The original documents are located in Box 4, folder "1974/08/24 Enrolled Bill HR 7218 District of Columbia Insurance Laws" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

APPROVED
AUG 24 1974

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 16 1974

Posted 8/26
To Archives 8/26

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 7218 - District of Columbia insurance laws
Sponsor - Rep. Diggs (D) Michigan

Last Day for Action

August 27, 1974 - Tuesday

Purpose

To improve the laws regulating insurance companies in the District of Columbia.

Agency Recommendations

Office of Management and Budget	Approval
District of Columbia	Approval

Discussion

H.R. 7218 would provide a framework for a D.C. insurer to enter a holding company system by adopting, with minor changes, a model bill developed by the National Association of Insurance Companies in 1969. By January 1973 37 States had adopted that model bill.

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-- limit dividends and other distributions;

-- provide additional powers for the D.C. Commissioner;

-- provide for confidentiality of certain information submitted to the Commissioner; and

-- provide for criminal proceedings, receivorship, and other penalties or procedures to enable the Commissioner to enforce the law.

In its report on the enrolled bill the House Committee on the District of Columbia stated:

> "The Act provides satisfactory liberalization of investment laws and procedures... It also means an administrative relief from duplication of filings and reporting..."

The Committee further stated that the enrolled bill:

> "...is necessary to discourage migration of local insurance companies from the District, while providing safeguards for the maintenance of a healthy insurance market..."

Wilfred H. Rommel

Assistant Director for
Legislative Reference

Enclosures

THE DISTRICT OF COLUMBIA

WASHINGTON, D.C. 20004

WALTER E. WASHINGTON
Mayor-Commissioner

August 14, 1974

Mr. Wilfred H. Rommel
Assistant Director for
Legislative Reference
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Rommel:

This is in reference to a facsimile of an enrolled enactment of Congress entitled:

> H.R. 7218 - To improve the laws relating to the regulation of insurance companies in the District of Columbia.

The enrolled bill would provide controls, to be exercised by the Commissioner of the District of Columbia, over the heretofore unregulated merger or acquisition of domestic insurance companies with or by non-insurance interests. The text of the bill is similar to the NAIC (National Association of Insurance Commissioners) model bill, already in force in 37 States.

The enrolled bill would balance the authorization of diversification by insurers with the obvious interests of the District of Columbia Government in maintaining for District residents the availability of reliable and competitive insurance. The additional investment authority authorized by the bill would afford domestic insurance companies business opportunities consistent with modern investment practice, making them more competitive with foreign companies.

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The District Government recommends the approval of H.R. 7218.

Sincerely yours,

WALTER E. WASHINGTON
Mayor-Commissioner

THE WHITE HOUSE
WASHINGTON

ENROLLED BILL

SUBJECT: Enrolled Bill H. R. 7218 - District of Columbia Insurance Laws

Name	Approval	Date
Geoff Shepard	Yes	
Andre Buckles	Yes	
Phil Buchen	Yes	
Bill Timmons	Yes	
Ken Cole		

Comments:

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.: 517

Date: August 19, 1974 Time: 9:00 a.m.

FOR ACTION: Geoff Shepard
~~Lynn Buzhardt~~ Phil Buchen
Bill Timmons
Vandy Buckley

cc (for information): Warren K. Hendriks
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, August 21, 1974 Time: 2:00 p.m.

SUBJECT: Enrolled Bill H.R. 7218 - District of Columbia Insurance Laws

ACTION REQUESTED:

____ For Necessary Action
XX For Your Recommendations
____ Prepare Agenda and Brief
____ Draft Reply
____ For Your Comments
____ Draft Remarks

REMARKS:

Please return to Kathy Tindle - West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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K. R. COLE, JR.
For the President

To: Warren Hendricks
8-16-74 RDF

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

AUG 16 1974

MEMORANDUM FOR THE PRESIDENT

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Sponsor - Rep. Diggs (D) Michigan

Last Day for Action

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No Objection
AHB

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For the President

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The District Government recommends the approval of H.R. 7218.

Sincerely yours,

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Mayor-Commissioner

THE WHITE HOUSE

WASHINGTON

August 19, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS P.A.M. for WET

SUBJECT: Action Memorandum - Log No. 517
Enrolled Bill H.R. 7218 - District of
Columbia Insurance Laws

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

On page 11: Section 10(b), line 4 (from top of page), change "of" to "or".

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FOR ACTION: Geoff Shepard
Fred Buzhardt
Bill Timmons

cc (for information): Warren K. Hendriks
Jerry Jones

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DUE: Date: Wednesday, August 21, 1974 Time: 2:00 p.m.

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For the President

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93D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 93-653

HOLDING COMPANY SYSTEM REGULATORY ACT

NOVEMBER 20, 1973.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DIGGS, from the Committee on the District of Columbia, submitted the following

REPORT

[To accompany H.R. 7218]

The committee on the District of Columbia, to whom was referred the bill (H.R. 7218) to improve the laws relating to the regulation of insurance companies in the District of Columbia, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 15, line 13, immediately after "vote" insert ", or at least 80 percentum of the total combined voting power of all classes of stock of the person in control of the acquiring party entitled to vote".

PURPOSE OF THE BILL

The purpose of H.R. 7218 is to improve the laws relating to the regulation of insurance companies in the District of Columbia by providing a framework for a District of Columbia insurer to enter a holding company system and to avoid duplication of regulation in every state where the insurer is licensed which has similar legislation. Safeguards included herein will, it is believed, provide adequate protection for policyholders and shareholders so that financial and managerial erosion of their acquired rights are avoided.

NEED FOR THE LEGISLATION

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

the District of Columbia Insurance Code with minor changes, and its passage by the Congress has been requested by the D.C. Government.

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

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

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

The business of insurance has long been recognized as so affected with the public interest as to require extensive and detailed regulation. The objective of insurance regulation is to assure the solvency of the insurer and to protect the interests of the policyholder. H.R. 7218 is a logical extension of this broad regulation.

PROVISIONS OF THE BILL

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

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

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

Any person attempting to take control of or to merge with an insurer must disclose to the Commissioner relevant information about both himself and the takeover transactions, and the soliciting material must be filed prior to its use. The Commissioner may disapprove any attempted acquisition of or change in control over an insurer if the takeover party could not satisfy specific standards designed to protect the interests of policyholders, shareholders and the public.

HISTORY

A public hearing was held on H.R. 7218 on July 16, 1973, by the Subcommittee on Business, Commerce and Taxation. Witnesses in support of the legislation included representatives of the District Government, the Superintendent and the Deputy Superintendent of Insurance, and representatives of five major life insurance companies in the District of Columbia. No opposition to the bill has been received by the Committee.

COST

The enactment of this proposed legislation will involve no added cost to the government of the District of Columbia.

COMMITTEE VOTE

H.R. 7218 was ordered favorably reported, as amended, by voice vote of the full committee on November 5, 1973.

CONCLUSION

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

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

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

As noted in the Commissioner's report below: "Enactment of the proposed 'Holding Company System Regulatory Act' is necessary to discourage migration of local insurance companies from the District, while providing safeguards for the maintenance of a healthy insurance market for the residents of the District of Columbia".

Accordingly, the Committee urges enactment of H.R. 7218, with the clarifying amendment thereto.

D.C. COMMISSIONER'S REPORT

The letter of the D.C. Commissioner to the Speaker, dated Feb. 15, 1973, requesting the enactments of this legislation, follows:

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
EXECUTIVE OFFICE,
Washington, D.C., February 15, 1973.

The Honorable the SPEAKER,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: The Government of the District of Columbia has the honor to submit for the consideration of the 93rd Congress a bill "To improve the laws relating to the regulation of insurance companies in the District of Columbia."

The proposed bill, which may be cited as the "Holding Company System Regulatory Act", would provide controls, to be exercised by the Commissioner of the District of Columbia, over the heretofore unregulated merger or acquisition of domestic insurance companies with or by non-insurance interests. The text of the bill is similar to the NAIC (National Association of Insurance Commissioners) model bill, already in force in 37 States.

The draft bill would balance the authorization of diversification by insurers with the obvious interests of the District of Columbia Government in maintaining for District residents the availability of reliable and competitive insurance. The additional investment authority authorized by the bill would afford domestic insurance companies business opportunities consistent with modern investment practice, making them more competitive with foreign companies.

Administrative procedures would eventually be streamlined by affording reciprocity to companies domiciled in States with similar regulatory laws, thus preventing the confusion of overlapping jurisdictions. At the same time, through detailed disclosure requirements, the Commissioner would be informed of all proposed mergers and acquisitions of control involving local insurance companies and the Commissioner's approval would be required for each such merger or acquisition, albeit that his approval would be mandatory unless he should find, after public hearing, that the change of control would result in one or more of the deleterious effects listed in section 4(d)(1) of the bill.

We believe that enactment of the proposed "Holding Company System Regulatory Act" is necessary to discourage migration of local insurance companies from the District, while providing safeguards for the maintenance of a healthy insurance market for the residents of the District of Columbia. Accordingly, we strongly urge favorable consideration and early enactment of the attached draft bill.

Sincerely yours,

WALTER E. WASHINGTON,
Commissioner.

O

H. R. 7218

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Monday, the twenty-first day of January, one thousand nine hundred and seventy-four

An Act

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

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

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

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

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

(c) "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 per centum or more of the voting securities of any other person;

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

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

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

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

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

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

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

SUBSIDIARIES OF INSURERS

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

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

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

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

(d) QUALIFICATIONS OF INVESTMENT: WHEN DETERMINED.—Whether any investment pursuant to this section meets the applicable requirements thereof is to be determined immediately after such investment is made, taking into account the then outstanding principal balance of all previous investments and debt obligations and the value of all previous investments in equity securities as of the date of the new investment.

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

ACQUISITION OF CONTROL OF OR MERGER WITH DOMESTIC INSURER

SEC. 4. (a) FILING REQUIREMENTS.—No person other than the issuer shall make a tender offer for or a request or invitation for tenders of,

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

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

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

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

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

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

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

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

(5) The number of shares of any security referred to in subsection (a) which each acquiring party proposes to acquire, and the terms of

the offer, request, invitation, agreement, or acquisition referred to in subsection (a), and a statement as to the method by which the fairness of the proposal was arrived at.

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

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

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

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

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

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

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

(c) ALTERNATIVE FILING MATERIALS.—If any offer, request, invitation, agreement, or acquisition referred to in subsection (a) is proposed to be made by means of a registration statement under the

Securities Act of 1933 or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934, or under a State law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (a) may utilize such documents in furnishing the information called for by that statement.

(d) APPROVAL BY COMMISSIONER; HEARINGS.—

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

(A) After the change of control the domestic insurer referred to in subsection (a) would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

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

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

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

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

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

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

(e) MAILINGS TO SHAREHOLDERS; PAYMENT OF EXPENSES.—All statements, amendments, or other material filed pursuant to subsection (a) or (b), and all notices of public hearings held pursuant to subsection (d), shall be mailed by the insurer to its shareholders within five busi-

ness days after the insurer has received such statements, amendments, other material, or notices. The expenses of mailing shall be borne by the person making the filing. As security for the payment of such expenses, such person shall file with the Commissioner an acceptable bond or other deposit in an amount to be determined by the Commissioner.

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

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

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

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

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

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

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

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

REGISTRATION OF INSURERS

SEC. 5. (a) REGISTRATION.—Every insurer which is authorized to do business in the District and which is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to disclosure requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in this Act. Any insurer which is subject to registration under this section shall register within sixty days after the effective date of this Act or fifteen days after it becomes subject to registration, whichever is later, unless the Commissioner for good cause shown extends the time for registration,

and then within such extended time. The Commissioner may require any authorized insurer which is a member of a holding company system which is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such insurance company with the insurance regulatory authority of its domiciliary jurisdiction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

amending their consolidated registration statement or their individual registration statements.

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

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

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

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

STANDARDS

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

(1) the terms shall be fair and reasonable;

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

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

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

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

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

(3) the number and size of risks insured in each line of business;

(4) the extent of the geographical dispersion of the insurer's insured risks;

(5) the nature and extent of the insurer's reinsurance program;

(6) the quality, diversification, and liquidity of the insurer's investment portfolio;

(7) the recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(8) the surplus as regards policyholders maintained by other comparable insurers;

(9) the adequacy of the insurer's reserves; and

(10) the quality and liquidity of investments in subsidiaries made pursuant to section 3. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his judgment such investment so warrants.

(c) DIVIDENDS AND OTHER DISTRIBUTIONS.—(1) No insurer subject to registration under section 5 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until (A) thirty days after the Commissioner has received notice of the declaration thereof and has not within such period disapproved such payment, or (B) the Commissioner shall have approved such payment within such thirty-day period.

(2) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceeding twelve months exceeds the greater of (A) 10 per centum of such insurer's surplus as regards policyholders as of the thirty-first day of December next preceding or (B) the net gain from operations of such insurer, if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the twelve-month period ending the thirty-first day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

(3) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the Commissioner's approval thereof, and such a declaration shall confer no rights upon shareholders until (A) the Commissioner has approved the payment of such dividend or distribution or (B) the Commissioner has not disapproved such payment within the thirty-day period referred to above.

EXAMINATION

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

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

(c) USE OF CONSULTANTS.—The Commissioner may retain at the

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

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

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

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

INJUNCTIONS; PROHIBITIONS AGAINST VOTING SECURITIES; SEQUESTRATION OF VOTING SECURITIES

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

(b) VOTING OF SECURITIES; WHEN PROHIBITED.—No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired or to be acquired, in contravention of the provisions of this Act or of any rule, regulation, or order issued by the Commissioner hereunder may be voted at any shareholders' meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though such securities were not issued and outstanding; but no action taken at any such meeting shall be invalidated by the voting of such securities, unless the action would materially affect control of the insurer or unless the Superior Court of the District of Columbia has so ordered. If an insurer or the Commissioner has reason to believe that any security of the insurer has been or is about to be acquired in contravention of the provisions of this Act or of any rule, regulation,

or order issued by the Commissioner hereunder the insurer or the Commissioner may apply to the Superior Court of the District of Columbia to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of section 4 of any rule, regulation, or order issued by the Commissioner thereunder to enjoin the voting of any security so acquired, to void any vote of such security already cast at any meeting of shareholders, and for such other equitable relief as the nature of the case and the interests of the insurer's policyholders, creditors, shareholders, or the public may require.

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

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

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

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

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

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

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

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

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

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

August 15, 1974

Dear Mr. Director:

The following bill was received at the White House on August 15th:

H.R. 7218

Please let the President have reports and recommendations as to the approval of this bill as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.