ENROLLMENT(S)

(5)

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 11-245

"Hospital and Medical Services Corporation Regulatory Act of 1996".

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. 11-780, on first and second readings, November 7, 1996 and December 3, 1996, respectively. Following the signature of the Mayor on December 24, 1996, pursuant to Section 404(e) of "the Act", and was assigned Act No. 11-505 and published in the February 28, 1997, edition of the D.C. Register (Vol. 44 page 1158) and transmitted to Congress on January 24, 1997 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 11-245, effective April 9, 1997.

CHARLENE DREW JARVIS
Chairman Pro Tempore of the Council

Dates Counted During the 30-day Congressional Review Period:

Feb. 3,4,5,6,7,10,11,12,13,24,25,26,27,28

Mar. 3,4,5,6,10,11,12,13,14,17,18,19,20,21

Apr. 7,8

ENROLLED ORIGINAL

AN ACT

Codification District of Columbia Code 1997 Supp.

D.C. ACT 11-505

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DECEMBER 24, 1996

To provide for the licensure and regulation of hospital and medical service corporations.

New Chapter 47, Title 35

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Hospital and Medical Services Corporation Regulatory Act of 1996".

Sec. 2. Definitions.

New Section 35-4701

For the purposes of this act, the term:

(1) "Contractholder" means a person entering into a subscriber contract with a corporation.

(2) "Corporation" means a nonstock, nonprofit corporation which is subject to regulation and licensing under this act and which offers subscriber contracts as part of a hospital service plan, a medical service plan, or both.

(3) "Domestic corporation" means a corporation organized under the laws of the District, or formed or organized under an act of Congress.

(4) "Hospital service plan" means a plan for providing hospital and related services by hospitals and others which entitles a subscriber to certain hospital and related services, or to benefits and indemnification for such services.

(5) "Mayor" means the Mayor of the District of Columbia or the Mayor's designated agent.

(6) "Medical service plan" means a plan for providing medical services and related services by physicians and others which entitles a subscriber to certain medical and related services, or to benefits and indemnification for such services.

(7) "Plan" means a hospital service plan, a medical service plan, or a combination of the two.

(8) "Subscriber" means any person entitled to benefits under the terms and conditions of a subscriber contract.

(9) "Subscriber contract" means a written group or individual contract which is issued to a contractholder by a corporation which provides for subscriber participation in a

hospital service plan, a medical service plan, or a combination of the two.

(10) "Subsidiary" means an affiliate controlled by a corporation directly or indirectly through 1 or more intermediaries.

(11) "Surplus" means the amount by which all admitted assets of the corporation exceed its liabilities, inclusive of the reserves required pursuant to section 10.

New Section 35-4702

Sec. 3. Exclusivity of provisions.

A corporation organized under the laws of the District of Columbia, or any state, or chartered by act of the Congress of the United States and issuing subscriber contracts in the District of Columbia shall be governed by this act and shall be exempt from all other provisions of District of Columbia law governing insurance, except as specifically referred to herein. No insurance law hereafter enacted by the District of Columbia shall be deemed to apply to such a corporation unless it is specifically referred to therein or unless such law represents an amendment or replacement of an insurance law made applicable to such corporations pursuant to section 4. Any regulations promulgated by the Mayor to implement the provisions of any law made applicable to such a corporation by this act shall also apply to such a corporation.

New Section 35-4703

Sec. 4. Applicability of other provisions.

(a) A corporation governed by this act shall also be subject to the following other provisions of District of Columbia insurance law, including any amendments or replacements thereof hereafter enacted:

(1) Sections 645, 646, and 651 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1289; D.C. Code §§ 35-101, 35-102, and 35-106), referring to general provisions of insurance regulation;

(2) Section 1 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and eleven, and for other purposes, approved May 18, 1910 (36 Stat. 379; D.C. Code § 35-107), referring to general provisions of insurance regulation;

(3) Sections 657 and 657a of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1294; D.C. Code §§ 35-203 and 35-204), referring to delivery (with each policy issued) of a copy of the insured's application, and to the principal office, books, and records of insurance companies;

(4) Sections 2 through 11 of the Prohibition of Discrimination in the Provision of Insurance Act of 1986, effective August 7, 1986 (D.C. Law 6-132; D.C. Code § 35-221 *et seq.*), referring to prohibition against discrimination in the provision of insurance on the basis of an AIDS test;

(5) Sections 1 and 2 of Chapter I of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1127; D.C. Code §§ 35-301 and 35-302), referring to the applicability of, and definitions in, the Life Insurance Act;

(6) Sections 1, 2, 4, 6, 9, 10, 11(b), 12 through 18, 23, and 25 through 33 of Chapter II of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1129; D.C. Code §§ 35-401, 35-402, 35-403, 35-405, 35-408, 35-409, 35-410(b), 35-411 through 417, 35-422 and 35-424 through 432), governing, in part, fees chargeable to, certificates of authority for, publication of false statements by, and licensing of agents acting for life insurance companies;

(7) Sections 13 through 15, 18 and 24 through 30, Chapter V of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1173; D.C. Code §§ 35-518 through 520, 35-524, and 35-530 through 536), referring, in part, to the prohibitions against discrimination, securities, operations, and policy provisions restricting access to optometrists and psychologists by life insurance companies;

(8) Sections 1 through 4, 6, 7, 9, 27, 29, 30, 35, 38, 39, and 42 through 51 of Chapter III of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1143; D.C. Code §§ 35-601 through 604, 35-606, 35-607, 35-609, 35-627, 35-629, 35-630, 35-634, 35-636, 35-637, and 35-640 through 649), referring, in part, to articles of incorporation, election of officers, permissible investments, bookkeeping, and consolidation/merger of domestic life insurance companies;

(9) Sections 1 and 3 of Chapter VI of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1176; D.C. Code §§ 35-801 and 35-802), governing penalties for violations and severability with respect to the provisions cited in paragraphs 5 through 8 of this subsection;

(10) Sections 2 through 6 of the Newborn Health Insurance Act of 1979, effective October 20, 1979 (D.C. Law 3-33; D.C. Code §§ 35-1101-1105), requiring that certain individual and group health insurance policies cover a newborn child from the moment of birth;

(11) Sections 2 through 17 of the Life and Health Insurance Guarantee Association Act of 1992, effective July 22, 1992 (D.C. Law 9-129; D.C. Code § 35-191 *et seq.*), creating the District of Columbia Life and Health Insurance Guarantee Association and authorizing it to assume, guarantee, and reinsure any policy issued by a member insurer which becomes potentially unable to fulfill its contractual obligations;

(12) Sections 2 through 12 of the Drug Abuse, Alcohol Abuse and Mental Illness Insurance Coverage Act of 1986, effective February 28, 1987 (D. C. Law 6-195; D.C. Code § 35-2301 *et seq.*), requiring certain group and individual health insurance policies to provide coverage for the medical and psychological treatment of alcohol abuse, drug abuse, and mental illness;

(13) Sections 2 through 4 of the District of Columbia Cancer Prevention Act of 1990, effective March 7, 1991 (D.C. Law 8-225; D.C. Code § 25-2401 *et seq.*), requiring a group or individual health insurance policy issued more than 120 days after March 7, 1991, to cover certain preventive cancer screens for women;

(14) Sections 2 through 11 of the Medicare Supplement Insurance Minimum Standards Act of 1992, effective July 22, 1992 (D.C. Law 9-133; D.C. Code § 35-2611 *et seq.*), authorizing the Mayor to issue regulations establishing specific standards for Medicare

supplement insurance policies;

(15) Sections 2 through 11 of the Insurance Regulatory Trust Fund Act of 1993, effective October 21, 1993 (D.C. Law 10-40; D.C. Code § 35-2701 *et seq.*), establishing the Insurance Regulatory Trust Fund and requiring each insurer doing business in the District to deposit in the Fund a percentage amount to be used to defray expenses of the Insurance Administration;

(16) Sections 2 through 58 of the Insurers Rehabilitation and Liquidation Act of 1993, effective October 15, 1993 (D.C. Law 10-35; D.C. Code § 35-2801 *et seq.*), authorizing and regulating delinquency proceedings by the Commissioner of Insurance and Securities in the Superior Court of the District of Columbia against certain insurers;

(17) Sections 2 through 7 of the Managing General Agents Act of 1993, effective October 21, 1993 (D.C. Law 10-41; D.C. Code § 35-3001 *et seq.*), establishing licensing and other requirements for managing general agents of certain insurers;

(18) Sections 2 through 11 of the Reinsurance Intermediary Act of 1993, effective October 21, 1993 (D.C. Law 10-47; D.C. Code § 35-3101 *et seq.*), establishing licensing and other requirements for the assumed reinsurance business;

(19) Sections 2 through 15 of the Annual Audited Financial Reports Act of 1993, effective October 21, 1993 (D.C. Law 10-48; D.C. Code § 35-3201 *et seq.*), requiring insurers to file with the Mayor an accountant-prepared annual audit and other reports;

(20) Sections 2 through 4 of the Law on Credit for Reinsurance Act of 1993, effective October 15, 1993 (D.C. Law 10-36; D.C. Code §§ 35-3301 through 3303), governing the circumstances under which a domestic insurer may obtain a credit for reinsurance ceded to another insurer;

(21) Sections 2 through 4 of the Required Annual Financial Statements and Participation in the NAIC Insurance Regulatory Information System Act of 1993, effective October 21, 1993 (D.C. Law 10-42; D.C. Code § 35-3401 *et seq.*), governing an insurer's filing with the Mayor and the National Association of Insurance Commissioners ("NAIC") of an annual financial statement;

(22) Sections 2 through 4 of the Standards to Identify Insurance Companies Deemed to be in Hazardous Financial Condition Act of 1993, effective October 21, 1993 (D.C. Law 10-43; D.C. Code §§ 35-3501-3503), establishing standards for determining whether the continued operation of any insurer transacting business in the District might be hazardous to creditors, the general public, or policyholders, and authorizing the Mayor to order certain corrective actions after making such a determination;

(23) Sections 2 through 8 of the Law on Examinations Act of 1993, effective October 21, 1993 (D.C. Law 10-49; D.C. Code § 35-3601 *et seq.*), governing examinations by the Mayor or any person subject to the District's insurance laws;

(24) Sections 2 through 16 of the Holding Company System Act of 1993, effective October 21, 1993 (D.C. Law 10-44; D.C. Code § 35-3701 *et seq.*), governing certain

acquisition, investment, security issuance, and other activities in the insurance industry, requiring the registration of insurers that are part of an insurance holding company system, regulating transactions within such a system, regulating the management of domestic insurers in such a system, and authorizing the Mayor to conduct examinations of insurers that are part of such a system;

(25) Section 2 of the Life Insurance Actuarial Opinion of Reserves Act of 1993, effective October 21, 1993 (D.C. Law 10-50; D.C. Code § 35-3801), requiring the submission to the Mayor of an annual opinion by a qualified actuary; and

(26) Sections 1 through 11 of Title 11 of the District of Columbia Revenue Act of 1937, Approved August 17, 1937 (50 Stat. 675; D.C. Code § 47-2601 *et seq.*), requiring an annual license or certificate of authority from the Commissioner of Insurance and Securities for each insurer doing business in the District, requiring the filing of an annual statement by each such insurer, and imposing a tax on each such insurer's at-risk business in the District.

(b) Reference in the provisions cited in subsection (a) of this section to "insurers", "companies", or similar terms shall be deemed to include reference to a corporation governed by this act.

Sec. 5. Application for certificate of authority. **New Section 35-4704**

(a) No corporation subject to the provisions of this act, whether organized pursuant to the laws of the District of Columbia, or of any state, or by act of the Congress of the United States, shall issue subscriber contracts until the Mayor has authorized it to do so by issuance of a certificate of authority.

(b) Application for such certificate of authority shall be made on forms to be supplied by the Mayor containing such information as the Mayor shall deem necessary. Each application for such certificate of authority, including each application for renewal, shall contain payment of a fee of $200 to the District of Columbia, which shall be collected by the Commissioner of Insurance and Securities and shall be accompanied by copies of the following documents, duly certified by an executive officer of such corporation:

(1) Articles of incorporation, with all amendments thereto;

(2) Bylaws, with all amendments thereto;

(3) Each contract form executed or proposed to be executed by and between the corporation and any hospital, physician, or other medical service provider embodying the terms under which hospital and medical service is to be furnished to subscribers.

(4) Each form of subscriber contract issued or proposed to be issued, together with a table of rates charged, or proposed to be charged, including actuarial justifications, to subscribers;

(5) A financial statement of the corporation, which shall include the amount of each contribution paid or agreed to be paid to the corporation for working capital, the name or names of each contributor, and the terms of each contribution;

(6) A risk-based capital report prepared in the manner prescribed by any risk-based capital ("RBC") regulations for hospital and medical services corporations promulgated by the Mayor;

(7) A list of the names and addresses and biographical information for the members of the board of directors, or board of trustees, and for the officers of the corporation;

(8) A statement of the geographical area in which the corporation proposes to operate; and

(9) Any other information or documents the Mayor deems necessary to assure compliance with this act.

(c) In addition, if the applicant is a foreign corporation:

(1) It shall provide the Mayor with an instrument authorizing service of process on the Mayor in accordance with section 24 of Chapter II of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1137; D.C. Code § 35-423);

(2) It shall satisfy the Mayor that the corporation is duly organized under the laws of the state under whose laws it professes to be organized, and is authorized to do the business it is transacting or proposes to transact; and

(3) It shall satisfy the Mayor that its funds are invested in accordance with the laws of its domicile and in securities or property which afford a degree of financial security substantially equal to that required for a corporation organized under the laws of the District of Columbia, and that it has a surplus at least equal to that required to be maintained by corporations authorized to do business pursuant to the provisions of this act.

Sec. 6. Requirements for issuance of certificate of authority.

New Section 35-4705

The Mayor shall issue a certificate of authority to each applicant upon the payment of the $200 fee provided for in section 5(b), and upon being satisfied that:

(a) The applicant has been organized bona fide for the purpose of establishing, maintaining, and operating a hospital service plan, a medical service plan, or combination of the two;

(b) Each contract executed, or proposed to be executed, by the applicant and any hospital, physician, or other medical provider for the furnishing of hospital or medical services to subscribers obligates, or will when executed obligate, each hospital, physician, or other similar service provider which is a party thereto to render the service to which each subscriber may be entitled under the terms and conditions of the various subscriber contracts issued, or proposed to be issued, by the applicant;

(c) Each subscriber contract issued, or proposed to be issued, in the District of Columbia is in a form approved by the Mayor, and that the rate charged, or proposed to be charged, for each form of such contract is approved by the Mayor as not being excessive, inadequate, or unfairly discriminatory in relation to the services and benefits offered; provided, that rates for experience rated groups need not, in accordance with section 9(c), be filed with the

Mayor;

(d) The applicant has a surplus of an amount equal to or greater than that required under section 7, or the amount determined to be necessary pursuant to application of any risk-based capital regulations for hospital and medical services corporations promulgated by the Mayor; and

(e) The applicant has made provision for compliance with the open enrollment requirements of section 15, including the providing of other public services in the District of Columbia as required in section 15.

New Section 35-4706

Sec. 7. Surplus requirements.

(a) At the time of issuance of a certificate of authority under this act and at all times thereafter until risk-based capital regulations for hospital and medical services corporations are promulgated, a corporation must possess surplus in an amount which is the greater of $5,000,000 or 8.0% of the total amount of premiums for insured risk received by the corporation in the preceding calendar year. The total amount of premiums for insured risk shall not include premiums collected for federal health benefit programs that have a separate reserve fund held by the federal government.

(b) The surplus requirement of 8.0% shall be phased-in following the effective date of this act as follows:

(1) Year one - 40% of the surplus requirement in subsection (a) of this section;

(2) Year two - 60% of the surplus requirement in subsection (a) of this section;

(3) Year three - 80% of the surplus requirement in subsection (a) of this section; and

(4) Year four - 100% of the surplus requirement in subsection (a) of this section.

(c) The Mayor shall have the authority to require the differentiation of the corporation's activities into risk and nonrisk business for the purpose of determining the corporation's income that is derived from premiums for insured risk and from other sources.

(d) Notwithstanding the provisions of subsection (a) of this section, at the time of issuance of a certificate of authority under this act and at all times thereafter, a corporation shall be subject to the provisions of any risk-based capital regulations for hospital and medical services corporations promulgated by the Mayor, and must maintain at all times such surplus as is determined to be necessary under those regulations.

New Section 35-4707

Sec. 8. Filing of provider contracts.

(a) A corporation holding a certificate of authority under this act may enter into contracts with licensed hospitals, licensed physicians, and other duly licensed medical services providers.

(b) A copy of each contract form that a corporation, referred to in subsection (a) of this section, has with licensed hospitals, licensed physicians, and other duly licensed medical

services providers shall be filed with the Mayor.

New Section 35-4708

Sec. 9. Filing of subscriber contract forms and rates.

(a) Contract form filings.

(1) The form and content of all subscriber contracts between corporation and its contractholders issued in the District of Columbia, including any group certificates and any riders, endorsements, amendments, or other forms made a part of the subscriber contract, shall, at all times, be subject to the prior approval of the Mayor.

(2) The Mayor shall disapprove a proposed form of subscriber contract if the form contains provisions which are unjust, unfair, inequitable, inadequate, misleading, or deceptive, which encourage misrepresentation of the coverage, or which are otherwise not in compliance with applicable provisions of this act.

(3) Each subscriber contract, group certificate, or other contract form shall plainly state the services, benefits, and indemnification to which the subscriber is entitled as well as the services, benefits, and indemnification to which the subscriber is not entitled.

(4) Each proposed form of a subscriber contract shall be on file for a waiting period of 60 days before it becomes effective. When, in the Mayor's opinion, a filing is not accompanied by the information needed to support it and the Mayor does not have sufficient information to determine whether the filing meets the requirements of this section, a corporation shall be required to furnish the needed information. In such event the waiting period shall be suspended and shall recommence as of the date the information is furnished. Upon written application by the corporation, the Mayor may authorize a filing which the Mayor has reviewed to become effective before the expiration of the waiting period or any extension thereof, or at any later date. A filing shall be deemed approved unless disapproved by the Mayor within the waiting period or any extension thereof requested by the corporation.

(b) Rate filings for individual subscriber contracts.

All rates for individual subscriber contracts issued in the District of Columbia shall be subject to the prior approval of the Mayor. Each proposed rate filing shall be on file for a waiting period of 60 days before it becomes effective. When, in the Mayor's opinion, a rate filing is not accompanied by the information needed to support it and the Mayor does not have sufficient information to determine whether the rate filing meets the requirements of this section, a corporation shall be required to furnish the needed information. In such event, the waiting period shall be suspended and shall recommence as of the date the information is furnished. Upon written application by the corporation, the Mayor may authorize a rate filing which the Mayor has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed approved unless disapproved by the Mayor within the waiting period or any extension thereof requested by the corporation. All approved rate filings for individual subscriber contracts submitted in other jurisdictions shall be filed with the Mayor for information purposes only.

(c) Rate filings for group subscriber contracts.

All rates for group subscriber contracts, other than experience rated groups, issued in the District of Columbia shall be filed with the Mayor no later than the date on which a corporation proposes to make such rates effective. The rate filing shall be subject to review and disapproval by the Mayor for a period of 60 days after the filing date. If not disapproved before the expiration of the review period or any extension thereof requested by the corporation, the filing shall be deemed approved. Any disapproval under this subsection shall be applied retrospectively to the date the corporation made such rates effective. Upon application by the corporation, the Mayor may affirmatively approve a filing prior to the end of the review period. All approved rate filings for group subscriber contracts, other than experience rated groups, submitted in other jurisdictions shall be filed with the Mayor for information purposes only.

(d) Contract form and rate filings generally.

(1) Application for approval shall be made to the Mayor in the format, and with the information, that the Mayor requires.

(2) The Mayor may, at any time, require any corporation issued a certificate of authority under this act to demonstrate that its filings, including the terms and provisions of its subscriber contract forms, its rates, and its method for setting rates, are in compliance with this section, notwithstanding that the filings then in effect had previously been approved by the Mayor. Any subscriber contract forms and rates previously approved by the Mayor, but subsequently disapproved under this section, shall be considered disapproved on a prospective basis only from the date of such notice of disapproval, unless the corporation made a material misrepresentation in its contract form or rate filings.

(3) If at any time subsequent to the applicable waiting or review period provided for in this section, the Mayor finds that a filing does not meet the requirements of this section, the Mayor shall issue an order to the filer specifying in what respects the Mayor finds that the filing fails to meet the requirements of this section, and stating when, within a reasonable period thereafter, the filing shall be no longer effective. The order shall not affect any subscriber contract, group certificate, or other contract made or issued prior to the expiration of the period set forth in the order. However, the Mayor may, prior to issuing the order and if requested by the filer, hold a hearing upon not less than 10 days written notice to the filer specifying the matters to be considered at the hearing.

(e) Rate filings generally.

(1) Rate filings shall be inclusive of all rates, rating plans, and other documents utilized by a corporation to determine rates.

(2) Rates shall not be excessive, inadequate, or unfairly discriminatory in relation to the services and benefits offered.

(3) In determining whether to disapprove a rate filing, the Mayor shall give due consideration to past and prospective loss experience within and outside the District of Columbia, to underwriting practice and judgment to the extent appropriate, to a reasonable

margin for surplus needs, to past and prospective expenses both nationwide and within the District of Columbia, and to all other relevant factors within and outside the District of Columbia. In establishing the rates to be charged individuals with open enrollment subscriber contracts, including individual conversion subscriber contracts, the revenue which would have been otherwise collected by the District of Columbia government through the imposition of the 1% premium tax pursuant to section 15(j), but which a corporation has contributed to a Rate Stabilization Fund in accordance with section 15(j)(1), shall be credited by the corporation to the benefit of this class of subscribers in an amount which assures competitive rates.

(f) Transition provision for contract forms and rates.

(1) As to any corporation heretofore existing and operating on the effective date of this act, and subject to section 24, all subscriber contracts, group certificates, and other contracts issued in the District of Columbia after the effective date of this act shall be on forms that have been filed and approved under this act. The requirement of this section shall not affect the validity of subscriber contracts, group certificates, and other contracts issued in the District of Columbia by such a corporation which are outstanding on the effective date of this act, and have not previously been filed with and approved by the Mayor, but these contracts shall be replaced, at the next contract anniversary date following the effective date of this act, by forms filed and approved under this act.

(2) As to any corporation heretofore existing and operating on the effective date of this act, and subject to section 24, all rates applied to subscriber contracts after the effective date of this act shall be such rates as have been filed and approved under this act. The requirements of this section shall not affect the validity of rates applied to subscriber contracts issued by such a corporation which are outstanding on the effective date of this act, and have not previously been filed with and approved by the Mayor, but these rates shall be replaced, at the next contract anniversary date following the effective date of this act, by rates filed and approved under this act.

(g) A corporation whose proposed form of subscriber contract or proposed contract rate has been disapproved by the Mayor may contest the Mayor's action in accordance with the procedures of section 23.

Sec. 10. Reserves.

New Section 35-4709

(a) Taking into consideration the nature of the policies issued by the corporation, a corporation shall establish and maintain pro rata gross unearned premium reserves, reserves for incurred but unpaid claims (both reported and unreported), reserves for expenses related to settlement of such claims, and other reserves as required for proper reporting of its financial condition or as required under the form of financial statements required of the corporation.

(b) The reserves required under subsection (a) of this section constitute a liability of the corporation in a determination of its financial condition.

New Section 35-4710

Sec. 11. Investments.

Notwithstanding any provision of section 35 of Chapter III of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1152; D.C. Code § 35-634), as made applicable by section 4(8), and notwithstanding any other provision of this act:

(1) Without the Mayor's prior written consent, a corporation's aggregate investments in real estate pursuant to section 35(14)(a) through (f) of Chapter III of the Life Insurance Act (D.C. Code § 35-634(d)(1)(A) through (F)), shall not at any time exceed 20% of the amount of the corporation's admitted assets as reported on the corporation's annual financial statement most recently filed with the Mayor.

(2) A corporation's investments in real estate pursuant to section 35(14)(a) through (f) of Chapter III of the Life Insurance Act (D.C. Code § 35-634(d)(1)(A) through (F)), shall in no event exceed the actual cost plus the capitalized value (less normal depreciation) of the permanent improvements.

(3) For real estate owned by a corporation pursuant to section 35(14)(a) of Chapter III of the Life Insurance Act (D.C. Code § 35-634(d)(1)(A)) on the effective date of this act, the corporation may, as its option, determine admitted asset value in accordance with an appraisal most recently conducted prior to the effective date of this act; provided, that the appraisal is acceptable to the Mayor. The difference between the admitted asset value as so identified and the book value (equal to the historical cost, less the value of encumbrances and accumulated depreciation) shall be accounted for as an unrealized gain and credited to reserves and unassigned funds and shall be amortized and charged to reserves and unassigned funds. Thereafter, such real estate shall be valued, for purposes of the financial statements required by section 2 of the Required Annual Financial Statements and Participation in the NAIC Insurance Regulatory Information Systems Act of 1993, effective October 21, 1993 (D.C. Law 10-42; D.C. Code § 35-3401), at such appraised value, less accumated amortization, plus the capitalized value of permanent improvements, less normal depreciation. Normal depreciation on the capitalized value of permanent improvements shall be charged as an expense in the underwriting and investment exhibit to the corporation's annual financial statement.

(4) A corporation shall not invest in or otherwise acquire any affiliate or subsidiary, as those terms are defined in section 2 of the Holding Company System Act of 1993, effective October 21, 1993 (D.C. Law 10-44; D.C. Code § 35-3701), except in accordance with the following:

(A) The business of the affiliate or subsidiary must be directly related to the operation of the corporation or the administration of a health benefits program.

(B)(i) The corporation must submit a statement of proposed action to the Mayor before the corporation:

(I) Creates, invests in, or otherwise acquires any affiliate or subsidiary; or

(II) Alters the legal structure, purpose, or ownership of the corporation or any affiliate or subsidiary of the corporation.

(ii) The statement of proposed action required under this subparagraph shall be filed by the corporation not less than 30 days prior to the effective date of the proposed action.

(iii) The statement of proposed action shall be deemed approved unless disapproved by the Mayor within the 30-day waiting period or any extension thereof requested by the corporation.

(iv) The corporation shall not be required to submit a statement of proposed action to the Mayor under this subparagraph when the proposed action is required to be reported to the Mayor pursuant to the Holding Company System Act of 1993, effective October 21, 1993 (D.C. Law 10-44; D.C. Code § 35-3701 *et seq.*).

Sec. 12. Surplus notes.

New Section 35-4711

(a) A domestic corporation may borrow or assume a liability for the repayment of a sum of money under a written agreement which provides that the loan or advance shall be repaid only out of surplus of the corporation in excess of such minimum surplus as is stipulated in and by the agreement and if the surplus of the corporation after such payment would meet or exceed the level of surplus the corporation is required to maintain by the Mayor under the laws or regulations of the District of Columbia. The rate of interest specified in such an agreement may be adjusted no more frequently than annually to provide for a rate not exceeding the one-year treasury bill rate plus 3% at the time of adjustment. At the time the loan or advance is made, the interest rate shall not exceed the one-year treasury bill rate plus 3% annum.

(b) Subject to approval by the Mayor, the interest rate on all loans or advances existing on the effective date of this act can be amended to the rate as permitted in this section with the mutual agreement of the corporation and the lender.

(c) A domestic corporation shall, before entering into an agreement for a loan or advance permitted under this section, file with the Mayor a statement of the purpose of the loan or advance and a copy of the proposed agreement. The Mayor shall disapprove any proposed agreement for a loan or advance if the Mayor finds that the loan or advance is unnecessary or excessive for the purpose intended; that the terms of the agreement are not fair and equitable to the parties and to other lenders, if any, to the corporation; that the information so filed by the corporation is inadequate; or that the terms of the agreement are not otherwise in compliance with this section.

(d) Any loan or advance to a domestic corporation shall be repaid by the corporation when, and to the extent, no longer reasonably necessary for the purpose originally intended; provided, that no repayment of such a loan or advance shall be made unless approved in advance by the Mayor.

(e) Nothing in this section shall be construed to mean that a corporation may not borrow

money otherwise than by a loan or advance, but the amount so borrowed with accrued interest thereon shall be carried by the corporation as a liability.

New Section 35-4712

Sec. 13. Group subscriber contract standard provisions.

No group subscriber contract shall be issued in the District of Columbia by a corporation unless it contains in substance the following provisions, or provisions which in the opinion of the Mayor are more favorable to the subscribers, or at least as favorable to the subscribers and more favorable to the group contractholder; except, that if any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of contract, the corporation, with the approval of the Mayor, shall omit from such contract any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the contract consistent with the coverage provided by the contract:

(1) A provision that the group contractholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the contract shall continue in force, unless the group contractholder has given the corporation written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the contract; except, that the contract may provide that the contractholder shall be liable to the corporation for the payment of a pro rata premium for the time the contract was in force during such grace period;

(2) A provision that the validity of the contract shall not be contested except for nonpayment of premiums, fraudulent misstatements, noncompliance with contractual provisions and noncompliance with eligibility requirements after it has been in force for 2 years from its date of issue;

(3) A provision that no statement made by any subscriber under the contract relating to insurability may be used in contesting the validity of the coverage with respect to which such statement was made after the subscriber's coverage has been in force for a period of 2 years nor unless it is contained in a written instrument signed by the subscriber, except that this provision need not preclude the assertion at any time of defenses based upon the subscriber's lack of eligibility for coverage under the contract or upon other provisions in the contract unrelated to insurability;

(4) A provision that a copy of the application, if any, of the contractholder shall be attached to the contract when issued, that all statements made by the contractholder or by the subscriber shall be deemed representations and not warranties, and that no statement made by any subscriber may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or, in the event of the death or incapacity of the subscriber, to the individual's beneficiary or personal representative;

(5) A provision setting forth the conditions, if any, under which the corporation reserves the right to require a person eligible for coverage to furnish evidence of individual

insurability satisfactory to the corporation as a condition to part or all of the individual's coverage;

(6) A provision that the corporation shall issue to the contractholder for delivery to each subscriber a certificate setting forth a statement as to the coverage to which that person is entitled, to whom benefits are payable, and a statement as to any family member's or dependent's coverage;

(7) A provision that written notice of a claim must be given to the corporation within 15 months after the occurrence or commencement of the date of a service covered by the contract and that failure to give notice within such time shall not invalidate or reduce any claim if it is shown that the contractholder was legally incapacitated prior to the expiration of the 15-month claim filing period;

(8) A provision that the corporation shall furnish to the subscriber under the contract, or to the contractholder for delivery to the subscriber, such forms as are usually furnished by it for filing a claim; and that if such forms are not furnished before the expiration of 20 days after the corporation received notice of any claim under the contract, the person making the claim shall be deemed to have complied with the claims filing requirements of the contract;

(9) A provision that all benefits and indemnification payable under the contract must be paid not more than 60 days after receipt of all necessary information and documentation or proof;

(10) A provision that the corporation has the right to examine the person for whom a claim is so filed under the contract as often as it may reasonably require during the pendency of the claim and also has the right to conduct an autopsy in case of death if doing so is not prohibited by law;

(11) A provision that no action at law or in equity may be brought to recover on the contract before the expiration of 60 days from the date a claim has been filed in accordance with the claim filing requirements of the contract or after a period of 3 years from the last date on which a claim is required to be filed under the claim filing requirements of the contract; and

(12) A provision that allows subscribers who leave such groups to convert, without evidence of insurability, to an individual subscriber contract providing an adequate level of coverage and in accordance with any standards the Mayor prescribes pursuant to section 15(g).

Sec. 14. Reports.

New Section 35-4713

(a) In addition to the annual statement required by section 2 of the Required Annual Financial Statements and Participation in the NAIC Insurance Regulatory Information System Act of 1993, effective October 21, 1993 (D.C. Law 10-42; D.C. Code § 35-3401), the Mayor:

(1) May require each corporation to file on a quarterly or other basis any additional reports, exhibits, or statements the Mayor considers necessary to furnish all

information concerning the condition, solvency, experience, transactions, or affairs of the corporation. The Mayor may establish deadlines for submitting any additional reports, exhibits, or statements and may require their verification by any officer or officers of the corporation the Mayor designates; and

(2) Shall require each corporation to file annually, on or before June 1, a report, signed by 2 of its principal officers, showing:

(A) The number of the District of Columbia contractholders and subscribers by the following type of contract or its equivalent:

(i) Individual, open enrollment;

(ii) Individual conversion subscribers;

(iii) Group subscribers, as defined by regulation;

(iv) Medigap and Medicare supplements; and

(v) Associations;

(B) Total subscriber income, benefit, and indemnification payments for the types of contracts listed in paragraph (1) of this subsection, with a specific breakdown by type of contract if requested by the Mayor; and

(C) Expenditures for providing public services, in addition to open enrollment, in the District of Columbia.

Sec. 15. Open enrollment.

New Section 35-4714

(a) A corporation issued a certificate of authority under this act shall make available to citizens of the District of Columbia an open enrollment program under the terms set forth in this section.

(b) As used in this section, the term:

(1) "Comprehensive individual subscriber contracts" means subscriber contracts, conforming to the requirements of subsection (g) of this section, which are issued to provide basic hospital and medical services, or to provide benefits and indemnification for such services.

(2) "Open enrollment subscriber contracts" means comprehensive individual subscriber contracts issued pursuant to an open enrollment program by a corporation which has a certificate of authority under this act and provides coverage to individuals.

(c) A corporation's open enrollment program shall provide for the issuance of open enrollment subscriber contracts without imposition by the corporation of underwriting criteria whereby coverage is denied or subject to cancellation or nonrenewal, in whole or in part, because of an individual's age, health history, medical history, employment status, or, if employed, industry or job classification.

(d) A corporation's open enrollment program shall make open enrollment subscriber contracts available to any individual residing in the District of Columbia, except, that this requirement shall not apply to any individual who is eligible for coverage as an employee of an employer which provides, in whole or in part, basic hospital and medical services, benefits, and

indemnification coverage to its employees.

(e) A corporation's open enrollment program shall be available on a year-round basis.

(f) A corporation must prominently advertise the availability of its open enrollment subscriber contracts quarterly in a newspaper or newspapers of general circulation throughout the District of Columbia. The content and format of such advertising shall be filed with the Mayor at least 60 days prior to use.

(g) The Mayor may prescribe minimum standards to govern the contents of comprehensive individual subscriber contracts issued pursuant to this section. Such minimum standards shall ensure that these contracts provide hospital and medical services, or benefits and indemnification for a comprehensive range of health care needs without qualifying exclusions that fail to protect the subscriber under normal circumstances. Such minimum standards shall also ensure that the option of obtaining comprehensive individual subscriber contract coverage is made available to all individuals included within the definition of "open enrollment subscriber contracts" in subsection (b)(2) of this section.

(h) The Mayor may prescribe minimum standards specifically to govern the content of comprehensive individual subscriber contracts issued to individuals who have converted from group subscriber contracts to individual coverage because of termination of the individual's eligibility for group coverage.

(i) A corporation issued a certificate of authority under this act shall provide other public services in the District of Columbia consisting of health-related educational support for residents of the corporation's service area who, based upon such educational support, may experience a lesser need for hospital and medical services, or benefits and indemnification for such services.

(j) As long as a corporation maintains an open enrollment program as required by this section, the rate of tax applied to the corporation's net subscriber premium receipts from District of Columbia risks ("premium tax rate") shall be 1%, rather than the percentage otherwise applicable pursuant to section 6 of title II of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 675; D.C. Code § 47-2608) ("Revenue Act of 1937").

(1) A corporation may elect to pay the 1% premium tax rate or contribute the amount otherwise so paid to a separately established Rate Stabilization Fund. The Rate Stabilization Fund shall be used solely to subsidize open enrollment contracts to assure competitive rates. The corporation shall provide documentation to the Mayor of the existence of a Rate Stabilization Fund and identify the amount of the subsidy from the Fund for open enrollment rates in the rate filings required by section 9.

(2) A corporation's annual statement pursuant to section 2 of the Required Annual Financial Statements and Participation in the NAIC Insurance Regulatory Information System Act of 1993, effective October 21, 1993 (D.C. Law 10-42; D.C. Code § 35-3401), shall include documentation of its efforts to substantiate the need for a 1% premium tax rate as an incentive to maintain an open enrollment program. Such documentation shall include the

number of subscribers participating in its open enrollment program, the premiums it charges for comprehensive individual subscriber contracts, a description of its efforts to provide the public services required by subsection (i) of this section, and such other documentation as the Mayor may require. If the Mayor finds that the documentation provided by a corporation does not substantiate the 1% premium tax rate, the Mayor shall provide written notice to the corporation of this finding no later than April 1 of the same year, and the corporation shall pay the premium tax rate established in section 6 of title II of the Revenue Act of 1937, except as provided in paragraph 3 of this subsection.

(3) Within 30 days after the date of the written notice required by paragraph (2) of this subsection, a corporation may make a written request for a hearing on the Mayor's findings that the corporation failed to substantiate the imposition of a 1% premium tax rate by delivering the request to the Department of Insurance and Securities Regulation. The hearing shall commence in not fewer than 10 days nor more than 30 days from the date on which the request for hearing is received by the Department of Insurance and Securities Regulation. The hearing and its disposition shall be governed by the rules for contested cases set forth in chapter 1 of title 26 (Insurance) of the District of Columbia Municipal Regulations (26 DCMR chapter 1). Any premium tax payments that become due during the time that the Mayor's finding is being contested shall be paid at the 1% premium tax rate. If the corporation loses or withdraws the case, it shall reimburse the District the difference between the payments made at the 1% premium tax rate and the payment that it would have made at the rate established in section 6 of title II of the Revenue Act of 1937.

(k) Upon the date of discontinuance of its open enrollment program as defined in this section, the 1% premium tax rate shall no longer apply to the corporation and the corporation's net subscriber premium receipts from District of Columbia risks shall be taxed at the rate established in section 6 of title II of the Revenue Act of 1937.

(l) Any proposed rates filed by a corporation with the Mayor pursuant to section 9 which are to be applied to open enrollment subscriber contracts, including individual conversion subscriber contracts, shall include a factor crediting for the benefit of this class of subscribers in an amount which assures competitive rates, the revenue which would have been otherwise collected by the District of Columbia government as a premium tax pursuant to section 15(j).

Sec. 16. Conversion to a stock company.

New Section 35-4715

(a) A corporation issued a certificate of authority under this act, whether incorporated under the laws of the District of Columbia or act of the Congress of the United States, may convert to a for-profit stock insurance company subject to provisions of this act, under a plan and procedure approved by the Mayor. Upon consummation of the plan, the resulting stock insurance company shall fully comply with the requirements of the Life Insurance Act as set forth in subsection (b)(2) of this section. For the purpose of such conversion, the owners of the corporation shall be contractholders and surplus note holders, if there are any surplus notes.

(b) The Mayor shall approve any proposed plan or procedure for conversion to a for-profit insurance company unless the Mayor finds that the plan or procedure:

(1) Is inequitable to contractholders of the converting corporation or to the public;

(2) Fails to comply with sections 5, 10 through 15, 21, 24, 28, 31, and 40 of Chapter III of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1145; D.C. Code §§ 35-605, 35-610 through 615, 35-621, 35-624, 35-628, 35-631, and 35-638);

(3) Provides that any part of the assets or surplus of the corporation will inure directly or indirectly to any officer, director, or trustee of the corporation; or

(4) Does not ensure that the resulting stock insurance company will possess capital and surplus in an amount sufficient to:

(A) Comply with the capital and stock surplus requirements for a stock life insurance company under section 8 of Chapter III of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1143; D.C. Code § 35-609); and

(B) Provide for the security of the resulting stock insurance company's contractholders.

(c) Any corporation that becomes a for-profit insurance company under this section shall not be deemed to have abandoned its corporate status by virtue of the conversion, unless the conversion plan expressly provides to the contrary.

(d) The certificate of authority, agent appointments, contract forms, and other filings which are in existence at the time of the conversion shall continue in full force and effect upon conversion if the resulting corporation at all times remains qualified to issue subscriber contracts in the District of Columbia.

(e) All outstanding subscriber contracts of the converting corporation shall remain in full force and effect and need not otherwise be endorsed unless ordered by the Mayor.

(f) A corporation issued a certificate of authority under this act that offers an open enrollment program under section 15 may, directly or through a subsidiary, continue to offer such program notwithstanding its conversion to a stock company. However, the premium tax rate imposed on the company shall be in accordance with section 6 of title II of the Revenue Act of 1937.

(g) The Mayor may conduct a hearing concerning the proposed conversion of a corporation into a for-profit stock insurance company before deciding whether to approve it.

(h) This section shall not apply to the conversion of a corporation to a stock insurance company that results from a judicial order issued pursuant to a rehabilitation or reorganization of the corporation.

Sec. 17. Conversion to a mutual company.

New Section 35-4716

(a) A corporation issued a certificate of authority under this act, whether incorporated under the laws of the District of Columbia or act of the Congress of the United States, may

convert to a mutual insurance company subject to the provisions of this act under a plan and procedure approved by the Mayor. Upon consummation of the plan, the resulting mutual insurance company shall fully comply with the requirements of the Life Insurance Act as set forth in subsection (b)(2) of this section. For the purpose of such conversion, the owners of the corporation shall be the contractholders and surplus note holders, if there are any surplus notes.

(b) The Mayor shall approve any proposed plan or procedure for conversion to a mutual insurance company unless the Mayor finds that the plan or procedure:

(1) Is inequitable to contractholders of the converting corporation or to the public;

(2) Fails to comply with sections 16, 17, 33, 34, and 48 of Chapter III of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1148; D.C. Code §§ 35-616, 35-617, 35-632, 35-633, and 35-646);

(3) Provides that any part of the assets or surplus of the converting corporation will inure directly or indirectly to any officer, director, or trustee of the converting corporation; or

(4) Does not ensure that the resulting mutual insurance company will possess a surplus in an amount sufficient to:

(A) Comply with the surplus required under section 13 of Chapter II of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1070; D.C. Code § 35-1516); and

(B) Provide for the security of the resulting insurance company's contractholders.

(c) The conversion plan must provide for the resulting mutual insurance company to assume, without reincorporation, all assets and liabilities of the converting corporation.

(d) Any corporation that becomes a mutual insurance company under this section shall not be deemed to have abandoned its corporate status by virtue of the conversion, unless the conversion plan expressly provides to the contrary.

(e) The conversion plan must provide for definite conditions to be fulfilled upon which fulfillment of the mutualization will be deemed effective.

(f) The certificate of authority, agent appointments, contract forms, and other filings which are in existence at the time of the conversion shall continue in full force and effect upon conversion if the resulting mutual insurance company at all times remains qualified to issue subscriber contracts in the District of Columbia.

(g) All outstanding subscriber contracts of the converting corporation shall remain in full force and effect and need not otherwise be endorsed unless ordered by the Mayor.

(h) A corporation issued a certificate of authority under this act that offers an open enrollment program under section 15 may, directly or through a subsidiary, continue to offer such program notwithstanding its conversion to a mutual company. However, the premium tax rate imposed on the company shall be in accordance with section 6 of title II of the Revenue Act of 1937.

(i) The Mayor may conduct a hearing concerning the proposed conversion of a corporation into a mutual insurance company before deciding whether to approve it.

(j) Notwithstanding subsection (e) of this section, the converting corporation shall have such period of time to complete its conversion to a mutual insurance company as specified in any order of the Mayor approving the proposed conversion.

(k) This section shall not apply to the conversion of a corporation to a mutual insurance company that results from a judicial order issued pursuant to a rehabilitation or reorganization of the corporation.

New Section 35-4717

Sec. 18. Management contracts and service agreements.

(a) Any management contract or service agreement which delegates to any person or organization all or part of a substantial management duty, function, or other form of control of a corporation, such as adjustment of claims, production of business, investment of assets, or general servicing of the corporation's business, must be filed with the Mayor at least 30 days before the effective date of the contract or agreement.

(b) This requirement in subsection (a) of this section shall not apply to personal services contracts of executives of a corporation. Nor shall that requirement apply to contracts by groups of affiliated companies for shared services, such as maintenance, security, purchasing, and the like, where costs to the individual member companies are charged on an actually incurred or pro rata basis, except that these contracts shall be in writing.

(c) The Mayor shall disapprove any management contract or service agreement filed pursuant to subsection (a)of this section if, at any time, the Mayor finds one or more of the following:

(1) That the service or management charges are based upon criteria unrelated either to the managed corporation's profits or the reasonable, customary, and usual charges for such services, or are based on factors unrelated to the value of such services to the corporation;

(2) That management personnel or other employees of the corporation are to perform functions and receive any remuneration therefor under the management contract or service agreement in addition to the compensation received by way of salary for their services directly from the corporation;

(3) That the management contract or service agreement would transfer:

(A) Substantial control of the corporation or the basic functions of the corporation's management; or

(B) Any of the powers vested in the board of directors or trustees by statute, the corporation's articles of incorporation, or its bylaws;

(4) That the management contract or service agreement contains provisions which would be clearly detrimental to the best interests of contractholders or subscribers of the corporation; or

(5) That the officers, directors, or trustees of the contractor under the

management contract or service agreement are of bad character or have been affiliated, directly or indirectly, through ownership, control, management, reinsurance transactions, or other insurance or business relations with any person or persons who have been involved in the improper manipulation of assets, accounts, or reinsurance.

(d) If the mayor disapproves any management contract or service agreement filed pursuant to subsection (a) of this section, written notice of the reason for such action shall be given to the corporation, which may contest the Mayor's action in accordance with the procedures in section 23.

(e) Any amendments to a management contract or service agreement shall be filed with the Mayor at least 30 days before they become effective. Any change in the officers, directors, or trustees of the contractor under a management contract or service agreement shall be reported to the Mayor within 10 days after such change occurs. Upon review of such amendments and changes, the Mayor may disapprove the management contract or service agreement in accordance with the provisions of subsections (c) and (d) of this section.

(f) Any management contract or service agreement filed pursuant to subsection (a) of this section, and any amendment thereto, shall be deemed approved unless disapproved by the Mayor within 30 days after it is filed with the Mayor.

Sec. 19. Directors and trustees. **New Section 35-4718**

Notwithstanding section 7(c)(3) of the Holding Company Systems Act of 1993, effective October 21, 1993 (D.C. Law 10-44; D.C. Code § 35-3706(c)(3)), or any other provision of District of Columbia insurance law referenced in section 4, the following provisions shall apply to a domestic corporation issued a certificate of authority under this act:

(1) The board of directors or trustees shall consist of not less than 5 nor more than 21 members, who shall be elected by a majority of the members of the board. The term of a director or trustee shall be not less than 1 year nor more than 3 years, and shall be specified in the corporation's bylaws.

(2) The directors or trustees of a domestic corporation shall at all times include subscriber representatives.

(3) A majority of the board of directors or trustees shall at all times consist of members other than employees and officers of the corporation, or of any affiliate or subsidiary of the corporation.

(4) Not less than one-third of the members of the board of directors or trustees shall be residents of the District of Columbia.

(5) The articles of incorporation or bylaws of a domestic corporation shall state the number of directors or trustees necessary to constitute a quorum for conducting business at its meetings and the number of directors' or trustees' votes necessary to effect action on any matter presented for a vote of the board of directors or trustees. In regard to any matter involving conversion to a mutual or stock insurance company, or merger, consolidation, or other

form of reorganization of the corporation, the affirmative vote of at least 80% of all directors or trustees shall be required to effect action by the board.

New Section 35-4719

Sec. 20. Reports to directors and trustees.

The officers or other management of a corporation issued a certificate of authority under this act shall report to its board of directors or trustees, no less often than quarterly, regarding any and all transactions or events that have, or are likely to have, a material impact on the operations or financial condition of the corporation.

New Section 35-4720

Sec. 21. Oversight role and fiduciary obligation of directors, officers, and employees.

(a) The Mayor shall promulgate regulations establishing the oversight role and fiduciary obligation of each member of the board of directors or trustees of a corporation issued a certificate of authority under this act. Such regulations shall require the corporation to adopt a code of conduct and compliance program for all board members, officers and employees of the corporation.

(b) A corporation issued a certificate of authority under this act shall file with the Mayor annually, on or before June 1, a copy of its bylaws which shall require the corporation's board of directors or trustees to adopt policies consistent with the provisions of the code of conduct and compliance program regulations promulgated by the Mayor. Any amendments to the bylaws shall be filed with the Mayor by the corporation within 30 days of adoption by the board.

New Section 35-4721

Sec. 22. Sanctions for violations.

(a) If the directors or trustees of a corporation issued a certificate of authority under this act knowingly violate, or knowingly permit any of the officers, employees, or agents of the corporation to violate, any provision of this act, any other provision of law made applicable to the corporation by this act, or any regulation promulgated under this act or such other provisions of law, the certificate of authority granted to the corporation may be suspended or revoked upon a determination of such violation by the Mayor.

(b) Forfeiture of monetary gain; civil money penalties.

(1) The Mayor may require a corporation issued a certificate of authority under this act, and any director, trustee, officer, employee, or agent of such a corporation, that the Mayor finds has willfully violated any provision of this act, any other provision of law made applicable to the corporation of by this act, or any regulations promulgated under this act or such other provision of law to forfeit any monetary gain derived thereby to the Treasurer of the District of Columbia or to any person who has suffered financial injury or damage as a result of the violation. Upon a determination of such violation by the Mayor, the Mayor also may impose a civil penalty against a corporation in an amount not to exceed $25,000 for each violation, and as to an individual an amount not to exceed $5,000 for each type of violation, not to exceed $25,000 in total for each type of violation.

(2) For the purposes of this section, the terms "violate" and "violation" denote any action, alone or with another or others, that involves causation, participation in, counseling, aiding, or abetting.

(3) A person or organization against whom a forfeiture or penalty has been imposed under this section may, within 30 days after service of written notice thereof by hand delivery or mail, make a written request for a hearing on such action by delivering the request to the Department of Insurance and Securities Regulation. The hearing shall commence in not fewer than 10 days nor more than 30 days from the date on which the request for a hearing is received by the Department of Insurance and Securities Regulation. The hearing and its disposition shall be governed by the rules for contested cases set forth in title 26 (Insurance) of the District of Columbia Municipal Regulations (26 DCMR).

(4) The resignation, separation, or termination of a director, trustee, officer, employee, or agent (including a separation caused by the liquidation of a corporation issued a certificate of authority under this act) shall not affect the jurisdiction and authority of the Mayor to issue any notice and proceed under this subsection against any such individual, if the notice is served before the end of the 3-year period beginning on the date on which the individual ceased to be a director, trustee, officer, employee, or agent.

(c) Whenever the Mayor determines that a corporation issued a certificate of authority under this act, or that a director, trustee, officer, employee, or agent of such a corporation has committed or is about to commit a violation of this act or of any rule, regulation, or order issued hereunder, the Mayor may issue an order directing such corporation or individual to cease and desist from violating or continuing to violate this act or any such rule, regulation, or order, subject to the notice, hearing, and other procedural requirements in subsection (b) of this section.

(d) The foregoing penalties and remedies shall be in addition to, and not in lieu of, any other penalty which may be imposed pursuant to any other provision of law which this act makes applicable to a corporation and its officers, directors, employees, and agents. This section shall not be construed to prevent any person financially damaged by a director, trustee, officer, employee, or agent of a corporation from bringing a separate cause of action in a court of competent jurisdiction.

(e) Whenever the Mayor determines that a corporation issued a certificate of authority under this act, or that a director, trustee, officer, employee, or agent of such a corporation, has willfully violated this act, the Mayor shall report such violation to the Corporation Counsel of the District of Columbia. Willful violations of this act shall be deemed misdemeanors, except where other provisions of this act or other provisions of law made applicable by this act provide for greater criminal liability. Prosecutions authorized by this section shall be upon information filed in the Superior Court of the District of Columbia by the Corporation Counsel or any of his or her assistants. Any corporation convicted of a willful violation of this act shall be fined in an amount not to exceed $50,000 for each violation. In addition to any fines or punishments

imposed for violations of any other laws, any individual convicted of a willful violation of this act shall be fined in an amount not to exceed $5,000 for each violation; or, if such violation involves the deliberate perpetration of a fraud upon the corporation, its subscribers, or the Mayor, imprisoned for not more than 1 year, or both.

Sec. 23. Appeals. New Section 35-4722

If, within the time for approval, the Mayor sends notice of disapproval of the proposed form of any subscriber contract, of proposed contract rates, or of any management contract or service agreement required by this act to be approved by the Mayor, the affected corporation may contest the Mayor's decision. Any action to contest the Mayor's decision shall be initiated within 30 days from the date on which the notice of decision is served on the corporation by delivering a written request for a hearing to the Department of Insurance and Securities Regulation. The hearing shall commence in not fewer than 10 days nor more than 30 days from the date on which the action to contest the Mayor's decision is received by the Department of Insurance and Securities Regulation. The hearing and its disposition shall be governed by the procedures for contested cases in chapter 1 of title 26 (Insurance) of the District of Columbia Municipal Regulations (26 DCMR chapter 1).

Sec. 24. General transition provisions. New Section 35-4723

(a) In his or her sole discretion, the Mayor may provide, upon application and for good cause shown by a corporation in existence and operating in the District of Columbia on the effective date of this act, for a reasonable period of time for such corporation to comply with any requirement of this act.

(b) Notwithstanding any provisions to the contrary in the Holding Company System Act of 1993 effective October 21, 1993 (D.C. Law 10-44; D.C. Code § 35-3701 *et seq.*), or this act, a transaction ongoing as of the effective date of this act which would otherwise be subject to the notice requirements of section 7(a) of the Holding Company System Act of 1993, effective October 2, 1993 (D.C. Code § 35-3706(a)), shall be filed with the Mayor for approval no later than 90 days after the effective date of this act, only if the transaction involves more than 3% of the amount of admitted assets or more than 20% of the amount of surplus of the corporation as of the 31st day of the previous December, whichever amount is less. Failure of the Mayor to act within 60 days after such a filing shall constitute approval of the transaction. The Mayor shall not disapprove a transaction ongoing as of the effective date of this act if the transaction was lawful when begun. Extension or renewal of a transaction ongoing as of the effective date of this act shall be subject to the notice and other requirements of the Holding Company Systems Act of 1993, and shall not be renewed or extended except upon terms approved by the Mayor.

New Section
35-4724

Sec. 25. Rules and regulations.

The Mayor, in accordance with title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204, D.C. Code § 1-1501 *et seq.*), may issue rules to implement the provisions of this act.

Sec. 26. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 27. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review 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 the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia

APPROVED: December 24, 1996

COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

Docket No. B11-780

[X] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE ADOPTED FIRST READING, 11-7-96

[ ] VOICE VOTE APPROVED
RECORDED VOTE ON REQUEST

ABSENT THOMAS

[ ] ROLL CALL VOTE - Result _____ (_____)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council — Date 11,1996

[X] ITEM ON CONSENT CALENDAR

[X] ACTION & DATE ADOPTED FINAL READING, 12-3-96

[ ] VOICE VOTE APPROVED
RECORDED VOTE ON REQUEST

ABSENT RAY

[ ] ROLL CALL VOTE - Result _____ (_____)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X-indicates no AB-Absent NV-Present not voting

CERTIFICATION RECORD

Secretary to the Council — Date 11,1996

[ ] ITEM ON CONSENT CALENDAR

[ ] ACTION & DATE _____

[ ] VOICE VOTE _____
RECORDED VOTE ON REQUEST

ABSENT _____

[ ] ROLL CALL VOTE - Result _____ (_____)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Clarke					Jarvis					Smith, Jr.				
Brazil					Lightfoot					Thomas, Sr.				
Chavous					Mason					Whittington				
Cropp					Patterson									
Evans					Ray									

X - Indicates Vote AB - Absent NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council — Date