

# ***In the House of Representatives, U. S.,***

*December 10, 2014.*

*Resolved*, That the bill from the Senate (S. 2244) entitled “An Act to extend the termination date of the Terrorism Insurance Program established under the Terrorism Risk Insurance Act of 2002, and for other purposes.”, do pass with the following

## **AMENDMENT:**

Strike all after the enacting clause and insert the following:

**1    *SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.***

2            *(a) SHORT TITLE.—This Act may be cited as the “Ter-*  
3 *rorism Risk Insurance Program Reauthorization Act of*  
4 *2014”.*

5            *(b) TABLE OF CONTENTS.—The table of contents for*  
6 *this Act is as follows:*

*Sec. 1. Short title and table of contents.*

### ***TITLE I—EXTENSION OF TERRORISM INSURANCE PROGRAM***

*Sec. 101. Extension of Terrorism Insurance Program.*

*Sec. 102. Federal share.*

*Sec. 103. Program trigger.*

*Sec. 104. Recoupment of Federal share of compensation under the program.*

*Sec. 105. Certification of acts of terrorism; consultation with Secretary of Homeland Security.*

*Sec. 106. Technical amendments.*

*Sec. 107. Improving the certification process.*

*Sec. 108. GAO study.*

*Sec. 109. Membership of Board of Governors of the Federal Reserve System.*

*Sec. 110. Advisory Committee on Risk-Sharing Mechanisms.*

*Sec. 111. Reporting of terrorism insurance data.*

*Sec. 112. Annual study of small insurer market competitiveness.*

*TITLE II—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND  
BROKERS REFORM*

*Sec. 201. Short title.*

*Sec. 202. Reestablishment of the National Association of Registered Agents and  
Brokers.*

*TITLE III—BUSINESS RISK MITIGATION AND PRICE STABILIZATION*

*Sec. 301. Short title.*

*Sec. 302. Margin requirements.*

*Sec. 303. Implementation.*

**1 TITLE I—EXTENSION OF TER-**  
**2 RORISM INSURANCE PRO-**  
**3 GRAM**

**4 SEC. 101. EXTENSION OF TERRORISM INSURANCE PRO-**  
**5 GRAM.**

*6 Section 108(a) of the Terrorism Risk Insurance Act*  
*7 of 2002 (15 U.S.C. 6701 note) is amended by striking “De-*  
*8 cember 31, 2014” and inserting “December 31, 2020”.*

**9 SEC. 102. FEDERAL SHARE.**

*10 Section 103(e)(1)(A) of the Terrorism Risk Insurance*  
*11 Act of 2002 (15 U.S.C. 6701 note) is amended by inserting*  
*12 “and beginning on January 1, 2016, shall decrease by 1*  
*13 percentage point per calendar year until equal to 80 per-*  
*14 cent” after “85 percent”.*

**15 SEC. 103. PROGRAM TRIGGER.**

*16 Subparagraph (B) of section 103(e)(1) (15 U.S.C.*  
*17 6701 note) is amended in the matter preceding clause (i)—*  
*18 (1) by striking “a certified act” and inserting*  
*19 “certified acts”;*

1           (2) by striking “such certified act” and inserting  
2           “such certified acts”; and

3           (3) by striking “exceed” and all that follows  
4           through clause (ii) and inserting the following: “ex-  
5           ceed—

6                       “(i) \$100,000,000, with respect to such  
7                       insured losses occurring in calendar year  
8                       2015;

9                       “(ii) \$120,000,000, with respect to such  
10                      insured losses occurring in calendar year  
11                      2016;

12                     “(iii) \$140,000,000, with respect to  
13                     such insured losses occurring in calendar  
14                     year 2017;

15                     “(iv) \$160,000,000, with respect to  
16                     such insured losses occurring in calendar  
17                     year 2018;

18                     “(v) \$180,000,000, with respect to such  
19                     insured losses occurring in calendar year  
20                     2019; and

21                     “(vi) \$200,000,000, with respect to  
22                     such insured losses occurring in calendar  
23                     year 2020 and any calendar year there-  
24                     after.”.

1 **SEC. 104. RECOUPMENT OF FEDERAL SHARE OF COMPENSA-**  
 2 **TION UNDER THE PROGRAM.**

3 *Section 103(e) of the Terrorism Risk Insurance Act of*  
 4 *2002 (15 U.S.C. 6701 note) is amended—*

5 *(1) by amending paragraph (6) to read as fol-*  
 6 *lows:*

7 *“(6) INSURANCE MARKETPLACE AGGREGATE RE-*  
 8 *TENTION AMOUNT.—*

9 *“(A) IN GENERAL.—For purposes of para-*  
 10 *graph (7), the insurance marketplace aggregate*  
 11 *retention amount shall be the lesser of—*

12 *“(i) \$27,500,000,000, as such amount*  
 13 *is revised pursuant to this paragraph; and*

14 *“(ii) the aggregate amount, for all in-*  
 15 *surers, of insured losses during such cal-*  
 16 *endar year.*

17 *“(B) REVISION OF INSURANCE MARKET-*  
 18 *PLACE AGGREGATE RETENTION AMOUNT.—*

19 *“(i) PHASE-IN.—Beginning in the cal-*  
 20 *endar year that follows the date of enact-*  
 21 *ment of the Terrorism Risk Insurance Pro-*  
 22 *gram Reauthorization Act of 2014, the*  
 23 *amount set forth under subparagraph (A)(i)*  
 24 *shall increase by \$2,000,000,000 per cal-*  
 25 *endar year until equal to \$37,500,000,000.*

1           “(ii) *FURTHER REVISION.*—Beginning  
 2           in the calendar year that follows the cal-  
 3           endar year in which the amount set forth  
 4           under subparagraph (A)(i) is equal to  
 5           \$37,500,000,000, the amount under sub-  
 6           paragraph (A)(i) shall be revised to be the  
 7           amount equal to the annual average of the  
 8           sum of insurer deductibles for all insurers  
 9           participating in the Program for the prior  
 10          3 calendar years, as such sum is determined  
 11          by the Secretary under subparagraph (C).

12          “(C) *RULEMAKING.*—Not later than 3 years  
 13          after the date of enactment of the Terrorism Risk  
 14          Insurance Program Reauthorization Act of 2014,  
 15          the Secretary shall—

16               “(i) issue final rules for determining  
 17               the amount of the sum described under sub-  
 18               paragraph (B)(ii); and

19               “(ii) provide a timeline for public no-  
 20               tification of such determination.”; and

21          (2) in paragraph (7)—

22               (A) in subparagraph (A)—

23                       (i) in the matter preceding clause (i),  
 24               by striking “for each of the periods referred

to in subparagraphs (A) through (E) of paragraph (6)”; and

(ii) in clause (i), by striking “for such period”;

(B) by striking subparagraph (B) and inserting the following:

“(B) [Reserved.]”;

(C) in subparagraph (C)—

(i) by striking “occurring during any of the periods referred to in any of subparagraphs (A) through (E) of paragraph (6), terrorism loss risk-spreading premiums in an amount equal to 133 percent” and inserting “, terrorism loss risk-spreading premiums in an amount equal to 140 percent”; and

(ii) by inserting “as calculated under subparagraph (A)” after “mandatory recoupment amount”; and

(D) in subparagraph (E)(i)—

(i) in subclause (I)—

(I) by striking “2010” and inserting “2017”; and

(II) by striking “2012” and inserting “2019”;

1 (ii) in subclause (II)—

2 (I) by striking “2011” and insert-  
3 ing “2018”;

4 (II) by striking “2012” and in-  
5 serting “2019”; and

6 (III) by striking “2017” and in-  
7 serting “2024”; and

8 (iii) in subclause (III)—

9 (I) by striking “2012” and insert-  
10 ing “2019”; and

11 (II) by striking “2017” and in-  
12 serting “2024”.

13 **SEC. 105. CERTIFICATION OF ACTS OF TERRORISM; CON-**  
14 **SULTATION WITH SECRETARY OF HOMELAND**  
15 **SECURITY.**

16 (a) *IN GENERAL.*—Paragraph (1)(A) of section 102  
17 (15 U.S.C. 6701 note) is amended in the matter preceding  
18 clause (i), by striking “concurrence with the Secretary of  
19 State” and inserting “consultation with the Secretary of  
20 Homeland Security”.

21 (b) *EFFECTIVE DATE.*—The amendment made by sub-  
22 section (a) shall take effect on January 1, 2015.

23 **SEC. 106. TECHNICAL AMENDMENTS.**

24 The Terrorism Risk Insurance Act of 2002 (15 U.S.C.  
25 6701 note) is amended—

1           (1) *in section 102—*

2                 (A) *in paragraph (3)—*

3                     (i) *by redesignating subparagraphs*  
 4                     (A), (B), and (C) *as clauses (i), (ii), and*  
 5                     (iii), *respectively;*

6                     (ii) *in the matter preceding clause (i)*  
 7                     *(as so redesignated), by striking “An entity*  
 8                     *has” and inserting the following:*

9                     “(A) *IN GENERAL.—An entity has*”; and

10                    (iii) *by adding at the end the following*  
 11                    *new subparagraph:*

12                    “(B) *RULE OF CONSTRUCTION.—An entity,*  
 13                    *including any affiliate thereof, does not have*  
 14                    *‘control’ over another entity, if, as of the date of*  
 15                    *enactment of the Terrorism Risk Insurance Pro-*  
 16                    *gram Reauthorization Act of 2014, the entity is*  
 17                    *acting as an attorney-in-fact, as defined by the*  
 18                    *Secretary, for the other entity and such other en-*  
 19                    *tity is a reciprocal insurer, provided that the en-*  
 20                    *tity is not, for reasons other than the attorney-*  
 21                    *in-fact relationship, defined as having ‘control’*  
 22                    *under subparagraph (A).”;*

23                    (B) *in paragraph (7)—*

24                    (i) *by striking subparagraphs (A)*  
 25                    *through (F) and inserting the following:*



1           “(A) the value of an insurer’s direct earned  
2           premiums during the immediately preceding cal-  
3           endar year, multiplied by 20 percent; and”;

4                   (ii) by redesignating subparagraph (G)  
5           as subparagraph (B); and

6                   (iii) in subparagraph (B), as so redes-  
7           ignated by clause (ii)—

8                   (I) by striking “notwithstanding  
9           subparagraphs (A) through (F), for the  
10          Transition Period or any Program  
11          Year” and inserting “notwithstanding  
12          subparagraph (A), for any calendar  
13          year”; and

14                  (II) by striking “Period or Pro-  
15          gram Year” and inserting “calendar  
16          year”;

17           (C) by striking paragraph (11); and

18           (D) by redesignating paragraphs (12)  
19          through (16) as paragraphs (11) through (15),  
20          respectively; and

21          (2) in section 103—

22           (A) in subsection (b)(2)—

23                   (i) in subparagraph (B), by striking “,  
24           purchase,”; and

1                   (ii) in subparagraph (C), by striking  
2                   “, purchase,”;

3                   (B) in subsection (c), by striking “Program  
4                   Year” and inserting “calendar year”;

5                   (C) in subsection (e)—

6                   (i) in paragraph (1)(A), as previously  
7                   amended by section 102—

8                   (I) by striking “the Transition  
9                   Period and each Program Year through  
10                  Program Year 4 shall be equal to 90  
11                  percent, and during Program Year 5  
12                  and each Program Year thereafter”  
13                  and inserting “each calendar year”;

14                  (II) by striking the comma after  
15                  “80 percent”; and

16                  (III) by striking “such Transition  
17                  Period or such Program Year” and in-  
18                  serting “such calendar year”; and

19                  (ii) in paragraph (2)(A), by striking  
20                  “the period beginning on the first day of the  
21                  Transition Period and ending on the last  
22                  day of Program Year 1, or during any Pro-  
23                  gram Year thereafter” and inserting “a cal-  
24                  endar year”; and

(iii) in paragraph (3), by striking “the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during any other Program Year” and inserting “any calendar year”; and

(D) in subsection (g)(2)—

(i) by striking “the Transition Period or a Program Year” each place that term appears and inserting “the calendar year”;

(ii) by striking “such period” and inserting “the calendar year”; and

(iii) by striking “that period” and inserting “the calendar year”.

**SEC. 107. IMPROVING THE CERTIFICATION PROCESS.**

(a) *DEFINITIONS.*—As used in this section—

(1) the term “act of terrorism” has the same meaning as in section 102(1) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note);

(2) the term “certification process” means the process by which the Secretary determines whether to certify an act as an act of terrorism under section 102(1) of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note); and

1           (3) the term “Secretary” means the Secretary of  
2       the Treasury.

3       (b) *STUDY*.—Not later than 9 months after the date  
4 of enactment of this Act, the Secretary shall conduct and  
5 complete a study on the certification process.

6       (c) *REQUIRED CONTENT*.—The study required under  
7 subsection (a) shall include an examination and analysis  
8 of—

9           (1) the establishment of a reasonable timeline by  
10       which the Secretary must make an accurate deter-  
11       mination on whether to certify an act as an act of  
12       terrorism;

13          (2) the impact that the length of any timeline  
14       proposed to be established under paragraph (1) may  
15       have on the insurance industry, policyholders, con-  
16       sumers, and taxpayers as a whole;

17          (3) the factors the Secretary would evaluate and  
18       monitor during the certification process, including the  
19       ability of the Secretary to obtain the required infor-  
20       mation regarding the amount of projected and in-  
21       curred losses resulting from an act which the Sec-  
22       retary would need in determining whether to certify  
23       the act as an act of terrorism;

24          (4) the appropriateness, efficiency, and effective-  
25       ness of the consultation process required under section

1       102(1)(A) of the Terrorism Risk Insurance Act of  
 2       2002 (15 U.S.C. 6701 note) and any recommenda-  
 3       tions on changes to the consultation process; and

4               (5) the ability of the Secretary to provide guid-  
 5       ance and updates to the public regarding any act that  
 6       may reasonably be certified as an act of terrorism.

7       (d) *REPORT*.—Upon completion of the study required  
 8       under subsection (a), the Secretary shall submit a report  
 9       on the results of such study to the Committee on Banking,  
 10       Housing, and Urban Affairs of the Senate and the Com-  
 11       mittee on Financial Services of the House of Representa-  
 12       tives.

13       (e) *RULEMAKING*.—Section 102(1) of the Terrorism  
 14       Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is amend-  
 15       ed—

16               (1) by redesignating subparagraph (D) as sub-  
 17       paragraph (E); and

18               (2) by inserting after subparagraph (C) the fol-  
 19       lowing:

20                       “(D) *TIMING OF CERTIFICATION*.—Not later  
 21       than 9 months after the report required under  
 22       section 107 of the Terrorism Risk Insurance Pro-  
 23       gram Reauthorization Act of 2014 is submitted  
 24       to the appropriate committees of Congress, the  
 25       Secretary shall issue final rules governing the

1           *certification process, including establishing a*  
 2           *timeline for which an act is eligible for certifi-*  
 3           *cation by the Secretary on whether an act is an*  
 4           *act of terrorism under this paragraph.”.*

5   **SEC. 108. GAO STUDY.**

6           *(a) STUDY.—Not later than 2 years after the date of*  
 7           *enactment of this Act, the Comptroller General of the United*  
 8           *States shall complete a study on the viability and effects*  
 9           *of the Federal Government—*

10           *(1) assessing and collecting upfront premiums on*  
 11           *insurers that participate in the Terrorism Insurance*  
 12           *Program established under the Terrorism Risk Insur-*  
 13           *ance Act of 2002 (15 U.S.C. 6701 note) (hereafter in*  
 14           *this section referred to as the “Program”), which shall*  
 15           *include a comparison of practices in international*  
 16           *markets to assess and collect premiums either before*  
 17           *or after terrorism losses are incurred; and*

18           *(2) creating a capital reserve fund under the*  
 19           *Program and requiring insurers participating in the*  
 20           *Program to dedicate capital specifically for terrorism*  
 21           *losses before such losses are incurred, which shall in-*  
 22           *clude a comparison of practices in international mar-*  
 23           *kets to establish reserve funds.*

1       (b) *REQUIRED CONTENT.*—*The study required under*  
 2 *subsection (a) shall examine, but shall not be limited to,*  
 3 *the following issues:*

4           (1) *UPFRONT PREMIUMS.*—*With respect to up-*  
 5 *front premiums described in subsection (a)(1)—*

6                   (A) *how the Federal Government could de-*  
 7 *termine the price of such upfront premiums on*  
 8 *insurers that participate in the Program;*

9                   (B) *how the Federal Government could col-*  
 10 *lect and manage such upfront premiums;*

11                  (C) *how the Federal Government could en-*  
 12 *sure that such upfront premiums are not spent*  
 13 *for purposes other than claims through the Pro-*  
 14 *gram;*

15                  (D) *how the assessment and collection of*  
 16 *such upfront premiums could affect take-up rates*  
 17 *for terrorism risk coverage in different regions*  
 18 *and industries and how it could impact small*  
 19 *businesses and consumers in both metropolitan*  
 20 *and non-metropolitan areas;*

21                  (E) *the effect of collecting such upfront pre-*  
 22 *miums on insurers both large and small;*

23                  (F) *the effect of collecting such upfront pre-*  
 24 *miums on the private market for terrorism risk*  
 25 *reinsurance; and*

1           (G) the size of any Federal Government sub-  
2           sidy insurers may receive through their partici-  
3           pation in the Program, taking into account the  
4           Program's current post-event recoupment struc-  
5           ture.

6           (2) CAPITAL RESERVE FUND.—With respect to  
7           the capital reserve fund described in subsection  
8           (a)(2)—

9           (A) how the creation of a capital reserve  
10          fund would affect the Federal Government's fis-  
11          cal exposure under the Terrorism Risk Insurance  
12          Program and the ability of the Program to meet  
13          its statutory purposes;

14          (B) how a capital reserve fund would im-  
15          pact insurers and reinsurers, including liquid-  
16          ity, insurance pricing, and capacity to provide  
17          terrorism risk coverage;

18          (C) the feasibility of segregating funds at-  
19          tributable to terrorism risk from funds attrib-  
20          utable to other insurance lines;

21          (D) how a capital reserve fund would be  
22          viewed and treated under current Financial Ac-  
23          counting Standards Board accounting rules and  
24          the tax laws; and



1                   (E) how a capital reserve fund would affect  
 2                   the States' ability to regulate insurers partici-  
 3                   pating in the Program.

4                   (3) *INTERNATIONAL PRACTICES.*—With respect to  
 5                   international markets referred to in paragraphs (1)  
 6                   and (2) of subsection (a), how other countries, if  
 7                   any—

8                   (A) have established terrorism insurance  
 9                   structures;

10                  (B) charge premiums or otherwise collect  
 11                  funds to pay for the costs of terrorism insurance  
 12                  structures, including risk and administrative  
 13                  costs; and

14                  (C) have established capital reserve funds to  
 15                  pay for the costs of terrorism insurance struc-  
 16                  tures.

17                  (c) *REPORT.*—Upon completion of the study required  
 18                  under subsection (a), the Comptroller General shall submit  
 19                  a report on the results of such study to the Committee on  
 20                  Banking, Housing, and Urban Affairs of the Senate and  
 21                  the Committee on Financial Services of the House of Rep-  
 22                  resentatives.

23                  (d) *PUBLIC AVAILABILITY.*—The study and report re-  
 24                  quired under this section shall be made available to the pub-

1 *lic in electronic form and shall be published on the website*  
 2 *of the Government Accountability Office.*

3 **SEC. 109. MEMBERSHIP OF BOARD OF GOVERNORS OF THE**  
 4 **FEDERAL RESERVE SYSTEM.**

5 *(a) IN GENERAL.—The first undesignated paragraph*  
 6 *of section 10 of the Federal Reserve Act (12 U.S.C. 241)*  
 7 *is amended by inserting after the second sentence the fol-*  
 8 *lowing: “In selecting members of the Board, the President*  
 9 *shall appoint at least 1 member with demonstrated primary*  
 10 *experience working in or supervising community banks*  
 11 *having less than \$10,000,000,000 in total assets.”.*

12 *(b) EFFECTIVE DATE.—The amendment made by this*  
 13 *section shall take effect on the date of enactment of this Act*  
 14 *and apply to appointments made on and after that effective*  
 15 *date, excluding any nomination pending in the Senate on*  
 16 *that date.*

17 **SEC. 110. ADVISORY COMMITTEE ON RISK-SHARING MECHA-**  
 18 **NISMS.**

19 *(a) FINDING; RULE OF CONSTRUCTION.—*

20 *(1) FINDING.—Congress finds that it is desirable*  
 21 *to encourage the growth of nongovernmental, private*  
 22 *market reinsurance capacity for protection against*  
 23 *losses arising from acts of terrorism.*

24 *(2) RULE OF CONSTRUCTION.—Nothing in this*  
 25 *Act, any amendment made by this Act, or the Ter-*

1        *rorism Risk Insurance Act of 2002 (15 U.S.C. 6701*  
 2        *note) shall prohibit insurers from developing risk-*  
 3        *sharing mechanisms to voluntarily reinsure terrorism*  
 4        *losses between and among themselves.*

5        *(b) ADVISORY COMMITTEE ON RISK-SHARING MECHA-*  
 6        *NISMS.—*

7                *(1) ESTABLISHMENT.—The Secretary of the*  
 8        *Treasury shall establish and appoint an advisory*  
 9        *committee to be known as the “Advisory Committee*  
 10        *on Risk-Sharing Mechanisms” (referred to in this*  
 11        *subsection as the “Advisory Committee”).*

12                *(2) DUTIES.—The Advisory Committee shall pro-*  
 13        *vide advice, recommendations, and encouragement*  
 14        *with respect to the creation and development of the*  
 15        *nongovernmental risk-sharing mechanisms described*  
 16        *under subsection (a).*

17                *(3) MEMBERSHIP.—The Advisory Committee*  
 18        *shall be composed of 9 members who are directors, of-*  
 19        *ficers, or other employees of insurers, reinsurers, or*  
 20        *capital market participants that are participating or*  
 21        *that desire to participate in the nongovernmental*  
 22        *risk-sharing mechanisms described under subsection*  
 23        *(a), and who are representative of the affected sectors*  
 24        *of the insurance industry, including commercial*

1        *property insurance, commercial casualty insurance,*  
 2        *reinsurance, and alternative risk transfer industries.*

3        *(c) EFFECTIVE DATE.—The provisions of this section*  
 4        *shall take effect on January 1, 2015.*

5        **SEC. 111. REPORTING OF TERRORISM INSURANCE DATA.**

6        *Section 104 (15 U.S.C. 6701 note) is amended by add-*  
 7        *ing at the end the following new subsection:*

8        *“(h) REPORTING OF TERRORISM INSURANCE DATA.—*

9                *“(1) AUTHORITY.—During the calendar year be-*  
 10        *ginning on January 1, 2016, and in each calendar*  
 11        *year thereafter, the Secretary shall require insurers*  
 12        *participating in the Program to submit to the Sec-*  
 13        *retary such information regarding insurance coverage*  
 14        *for terrorism losses of such insurers as the Secretary*  
 15        *considers appropriate to analyze the effectiveness of*  
 16        *the Program, which shall include information regard-*  
 17        *ing—*

18                *“(A) lines of insurance with exposure to*  
 19        *such losses;*

20                *“(B) premiums earned on such coverage;*

21                *“(C) geographical location of exposures;*

22                *“(D) pricing of such coverage;*

23                *“(E) the take-up rate for such coverage;*

24                *“(F) the amount of private reinsurance for*  
 25        *acts of terrorism purchased; and*

1           “(G) *such other matters as the Secretary*  
 2           *considers appropriate.*

3           “(2) *REPORTS.*—*Not later than June 30, 2016,*  
 4           *and every other June 30 thereafter, the Secretary*  
 5           *shall submit a report to the Committee on Financial*  
 6           *Services of the House of Representatives and the Com-*  
 7           *mittee on Banking, Housing, and Urban Affairs of*  
 8           *the Senate that includes—*

9                   “(A) *an analysis of the overall effectiveness*  
 10           *of the Program;*

11                   “(B) *an evaluation of any changes or trends*  
 12           *in the data collected under paragraph (1);*

13                   “(C) *an evaluation of whether any aspects*  
 14           *of the Program have the effect of discouraging or*  
 15           *impeding insurers from providing commercial*  
 16           *property casualty insurance coverage or coverage*  
 17           *for acts of terrorism;*

18                   “(D) *an evaluation of the impact of the*  
 19           *Program on workers’ compensation insurers; and*

20                   “(E) *in the case of the data reported in*  
 21           *paragraph (1)(B), an updated estimate of the*  
 22           *total amount earned since January 1, 2003.*

23           “(3) *PROTECTION OF DATA.*—*To the extent pos-*  
 24           *sible, the Secretary shall contract with an insurance*  
 25           *statistical aggregator to collect the information de-*

1       scribed in paragraph (1), which shall keep any non-  
2       public information confidential and provide it to the  
3       Secretary in an aggregate form or in such other form  
4       or manner that does not permit identification of the  
5       insurer submitting such information.

6               “(4) *ADVANCE COORDINATION.*—Before collecting  
7       any data or information under paragraph (1) from  
8       an insurer, or affiliate of an insurer, the Secretary  
9       shall coordinate with the appropriate State insurance  
10      regulatory authorities and any relevant government  
11      agency or publicly available sources to determine if  
12      the information to be collected is available from, and  
13      may be obtained in a timely manner by, individually  
14      or collectively, such entities. If the Secretary deter-  
15      mines that such data or information is available, and  
16      may be obtained in a timely matter, from such enti-  
17      ties, the Secretary shall obtain the data or informa-  
18      tion from such entities. If the Secretary determines  
19      that such data or information is not so available, the  
20      Secretary may collect such data or information from  
21      an insurer and affiliates.

22               “(5) *CONFIDENTIALITY.*—

23               “(A) *RETENTION OF PRIVILEGE.*—The sub-  
24      mission of any non-publicly available data and  
25      information to the Secretary and the sharing of

1        *any non-publicly available data with or by the*  
 2        *Secretary among other Federal agencies, the*  
 3        *State insurance regulatory authorities, or any*  
 4        *other entities under this subsection shall not con-*  
 5        *stitute a waiver of, or otherwise affect, any*  
 6        *privilege arising under Federal or State law (in-*  
 7        *cluding the rules of any Federal or State court)*  
 8        *to which the data or information is otherwise*  
 9        *subject.*

10        “(B) *CONTINUED APPLICATION OF PRIOR*  
 11        *CONFIDENTIALITY AGREEMENTS.—Any require-*  
 12        *ment under Federal or State law to the extent*  
 13        *otherwise applicable, or any requirement pursu-*  
 14        *ant to a written agreement in effect between the*  
 15        *original source of any non-publicly available*  
 16        *data or information and the source of such data*  
 17        *or information to the Secretary, regarding the*  
 18        *privacy or confidentiality of any data or infor-*  
 19        *mation in the possession of the source to the Sec-*  
 20        *retary, shall continue to apply to such data or*  
 21        *information after the data or information has*  
 22        *been provided pursuant to this subsection.*

23        “(C) *INFORMATION-SHARING AGREEMENT.—*  
 24        *Any data or information obtained by the Sec-*  
 25        *retary under this subsection may be made avail-*

able to State insurance regulatory authorities,  
individually or collectively through an informa-  
tion-sharing agreement that—

“(i) shall comply with applicable Fed-  
eral law; and

“(ii) shall not constitute a waiver of,  
or otherwise affect, any privilege under Fed-  
eral or State law (including any privilege  
referred to in subparagraph (A) and the  
rules of any Federal or State court) to  
which the data or information is otherwise  
subject.

“(D) AGENCY DISCLOSURE REQUIRE-  
MENTS.—Section 552 of title 5, United States  
Code, including any exceptions thereunder, shall  
apply to any data or information submitted  
under this subsection to the Secretary by an in-  
surer or affiliate of an insurer.”.

**SEC. 112. ANNUAL STUDY OF SMALL INSURER MARKET  
COMPETITIVENESS.**

Section 108 (15 U.S.C. 6701 note) is amended by add-  
ing at the end the following new subsection:

“(h) STUDY OF SMALL INSURER MARKET COMPETI-  
TIVENESS.—



1           “(1) *IN GENERAL.*—Not later than June 30,  
 2           2017, and every other June 30 thereafter, the Sec-  
 3           retary shall conduct a study of small insurers (as  
 4           such term is defined by regulation by the Secretary)  
 5           participating in the Program, and identify any com-  
 6           petitive challenges small insurers face in the terrorism  
 7           risk insurance marketplace, including—

8                   “(A) *changes to the market share, premium*  
 9                   *volume, and policyholder surplus of small insur-*  
 10                   *ers relative to large insurers;*

11                   “(B) *how the property and casualty insur-*  
 12                   *ance market for terrorism risk differs between*  
 13                   *small and large insurers, and whether such a*  
 14                   *difference exists within other perils;*

15                   “(C) *the impact of the Program’s manda-*  
 16                   *tory availability requirement under section*  
 17                   *103(c) on small insurers;*

18                   “(D) *the effect of increasing the trigger*  
 19                   *amount for the Program under section*  
 20                   *103(e)(1)(B) on small insurers;*

21                   “(E) *the availability and cost of private re-*  
 22                   *insurance for small insurers; and*

23                   “(F) *the impact that State workers com-*  
 24                   *pensation laws have on small insurers and work-*

1            *ers compensation carriers in the terrorism risk*  
 2            *insurance marketplace.*

3            “(2) *REPORT.*—*The Secretary shall submit a re-*  
 4            *port to the Congress setting forth the findings and*  
 5            *conclusions of each study required under paragraph*  
 6            *(1).”.*

7    ***TITLE II—NATIONAL ASSOCIA-***  
 8            ***TION OF REGISTERED***  
 9            ***AGENTS AND BROKERS RE-***  
 10           ***FORM***

11 ***SEC. 201. SHORT TITLE.***

12            *This title may be cited as the “National Association*  
 13            *of Registered Agents and Brokers Reform Act of 2014”.*

14 ***SEC. 202. REESTABLISHMENT OF THE NATIONAL ASSOCIA-***  
 15                    ***TION OF REGISTERED AGENTS AND BRO-***  
 16                    ***KERS.***

17            (a) *IN GENERAL.*—*Subtitle C of title III of the*  
 18            *Gramm-Leach-Bliley Act (15 U.S.C. 6751 et seq.) is amend-*  
 19            *ed to read as follows:*

1    **“Subtitle C—National Association**  
 2    **of Registered Agents and Brokers**

3    **“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED**  
 4    **AGENTS AND BROKERS.**

5       “(a) *ESTABLISHMENT.*—*There is established the Na-*  
 6    *tional Association of Registered Agents and Brokers (re-*  
 7    *ferred to in this subtitle as the ‘Association’).*

8       “(b) *STATUS.*—*The Association shall—*

9           “(1) *be a nonprofit corporation;*

10          “(2) *not be an agent or instrumentality of the*  
 11       *Federal Government;*

12          “(3) *be an independent organization that may*  
 13       *not be merged with or into any other private or pub-*  
 14       *lic entity; and*

15          “(4) *except as otherwise provided in this subtitle,*  
 16       *be subject to, and have all the powers conferred upon,*  
 17       *a nonprofit corporation by the District of Columbia*  
 18       *Nonprofit Corporation Act (D.C. Code, sec. 29–301.01*  
 19       *et seq.) or any successor thereto.*

20    **“SEC. 322. PURPOSE.**

21       *“The purpose of the Association shall be to provide a*  
 22       *mechanism through which licensing, continuing education,*  
 23       *and other nonresident insurance producer qualification re-*  
 24       *quirements and conditions may be adopted and applied on*  
 25       *a multi-state basis without affecting the laws, rules, and*

1 *regulations, and preserving the rights of a State, pertaining*  
 2 *to—*

3           “(1) *licensing, continuing education, and other*  
 4 *qualification requirements of insurance producers*  
 5 *that are not members of the Association;*

6           “(2) *resident or nonresident insurance producer*  
 7 *appointment requirements;*

8           “(3) *supervising and disciplining resident and*  
 9 *nonresident insurance producers;*

10           “(4) *establishing licensing fees for resident and*  
 11 *nonresident insurance producers so that there is no*  
 12 *loss of insurance producer licensing revenue to the*  
 13 *State; and*

14           “(5) *prescribing and enforcing laws and regula-*  
 15 *tions regulating the conduct of resident and non-*  
 16 *resident insurance producers.*

17 **“SEC. 323. MEMBERSHIP.**

18           “(a) *ELIGIBILITY.—*

19           “(1) *IN GENERAL.—Any insurance producer li-*  
 20 *censed in its home State shall, subject to paragraphs*  
 21 *(2) and (4), be eligible to become a member of the As-*  
 22 *sociation.*

23           “(2) *INELIGIBILITY FOR SUSPENSION OR REV-*  
 24 *OCATION OF LICENSE.—Subject to paragraph (3), an*  
 25 *insurance producer is not eligible to become a member*

1       *of the Association if a State insurance regulator has*  
 2       *suspended or revoked the insurance license of the in-*  
 3       *surance producer in that State.*

4               “(3) *RESUMPTION OF ELIGIBILITY.*—Paragraph  
 5       (2) *shall cease to apply to any insurance producer*  
 6       *if—*

7               “(A) *the State insurance regulator reissues*  
 8       *or renews the license of the insurance producer*  
 9       *in the State in which the license was suspended*  
 10       *or revoked, or otherwise terminates or vacates the*  
 11       *suspension or revocation; or*

12              “(B) *the suspension or revocation expires or*  
 13       *is subsequently overturned by a court of com-*  
 14       *petent jurisdiction.*

15              “(4) *CRIMINAL HISTORY RECORD CHECK RE-*  
 16       *QUIRED.*—

17              “(A) *IN GENERAL.*—*An insurance producer*  
 18       *who is an individual shall not be eligible to be-*  
 19       *come a member of the Association unless the in-*  
 20       *surance producer has undergone a criminal his-*  
 21       *tory record check that complies with regulations*  
 22       *prescribed by the Attorney General of the United*  
 23       *States under subparagraph (K).*

24              “(B) *CRIMINAL HISTORY RECORD CHECK*  
 25       *REQUESTED BY HOME STATE.*—*An insurance*

1        *producer who is licensed in a State and who has*  
 2        *undergone a criminal history record check dur-*  
 3        *ing the 2-year period preceding the date of sub-*  
 4        *mission of an application to become a member of*  
 5        *the Association, in compliance with a require-*  
 6        *ment to undergo such criminal history record*  
 7        *check as a condition for such licensure in the*  
 8        *State, shall be deemed to have undergone a*  
 9        *criminal history record check for purposes of*  
 10       *subparagraph (A).*

11                “(C) *CRIMINAL HISTORY RECORD CHECK*  
 12        *REQUESTED BY ASSOCIATION.—*

13                        “(i) *IN GENERAL.—The Association*  
 14        *shall, upon request by an insurance pro-*  
 15        *ducer licensed in a State, submit finger-*  
 16        *prints or other identification information*  
 17        *obtained from the insurance producer, and*  
 18        *a request for a criminal history record check*  
 19        *of the insurance producer, to the Federal*  
 20        *Bureau of Investigation.*

21                        “(ii) *PROCEDURES.—The board of di-*  
 22        *rectors of the Association (referred to in this*  
 23        *subtitle as the ‘Board’)* shall prescribe pro-  
 24        *cedures for obtaining and utilizing finger-*  
 25        *prints or other identification information*

1           *and criminal history record information,*  
2           *including the establishment of reasonable*  
3           *fees to defray the expenses of the Association*  
4           *in connection with the performance of a*  
5           *criminal history record check and appro-*  
6           *priate safeguards for maintaining confiden-*  
7           *tiality and security of the information. Any*  
8           *fees charged pursuant to this clause shall be*  
9           *separate and distinct from those charged by*  
10          *the Attorney General pursuant to subpara-*  
11          *graph (I).*

12          “(D) *FORM OF REQUEST.*—*A submission*  
13          *under subparagraph (C)(i) shall include such*  
14          *fingerprints or other identification information*  
15          *as is required by the Attorney General con-*  
16          *cerning the person about whom the criminal his-*  
17          *tory record check is requested, and a statement*  
18          *signed by the person authorizing the Attorney*  
19          *General to provide the information to the Asso-*  
20          *ciation and for the Association to receive the in-*  
21          *formation.*

22          “(E) *PROVISION OF INFORMATION BY AT-*  
23          *TORNEY GENERAL.*—*Upon receiving a submis-*  
24          *sion under subparagraph (C)(i) from the Asso-*  
25          *ciation, the Attorney General shall search all*

1 *criminal history records of the Federal Bureau of*  
 2 *Investigation, including records of the Criminal*  
 3 *Justice Information Services Division of the Fed-*  
 4 *eral Bureau of Investigation, that the Attorney*  
 5 *General determines appropriate for criminal his-*  
 6 *tory records corresponding to the fingerprints or*  
 7 *other identification information provided under*  
 8 *subparagraph (D) and provide all criminal his-*  
 9 *tory record information included in the request*  
 10 *to the Association.*

11 *“(F) LIMITATION ON PERMISSIBLE USES OF*  
 12 *INFORMATION.—Any information provided to the*  
 13 *Association under subparagraph (E) may only—*

14 *“(i) be used for purposes of deter-*  
 15 *mining compliance with membership cri-*  
 16 *teria established by the Association;*

17 *“(ii) be disclosed to State insurance*  
 18 *regulators, or Federal or State law enforce-*  
 19 *ment agencies, in conformance with appli-*  
 20 *cable law; or*

21 *“(iii) be disclosed, upon request, to the*  
 22 *insurance producer to whom the criminal*  
 23 *history record information relates.*

24 *“(G) PENALTY FOR IMPROPER USE OR DIS-*  
 25 *CLOSURE.—Whoever knowingly uses any infor-*



1        *mation provided under subparagraph (E) for a*  
 2        *purpose not authorized in subparagraph (F), or*  
 3        *discloses any such information to anyone not au-*  
 4        *thorized to receive it, shall be fined not more*  
 5        *than \$50,000 per violation as determined by a*  
 6        *court of competent jurisdiction.*

7                *“(H) RELIANCE ON INFORMATION.—Neither*  
 8        *the Association nor any of its Board members,*  
 9        *officers, or employees shall be liable in any ac-*  
 10        *tion for using information provided under sub-*  
 11        *paragraph (E) as permitted under subparagraph*  
 12        *(F) in good faith and in reasonable reliance on*  
 13        *its accuracy.*

14                *“(I) FEES.—The Attorney General may*  
 15        *charge a reasonable fee for conducting the search*  
 16        *and providing the information under subpara-*  
 17        *graph (E), and any such fee shall be collected*  
 18        *and remitted by the Association to the Attorney*  
 19        *General.*

20                *“(J) RULE OF CONSTRUCTION.—Nothing in*  
 21        *this paragraph shall be construed as—*

22                        *“(i) requiring a State insurance regu-*  
 23                        *lator to perform criminal history record*  
 24                        *checks under this section; or*

1                   “(ii) *limiting any other authority that*  
 2                   *allows access to criminal history records.*

3                   “(K) *REGULATIONS.—The Attorney General*  
 4                   *shall prescribe regulations to carry out this*  
 5                   *paragraph, which shall include—*

6                   “(i) *appropriate protections for ensur-*  
 7                   *ing the confidentiality of information pro-*  
 8                   *vided under subparagraph (E); and*

9                   “(ii) *procedures providing a reasonable*  
 10                  *opportunity for an insurance producer to*  
 11                  *contest the accuracy of information regard-*  
 12                  *ing the insurance producer provided under*  
 13                  *subparagraph (E).*

14                  “(L) *INELIGIBILITY FOR MEMBERSHIP.—*

15                  “(i) *IN GENERAL.—The Association*  
 16                  *may, under reasonably consistently applied*  
 17                  *standards, deny membership to an insur-*  
 18                  *ance producer on the basis of criminal his-*  
 19                  *tory record information provided under sub-*  
 20                  *paragraph (E), or where the insurance pro-*  
 21                  *ducer has been subject to disciplinary ac-*  
 22                  *tion, as described in paragraph (2).*

23                  “(ii) *RIGHTS OF APPLICANTS DENIED*  
 24                  *MEMBERSHIP.—The Association shall notify*  
 25                  *any insurance producer who is denied mem-*

1                    *bership on the basis of criminal history*  
 2                    *record information provided under subpara-*  
 3                    *graph (E) of the right of the insurance pro-*  
 4                    *ducer to—*

5                    *“(I) obtain a copy of all criminal*  
 6                    *history record information provided to*  
 7                    *the Association under subparagraph*  
 8                    *(E) with respect to the insurance pro-*  
 9                    *ducer; and*

10                    *“(II) challenge the denial of mem-*  
 11                    *bership based on the accuracy and*  
 12                    *completeness of the information.*

13                    *“(M) DEFINITION.—For purposes of this*  
 14                    *paragraph, the term ‘criminal history record*  
 15                    *check’ means a national background check of*  
 16                    *criminal history records of the Federal Bureau of*  
 17                    *Investigation.*

18                    *“(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRI-*  
 19                    *TERIA.—The Association may establish membership criteria*  
 20                    *that bear a reasonable relationship to the purposes for*  
 21                    *which the Association was established.*

22                    *“(c) ESTABLISHMENT OF CLASSES AND CATEGORIES*  
 23                    *OF MEMBERSHIP.—*

24                    *“(1) CLASSES OF MEMBERSHIP.—The Associa-*  
 25                    *tion may establish separate classes of membership,*

1     *with separate criteria, if the Association reasonably*  
 2     *determines that performance of different duties re-*  
 3     *quires different levels of education, training, experi-*  
 4     *ence, or other qualifications.*

5             “(2) *BUSINESS ENTITIES.*—*The Association shall*  
 6     *establish a class of membership and membership cri-*  
 7     *teria for business entities. A business entity that ap-*  
 8     *plies for membership shall be required to designate an*  
 9     *individual Association member responsible for the*  
 10    *compliance of the business entity with Association*  
 11    *standards and the insurance laws, standards, and*  
 12    *regulations of any State in which the business entity*  
 13    *seeks to do business on the basis of Association mem-*  
 14    *bership.*

15            “(3) *CATEGORIES.*—

16               “(A) *SEPARATE CATEGORIES FOR INSUR-*  
 17     *ANCE PRODUCERS PERMITTED.*—*The Association*  
 18     *may establish separate categories of membership*  
 19     *for insurance producers and for other persons or*  
 20     *entities within each class, based on the types of*  
 21     *licensing categories that exist under State laws.*

22               “(B) *SEPARATE TREATMENT FOR DEPOSI-*  
 23     *TORY INSTITUTIONS PROHIBITED.*—*No special*  
 24     *categories of membership, and no distinct mem-*  
 25     *bership criteria, shall be established for members*

1           *that are depository institutions or for employees,*  
 2           *agents, or affiliates of depository institutions.*

3           “(d) *MEMBERSHIP CRITERIA.*—

4           “(1) *IN GENERAL.*—*The Association may estab-*  
 5           *lish criteria for membership which shall include*  
 6           *standards for personal qualifications, education,*  
 7           *training, and experience. The Association shall not es-*  
 8           *tablish criteria that unfairly limit the ability of a*  
 9           *small insurance producer to become a member of the*  
 10          *Association, including imposing discriminatory mem-*  
 11          *bership fees.*

12          “(2) *QUALIFICATIONS.*—*In establishing criteria*  
 13          *under paragraph (1), the Association shall not adopt*  
 14          *any qualification less protective to the public than*  
 15          *that contained in the National Association of Insur-*  
 16          *ance Commissioners (referred to in this subtitle as the*  
 17          *‘NAIC’) Producer Licensing Model Act in effect as of*  
 18          *the date of enactment of the National Association of*  
 19          *Registered Agents and Brokers Reform Act of 2014,*  
 20          *and shall consider the highest levels of insurance pro-*  
 21          *ducer qualifications established under the licensing*  
 22          *laws of the States.*

23          “(3) *ASSISTANCE FROM STATES.*—

24                 “(A) *IN GENERAL.*—*The Association may*  
 25                 *request a State to provide assistance in inves-*

1           *tigating and evaluating the eligibility of a pro-*  
 2           *spective member for membership in the Associa-*  
 3           *tion.*

4           “(B) *AUTHORIZATION OF INFORMATION*  
 5           *SHARING.—A submission under subsection*  
 6           *(a)(4)(C)(i) made by an insurance producer li-*  
 7           *censed in a State shall include a statement*  
 8           *signed by the person about whom the assistance*  
 9           *is requested authorizing—*

10                   “(i) *the State to share information*  
 11                   *with the Association; and*

12                   “(ii) *the Association to receive the in-*  
 13                   *formation.*

14           “(C) *RULE OF CONSTRUCTION.—Subpara-*  
 15           *graph (A) shall not be construed as requiring or*  
 16           *authorizing any State to adopt new or addi-*  
 17           *tional requirements concerning the licensing or*  
 18           *evaluation of insurance producers.*

19           “(4) *DENIAL OF MEMBERSHIP.—The Association*  
 20           *may, based on reasonably consistently applied stand-*  
 21           *ards, deny membership to any State-licensed insur-*  
 22           *ance producer for failure to meet the membership cri-*  
 23           *teria established by the Association.*

24           “(e) *EFFECT OF MEMBERSHIP.—*

1           “(1) *AUTHORITY OF ASSOCIATION MEMBERS.—*  
 2       *Membership in the Association shall—*

3                   “(A) *authorize an insurance producer to*  
 4       *sell, solicit, or negotiate insurance in any State*  
 5       *for which the member pays the licensing fee set*  
 6       *by the State for any line or lines of insurance*  
 7       *specified in the home State license of the insur-*  
 8       *ance producer, and exercise all such incidental*  
 9       *powers as shall be necessary to carry out such*  
 10       *activities, including claims adjustments and set-*  
 11       *tlement to the extent permissible under the laws*  
 12       *of the State, risk management, employee benefits*  
 13       *advice, retirement planning, and any other in-*  
 14       *surance-related consulting activities;*

15                   “(B) *be the equivalent of a nonresident in-*  
 16       *surance producer license for purposes of author-*  
 17       *izing the insurance producer to engage in the ac-*  
 18       *tivities described in subparagraph (A) in any*  
 19       *State where the member pays the licensing fee;*  
 20       *and*

21                   “(C) *be the equivalent of a nonresident in-*  
 22       *surance producer license for the purpose of sub-*  
 23       *jecting an insurance producer to all laws, regu-*  
 24       *lations, provisions or other action of any State*  
 25       *concerning revocation, suspension, or other en-*

1        *forcement action related to the ability of a mem-*  
 2        *ber to engage in any activity within the scope of*  
 3        *authority granted under this subsection and to*  
 4        *all State laws, regulations, provisions, and ac-*  
 5        *tions preserved under paragraph (5).*

6        “(2) *VIOLENT CRIME CONTROL AND LAW EN-*  
 7        *FORCEMENT ACT OF 1994.—Nothing in this subtitle*  
 8        *shall be construed to alter, modify, or supercede any*  
 9        *requirement established by section 1033 of title 18,*  
 10       *United States Code.*

11       “(3) *AGENT FOR REMITTING FEES.—The Asso-*  
 12       *ciation shall act as an agent for any member for pur-*  
 13       *poses of remitting licensing fees to any State pursu-*  
 14       *ant to paragraph (1).*

15       “(4) *NOTIFICATION OF ACTION.—*

16       “(A) *IN GENERAL.—The Association shall*  
 17       *notify the States (including State insurance reg-*  
 18       *ulators) and the NAIC when an insurance pro-*  
 19       *ducer has satisfied the membership criteria of*  
 20       *this section. The States (including State insur-*  
 21       *ance regulators) shall have 10 business days after*  
 22       *the date of the notification in order to provide*  
 23       *the Association with evidence that the insurance*  
 24       *producer does not satisfy the criteria for mem-*  
 25       *bership in the Association.*



1           “(B) *ONGOING DISCLOSURES REQUIRED.*—

2           *On an ongoing basis, the Association shall dis-*  
 3           *close to the States (including State insurance*  
 4           *regulators) and the NAIC a list of the States in*  
 5           *which each member is authorized to operate. The*  
 6           *Association shall immediately notify the States*  
 7           *(including State insurance regulators) and the*  
 8           *NAIC when a member is newly authorized to op-*  
 9           *erate in one or more States, or is no longer au-*  
 10           *thorized to operate in one or more States on the*  
 11           *basis of Association membership.*

12           “(5) *PRESERVATION OF CONSUMER PROTECTION*

13           *AND MARKET CONDUCT REGULATION.*—

14           “(A) *IN GENERAL.*—No provision of this  
 15           *section shall be construed as altering or affecting*  
 16           *the applicability or continuing effectiveness of*  
 17           *any law, regulation, provision, or other action of*  
 18           *any State, including those described in subpara-*  
 19           *graph (B), to the extent that the State law, regu-*  
 20           *lation, provision, or other action is not incon-*  
 21           *sistent with the provisions of this subtitle related*  
 22           *to market entry for nonresident insurance pro-*  
 23           *ducers, and then only to the extent of the incon-*  
 24           *sistency.*

1                   “(B) *PRESERVED REGULATIONS.*—*The laws,*  
 2                   *regulations, provisions, or other actions of any*  
 3                   *State referred to in subparagraph (A) include*  
 4                   *laws, regulations, provisions, or other actions*  
 5                   *that—*

6                   “(i) *regulate market conduct, insur-*  
 7                   *ance producer conduct, or unfair trade*  
 8                   *practices;*

9                   “(ii) *establish consumer protections; or*

10                   “(iii) *require insurance producers to be*  
 11                   *appointed by a licensed or authorized in-*  
 12                   *surer.*

13                   “(f) *BIENNIAL RENEWAL.*—*Membership in the Asso-*  
 14                   *ciation shall be renewed on a biennial basis.*

15                   “(g) *CONTINUING EDUCATION.*—

16                   “(1) *IN GENERAL.*—*The Association shall estab-*  
 17                   *lish, as a condition of membership, continuing edu-*  
 18                   *cation requirements which shall be comparable to the*  
 19                   *continuing education requirements under the licens-*  
 20                   *ing laws of a majority of the States.*

21                   “(2) *STATE CONTINUING EDUCATION REQUIRE-*  
 22                   *MENTS.*—*A member may not be required to satisfy*  
 23                   *continuing education requirements imposed under the*  
 24                   *laws, regulations, provisions, or actions of any State*  
 25                   *other than the home State of the member.*

1           “(3) *RECIPROCITY.*—*The Association shall not*  
 2           *require a member to satisfy continuing education re-*  
 3           *quirements that are equivalent to any continuing*  
 4           *education requirements of the home State of the mem-*  
 5           *ber that have been satisfied by the member during the*  
 6           *applicable licensing period.*

7           “(4) *LIMITATION ON THE ASSOCIATION.*—*The As-*  
 8           *sociation shall not directly or indirectly offer any*  
 9           *continuing education courses for insurance producers.*

10          “(h) *PROBATION, SUSPENSION AND REVOCATION.*—

11               “(1) *DISCIPLINARY ACTION.*—*The Association*  
 12               *may place an insurance producer that is a member*  
 13               *of the Association on probation or suspend or revoke*  
 14               *the membership of the insurance producer in the Asso-*  
 15               *ciation, or assess monetary fines or penalties, as the*  
 16               *Association determines to be appropriate, if—*

17                       “(A) *the insurance producer fails to meet*  
 18                       *the applicable membership criteria or other*  
 19                       *standards established by the Association;*

20                       “(B) *the insurance producer has been sub-*  
 21                       *ject to disciplinary action pursuant to a final*  
 22                       *adjudicatory proceeding under the jurisdiction of*  
 23                       *a State insurance regulator;*

1           “(C) *an insurance license held by the insur-*  
 2           *ance producer has been suspended or revoked by*  
 3           *a State insurance regulator; or*

4           “(D) *the insurance producer has been con-*  
 5           *victed of a crime that would have resulted in the*  
 6           *denial of membership pursuant to subsection*  
 7           *(a)(4)(L)(i) at the time of application, and the*  
 8           *Association has received a copy of the final dis-*  
 9           *position from a court of competent jurisdiction.*

10          “(2) *VIOLATIONS OF ASSOCIATION STANDARDS.—*  
 11          *The Association shall have the power to investigate al-*  
 12          *leged violations of Association standards.*

13          “(3) *REPORTING.—The Association shall imme-*  
 14          *diately notify the States (including State insurance*  
 15          *regulators) and the NAIC when the membership of an*  
 16          *insurance producer has been placed on probation or*  
 17          *has been suspended, revoked, or otherwise terminated,*  
 18          *or when the Association has assessed monetary fines*  
 19          *or penalties.*

20          “(i) *CONSUMER COMPLAINTS.—*

21          “(1) *IN GENERAL.—The Association shall—*

22               “(A) *refer any complaint against a member*  
 23               *of the Association from a consumer relating to*  
 24               *alleged misconduct or violations of State insur-*  
 25               *ance laws to the State insurance regulator where*

1        *the consumer resides and, when appropriate, to*  
 2        *any additional State insurance regulator, as de-*  
 3        *termined by standards adopted by the Associa-*  
 4        *tion; and*

5                *“(B) make any related records and infor-*  
 6                *mation available to each State insurance regu-*  
 7                *lator to whom the complaint is forwarded.*

8                *“(2) TELEPHONE AND OTHER ACCESS.—The As-*  
 9                *sociation shall maintain a toll-free number for pur-*  
 10               *poses of this subsection and, as practicable, other al-*  
 11               *ternative means of communication with consumers,*  
 12               *such as an Internet webpage.*

13               *“(3) FINAL DISPOSITION OF INVESTIGATION.—*  
 14               *State insurance regulators shall provide the Associa-*  
 15               *tion with information regarding the final disposition*  
 16               *of a complaint referred pursuant to paragraph*  
 17               *(1)(A), but nothing shall be construed to compel a*  
 18               *State to release confidential investigation reports or*  
 19               *other information protected by State law to the Asso-*  
 20               *ciation.*

21               *“(j) INFORMATION SHARING.—The Association may—*

22               *“(1) share documents, materials, or other infor-*  
 23               *mation, including confidential and privileged docu-*  
 24               *ments, with a State, Federal, or international govern-*  
 25               *mental entity or with the NAIC or other appropriate*

1       entity referred to paragraphs (3) and (4), provided  
2       that the recipient has the authority and agrees to  
3       maintain the confidentiality or privileged status of  
4       the document, material, or other information;

5               “(2) limit the sharing of information as required  
6       under this subtitle with the NAIC or any other non-  
7       governmental entity, in circumstances under which  
8       the Association determines that the sharing of such  
9       information is unnecessary to further the purposes of  
10      this subtitle;

11              “(3) establish a central clearinghouse, or utilize  
12      the NAIC or another appropriate entity, as deter-  
13      mined by the Association, as a central clearinghouse,  
14      for use by the Association and the States (including  
15      State insurance regulators), through which members  
16      of the Association may disclose their intent to operate  
17      in 1 or more States and pay the licensing fees to the  
18      appropriate States; and

19              “(4) establish a database, or utilize the NAIC or  
20      another appropriate entity, as determined by the As-  
21      sociation, as a database, for use by the Association  
22      and the States (including State insurance regulators)  
23      for the collection of regulatory information concerning  
24      the activities of insurance producers.

1       “(k) *EFFECTIVE DATE.*—*The provisions of this section*  
 2 *shall take effect on the later of—*

3               “(1) *the expiration of the 2-year period begin-*  
 4 *ning on the date of enactment of the National Asso-*  
 5 *ciation of Registered Agents and Brokers Reform Act*  
 6 *of 2014; and*

7               “(2) *the date of incorporation of the Association.*

8       **“SEC. 324. BOARD OF DIRECTORS.**

9               “(a) *ESTABLISHMENT.*—*There is established a board*  
 10 *of directors of the Association, which shall have authority*  
 11 *to govern and supervise all activities of the Association.*

12              “(b) *POWERS.*—*The Board shall have such of the pow-*  
 13 *ers and authority of the Association as may be specified*  
 14 *in the bylaws of the Association.*

15              “(c) *COMPOSITION.*—

16                   “(1) *IN GENERAL.*—*The Board shall consist of 13*  
 17 *members who shall be appointed by the President, by*  
 18 *and with the advice and consent of the Senate, in ac-*  
 19 *cordance with the procedures established under Senate*  
 20 *Resolution 116 of the 112<sup>th</sup> Congress, of whom—*

21                           “(A) *8 shall be State insurance commis-*  
 22 *sioners appointed in the manner provided in*  
 23 *paragraph (2), 1 of whom shall be designated by*  
 24 *the President to serve as the chairperson of the*  
 25 *Board until the Board elects one such State in-*

1        *surance commissioner Board member to serve as*  
 2        *the chairperson of the Board;*

3                “(B) 3 shall have demonstrated expertise  
 4        *and experience with property and casualty in-*  
 5        *surance producer licensing; and*

6                “(C) 2 shall have demonstrated expertise  
 7        *and experience with life or health insurance pro-*  
 8        *ducer licensing.*

9                “(2) STATE INSURANCE REGULATOR REPRESENT-  
 10       *ATIVES.—*

11               “(A) RECOMMENDATIONS.—*Before making*  
 12       *any appointments pursuant to paragraph*  
 13       *(1)(A), the President shall request a list of rec-*  
 14       *ommended candidates from the States through*  
 15       *the NAIC, which shall not be binding on the*  
 16       *President. If the NAIC fails to submit a list of*  
 17       *recommendations not later than 15 business days*  
 18       *after the date of the request, the President may*  
 19       *make the requisite appointments without consid-*  
 20       *ering the views of the NAIC.*

21               “(B) POLITICAL AFFILIATION.—*Not more*  
 22       *than 4 Board members appointed under para-*  
 23       *graph (1)(A) shall belong to the same political*  
 24       *party.*



1                   “(C) *FORMER STATE INSURANCE COMMIS-*  
 2                   *SIONERS.*—

3                   “(i) *IN GENERAL.*—If, after offering  
 4                   each currently serving State insurance com-  
 5                   missioner an appointment to the Board,  
 6                   fewer than 8 State insurance commissioners  
 7                   have accepted appointment to the Board,  
 8                   the President may appoint the remaining  
 9                   State insurance commissioner Board mem-  
 10                  bers, as required under paragraph (1)(A), of  
 11                  the appropriate political party as required  
 12                  under subparagraph (B), from among indi-  
 13                  viduals who are former State insurance  
 14                  commissioners.

15                  “(ii) *LIMITATION.*—A former State in-  
 16                  surance commissioner appointed as de-  
 17                  scribed in clause (i) may not be employed  
 18                  by or have any present direct or indirect fi-  
 19                  nancial interest in any insurer, insurance  
 20                  producer, or other entity in the insurance  
 21                  industry, other than direct or indirect own-  
 22                  ership of, or beneficial interest in, an insur-  
 23                  ance policy or annuity contract written or  
 24                  sold by an insurer.

1           “(D) *SERVICE THROUGH TERM.*—If a  
 2           *Board member appointed under paragraph*  
 3           *(1)(A) ceases to be a State insurance commis-*  
 4           *sioner during the term of the Board member, the*  
 5           *Board member shall cease to be a Board member.*

6           “(3) *PRIVATE SECTOR REPRESENTATIVES.*—In  
 7           *making any appointment pursuant to subparagraph*  
 8           *(B) or (C) of paragraph (1), the President may seek*  
 9           *recommendations for candidates from groups rep-*  
 10          *resenting the category of individuals described, which*  
 11          *shall not be binding on the President.*

12          “(4) *STATE INSURANCE COMMISSIONER DE-*  
 13          *FINED.*—For purposes of this subsection, the term  
 14          *‘State insurance commissioner’ means a person who*  
 15          *serves in the position in State government, or on the*  
 16          *board, commission, or other body that is the primary*  
 17          *insurance regulatory authority for the State.*

18          “(d) *TERMS.*—

19               “(1) *IN GENERAL.*—Except as provided under  
 20               *paragraph (2), the term of service for each Board*  
 21               *member shall be 2 years.*

22               “(2) *EXCEPTIONS.*—

23                       “(A) *1-YEAR TERMS.*—The term of service  
 24                       *shall be 1 year, as designated by the President*

1           *at the time of the nomination of the subject*  
 2           *Board members for—*

3                   “(i) 4 of the State insurance commis-  
 4                   sioner Board members initially appointed  
 5                   under paragraph (1)(A), of whom not more  
 6                   than 2 shall belong to the same political  
 7                   party;

8                   “(ii) 1 of the Board members initially  
 9                   appointed under paragraph (1)(B); and

10                   “(iii) 1 of the Board members initially  
 11                   appointed under paragraph (1)(C).

12                   “(B) EXPIRATION OF TERM.—A Board  
 13                   member may continue to serve after the expira-  
 14                   tion of the term to which the Board member was  
 15                   appointed for the earlier of 2 years or until a  
 16                   successor is appointed.

17                   “(C) MID-TERM APPOINTMENTS.—A Board  
 18                   member appointed to fill a vacancy occurring be-  
 19                   fore the expiration of the term for which the  
 20                   predecessor of the Board member was appointed  
 21                   shall be appointed only for the remainder of that  
 22                   term.

23                   “(3) SUCCESSIVE TERMS.—Board members may  
 24                   be reappointed to successive terms.

1       “(e) *INITIAL APPOINTMENTS.*—*The appointment of*  
 2       *initial Board members shall be made no later than 90 days*  
 3       *after the date of enactment of the National Association of*  
 4       *Registered Agents and Brokers Reform Act of 2014.*

5       “(f) *MEETINGS.*—

6               “(1) *IN GENERAL.*—*The Board shall meet—*

7                       “(A) *at the call of the chairperson;*

8                       “(B) *as requested in writing to the chair-*  
 9                       *person by not fewer than 5 Board members; or*

10                      “(C) *as otherwise provided by the bylaws of*  
 11                      *the Association.*

12               “(2) *QUORUM REQUIRED.*—*A majority of all*  
 13       *Board members shall constitute a quorum.*

14               “(3) *VOTING.*—*Decisions of the Board shall re-*  
 15       *quire the approval of a majority of all Board mem-*  
 16       *bers present at a meeting, a quorum being present.*

17               “(4) *INITIAL MEETING.*—*The Board shall hold*  
 18       *its first meeting not later than 45 days after the date*  
 19       *on which all initial Board members have been ap-*  
 20       *pointed.*

21               “(g) *RESTRICTION ON CONFIDENTIAL INFORMATION.*—  
 22       *Board members appointed pursuant to subparagraphs (B)*  
 23       *and (C) of subsection (c)(1) shall not have access to con-*  
 24       *fidential information received by the Association in connec-*

1 *tion with complaints, investigations, or disciplinary pro-*  
 2 *ceedings involving insurance producers.*

3       “(h) *ETHICS AND CONFLICTS OF INTEREST.—The*  
 4 *Board shall issue and enforce an ethical conduct code to*  
 5 *address permissible and prohibited activities of Board*  
 6 *members and Association officers, employees, agents, or con-*  
 7 *sultants. The code shall, at a minimum, include provisions*  
 8 *that prohibit any Board member or Association officer, em-*  
 9 *ployee, agent or consultant from—*

10               “(1) *engaging in unethical conduct in the course*  
 11 *of performing Association duties;*

12               “(2) *participating in the making or influencing*  
 13 *the making of any Association decision, the outcome*  
 14 *of which the Board member, officer, employee, agent,*  
 15 *or consultant knows or had reason to know would*  
 16 *have a reasonably foreseeable material financial effect,*  
 17 *distinguishable from its effect on the public generally,*  
 18 *on the person or a member of the immediate family*  
 19 *of the person;*

20               “(3) *accepting any gift from any person or enti-*  
 21 *ty other than the Association that is given because of*  
 22 *the position held by the person in the Association;*

23               “(4) *making political contributions to any per-*  
 24 *son or entity on behalf of the Association; and*

1           “(5) *lobbying or paying a person to lobby on be-*  
 2           *half of the Association.*

3           “(i) *COMPENSATION.—*

4           “(1) *IN GENERAL.—Except as provided in para-*  
 5           *graph (2), no Board member may receive any com-*  
 6           *ensation from the Association or any other person or*  
 7           *entity on account of Board membership.*

8           “(2) *TRAVEL EXPENSES AND PER DIEM.—Board*  
 9           *members may be reimbursed only by the Association*  
 10          *for travel expenses, including per diem in lieu of sub-*  
 11          *sistence, at rates consistent with rates authorized for*  
 12          *employees of Federal agencies under subchapter I of*  
 13          *chapter 57 of title 5, United States Code, while away*  
 14          *from home or regular places of business in perform-*  
 15          *ance of services for the Association.*

16   **“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY AC-**  
 17          **TIONS.**

18          “(a) *ADOPTION AND AMENDMENT OF BYLAWS AND*  
 19          *STANDARDS.—*

20          “(1) *PROCEDURES.—The Association shall adopt*  
 21          *procedures for the adoption of bylaws and standards*  
 22          *that are similar to procedures under subchapter II of*  
 23          *chapter 5 of title 5, United States Code (commonly*  
 24          *known as the ‘Administrative Procedure Act’).*

1           “(2) *COPY REQUIRED TO BE FILED.*—*The Board*  
 2           *shall submit to the President, through the Department*  
 3           *of the Treasury, and the States (including State in-*  
 4           *surance regulators), and shall publish on the website*  
 5           *of the Association, all proposed bylaws and standards*  
 6           *of the Association, or any proposed amendment to the*  
 7           *bylaws or standards of the Association, accompanied*  
 8           *by a concise general statement of the basis and pur-*  
 9           *pose of such proposal.*

10           “(3) *EFFECTIVE DATE.*—*Any proposed bylaw or*  
 11           *standard of the Association, and any proposed*  
 12           *amendment to the bylaws or standards of the Associa-*  
 13           *tion, shall take effect, after notice under paragraph*  
 14           *(2) and opportunity for public comment, on such date*  
 15           *as the Association may designate, unless suspended*  
 16           *under section 329(c).*

17           “(4) *RULE OF CONSTRUCTION.*—*Nothing in this*  
 18           *section shall be construed to subject the Board or the*  
 19           *Association to the requirements of subchapter II of*  
 20           *chapter 5 of title 5, United States Code (commonly*  
 21           *known as the ‘Administrative Procedure Act’).*

22           “(b) *DISCIPLINARY ACTION BY THE ASSOCIATION.*—

23           “(1) *SPECIFICATION OF CHARGES.*—*In any pro-*  
 24           *ceeding to determine whether membership shall be de-*  
 25           *nied, suspended, revoked, or not renewed, or to deter-*

1        *mine whether a member of the Association should be*  
 2        *placed on probation (referred to in this section as a*  
 3        *‘disciplinary action’) or whether to assess fines or*  
 4        *monetary penalties, the Association shall bring spe-*  
 5        *cific charges, notify the member of the charges, give*  
 6        *the member an opportunity to defend against the*  
 7        *charges, and keep a record.*

8                *“(2) SUPPORTING STATEMENT.—A determina-*  
 9        *tion to take disciplinary action shall be supported by*  
 10        *a statement setting forth—*

11                    *“(A) any act or practice in which the mem-*  
 12        *ber has been found to have been engaged;*

13                    *“(B) the specific provision of this subtitle or*  
 14        *standard of the Association that any such act or*  
 15        *practice is deemed to violate; and*

16                    *“(C) the sanction imposed and the reason*  
 17        *for the sanction.*

18                *“(3) INELIGIBILITY OF PRIVATE SECTOR REP-*  
 19        *RESENTATIVES.—Board members appointed pursuant*  
 20        *to section 324(c)(3) may not—*

21                    *“(A) participate in any disciplinary action*  
 22        *or be counted toward establishing a quorum dur-*  
 23        *ing a disciplinary action; and*

24                    *“(B) have access to confidential information*  
 25        *concerning any disciplinary action.*



1 **“SEC. 326. POWERS.**

2 *“In addition to all the powers conferred upon a non-*  
3 *profit corporation by the District of Columbia Nonprofit*  
4 *Corporation Act, the Association shall have the power to—*

5 *“(1) establish and collect such membership fees*  
6 *as the Association finds necessary to impose to cover*  
7 *the costs of its operations;*

8 *“(2) adopt, amend, and repeal bylaws, proce-*  
9 *dures, or standards governing the conduct of Associa-*  
10 *tion business and performance of its duties;*

11 *“(3) establish procedures for providing notice*  
12 *and opportunity for comment pursuant to section*  
13 *325(a);*

14 *“(4) enter into and perform such agreements as*  
15 *necessary to carry out the duties of the Association;*

16 *“(5) hire employees, professionals, or specialists,*  
17 *and elect or appoint officers, and to fix their com-*  
18 *pen-sation, define their duties and give them appro-*  
19 *priate authority to carry out the purposes of this sub-*  
20 *title, and determine their qualification;*

21 *“(6) establish personnel policies of the Associa-*  
22 *tion and programs relating to, among other things,*  
23 *conflicts of interest, rates of compensation, where ap-*  
24 *plicable, and qualifications of personnel;*

25 *“(7) borrow money; and*

1           “(8) *secure funding for such amounts as the As-*  
 2           *sociation determines to be necessary and appropriate*  
 3           *to organize and begin operations of the Association,*  
 4           *which shall be treated as loans to be repaid by the As-*  
 5           *sociation with interest at market rate.*

6   **“SEC. 327. REPORT BY THE ASSOCIATION.**

7           “(a) *IN GENERAL.—As soon as practicable after the*  
 8           *close of each fiscal year, the Association shall submit to the*  
 9           *President, through the Department of the Treasury, and the*  
 10          *States (including State insurance regulators), and shall*  
 11          *publish on the website of the Association, a written report*  
 12          *regarding the conduct of its business, and the exercise of*  
 13          *the other rights and powers granted by this subtitle, during*  
 14          *such fiscal year.*

15          “(b) *FINANCIAL STATEMENTS.—Each report submitted*  
 16          *under subsection (a) with respect to any fiscal year shall*  
 17          *include audited financial statements setting forth the finan-*  
 18          *cial position of the Association at the end of such fiscal year*  
 19          *and the results of its operations (including the source and*  
 20          *application of its funds) for such fiscal year.*

21   **“SEC. 328. LIABILITY OF THE ASSOCIATION AND THE**  
 22                   **BOARD MEMBERS, OFFICERS, AND EMPLOY-**  
 23                   **EES OF THE ASSOCIATION.**

24          “(a) *IN GENERAL.—The Association shall not be*  
 25          *deemed to be an insurer or insurance producer within the*

1 *meaning of any State law, rule, regulation, or order regu-*  
 2 *lating or taxing insurers, insurance producers, or other en-*  
 3 *tities engaged in the business of insurance, including provi-*  
 4 *sions imposing premium taxes, regulating insurer solvency*  
 5 *or financial condition, establishing guaranty funds and lev-*  
 6 *ying assessments, or requiring claims settlement practices.*

7       “(b) *LIABILITY OF BOARD MEMBERS, OFFICERS, AND*  
 8 *EMPLOYEES.—No Board member, officer, or employee of the*  
 9 *Association shall be personally liable to any person for any*  
 10 *action taken or omitted in good faith in any matter within*  
 11 *the scope of their responsibilities in connection with the As-*  
 12 *sociation.*

13       **“SEC. 329. PRESIDENTIAL OVERSIGHT.**

14       “(a) *REMOVAL OF BOARD.—If the President deter-*  
 15 *mines that the Association is acting in a manner contrary*  
 16 *to the interests of the public or the purposes of this subtitle*  
 17 *or has failed to perform its duties under this subtitle, the*  
 18 *President may remove the entire existing Board for the re-*  
 19 *mainder of the term to which the Board members were ap-*  
 20 *pointed and appoint, in accordance with section 324 and*  
 21 *with the advice and consent of the Senate, in accordance*  
 22 *with the procedures established under Senate Resolution*  
 23 *116 of the 112<sup>th</sup> Congress, new Board members to fill the*  
 24 *vacancies on the Board for the remainder of the terms.*

1       “(b) *REMOVAL OF BOARD MEMBER.*—*The President*  
 2       *may remove a Board member only for neglect of duty or*  
 3       *malfeasance in office.*

4       “(c) *SUSPENSION OF BYLAWS AND STANDARDS AND*  
 5       *PROHIBITION OF ACTIONS.*—*Following notice to the Board,*  
 6       *the President, or a person designated by the President for*  
 7       *such purpose, may suspend the effectiveness of any bylaw*  
 8       *or standard, or prohibit any action, of the Association that*  
 9       *the President or the designee determines is contrary to the*  
 10       *purposes of this subtitle.*

11       **“SEC. 330. RELATIONSHIP TO STATE LAW.**

12       “(a) *PREEMPTION OF STATE LAWS.*—*State laws, regu-*  
 13       *lations, provisions, or other actions purporting to regulate*  
 14       *insurance producers shall be preempted to the extent pro-*  
 15       *vided in subsection (b).*

16       “(b) *PROHIBITED ACTIONS.*—

17               “(1) *IN GENERAL.*—*No State shall—*

18                       “(A) *impede the activities of, take any ac-*  
 19                       *tion against, or apply any provision of law or*  
 20                       *regulation arbitrarily or discriminatorily to,*  
 21                       *any insurance producer because that insurance*  
 22                       *producer or any affiliate plans to become, has*  
 23                       *applied to become, or is a member of the Associa-*  
 24                       *tion;*

1           “(B) impose any requirement upon a mem-  
 2           ber of the Association that it pay fees different  
 3           from those required to be paid to that State were  
 4           it not a member of the Association; or

5           “(C) impose any continuing education re-  
 6           quirements on any nonresident insurance pro-  
 7           ducer that is a member of the Association.

8           “(2) STATES OTHER THAN A HOME STATE.—No  
 9           State, other than the home State of a member of the  
 10          Association, shall—

11           “(A) impose any licensing, personal or cor-  
 12           porate qualifications, education, training, expe-  
 13           rience, residency, continuing education, or bond-  
 14           ing requirement upon a member of the Associa-  
 15           tion that is different from the criteria for mem-  
 16           bership in the Association or renewal of such  
 17           membership;

18           “(B) impose any requirement upon a mem-  
 19           ber of the Association that it be licensed, reg-  
 20           istered, or otherwise qualified to do business or  
 21           remain in good standing in the State, including  
 22           any requirement that the insurance producer  
 23           register as a foreign company with the secretary  
 24           of state or equivalent State official;

1           “(C) require that a member of the Associa-  
2           tion submit to a criminal history record check as  
3           a condition of doing business in the State; or

4           “(D) impose any licensing, registration, or  
5           appointment requirements upon a member of the  
6           Association, or require a member of the Associa-  
7           tion to be authorized to operate as an insurance  
8           producer, in order to sell, solicit, or negotiate in-  
9           surance for commercial property and casualty  
10          risks to an insured with risks located in more  
11          than one State, if the member is licensed or oth-  
12          erwise authorized to operate in the State where  
13          the insured maintains its principal place of  
14          business and the contract of insurance insures  
15          risks located in that State.

16          “(3) *PRESERVATION OF STATE DISCIPLINARY AU-*  
17          *THORITY.*—Nothing in this section may be construed  
18          to prohibit a State from investigating and taking ap-  
19          propriate disciplinary action, including suspension  
20          or revocation of authority of an insurance producer  
21          to do business in a State, in accordance with State  
22          law and that is not inconsistent with the provisions  
23          of this section, against a member of the Association  
24          as a result of a complaint or for any alleged activity,  
25          regardless of whether the activity occurred before or

1       *after the insurance producer commenced doing busi-*  
 2       *ness in the State pursuant to Association member-*  
 3       *ship.*

4       **“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY**  
 5               **REGULATORY AUTHORITY.**

6       *“The Association shall coordinate with the Financial*  
 7       *Industry Regulatory Authority in order to ease any admin-*  
 8       *istrative burdens that fall on members of the Association*  
 9       *that are subject to regulation by the Financial Industry*  
 10       *Regulatory Authority, consistent with the requirements of*  
 11       *this subtitle and the Federal securities laws.*

12       **“SEC. 332. RIGHT OF ACTION.**

13       *“(a) RIGHT OF ACTION.—Any person aggrieved by a*  
 14       *decision or action of the Association may, after reasonably*  
 15       *exhausting available avenues for resolution within the Asso-*  
 16       *ciation, commence a civil action in an appropriate United*  
 17       *States district court, and obtain all appropriate relief.*

18       *“(b) ASSOCIATION INTERPRETATIONS.—In any action*  
 19       *under subsection (a), the court shall give appropriate*  
 20       *weight to the interpretation of the Association of its bylaws*  
 21       *and standards and this subtitle.*

22       **“SEC. 333. FEDERAL FUNDING PROHIBITED.**

23       *“The Association may not receive, accept, or borrow*  
 24       *any amounts from the Federal Government to pay for, or*

1 *reimburse, the Association for, the costs of establishing or*  
 2 *operating the Association.*

3 **“SEC. 334. DEFINITIONS.**

4 *“For purposes of this subtitle, the following definitions*  
 5 *shall apply:*

6 *“(1) BUSINESS ENTITY.—The term ‘business en-*  
 7 *tity’ means a corporation, association, partnership,*  
 8 *limited liability company, limited liability partner-*  
 9 *ship, or other legal entity.*

10 *“(2) DEPOSITORY INSTITUTION.—The term ‘de-*  
 11 *pository institution’ has the meaning as in section 3*  
 12 *of the Federal Deposit Insurance Act (12 U.S.C.*  
 13 *1813).*

14 *“(3) HOME STATE.—The term ‘home State’*  
 15 *means the State in which the insurance producer*  
 16 *maintains its principal place of residence or business*  
 17 *and is licensed to act as an insurance producer.*

18 *“(4) INSURANCE.—The term ‘insurance’ means*  
 19 *any product, other than title insurance or bail bonds,*  
 20 *defined or regulated as insurance by the appropriate*  
 21 *State insurance regulatory authority.*

22 *“(5) INSURANCE PRODUCER.—The term ‘insur-*  
 23 *ance producer’ means any insurance agent or broker,*  
 24 *excess or surplus lines broker or agent, insurance con-*  
 25 *sultant, limited insurance representative, and any*



1     *other individual or entity that sells, solicits, or nego-*  
 2     *tiates policies of insurance or offers advice, counsel,*  
 3     *opinions or services related to insurance.*

4             “(6) *INSURER.*—*The term ‘insurer’ has the*  
 5     *meaning as in section 313(e)(2)(B) of title 31, United*  
 6     *States Code.*

7             “(7) *PRINCIPAL PLACE OF BUSINESS.*—*The term*  
 8     *‘principal place of business’ means the State in which*  
 9     *an insurance producer maintains the headquarters of*  
 10    *the insurance producer and, in the case of a business*  
 11    *entity, where high-level officers of the entity direct,*  
 12    *control, and coordinate the business activities of the*  
 13    *business entity.*

14            “(8) *PRINCIPAL PLACE OF RESIDENCE.*—*The*  
 15    *term ‘principal place of residence’ means the State in*  
 16    *which an insurance producer resides for the greatest*  
 17    *number of days during a calendar year.*

18            “(9) *STATE.*—*The term ‘State’ includes any*  
 19    *State, the District of Columbia, any territory of the*  
 20    *United States, and Puerto Rico, Guam, American*  
 21    *Samoa, the Trust Territory of the Pacific Islands, the*  
 22    *Virgin Islands, and the Northern Mariana Islands.*

23            “(10) *STATE LAW.*—

24                 “(A) *IN GENERAL.*—*The term ‘State law’*  
 25     *includes all laws, decisions, rules, regulations, or*

3 “(B) LAWS APPLICABLE IN THE DISTRICT  
4 OF COLUMBIA.—A law of the United States ap-  
5 plicable only to or within the District of Colum-  
6 bia shall be treated as a State law rather than  
7 a law of the United States.”.

8           (b) *TECHNICAL AMENDMENT.*—*The table of contents*  
9 *for the Gramm-Leach-Bliley Act is amended by striking the*  
10 *items relating to subtitle C of title III and inserting the*  
11 *following new items:*

*“Sec. 321. National Association of Registered Agents and Brokers.*

“Sec. 322. *Purpose.*

“Sec. 323. *Membership.*

"Sec. 324. Board of directors.

*“Sec. 325. Bylaws, standards, and disciplinary actions.*

“Sec. 326. Powers.

*"Sec. 327. Report by the Association.*

*"Sec. 328. Liability of the Association and the Board members, officers, and employees of the Association.*

“Sec. 329. *Presidential oversight.*

“Sec. 330. *Relationship to State law.*

*“Sec. 331. Coordination with financial industry regulatory authority.*

“Sec. 332. *Right of action.*

“Sec. 333. *Federal funding prohibited.*

“Sec. 334. *Definitions.*”.

12 ***TITLE III—BUSINESS RISK MITI-***  
13 ***GATION AND PRICE STA-***  
14 ***BILIZATION***

15 ***SEC. 301. SHORT TITLE.***

16        *This title may be cited as the “Business Risk Mitiga-*  
17        *tion and Price Stabilization Act of 2014”.*

1 **SEC. 302. MARGIN REQUIREMENTS.**

2 (a) *COMMODITY EXCHANGE ACT AMENDMENT.*—Sec-  
 3 tion 4s(e) of the Commodity Exchange Act (7 U.S.C. 6s(e)),  
 4 as added by section 731 of the Dodd-Frank Wall Street Re-  
 5 form and Consumer Protection Act, is amended by adding  
 6 at the end the following new paragraph:

7 “(4) *APPLICABILITY WITH RESPECT TO*  
 8 *COUNTERPARTIES.*—The requirements of paragraphs  
 9 (2)(A)(ii) and (2)(B)(ii), including the initial and  
 10 variation margin requirements imposed by rules  
 11 adopted pursuant to paragraphs (2)(A)(ii) and  
 12 (2)(B)(ii), shall not apply to a swap in which a  
 13 counterparty qualifies for an exception under section  
 14 2(h)(7)(A), or an exemption issued under section  
 15 4(c)(1) from the requirements of section 2(h)(1)(A) for  
 16 cooperative entities as defined in such exemption, or  
 17 satisfies the criteria in section 2(h)(7)(D).”.

18 (b) *SECURITIES EXCHANGE ACT AMENDMENT.*—Sec-  
 19 tion 15F(e) of the Securities Exchange Act of 1934 (15  
 20 U.S.C. 78o–10(e)), as added by section 764(a) of the Dodd-  
 21 Frank Wall Street Reform and Consumer Protection Act,  
 22 is amended by adding at the end the following new para-  
 23 graph:

24 “(4) *APPLICABILITY WITH RESPECT TO*  
 25 *COUNTERPARTIES.*—The requirements of paragraphs  
 26 (2)(A)(ii) and (2)(B)(ii) shall not apply to a secu-

1        *urity-based swap in which a counterparty qualifies for*  
 2        *an exception under section 3C(g)(1) or satisfies the*  
 3        *criteria in section 3C(g)(4).”.*

4    **SEC. 303. IMPLEMENTATION.**

5        *The amendments made by this title to the Commodity*  
 6    *Exchange Act shall be implemented—*

7            *(1) without regard to—*

8                    *(A) chapter 35 of title 44, United States*  
 9            *Code; and*

10                   *(B) the notice and comment provisions of*  
 11            *section 553 of title 5, United States Code;*

12            *(2) through the promulgation of an interim final*  
 13    *rule, pursuant to which public comment will be*  
 14    *sought before a final rule is issued; and*

15            *(3) such that paragraph (1) shall apply solely to*  
 16    *changes to rules and regulations, or proposed rules*  
 17    *and regulations, that are limited to and directly a*  
 18    *consequence of such amendments.*

Attest:

*Clerk.*



113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**S. 2244**

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**AMENDMENT**