

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

2001 Edition

2011 Winter
Supp.

To amend the Annual Audited Financial Reports Act of 1993 to require annual financial reporting requirements and enhance the surveillance of the financial condition of insurance companies by requiring the establishment of audit committees with certain enumerated responsibilities, by prohibiting insurers from indemnifying their independent auditors and auditors from providing certain non-audit services, by directing auditors and accountants to communicate certain internal control related matters in the annual audit, by proscribing certain conduct of officers and directors in connection with the preparation of certain required financial reports and documents, and by requiring management to file reports of internal control over financial reporting.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Annual Financial Reporting Modernization Amendment Act of 2010”.

Sec. 2. The Annual Audited Financial Reports Act of 1993, effective October 21, 1993 (D.C. Law 10-48; D.C. Official Code § 31-301 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 31-301) is amended as follows:

(1) New paragraphs (1A) and (1B) are added to read as follows:

“(1A) “Affiliate” or “affiliated person” means an individual or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the individual or entity.

“(1B) “Audit committee” means a committee established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers and the audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of the controlled insurers for the purposes of this act at the election of the controlling person pursuant to section 12a(e). If an audit committee is not designated by the insurer, the insurer’s entire board of directors shall constitute the audit committee.”

(2) A new paragraph (2A) is added to read as follows:

“(2A) “Indemnification” means an agreement of indemnity or a release from

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§ 31-301

liability if the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.”.

(3) New paragraphs (3A) and (3B) are added to read as follows:

“(3A) “Group of insurers” means those licensed insurers included in the reporting requirements of the Holding Company System Act of 1993, effective October 21, 1993 (D.C. Law 10-44; D.C. Official Code § 31-701 *et seq.*), or a set of insurers as identified by management for the purpose of assessing the effectiveness of internal control over financial reporting.

“(3B) “Internal control over financial reporting” means a process effected by an entity’s board of directors, management, and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, including compliance with sections 4(2) through (7), and includes such other policies and procedures that:

“(A) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the acquisition and disposition of assets;

“(B) Provide reasonable assurance that:

“(i) Transactions are recorded as necessary to permit preparation of the financial statements; or

“(ii) Receipts and expenditures are made only in accordance with management and director authorization; and

“(C) Provide reasonable assurance regarding:

“(i) Prevention or timely detection of unauthorized acquisitions;

or
“(ii) The use or disposition of assets that could have a material effect on the financial statements.”.

(4) New paragraphs (5) through (8) are added to read as follows:

“(5) “SEC” means the United States Securities and Exchange Commission.

“(6) “Section 404” means section 404 of the Sarbanes-Oxley Act of 2002, approved July 30, 2002 (116 Stat. 745; 15 U.S.C. § 7201 *et seq.*), and the rules and regulations promulgated thereunder.

“(7) “Section 404 Report” means management’s report on internal control over financial reporting as defined by the SEC and the related attestation report of the independent certified public accountant.

“(8) “SOX Compliant Entity” means an entity that is required to be compliant with or is voluntarily compliant with:

“(A) Section 10A(h) of the Securities Exchange Act of 1934, approved June 6, 1934 (105 Stat. 762; 15 U.S.C. § 78j-l(h)) (preapproval requirements);

“(B) Section 10A(m)(3) of the Securities Exchange Act of 1934, approved December 22, 1995 (109 Stat. 762; 15 U.S.C. § 78j-l(m)(3)) (audit committee

independence requirements); and

“(C) The internal control over financial reporting requirements of Section 404 and 17 C.F.R. § 229.308 (Item 308 of SEC Regulation S-K).”.

(b) Section 3 (D.C. Official Code § 31-302) is amended as follows:

Amend
§ 31-302

(1) The section designation is amended to read as follows:

“Sec. 3. General requirements for filing audited financial reports and audit committee appointments; extensions.”.

(2) New subsections (c) and (d) are added to read as follows:

“(c) If an extension is granted in accordance with the provisions in subsection (b) of this section, an extension for the same 30-day period shall be granted for the filing of a management’s report of internal control over financial reporting.

“(d) An insurer required to file an annual audited financial report pursuant to this act shall establish an audit committee. If the insurer is controlled by a controlling person or entity, the audit committee of the controlling entity, in compliance with section 12a(e), may serve as the audit committee for the subject insurer for purposes of this act.”.

(c) Section 4 (D.C. Official Code § 31-303) is amended as follows:

Amend
§ 31-303

(1) The lead-in text is amended by striking the word “Mayor” and inserting the phrase “jurisdiction where it is domiciled” in its place.

(2) Paragraph (6) is amended to read as follows:

“(6) Notes to the financial statements, which shall:

“(A) Be those required by the appropriate NAIC annual statement instructions and the NAIC Accounting Practices and Procedures Manual; and

“(B) Include a reconciliation of differences, if any, between the audited statutory financial statement and the annual statement filed pursuant to 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 *et seq.*), and a written description of the nature of these differences; and”.

(d) Section 5(b) (D.C. Official Code § 31-304(b)) is amended by striking the word “Mayor” the second time it appears and inserting the phrase “jurisdiction where it is domiciled” in its place.

Amend
§ 31-304

(e) Section 6 (D.C. Official Code § 31-305) is amended as follows:

Amend
§ 31-305

(1) Subsection (a) is amended to read as follows:

“(a) The Mayor shall not recognize a person or firm as a qualified independent certified public accountant if the person or firm:

“(1)(A) Is not in good standing with the American Institute of Certified Public Accountants in all jurisdictions in which the accountant is licensed to practice; or

“(B) For a Canadian or British company, that is not a chartered accountant; or

“(2) Has either directly or indirectly entered into an agreement of indemnity or release from liability with respect to the audit of the insurer.”.

(2) A new subsection (b-1) is added to read as follows:

“(b-1) A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration; provided, that in the event of a delinquency proceeding commenced against the insurer under the Insurers Rehabilitation and Liquidation Act of 1993, effective October 15, 1993 (D.C. Law 10-35; D.C. Official Code § 31-1301 *et seq.*), the mediation or arbitration provision shall operate at the option of the statutory successor.”.

(3) Subsection (c) is amended to read as follows:

“(c)(1) The lead or coordinating audit partner having primary responsibility for the audit shall not act in that capacity for more than 5 consecutive years. A lead or coordinating auditor shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 5 consecutive years. An insurer may make application to the Mayor for relief from the above rotation requirement on the basis of unusual circumstances. Any application shall be made at least 30 days before the end of the calendar year. The Mayor may consider the following factors in determining if the relief should be granted:

“(A) The number of partners, the expertise of the partners, or the number of insurance clients in the currently registered firm;

“(B) The premium volume of the insurer; or

“(C) The number of jurisdictions in which the insurer transacts business.

“(2) The insurer shall file, with its annual statement filing, the approval for relief from subsection (c)(1) of this section with the jurisdictions in which it holds a license or does business and the NAIC. If a nondomestic jurisdiction accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.”.

(4) Subsection (e) is amended by striking the phrase “a certified public accountant” and inserting the phrase “an independent public accountant” in its place.

(5) New subsections (f) through (k) are added to read as follows:

“(f)(1) The Mayor shall not recognize as a qualified independent certified public accountant, or accept an annual audited financial report, prepared in whole or in part by a independent certified public accountant, who provides to an insurer, contemporaneously with the audit, the following non-audit services:

“(A) Bookkeeping or other services related to the accounting records or financial statements of the insurer;

“(B) Financial information systems design and implementation;

“(C) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

“(D)(i) Actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements.

“(ii) The accountant may assist an insurer in understanding the methods, assumptions, and inputs used in the determination of amounts recorded in the

financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification of an insurer's reserves if the following conditions have been met:

“(I) The accountant or the accountant's actuary has not performed any management functions or made any management decisions;

“(II) The insurer has competent personnel or engages a third-party actuary to estimate the reserves for which management takes responsibility; and

“(III) The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves;

“(E) Internal audit outsourcing services;

“(F) Management functions or human resources;

“(G) Broker or dealer, investment adviser, or investment banking services;

“(H) Legal services or expert services unrelated to the audit; or

“(I) Any other services that the Mayor determines, by rule, are impermissible.

“(2) The principles of independence with respect to services provided by the qualified independent certified public accountant are predicated on 3 basic principles: the accountant cannot function in the role of management; the accountant cannot audit its own work; and the accountant cannot serve in an advocacy role for the insurer. A violation of one or more of these principles shall impair the accountant's independence.

“(g) An insurer having direct written and assumed premiums of less than \$100 million in any calendar year may request an exemption from subsection (f)(1) of this section. The insurer shall file with the Mayor a written statement explaining why the insurer should be exempt. If the Mayor finds, upon review of the statement, that compliance with subsection (f)(1) of this section would constitute a financial or organizational hardship on the insurer, an exemption may be granted.

“(h) A qualified independent certified public accountant who performs the audit may engage in other non-audit services, including tax services, that are not described in or do not conflict with subsection (f) of this section, if the audit committee provides advance approval in accordance with subsection (i) of this section.

“(i) All auditing services and non-audit services provided to an insurer by a qualified independent certified public accountant shall be preapproved by the audit committee. The preapproval requirement shall be waived with respect to non-audit services if:

“(1) The insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity; or

“(2)(A) The aggregate amount of all such non-audit services provided to the insurer constitutes no more than 5% of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit

services are provided;

“(B) The services were not recognized by the insurer at the time of the engagement to be non-audit services; and

“(C) The provision of services is promptly brought to the attention of the audit committee and approved prior to the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

“(j) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapproval required by subsection (i) of this section. Any decision by a member or members to whom authority has been delegated to preapprove certain audit and non-audit services shall be formally presented to the full audit committee at its next regularly scheduled meeting.

“(k)(1) The Mayor shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer was employed by the independent certified public accountant and participated in the audit of the insurer during the one-year period preceding the date the most current statutory opinion is due. This paragraph shall apply only to partners and senior managers involved in the audit. An insurer may make application to the Mayor for relief from the requirement of this paragraph on the basis of good cause.

“(2) The insurer shall file, with its annual statement filing, any approval for relief obtained pursuant to paragraph (1) of this subsection with the jurisdictions in which it holds a license or does business and with the NAIC. If a nondomestic jurisdiction accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.”.

(f) Section 8 (D.C. Official Code § 31-307) is amended as follows:

Amend
§ 31-307

(1) The section title is amended by striking the word “examination” and inserting the word “audit” in its place.

(2) Strike the word “examination” and insert the word “audit” in its place.

(3) New 2nd and 3rd sentences are added to read as follows:

“In accordance with AU section 319 of the Professional Standards of the American Institute of Certified Public Accountants, Consideration of Internal Control in a Financial Statement Audit, the independent certified public accountant shall obtain a sufficient understanding of the insurer’s internal controls to ensure that the audit plan is effective. To the extent required by AU section 319, for those insurers required to file a management’s report of internal control over financial reporting pursuant to section 12c, the independent certified public accountant shall consider the most recently available management reports in planning and performing the audit of the statutory financial statements.”.

(4) Strike the phrase “consideration should” and insert the phrase “consideration shall” in its place.

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(g) Section 9 (D.C. Official Code § 31-308) is amended as follows:

**Amend
§ 31-308**

(1) Subsection (a) is amended to read as follows:

“(a)(1) The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within 5 business days to the board of directors or its audit committee any determination by the independent certified public accountant that, as of the balance sheet date currently under audit, the insurer:

“(A) Has materially misstated its financial condition as reported to the Mayor;

“(B) Does not meet the minimum capital and surplus requirement pursuant to section 8 of chapter III of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1145; D.C. Official Code § 31-2502.13), and section 13 of chapter II of the Fire and Casualty Act, approved October 9, 1940 (54 Stat. 1070; D.C. Official Code § 31-4408); or

“(C) Does not meet the minimum net worth requirements of section 13 of the Health Maintenance Organization Act of 1996, effective April 9, 1997 (D.C. Law 11-235; D.C. Official Code § 31-3412).

“(2) An insurer who has received a report pursuant to this subsection shall forward a copy of the report to the Mayor within 5 business days of receipt of the report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the Mayor. If the independent certified public accountant fails to receive the evidence within the required 5-business-day period, the independent certified public accountant shall furnish to the Mayor a copy of its report within the next 5 business days.”.

(2) Subsection (b) is amended by striking the phrase “independent public” and inserting the phrase “independent certified public” in its place.

(h) Section 10 (D.C. Official Code § 31-309) is amended to read as follows:

**Amend
§ 31-309**

“Sec. 10. Communication of internal control related matters noted in audit.

“(a) In addition to the annual audited financial report, an insurer shall furnish the Mayor with a written communication regarding any unremediated material weaknesses in its internal controls over financial reporting noted during the audit. If no unremediated material weaknesses were noted during the audit, the insurer shall submit a written communication stating this fact to the Mayor. The communication shall be prepared by the independent certified public accountant within 60 days after the filing of the annual audited financial report and shall contain a description of any unremediated material weakness, as of December 31 immediately preceding, in the insurer’s internal control over financial reporting noted by the accountant during the course of their audit of the financial statements.

“(b) The insurer shall provide a description of the remedial actions taken or those being proposed to correct unremediated material weaknesses if the actions are not described in the independent certified public accountant’s communication to the insurer.”.

(i) Section 12 (D.C. Official Code § 31-311) is amended as follows:

**Amend
§ 31-311**

(1) The section title is amended by striking the word “certified” and inserting the phrase “independent certified” in its place.

(2) Subsection (a) is amended as follows:

“(A) Strike the phrase “For the purposes of this act, the term” and insert the phrase “For the purposes of this section, the term” in its place.

“(B) Strike the word “examination” wherever it appears and insert the word “audit” in its place.

(3) The 1st sentence of subsection (b) is amended by striking the word “examination” and inserting the word “audit” in its place.

(j) New sections 12a, 12b, and 12c are added to read as follows:

“Sec. 12a. Requirements for audit committees.

“(a) The audit committee shall be directly responsible for the appointment, compensation, and oversight of any accountant, including the resolution of disagreements between management and the accountant regarding annual financial reporting required by this act. Each accountant shall report directly to the audit committee.

“(b) Each member of the audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to subsection (e) of this section.

“(c) To be considered independent for purposes of this section, a member of the audit committee shall not, except in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory, or other compensatory fee from the entity, or be an affiliated person of the entity or any subsidiary thereof; provided, that if board participation by otherwise non-independent members is legally required, such members may participate on the audit committee and be designated as independent for audit committee purposes unless they are an officer or employee of the insurer or one of its affiliates.

“(d) If a member of the audit committee ceases to be independent for reasons outside the member’s reasonable control, the member, upon notice to the Mayor, may remain an audit committee member until the earlier of the next annual meeting or one year from the occurrence of the event causing the member to be no longer independent.

“(e) Prior to exercising the election of designating an audit committee pursuant to this act, the ultimate controlling person shall provide written notice to the Mayor. The written notice shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. An insurer may change its election by providing written notice to the Mayor with a description of the basis for the change. The election shall remain in effect until rescinded.

“(f)(1) The audit committee shall require the accountant performing an audit pursuant to this act to report timely to the audit committee, in accordance with the requirements of SAS 61, Communication with Audit Committees, or its successor, the following:

“(A) All significant accounting policies and material permitted practices;

“(B) All material alternative treatments of financial information within statutory accounting principles that have been discussed with management of the insurer, the

ramifications of the use of the alternative disclosures, and the treatment preferred by the accountant; and

“(C) Any other material written communication between the accountant and the management of the insurer, including any management letter or schedule of unadjusted differences.

“(2) If an insurer is a member of an insurance holding company system, the reports required by paragraph (1) of this subsection may be provided to the audit committee on an aggregate basis for the insurers in the holding company system; provided, that any substantial differences among insurers in the system are identified to the audit committee.

“(g) The following criteria shall apply for determining the required proportion of independent audit committee members:

“(1) If, during the prior calendar year, direct written and assumed premiums do not exceed \$300 million, there shall be no minimum requirement.

“(2) If, during the prior calendar year, direct written and assumed premiums exceed \$300 million, but do not exceed \$500 million, 50% or more of members shall be independent.

“(3) If, during the prior calendar year, direct written and assumed premiums exceed \$500 million, 75% or more of its members shall be independent.

“(h) An insurer with direct written and assumed premiums of less than \$500 million, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, may make application to the Mayor for an exemption from this section based on hardship. An insurer that has been granted an exemption pursuant to this section shall file such approval, together with its annual statement filing, with the states in which it holds a license or does business and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

“(i) Prior calendar year direct written and assumed premiums shall be the combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

“(j) This section shall not apply to:

“(1) Foreign or alien insurers licensed in the District; or

“(2) An insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.

“Sec. 12b. Conduct of insurer in connection with the preparation of required reports and documents.

“(a) A director or officer of an insurer shall not, in connection with any audit, review, or communication required under this act, directly or indirectly:

“(1) Make, or cause to be made, a materially false or misleading statements to an accountant; or

“(2) Omit to state, or cause another person to omit to state, any material fact necessary to make a statement made to an accountant, in light of the circumstances under which they were made, not misleading.

“(b)(1) A director or officer of an insurer, or any other person acting under the direction thereof, shall not, directly or indirectly, take any action to coerce, manipulate, mislead, or fraudulently influence any accountant engaged in the performance of an audit pursuant to this act if the person knew or should have known that the action, if successful, could result in rendering the insurer’s financial statements materially misleading.

“(2) For the purposes of this subsection, actions that could result in rendering the insurer’s financial statements materially misleading include actions causing the accountant to:

“(A) Issue or reissue a report on an insurer’s financial statements that is not warranted under the circumstances due to material violations of statutory accounting principles, generally accepted auditing standards, or other professional or regulatory standards;

“(B) Not perform audit, review, or other procedures required by generally accepted auditing standards or other professional standards;

“(C) Not withdraw an issued report; or

“(D) Not communicate matters to an insurer’s audit committee.

“Sec. 12c. Management’s report of internal control over financial reporting.

“(a) An insurer required to file an audited financial report pursuant to this act that has annual direct written and assumed premiums of at least \$500 million, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, shall prepare a management’s report of the insurer’s or group of insurers’ internal control over financial reporting. The report shall be filed with the Mayor along with the communication of internal control related matters noted in an audit described in section 10. A management’s report of internal control over financial reporting shall be made as of December 31 immediately preceding the date of the report.

“(b) Notwithstanding subsection (a) of this section, the Mayor may require an insurer to file a management’s report of internal control over financial reporting if the insurer:

“(1) Is in any RBC level event as provided in the Risk Based Capital Act of 1996, effective April 9, 1997 (D.C. Law 11-233; D.C. Official Code § 31-2001 *et seq.*), and the Health Organizations RBC Amendment Act of 2002, effective June 18, 2003 (D.C. Law 14-312; D.C. Official Code § 31-3851 *et seq.*); or

“(2) Meets one or more of the standards of an insurer deemed to be in hazardous financial condition as provided in the Standards to Identify Insurance Companies Deemed to Be In Hazardous Financial Conditions Act of 1993, effective October 21, 1993 (D.C. Law 10-43; D.C. Official Code § 31-2101 *et seq.*).

“(c)(1) An insurer or a group of insurers that is (A) directly subject to Section 404; (B) part of a holding company system whose parent is directly subject to Section 404; (C) not directly subject to Section 404, but is a SOX Compliant Entity; or (D) a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity, may file its, or its parent’s, Section 404 Report and an addendum that complies with the requirements of this section; provided, that those internal controls of the insurer or group of

insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements were included in the scope of the Section 404 Report.

“(2) An addendum filed with a Section 404 Report shall be an affirmative statement by management that no material processes were excluded in the scope of the Section 404 Report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements that were not included in the scope of the Section 404 Report, the insurer or group of insurers shall file:

“(A) A report pursuant to this section; or

“(B) A Section 404 Report and a report pursuant to this section that addresses those internal controls not covered by the Section 404 Report.

“(d) A management's report of internal control over financial reporting shall include:

“(1) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

“(2) A statement that management has established internal control over financial reporting and an assertion as to whether, to the best of management's knowledge and belief, after diligent inquiry, the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements prepared in accordance with statutory accounting principles;

“(3) A statement describing the framework or processes by which management evaluates the effectiveness of its internal control over financial reporting;

“(4) A statement describing the scope of work that is included and whether any internal controls were excluded;

“(5)(A) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding the date of the report.

“(B) Management shall not be permitted to conclude that the internal control over financial reporting is effective if there is one or more unremediated material weaknesses in its internal control over financial reporting;

“(6) A statement regarding the inherent limitations of internal control systems; and

“(7) Signatures of the chief executive officer and the chief financial officer, or the equivalents thereof.

“(e) Management shall document and make available during the course of any financial condition examination the basis upon which its assertions offered pursuant to this section are made. Management may base its assertions, in part, on its review, monitoring, and testing of internal controls undertaken in the normal course of its activities.

“(f) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, to make its assertions in a cost effective manner and, as such, may include assembly of or reference to existing documentation.

“(g) A management’s report on internal control over financial reporting filed with the Mayor pursuant to this section, including any supporting documentation submitted in support thereof, shall be kept confidential.”.

(k) Section 13 (D.C. Official § 31-312) is amended as follows:

Amend
§ 31-312

(1) Subsection (c) is amended as follows:

(A) Paragraph (1) is amended by striking the phrase “December 31, 1993” and inserting the phrase “December 31, 2009” in its place.

(B) Paragraph (2) is amended by striking the phrase “reports required” and inserting the phrase “reports and communications required” in its place.

(2) New subsections (e) and (f) are added to read as follows:

“(e) Section 12a shall apply as of January 1, 2010. An insurer or group of insurers that was not required to have independent audit committee members or only a majority of independent audit committee members because their total written and assumed premiums were below the stated threshold levels provided in section 12a(g) for a given year shall have one calendar year to comply with the independence requirements following the year the threshold is exceeded. An insurer that becomes subject to the independence requirements of this act as a result of a business combination shall have one calendar year following the date of acquisition or combination to comply with the independence requirements.

“(f) Sections 6(g) through (k) and 12c shall apply as of the reporting period ending December 31, 2010, and each year thereafter. An insurer or group of insurers that is not required to file a report pursuant to section 12c, but subsequently becomes subject to the reporting requirements, shall have 2 calendar years following the year the threshold is exceeded to file a report. An insurer acquired in a business combination shall have 2 calendar years following the date of acquisition or combination to comply with the reporting requirements.”.

Sec. 3. Applicability.

Section 2(e)(3) shall apply to audits of the year beginning January 1, 2010, and thereafter.

Sec. 4. 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. 5. 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

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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