

AN ACT

*Codification
District of
Columbia
Code
2001 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To permit the domestication of a United States branch of an alien insurer authorized to use the District of Columbia as a state of entry; to provide for the approval of the domestication of United States branches by the Commissioner of the Department of Insurance and Securities Regulation; and to provide for the transfer of the assets of a United States branch to an acquiring insurer.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "United States Branch Domestication Act of 2000".

Sec. 2. Definitions.

For purposes of this act, the term:

(1) "Domestication" means the reorganization under this act of the United States branch of a Non-U.S. insurer whereby a domestic or foreign insurer acquires all the business and assets and assumes all the liabilities of the branch.

(2) "Domestic insurer" means a stock insurance company incorporated under the laws of the District of Columbia.

(3) "Foreign insurer" means a stock insurance company incorporated under the laws of any other state of the United States.

(4) "Non-U.S. insurer" means a stock insurance company organized under the laws of a foreign country.

(5) "United States branch" means the business unit through which business is transacted within the United States by a Non-U.S. insurer and the assets and liabilities of the insurer within the United States pertaining to such business.

Sec. 3. Domestication permitted.

(a)(1) Upon compliance with this act, a Non-U.S. insurer which is authorized to use the District of Columbia ("District") as a state of entry to transact insurance business through its United States branch and which owns beneficially, directly or indirectly, all outstanding shares of a domestic insurer or of a foreign insurer qualified and licensed in the District to write all the kinds of insurance for which the United States branch is qualified and licensed, may domesticate

its United States branch by entering into a written domestication agreement with such domestic or foreign insurer providing for the acquisition of the business and assets, and the assumption of all liabilities, of the United States branch, by the domestic or foreign insurer for no consideration, except for (A) such assumption of liabilities, and (B) additional consideration payable by the issuance of shares of the acquiring insurer.

(2) The domestication shall be subject to prior written approval by the Commissioner if the acquiring insurer is a domestic insurer or by the chief insurance regulatory official of the state of organization if it is a foreign insurer.

(3) The domestication shall be subject to final approval by the Commissioner if the acquiring insurer is a domestic insurer or by the chief insurance regulatory official of the state of organization if it is a foreign insurer.

(b) Any shares of the acquiring insurer, or voting trust certificates therefor, held among the trusted assets of the United States branch or held in a trust created by the Non-U.S. insurer of which the Non-U.S. insurer is a beneficiary shall be deemed to be shares held beneficially, but indirectly, by the Non-U.S. insurer.

(c) The acquiring insurer may be licensed to engage in the insurance business in the District either before entering into the domestication agreement or, if the Commissioner approves, effective with consummation of the domestication agreement in accordance with section 7.

(d) This act shall not be construed to (1) authorize an insurance company to do any kind of insurance business not authorized by its charter, or (2) authorize a foreign or Non-U.S. insurer to do any kind of insurance business in the District not authorized by its license or certificate of authority to do business in the District.

Sec. 4. Prior written approval of domestication agreement.

An acquisition of assets and assumption of liabilities under section 3(a) shall be initiated by filing with the Commissioner, for prior written approval as required by section 3(a)(2), a copy of the domestication agreement, executed by the Non-U.S. insurer and the acquiring insurer, in a form satisfactory to (1) the Commissioner if the acquiring insurer is a domestic insurer, or (2) both the Commissioner and the chief insurance regulatory official of the state of organization if the acquiring insurer is a foreign insurer. If he is satisfied that the domestication agreement complies with this act and that the interests of policyholders and creditors of the United States branch are not materially adversely affected, the Commissioner may approve the domestication agreement, subject to a subsequent review and final approval as required under sections 3(a)(3) and 6.

Sec. 5. Authorization and execution of domestication agreement.

(a) A domestication agreement shall be authorized, adopted, approved, executed, and acknowledged by the Non-U.S. insurer under the laws of the country where it is organized.

(b) A domestication agreement shall also be approved, adopted, and authorized by the acquiring insurer's board of directors, executed by its president or any vice president, and attested by its secretary or assistant secretary under its corporate seal, or, in the case of a foreign insurer, as otherwise provided in the laws of the state of its organization.

Sec. 6. Final approval by Commissioner.

(a) The following shall be submitted to the Commissioner for final approval of the domestication agreement as required under section 3(a)(3):

- (1) An executed counterpart of the domestication agreement;
- (2) Certified copies of the corporate proceedings of the acquiring insurer and the Non-U.S. insurer approving, adopting, and authorizing the execution of the domestication agreement;
- (3) A certification by an officer of the United States branch that the domestication agreement satisfies the requirements of this act; and
- (4) In the case of a foreign insurer, the written approval of the chief insurance regulatory official of the state in which the foreign insurer is organized.

(b) If he is satisfied that the domestication agreement complies with this act, that all the required documents have been submitted, and that the interests of policyholders and creditors of the United States branch are not materially adversely affected, the Commissioner may approve, as required under section 3(a)(3), the domestication agreement.

Sec. 7. Consummation of domestication agreement; transfer of deposits; withdrawal of trusted assets.

(a)(1) The domestication of the United States branch shall be effective upon the final approval of the Commissioner of the domestication agreement under section 6 ("consummation").

(2)(A) All assets of the United States branch, including all its rights and property, shall be deemed transferred to, and vested in, the acquiring insurer and the acquiring insurer shall be deemed to have assumed all liabilities of the United States branch.

(B) All deposits of the United States branch held by commissioners, state officers, or other state regulatory agencies under state laws, shall be deemed held as security for the full performance by the acquiring insurer of its assumption as direct liabilities of all of the liabilities to policyholders and creditors within the United States of the United States branch, and the deposits shall be deemed admitted assets of the acquiring insurer and reported as such in its annual financial statements and other reports required to be filed by it in the District.

(3) Upon the ultimate release by a state officer or agency of deposits described in paragraph (2)(B) of this subsection, the securities and cash released shall be delivered and paid over to the acquiring insurer as the lawful successor in interest to the United States branch.

(b) Contemporaneously with the consummation of the domestication, notwithstanding

sections 4 and 5 of the Insurance State of Entry Act of 1996 the Commissioner shall:

(1) Transfer to the acquiring insurer's account the securities deposited by the United States branch in compliance with this act; and

(2) Consent to the withdrawal from the trust by the trustee of the trustee assets deposited by the United States branch in compliance with this act and the transfer and delivery to the acquiring insurer of all assets held by the trustee; provided, that if a United States branch is domesticated into a foreign insurer, the Commissioner, unless otherwise satisfied that the interests of policyholders of in force business and of creditors on outstanding claims are protected, may defer consent to the withdrawal of so much of the trustee assets as in the Commissioner's judgment is reasonably required to protect such interests as of the date of domestication, and shall consent to their withdrawal from time to time as such interests expire.

Sec. 8. Regulations.

The Commissioner may, in accordance with section 6 of the District of Columbia Administrative Procedure Act promulgate rules, regulations, and orders as are necessary or appropriate to carry out the provisions of this act. The Council may approve or disapprove any rules, regulations, or orders promulgated by the Commissioner within 30 days after the date transmitted to the Council. If no action is taken by the Council, the rules, regulations, or orders shall be deemed to be approved.

Sec. 9. 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 Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 10. 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

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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 Home Rule 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