

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2009 Winter
Supp.

West Group
Publisher

To amend Chapter II of the Fire and Casualty Act to require every property and casualty insurance company doing business in the District, unless exempted by the Commissioner of the Department of Insurance, Securities, and Banking, to annually submit a statement of actuarial opinion in accordance with the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Property and Casualty Actuarial Opinion Amendment Act of 2008”.

Sec. 2. Chapter II of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1066; D.C. Official Code § 31-2502.01 *et seq.*), is amended by adding new sections 26a and 26b to read as follows:

“Sec. 26a. Actuarial opinion of reserves.

“(a) Every property and casualty insurance company doing business in the District, unless otherwise exempted by the Commissioner, shall annually submit the opinion of an actuary appointed by the company entitled “Statement of Actuarial Opinion.” The opinion shall be prepared and filed in accordance with the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions.

“(b)(1) Every property and casualty insurance company domiciled in the District that is required to submit a Statement of Actuarial Opinion shall annually submit a summary entitled “Actuarial Opinion Summary,” written by the actuary appointed by the company. The Actuarial Opinion Summary shall be prepared and filed in accordance with the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions and shall be a document supporting the Statement of Actuarial Opinion required by subsection (a) of this section.

“(2) A company licensed but not domiciled in the District shall provide the Actuarial Opinion Summary upon request.

“(c)(1) A report entitled “Actuarial Report” and underlying workpapers as required by the appropriate National Association of Insurance Commissioners Property and Casualty

Annual Statement Instructions shall be prepared to support each Statement of Actuarial Opinion.

“(2) If the company fails to provide a supporting Actuarial Report or workpapers at the request of the Commissioner or the Commissioner determines that the supporting Actuarial Report or workpapers provided by the company have been improperly prepared or are otherwise unacceptable, the Commissioner may engage a qualified actuary at the expense of the company to review the Statement of Actuarial Opinion and the basis for the opinion and prepare the supporting Actuarial Report or workpapers.

“(d) The actuary appointed by the company shall not be liable for damages to any person other than the insurance company and the Commissioner for any act, error, omission, decision, or conduct with respect to the actuary’s opinion, except in cases of fraud, willful misconduct, or gross negligence on the part of the actuary.

“Sec. 26b. Confidentiality of actuarial opinions, summaries, reports, and workpapers.

“(a) The Statement of Actuarial Opinion shall be provided with the annual financial 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. Official Code § 31-1901), in accordance with the appropriate National Association of Insurance Commissioners Property and Casualty Annual Statement Instructions and shall be a public document.

“(b)(1) An Actuarial Report, underlying workpapers, or Actuarial Opinion Summary in the possession or control of the Commissioner, and any other material provided by the company to the Commissioner in connection with the Actuarial Report, workpapers, or Actuarial Opinion Summary, shall not be subject to the Freedom of Information Act, effective March 25, 1977 (D.C. Law 1-96; D.C. Official Code § 2-531 *et seq.*), except a subpoena issued pursuant to:

“(A) A civil action or an administrative proceeding in which insurance premium rates are an issue; or

“(B) Oversight by the Council or the federal government.

“(2) This section shall not limit the Commissioner’s authority to:

“(A) Release the documents to the Actuarial Board for Counseling and Discipline if the material is required for the purpose of professional disciplinary proceedings and the Actuarial Board for Counseling and Discipline establishes procedures satisfactory to the Commissioner for preserving the confidentiality of the documents; or

“(B) Use the documents, materials, or other information in furtherance of any regulatory or legal action brought as part of the Commissioner’s official duties.

“(c) The Commissioner or any person who received documents, materials, or other information while acting under the authority of the Commissioner shall not be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (b) of this section.

“(d) To assist in the performance of the Commissioner’s duties, the Commissioner may:

“(1) Share documents, materials, or other information, including the

confidential and privileged documents, materials, or information subject to subsection (b) of this section with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities; provided, that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information and has the authority to maintain confidentiality;

“(2) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

“(3) Enter into agreements governing sharing and use of information consistent with subsections (b) through (d) of this section.

“(e) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (d) of this section.”.

Sec. 3. 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. Official Code § 1-206.02(c)(3)).

Sec. 4. 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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia