

# ENROLLMENT(S)

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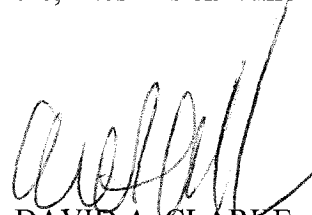
**COUNCIL OF THE DISTRICT OF COLUMBIA**

**D.C. LAW 11-128**

**"Insurance State of Entry 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. 11-391 on first and second readings, February 6, 1996 and March 5, 1996 respectively. Following the signature of the Mayor on March 15, 1996, pursuant to Section 404(e) of "the Act", and was assigned Act No. 11-235 and published in the March 29, 1996, edition of the D.C. Register (Vol. 43 page 1562) and transmitted to Congress on March 29, 1996 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 11-128, effective May 24, 1996.

  
DAVID A. CLARKE  
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

March 29  
April 15,16,17,18,19,22,23,24,25,26,29,30  
May 1,2,3,6,7,8,9,10,13,14,15,16,17,20,21,22,23

AN ACT  
D.C. ACT 11-235

*Codification  
District of  
Columbia  
Code  
1997 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

MARCH 15, 1996

**New Chapter  
44,  
Title 35**

To enact a state of entry law that applies to a U.S. Branch of a non-U.S. insurer using the District as a state of entry to transact insurance in the United States.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Insurance State of Entry Act of 1996".

Sec. 2. Definitions.

**New Section  
35-4401**

For the purposes of this act, the term:

- (1) "District " means the District of Columbia.
- (2) "Non-U.S. insurer" means an insurer organized under the laws of a foreign country.
- (3) "Superintendent" means the Superintendent of Insurance for the District of Columbia.
- (4) "United States Branch" or "U.S. 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. Authorization of entry.

**New Section  
35-4402**

(a) A non-U.S. insurer may use the District as a state of entry to transact insurance in the United States through a U.S. branch by:

- (1) Qualifying as an insurer licensed to do business in the District; and
- (2) Establishing a trust account, pursuant to a trust agreement approved by the Superintendent, with a U.S. bank approved by the Superintendent in an amount at least equal to the minimum capital and surplus required to be maintained by a domestic insurer licensed to do the same kind of insurance.

(b) Before authorizing the entry through the District of a U.S. branch of any non-U.S. insurer, the Superintendent shall require the non-U.S. insurer, in addition to the requirements of section 5 and any other requirement of the insurance law, to submit:

- (1) A copy of its charter and by-laws, if any, currently in force, and such other documents necessary to show the kinds of business which it is empowered to do in its domiciliary jurisdiction, attested to as accurate and complete by the insurance supervisory

**ENROLLED ORIGINAL**

official in its home jurisdiction, and a full statement, subscribed and affirmed as true under the penalties of perjury by 2 officers or equivalent responsible representatives in such manner as the Superintendent shall prescribe, of its financial conditions as of the close of its latest fiscal year, showing its assets, liabilities, income disbursements, business transacted, and other facts required to be shown in its annual statement, as reported to the insurance supervisory official in its home jurisdiction, and an English language translation, as necessary, of any of the documents required herein; and

(2) To an examination of the insurer's affairs at its principal office within the United States. However, the Superintendent may instead accept a report of the insurance supervisory official of the insurer's home jurisdiction.

**Sec. 4 Maintenance of trust account.**

**New Section  
35-4403**

The assets in the trust account shall be known as trusteed assets and shall at all times be in an amount equal to the U.S. branch's reserves and other liabilities plus the minimum capital and surplus required to be maintained by a domestic insurer licensed to do the same kind of insurance.

**Sec. 5. Requirements for trust agreement.**

**New Section  
35-4404**

(a) The deed of trust and all amendments thereto shall be authenticated in such form and manner as the Superintendent may prescribe and shall not be effective unless approved by the Superintendent upon a finding that:

- (1) A deed of trust or its amendments are sufficient in form and in conformity with law;
- (2) The trustee or trustees are eligible as such; and
- (3) The deed of trust is adequate to protect the interest of the beneficiaries of the trust.

(b) If at any time the Superintendent finds, after reasonable notice and hearing, that the requisites for the approval no longer exist, the Superintendent may withdraw approval.

(c) The Superintendent may from time to time approve modifications of, or variations in any deed of trust, which in the Superintendent's judgement are not prejudicial to the interest of the people of the District or the United States policyholders and creditors of the U.S. Branch.

(d) The deed of trust shall contain provisions which:

- (1) Vest legal title to trusteed assets in the trustees and their successors lawfully appointed;
- (2) Require that all assets deposited in the trust shall be continuously kept within the United States;
- (3) Provide for substitution of a new trustee or trustees in case of a vacancy by death, resignation, or otherwise, subject to the approval of the Superintendent;
- (4) Require that the trustee or trustees shall continuously maintain a record at all times sufficient to identify the assets of such fund;

**ENROLLED ORIGINAL**

(5) Require that the trustee assets shall consist of cash or investments eligible for investment of the funds of domestic insurers and accrued interest thereon if collectable by the trustee;

(6) Require that the trust shall be for the exclusive benefit, security, and protection of the policyholders, or policyholders and creditors, of the U.S. Branch in the United States and that it shall be maintained as long as there is outstanding any liability of the non-U.S. insurer arising out of its insurance transactions in the United States; and

(7) Provide, in substance, that no withdrawals of assets, other than income as specified in subsection (e) of this section shall be made or permitted by the trustee or trustees without the approval of the Superintendent except to:

(A) Make deposits required by law in any state for the security or benefit of all policyholders, or policyholders and creditors, of the U.S. Branch in the United States;

(B) Substitute other assets permitted by law and at least equal in value and quality to those withdrawn upon the specific written direction of the United States manager when duly empowered and acting pursuant to either general or specific written authority previously given or delegated by the board of directors; or

(C) Transfer such assets to an official liquidator or rehabilitator pursuant to an order of a court of competent jurisdiction.

(e) The deed of trust may provide that income, earnings, dividends, or interest accumulations of the assets of the fund may be paid over to the United States manager of the U.S. branch upon request, provided that the total trustee assets shall not thereby be less than the amount required to be maintained pursuant to section 4.

(f) Upon withdrawal of trustee assets deposited in another state in which the insurer is authorized to do business, it shall be sufficient if the deed of trust requires similar written approval of the insurance supervising official of that state in lieu of approval of the Superintendent provided that the total trustee assets shall not thereby be less than the amount required to be maintained pursuant to section 4. In all such cases, the U.S. Branch shall notify the Superintendent in writing of the nature and extent of the withdrawal.

(g) The Superintendent may from time to time:

(1) Make examinations of the trustee assets of any authorized U.S. Branch at the insurer's expense; and

(2) Require the trustee or trustees to file a statement, in such form as the Superintendent may prescribe, certifying the assets of the trust fund and the amounts thereof.

(f) Refusal or neglect of any trustee to comply with the requirements of this section shall be grounds for the revocation of the insurer's license or the liquidation of its United States Branch.

**Sec. 6. Reporting requirements for U.S. Branches of non-U.S. insurers.**

(a) In addition to other requirements of this act, every authorized U.S. Branch shall, not later than the first day of March in each year and 45 days after the end of each of the first 3

**New Section  
35-4405**

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calendar-year quarters, file the following with the Superintendent and with the National Association of Insurance Commissioners ("NAIC"):

(1) Annual and quarterly statements of the business transacted within the United States and the assets held by or for it within the United States for the protection of policy holders and creditors within the United States, and of the liabilities incurred against such assets. The forms shall not contain any statement in regard to its assets and business elsewhere. The statements shall be in the same format required of an insurer domiciled in the United States Branch's state of entry state and licensed to write the same kinds of insurance; and

(2) A statement of trustee surplus, in such form as the Superintendent may prescribe, as of the end of the same period covered by the statement filed pursuant to paragraph (1) of this subsection. The aggregate value of the insurer's general state deposits and trustee assets deposited with a trustee in compliance with section 5, plus accrued investment income thereon where such interest is collected by the states for trustees, less the aggregate net amount of all of its reserves and other liabilities in the United States as determined in accordance with this section, shall be known as its trustee surplus in the United States. In determining the net amount of the U.S. Branch's liabilities in the United States to be reported in the statement of trustee surplus, the U.S. Branch shall make adjustments to total liabilities reported on the accompanying annual or quarterly statements as follows:

(A) Add back liabilities used to offset admitted assets reported in the accompanying quarterly or annual statement; and

(B) Deduct:

(i) Unearned premiums on agent's balances or uncollected premiums not more than 90 days past due;

(ii) Reinsurance on losses with authorized insurer's, less unpaid reinsurance premiums;

(iii) Reinsurance recoverable on paid losses from unauthorized insurers that are included as an asset in the annual statement, but only to the extent a liability for such unauthorized recoverables is included in the liabilities report in the trustee surplus statement;

(iv) Special state deposits held for the exclusive benefit of policyholders, or policyholders and creditors, of any particular state not exceeding net liabilities reports for that state;

(v) Secured accrued retrospective premiums;

(vi) If a life insurer, the amount of its policy loans to policyholders within the United States, not exceeding the amount of legal reserve required on each such policy, and the net amount of uncollected and deferred premiums; and

(vii) Any other nontrusteed asset which the Superintendent determines secures liabilities in a substantially similar manner; and

(3) Any additional information that the Superintendent may require relating to the total business or assets, or any portion thereof, of the non-U.S. insurer.

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(b) The annual statement and trustee surplus statement shall be signed and verified by the United States manager, attorney-in-fact, or a duly empowered assistant United States manager of the U.S. Branch. The items of securities and other property held under trust deeds shall be certified in the trustee surplus statement by the United States trustee or trustees.

(c) Every report on examination of a U.S. Branch shall include a trustee surplus statement as of the date of examination in addition to the general statement of the financial condition of the U.S. Branch.

**Sec. 7. Additional requirements for U.S. Branch license.**

**New Section  
35-4406**

(a) Before issuing any new or renewal license to any U.S. Branch, the Superintendent may require satisfactory proof, either in the non-U.S. insurer's charter or by an agreement evidenced by a duly certified resolution of its board of directors, or otherwise as the Superintendent may require, that the insurer will not engage in any insurance business in contravention of the provisions of this act or not authorized by its charter.

(b) The Superintendent shall issue a renewal license to any U.S. Branch if satisfied, by such proof as required, that the insurer is not delinquent with respect to any requirement imposed by this act and that its continuance in business in the District will not be hazardous or prejudicial to the best interest of the people of the District.

(c) No U.S. Branch shall be licensed to do in the District any kind of insurance business, or any combination of kinds of insurance business, which are not permitted to be done by domestic insurers licensed under the provisions of this act. No U.S. Branch shall be authorized to do an insurance business in the District if it does anywhere within the United States any kind of business other than an insurance business and the business necessarily or properly incidental to the kinds of insurance business which it is authorized to do in the District.

(d) Except as otherwise specifically provided, no U.S. Branch, entering through the District or another state, shall be or continue to be authorized to do an insurance business in the District if it fails to comply substantially with any requirement or limitation of this act applicable to similar domestic insurers hereafter organized, which in the judgement of the Superintendent is reasonably necessary to protect the interest of the policyholders.

(e) No U.S. Branch that does outside of the District any kind or combination of kinds of insurance business not permitted to be done in the District by similar domestic insurers hereafter organized shall be or continue to be authorized to do an insurance business in the District, unless in the judgement of the Superintendent the doing of such kind or combination of kinds of insurance business will not be prejudicial to the best interest of the people of the District.

(f) No U.S. Branch shall be, or continue to be, authorized to do an insurance business in the District if it fails to keep full and correct entries of its transactions, which shall at all times be open to the inspection of persons invested by law with the rights of inspection and be maintained in its principal office within the District.

Sec. 8. Authority of the Superintendent.

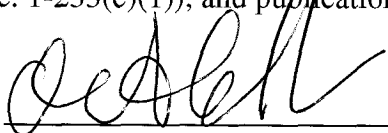
Whenever it appears to the Superintendent from any annual or quarterly statement, trustee surplus statement, or any other report that a U.S. Branch's trustee surplus is reduced below minimum capital and surplus required to be maintained by a domestic insurer licensed to transact the same kinds of insurance, the Superintendent may proceed against the insurer pursuant to the provisions of District law as an insurer whose condition is such that its further transaction of business in the United States will be hazardous to its policyholders, its creditors, or the public in the United States.

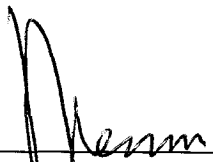
Sec. 9. Fiscal impact statement.

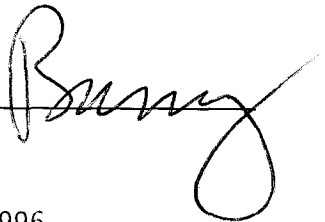
The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat 813; D.C. Code §1-233(c)(3)).

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 of the District of Columbia to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section n 203(a) of the District of Columbia Financial Responsibility and Management Assistance Authority Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code §47-392.3(c)), and 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, Sec. 1-233(c)(1)), and publication in the District of Columbia Register.

  
\_\_\_\_\_  
Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia



APPROVED: March 15, 1996





COUNCIL OF THE DISTRICT OF COLUMBIA

COUNCIL PERIOD ELEVEN

RECORD OF OFFICIAL COUNCIL VOTE

B11-391

Docket No. \_\_\_\_\_

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 02-06-96

VOICE VOTE

APPROVED

RECORDED VOTE ON REQUEST

ABSENT \_\_\_\_\_

ALL PRESENT

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

*Gregory Ford*  
Secretary to the Council

*March 6, 1996*  
Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 03-05-96

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

*Gregory Ford*  
Secretary to the Council

*March 6, 1996*  
Date

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