
Government of the District of Columbia



Department of Insurance, Securities and Banking

Testimony of
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Commissioner

***PUBLIC HEARING ON FISCAL YEAR 2010
BUDGET REQUEST FOR THE DEPARTMENT
OF INSURANCE, SECURITIES AND BANKING***

Committee on Public Services and Consumer Affairs
Muriel Bowser, Chairperson
Council of the District of Columbia

April 22, 2009

Room 412
John A. Wilson Building
1350 Pennsylvania Avenue, NW
Washington, DC 20004
11:00 AM

Good Afternoon Chairperson Bowser, Members of the Committee, and Committee Staff.

I am Thomas Hampton, Commissioner for the Department of Insurance, Securities and Banking (“DISB” or “Department”) and I am here today to testify on the DISB budget request for FY 2010. Joining me today is Bright Ahaiwe, our Controller.

DISB is responsible for regulating insurance, securities, banking, and financial entities and their producers that operate in the District of Columbia. The Department primarily performs our regulatory functions through licensing, examination, and review of certain products to determine compliance with District of Columbia laws. In an effort to protect our citizens from unscrupulous activity of financial service entities, our department also conducts investigations of the financial services marketplace, and assists in the development of case files for criminal and civil prosecutions. DISB has five bureaus: Insurance, Securities, Banking, Enforcement and Investigations, and Risk Finance. The mission for the Department is twofold: (1) to provide fair, efficient, and fast regulatory supervision of the financial services activities for the protection of the people of the District of Columbia; and (2) to create conditions that will attract and retain national and international insurance, securities, banking, and other financial services business to the District of Columbia.

The Mayor’s Fiscal Year 2010 budget submission for DISB is \$16,327,004, which is a less than 1%, or an \$8, 206, increase over our modified Fiscal Year 2009 budget of \$16,318,687. This variance in our budget from Fiscal Year 2009 consists of a \$(73,947)

decrease in our personnel services budget, and an \$82,153 increase in our non-personnel services budget.

The Mayor's budget supports 111 FTE authorized positions for Fiscal Year 2010, which is unchanged from Fiscal Year 2009. The decrease in our Personnel Services budget was primarily due to factors used to determine cost of living increases for our employees. The increase in our Non-Personnel Services budget is primarily due to a \$142,293 increase in our 'Building Rental' object class category, and a \$91,749 increase in the 'Purchase Assets-Equipment' object class category. The increase in the 'Purchase Assets-Equipment' object class category is the estimated cost to fund the replacement of the ACO software which is the software component used to automate the regulatory functions in our Securities and Banking Bureaus, and to update computers, laptops, and computer switches maintained by the Department.

The funding of the Department's FY 2010 budget request of \$16,327,004 comes directly from assessments and fees charged to the entities we regulate. Our budget, as submitted by the Mayor, does not contain local funds. For the regulation of insurance, the Department is funded through an assessment on insurers and health maintenance organizations doing business in the District of Columbia under the Insurance Regulatory Trust Fund Act (D.C. Official Code § 31-1203).

License and registration fees collected for the regulation of securities, and securities broker/dealers and investment advisers, are used by DISB to pay the costs of its

Securities Bureau budget, with the remainder returned to the General Fund (D.C. Official Code § 31-107(b)). The Banking Bureau is funded through fees generated from chartering District banks, licensing of financial institutions, and an assessment fee charged to mortgage lenders and brokers, with the remainder of these funds returned to the General Fund (D.C. Official Code § 31-107(b-1)). The Risk Finance Bureau is funded through taxes and fees charged to captive insurance companies and risk retention groups. The budget for each of these funds in Fiscal Year 2010 are \$7,374,871 for the Insurance, \$670,244 for HMOs, \$3,406,234 for Securities, \$3,018,540 for Banking, and \$1,857,116 for Risk Finance, which totals to \$16,327,004.

The current economic crisis has affected citizens and businesses throughout the US and the world. Investment portfolios and retirement plans have drastically lost their value, citizens have lost their jobs and homes, and businesses have faltered, and in some cases, entered into bankruptcy protection. At the root of our current economic problems is a financial regulatory scheme which permitted companies to sell financial products such as mortgages, and annuities that were not suitable to the needs and risk tolerance of the consumers who purchased these products. Further, the economic crisis was exacerbated by the selling of financial derivative products such as Credit Default Swaps, (CDS) that were sold by financial services companies that were insufficiently regulated, if at all. With the strategic focus of protecting District consumers, DISB has been on the forefront of the national effort to upgrade the regulatory framework used to monitor the activities of financial services companies. The Department is an active member in the National Association of Insurance Commissioners (NAIC), an association of state insurance

regulators, the North American Securities Administrators Association (NASAA), an association of state securities regulators and Conference of State Banking Supervisors (CSBS), an association of state banking regulators, among others. As participants in these associations, Department staff has served in leadership roles working with groups of regulators on modernizing the more than 50-year old reserving requirements for life insurance companies. In addition DISB chaired a group of regulators and industry executives that develops guidance on providing regulatory relief to life insurance companies that may need capital in the current economic environment, and have worked on the implementation of the electronic submission of Regulation D securities filings. Further, the Department has been intimately involved in the convergence of both accounting and regulatory processes with other financial regulators internationally. The ability to lead and participate in these projects helps DISB stay abreast of new regulatory strategies that assist us in meeting our mission of effective and efficient regulation as well as our ultimate charge, the protection of our citizens. This can best be characterized by a selection of the initiatives DISB will be implementing for the remainder of this fiscal year and for Fiscal Year 2010.

Consumer Protection and Advocacy Task Force

The financial services industry affects every citizen in our City and our agency is developing new strategies to provide our residents with information on who to contact if they have problems or inquiries related to financial services companies doing business within our jurisdiction. The Department has been involved with several outreach initiatives, but in light of the current economic crisis, we need to develop strategies to get

more citizens to be cognizant of the consumer protection services we are able to provide. As a part of this strategy, DISB is establishing a Consumer Protection and Advocacy Task Force. This task force will use the resources of all our functional bureaus and offices to provide information to consumers on complaint information and resolution, foreclosure issues and trends, and investor education issues. DISB will issue a monthly web alert and newsletter on important information relative to each of these areas and we will publish an annual consumer complaint report, which outlines the areas that generate the most complaints in our agency as well as the types of complaints we received. We also plan to include descriptions of the Department's disposition of consumer complaints to provide information to consumers regarding complaint trends and the amount of restitution and fines collected by the Department on behalf of our citizens. DISB anticipates the Task Force will be operational by the summer of 2009, and seeks to publish the Task Force's first annual report in Fiscal Year 2010.

Access to Health Insurance Coverage

One of the important initiatives DISB will continue to focus on in Fiscal Year 2010 is to seek innovations to address the affordability and availability of health insurance. The District of Columbia currently does not have a mandated program for our citizens with income levels over the government's health program limits, and who cannot meet the underwriting requirements of the commercial health insurance marketplace. DISB has worked with the District's CareFirst affiliate, Group Hospitalization and Medical Services, Inc. to provide an open enrollment health insurance program for these citizens. DISB also continues to develop, in conjunction with health insurance companies and

consumer health advocates, a High Risk Health Pool bill that would provide an option for citizens to obtain health insurance coverage from licensed health insurance companies regardless of their ability to be underwritten.

Captive Insurance

One of the major aspects of the Department's mission is "to attract and retain" more financial services companies to domicile in our jurisdiction. It is our belief that financial services companies would be a perfect fit for the District given its small size and highly educated workforce. These businesses provide jobs to local residents, lease office space within the District, and pay taxes to the District. In the past few years, the District of Columbia has earned a reputation throughout the United States as being a leading jurisdiction for the establishment of captives and risk retention groups. Moreover, the District has become a preeminent captive domicile even though there are now 30 other jurisdictions in the US that have captive insurance laws in place.

DISB has approximately one hundred and five (105) captives and Risk Retention Groups licensed, and we believe that the number of licensed companies in this category could increase to approximately one hundred and twenty (120) companies by the end of Fiscal Year 2009.

We have licensed captives for local businesses and associations such as: AARP, MedStar Health, which owns Georgetown University Hospital, Washington Hospital Center and National Rehabilitation Hospital, as well as a captive for the National Association of Social Workers. We have also licensed captives for the New York/New Jersey Port

Authority, the United Methodist Church, and the owners of the Sears Tower, Berkshire Hathaway, Goldman Sachs, and Marsh, the world's largest insurance brokerage.

All of these captives pay premium taxes to the District, including those captives that are owned by non-profit associations and institutions. Each year, the tax revenue has increased. Through our efforts, the District has become a first-class jurisdiction for captive insurance companies. With the Council's assistance, the District enacted a captive insurance law that is unparalleled in its sophistication and, as a result, is copied by jurisdictions in the US and internationally. I look forward to continue working with the Committee on this initiative as we move ahead.

In Fiscal Year 2010, DISB will continue to increase its investigation and enforcement program presence in the community. Recently, we had several investigations related to mortgage and foreclosure fraud, as well as securities related fraud issues. Currently, we are coordinating our efforts with the Consumer Protection Division to address the Internet payday lending and other Internet non-bank institutions with operations that place our citizens in a cycle of debt. Also, DISB will continue to provide fast, efficient, and effective regulation through the automation of our licensing and examination process. The Council recently enacted legislation that grants DISB the authority to participate in the National Mortgage Licensing System and requires the licensing of mortgage loan originators who operate in our jurisdiction. This new law will help us strengthen our consumer protection and enforcement around the mortgage lending and brokering process.

Finally, since appearing before you and Councilmember Kwame Brown at the CAPCO Roundtable held on April 3rd of this year, I have initiated a complete and comprehensive review of DISB's processes and procedures in connection with its regulation of the CAPCO program. We are also currently performing the 2008 annual examination of each CAPCO, which should be complete by the end of this month. Also, DISB has proposed legislative changes to the Executive that will increase the economic development benefits of the program to District businesses, and enhance our oversight authority over the CAPCOs. I assure you that DISB shares the Council's concerns about the CAPCO program, and we are acting aggressively to increase our oversight role.

DISB will continue to act as a conduit between the financial services industries we regulate and the consumers. We believe the Mayor's budget submission for Fiscal Year 2010 gives us sufficient staff and resources to continue our participation on national regulatory issues, maintain high regulatory standards, and provide consumer protection programs to our citizens. Our agency will continue to be more accessible to the public through increased public outreach efforts, including community presentations, media publicity, DISB newsletters, Web site, publications, information fairs, and community meetings, and open houses.

Thank you for the opportunity to testify. I will be happy to answer any questions you may have.