Council of the District of Columbia

Committee on Business, Consumer and Regulatory Affairs

Councilmember Vincent B. Orange, Chair

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Testimony of

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Department of Insurance, Securities and Banking on

Underinsured Motorist Carrier Fairness Amendment Act of 2013
Bill 20-365
Life and Health Insurance Guaranty Association Consumer Protection Amendment Act of 2013
Bill 20-212
Community Development Amendment Act of 2013
Bill 20-540

Good morning Councilmember Orange, Committee members and staff. I am Chester McPherson, Interim Commissioner for the Department of Insurance, Securities and Banking. I appear before you today to testify on three pieces of legislation:

- 1) Bill 20-365, the Underinsured Motorist Carrier Fairness Amendment Act of 2013;
- 2) Bill 20-212, the Life and Health Insurance Guaranty Association Consumer Protection Amendment Act of 2013; and
- 3) Bill 20-540, the Community Development Amendment Act of 2013.

DISB supports these bills, and in some cases recommends changes to enhance the legislation.

I will start with Bill 20-365, the Underinsured Motorist Carrier Fairness Amendment Act of 2013.

Bill 20-365 provides a 60-day time limit for an insurer, who is providing underinsured motorist coverage to an injured party, to accept or reject a settlement offer that exhausts the limits of a liability policy from the liability insurer. Additionally, within 30 days after the underinsured motorist insurer decides to reject a settlement offer, they must make payment to their insured in the amount of the rejected claim.

This legislation will end delays in accepting decisions about settlement offers from liability insurers. We understand there have been instances where insurers providing underinsured motorist coverage are delaying decisions about accepting settlement offers from liability insurers on their insured's behalf. Such instances require insureds to expend their own money while waiting for the settlement issue to be resolved.

We support this legislation and the amendments suggested by the D.C. Insurance Federation and the D.C. Trial Lawyers Association. We also suggest this language is better placed in another section of the law other than Section 31-2406. These amendments are more related to the

subject of claims therefore, we suggest creating a new subchapter in Chapter 24 titled "Claim Settlement."

The second bill before you today, Bill 20-212, the Life and Health Insurance Guaranty Association Consumer Protection Amendment Act of 2013 makes consumer-friendly updates to the Life and Health Insurance Guaranty Association Act of 1992. Generally, the amendments will ensure that consumers receive the full benefits of certain life and health policies or contracts in the event of insolvency by increasing the coverage limits to reflect the higher policy limits that are available to consumers in the modern insurance market. In addition, the bill makes certain other administrative changes regarding the Association's responsibilities towards covered persons and its operations.

Additionally, the amendments in Bill 20-212 would bring the District's guaranty association laws in line with Maryland, Virginia, West Virginia and 30 other states that have already adopted this National Association of Insurance Commissioners Model Law and its most recent

amendments. More importantly, these amendments will ensure that D.C. residents are eligible for the same higher limits as residents in neighboring states.

I'd like to spend the remainder of my time discussing Bill 20-540, the Community Development Amendment Act of 2013. This bill would make changes to the District's version of the federal Community Reinvestment Act, commonly referred to as "CRA." The Community Development Act of 2000 requires financial institutions regulated by the department to submit a plan to the DISB Commissioner at least annually detailing how the financial institution will meet the credit and financial services needs of District residents.

The purpose of this legislation is to increase lending and services to underserved borrowers. The current D.C. Community Development Act applies only to our two D.C. chartered banks because the doctrine of federal preemption prevents the District or any state from having regulatory authority over a federally chartered bank. The legislation currently before the Council would among other things make all

financial institutions receiving deposits or contracts from the District subject to the D.C. Community Development Act. The legislation also:

- Changes the content and frequency of the financial institution's community development plan submission and the Commissioner's assessment;
- Allows for more public comment on the plan and the Commissioner's assessment; and
- Requires that the City Treasurer shall consider the Commissioner's rating when awarding deposits and contracts.

DISB supports the legislation's goal to enhance lending to underserved borrowers and neighborhoods. To better facilitate this effort, we recommend the committee consider a few amendments.

First, the examination cycle in the existing law and the proposed amendment should be changed to be consistent with the federal Community Reinvestment Act. The existing law and the amendment require an assessment and rating annually and biennially, respectively.

However, the federal Community Reinvestment Act varies its examination cycle depending upon the size and prior rating of the bank. For example, under the federal CRA, a bank with less than $290 million in assets and a satisfactory rating on its prior exam would be examined every four years, whereas a similar bank with less than $1.16 billion in assets would be examined every 2-3 years. This model attempts to provide some regulatory relief to small community banks who have shown a good record of meeting their CRA requirements. It is not uncommon for a state banking division and the Federal Deposit Insurance Corporation to conduct a joint compliance examination, which usually lasts 2-4 weeks.

Second, there are four categories under the federal CRA law: Outstanding, Satisfactory, Needs to Improve, and Substantial Non-Compliance. Current D.C. law includes a fifth category of Highly Satisfactory. DISB recommends this fifth category be eliminated. DISB believes that these inconsistent standards confuse the public as well as financial institutions.

The department appreciates the opportunity to provide feedback on the Community Development Amendment Act of 2013. We believe that these changes will help achieve the intent of the legislation while not unnecessarily increasing the regulatory burden for D.C. financial institutions and small community banks. This is also an opportunity to make the District's Community Development Act consistent with the federal standards.

This concludes my testimony on the bills before the committee today. Thank you again, Chairman Orange and members of the committee. I'd be happy to answer your questions.