tax burden on life insurance companies. Further, this Congress itself has provided, in effect, in the Internal Revenue Code, that for federal income tax purposes, there will be only one tax at the corporate level. Dividends paid by a subsidiary corporation to its parent corporation *are not taxed again*, including dividends paid by a life insurance company to a parent company. Corporate earnings are, of course, taxed again when distributed as dividends to individual shareholders.

The District Finance and Revenue Division has taken the position that when a holding company structure is involved it intends to tax life insurance company earnings twice at the corporate level. Thus, the District of Columbia Code provides that when dividends are paid by a corporation subject to the D.C. corporate income tax to another corporation, the dividends are not taxed. The D.C. authorities say, however, that this provision does not apply in the case of a life insurance company paying dividends to a corporate parent company because the life insurance company is not subject to the D.C. corporate income tax. They take this position even though the D.C. net premiums tax is imposed expressly "in lieu of" the D.C. corporate income tax. Because of this position, Peoples has avoided imposition of the second tax by paying no dividends to Capital Holding Corporation in 1973. Our Board of Directors has indicated that it will continue this policy and, if it becomes necessary, I am afraid that we will, with great reluctance, be forced to move outside the District of Columbia.

I am here today to ask this subcommittee and to ask the full committee to act favorably with respect to this legislation so that Peoples is no longer subject to this unfair double tax burden.

H.R. 6186 is a bill which will help establish a fair and equitable structure for taxing life insurance companies domiciled within the District of Columbia. It will enable our company to remain here and to expand our operations here. It will complement the District's effective and reasonable regulatory system for life insurance companies and thus will make it attractive for such companies to locate here. It will, in the long run almost certainly produce additional revenue for the District and strengthen the economy here.

I will be glad to answer any questions which you may have regarding the effect of this bill on our company or regarding our operations.

Thank you very much for permitting me to testify before this subcommittee today.

Mr. HOGAN. I will also support Mr. Parker in the statement with reference to section 2, as far as the president of the company is concerned.

Mr. STUCKEY. Thank you, Mr. Hogan.

The only thing, Mr. Parker as chairman of the board and you as president of your corporation, what are you going to say if some shareholder comes up and says it was an illegal payment that was paid in and as a shareholder I would like to see our company get the money back? What would be your response to that?

Mr. HOGAN. Mr. Chairman, I think that question that you ask possibly will be asked by some minority stockholder. However, we are planning on testing this in the court to see, but we would rather the court decide.

Mr. STUCKEY. Rather than legislation?

Mr. HOGAN. Yes, sir.

Mr. STUCKEY. I agree with you on that.

Mr. BROYHILL. Maybe the stockholders will ask why they didn't fight harder to keep section 2 in the bill when they were testifying before the committee.

Mr. STUCKEY. I think the answer was given to that earlier, they would rather look ahead than look back and correct inequities.

Our next witness is Mr. Martin, vice president of the Acacia Mutual Life Insurance Co.

STATEMENT OF HERBERT E. MARTIN, JR., VICE PRESIDENT, ACACIA MUTUAL LIFE INSURANCE CO.

Mr. MARTIN. Gentlemen, I believe you have a copy of my statement, also. I am representing the five major life insurance companies in the District and this statement is on behalf of those five companies.

This statement supports the enactment of this bill for the reasons that have already been presented. We think it is extremely important

from the standpoint of the business atmosphere in the District to eliminate this very inequitable tax which results in double taxation.

So we are in support and would urge its passage.

[The complete prepared statement of Mr. Martin, above referred to, follows:]

PREPARED STATEMENT OF HERBERT E. MARTIN, JR.

I am Herbert E. Martin, Jr., Vice President and General Counsel of Acacia Mutual Life Insurance Company, a Company chartered by Special Act of Congress in 1869. Acacia is a domestic District of Columbia life insurance company. I am chairman of the Legislative Committee formed by the major life insurance companies of the District of Columbia. This consolidated statement on H.R. 6186 is made on behalf of the following domestic District of Columbia life insurance companies:

Acacia Mutual Life Insurance Company
Equitable Life Insurance Company of D.C.
Government Employees Life Insurance Company
Peoples Life Insurance Company
United Services Life Insurance Company

Peoples Life Insurance Company is also presenting an individual statement to the Subcommittee today.

The bill under consideration, H.R. 6186, would correct the present unequal District of Columbia tax treatment of the recipients of intercorporate dividends paid (a) by a general business corporation, and (b) by an insurance company.

The District of Columbia, like most jurisdictions, taxes general business corporations based on their net income (Chapter 15 of Title 47, District of Columbia Code), and taxes insurance companies based on their premium receipts (Chapter 18 of Title 47, D.C. Code). As in most jurisdictions, the premium tax levied on insurance companies is in lieu of certain other taxes, including the income tax.

Also, like most jurisdictions, the District of Columbia exempts dividends paid by a general business corporation from taxation as income when these dividends are paid to and received by a corporate shareholder. This exemption (Section 47-1580 of the Code) is based on the fact that the corporation paying the dividend has already been taxed. The clear purpose is to prevent double taxation of intercorporate dividends. In this respect, the District of Columbia tax treatment of dividends paid by a general business corporation conforms to the treatment of intercorporate dividends under the U.S. Internal Revenue Code.

It would be reasonable to expect that when an insurance company (taxable under Chapter 18 instead of under Chapter 15) pays dividends to a corporate shareholder the same exemption should apply in order to prevent double taxation. Such an exemption does apply to insurance company dividends in other jurisdictions, as well as under the provisions of the U.S. Internal Revenue Code.

Possibly because of an oversight, specific language to provide such as exemption was not included in Section 47-1580. As a consequence, the District of Columbia has taken the position that intercorporate dividends paid by a District of Columbia insurance company to a corporate shareholder are taxable. This position means that such dividends would be taxable unequally as compared with dividends paid by a general business corporation—and would be subject to a double tax burden that is not imposed in other jurisdictions.

In my opinion, a vigorous and growing insurance industry is important to the District of Columbia. Passage of this bill would correct an inequitable and discriminatory situation that presents serious current problems for two domestic companies. Further, it would place the District of Columbia at least on an equal footing with other jurisdictions as a desirable location for operating insurance companies. It is the position of the companies I represent today that H.R. 6186 is a highly desirable remedial bill. On behalf of the domestic insurance industry, I recommend its passage.

Mr. Chairman, I appreciate having the opportunity to present this statement.

Mr. STUCKEY. Thank you, Mr. Martin.

Mr. Broyhill?

Mr. BROYHILL. No questions.

Mr. STUCKEY. That winds us up on the witnesses for H.R. 6186. Do we have any people present that would like to testify or make any comments regarding H.R. 6186?

[No response.]

Mr. STUCKEY. That concludes the hearings on H.R. 7128 and H.R. 6186.

Mr. BROYHILL. Mr. Chairman, since both of these bills are noncontroversial, is it possible that a motion be in order to recommend to report these to the full committee? I recognize that a quorum is not present, but I don't think a quorum has to be present for you, as a chairman, to recommend these to the full committee.

Mr. STUCKEY. The gentleman is quite correct. If there is no objection raised before the full committee if a quorum is not present. In view of the fact that both bills are noncontroversial, there is a strong possibility the objection will not be raised.

So the Chair is in agreement with the gentleman from Virginia; we will report out H.R. 7218 and H.R. 6186 to the full committee, with H.R. 6186 amended to remove section 2 of the bill.

Mr. BROYHILL. What about the amendment offered by Mr. Phillips?

Mr. STUCKEY. And H.R. 7128 will be reported to the Full Committee with the amendment that was presented in written testimony.

Mr. BROYHILL. Mr. Chairman, I am hopeful you can get these bills up to the full committee before the Home Rule bill is acted upon, because that might be next February.

Mr. STUCKEY. The gentleman is being very optimistic in placing a heavy burden on the chairman there. We will do our best to see it is reported out.

I think there is a possibility of it being reported out because it is noncontroversial at this point. The Chair will assure those present and the gentleman from Virginia, we will do our best to see if we can bring it up before the Home Rule hearings start.

Mr. BROYHILL. Mr. Chairman, one more question. As you know, I offered an amendment to another bill that was reported out of the subcommittee, having to do with the Capital Yacht Club, I believe, and the usury laws. The bill I have pending before the committee would exempt large commercial loans in excess of \$1 million from the D.C. usury law. The chairman did promise me we would have a hearing on that. I hope that will not be controversial, but again I would like to call it to the attention of the chairman and see if we couldn't have early hearings on it.

Mr. STUCKEY. Actually, the bill we are hearing this morning, I think it will be a matter of bringing the bill back up to the subcommittee and the chairman introducing his amendment and the subcommittee reporting the bill.

Does the gentleman from Virginia have any comments?

Mr. BROYHILL. No, sir.

Mr. STUCKEY. The committee will report out the two bills H.R. 7218 and H.R. 6186 and will bring them up as soon as it is possible. I think there is a good chance because of the noncontroversial nature of the bills.

The subcommittee will stand adjourned.

[Whereupon, at 10:50 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]