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In 7/6 **INSURANCE REGULATION AND ELECTION
LAW AMENDMENTS**

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HEARING

BEFORE THE

**SUBCOMMITTEE ON
BUSINESS, COMMERCE, AND JUDICIARY**

OF THE

**COMMITTEE ON
THE DISTRICT OF COLUMBIA
UNITED STATES SENATE**

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 4083

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

H.R. 6713

**TO AMEND THE DISTRICT OF COLUMBIA ELECTION ACT
REGARDING THE TIMES FOR FILING CERTAIN PETITIONS,
REGULATING THE PRIMARY ELECTION FOR DELEGATE
FROM THE DISTRICT OF COLUMBIA, AND FOR OTHER
PURPOSES**

JULY 17, 1973

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Committee on the District of Columbia



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(II)

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INSURANCE REGULATION AND ELECTION LAW AMENDMENTS

TUESDAY, JULY 17, 1973

U.S. SENATE,
SUBCOMMITTEE ON BUSINESS, COMMERCE, AND JUDICIARY,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The subcommittee met at 10:05 a.m. in room 6226, Dirksen Senate Office Building, Senator Adlai E. Stevenson III, presiding.

Present: Senator Stevenson.

Staff present: Andrew E. Manatos, associate staff director; and Colbert I. King, minority staff director.

Senator STEVENSON. The Subcommittee on Business, Commerce, and Judiciary of the Committee on the District of Columbia will come to order.

This morning's hearing before the Subcommittee on Business Commerce, and Judiciary of the Senate Committee on the District of Columbia is for the purpose of taking testimony on H.R. 4083, the District of Columbia Insurance Act, and H.R. 6713, the District of Columbia Election Act Amendments.

H.R. 4083, the District of Columbia Insurance Act, is identical in substance to S. 2208—a bill I introduced on June 30, 1971. Hearings were held on this legislation by this subcommittee on December 1, 1971. This subcommittee and the full District Committee favorably reported that bill to the Senate floor where it passed on April 27, 1972.

The legislation was sent to the House District Committee where the only amendments made to the legislation were technical in nature and did not alter the substance of the legislation. The House committee favorably reported the bill to the floor but the House adjourned before a vote could be taken.

On February 7, 1973, Congressman Stuckey reintroduced this insurance legislation under the number H.R. 4083. On June 5, 1973, the bill was reported by the House District Committee and passed by the House of Representatives on June 12, 1973.

The other bill before us today, H.R. 6713, the District of Columbia Election Act Amendments, is the result of recommendations made by the District of Columbia Elections Board.

On April 9, 1973, Congressman Fauntroy introduced this bill in the House of Representatives. On June 5 it was reported to the House floor by the District Committee and was passed by the House of Representatives on June 12.

At this time I place in the record copies of the bills under consideration this morning, a letter of transmittal and the proposed legislation on H.R. 4083 from the Mayor-Commissioner.

[The material referred to follows:]

93^D CONGRESS
1ST SESSION

H. R. 4083

IN THE SENATE OF THE UNITED STATES

JUNE 12, 1973

Read twice and referred to the Committee on the District of Columbia

AN ACT

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
8 insurance, 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
15 and is within the coverage and not in excess of the appli-
16 cable limits of an insurance policy to which this title applies
17 issued by an insurer, if such insurer becomes an insolvent
18 insurer after the effective date of this title and (a) the
19 claimant or insured is a resident of the District of Colum-
20 bia at the time of the insured event; or (b) the property
21 from which the claim arises is permanently located in the
22 District of Columbia. Such term shall not include any amount
23 due any reinsurer, insurer, insurance pool, or underwriting
24 association, 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 obli-
17 gation on the covered claims and to such extent shall
18 have all rights, duties, and obligations of the insolvent
19 insurer 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 (3) of subsection (a) of this section shall be

1 in 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
25 and 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
4 operation within ninety days following the effective date
5 of this title or if at any time thereafter the Board fails
6 to submit suitable amendments to the plan, the Commis-
7 sioner shall, after notice and hearing, adopt and promul-
8 gate such reasonable rules as are necessary or advisable
9 to effectuate the provisions of this title. Such rules shall
10 continue in force until modified by the Commissioner or
11 superseded by a plan submitted by the Board and approved
12 by the Commissioner.

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

15 (c) The plan of operation shall—

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

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

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

23 (4) establish procedures by which claims may be

1 filed with the Association and establish acceptable forms
2 of proof of covered claims;

3 (5) establish regular places and times for meetings
4 of the Board;

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

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

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

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

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

1 Association. A delegation under this subsection shall take
2 effect only with the approval of both the Board and the
3 Commissioner, and may be made only to a corporation, as-
4 sociation, or organization which extends protection in a
5 manner substantially similar to that provided by this title.

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

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

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

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

19 (b) The Commissioner may—

20 (1) require that the Association notify the in-
21 sureds of the insolvent insurer and any other interested
22 parties of the determination of insolvency and of their
23 rights under this title by mail at their last known address,
24 where available, or by publication in a newspaper of

1. . . . general circulation, if sufficient information for notifica-
 2. . . . tion by mail is not available;

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

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

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

18. . . . SEC. 110. (a) Any person recovering under this title
 19. . . . shall be deemed to have assigned his rights under the policy
 20. . . . to the Association to the extent of his recovery from the Asso-
 21. . . . ciation. Every insured or claimant seeking the protection of
 22. . . . this title shall cooperate with the Association to the same
 23. . . . extent as such person would have been required to cooperate
 24. . . . with the insolvent insurer. The Association shall have no
 25. . . . cause of action against the insured of the insolvent insurer

1 for any sums it has paid out except such causes of action as
2 the insolvent insurer would have had if such sums had been
3 paid by the insolvent insurer. In the case of an insolvent
4 insurer operating on a plan with assessment liability, pay-
5 ments of claims of the Association shall not operate to reduce
6 the insured's liability to the receiver, liquidator, or statutory
7 successor for unpaid assessments.

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

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

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

1 title shall be reduced by the amount of any recovery under
2 such insurance policy.

3 (b) Any person having a claim which may be recov-
4 ered under more than one insurance guaranty association
5 or its equivalent shall seek recovery first from the associa-
6 tion of the place of residence of the insured except that if it
7 is a first party claim for damage to property with a per-
8 manent location, he shall seek recovery first from the asso-
9 ciation of the location of the property, and if it is a work-
10 men's compensation claim, he shall seek recovery first from
11 the association of the residence of the claimant. Any recov-
12 ery under this title shall be reduced by the amount of recov-
13 ery from any other insurance guaranty association or its
14 equivalent.

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

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

22 (2) the Board may, upon majority vote, request
23 that the Commissioner order an examination of any
24 member insurer which the Board in good faith believes

1 may be in a financial condition hazardous to the policy-
2 holders or the public.

3 (b) An examination may be conducted, under this sec-
4 tion, as a National Association of Insurance Commissioner
5 examination or may be conducted by such person as the
6 Commissioner designates. The cost of such examination shall
7 be paid by the Association and the examination report shall
8 be treated as are other examination reports. In no event
9 shall such examination report be released to the Board prior
10 to its release to the public, but this shall not preclude the
11 Commissioner from complying with subsection (c) of this
12 section. The Commissioner shall notify the Board when the
13 examination is completed. The request for an examination
14 shall be kept on file by the Commissioner but it shall not be
15 open to public inspection prior to the release of the examina-
16 tion report to the public.

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

22 (d) The Board may, upon majority vote, make reports
23 and recommendations to the Commissioner upon any matter
24 germane to the solvency, liquidation, rehabilitation, or con-

1 servation of any member insurer. Such reports and recom-
2 mendations shall not be considered public documents.

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

6 (f) The Board shall, at the conclusion of any insurer
7 insolvency in which the Association was obligated to pay
8 covered claims, prepare a report on the history and causes of
9 such insolvency, based on the information available to the
10 Association, and submit such report to the Commissioner.

11 SEC. 113. The Association shall be subject to examina-
12 tion and regulation by the Commissioner. The Board shall
13 submit, not later than March 30 of each year, a financial
14 report for the preceding calendar year on a form approved
15 by the Commissioner.

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

19 SEC. 115. The rates and premiums charged for insur-
20 ance policies to which this title applies shall include amounts
21 sufficient to recoup a sum equal to the amounts paid to the
22 Association by the member insurer less any amounts returned
23 to the member insurer by the Association and such rates
24 shall not be deemed excessive because they contain an amount

1 reasonably calculated to recoup assessments paid by the
2 member insurer.

3 SEC. 116. There shall be no liability on the part of
4 and no cause of action of any nature shall rise against
5 any member insurer, the Association or its agents or em-
6 ployees, the Board, or the Commissioner or his representa-
7 tives for any action taken by them in the performance of their
8 powers and duties under this title.

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

22 SEC. 118. (a) The Commissioner shall by order termi-
23 nate the operation of the District of Columbia Insurance
24 Guaranty Association as to any kind of insurance afforded

1 by property or casualty insurance policies with respect to
2 which he has found, after hearing, that there is in effect a
3 statutory or voluntary plan which—

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

6 (2) extends or will extend to District of Colum-
7 bia policyholders and residents protection and benefits
8 with respect to insolvent insurers not substantially less
9 favorable and effective to such policyholders and resi-
10 dents and the protection and benefits provided with re-
11 spect to such kind of insurance under this title.

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

20 (c) In the event the operation of any account of the
21 District of Columbia Insurance Guaranty Association shall
22 be so terminated as to all kinds of insurance otherwise within
23 its scope, the Association as soon as possible thereafter shall
24 distribute the balance of moneys and assets remaining in said
25 account (after discharge of the functions of the Association

1 with respect to prior insurer insolvencies not covered by such
2 other plan, together with related expenses) to the insurers
3 which are then writing in the District of Columbia policies
4 of the kinds of insurance covered by such account, and which
5 had made payments into such account, pro rata upon the
6 basis of the aggregate of such payments made by the respec-
7 tive insurers to such account during the period of five years
8 next preceding the date of such order. Upon completion of
9 such distribution with respect to all of the accounts speci-
10 fied in section 105, this title shall be deemed to have expired.

11 TITLE II—AMENDMENT OF THE LIFE INSUR-
12 ANCE ACT OF THE DISTRICT OF COLUMBIA
13 TO INCREASE CAPITAL REQUIREMENTS OF
14 LIFE INSURANCE COMPANIES

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

17 (1) Section 8 (a) of such chapter (D.C. Code, sec.
18 35-508 (a)) is amended (A) by striking out in the
19 first sentence "\$200,000" and inserting in lieu thereof
20 "\$1,000,000", and (B) by striking out in the last sen-
21 tence "\$150,000" and inserting in lieu thereof "\$1,500,-
22 000".

23 (2) Section 8 (b) of such chapter (D.C. Code, sec.
24 35-508 (b)) is amended (A) by inserting "or subse-
25 quent amendment" immediately after "subsection", and

1 (B) by inserting "or the minimum surplus required of
2 a mutual company" immediately after "stock company".

3 (3) Paragraph 10 (b) (ii) of section 35 of such
4 chapter (D.C. Code, sec. 35-535 (10) (b) (ii)) is
5 amended by striking out "\$300,000" and "\$150,000"
6 and inserting in lieu thereof "\$1,500,000" in each such
7 place.

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

12 SEC. 202. The amendment made by this title shall take
13 effect thirty days after the date of enactment of this Act.

14 TITLE III—AMENDMENT OF THE LIFE INSUR-
15 ANCE ACT OF THE DISTRICT OF COLUMBIA
16 TO INCREASE GROUP TERM LIFE INSURANCE
17 AMOUNT LIMITATIONS

18 SEC. 301. Sections 10 (1) (d), 10 (3) (d), 10 (4) (d),
19 (10) (6) (d), and 10 (9) (d) of chapter V of the Life Insur-
20 ance Act (D.C. Code, secs. 35-710 (1) (d), (3) (d),
21 (4) (d), (6) (d), and (9) (d)), are amended (1) by strik-
22 ing out "\$20,000" each place it appears and inserting in
23 lieu thereof "\$30,000"; (2) by striking out "\$40,000"
24 each place it appears and inserting in lieu thereof "\$100,-

1 000"; and (3) by striking out "150" each place it appears
2 and inserting in lieu thereof "300".

3 SEC. 302. The first sentence of section 11 of chapter V
4 of the Life Insurance Act (D.C. Code, sec. 35-711), is
5 amended (1) by striking out "and" between clauses (b) and
6 (c), (2) by striking out the colon at the end of clause (c)
7 and inserting in lieu thereof a semicolon and (3) by inserting
8 immediately thereafter a new clause (d) as follows: "and
9 (d) that subject to the terms of the policy any person insured
10 under a group life insurance contract, whether issued before
11 or after the effective date of this clause, may make to any
12 person, other than his employer, an absolute or collateral
13 assignment of any or all the rights and benefits conferred on
14 him by any provision of such policy or by law, including
15 specifically, but not by way of limitation, any right to desig-
16 nate a beneficiary or beneficiaries thereunder and any right
17 to have an individual policy issued upon termination either
18 of employment or of said policy of group life insurance, but
19 nothing herein shall be construed to have prohibited an in-
20 sured from making an assignment of all or any part of his
21 rights and privileges under the policy before the effective
22 date of this clause and, subject to the terms of the policy,
23 an assignment by an insured before or after the effective
24 date of this clause is valid for the purposes of vesting in the

1 assignee all rights and privileges so assigned, but without
 2 prejudice to the insurer on account of any payment it may
 3 make or individual policy it may issue prior to receipt of
 4 notice of the assignment:”.

5 TITLE IV—AMENDMENT OF THE FIRE AND
 6 CASUALTY ACT REGULATING THE BUSI-
 7 NESS OF FIRE, MARINE, AND CASUALTY IN-
 8 SURANCE IN THE DISTRICT OF COLUMBIA

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

12 “SEC. 13. MINIMUM CAPITAL AND SURPLUS REQUIRE-
 13 MENT.—Every stock company authorized to do business in
 14 the District shall have and shall at all times maintain a paid-
 15 up capital stock of not less than \$300,000, and a surplus of
 16 not less than \$300,000. Every domestic mutual company and
 17 every domestic reciprocal company shall have and shall at all
 18 times maintain a surplus of not less than \$300,000 and every
 19 foreign or alien mutual company and every foreign or alien
 20 reciprocal company shall have and shall at all times maintain
 21 a surplus of not less than \$400,000.

22 “SEC. 14. CORPORATIONS HERETOFORE FORMED.—
 23 No company shall be exempt from the provisions of this
 24 subsection by reason of its having been incorporated in the
 25 District or elsewhere prior to the effective date of this sub-

1 section, except that, in the case of companies authorized in
 2 the District on the date of approval of this subsection and
 3 continuously thereafter without any increase of authority,
 4 the minimum capital and surplus required of a stock com-
 5 pany, and the minimum surplus required of a mutual or
 6 reciprocal company, or a Lloyd's organization by the laws
 7 of the District heretofore applicable shall not be increased
 8 by this subsection, and provided also that in the case of such
 9 continuously authorized companies the provisions of section
 10 24 relating to the names of companies, and the provisions of
 11 section 25 relating to the amount of surplus necessary to the
 12 issuance of policies having no provision for contingent liabil-
 13 ity, shall not be applicable."

14 SEC. 402. Section 25 of chapter II of the Fire and
 15 Casualty Act (D.C. Code, sec. 35-1329) is amended by
 16 striking out "\$300,000" and inserting in lieu thereof
 17 "\$600,000".

18 TITLE V—AMENDMENT OF AMOUNT OF CON-
 19 TRACT WITH THE GOVERNMENT OF THE
 20 DISTRICT OF COLUMBIA FOR WHICH A
 21 SURETY BOND IS REQUIRED

22 SEC. 501. The first section of the Act entitled "An Act
 23 in relation to contracts with the District of Columbia" ap-
 24 proved June 28, 1906 (D.C. Code, sec. 1-805), and the
 25 first section of the Act of August 3, 1968 (D.C. Code, sec.

1 1-804a) (relating to contracts with the District of Colum-
2 bia), are each amended by striking out "\$2,000" wherever
3 it appears in each such first section and inserting in lieu
4 thereof "\$10,000".

Passed the House of Representatives June 11, 1973.

Attest:

W. PAT JENNINGS,

Clerk.



THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20004

WALTER E. WASHINGTON
Mayor-Commissioner

February 2, 1973

The President
United States Senate
Washington, D. C.

My dear Mr. President:

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.

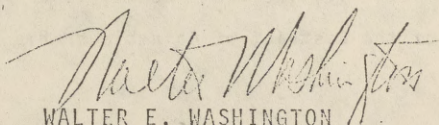
Title IV would amend the Fire and Casualty Act to increase the amount of paid-up capital stock and surplus required of all stock companies licensed under the Fire and Casualty Act from \$300,000 to \$600,000; to increase the surplus requirement for domestic mutual companies from \$150,000 to \$300,000; 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

BFG:kec
1/22/73
CCL: 7/93

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
6 ASSESSMENT INSURANCE GUARANTY
7 ASSOCIATION ACT.

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

10 Sec. 102. The purpose of this title is to provide
11 a mechanism for the payment of covered claims under certain
12 insurance policies to avoid excessive delay in payment and
13 to avoid financial loss to claimants or policyholders be-
14 cause of the insolvency of an insurer, to assist in the de-
15 tection and prevention of insurer insolvencies, and to pro-
16 vide an association to assess the cost of such protection
17 among insurers.

18 Sec. 103. This title shall apply to all kinds of
19 direct insurance, except life, title, disability, and
20 mortgage guaranty insurance.

21 Sec. 104. As used in this title—

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

1 (2) The term "covered claim" means an unpaid claim,
2 including one for unearned premiums, which arises out of
3 and is within the coverage and not in excess of the applic-
4 able limits of an insurance policy to which this title
5 applies issued by an insurer, if such insurer becomes an
6 insolvent insurer after the effective date of this title
7 and (a) the claimant or insured is a resident of the Dis-
8 trict of Columbia at the time of the insured event; or
9 (b) the property from which the claim arises is permanently
10 located in the District of Columbia. Such term shall not
11 include any amount due any reinsurer, insurer, insurance
12 pool, or underwriting association, as subrogation recoveries
13 or otherwise.

14 (3) The term "insolvent insurer" means (a) an in-
15 surer authorized to transact insurance in the District of
16 Columbia either at the time the policy was issued or when
17 the insured event occurred and (b) determined to be insolvent
18 by a court of competent jurisdiction.

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

24 (5) The term "net direct written premiums" means
25 direct gross premiums written in the District on insurance

1 policies to which this title applies, less return premiums
2 thereon and dividends paid or credited to policyholders on
3 such direct business. Such term does not include premiums
4 on contracts between insurers or reinsurers.

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

7 Sec. 105. There is created a nonprofit unincorporated
8 legal entity to be known as the District of Columbia Insur-
9 ance Guaranty Association (hereafter in this title referred
10 to as the "Association"). All member insurers shall be and
11 remain members of the Association as a condition of their
12 authority to transact insurance in the District of Columbia.
13 The Association shall perform its functions under a plan of
14 operation established and approved by the Commissioner and
15 shall exercise its powers through a Board of Directors
16 (hereafter in this title referred to as the "Board"). For
17 purposes of administration and assessment, the Association
18 shall be divided into three separate accounts: (a) the
19 workmen's compensation insurance account; (b) the automobile
20 insurance account; and (c) the account for all other in-
21 surance to which this title applies.

22 Sec. 106. (a) The Board of the Association shall
23 consist of not less than five nor more than nine persons
24 serving terms as established in the plan of operation. The
25 members of the Board shall be selected by member insurers

1 subject to the approval of the Commissioner. Vacancies
2 on the Board shall be filled for the remaining period
3 of the term in the same manner as initial appointments.
4 If no members are selected within sixty days after the
5 effective date of this title, the Commissioner may appoint
6 the initial members of the Board.

7 (b) In approving selections to the Board, the
8 Commissioner shall consider among other things whether
9 all member insurers are fairly represented.

10 (c) Members of the Board may be reimbursed from the
11 assets of the Association for expenses incurred by them as
12 members of the Board.

13 Sec. 107: (a) The Association shall—

14 (1) be obligated to the extent of the covered
15 claims existing prior to the determination of in-
16 solvency and arising within thirty days after the
17 determination of insolvency, or before the policy
18 expiration date if less than thirty days after the
19 determination, or before the insured replaces the
20 policy or causes its cancellation, if he does so
21 within thirty days of the determination, but such
22 obligation shall include only that amount of each
23 covered claim which is in excess of \$100 and is less
24 than \$300,000, except that the Association shall pay
25 the full amount of any covered claim arising out
26 of a workmen's compensation policy; except in
27 no event shall the Association be obligated to a

1 policyholder or claimant in an amount in excess
2 of the obligation of the insolvent insurer under
3 the policy from which the claim arises;

4 (2) be deemed the insurer to the extent of
5 its obligation on the covered claims and to such
6 extent shall have all rights, duties, and obliga-
7 tions of the insolvent insurer as if the insurer
8 had not become insolvent;

9 (3) allocate claims paid and expenses in-
10 curred among the three accounts separately, and
11 assess member insurers separately, according to
12 subsection (b) of this section, for each account
13 amounts necessary to pay the obligations of the
14 Association under paragraph (1) of this sub-
15 section subsequent to an insolvency, the expenses
16 of handling covered claims subsequent to an
17 insolvency, the cost of examinations under section
18 112, and other expenses authorized by this title;

19 (4) investigate claims brought against the
20 Association and adjust, compromise, settle, and
21 pay covered claims to the extent of the Associa-
22 tion's obligation and deny all other claims and
23 may review settlements, releases and judgments
24 to which the insolvent insurer or its insureds
25 were parties to determine the extent to which
26 such settlements, releases and judgments may
27 be properly contested;

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

3 (6) handle claims through its employees or
4 through one or more insurers or other persons
5 designated, subject to the approval of the Com-
6 missioner, as servicing facilities, except such
7 designation may be declined by a member insurer;
8 and

9 (7) reimburse each servicing facility for
10 obligations of the Association paid by the fa-
11 cility and for expenses incurred by the facility
12 while handling claims on behalf of the Association,
13 and pay the other expenses of the Association au-
14 thorized by this title.

15 (b) The assessments of each member insurer under
16 paragraph (2) of subsection (a) of this section shall be
17 in the proportion that the net direct written premiums of
18 the member insurer for the preceding calendar year on the
19 kinds of insurance in the account bears to the net direct
20 written premiums of all member insurers for the preceding
21 calendar year on the kinds of insurance in the account.
22 Each member insurer shall be notified of the assessment
23 not later than thirty days before it is due. No member
24 insurer may be assessed in any year on any account an
25 amount greater than 2 per centum of that member insurer's
26 net direct written premiums for the preceding calendar
27 year on the kinds of insurance in the account. If the

1 maximum assessment, together with the other assets of
2 the Association in any account, does not provide in any
3 one year in any account an amount sufficient to make all
4 necessary payments from that account, the funds available
5 shall be prorated and the unpaid portion shall be paid as
6 soon thereafter as funds become available. The Associa-
7 tion may exempt or defer, in whole or in part, the assess-
8 ment of any member insurer, if the assessment would cause
9 the member insurer's financial statement to reflect amounts
10 of capital or surplus less than the minimum amounts re-
11 quired for a certificate of authority by any jurisdiction
12 in which the member insurer is authorized to transact
13 insurance. Each member insurer may set off against any
14 assessment, authorized payments made on covered claims
15 and expenses incurred in the payment of such claims by
16 the member insurer if they are chargeable to the account
17 for which the assessment is made.

18 (c) The Association may—

19 (1) employ or retain such persons as are
20 necessary to handle claims and perform other
21 duties of the Association;

22 (2) borrow funds necessary to effect the
23 purposes of this title in accord with the plan
24 of operation;

25 (3) sue or be sued;

1 (4) negotiate and become a party to such
2 contracts as are necessary to carry out the pur-
3 pose of this title;

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

7 (6) refund to the member insurers in propor-
8 tion to the contribution of each member insurer
9 to that account that amount by which the assets
10 of the account exceed the liabilities, if, at the
11 end of any calendar year, the Board of Directors
12 finds that the assets of the Association in any
13 account exceed the liabilities of that account
14 as estimated by the Board for the coming year.

15 Sec. 108. (a)(1) The Board shall submit to the Com-
16 missioner a plan of operation and any amendments thereto
17 necessary or suitable to assure the fair, reasonable, and
18 equitable administration of the Association. The plan of
19 operation and any amendments thereto shall become effective
20 upon approval in writing by the Commissioner.

21 (2) If the Board fails to submit a suitable plan of
22 operation within ninety days following the effective date
23 of this title or if at any time thereafter the Board fails
24 to submit suitable amendments to the plan, the Commissioner
25 shall, after notice and hearing, adopt and promulgate such
26 reasonable rules as are necessary or advisable to effectuate

1 the provisions of this title. Such rules shall continue
2 in force until modified by the Commissioner or superseded
3 by a plan submitted by the Board and approved by the Com-
4 missioner.

5 (b) All member insurers shall comply with the
6 plan of operation.

7 (c) The plan of operation shall—

8 (1) establish the procedures whereby all
9 the powers and duties of the Association under
10 section 107 will be performed;

11 (2) establish procedures for handling assets
12 of the Association;

13 (3) establish the amount and method of re-
14 imbursement members of the Board under section 106;

15 (4) establish procedures by which claims may
16 be filed with the Association and establish ac-
17 ceptable forms of proof of covered claims;

18 (5) establish regular places and times for
19 meetings of the Board;

20 (6) establish procedures for records to be
21 kept of all financial transactions of the Asso-
22 ciation, its agents, and the Board;

23 (7) provide that any member insurer aggrieved
24 by a final action or decision of the Association
25 may appeal to the Commissioner within thirty days
26 after the action or decision;

1 (8) establish the procedures whereby selec-
2 tions for the Board will be submitted to the Com-
3 missioner; and

4 (9) contain additional provisions necessary
5 or proper for the execution of the powers and
6 duties of the Association.

7 (d) The plan of operation may provide that any or
8 all powers and duties of the Association, except those
9 under subsections 107 (a)(3) and (b)(2), are delegated to
10 a corporation, association, or other organization which
11 performs or will perform functions similar to those of
12 this Association, or its equivalent, in two or more States.
13 Such a corporation, association, or organization shall be
14 reimbursed as a servicing facility would be reimbursed
15 and shall be paid for its performance of any other func-
16 tions of the Association. A delegation under this sub-
17 section shall take effect only with the approval of both
18 the Board and the Commissioner, and may be made only to a
19 corporation, association, or organization which extends
20 protection in a manner substantially similar to that pro-
21 vided by this title.

22 (e) Notice of claims to the receiver or liquidator
23 of the insolvent insurer shall be deemed notice to the
24 Association or its agent and a list of such claims shall
25 be periodically submitted to the Association or similar
26 organization in another State by the receiver or liquidator.

1 Sec. 109. (a) The Commissioner shall—

2 (1) notify the Association of the existence
3 of an insolvent insurer not later than three days
4 after he receives notice of the determination of
5 the insolvency; and

6 (2) upon request of the Board provide the
7 Association with a statement of the net direct
8 written premiums of each member insurer.

9 (b) The Commissioner may—

10 (1) require that the Association notify the
11 insureds of the insolvent insurer and any other
12 interested parties of the determination of in-
13 solvency and of their rights under this title by
14 mail at their last known address, where available,
15 or by publication in a newspaper of general cir-
16 culation, if sufficient information for notifica-
17 tion by mail is not available;

18 (2) suspend or revoke, after notice and hearing,
19 the certificate of authority to transact insurance
20 in the District of Columbia of any member insurer
21 which fails to pay an assessment when due or fails
22 to comply with the plan of operation, or levy a fine
23 on any member insurer which fails to pay an assess-
24 ment when due, except such fine shall not exceed
25 5 per centum of the unpaid assessment per month,
26 except that no fine shall be less than \$100 per
27 month; and

1 (3) revoke the designation of any servicing
2 facility if he finds claims are being handled un-
3 satisfactorily.

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

8 Sec. 110. (a) Any person recovering under this title
9 shall be deemed to have assigned his rights under the policy
10 to the Association to the extent of his recovery from the
11 Association. Every insured or claimant seeking the protec-
12 tion of this title shall cooperate with the Association to
13 the same extent as such person would have been required to
14 cooperate with the insolvent insurer. The Association shall
15 have no cause of action against the insured of the insolvent
16 insurer for any sums it has paid out except such causes of
17 action as the insolvent insurer would have had if such sums
18 had been paid by the insolvent insurer. In the case of an
19 insolvent insurer operating on a plan with assessment lia-
20 bility, payments of claims of the Association shall not
21 operate to reduce the insured's liability to the receiver,
22 liquidator, or statutory successor for unpaid assessments.

23 (b) The receiver, liquidator, or statutory successor
24 of an insolvent insurer shall be bound by settlements of
25 covered claims by the Association or a similar organization
26 in another State. The court having jurisdiction shall grant

1 such claims priority equal to that which the claimant would
2 have been entitled in the absence of this title against the
3 assets of the insolvent insurer.

4 (c) The Association shall periodically file with the
5 receiver or liquidator of the insolvent insurer statements
6 of the covered claims paid by the Association which shall
7 preserve the rights of the Association against the assets
8 of the insolvent insurer.

9 Sec. 111. (a) Any person having a claim against an
10 insurer under any provision in an insurance policy, other
11 than a policy of an insolvent insurer which is also a
12 covered claim, shall be required to exhaust first his right
13 under such policy. Any amount payable on a covered claim
14 under this title shall be reduced by the amount of any
15 recovery under such insurance policy.

16 (b) Any person having a claim which may be recov-
17 ered under more than one insurance guaranty association or
18 its equivalent shall seek recovery first from the associa-
19 tion of the place of residence of the insured except that
20 if it is a first party claim for damage to property with
21 a permanent location, he shall seek recovery first from
22 the association of the location of the property, and if
23 it is a workmen's compensation claim, he shall seek recovery
24 first from the association of the residence of the claimant.
25 Any recovery under this title shall be reduced by the amount

1 of recovery from any other insurance guaranty association
2 or its equivalent.

3 Sec. 112. (a) To aid in the detection and prevention
4 of insurer insolvencies—

5 (1) it shall be the duty of the Board, upon
6 majority vote, to notify the Commissioner of any
7 information indicating any member insurer may be
8 insolvent or in a financial condition hazardous to
9 the policyholders or the public; and

10 (2) the Board may, upon majority vote, request
11 that the Commissioner order an examination of any
12 member insurer which the Board in good faith believes
13 may be in a financial condition hazardous to the
14 policyholders or the public.

15 (b) An examination may be conducted, under this sec-
16 tion, as a National Association of Insurance Commissioner
17 examination or may be conducted by such person as the Com-
18 missioner designates. The cost of such examination shall
19 be paid by the Association and the examination report shall
20 be treated as are other examination reports. In no event
21 shall such examination report be released to the Board prior
22 to its release to the public, but this shall not preclude
23 the Commissioner from complying with subsection (c) of this
24 section. The Commissioner shall notify the Board when the
25 examination is completed. The request for an examination

1 shall be kept on file by the Commissioner but it shall not
2 be open to public inspection prior to the release of the
3 examination report to the public.

4 (c) It shall be the duty of the Commissioner to report
5 to the Board when he has reasonable cause to believe that any
6 member insurer examined or being examined at the request of
7 the Board may be insolvent or in a financial condition hazard-
8 ous to the policyholders or the public.

9 (d) The Board may, upon majority vote, make reports
10 and recommendations to the Commissioner upon any matter ger-
11 mane to the solvency, liquidation, rehabilitation, or con-
12 servation of any member insurer. Such reports and recommen-
13 dations shall not be considered public documents.

14 (e) The Board may, upon majority vote, make recommen-
15 dations to the Commissioner for the detection and prevention
16 of insurer insolvencies.

17 (f) The Board shall, at the conclusion of any insurer
18 insolvency in which the Association was obligated to pay
19 covered claims, prepare a report on the history and causes
20 of such insolvency, based on the information available to
21 the Association, and submit such report to the Commissioner.

22 Sec. 113. The Association shall be subject to examina-
23 tion and regulation by the Commissioner. The Board shall sub-
24 mit, not later than March 30 of each year, a financial report
25 for the preceding calendar year on a form approved by the
26 Commissioner.

1 Sec. 114. The Association shall be exempt from payment
2 of all fees and taxes levied or collected by the District of
3 Columbia, except taxes levied on real or personal property.

4 Sec. 115. The rates and premiums charged for insurance
5 policies to which this title applies shall include amounts
6 sufficient to recoup a sum equal to the amounts paid to the
7 Association by the member insurer less any amounts returned
8 to the member insurer by the Association and such rates shall
9 not be deemed excessive because they contain an amount rea-
10 sonably calculated to recoup assessments paid by the member
11 insurer.

12 Sec. 116. There shall be no liability on the part of,
13 and no cause of action of any nature shall rise against, any
14 member insurer, the Association or its agents or employees,
15 the Board, or the Commissioner or his representatives for any
16 action taken by them in the performance of their powers and
17 duties under this title.

18 Sec. 117. All proceedings in which the insolvent
19 insurer is a party or is obligated to defend a party in any
20 court in the District of Columbia shall be stayed for sixty
21 days from the date the insolvency is determined to permit
22 proper defense by the Association of all pending causes of
23 action. As to any covered claims arising from a judgment
24 under any decision, verdict, or finding based on the de-
25 fault of the insolvent insurer or its failure to defend an
26 insured, the Association either on its own behalf or on
27 behalf of such insured may apply to have such judgment,
28 order, decision, verdict, or finding set aside by the same

1 court or administrator that made such judgment, order,
2 decision, verdict, or finding and shall be permitted to
3 defend against such claim on the merits.

4 Sec. 118. (a) The Commissioner shall by order
5 terminate the operation of the District of Columbia In-
6 surance Guaranty Association as to any kind of insurance
7 afforded by property or casualty insurance policies with
8 respect to which he has found, after hearing, that there
9 is in effect a statutory or voluntary plan which—

10 (1) is a permanent plan which is adequately
11 funded or for which adequate funding is provided;
12 and

13 (2) extends or will extend to District of
14 Columbia policyholders and residents protection
15 and benefits with respect to insolvent insurers
16 not substantially less favorable and effective
17 to such policyholders and residents than the pro-
18 tection and benefits provided with respect to
19 such kind of insurance under this title.

20 (b) The Commissioner shall by the same such order
21 authorize discontinuance of future payments by insurers to
22 the District of Columbia Insurance Guaranty Association
23 with respect to the same kinds of insurance, except assess-
24 ments and payments shall continue, as necessary, to liqui-
25 date covered claims of insurers adjudged insolvent prior
26 to said order and the related expenses not covered by such
27 other plan.

1 (c) In the event the operation of any account of
2 the District of Columbia Insurance Guaranty Association
3 shall be so terminated as to all kinds of insurance other-
4 wise within its scope, the Association as soon as possible
5 thereafter shall distribute the balance of moneys and assets
6 remaining in said account (after discharge of the functions
7 of the Association with respect to prior insurer insolvencies
8 not covered by such other plan, together with related
9 expenses) to the insurers which are then writing in the
10 District of Columbia policies of the kinds of insurance
11 covered by such account, and which had made payments into
12 such account, pro rata upon the basis of the aggregate of
13 such payments made by the respective insurers to such account
14 during the period of five years next preceding the
15 date of such order. Upon completion of such distribution
16 with respect to all of the accounts specified in section 105,
17 this title shall be deemed to have expired.

18 TITLE II — AMENDMENT OF THE LIFE INSUR-
19 ANCE ACT OF THE DISTRICT OF COLUM-
20 BIA TO INCREASE CAPITAL REQUIRE-
21 MENTS OF LIFE INSURANCE COMPANIES

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

24 (1) Section 8(a) of such chapter (D.C. Code,
25 sec. 35-508(a)) is amended (A) by striking out in
26 the first sentence "\$200,000" and inserting in lieu

1 thereof "\$1,000,000", and (B) by striking out
2 in the last sentence "\$150,000" and inserting
3 in lieu thereof "\$1,500,000".

4 (2) Section 8(b) of such chapter (D.C. Code,
5 sec. 35-508(b)) is amended (A) by inserting "or
6 subsequent amendment" immediately after "subsection",
7 and (B) by inserting "or the minimum surplus re-
8 quired of a mutual company" immediately after "stock
9 company".

10 (3) Paragraph (10)(b)(ii) of section 35 of
11 such chapter (D.C. Code, sec. 35-535 (10)(b)(ii))
12 is amended by striking out "\$300,000" and "\$150,000"
13 and inserting in lieu thereof "\$1,500,000" in each
14 such place.

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

20 TITLE III — AMENDMENT OF THE LIFE INSUR-
21 ANCE ACT OF THE DISTRICT OF COLUMBIA
22 TO INCREASE GROUP TERM LIFE INSURANCE
23 AMOUNT LIMITATIONS.

24 Sec. 301. Sections 10(1)(d), 10(3)(d), 10(4)(d),
25 10(6)(d), and 10(9)(d) of chapter " of the Life Insur-
26 ance Act (D.C. Code, secs. 35-710 (1)(d), (3)(d), (4)(d),
27 (6)(d), and (9)(d)), are amended (1) by striking out

1 "\$20,000" and inserting in lieu thereof "\$30,000"; (2) by
2 striking out "\$40,000" and inserting in lieu thereof "\$100,000";
3 and (3) by striking out "150" and inserting in lieu thereof
4 "300".

5 Sec. 302. The first sentence of section 11 of
6 chapter V of the Life Insurance Act (D.C. Code, sec. 35-
7 711), is amended (1) by striking out "and" between clauses
8 (b) and (c), (2) by striking out the colon at the end of
9 clause (c) and inserting in lieu thereof a semicolon and
10 (3) by inserting immediately thereafter a new clause (d)
11 as follows: "and (d) that subject to the terms of the
12 policy any person insured under a group life insurance
13 contract, whether issued before or after the effective
14 date of this clause, may make to any person, other than
15 his employer, an absolute or collateral assignment of any
16 or all the rights and benefits conferred on him by any
17 provision of such policy or by law, including specifically,
18 but not by way of limitation, any right to designate a
19 beneficiary or beneficiaries thereunder and any right to
20 have an individual policy issued upon termination either
21 of employment or of said policy of group life insurance,
22 but nothing herein shall be construed to have prohibited
23 an insured from making an assignment of all or any part of
24 his rights and privileges under the policy before the ef-
25 fective date of this clause and, subject to the terms of
26 the policy, an assignment by an insured before or after
27 the effective date of this clause is valid for the purposes

1 of vesting in the assignee all rights and privileges so
2 assigned, but without prejudice to the insurer on account
3 of any payment it may make or individual policy it may
4 issue prior to receipt of notice of the assignment:".

5 TITLE IV — AMENDMENT OF THE FIRE AND
6 CASUALTY ACT REGULATING THE BUSINESS
7 OF FIRE, MARINE, AND CASUALTY INSUR-
8 ANCE IN THE DISTRICT OF COLUMBIA.

9 Sec. 401. Sections 13 and 14 of chapter II of the
10 Fire and Casualty Act (D.C. Code, secs. 35-1316 and 35-1317),
11 are amended to read as follows:

12 "§13. Minimum capital and surplus requirement

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

22 "§14. Corporations heretofore formed

23 "No company shall be exempt from the provisions of
24 this subsection by reason of its having been incorporated in
25 the District or elsewhere prior to the effective date of this
26 subsection, except that, in the case of companies authorized

1 in the District on the date of approval of this subsection
2 and continuously thereafter without any increase of au-
3 thority, the minimum capital and surplus required of a
4 stock company, and the minimum surplus required of a mutual
5 or reciprocal company, or of a Lloyd's organization by the
6 laws of the District heretofore applicable shall not be
7 increased by this subsection, and provided also that in the
8 case of such continuously authorized companies the provisions
9 of section 24 relating to the names of companies, and the
10 provisions of section 25 relating to the amount of surplus
11 necessary to the issuance of policies having no provision
12 for contingent liability, shall not be applicable."

13 Sec. 402. Section 25 of chapter II of the Fire and
14 Casualty Act (D.C. Code, sec. 35-1329) is amended by strik-
15 ing out "\$300,000" and inserting in lieu thereof "\$600,000".

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

20 Sec. 501. The first section of the Act entitled "An
21 Act in relation to contracts with the District of Columbia"
22 approved June 28, 1906 (D.C. Code, sec. 1-805), and the
23 first section of the Act of August 3, 1968 (D.C. Code, sec.
24 1-804a) (relating to contracts with the District of Columbia),
25 are each amended by striking out "\$2,000" wherever it appears
26 in each such first section and inserting in lieu thereof
27 "\$10,000".

93^d CONGRESS
1st SESSION

H. R. 6713

IN THE SENATE OF THE UNITED STATES

JUNE 12, 1973

Read twice and referred to the Committee on the District of Columbia

AN ACT

To amend the District of Columbia Election Act regarding the times for filing certain petitions, regulating the primary election for Delegate from 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 the District of Columbia Election Act (D.C. Code, secs.
4 1-1101—1-1115) is amended as follows:

5 (1) Clause (A) of paragraph (2) of section 2 of such
6 Act (D.C. Code, sec. 1-1102) is amended to read as fol-
7 lows: “(A) who resides or is domiciled in the District and
8 who does not claim voting residence or right to vote in any
9 State or territory;”.

1 (2) Subsection (a) of section 5 of such Act (D.C. Code,
2 sec. 1-1105) is amended by (A) striking out "and" at the
3 end of paragraph (7), (B) redesignating paragraph (8) as
4 paragraph (9), and (C) inserting immediately after para-
5 graph (7) the following:

6 “(8) prescribe such regulations as it considers nec-
7 essary in order to carry out the purposes of this Act;
8 and”.

9 (3) Paragraph (1) of subsection (b) of section 5 of
10 such Act (D.C. Code, sec. 1-1105) is amended by striking
11 out “after the first Monday”.

12 (4) Paragraphs (2) and (3) of subsection (b) of sec-
13 tion 5 of such Act (D.C. Code, sec. 1-1105) are each
14 amended by striking out “forty-five” wherever it appears
15 and inserting in lieu thereof “sixty”.

16 (5) Paragraph (6) of subsection (b) of section 5 of
17 such Act (D.C. Code, sec. 1-1105) is repealed.

18 (6) Subsection (d) of section 5 of such Act (D.C.
19 Code, sec. 1-1105) is amended to read as follows:

20 “(d) The Board may permit either persons temporarily
21 absent from the District or persons physically unable to
22 appear personally at an official registration place to register
23 for the purpose of voting in any election held under this
24 Act.”

25 (7) Section 5 of such Act (D.C. Code, sec. 1-1105)

1 is amended by inserting at the end of that section the
2 following:

3 “(f) Notwithstanding the provisions of the fourth para-
4 graph under the section headed ‘Militia’ of the Act of July 7,
5 1898 (relating to appropriations) (D.C. Code, sec. 1-215),
6 the Board may accept volunteer services for the purposes of
7 voter education and registration.”

8 (8) Paragraph (1) of subsection (a) of section 8 of such
9 Act (D.C. Code, sec. 1-1108) is amended to read as follows:

10 “(a) (1) Each candidate for election to the office of
11 national committeeman or alternate, or national committee-
12 woman or alternate, and for election as a member or official
13 designated for election at large under clause (4) of the first
14 section of this Act, shall be a qualified elector registered under
15 section 7 of this Act who has been nominated for such office,
16 or for election as such member or official, by a nominating
17 petition (A) signed by not less than five hundred qualified
18 electors registered under such section 7, who are of the same
19 political party as the candidate, and (B) filed with the Board
20 not later than the sixtieth day before the date of the election
21 held for such office, member, or official.”

22 (9) Subsection (f) of section 8 of such Act (D.C. Code,
23 sec. 1-1108) is amended by striking out “5 per centum” and
24 inserting in lieu thereof “1 per centum”.

25 (10) Subsection (i) of section 8 of such Act (D.C.

1 Code, sec. 1-1108) is amended (A) by striking out “forty-
2 fifth” and inserting in lieu thereof “sixtieth”, (B) by striking
3 out “ninety-ninth”, “ninety-ninth”, and “seventieth”, respec-
4 tively, and by inserting in lieu thereof “one hundred four-
5 teenth”, “one hundred fourteenth”, and “eighty-fifth”, re-
6 spectively, and (C) by striking out “The Board may pre-
7 scribe rules with respect to the preparation and presentation
8 of nominating petitions.”.

9 (11) Paragraph (1) of subsection (j) of section 8 of
10 such Act (D.C. Code, sec. 1-1108) is amended (A) by
11 striking out in clause (A) “forty-fifth”, and inserting in
12 lieu thereof “sixtieth”, (B) by striking out “ninty-ninth”,
13 “ninety-ninth”, and “seventieth”, respectively, and by insert-
14 ing in lieu thereof “one hundred fourteenth”, “one hundred
15 fourteenth”, and “eighty-fifth”, respectively, and (C) by
16 striking out “The Board may prescribe rules with respect to
17 the preparation and presentation of such nominating peti-
18 tions.”.

19 (12) Paragraph (3) of subsection (m) of section 8
20 of such Act (D.C. Code, sec. 1-1108) is amended by strik-
21 ing out “The Board shall by regulation specify such addi-
22 tional details as may be necessary and proper to effectuate
23 the purpose of this subsection.”.

24 (13) Subsection (o) of section 8 of such Act (D.C.
25 Code, sec. 1-1108) is amended (A) by striking out in

1 clause (A) "forty-fifth", and by inserting in lieu thereof
2 "sixtieth", (B) by striking out "ninety-ninth" and "sev-
3 entieth", respectively, and by inserting in lieu thereof "one
4 hundred fourteenth" and "eighty-fifth", respectively, and
5 (C) by striking out "The Board may prescribe rules with
6 respect to the preparation and presentation of nominating
7 petitions."

8 (14) Paragraph (1) of subsection (p) of section 8
9 of such Act (D.C. Code, sec. 1-1108) is amended by strik-
10 ing out "forty-second day before the date of the election"
11 and by inserting in lieu thereof "third day after the filing
12 deadline for nominating petitions".

13 (15) Subsection (e) of section 9 of such Act (D.C.
14 Code, sec. 1-1109) is amended by striking out "seven"
15 and by inserting in lieu thereof "ten".

16 (16) Paragraph (1) of subsection (a) of section 10
17 of such Act (D.C. Code, sec. 1-1110) is amended by strik-
18 ing out "after the first Monday".

19 (17) Paragraph (4) of subsection (a) of section 10 of
20 such Act (D.C. Code, sec. 1-1110) is amended to read as
21 follows:

22 " (4) Runoff elections shall be held whenever, in any pri-
23 mary election of a political party for candidates for the office
24 of Delegate, no candidate receives at least 40 per centum of
25 the total votes cast in that election for all candidates of that

1 party for that office. Any such runoff election shall be held
2 not less than two weeks nor more than six weeks after the
3 date on which the Board has determined the results of the
4 preceding primary. At the time of announcing any such
5 determination, the Board shall establish and announce the
6 date on which the runoff election will be held, if one is re-
7 quired. The candidates in any such runoff election shall be
8 the two persons who received, respectively, the two highest
9 numbers of votes in such preceding primary; except that if
10 any person withdraws his candidacy from such runoff elec-
11 tion, the person who received the next highest number of
12 votes in such preceding primary and who is not already a
13 candidate in the runoff election shall automatically become
14 such a candidate.”

15 (18) Subsection (b) of section 10 of such Act (D.C.
16 Code, sec. 1-1110) is amended by striking out “8 o’clock
17 antemeridian” and by inserting in lieu thereof “7 o’clock
18 antemeridian”.

19 (19) Subsection (e) of section 10 of such Act (D.C.
20 Code, sec. 1-1110) is amended by striking out “ninety-nine”
21 and inserting in lieu thereof “one hundred fourteen”.

22 (20) Subsection (a) of section 11 of such Act (D.C.
23 Code, sec. 1-1111) is amended by striking out “Such re-

1 counts shall be conducted in the manner prescribed by the
2 Board by regulation.”.

3 SEC. 2. The Act entitled “An Act to fix and regulate
4 the salaries of teachers, school officers, and other employees
5 of the Board of Education of the District of Columbia”, ap-
6 proved June 20, 1906 (D.C. Code, sec. 31-101 et seq.) is
7 amended as follows:

8 (1) Paragraph (1) of subsection (b) of section 2 of
9 such Act (D.C. Code, sec. 31-101) is amended to read as
10 follows:

11 “(b) (1) Except as provided in paragraph (3) of this
12 subsection and section 10(e) of the District of Columbia
13 Election Act, the term of office of a member of the Board
14 of Education shall be four years.”.

15 (2) Paragraph (3) of subsection (b) of section 2 of
16 such Act (D.C. Code, sec. 31-101) is amended by adding
17 at the end thereof the following new sentence: “However,
18 the term of office of a member of the Board of Education
19 elected in the general election for member of the Board of
20 Education to be held in 1973 and thereafter shall expire at
21 noon of the thirtieth day after the Board of Elections certifies
22 the results of the election, including any runoff election, for
23 members of the Board of Education in the fourth year of

1 such member's term. The term of a member of the Board of
 2 Education elected in the general election to be held in 1977
 3 and thereafter shall begin immediately upon the expiration
 4 of the term preceding it."

5 SEC. 3. The amendments made by this Act shall take
 6 effect on and after the date of enactment of this Act.

Passed the House of Representatives June 11, 1973.

Attest:

W. PAT JENNINGS,

Clerk.

Senator STEVENSON. Obviously, this morning's hearings regarding the insurance legislation are primarily for update purposes—to be sure that nothing has transpired since we last considered this bill that would affect it.

Let us begin this morning with testimony on H.R. 4083, the District of Columbia Insurance Act.

The first witnesses are Mr. Edward Lombard, Superintendent of Insurance of the District of Columbia Department of Insurance, and Mr. Maximilian Wallach, First Deputy of the Department of Insurance. Gentlemen, thank you for joining us this morning. If you have statements and would like to summarize them, I would be glad to enter the full statements in the record.

STATEMENT OF EDWARD LOMBARD, SUPERINTENDENT OF INSURANCE, DISTRICT OF COLUMBIA DEPARTMENT OF INSURANCE, ACCOMPANIED BY MAXIMILIAN WALLACH, FIRST DEPUTY

Mr. LOMBARD. Thank you, Mr. Chairman. As you have stated, the Senate passed this bill on an earlier occasion, in the closing days of the last session, and we failed to have it enacted into law.

POSTASSESSMENT GUARANTY FUND

As the Superintendent of Insurance, of course, I cannot wait to have the postassessment guaranty fund enacted so that if an insurance company would fail, whether it be domestic or foreign, the other companies will pick up the tab.

As far back as a year or two ago we were only one of three States that did not have this postassessment guaranty fund procedure, and, as I say, we hope that it will be enacted as soon as possible. That is the more lengthy of the five items in this package.

INCREASING FINANCIAL LIMITS

Two of the items have to do with increasing the financial limits required of insurance companies, one for the life insurance companies, and the other for property insurance companies, to update the amounts of capital and surplus these companies need.

The limits now in the law date back many years. The fire and casualty date back to 1940, and the life insurance limits to 1934. So that this update of these capital requirements bring them into line with other States.

GROUP TERM-LIFE AND SURETY BONDS

Of the two other items in the package, one changes the limits, liberalizing the limits in the group term-life field, and the fifth item reduces the size of the District contract that requires surety bonds. This is in an effort to aid the problem of small contractors having difficulty in obtaining surety bonds to cover these smaller projects.

The package as a whole is totally in the public interest. As you found out on the last occasion, there is no opposition to any of these five items. The only changes are technical changes.

DISTRICT OF COLUMBIA DEPARTMENT OF INSURANCE
STATEMENT IN SUPPORT OF H.R. 4083
SUBCOMMITTEE ON BUSINESS, COMMERCE AND JUDICIARY
COMMITTEE ON THE DISTRICT OF COLUMBIA
UNITED STATES SENATE

July 17, 1973

Mr. Chairman and Members of the Sub-Committee:

I appreciate the opportunity to testify in support of H.R. 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 December 1, 1971, conducted a public hearing on a similar bill, namely S 2208 (92nd Congress), and the Senate passed this bill on April 25, 1972. The Committee on the District of Columbia of the House of Representatives on October 3, 1972, issued a favorable report, but time did not permit for action to be completed by the 92nd Congress. H.R. 4083, a bill identical in substance to S 2208 containing improved language, was passed by the House on a roll call vote 330 to 0 on June 11, 1973.

H.R. 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. H.R. 4083 contains all improvements resulting from the legislative process of hearing all interested parties in the 92nd and 93rd Congress.

It is hoped that the record established over the last two years and the enclosed Title by Title, and in some instances 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 in the best interests 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.

The purpose of this report is to provide a comprehensive overview of the current state of the industry and to identify key trends and challenges. The report is organized into several sections, each focusing on a different aspect of the industry. The first section provides an overview of the industry's history and its current position. The second section discusses the major players in the industry and their market share. The third section examines the various factors that are driving growth in the industry, such as technological advancements and changing consumer preferences. The fourth section identifies the key challenges that the industry is facing, such as increasing competition and regulatory changes. The fifth section offers recommendations for how the industry can overcome these challenges and continue to grow. The report concludes with a summary of the key findings and a list of references.

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 nonprofit 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 IIMinimum 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 ^{to} 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 ³⁰ ~~27~~ states now require a combined amount of \$750,000 or more, and of those, ⁷ ~~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 ²⁰¹⁽²⁾ ~~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 ²⁰¹ ~~202~~ of Title II merely carries the proposed changes to the other sections of the law which refer to such provisions.

CAPITAL AND SURPLUS REQUIREMENTSAs Of June 1971

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.

<u>State</u>	<u>Capital</u>	<u>Surplus</u>	<u>Combined</u>
Alabama	\$ 200,000	\$ 300,000	\$ 500,000
Alaska	200,000	150,000	350,000
Arizona	100,000	50%	150,000
Arkansas	300,000	300,000*	600,000
California	500,000	500,000	1,000,000
Colorado	200,000	100,000	300,000
Connecticut	1,000,000	Flexible	3,000,000
Delaware	350,000	200,000	550,000
D. C.	200,000	50%	300,000
Florida	500,000	750,000	1,250,000
Georgia	200,000	200,000*	400,000
Hawaii	250,000	50%	375,000
Idaho	500,000	500,000	1,000,000
Illinois	600,000	50%	900,000**
Indiana	400,000	600,000	1,000,000
Iowa	350,000	400,000	750,000
Kansas	300,000	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	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	1,700,000*	2,600,000**

<u>State</u>	<u>Capital</u>	<u>Surplus</u>	<u>Combined</u>
New Mexico	\$ 100,000	\$ 200,000*	\$ 300,000
New York	1,000,000	2,000,000	3,000,000
North Carolina	600,000	600,000	1,200,000
N. Dakota	650,000	350,000	1,000,000
Ohio	400,000	600,000	1,000,000
Oklahoma	250,000	50%	375,000
Oregon	Flexible	Flexible	500,000
Pennsylvania	1,100,000	50%	1,650,000
Rhode Island	Flexible	Flexible	750,000
S. Carolina	300,000	300,000	600,000
S. Dakota	400,000	425,000	825,000
Tennessee	750,000	50%	1,125,000
Texas	100,000	100,000	200,000
Utah	200,000	500,000	700,000
Vermont	Flexible	Flexible	2,000,000
Virginia	500,000	300,000	800,000
Washington	500,000	500,000	1,000,000
W. Virginia	1,000,000	50%	1,500,000
Wisconsin	500,000	50%	750,000
Wyoming	250,000	100,000	350,000

* Special Surplus may be required.

** Increase pending.

SUMMARY

Less than \$ 300,000	2
\$ 300,000	5 (incl. D.C.)
More than \$ 300,000 but less than \$ 750,000	14
\$ 750,000	3
More than \$ 750,000 but less than \$1,500,000	18
\$1,500,000	3
More than \$1,500,000	6
Total	<u>51</u>

Comparison with current D. C. Minimum Requirements

Lower	2
Equal	4
Higher	44
Total	<u>50</u>

Prepared 6/11/71

MW.

TITLE IIILiberalization 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 feel 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 owner-

ship, 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

<u>Limits</u>	<u>Number of States</u>
20/40/150% (incl. D.C.)	5
Higher Limits	19
<u>No Limits</u>	<u>27</u>
Total	<u>51</u>

Limits20/40/150%

Arizona
Arkansas
District of Columbia

Montana
Pennsylvania

Higher Limits

Colorado
Florida
Hawaii +
Illinois
Indiana
Kansas

Kentucky
Louisiana
Maine
Nebraska
Nevada
New Hampshire* ++
North Carolina*

Ohio
Oklahoma
South Carolina
Texas*
West Virginia
Wisconsin

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

+ For union groups 20/40/150%

++ For union groups \$20,000

No Limits

Alabama
Alaska
California**
Connecticut
Delaware
Georgia
Idaho
Iowa
Maryland

Massachusetts
Michigan***
Minnesota
Mississippi
Missouri
New Jersey
New Mexico
New York
North Dakota

Oregon
Rhode Island
South Dakota
Tennessee
Utah
Vermont
Virginia
Washington
Wyoming

** Trusteed plans limited to \$50,000

*** Some discretionary groups limited to \$25,000

July 1, 1971

M.W.

TITLE IVAmendment 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. 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.

PREVIOUS RECORD

Senator STEVENSON. I have no questions. We already have a record on this bill and I, at this time, do not see any need to extend that record. We do have additional witnesses. Thank you very much, gentlemen. We will act on this expeditiously.

The next witnesses are Mr. John D. Stringer, of the American Mutual Insurance Alliance, and Mr. John J. Nangle, Washington counsel of the National Association of Independent Insurers.

Good morning, gentlemen. As I said to the other witnesses, we have your statements. I would be glad to enter them in the record, if you care to summarize them.

STATEMENTS OF JOHN D. STRINGER, AMERICAN MUTUAL INSURANCE; AND JOHN J. NANGLE, NATIONAL ASSOCIATION OF INDEPENDENT INSURERS

Mr. STRINGER. Mr. Chairman, 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 50 States and the District of Columbia.

We very much appreciate the opportunity of presenting our views on H.R. 4083 which passed the House on June 11, 1973. 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.

As you have indicated, Mr. Chairman, it is the same bill that was passed last year.

CAPITAL AND SURPLUS REQUIREMENTS

As to title IV, it 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 likewise favor this.

Mr. NANGLE. Senator, we wholeheartedly support Mr. Stringer's statements and the bill in title I and IV.

FORTY-SEVEN STATES HAVE INSOLVENCY LEGISLATION

I think the record should show at the present time I believe 47 States have some form of insolvency legislation. With that, we support the bill.

Senator STEVENSON. Neither of you is particularly concerned about title III.

Mr. NANGLE. Senator, I do not have a copy of the bill before me. Could you give me the heading?

Senator STEVENSON. Title III increases the amount of coverage available under group term life insurance to maximums of \$100,000 or 300 percent of compensation, with a \$30,000 minimum.

Mr. NANGLE. Our companies, Senator, write property and casualty insurance exclusively. Titles I and IV are the only titles in this particular bill that are germane to us.

Mr. STRINGER. Senator, the same is true of ours. We have the same position. We just do not have any expertise in that particular area.

Senator STEVENSON. That is the only title I can remember that there was any controversy about at all. I had some questions about that title.

Thank you very much, gentlemen.

As previously stated, your prepared statements will be made a part of the record.

[Mr. Stringer's and Mr. Nangle's prepared statements follow:]

STATEMENT OF THE
AMERICAN MUTUAL INSURANCE ALLIANCE
ON H.R. 4083
BEFORE THE
BUSINESS, COMMERCE AND JUDICIARY SUBCOMMITTEE
OF THE
SENATE DISTRICT OF COLUMBIA COMMITTEE

JULY 17, 1973

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 which passed the House on June 11, 1973. 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.

¹Auto 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.

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.

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

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

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 or falsifies 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 ^{State} ~~statements~~. In addition, New Jersey has insolvency laws applicable to automobile and workmen's compensation insurance.

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

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 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.

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

BEFORE THE
BUSINESS, COMMERCE, & JUDICIARY SUBCOMMITTEE
OF THE
SENATE COMMITTEE ON THE DISTRICT OF COLUMBIA
ON HR. 4083
JULY 17, 1973

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 HR. 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-insolvency 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 HR. 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, NAII 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.

Senator STEVENSON. Our next witness is Mr. Herbert E. Martin, Jr., vice president and general counsel of Acacia Mutual Life Insurance Co. and chairman of the legislative committee of the major domestic life insurance companies.

**STATEMENT OF HERBERT E. MARTIN, JR., VICE PRESIDENT AND
GENERAL COUNSEL, ACACIA MUTUAL LIFE INSURANCE CO.**

Mr. MARTIN. Thank you, Senator.

Senator STEVENSON. We have your prepared statement. If you prefer, it will be entered without objection in the record.

Mr. MARTIN. Thank you.

[The prepared statement referred to follows:]

Statement of
Herbert E. Martin, Jr.
to
The Subcommittee on Business, Commerce and Judiciary
Of The United States Senate Committee on the
District of Columbia, In Support of HR 4083

July 17, 1973

I am Herbert E. Martin, Jr., Vice President and General Counsel of Acacia Mutual 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 of 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.

MR. MARTIN. I represent the five largest domestic life insurance companies, and although we do support the entire bill, we are primarily concerned with titles II and III which involve insurance.

CAPITAL AND SURPLUS REQUIREMENTS

We feel that title II which increases the capital and surplus requirements is long overdue and will bring us in line with other States.

INCREASING FINANCIAL LIMITS

With respect to title III, two provisions, both of which involve group life insurance, the one you referred to deals with the increase in the maximum limits.

Here again we feel over the years with inflation and with the trends in other States, that these changes in the limits are desirable, and we do support them.

ASSIGNMENT OF GROUP LIFE INSURANCE POLICIES

There is another provision in that title III which involves language which permits the assignment of group life insurance policies. Most States, 41 States, have already enacted this type of provision which will permit an individual to transfer group life insurance out of his State for Federal and State tax purposes.

We feel this is a very desirable provision and is consistent with what has been done in other States.

LOWER LIMIT ON GROUP LIFE

Senator STEVENSON. Title III also contains a lower limit on group life insurance—a lower limit of \$30,000. Why do we need a lower limit?

Mr. MARTIN. Previously the limits were \$20,000; that was the lower limit. You can provide for employees, for example, but if you are tied to a salary, you can go up to \$40,000 with the 1½ times salary limit.

Under this proposed change that limit has been raised from \$20,000 to \$30,000, so you can give everybody \$30,000, regardless of salary.

But where you are tied to salary, you can go up to \$100,000. So really both limit their being increased, and the important one we feel is the larger limit of course—the \$100,000.

Senator STEVENSON. Why should not the \$10,000 be dropped?

Mr. MARTIN. There is no mandatory minimum. Most of these are maximums.

Senator STEVENSON. \$30,000 is a maximum. I see. That explains it. Does that conclude your comments?

Mr. MARTIN. Yes; I summarized my statement.

Senator STEVENSON. Thank you very much, Mr. Martin.

The next witness is Mr. Chauncey Alexander, executive director, National Association of Social Workers of Washington, D.C., who is accompanied by Mr. Robert A. Leef.

Do you have a prepared statement?

**STATEMENT OF CHAUNCEY ALEXANDER, EXECUTIVE DIRECTOR,
ACCOMPANIED BY ROBERT A. LEEF, BENEFIT SERVICES, NA-
TIONAL ASSOCIATION OF SOCIAL WORKERS**

Mr. ALEXANDER. Senator, you have our prepared statement.

Senator STEVENSON. I do have your statement now. It is short. If you wish you may read it or summarize it.

Mr. ALEXANDER. I will summarize it.

Senator STEVENSON. Your full prepared statement will be entered in the record without objection.

[Mr. Alexander's prepared statement follows:]

NATIONAL ASSOCIATION OF SOCIAL WORKERS
1425 H ST., N.W. WASHINGTON, D.C.

TESTIMONY

ON H.R. 4083

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

by

CHAUNCEY A. ALEXANDER, ACSW, EXECUTIVE DIRECTOR
NATIONAL ASSOCIATION OF SOCIAL WORKERS

July 17, 1973

Honorable Chairman; Members of the Committee:

On behalf of the National Association of Social Workers, the professional organization of 60,000 social workers, I ask for your favorable approval of H.R. 4083 and certain improvements it will achieve in existing insurance law in the District of Columbia.

NASW members, all qualified by graduate and post graduate academic training and experience in social work practice, are eligible for participation in the group life insurance program of our NASW Insurance Trust. This Trust is directed by NASW members and operates a group life insurance program underwritten by The Bankers Life Insurance Company of Des Moines, Iowa.

Because of favorable claims experience and highly efficient administration, we are able to offer premiums to our members which compare very favorably with almost any other life insurance program which would be available to them.

Since our national office is now located in Washington, D.C. we have a special concern for the sound functioning of insurance laws in the District of Columbia. H.R. 4083 provides an overall limit of 300% of salary to a maximum of \$100,000 of life insurance. With regard to the amount limitations on life insurance proposed by the Bill under Title III, we submit the following information:

1. The group insurance law which establishes the current limitations is approximately 25 years old. Since that time our economy has undergone very considerable changes. Incomes have increased to the point where the present limitations fall far short of providing basic life insurance protection.
2. Presently, 30 states have no limitations regarding amounts of group life insurance for professional associations. This list of states, which is growing constantly, represents a continuous trend away from regulations. This indicates to us that more and more states are showing an awareness that the entire concept of limitations of amounts of group life insurance has become outdated. Of those states that do still have some limitations, nineteen have higher amounts than the District of Columbia.
3. The establishment of an arbitrary dollar limitation does not allow the legislation the flexibility to meet changes in the economy.
4. Group insurance historically provides the most coverage per premium dollar and by restricting the available amounts of group insurance, individuals are being forced to obtain adequate coverage at higher cost.

Therefore, we would urge the elimination of the amount limitations on group life insurance to accommodate to the strong trend away from restrictions of this type.

In the absence of removing amount limitations we consider the minimum step in the proper direction are the provisions of Title III in H.R. 4083.

GROUP LIFE INSURANCE

Mr. ALEXANDER. Our particular interest as a professional association of 60,000 social workers in this country is because we are members eligible for participation in an insurance trust which provides benefits to them that are underwritten by Bankers Life Insurance of Des Moines, Iowa.

Our office is now located in Washington, D.C., and we have a special interest in insurance laws. We are particularly directing our attention to title III of H.R. 4083, which provides an overall limit of \$300,000 of salary to a maximum of \$100,000 of life insurance.

We want to call your attention to the fact that the group insurance law establishing the current limitations is approximately 25 years old. Since that time our economy has undergone a very considerable change.

Second, 30 States now have no limitation regarding amounts of group life insurance for professional associations, and this represents a continuous trend away from regulation of this nature.

The establishment of a dollar limitation does not allow the flexibility to meet changes in the economy. We believe that group insurance historically provides the most coverage per-premium-dollar, and by restricting available amounts of group insurance individuals are forced to obtain adequate coverage at higher costs.

Therefore we would urge the elimination of the amount limitations on group life insurance to accommodate this strong trend away from the restrictions of this type.

In the absence of favorable consideration for removing all amount limitations, we consider that the minimum step would be in the proper direction with the provisions of title III.

We believe that the trend in the country is in the direction of removing these limitations on group insurance, and point out that probably at some time at a later date there will be another move to increase the amount of limitations or to raise them.

Senator STEVENSON. I am very sympathetic. At least we should increase the limits as proposed in title III—perhaps take them off altogether.

You say 30 States have done so?

Mr. LEEF. Senator, 26 States have no ceilings at all on group insurance, and 30 no ceilings insofar as professional associations are concerned.

Senator STEVENSON. I should think we ought to consider it then as a possibility.

Gentlemen, unless you have more to add, I have no questions. Thank you.

We will move on now to consideration of H.R. 6713, the District of Columbia Elections Act Amendments. The first witnesses are Mr. Charles B. Fisher, chairman of the District of Columbia Board of Elections and Dr. Robert E. Martin, a member.

STATEMENT OF CHARLES B. FISHER, CHAIRMAN, DISTRICT OF COLUMBIA BOARD OF ELECTIONS, ACCOMPANIED BY DR. ROBERT MARTIN, MEMBER; AND NORVAL PERKINS, EXECUTIVE SECRETARY

Mr. FISHER. Mr. Chairman, you have our prepared statement.

Senator STEVENSON. Yes. Gentlemen, you are welcome to read the statement or if you prefer you may summarize it, in which case it will be entered in the record in full.

Mr. FISHER. I would just as soon have it entered, Mr. Chairman. However, I would like to bring to the chairman's attention a point on page 5.

[The prepared statement referred to follows:]

STATEMENT OF CHARLES B. FISHER, CHAIRMAN
OF THE BOARD OF ELECTIONS FOR THE DISTRICT OF COLUMBIA,
BEFORE THE SENATE COMMITTEE ON THE DISTRICT OF COLUMBIA,
IN SUPPORT OF CERTAIN PROPOSED AMENDMENTS
TO THE D. C. ELECTION ACT
JULY 17, 1973

Mr. Chairman, Members of the Committee:

I am Charles B. Fisher, Chairman of the Board of Elections. With me are Robert Martin, member of the Board of Elections, and Norval Perkins, Executive Secretary of the Board. We appreciate this opportunity to participate in your consideration of the revision of the elections laws of the District of Columbia.

The Board of Elections supports the provisions of H.R. 6713, the bill introduced by Mr. Fauntroy at the request of the Board of Elections. These recommended amendments are primarily technical in nature and are designed to help the Board more adequately perform its functions, particularly those related to processing nominating petitions.

CHANGING FILING DEADLINES AND RELATED DATES FOR NOMINATING PETITIONS

The bill provides for the moving back of all filing deadlines and related dates by 15 days. Thus, all filing deadlines will be changed from 45 days before the election to 60 days before the election. The Board is asking that all filing deadlines be moved from 45 days to 60 days before the election in order to insure sufficient time for the staff to complete necessary work, such as the validation of petition signatures, processing of absentee ballot requests, printing of absentee and sample ballots, etc., and to avoid down-to-the-wire court cases which seriously

delay the necessary functioning of the Board of Elections in preparing for elections. In every election the Board has been involved in one or more court cases resulting from either challenges to nominating petitions or other lawsuits to which the Board has been a party. This litigation has consumed so much time that often it has been very difficult for the Board to meet deadlines required by Congressional statute.

In addition to recommending that filing deadlines for nominating petitions be set back 15 days, the Board is also requesting that the dates when petitions may be made available and when petitions may first be filed also be moved back by 15 days in order to maintain the same timetable and to provide candidates the same amount of time to circulate petitions and to gather signatures. These changes, therefore, are in the interest of all -- candidates, the public, and the Board.

The Board strongly recommends, however, that if these amendments are passed by September 7th, which would be the amended filing deadline, that the filing deadline for the November 6, 1973 School Board Election remain as September 22nd, since petitions will not be available to candidates until July 30, 1973. The Board feels that candidates should be allowed the full time allotted by the Act for circulating petitions. The Board refers the Committee to its letter addressed to the Chairman, dated July 13, 1973.

DEFINITION OF A QUALIFIED ELECTOR

The Board recommends that the statutory definition of a qualified elector be changed to eliminate the present 90 day residency requirement for voting. This change is necessary in order to bring the law into conformity with the Supreme Court's decision in Dunn v. Blumstein on March 21, 1972, in which the Court declared durational residency requirements unconstitutional, except for a very brief period of time to permit election officials to process the registration rolls in preparation for the coming elections.

EXEMPTION OF BOARD FROM PROHIBITION AGAINST VOLUNTEERS

The Board is asking that it be exempted from the provision of the D. C. Code which prohibits the government of the District of Columbia from accepting personal services without compensation. The Board has many opportunities to utilize the personal services of volunteers in connection with voter registration drives and nonpartisan voter education efforts, and wishes to be free of cumbersome constraints in appropriately stimulating citizen participation in the electoral process.

REDUCTION OF SIGNATURE REQUIREMENT FOR THIRD PARTY CANDIDATES FOR PRESIDENT

The Board recommends that the signature requirement for third party candidates for President be reduced from five per cent of the registered voters to one per cent. Requiring the signatures of five per cent of the registered voters on the

nominating petitions of minor party candidates for President places unreasonable burdens upon both potential candidates and the Board of Elections. Not only is it very difficult for candidates to gather such a large number of valid signatures, it is also difficult for the Board to validate the signatures within the time allowed. In response to challenges to candidates' petitions, the Board has had to examine tens of thousands of signatures in order to determine whether the persons were registered and whether the signatures were valid. This imposes an extremely heavy burden upon the Board, disrupting its work schedule, and making it most difficult at times to complete the tasks required by law.

Moreover, 42 states in 1968 required third parties to obtain the signatures of only one per cent or less of the electorate in order to appear on the presidential ballot. This suggests that a one per cent requirement is quite adequate. In order to bring the signature requirement in the District of Columbia into line with those of the overwhelming majority of the states, therefore, the Board recommends that the signature requirement for third party candidates for President be reduced to one per cent of the registered voters.

RULE-MAKING AUTHORITY FOR PRESIDENTIAL ELECTIONS

The Board is asking that specific language be included in the statute to allow the Board to make necessary regulations governing the preparation and presentation of nominating

petitions for third party candidates for President. General rule-making authority is granted to the Board in subsections dealing with the preparation and presentation of nominating petitions for other elections, but is not specifically included in the subsections dealing with third party candidates for President. This authority should be made explicit for the preparation and presentation of nominating petitions for third party candidates for President also. Otherwise the Board's authority in routine administrative matters is subject to question and to legal challenge -- the result of which would discommode the election timetable.

ELIMINATION OF RUNOFF

Although the House version of the amendments did not eliminate the runoff election after the primary for Delegate, the Board recommends that the provisions in the law for a runoff election after the primary election for Delegate and after the general election for Delegate be eliminated. Only ten states in the entire country have a runoff after the primary election for House of Representatives, and only one state has a runoff after the general election for the House of Representatives.

TIMETABLE FOR CHALLENGED BALLOTS

The Board is requesting that the period of time provided to rule on the validity of challenged ballots be extended from seven days to ten days. The present timetable of seven days does not provide the Board staff with sufficient time to handle a large work load of challenged ballots such as often occurs in an election with a large turnout.

DELEGATE PRIMARY IN SEPTEMBER IN NON-PRESIDENTIAL YEARS

Although the House bill does not alter the date for the Delegate primary, the Board recommends that the Delegate primary be moved from May to September in non-presidential years. A shorter period of time between the primary and the general election for Delegate would prevent a loss of interest in the election on the part of the voters. In addition, a more compact election schedule would allow the Board to store supplies at the precincts for the short period of time between the elections rather than moving them out and then moving them all back in again.

We emphasize again that the amendment in H.R. 6713 should read "the second Tuesday after the first Monday in September" in order to prevent the election from falling on the day after Labor Day.

OPENING THE POLLS AT 7:00 A.M.

The Board is asking that the polls be opened on Election Day at 7:00 a.m. rather than at 8:00 a.m. Opening the polls

an hour earlier will provide greater opportunity for voting early in the day by persons whose work day begins at an early hour. Since many offices and jobs in the District begin work as early as 7:30 or 7:45, there are many people who cannot get to the polls at 8:00 a.m. If more people can be encouraged to vote early in the day, they will be less inclined to put it off or forget about it as the pressure of daily activities increases. This would also help to prevent the formation of lines of voters later in the day.

TECHNICAL AMENDMENTS

Three amendments recommended are purely technical in nature, designed to resolve inconsistencies or contradiction in the language of the statute. Two of them relate to the scheduling of the presidential preference primary and the local party elections. The amendments provide that they be held on the same date as the Delegate primary.

The other technical amendment refers to the beginning of the ten-day challenge period following the filing of nominating petitions.

ELIMINATION OF RUNOFFS

Mr. FISHER. In the second paragraph on page 5 of my written testimony we refer to the elimination of runoffs. This recommendation was an original recommendation of the District of Columbia Board of Elections to Congressman Fauntroy, and it was omitted from the bill as passed by the House. I would like for emphasis to read that into the record.

Although the House version of the amendments did not eliminate the runoff election after the primary for delegate, the Board recommends that the provisions in the law for a runoff election after the primary election for delegate and after the general election for delegate be eliminated. Only 10 States in the entire country have a runoff after the primary election for House of Representatives, and only one State has a runoff after the general election for the House of Representatives.

Therefore we request that this language be written into the bill as considered by the Senate.

DELEGATE PRIMARY DATE

On page 6 is another similar request by the District of Columbia Board of Elections. The recommendation was omitted when the House bill was passed. That dealt with the delegate primary in September in the nonpresidential years.

Although the House bill does not alter the date for the delegate primary, the Board recommends that the delegate primary be moved from May to September in nonpresidential years. A shorter period of time between should be something that the people of the District should decide.

Senator STEVENSON. I think you ought to be deciding it.

Mr. FISHER. We have limitations, as you well know.

Senator STEVENSON. I know. I would be glad to be relieved of this responsibility. It ought to be yours, and it is time consuming and burdensome for us.

Mr. FISHER. With your continued leadership we hope that eventually and very soon we will have more of a franchise in the District that will permit us to act on legislation such as this.

Senator STEVENSON. As you know, the Senate has been sympathetic.

Mr. FISHER. Thank you.

Senator STEVENSON. We have some evidence that attitudes in the House are changing, so perhaps the time is not too far off.

Dr. MARTIN. Mr. Chairman, there is one brief comment I would like to make, if you please.

Senator STEVENSON. By all means.

Dr. MARTIN. I would like to call your attention to the last paragraph on page 2 of the chairman's testimony. This is a rather important point. It grew out of the effort the primary and the general election for delegate would prevent a loss of interest in the election on the part of the voters. In addition, a more compact election schedule would allow the Board to store supplies at the precincts for the short period of time between the elections rather than moving them out and then moving them all back in again.

We emphasize again that the amendment in H.R. 6713 should read "the second Tuesday after the first Monday in September" in order to prevent the election from falling on the day after Labor Day.

Those are the two points of emphasis that I would like to relate to the Senate committee, sir.

Senator STEVENSON. Do either of the gentlemen accompanying you have anything you would like to add?

Dr. MARTIN. No, sir. Thank you very much, but the statement here and the emphasis the chairman has given I think covers the situation very well.

Senator STEVENSON. As I said, Mr. Fisher, your full statement will be entered in the record. These decisions, which in my judgments are not to be made by Congress, ought to be made in the District.

ELIMINATION OF RUNOFFS

Is there opposition within the District to the suggestions on the run-off, for example, eliminating the runoff?

Dr. MARTIN. No; there is no evidence of any opposition at all to that. I certainly agree that to move the date back at which the filing of the availability of petitions was made, and also to close it out in keeping with the new timetable.

Now, if this bill is rather late in passing, it may be a rather difficult situation with the law providing for closing out of new schedules which was equated with the intention of keeping the amount of time to allow candidates to secure petitions the same.

The chairman has written a letter to Senator Eagleton explaining this and urging that the candidate be allowed the full time which the act of Congress now specifies which the amendment would provide, but if it is passed late we will have a situation where the new deadlines will not have been met for making them available, because that will have been passed, and the new deadline would be in effect, which would shorten the time the candidates would have to get their petitions filled out in good order.

So we would urge the committee to look at this point, and the letter we have written to Chairman Eagleton.

Senator STEVENSON. The staff informs me that we do have the letter to the chairman, and we will consider changes in the effective date in order to accomplish this.

The letter will be made a part of the record.

[The letter referred to follows:]

GOVERNMENT OF THE DISTRICT OF COLUMBIA



BOARD OF ELECTIONS
DISTRICT BUILDING
WASHINGTON, D. C. 20004

MEMBERS

CHARLES B. FISHER
CHAIRMAN
ROBERT E. MARTIN
J. E. BINDEMAN

July 13, 1973

Honorable Thomas F. Eagleton, Chairman
Senate Committee on the District of Columbia
New Senate Building
Suite 6222
Washington, D. C. 20510

Dear Chairman Eagleton:

The Board of Elections for the District of Columbia would appreciate the Committee on the District of Columbia clarifying the dilemma posed by one of the proposed amendments to the Election Act, H.R. 6713, in regard to the upcoming November 6th School Board Election.

In accordance with the Board's strong recommendation, the House version of the amendments changed the first day petitions would be available from the 99th day before the date of the election to the 114th day before the date of the election, and correspondingly, changed the filing deadline for petitions from the 45th calendar day before the date of the election to the 60th calendar day before the date of the election.

For the November 6, 1973 School Board Election the relevant dates, according to the current Election Act, are July 30th for petition availability and September 22nd for the filing deadline. It appears that the bill will not pass the Senate or be signed into law by July 15th, so that the July 30th petition availability date will stand. However, if the bill does become law by September 7th, the Board needs to know whether the filing deadline should be changed to September 7th, thus shortening the candidates' time for circulating petitions by two weeks or whether the filing deadline should be September 22nd, thus being apparently in violation of the new law but allowing the candidates the full time period for circulating petitions. The Board would like to point out that this amendment was not proposed in order to effect a shorter petition circulation period but only to move the entire cycle back by fifteen days. The Board thus feels that the filing deadline in this instance should be September 22nd in order to allow the School Board candidates the full number of days allotted by the Act.

The Board of Elections would appreciate the Committee making this specific determination so that the Board may carry out the intent of Congress.

Thank you for your attention and cooperation.

Sincerely,

Charles B. Fisher
Chairman

Dr. MARTIN. Thank you.

Senator STEVENSON. Let me ask a question to satisfy my own curiosity. I notice you are asking that the polls be opened on election day at 7 a.m. instead of 8 a.m. What time do the polls close in the District?

Mr. FISHER. The polls close at 8 p.m.

Senator STEVENSON. Does that not make it difficult to challenge or overcome the recognition of all the advantages of an incumbent? Is that something that you have thought about?

Mr. FISHER. We have considered that—yes. We do not feel that the shortening of the time is too much of a burden in that regard.

THIRD PARTY PRESIDENTIAL CANDIDATES PETITIONS

Senator STEVENSON. What is the effect of changing the number of signatures needed by third party Presidential candidates for petition of 5 percent of registered voters to 1 percent? Would this bring about a great increase in third, fourth, and fifth party Presidential candidates in the District of Columbia?

Mr. FISHER. I would like to have Norval Perkins, our executive secretary, answer that.

Mr. PERKINS. It does not appear that it would, Senator. We have usually the Socialist Worker's Party, Communist Party, and we may perhaps have Statehood, and their selection was Dr. Spock.

But the general idea is that it places an unusual burden on third parties anyhow, irrespective of whether or not we have more candidates or not. It is rather unfair, but what it results in is, for one thing, of people circulating spurious types of petitions, and just a sort of general disregard for our regulations which makes for a chaotic situation in the end.

Since apparently most of the other States seem to think that 1 percent is a reasonable amount of the total registered voters, that the District might well be in that group and keep out of all of the courts.

Dr. MARTIN. May I just add to that, our experience indicates to us quite clearly that any minor party who wishes to get on the ballot is going to make every effort to do so, even though the number of signatures is very large.

I want to emphasize a point Mr. Perkins made. It encourages them to use methods that are not in the interest of the public, and we have large numbers of signatures turned in that were invalid. People who did not live in the District, some indication of gross misrepresentation to the people, to the public, in soliciting figures, indicating, for example, on occasion they were asking for signatures for people for whom they were not circulating petitions on which the front information required indicating the pointing out that the candidates who support the petition were not filled in.

So people were being asked to sign a blank check, so the large number of signatures really does not deter minor parties who are determined to make efforts to get on the ballot, but we think the reduction in the number would be helpful and that there would not be the temptation to use these antisocial methods, and at the same time the board would be in a much better position to check the petitions carefully and to validate the names which are generated.

Senator STEVENSON. I think you have made a strong case, gentlemen. Thank you very much.

The final witness is Mr. William Lucy, chairman of the District of Columbia Democratic Central Committee, and secretary-treasurer of the American Federation of State, County, and Municipal Employees.

STATEMENT OF WILLIAM LUCY, CHAIRMAN, DISTRICT OF COLUMBIA DEMOCRATIC CENTRAL COMMITTEE, ACCOMPANIED BY JOHN WILSON, CHAIRMAN, LEGISLATIVE COMMITTEE

Mr. LUCY. Mr. Chairman, with me this morning is Mr. John Wilson who is chairman of the legislative committee of the central committee.

I believe we have submitted copies of our prepared testimony. What I would like to do briefly is summarize that.

Senator STEVENSON. Your prepared statement will be entered in the record.

[The prepared statement referred to follows:]

STATEMENT OF
WILLIAM LUCY, CHAIRMAN
D. C. DEMOCRATIC CENTRAL COMMITTEE

Mr. Chairman and members of the District of Columbia Committee, I appear today as Chairman of the Democratic Party Central Committee of the District of Columbia. I am authorized by that Committee to present their views on amendments to the District of Columbia Election Act as incorporated in HR 6713.

The country has recently emerged from a widely publicized presidential campaign where unprecedented exposure in the press, on the radio and television should have developed widespread voting on election day. Unfortunately less than 55 percent of the eligible American citizens cast a vote. It is clear that we are failing in our responsibility if full and active participation of citizens in the voting process is not developed. Coupled with this responsibility must be a revision of our election and registration procedures so as to neither inhibit nor intimidate the rights of all citizens to participate in the election process. Too often election and registration procedures have been used to intentionally limit participation; to exclude the poor, the Black, the Brown and citizens with limited education.

The record of other western countries shows how dismally we are performing. At the same time as our Presidential election, Willy Brandt led his coalition of German Social Democrats and Free Democrats to victory and over 91 percent of the voters went to the polls. Great Britain (1970) with 72 percent, Norway (1969) with 82.5 percent and Canada (1968) with 75.7 percent far surpass the normal U. S. turnout of 61 percent.

The present dilemma has not always been the case. Before a registration system was adopted, our country ranked among the highest of the world's democracies. More than eight out of ten eligible Americans voted in 1876 before the states adopted the complicated registration systems. By the time all the states adopted registration systems in 1924, less than half of the citizens voted. With the adoption of our present registration system, one-third of our eligible citizens stopped voting.

As Richard Scammon, one of the leading national authorities on voting behavior, correctly points out, "very few countries require the voter to go down and get registered by going to the city hall or the county courthouse or some temporary registration place." England compiles an annual registration list on a visitation basis while Canada sends registrars house to house six weeks before the election. This results in a live register

with approximately 98 percent of the potential recorded.

No Presidential election of the past three decades has reached a 65 percent turn out, even those that seemed to spark genuine interest like the Kennedy-Nixon race in 1960 and the Humphrey-Nixon-Wallace contest in 1968. Rarely, in non-presidential year elections does voter performance exceed 50 percent. However, after we chew and digest the facts, the key reason for low voter turnout is primarily due to archaic, restrictive laws in many states and communities that load the dice against a citizen registering and voting. After studying the problem in 1969, Geroge Gallup stated, "It is not the lack of interest but rather the residency and other registration qualifications that prove to be the greatest barrier to wider participation in our nation."

Therefore, some of the items in the proposed legislation would significantly enhance voter participation. The elimination of durational residency requirements both in light of recent Supreme Court decisions and their previous use as a restrictive mechanism is to be applauded. The persistent charge that this may lead to widespread fraud is unfounded. Both North Dakota, which does not have registration, and Texas, which allows citizens to fill out registration coupons placed in local newspapers, have not led to any voter fraud. As long as the elector does not

claim voting residency or the right to vote in any state or territory as is outlined in the bill, there should be no hesitation for supporting this item.

The provision to allow volunteer services for voter registration and education is also a positive move. Hopefully, this can lead to the development of a visitation system similar to one established in Canada or Great Britain.

The move of the filing date from 45 to 60 days before the election will also allow for smoother campaigns. If challenged petitions arise, the new time limit will allow ample opportunity for the Board of Elections to fully investigate and review the charges. Also, it will allow the public additional time to more carefully scrutinize the views of the candidates. The provisions to open the polls earlier and to have a September Delegate primary in non-presidential years are also supported by the Central Committee.

The amendment that raises the most questions is the anticipated elimination of the runoff. Even though 40 states do not have any runoffs and only Georgia provides for a system similar to the District, it is our belief that the runoff system must be intensely studied before any action is taken. Many correctly state that, no elected official can rightfully claim that they have a mandate to govern when they receive less than 40 percent

of the vote. There is also obviously a trend in municipal jurisdictions for the establishment of runoff elections and cities such as New York, Los Angeles and Oakland have such systems. The other side also correctly argues that with the possibility of four campaigns, the financially well heeled candidates will tend to have an overwhelming advantage. It is clear that both sides develop valid points and that the runoff must be explored further and must obviously be tied to some limitation on campaign expenditures.

The Democratic Central Committee appreciates this opportunity to present our views on these amendments. If there is any further way we may be of assistance on this or other pending legislation, we will be more than happy to fully and totally lend our resources and support.

Thank you.

Mr. LUCY. Thank you. Basically the proposals that are put forth by the elections board in summary the committee supports. The proposed provisions dealing with residential requirements we support.

I think the moving of the filing date from 45 to 60 days before the election will also allow for smoother campaigns. It will enable a greater exposure of candidates and their points of view to us.

We did not comment in our written testimony on the question of third-party requirements in terms of petitions. We would like to say that we support the Board's point of view with reference to the 1 percent requirement.

We think moving to the volunteer situation in terms of voter registration and education will be helpful in moving closer to providing a real opportunity to increase the rolls and result in increasing participation.

ELIMINATION OF RUNOFFS

We are concerned, however, and we have to differ with the Board a bit on the question of the elimination of runoffs.

In our testimony before the House committee, we indicated that our feeling was there was not enough of a substantial record built one way or the other. The argument could be made for the elimination as well as a good argument made for keeping it.

What we would like to see, and what we suggested to the subcommittee on the House side, is that a study of that situation be made, and that at some future date possible legislation be amended to deal with that.

DELEGATE PRIMARY DATE

We are somewhat unclear on the Board's proposal for the change of primary election date. It is not that we oppose it or support it; we simply are not clear in terms on intent. If possible, we would like to get together with the Board to review the situation. If we can possibly amend our statement, we will submit a position on that particular point to the committee, if that is possible.

The final provision with reference to the opening and closing of polls, we support the earlier opening time in the sense it will give a real opportunity for those people to vote prior to work time and so forth.

We speak in detail to all of the other points in the written testimony, Mr. Chairman.

ELIMINATION OF RUNOFF

Senator STEVENSON. I would certainly urge representatives of the Board to meet with you to discuss the runoff. If you agree with the Board on a position, it would be helpful to us.

As I said earlier, we would like to feel that any action we took on the process by which delegates are selected is consistent with the wishes of the community.

I, for one, am reluctant to dictate some election process.

Mr. LUCY. In an effort to establish the committee's position, we reviewed runoff procedures in a number of places, and tried to take a look at whether it provided a real insight in terms of the moods of the voters, or whether we are simply doing it as an efficient move.

We are somewhat concerned that as the District comes closer to at least a greater participation in the legal process that we should prior to eliminating some of the central kinds of systems simply have a little clearer picture of what the impact would be. As I say, I think we want to emphasize we are not opposing nor supporting. We would simply like to know a bit more about what the impact would be.

Senator STEVENSON. I thank you very much. I believe that will suffice unless you have any comments you would like to add.

Mr. LUCY. Thank you.

Senator STEVENSON. I have a prepared statement from Mr. Edmund Pendelton, chairman of the District of Columbia Republican Committee, which will be entered in the record.

I also have a letter from Mayor Washington supporting this bill. This letter will also be entered in the record, and we will keep the record open for a period of 5 days if anyone else wishes, during that period of time, to submit additional statements.

[The prepared statement and letter referred to follows:]

STATEMENT OF EDMUND PENDLETON, JR., CHAIRMAN,
D.C. REPUBLICAN COMMITTEE FOR THE SUBCOMMITTEE
ON BUSINESS, COMMERCE, AND JUDICIARY OF THE
SENATE DISTRICT OF COLUMBIA COMMITTEE
JULY 17, 1973

My name is Edmund Pendleton, Jr. I am Chairman of the District of Columbia Republican Committee.

We support H.R. 6713 which proposes various changes to the District of Columbia Election Act.

I would like to refer to the more important substantive changes which are made by this bill.

1. Elimination of run-offs. (Par. 7, 10, 14, 18)

These sections repeal the present law which provides for run-off elections for delegate after the primary election and after the general election, if no candidate receives more than 40% of the total vote cast. Under existing law, a total of 4 elections might be held before our delegate to the House of Representatives is chosen. This would seem to involve an undue burden upon the electorate and undue expenses to the candidates. Voter interest, I am sure, would tend to lessen after each election. Moreover, the expense might be prohibitive for qualified candidates. Only a few states have a run-off election after the primary, and I know of no state that has a run-off after the general election of a congressman.

In these days of budget paring, it is most germane to note also that an election costs the taxpayers about \$50,000. Eliminating this provision might save as much as \$100,000 every two years.

4. Reducing the requirement for minority parties to nominate candidates for President of the United States by obtaining petitions of 1% of registered voters instead of 5% as at present. (Par. 6)

The present law requires minority parties to obtain petitions signed by at least 5% of the registered voters in order to have its candidate for President and Vice President listed on the ballot. Since we have approximately 300,000 registered voters in the District of Columbia, these parties must each obtain about 15,000 signatures in order to get their candidate on the ballot. As a party which does not have that burden, we believe the public interest is best served by not requiring an inordinate burden of a minority party. We, therefore, support the effort to have a lower requirement.

3. Changing the delegate primary date in non-Presidential election years from May to September. (Par. 16)

The law presently requires delegate primary elections to be held in May with the general election held in November, a gap of 6 months. This span encourages apathy and a substantial loss of voter interest between primary and general elections. Moreover, this undue length of time also places an unreasonable burden upon the candidate.

We believe the public interest is better served by changing the primary date from May to September reducing the time span from 6 months to 2 months. Because of other complications this change is effective only in years when we do not have a Presidential primary and party elections.

4. Changing the hours the polls may be open from 8 a.m. to 8 p.m. to 7 a.m. to 8 p.m. (Par. 17)

This change has been urged by many who must be at work early. They want to vote early, but are unable to do so because the 8 a.m. opening hour is too late for them. This change would seem to operate in favor of making it easier to vote, and thus encouraging voter participation.

5. Many of the other suggested changes move back filing dates in order to give the Board of Elections more time to respond to objections and to litigation. Since the original dates of obtaining petitions are also moved back, the petitioner's rights are not compromised since he has the same time to submit his petitions. However, this is a much needed administrative change.

Respectfully submitted,

Edmund Pendleton, Jr.



THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20004

WALTER E. WASHINGTON
Mayor-Commissioner

JUL 17 1973

Honorable Thomas F. Eagleton
Chairman
Committee on the District of Columbia
United States Senate
Washington, D. C.

Dear Mr. Chairman:

The Government of the District of Columbia has for report H.R. 6713, a bill "To amend the District of Columbia Election Act regarding the times for filing certain petitions, regulating the primary election for Delegate from the District of Columbia, and for other purposes", as passed by the House of Representatives on June 11, 1973.

The bill proposes two major and a number of minor changes in existing laws regulating elections in the District of Columbia. The first amendment proposed by the bill eliminates the 90-day durational residency requirement for voting in local elections and the 30-day requirement for voting in Presidential elections. Such durational residency laws were declared unconstitutional by the Supreme Court in the case of Dunn v. Blumstein, 405 U.S. 330 (1972).

The second amendment expressly authorizes the Board of Elections to prescribe such rules and regulations as may be necessary to carry out the purposes of the Election Act, thus more clearly delineating the power of the Board with respect to its duties and responsibilities.

The third amendment deletes the phrase "after the first Monday" from section 5(b)(1) of the District

of Columbia Election Act (D.C. Code, sec. 1-1105), and section 1(16) of the bill makes an identical deletion from section 10(a)(1) of such Act (D.C. Code, sec. 1-1110). As amended, these sections will direct the Board of Elections to conduct a presidential preference primary election of delegates to national conventions, local party officials, and national committeemen and women, on the first Tuesday in May of a presidential election year, the same day now required by section 10(a)(3) of the Election Act (D.C. Code, sec. 1-1110) for the District of Columbia Delegate primary. Under existing law when May 1st falls on a Tuesday, the Delegate primary would fall one week before the Presidential primary and other elections.

Section 1(4) amends sections 5(b)(2) and 5(b)(3) of the Act (D.C. Code, sec. 1-1105) and section 1(8) Amends section 8(a)(1) of the Act (D.C. Code, sec. 1-1108) to extend the filing deadlines from 45 days prior to the election to 60 days prior to the election. The purpose of this provision is to allow the Election Board staff additional time to validate petition signatures, process absentee ballot requests, print absentee and sample ballots, and to complete other necessary preparations for the elections.

In view of the broad regulatory powers vested in the Board of Elections by section 1(2) of the bill, the fifth amendment repeals section 5(b)(6) of the Act as unnecessary, and for similar reasons, the sixth amendment clarifies the language of section 5(d) of the Act (D.C. Code, sec. 1-1105).

The seventh proposed amendment amends the Act by inserting at the end of section 5 (D.C. Code, sec. 1-1105) a provision authorizing the Board to accept volunteer services for the purposes of voter education and registration.

Section 1(9) amends section 8(f) of the Act (D.C. Code, sec. 1-1108) by reducing the number of signatures required on nominating petitions for minor

political parties for the general presidential election. Existing law authorizes a place on the ballot only for those political parties who have had their candidates elected President of the United States after January 1, 1950. Any other party seeking a place on the presidential ballot must present a petition signed by at least 5% of the registered qualified electors of the District of Columbia. The proposed amendment would reduce this percentum to 1%, thereby making the District's requirements consistent with those of a majority of the States.

Section 1(10) amends section 8(i) of the Act (D.C. Code, sec. 1-1108) and section 1(11) amends section 8(j) of the Act (D.C. Code, sec. 1-1108) in identical fashion to move back by 15 days the dates governing nominating petitions and filing deadlines for District of Columbia Delegate elections. As in the case of changes proposed by sections 1(4) and 1(8) of H.R. 6713, the longer period between filing dates and the election date is to allow the Election Board staff additional time to validate petition signatures, process absentee ballot requests, print absentee and sample ballots, and to complete other necessary preparations for the elections.

Section 1(13) amends section 8(o) of the Act (D.C. Code, sec. 1-1108) to conform to proposed changes made by sections 1(10) and 1(11) of H.R. 6713.

Section 1(14) amends section 8(p)(1) of the Act (D.C. Code, sec. 1-1108) regarding nominating petition challenges. Existing law authorizes such challenges to be filed during the 10-day period beginning 42 days prior to election day. Under the proposed amendment challenges would be authorized during the 10-day period beginning the third day after the filing deadline. The proposed amendment would render uniform the challenge period for all elections held in the District, which now differ with respect to third party candidates for President.

Section 1(15) amends section 9(e) of the Act (D.C. Code, sec. 1-1109) to enlarge the time from 7 to 10 days within which the Board may rule on ballot challenges.

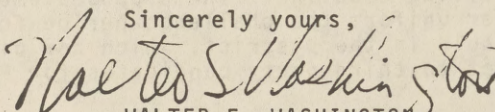
Section 10(a)(4) of the Act (D.C. Code, sec. 1-1110), is amended by section 1(17) of the bill to delete the requirement for a runoff election in the general election for District of Columbia Delegate. Existing District law requires such a runoff in both the primary and general elections where no candidate receives at least 40% of the votes cast. It is important that the office of District of Columbia Delegate be filled by a candidate chosen by a substantial proportion of the electorate and therefore the District Government favors the retention of the runoff in the primary election.

Section 1(18) amends section 10(b) of the Act (D.C. Code, sec. 1-1110) to permit the polls to open at 7:00 a.m. instead of 8:00 a.m. It is estimated by the Board of Elections that authorizing an extra hour of voting in the District of Columbia will cost approximately \$5,000 for each election.

Section 2 of H.R. 6713 amends existing law relating to the terms of office of members of the Board of Education of the District of Columbia to provide that the terms of Board members elected or re-elected to office after 1973 will begin thirty days after the certification of their election rather than on the fourth Monday in January.

We believe that the changes proposed by H.R. 6713 in the election laws of the District will promote more fair and efficient elections and, accordingly, recommend the enactment of the bill.

Sincerely yours,



WALTER E. WASHINGTON
Mayor-Commissioner

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Senator STEVENSON. With that, the meeting is adjourned.
[Thereupon, at 10:40 a.m. the committee was adjourned.]



