

ENROLLMENT(S)



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COUNCIL OF THE DISTRICT OF COLUMBIA

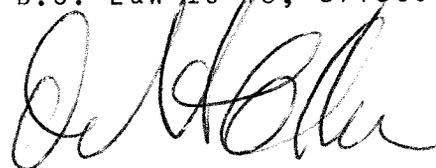
NOTICE

D.C. LAW 10-48

"Annual Audited Financial Reports Act
of 1993".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 10-127 on first and second readings, June 29, 1993, and July 13, 1993, respectively. Following the signature of the Mayor on August 4, 1993, this legislation was assigned Act No. 10-93, published in the August 20, 1993, edition of the D.C. Register, (Vol. 40 page 6102) and transmitted to Congress on September 1, 1993 for a 30-day review, in accordance with Section 602(c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 10-48, effective October 21, 1993.



DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

September 7,8,9,10,13,14,15,16,17,20,21,22,23,24,27,28,29,30
October 1,4,5,6,7,12,13,14,15,18,19,20

Codification

AN ACT

District of Columbia Code

D.C. ACT 10-93

(1994 Supplement)

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

AUGUST 4, 1993

New, Chapter 32,
Title 35

To require an annual examination by independent certified public accountants of the financial statements reporting the financial position and the results of operations of insurers.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Annual Audited Financial Reports Act of 1993".

Sec. 2. Definitions.

For the purposes of this act, the term:

New, Section
35-3201

(1) "Accountant" or "independent certified public accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which they are licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.

(2) "Audited financial report" means and includes those items specified in section 4.

(3) "Insurer" means a licensed insurer or authorized company which has authority from the Mayor to do business in the District of Columbia as provided under section 5 of chapter II of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1131; D.C. Code § 35-404), and section 2 of chapter II of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1066; D.C. Code § 35-1505).

(4) "NAIC" means the National Association of Insurance Commissioners.

Sec. 3. Filing and extensions for filing of annual audited financial reports.

New, Section
35-3202

(a) All insurers shall have an annual audit prepared by an independent certified public accountant and shall file an audited financial report with the Mayor on or before June 1st for the year ended December 31st immediately preceding. The Mayor may require an insurer to file an audited financial report earlier than June 1st with 90 days advance notice to the insurer.

(b) Extensions of the June 1st filing date may be granted by the Mayor for 30-day periods upon showing by the insurer and its independent certified public accountant the reasons for requesting the extension and determination by the Mayor of good cause for an extension.

The request for extension must be submitted in writing not less than 10 days prior to the due date in sufficient detail to permit the Mayor to make an informed decision with respect to the requested extension.

Sec. 4. Contents of annual audited financial report.

New, Section
35-3203

The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flow, and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the Mayor. The annual audited financial report shall include the following:

- (1) Report of an independent certified public accountant;
- (2) Balance sheet reporting admitted assets, liabilities, capital, and surplus;
- (3) Statement of operations;
- (4) Statement of cash flows;
- (5) Statement of changes in capital and surplus;
- (6) Notes to financial statements, including notes required by the appropriate NAIC annual statement instructions and any other notes required by generally accepted accounting principles. The notes shall also include:

(A) A reconciliation of differences, if any, between the audited statements to be filed with the Mayor, the Superintendent of Insurance, and the NAIC filed pursuant to the insurance laws of the District of Columbia; and

(B) A summary of ownership and relationships of the insurer and all affiliated companies; and

(7) The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the Mayor, and the financial statement shall be comparative, presenting the amounts as of December 31st of the current year and the amounts as of the immediately preceding December 31st. However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

Sec. 5. Designation of independent certified public accountant.

New, Section
35-3204

(a) Each insurer required by this act to file an annual audited financial report, within 60 days after becoming subject to the requirement, shall register in writing with the Mayor the name and address of the independent certified public accountant or accounting firm retained to conduct the required annual audit. Insurers not retaining an independent certified public accountant on the effective date of this act shall register the name and address of their retained certified public accountant not less than 6 months before the date when the first audited financial report is to be filed.

(b) The insurer shall obtain a letter from the accountant, and file a copy with the Mayor, stating that the accountant is aware of the provisions of the insurance laws and rules of the District of Columbia that relate to accounting and financial matters, and affirming that he or she will express his or her opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or

otherwise permitted by the Mayor, specifying any exceptions he or she believes appropriate.

(c) If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall, within 5 business days, notify the Mayor of this event. The insurer shall, within 10 business days of the above notification, also furnish the Mayor with a separate letter stating whether in the 24 months preceding the event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him or her to make reference to the subject matter of the disagreement in connection with his or her opinion. The disagreements required to be reported in response to this subsection include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, that is between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also request in writing that the former accountant furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter, and, if not, stating the reasons that he does not agree. The insurer shall furnish the responsive letter from the former accountant to the Mayor together with its own.

Sec. 6. Qualifications of independent certified public accountant.

(a) The Mayor shall not recognize any person or firm as a qualified independent certified public accountant that is not in good standing in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant.

(b) Except as otherwise provided herein, an independent certified public accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants, the District of Columbia Public Accountants Act of 1977, effective March 16, 1978 (D.C. Law 2-59; D.C. Code §2-101 *et seq.*), and rules promulgated by the District of Columbia Board of Accountancy.

(c) No partner or other person responsible for rendering a report may act in that capacity for more than 7 consecutive years. Following any period of service that person shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 2 years. An insurer may make application to the Mayor for relief from the above rotation requirement on the basis of unusual circumstances. The Mayor may consider the following factors in determining if the relief should be granted:

- (1) Number of partners, expertise of the partners, or the number of insurance clients in the currently registered firm;
- (2) Premium volume of the insurer; or
- (3) Number of jurisdictions in which the insurer transacts business.

The requirements of this subsection shall become effective 2 years after the enactment of this act.

New, Section
35-3205

(d) The Mayor shall not recognize as a qualified independent certified public accountant, nor accept any annual audited financial report prepared, in whole or in part, by any natural person who:

(1) Has been convicted of fraud, bribery, a violation 18 U.S.C. 1961-1968, or any dishonest conduct or practices under any federal, state, or District of Columbia law;

(2) Has been found to have violated the insurance laws of the District of Columbia with respect to any previous reports submitted under this act; or

(3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under this act.

(e) The Mayor, as provided in section 6 of chapter II of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1131; D.C. Code § 35-405), and section 3 of chapter II of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1066; D.C. Code § 35-1506), may hold a hearing to determine whether a certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his or her opinion on the financial statements in the annual audited financial report made pursuant to this act and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this act.

Sec. 7. Consolidated or combined audits.

New, Section
35-3206

An insurer may make written application to the Mayor for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies which utilizes a pooling or 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer cedes all of its direct and assumed business to the pool. In these cases, a column consolidating or combining worksheet shall be filed with the report, as follows:

(1) Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet.

(2) Amounts for each insurer subject to this section shall be stated separately.

(3) Noninsurance operations may be shown on the worksheet on a combined or individual basis.

(4) Explanations of consolidating and eliminating entries shall be included.

(5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.

Sec. 8. Scope of examination and report of independent certified public accountant.

New, Section
35-3207

The examination of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. Consideration should also be given to such other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the NAIC as the independent certified public accountant deems necessary.

Sec. 9. Notification of adverse financial condition.

New, Section
35-3208

(a) The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within 5 business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the Mayor as of the balance sheet date currently under examination, or that the insurer does not meet the minimum capital and surplus requirement pursuant to section 8 of chapter III of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1145; D.C. Code § 35-608), and section 13 of chapter II of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1070; D.C. Code § 35-1516), as of that date. An insurer who has received a report pursuant to this paragraph shall forward a copy of the report to the Mayor within 5 business days of receipt of the report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the Mayor. If the independent certified public accountant fails to receive the evidence within the required 5-business-day period, the independent certified public accountant shall furnish to the Mayor a copy of its report within the next 5 business days.

(b) No independent public accountant shall be liable in any manner to any person for any statement made in connection with subsection (a) of this section if the statement is made in good faith in compliance with subsection (a) of this section.

(c) If the accountant, subsequent to the date of the audited financial report filed pursuant to this act, becomes aware of facts which might have affected his report, the Mayor shall take action prescribed in Volume 1, Section AU 561 of the Professional Standards of the American Institute of Certified Public Accountants.

Sec. 10. Report on significant deficiencies in internal controls.

New, Section
35-3209

In addition to the annual audited financial statements, each insurer shall furnish the Mayor with a written report prepared by the accountant describing significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. SAS No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies, known as reportable conditions, noted during a financial statement audit to the appropriate parties within an entity. No report shall be issued if the accountant does not identify significant deficiencies. If significant deficiencies are noted, the written report shall be filed annually by the insurer with the Mayor within 60 days after the filing of the annual audited financial statements. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if the actions are not described in the accountant's report.

Sec. 11. Accountant's letter of qualifications.

New, Section
35-3210

The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating that:

(1) The accountant is independent with respect to the insurer and conforms to the standards of his or her profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and the rules of the District of Columbia Board of Accountancy.

(2) The background and experience of the accountant in general is listed, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this act shall be construed as prohibiting the accountant from utilizing the staff he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

(3) The accountant understands the annual audited financial report and his or her opinion thereon will be filed in compliance with this act and that the Mayor will be relying on this information in the monitoring and regulation of the financial position of insurers.

(4) The accountant consents to the requirements of section 12 and that the accountant consents and agrees to make available for review by the Mayor, his or her designee or his or her appointed agent, the workpapers, as defined in section 12.

(5) The accountant is properly licensed by an appropriate state licensing authority.

(6) The accountant is in compliance with the requirements of section 6.

Sec. 12. Definition, availability, and maintenance of certified public accountant workpapers.

New, Section
35-3211

(a) For purposes of this act, the term "workpapers" are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to his or her examination of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his or her examination of the financial statements of an insurer and which support his or her opinion thereof.

(b) Every insurer required to file an audited financial report pursuant to this act shall require the accountant to make available for review by the Mayor's examiners all workpapers prepared in the conduct of his or her examination and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, or at any other reasonable place designated by the Mayor. The insurer shall require that the accountant retain the audit workpapers and communications until the Mayor has filed a report on examination covering the period of the audit but no longer than 7 years from the date of the audit report.

(c) The Mayor may make and retain photocopies of pertinent audit workpapers. The review by the Mayor's examiners shall be considered investigations and all working papers and communications obtained during the course of the investigations shall be afforded the same confidentiality as other examination workpapers generated by the Mayor.

Sec. 13. Exemptions and effective dates.

New, Section
35-3212

(a) Upon written application of any insurer, the Mayor may grant an exemption from compliance with this act if the Mayor finds, upon review of the application, that compliance with this act would constitute a financial or organizational hardship upon the insurer and the public interest would not be unduly compromised by the exemption. An exemption may be granted at any time, and from time to time for a specified period or periods. Within 10 days from a denial of an insurer's written request for an exemption from this act, the insurer may request in writing a hearing on its application for an exemption. The hearing shall be held in accordance with those rules pertaining to administrative hearing procedures as the Mayor may prescribe.

(b) Domestic insurers retaining a certified public accountant on the effective date of this act who qualify as independent shall comply with this act for the year ending December 31, 1993, and each year thereafter, unless the Mayor permits otherwise.

(c) Domestic insurers not retaining a certified public accountant, who qualifies as independent, on the effective date of this act shall meet the following schedule for compliance unless the Mayor permits otherwise:

- (1) As of December 31, 1993, file with the Mayor:
 - (A) Report of independent certified public accountant;
 - (B) Audited balance sheet; and
 - (C) Notes to audited balance sheet.

(2) For the year ending December 31, 1993, and each year thereafter, these insurers shall file with the Mayor all reports required by this act.

(d) Foreign insurers shall comply with this act for the year ending December 31, 1993, and each year thereafter, unless the Mayor permits otherwise.

Sec. 14. Canadian and British companies.

New, Section
35-3213

(a) In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by these companies with their domiciliary supervision authority duly audited by an independent chartered accountant.

(b) For these insurers, the letter required in section 5 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the Mayor pursuant to section 3 and shall affirm that the opinion expressed is in conformity with these requirements.

Sec. 15. Applicability.

New, Section
35-3214

(a) Every insurer, as defined in section 2, shall be subject to this act. Insurers having direct premiums written in the District of Columbia of less than \$1,000,000 in any calendar year and having less than 1,000 policyholders or certificateholders of directly written policies nationwide at the end of any calendar year shall be exempt from this act for that year, unless the Mayor makes a specific finding that compliance is necessary for the Mayor to carry out statutory responsibilities, except that insurers having assumed premiums pursuant to contracts or treaties of reinsurance of \$1,000,000 or more will not be so exempt.

(b) Foreign or alien insurers filing audited financial reports in another state pursuant to the other state's requirement of audited financial reports which has been found by the Mayor to be substantially similar to the requirements of this act are exempt from this act if:

(1) A copy of the audited financial report, report on significant deficiencies in internal controls, and the accountant's letter of qualifications which are filed with the other states are filed with the Mayor in accordance with the filing dates specified in sections 3, 10, and 11, respectively. Canadian insurers may submit accounts' reports as filed with the Canadian Dominion Department of Insurance.

(2) A copy of any notification of adverse financial condition report filed with the other states is filed with the Mayor within the time specified in section 9.

(c) This act shall not prohibit, preclude, or in any way limit the Mayor from ordering, conducting, or performing examinations of insurers under the rules and the practices and procedures of the District of Columbia.

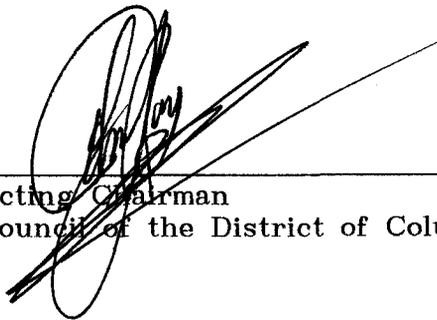
Sec. 16. Rules.

The Mayor shall, pursuant to title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code §§ 1-1501 through 1-1510), issue rules to implement the provisions of this act.

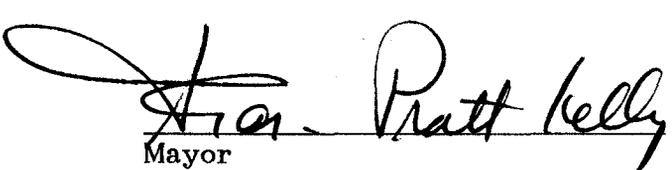
Note
New, Section
35-3201

Sec. 17. Effective date.

This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in either the District of Columbia Register, the District of Columbia Statutes-at-Large, or the District of Columbia Municipal Regulations.



Acting Chairman
Council of the District of Columbia



Mayor
District of Columbia

Approved: August 4, 1993 8



COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD TEN

RECORD OF OFFICIAL COUNCIL VOTE

Bill 10-127

DOCKET NO:

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted First Reading, 6-29-93

[X] VOICE VOTE: Approved

Recorded vote on request

Barry and Chavous

Absent:

[] ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. and 15 rows of member names (CHMN. RAY, BARRY, BRAZIL, CHAVOUS, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, SMITH, JR., THOMAS, SR.)

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Signature of Secretary to the Council

Secretary to the Council

July 21, 1993 Date

[X] Item on Consent Calendar

[X] ACTION & DATE: Adopted Final Reading, 7-13-93

[X] VOICE VOTE: Approved

Recorded vote on request

Chavous

Absent:

[] ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. and 15 rows of member names (CHMN. RAY, BARRY, BRAZIL, CHAVOUS, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, SMITH, JR., THOMAS, SR.)

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Signature of Secretary to the Council

Secretary to the Council

July 21, 1993 Date

[] Item on Consent Calendar

[] ACTION & DATE:

[] VOICE VOTE:

Recorded vote on request

Absent:

[] ROLL CALL VOTE: - RESULT

Table with 15 columns: COUNCIL MEMBER, AYE, NAY, N.V., A.B. and 15 rows of member names (CHMN. RAY, BARRY, BRAZIL, CHAVOUS, CROPP, EVANS, JARVIS, LIGHTFOOT, MASON, NATHANSON, SMITH, JR., THOMAS, SR.)

X - Indicates Vote A.B. - Absent N.V. - Present, not voting

CERTIFICATION RECORD

Secretary to the Council

Date