

~~AMENDMENT IN THE NATURE OF A SUBSTITUTE~~

~~TO S. 2244~~

~~OFFERED BY M . \_\_\_\_\_~~

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  
3 “Terrorism Risk Insurance Program Reauthorization Act  
4 of 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  
8 “December 31, 2014” and inserting “December 31,  
9 2020”.

10 **SEC. 102. FEDERAL SHARE.**

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

16 **SEC. 103. PROGRAM TRIGGER.**

17 Subparagraph (B) of section 103(e)(1) (15 U.S.C.  
18 6701 note) is amended in the matter preceding clause  
19 (i)—

20 (1) by striking “a certified act” and inserting  
21 “certified acts”;

22 (2) by striking “such certified act” and insert-  
23 ing “such certified acts”; and

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

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

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

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

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

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

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

1 **SEC. 104. RECOUPMENT OF FEDERAL SHARE OF COM-**  
2 **PENSATION UNDER THE PROGRAM.**

3 Section 103(e) of the Terrorism Risk Insurance Act  
4 of 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  
8 RETENTION 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  
24 (A)(i) shall increase by \$2,000,000,000 per  
25 calendar year until equal to  
26 \$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 deter-  
11                  mined by the Secretary under subpara-  
12                  graph (C).

13                  “(C) RULEMAKING.—Not later than 3  
14                  years after the date of enactment of the Ter-  
15                  rorism Risk Insurance Program Reauthoriza-  
16                  tion Act of 2014, the Secretary shall—

17                         “(i) issue final rules for determining  
18                         the amount of the sum described under  
19                         subparagraph (B)(ii); and

20                         “(ii) provide a timeline for public noti-  
21                         fication of such determination.”; and

22                  (2) in paragraph (7)—

23                         (A) in subparagraph (A)—

24                                 (i) in the matter preceding clause (i),  
25                                 by striking “for each of the periods re-

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

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

5           (B) by striking subparagraph (B) and in-  
6           serting the following:

7                   “(B) [Reserved.]”;

8           (C) in subparagraph (C)—

9                   (i) by striking “occurring during any  
10           of the periods referred to in any of sub-  
11           paragraphs (A) through (E) of paragraph  
12           (6), terrorism loss risk-spreading pre-  
13           miums in an amount equal to 133 percent”  
14           and inserting “, terrorism loss risk-spread-  
15           ing premiums in an amount equal to 140  
16           percent”; and

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

20           (D) in subparagraph (E)(i)—

21                   (i) in subclause (I)—

22                           (I) by striking “2010” and in-  
23                           serting “2017”; and

24                           (II) by striking “2012” and in-  
25                           serting “2019”;

1 (ii) in subclause (II)—

2 (I) by striking “2011” and in-  
3 serting “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 in-  
10 serting “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  
22 subsection (a) shall take effect on January 1, 2015.

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

24 The Terrorism Risk Insurance Act of 2002 (15  
25 U.S.C. 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 enti-  
8 ty has” and inserting the following:

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

10 (iii) by adding at the end the fol-  
11 lowing new subparagraph:

12 “(B) RULE OF CONSTRUCTION.—An enti-  
13 ty, including any affiliate thereof, does not have  
14 ‘control’ over another entity, if, as of the date  
15 of enactment of the Terrorism Risk Insurance  
16 Program Reauthorization Act of 2014, the enti-  
17 ty is acting as an attorney-in-fact, as defined by  
18 the Secretary, for the other entity and such  
19 other entity is a reciprocal insurer, provided  
20 that the entity is not, for reasons other than  
21 the attorney-in-fact relationship, defined as hav-  
22 ing ‘control’ 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  
2           earned premiums during the immediately pre-  
3           ceding calendar year, multiplied by 20 percent;  
4           and”;

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

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

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

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

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

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

22           (2) in section 103—

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

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

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

3 (B) in subsection (c), by striking “Pro-  
4 gram 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  
10 through Program Year 4 shall be  
11 equal to 90 percent, and during Pro-  
12 gram Year 5 and each Program Year  
13 thereafter” and inserting “each cal-  
14 endar year”;

15 (II) by striking the comma after  
16 “80 percent”; and

17 (III) by striking “such Transition  
18 Period or such Program Year” and  
19 inserting “such calendar year”; and

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

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

7 (D) in subsection (g)(2)—

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

11 (ii) by striking “such period” and in-  
12 serting “the calendar year”; and

13 (iii) by striking “that period” and in-  
14 serting “the calendar year”.

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

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

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

20 (2) the term “certification process” means the  
21 process by which the Secretary determines whether  
22 to certify an act as an act of terrorism under section  
23 102(1) of the Terrorism Risk Insurance Act of 2002  
24 (15 U.S.C. 6701 note); and

1           (3) the term “Secretary” means the Secretary  
2           of 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  
10          by which the Secretary must make an accurate de-  
11          termination on whether to certify an act as an act  
12          of 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  
18          and monitor during the certification process, includ-  
19          ing the ability of the Secretary to obtain the re-  
20          quired information regarding the amount of pro-  
21          jected and incurred losses resulting from an act  
22          which the Secretary would need in determining  
23          whether to certify the act as an act of terrorism;

24          (4) the appropriateness, efficiency, and effec-  
25          tiveness of the consultation process required under

1 section 102(1)(A) of the Terrorism Risk Insurance  
2 Act of 2002 (15 U.S.C. 6701 note) and any rec-  
3 ommendations on changes to the consultation proc-  
4 ess; and

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

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

15 (e) RULEMAKING.—Section 102(1) of the Terrorism  
16 Risk Insurance Act of 2002 (15 U.S.C. 6701 note) is  
17 amended—

18 (1) by redesignating subparagraph (D) as sub-  
19 paragraph (E); and

20 (2) by inserting after subparagraph (C) the fol-  
21 lowing:

22 “(D) TIMING OF CERTIFICATION.—Not  
23 later than 9 months after the report required  
24 under section 107 of the Terrorism Risk Insur-  
25 ance Program Reauthorization Act of 2014 is

1 submitted to the appropriate committees of  
2 Congress, the Secretary shall issue final rules  
3 governing the certification process, including es-  
4 tablishing a timeline for which an act is eligible  
5 for certification by the Secretary on whether an  
6 act is an act of terrorism under this para-  
7 graph.”.

8 **SEC. 108. GAO STUDY.**

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

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

22 (2) creating a capital reserve fund under the  
23 Program and requiring insurers participating in the  
24 Program to dedicate capital specifically for terrorism  
25 losses before such losses are incurred, which shall in-

1       clude a comparison of practices in international mar-  
2       kets to establish reserve funds.

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

6           (1) UPFRONT PREMIUMS.—With respect to up-  
7 front premiums described in subsection (a)(1)—

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

11                   (B) how the Federal Government could col-  
12 lect and manage such upfront premiums;

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

17                   (D) how the assessment and collection of  
18 such upfront premiums could affect take-up  
19 rates for terrorism risk coverage in different re-  
20 gions and industries and how it could impact  
21 small businesses and consumers in both metro-  
22 politan and non-metropolitan areas;

23                   (E) the effect of collecting such upfront  
24 premiums on insurers both large and small;

1 (F) the effect of collecting such upfront  
2 premiums on the private market for terrorism  
3 risk reinsurance; and

4 (G) the size of any Federal Government  
5 subsidy insurers may receive through their par-  
6 ticipation in the Program, taking into account  
7 the Program's current post-event recoupment  
8 structure.

9 (2) CAPITAL RESERVE FUND.—With respect to  
10 the capital reserve fund described in subsection  
11 (a)(2)—

12 (A) how the creation of a capital reserve  
13 fund would affect the Federal Government's fis-  
14 cal exposure under the Terrorism Risk Insur-  
15 ance Program and the ability of the Program to  
16 meet its statutory purposes;

17 (B) how a capital reserve fund would im-  
18 pact insurers and reinsurers, including liquidity,  
19 insurance pricing, and capacity to provide ter-  
20 rorism risk coverage;

21 (C) the feasibility of segregating funds at-  
22 tributable to terrorism risk from funds attrib-  
23 utable to other insurance lines;

24 (D) how a capital reserve fund would be  
25 viewed and treated under current Financial Ac-

1           counting Standards Board accounting rules and  
2           the tax laws; and

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

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

10           (A) have established terrorism insurance  
11           structures;

12           (B) charge premiums or otherwise collect  
13           funds to pay for the costs of terrorism insur-  
14           ance structures, including risk and administra-  
15           tive costs; and

16           (C) have established capital reserve funds  
17           to pay for the costs of terrorism insurance  
18           structures.

19           (c) REPORT.—Upon completion of the study required  
20           under subsection (a), the Comptroller General shall sub-  
21           mit a report on the results of such study to the Committee  
22           on Banking, Housing, and Urban Affairs of the Senate  
23           and the Committee on Financial Services of the House of  
24           Representatives.

1 (d) PUBLIC AVAILABILITY.—The study and report  
2 required under this section shall be made available to the  
3 public in electronic form and shall be published on the  
4 website of the Government Accountability Office.

5 **SEC. 109. MEMBERSHIP OF BOARD OF GOVERNORS OF THE**  
6 **FEDERAL RESERVE SYSTEM.**

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

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

19 **SEC. 110. ADVISORY COMMITTEE ON RISK-SHARING MECH-**  
20 **ANISMS.**

21 (a) FINDING; RULE OF CONSTRUCTION.—

22 (1) FINDING.—Congress finds that it is desir-  
23 able to encourage the growth of nongovernmental,  
24 private market reinsurance capacity for protection  
25 against losses arising from acts of terrorism.

1           (2) RULE OF CONSTRUCTION.—Nothing in this  
2           Act, any amendment made by this Act, or the Ter-  
3           rorism Risk Insurance Act of 2002 (15 U.S.C. 6701  
4           note) shall prohibit insurers from developing risk-  
5           sharing mechanisms to voluntarily reinsure terrorism  
6           losses between and among themselves.

7           (b) ADVISORY COMMITTEE ON RISK-SHARING MECH-  
8           ANISMS.—

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

14          (2) DUTIES.—The Advisory Committee shall  
15          provide advice, recommendations, and encourage-  
16          ment with respect to the creation and development  
17          of the nongovernmental risk-sharing mechanisms de-  
18          scribed under subsection (a).

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

1       tors of the insurance industry, including commercial  
2       property insurance, commercial casualty insurance,  
3       reinsurance, and alternative risk transfer industries.

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

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

7       Section 104 (15 U.S.C. 6701 note) is amended by  
8       adding at the end the following new subsection:

9       “(h) REPORTING OF TERRORISM INSURANCE  
10       DATA.—

11               “(1) AUTHORITY.—During the calendar year  
12       beginning on January 1, 2016, and in each calendar  
13       year thereafter, the Secretary shall require insurers  
14       participating in the Program to submit to the Sec-  
15       retary such information regarding insurance cov-  
16       erage for terrorism losses of such insurers as the  
17       Secretary considers appropriate to analyze the effec-  
18       tiveness of the Program, which shall include infor-  
19       mation regarding—

20                       “(A) lines of insurance with exposure to  
21       such losses;

22                       “(B) premiums earned on such coverage;

23                       “(C) geographical location of exposures;

24                       “(D) pricing of such coverage;

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

1           “(F) the amount of private reinsurance for  
2           acts of terrorism purchased; and

3           “(G) such other matters as the Secretary  
4           considers appropriate.

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

11           “(A) an analysis of the overall effectiveness  
12          of the Program;

13           “(B) an evaluation of any changes or  
14          trends in the data collected under paragraph  
15          (1);

16           “(C) an evaluation of whether any aspects  
17          of the Program have the effect of discouraging  
18          or impeding insurers from providing commercial  
19          property casualty insurance coverage or cov-  
20          erage for acts of terrorism;

21           “(D) an evaluation of the impact of the  
22          Program on workers’ compensation insurers;  
23          and

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

4           “(3) PROTECTION OF DATA.—To the extent  
5           possible, the Secretary shall contract with an insur-  
6           ance statistical aggregator to collect the information  
7           described in paragraph (1), which shall keep any  
8           nonpublic information confidential and provide it to  
9           the Secretary in an aggregate form or in such other  
10          form or manner that does not permit identification  
11          of the insurer submitting such information.

12          “(4) ADVANCE COORDINATION.—Before col-  
13          lecting any data or information under paragraph (1)  
14          from an insurer, or affiliate of an insurer, the Sec-  
15          retary shall coordinate with the appropriate State in-  
16          surance regulatory authorities and any relevant gov-  
17          ernment agency or publicly available sources to de-  
18          termine if the information to be collected is available  
19          from, and may be obtained in a timely manner by,  
20          individually or collectively, such entities. If the Sec-  
21          retary determines that such data or information is  
22          available, and may be obtained in a timely matter,  
23          from such entities, the Secretary shall obtain the  
24          data or information from such entities. If the Sec-  
25          retary determines that such data or information is

1 not so available, the Secretary may collect such data  
2 or information from an insurer and affiliates.

3 “(5) CONFIDENTIALITY.—

4 “(A) RETENTION OF PRIVILEGE.—The  
5 submission of any non-publicly available data  
6 and information to the Secretary and the shar-  
7 ing of any non-publicly available data with or  
8 by the Secretary among other Federal agencies,  
9 the State insurance regulatory authorities, or  
10 any other entities under this subsection shall  
11 not constitute a waiver of, or otherwise affect,  
12 any privilege arising under Federal or State law  
13 (including the rules of any Federal or State  
14 court) to which the data or information is oth-  
15 erwise subject.

16 “(B) CONTINUED APPLICATION OF PRIOR  
17 CONFIDENTIALITY AGREEMENTS.—Any require-  
18 ment under Federal or State law to the extent  
19 otherwise applicable, or any requirement pursu-  
20 ant to a written agreement in effect between  
21 the original source of any non-publicly available  
22 data or information and the source of such data  
23 or information to the Secretary, regarding the  
24 privacy or confidentiality of any data or infor-  
25 mation in the possession of the source to the

1 Secretary, shall continue to apply to such data  
2 or information after the data or information  
3 has been provided pursuant to this subsection.

4 “(C) INFORMATION-SHARING AGREE-  
5 MENT.—Any data or information obtained by  
6 the Secretary under this subsection may be  
7 made available to State insurance regulatory  
8 authorities, individually or collectively through  
9 an information-sharing agreement that—

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

12 “(ii) shall not constitute a waiver of,  
13 or otherwise affect, any privilege under  
14 Federal or State law (including any privi-  
15 lege referred to in subparagraph (A) and  
16 the rules of any Federal or State court) to  
17 which the data or information is otherwise  
18 subject.

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

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

3 Section 108 (15 U.S.C. 6701 note) is amended by  
4 adding at the end the following new subsection:

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

7 “(1) IN GENERAL.—Not later than June 30,  
8 2017, and every other June 30 thereafter, the Sec-  
9 retary shall conduct a study of small insurers (as  
10 such term is defined by regulation by the Secretary)  
11 participating in the Program, and identify any com-  
12 petitive challenges small insurers face in the ter-  
13 rorism risk insurance marketplace, including—

14 “(A) changes to the market share, pre-  
15 mium volume, and policyholder surplus of small  
16 insurers relative to large insurers;

17 “(B) how the property and casualty insur-  
18 ance market for terrorism risk differs between  
19 small and large insurers, and whether such a  
20 difference exists within other perils;

21 “(C) the impact of the Program’s manda-  
22 tory availability requirement under section  
23 103(c) on small insurers;

24 “(D) the effect of increasing the trigger  
25 amount for the Program under section  
26 103(e)(1)(B) on small insurers;

1           “(E) the availability and cost of private re-  
2           insurance for small insurers; and

3           “(F) the impact that State workers com-  
4           pensation laws have on small insurers and  
5           workers compensation carriers in the terrorism  
6           risk insurance marketplace.

7           “(2) REPORT.—The Secretary shall submit a  
8           report to the Congress setting forth the findings and  
9           conclusions of each study required under paragraph  
10          (1).”.

11 **TITLE II—NATIONAL ASSOCIA-**  
12 **TION OF REGISTERED**  
13 **AGENTS AND BROKERS RE-**  
14 **FORM**

15 **SEC. 201. SHORT TITLE.**

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

18 **SEC. 202. REESTABLISHMENT OF THE NATIONAL ASSOCIA-**  
19 **TION OF REGISTERED AGENTS AND BRO-**  
20 **KERS.**

21          (a) **IN GENERAL.**—Subtitle C of title III of the  
22 Gramm-Leach-Bliley Act (15 U.S.C. 6751 et seq.) is  
23 amended 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 sub-  
16    title, be subject to, and have all the powers conferred  
17    upon, a nonprofit corporation by the District of Co-  
18    lumbia Nonprofit Corporation Act (D.C. Code, sec.  
19    29–301.01 et seq.) or any successor thereto.

20    **“SEC. 322. PURPOSE.**

21            “The purpose of the Association shall be to provide  
22    a mechanism through which licensing, continuing edu-  
23    cation, and other nonresident insurance producer quali-  
24    fication requirements and conditions may be adopted and  
25    applied on a multi-state basis without affecting the laws,

1 rules, and regulations, and preserving the rights of a  
2 State, pertaining 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  
22 Association.

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

1 member of the Association if a State insurance regu-  
2 lator has suspended or revoked the insurance license  
3 of the insurance 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  
11 the suspension or revocation; or

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

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

17 “(A) IN GENERAL.—An insurance pro-  
18 ducer who is an individual shall not be eligible  
19 to become a member of the Association unless  
20 the insurance producer has undergone a crimi-  
21 nal history record check that complies with reg-  
22 ulations prescribed by the Attorney General of  
23 the United 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  
5 of the Association, in compliance with a re-  
6 quirement to undergo such criminal history  
7 record check as a condition for such licensure  
8 in the State, shall be deemed to have undergone  
9 a 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  
19 check of the insurance producer, to the  
20 Federal Bureau of Investigation.

21 “(ii) PROCEDURES.—The board of di-  
22 rectors of the Association (referred to in  
23 this subtitle as the ‘Board’) shall prescribe  
24 procedures for obtaining and utilizing fin-  
25 gerprints or other identification informa-

1           tion and criminal history record informa-  
2           tion, including the establishment of reason-  
3           able fees to defray the expenses of the As-  
4           sociation in connection with the perform-  
5           ance of a criminal history record check and  
6           appropriate safeguards for maintaining  
7           confidentiality and security of the informa-  
8           tion. ~~Any fees charged pursuant to this~~  
9           clause shall be separate and distinct from  
10          those charged by the Attorney General  
11          pursuant to subparagraph (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  
17          history record check is requested, and a state-  
18          ment signed by the person authorizing the At-  
19          torney General to provide the information to  
20          the Association and for the Association to re-  
21          ceive the information.

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

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

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

18 “(ii) be disclosed to State insurance  
19 regulators, or Federal or State law en-  
20 forcement agencies, in conformance with  
21 applicable law; or

22 “(iii) be disclosed, upon request, to  
23 the insurance producer to whom the crimi-  
24 nal history record information relates.

1           “(G) PENALTY FOR IMPROPER USE OR  
2           DISCLOSURE.—Whoever knowingly uses any in-  
3           formation provided under subparagraph (E) for  
4           a purpose not authorized in subparagraph (F),  
5           or discloses any such information to anyone not  
6           authorized to receive it, shall be fined not more  
7           than \$50,000 per violation as determined by a  
8           court of competent jurisdiction.

9           “(H) RELIANCE ON INFORMATION.—Nei-  
10          ther the Association nor any of its Board mem-  
11          bers, officers, or employees shall be liable in  
12          any action for using information provided under  
13          subparagraph (E) as permitted under subpara-  
14          graph (F) in good faith and in reasonable reli-  
15          ance on its accuracy.

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

22          “(J) RULE OF CONSTRUCTION.—Nothing  
23          in this paragraph shall be construed as—

1                   “(i) requiring a State insurance regu-  
2                   lator to perform criminal history record  
3                   checks under this section; or

4                   “(ii) limiting any other authority that  
5                   allows access to criminal history records.

6                   “(K) REGULATIONS.—The Attorney Gen-  
7                   eral shall prescribe regulations to carry out this  
8                   paragraph, which shall include—

9                   “(i) appropriate protections for ensur-  
10                  ing the confidentiality of information pro-  
11                  vided under subparagraph (E); and

12                  “(ii) procedures providing a reason-  
13                  able opportunity for an insurance producer  
14                  to contest the accuracy of information re-  
15                  garding the insurance producer provided  
16                  under subparagraph (E).

17                  “(L) INELIGIBILITY FOR MEMBERSHIP.—

18                  “(i) IN GENERAL.—The Association  
19                  may, under reasonably consistently applied  
20                  standards, deny membership to an insur-  
21                  ance producer on the basis of criminal his-  
22                  tory record information provided under  
23                  subparagraph (E), or where the insurance  
24                  producer has been subject to disciplinary  
25                  action, as described in paragraph (2).

1                   “(ii) RIGHTS OF APPLICANTS DENIED  
2                   MEMBERSHIP.—The Association shall no-  
3                   tify any insurance producer who is denied  
4                   membership on the basis of criminal his-  
5                   tory record information provided under  
6                   subparagraph (E) of the right of the insur-  
7                   ance producer to—

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

13                  “(II) challenge the denial of  
14                  membership based on the accuracy  
15                  and completeness of the information.

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

21                  “(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRI-  
22                  TERIA.—The Association may establish membership cri-  
23                  teria that bear a reasonable relationship to the purposes  
24                  for which the Association was established.

1           “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES  
2 OF MEMBERSHIP.—

3           “(1) CLASSES OF MEMBERSHIP.—The Associa-  
4 tion may establish separate classes of membership,  
5 with separate criteria, if the Association reasonably  
6 determines that performance of different duties re-  
7 quires different levels of education, training, experi-  
8 ence, or other qualifications.

9           “(2) BUSINESS ENTITIES.—The Association  
10 shall establish a class of membership and member-  
11 ship criteria for business entities. A business entity  
12 that applies for membership shall be required to des-  
13 ignate an individual Association member responsible  
14 for the compliance of the business entity with Asso-  
15 ciation standards and the insurance laws, standards,  
16 and regulations of any State in which the business  
17 entity seeks to do business on the basis of Associa-  
18 tion membership.

19           “(3) CATEGORIES.—

20           “(A) SEPARATE CATEGORIES FOR INSUR-  
21 ANCE PRODUCERS PERMITTED.—The Associa-  
22 tion may establish separate categories of mem-  
23 bership for insurance producers and for other  
24 persons or entities within each class, based on

1           the types of licensing categories that exist  
2           under State laws.

3                   “(B) SEPARATE TREATMENT FOR DEPOSI-  
4           TORY INSTITUTIONS PROHIBITED.—No special  
5           categories of membership, and no distinct mem-  
6           bership criteria, shall be established for mem-  
7           bers that are depository institutions or for em-  
8           ployees, agents, or affiliates of depository insti-  
9           tutions.

10          “(d) MEMBERSHIP CRITERIA.—

11                   “(1) IN GENERAL.—The Association may estab-  
12           lish criteria for membership which shall include  
13           standards for personal qualifications, education,  
14           training, and experience. The Association shall not  
15           establish criteria that unfairly limit the ability of a  
16           small insurance producer to become a member of the  
17           Association, including imposing discriminatory mem-  
18           bership fees.

19                   “(2) QUALIFICATIONS.—In establishing criteria  
20           under paragraph (1), the Association shall not adopt  
21           any qualification less protective to the public than  
22           that contained in the National Association of Insur-  
23           ance Commissioners (referred to in this subtitle as  
24           the ‘NAIC’) Producer Licensing Model Act in effect  
25           as of the date of enactment of the National Associa-

1       tion of Registered Agents and Brokers Reform Act  
2       of 2014, and shall consider the highest levels of in-  
3       surance producer qualifications established under  
4       the licensing laws of the States.

5           “(3) ASSISTANCE FROM STATES.—

6           “(A) IN GENERAL.—The Association may  
7       request a State to provide assistance in inves-  
8       tigating and evaluating the eligibility of a pro-  
9       spective member for membership in the Associa-  
10      tion.

11          “(B) AUTHORIZATION OF INFORMATION  
12      SHARING.—A submission under subsection  
13      (a)(4)(C)(i) made by an insurance producer li-  
14      censed in a State shall include a statement  
15      signed by the person about whom the assistance  
16      is requested authorizing—

17           “(i) the State to share information  
18      with the Association; and

19           “(ii) the Association to receive the in-  
20      formation.

21          “(C) RULE OF CONSTRUCTION.—Subpara-  
22      graph (A) shall not be construed as requiring or  
23      authorizing any State to adopt new or addi-  
24      tional requirements concerning the licensing or  
25      evaluation of insurance producers.

1           “(4) DENIAL OF MEMBERSHIP.—The Associa-  
2           tion may, based on reasonably consistently applied  
3           standards, deny membership to any State-licensed  
4           insurance producer for failure to meet the member-  
5           ship criteria established by the Association.

6           “(e) EFFECT OF MEMBERSHIP.—

7           “(1) AUTHORITY OF ASSOCIATION MEMBERS.—  
8           Membership in the Association shall—

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

21                   “(B) be the equivalent of a nonresident in-  
22                   surance producer license for purposes of author-  
23                   izing the insurance producer to engage in the  
24                   activities described in subparagraph (A) in any

1 State where the member pays the licensing fee;  
2 and

3 “(C) be the equivalent of a nonresident in-  
4 surance producer license for the purpose of sub-  
5 jecting an insurance producer to all laws, regu-  
6 lations, provisions or other action of any State  
7 concerning revocation, suspension, or other en-  
8 forcement action related to the ability of a  
9 member to engage in any activity within the  
10 scope of authority granted under this subsection  
11 and to all State laws, regulations, provisions,  
12 and actions preserved under paragraph (5).

13 “(2) VIOLENT CRIME CONTROL AND LAW EN-  
14 FORCEMENT ACT OF 1994.—Nothing in this subtitle  
15 shall be construed to alter, modify, or supercede any  
16 requirement established by section 1033 of title 18,  
17 United States Code.

18 “(3) AGENT FOR REMITTING FEES.—The Asso-  
19 ciation shall act as an agent for any member for  
20 purposes of remitting licensing fees to any State  
21 pursuant to paragraph (1).

22 “(4) NOTIFICATION OF ACTION.—

23 “(A) IN GENERAL.—The Association shall  
24 notify the States (including State insurance  
25 regulators) and the NAIC when an insurance

1 producer has satisfied the membership criteria  
2 of this section. The States (including State in-  
3 surance regulators) shall have 10 business days  
4 after the date of the notification in order to  
5 provide the Association with evidence that the  
6 insurance producer does not satisfy the criteria  
7 for membership in the Association.

8 “(B) ONGOING DISCLOSURES REQUIRED.—  
9 On an ongoing basis, the Association shall dis-  
10 close to the States (including State insurance  
11 regulators) and the NAIC a list of the States  
12 in which each member is authorized to operate.  
13 The Association shall immediately notify the  
14 States (including State insurance regulators)  
15 and the NAIC when a member is newly author-  
16 ized to operate in one or more States, or is no  
17 longer authorized to operate in one or more  
18 States on the basis of Association membership.

19 “(5) PRESERVATION OF CONSUMER PROTEC-  
20 TION AND MARKET CONDUCT REGULATION.—

21 “(A) IN GENERAL.—No provision of this  
22 section shall be construed as altering or affect-  
23 ing the applicability or continuing effectiveness  
24 of any law, regulation, provision, or other action  
25 of any State, including those described in sub-

1 paragraph (B), to the extent that the State law,  
2 regulation, provision, or other action is not in-  
3 consistent with the provisions of this subtitle re-  
4 lated to market entry for nonresident insurance  
5 producers, and then only to the extent of the in-  
6 consistency.

7 “(B) PRESERVED REGULATIONS.—The  
8 laws, regulations, provisions, or other actions of  
9 any State referred to in subparagraph (A) in-  
10 clude laws, regulations, provisions, or other ac-  
11 tions that—

12 “(i) regulate market conduct, insur-  
13 ance producer conduct, or unfair trade  
14 practices;

15 “(ii) establish consumer protections;  
16 or

17 “(iii) require insurance producers to  
18 be appointed by a licensed or authorized  
19 insurer.

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

22 “(g) CONTINUING EDUCATION.—

23 “(1) IN GENERAL.—The Association shall es-  
24 tablish, as a condition of membership, continuing  
25 education requirements which shall be comparable to

1 the continuing education requirements under the li-  
2 censing laws of a majority of the States.

3 “(2) STATE CONTINUING EDUCATION REQUIRE-  
4 MENTS.—A member may not be required to satisfy  
5 continuing education requirements imposed under  
6 the laws, regulations, provisions, or actions of any  
7 State other than the home State of the member.

8 “(3) RECIPROCITY.—The Association shall not  
9 require a member to satisfy continuing education re-  
10 quirements that are equivalent to any continuing  
11 education requirements of the home State of the  
12 member that have been satisfied by the member dur-  
13 ing the applicable licensing period.

14 “(4) LIMITATION ON THE ASSOCIATION.—The  
15 Association shall not directly or indirectly offer any  
16 continuing education courses for insurance pro-  
17 ducers.

18 “(h) PROBATION, SUSPENSION AND REVOCATION.—

19 “(1) DISCIPLINARY ACTION.—The Association  
20 may place an insurance producer that is a member  
21 of the Association on probation or suspend or revoke  
22 the membership of the insurance producer in the As-  
23 sociation, or assess monetary fines or penalties, as  
24 the Association determines to be appropriate, if—

1           “(A) the insurance producer fails to meet  
2           the applicable membership criteria or other  
3           standards established by the Association;

4           “(B) the insurance producer has been sub-  
5           ject to disciplinary action pursuant to a final  
6           adjudicatory proceeding under the jurisdiction  
7           of a State insurance regulator;

8           “(C) an insurance license held by the in-  
9           surance producer has been suspended or re-  
10          voked by a State insurance regulator; or

11          “(D) the insurance producer has been con-  
12          victed of a crime that would have resulted in  
13          the denial of membership pursuant to sub-  
14          section (a)(4)(L)(i) at the time of application,  
15          and the Association has received a copy of the  
16          final disposition from a court of competent ju-  
17          risdiction.

18          “(2) VIOLATIONS OF ASSOCIATION STAND-  
19          ARDS.—The Association shall have the power to in-  
20          vestigate alleged violations of Association standards.

21          “(3) REPORTING.—The Association shall imme-  
22          diately notify the States (including State insurance  
23          regulators) and the NAIC when the membership of  
24          an insurance producer has been placed on probation  
25          or has been suspended, revoked, or otherwise termi-

1 nated, or when the Association has assessed mone-  
2 tary fines or penalties.

3 “(i) CONSUMER COMPLAINTS.—

4 “(1) IN GENERAL.—The Association shall—

5 “(A) refer any complaint against a mem-  
6 ber of the Association from a consumer relating  
7 to alleged misconduct or violations of State in-  
8 surance laws to the State insurance regulator  
9 where the consumer resides and, when appro-  
10 priate, to any additional State insurance regu-  
11 lator, as determined by standards adopted by  
12 the Association; and

13 “(B) make any related records and infor-  
14 mation available to each State insurance regu-  
15 lator to whom the complaint is forwarded.

16 “(2) TELEPHONE AND OTHER ACCESS.—The  
17 Association shall maintain a toll-free number for  
18 purposes of this subsection and, as practicable, other  
19 alternative means of communication with consumers,  
20 such as an Internet webpage.

21 “(3) FINAL DISPOSITION OF INVESTIGATION.—  
22 State insurance regulators shall provide the Associa-  
23 tion with information regarding the final disposition  
24 of a complaint referred pursuant to paragraph  
25 (1)(A), but nothing shall be construed to compel a

1 State to release confidential investigation reports or  
2 other information protected by State law to the As-  
3 sociation.

4 “(j) INFORMATION SHARING.—The Association  
5 may—

6 “(1) share documents, materials, or other infor-  
7 mation, including confidential and privileged docu-  
8 ments, with a State, Federal, or international gov-  
9 ernmental entity or with the NAIC or other appro-  
10 priate entity referred to paragraphs (3) and (4),  
11 provided that the recipient has the authority and  
12 agrees to maintain the confidentiality or privileged  
13 status of the document, material, or other informa-  
14 tion;

15 “(2) limit the sharing of information as re-  
16 quired under this subtitle with the NAIC or any  
17 other non-governmental entity, in circumstances  
18 under which the Association determines that the  
19 sharing of such information is unnecessary to fur-  
20 ther the purposes of this subtitle;

21 “(3) establish a central clearinghouse, or utilize  
22 the NAIC or another appropriate entity, as deter-  
23 mined by the Association, as a central clearinghouse,  
24 for use by the Association and the States (including  
25 State insurance regulators), through which members

1 of the Association may disclose their intent to oper-  
2 ate in 1 or more States and pay the licensing fees  
3 to the appropriate States; and

4 “(4) establish a database, or utilize the NAIC  
5 or another appropriate entity, as determined by the  
6 Association, as a database, for use by the Associa-  
7 tion and the States (including State insurance regu-  
8 lators) for the collection of regulatory information  
9 concerning the activities of insurance producers.

10 “(k) EFFECTIVE DATE.—The provisions of this sec-  
11 tion shall take effect on the later of—

12 “(1) the expiration of the 2-year period begin-  
13 ning on the date of enactment of the National Asso-  
14 ciation of Registered Agents and Brokers Reform  
15 Act of 2014; and

16 “(2) the date of incorporation of the Associa-  
17 tion.

18 **“SEC. 324. BOARD OF DIRECTORS.**

19 “(a) ESTABLISHMENT.—There is established a board  
20 of directors of the Association, which shall have authority  
21 to govern and supervise all activities of the Association.

22 “(b) POWERS.—The Board shall have such of the  
23 powers and authority of the Association as may be speci-  
24 fied in the bylaws of the Association.

25 “(c) COMPOSITION.—

1           “(1) IN GENERAL.—The Board shall consist of  
2       13 members who shall be appointed by the Presi-  
3       dent, by and with the advice and consent of the Sen-  
4       ate, in accordance with the procedures established  
5       under Senate Resolution 116 of the 112<sup>th</sup> Congress,  
6       of whom—

7           “(A) 8 shall be State insurance commis-  
8       sioners appointed in the manner provided in  
9       paragraph (2), 1 of whom shall be designated  
10      by the President to serve as the chairperson of  
11      the Board until the Board elects one such State  
12      insurance commissioner Board member to serve  
13      as the chairperson of the Board;

14          “(B) 3 shall have demonstrated expertise  
15      and experience with property and casualty in-  
16      surance producer licensing; and

17          “(C) 2 shall have demonstrated expertise  
18      and experience with life or health insurance  
19      producer licensing.

20          “(2) STATE INSURANCE REGULATOR REP-  
21      RESENTATIVES.—

22          “(A) RECOMMENDATIONS.—Before making  
23      any appointments pursuant to paragraph  
24      (1)(A), the President shall request a list of rec-  
25      ommended candidates from the States through

1 the NAIC, which shall not be binding on the  
2 President. If the NAIC fails to submit a list of  
3 recommendations not later than 15 business  
4 days after the date of the request, the President  
5 may make the requisite appointments without  
6 considering the views of the NAIC.

7 “(B) POLITICAL AFFILIATION.—Not more  
8 than 4 Board members appointed under para-  
9 graph (1)(A) shall belong to the same political  
10 party.

11 “(C) FORMER STATE INSURANCE COMMIS-  
12 SIONERS.—

13 “(i) IN GENERAL.—If, after offering  
14 each currently serving State insurance  
15 commissioner an appointment to the  
16 Board, fewer than 8 State insurance com-  
17 missioners have accepted appointment to  
18 the Board, the President may appoint the  
19 remaining State insurance commissioner  
20 Board members, as required under para-  
21 graph (1)(A), of the appropriate political  
22 party as required under subparagraph (B),  
23 from among individuals who are former  
24 State insurance commissioners.

1                   “(ii) LIMITATION.—A former State  
2                   insurance commissioner appointed as de-  
3                   scribed in clause (i) may not be employed  
4                   by or have any present direct or indirect fi-  
5                   nancial interest in any insurer, insurance  
6                   producer, or other entity in the insurance  
7                   industry, other than direct or indirect own-  
8                   ership of, or beneficial interest in, an in-  
9                   surance policy or annuity contract written  
10                  or sold by an insurer.

11                  “(D) SERVICE THROUGH TERM.—If a  
12                  Board member appointed under paragraph  
13                  (1)(A) ceases to be a State insurance commis-  
14                  sioner during the term of the Board member,  
15                  the Board member shall cease to be a Board  
16                  member.

17                  “(3) PRIVATE SECTOR REPRESENTATIVES.—In  
18                  making any appointment pursuant to subparagraph  
19                  (B) or (C) of paragraph (1), the President may seek  
20                  recommendations for candidates from groups rep-  
21                  resenting the category of individuals described,  
22                  which shall not be binding on the President.

23                  “(4) STATE INSURANCE COMMISSIONER DE-  
24                  FINED.—For purposes of this subsection, the term  
25                  ‘State insurance commissioner’ means a person who

1 serves in the position in State government, or on the  
2 board, commission, or other body that is the primary  
3 insurance regulatory authority for the State.

4 “(d) TERMS.—

5 “(1) IN GENERAL.—Except as provided under  
6 paragraph (2), the term of service for each Board  
7 member shall be 2 years.

8 “(2) EXCEPTIONS.—

9 “(A) 1-YEAR TERMS.—The term of service  
10 shall be 1 year, as designated by the President  
11 at the time of the nomination of the subject  
12 Board members for—

13 “(i) 4 of the State insurance commis-  
14 sioner Board members initially appointed  
15 under paragraph (1)(A), of whom not more  
16 than 2 shall belong to the same political  
17 party;

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

20 “(iii) 1 of the Board members initially  
21 appointed under paragraph (1)(C).

22 “(B) EXPIRATION OF TERM.—A Board  
23 member may continue to serve after the expira-  
24 tion of the term to which the Board member

1           was appointed for the earlier of 2 years or until  
2           a successor is appointed.

3           “(C) MID-TERM APPOINTMENTS.—A  
4           Board member appointed to fill a vacancy oc-  
5           curring before the expiration of the term for  
6           which the predecessor of the Board member  
7           was appointed shall be appointed only for the  
8           remainder of that term.

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

11          “(e) INITIAL APPOINTMENTS.—The appointment of  
12          initial Board members shall be made no later than 90 days  
13          after the date of enactment of the National Association  
14          of Registered Agents and Brokers Reform Act of 2014.

15          “(f) MEETINGS.—

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

17                       “(A) at the call of the chairperson;

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

20                       “(C) as otherwise provided by the bylaws  
21                       of the Association.

22          “(2) QUORUM REQUIRED.—A majority of all  
23          Board members shall constitute a quorum.

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

4           “(4) INITIAL MEETING.—The Board shall hold  
5           its first meeting not later than 45 days after the  
6           date on which all initial Board members have been  
7           appointed.

8           “(g) RESTRICTION ON CONFIDENTIAL INFORMA-  
9           TION.—Board members appointed pursuant to subpara-  
10          graphs (B) and (C) of subsection (c)(1) shall not have ac-  
11          cess to confidential information received by the Associa-  
12          tion in connection with complaints, investigations, or dis-  
13          ciplinary proceedings involving insurance producers.

14          “(h) ETHICS AND CONFLICTS OF INTEREST.—The  
15          Board shall issue and enforce an ethical conduct code to  
16          address permissible and prohibited activities of Board  
17          members and Association officers, employees, agents, or  
18          consultants. The code shall, at a minimum, include provi-  
19          sions that prohibit any Board member or Association offi-  
20          cer, employee, agent or consultant from—

21                 “(1) engaging in unethical conduct in the  
22                 course of performing Association duties;

23                 “(2) participating in the making or influencing  
24                 the making of any Association decision, the outcome  
25                 of which the Board member, officer, employee,

1 agent, or consultant knows or had reason to know  
2 would have a reasonably foreseeable material finan-  
3 cial effect, distinguishable from its effect on the pub-  
4 lic generally, on the person or a member of the im-  
5 mediate family of the person;

6 “(3) accepting any gift from any person or enti-  
7 ty other than the Association that is given because  
8 of the position held by the person in the Association;

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

11 “(5) lobbying or paying a person to lobby on  
12 behalf of the Association.

13 “(i) COMPENSATION.—

14 “(1) IN GENERAL.—Except as provided in para-  
15 graph (2), no Board member may receive any com-  
16 pensation from the Association or any other person  
17 or entity on account of Board membership.

18 “(2) TRAVEL EXPENSES AND PER DIEM.—  
19 Board members may be reimbursed only by the As-  
20 sociation for travel expenses, including per diem in  
21 lieu of subsistence, at rates consistent with rates au-  
22 thorized for employees of Federal agencies under  
23 subchapter I of chapter 57 of title 5, United States  
24 Code, while away from home or regular places of

1 business in performance of services for the Associa-  
2 tion.

3 **“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY AC-**  
4 **TIONS.**

5 “(a) **ADOPTION AND AMENDMENT OF BYLAWS AND**  
6 **STANDARDS.—**

7 “(1) **PROCEDURES.—**The Association shall  
8 adopt procedures for the adoption of bylaws and  
9 standards that are similar to procedures under sub-  
10 chapter II of chapter 5 of title 5, United States  
11 Code (commonly known as the ‘Administrative Pro-  
12 cedure Act’).

13 “(2) **COPY REQUIRED TO BE FILED.—**The  
14 Board shall submit to the President, through the  
15 Department of the Treasury, and the States (includ-  
16 ing State insurance regulators), and shall publish on  
17 the website of the Association, all proposed bylaws  
18 and standards of the Association, or any proposed  
19 amendment to the bylaws or standards of the Asso-  
20 ciation, accompanied by a concise general statement  
21 of the basis and purpose of such proposal.

22 “(3) **EFFECTIVE DATE.—**Any proposed bylaw  
23 or standard of the Association, and any proposed  
24 amendment to the bylaws or standards of the Asso-  
25 ciation, shall take effect, after notice under para-

1 graph (2) and opportunity for public comment, on  
2 such date as the Association may designate, unless  
3 suspended under section 329(c).

4 “(4) RULE OF CONSTRUCTION.—Nothing in  
5 this section shall be construed to subject the Board  
6 or the Association to the requirements of subchapter  
7 II of chapter 5 of title 5, United States Code (com-  
8 monly known as the ‘Administrative Procedure  
9 Act’).

10 “(b) DISCIPLINARY ACTION BY THE ASSOCIATION.—

11 “(1) SPECIFICATION OF CHARGES.—In any pro-  
12 ceeding to determine whether membership shall be  
13 denied, suspended, revoked, or not renewed, or to  
14 determine whether a member of the Association  
15 should be placed on probation (referred to in this  
16 section as a ‘disciplinary action’) or whether to as-  
17 sess fines or monetary penalties, the Association  
18 shall bring specific charges, notify the member of  
19 the charges, give the member an opportunity to de-  
20 fend against the charges, and keep a record.

21 “(2) SUPPORTING STATEMENT.—A determina-  
22 tion to take disciplinary action shall be supported by  
23 a statement setting forth—

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

1           “(B) the specific provision of this subtitle  
2           or standard of the Association that any such  
3           act or practice is deemed to violate; and

4           “(C) the sanction imposed and the reason  
5           for the sanction.

6           “(3) INELIGIBILITY OF PRIVATE SECTOR REP-  
7           RESENTATIVES.—Board members appointed pursu-  
8           ant to section 324(c)(3) may not—

9           “(A) participate in any disciplinary action  
10          or be counted toward establishing a quorum  
11          during a disciplinary action; and

12          “(B) have access to confidential informa-  
13          tion concerning any disciplinary action.

14   **“SEC. 326. POWERS.**

15          “‘In addition to all the powers conferred upon a non-  
16          profit corporation by the District of Columbia Nonprofit  
17          Corporation Act, the Association shall have the power to—

18          “(1) establish and collect such membership fees  
19          as the Association finds necessary to impose to cover  
20          the costs of its operations;

21          “(2) adopt, amend, and repeal bylaws, proce-  
22          dures, or standards governing the conduct of Asso-  
23          ciation business and performance of its duties;

1           “(3) establish procedures for providing notice  
2           and opportunity for comment pursuant to section  
3           325(a);

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

6           “(5) hire employees, professionals, or special-  
7           ists, and elect or appoint officers, and to fix their  
8           compensation, define their duties and give them ap-  
9           propriate authority to carry out the purposes of this  
10          subtitle, and determine their qualification;

11          “(6) establish personnel policies of the Associa-  
12          tion and programs relating to, among other things,  
13          conflicts of interest, rates of compensation, where  
14          applicable, and qualifications of personnel;

15          “(7) borrow money; and

16          “(8) secure funding for such amounts as the  
17          Association determines to be necessary and appro-  
18          priate to organize and begin operations of the Asso-  
19          ciation, which shall be treated as loans to be repaid  
20          by the Association with interest at market rate.

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

22          “(a) IN GENERAL.—As soon as practicable after the  
23          close of each fiscal year, the Association shall submit to  
24          the President, through the Department of the Treasury,  
25          and the States (including State insurance regulators), and

1 shall publish on the website of the Association, a written  
2 report regarding the conduct of its business, and the exer-  
3 cise of the other rights and powers granted by this sub-  
4 title, during such fiscal year.

5       “(b) FINANCIAL STATEMENTS.—Each report sub-  
6 mitted under subsection (a) with respect to any fiscal year  
7 shall include audited financial statements setting forth the  
8 financial position of the Association at the end of such  
9 fiscal year and the results of its operations (including the  
10 source and application of its funds) for such fiscal year.

11 **“SEC. 328. LIABILITY OF THE ASSOCIATION AND THE**  
12                           **BOARD MEMBERS, OFFICERS, AND EMPLOY-**  
13                           **EES OF THE ASSOCIATION.**

14       “(a) IN GENERAL.—The Association shall not be  
15 deemed to be an insurer or insurance producer within the  
16 meaning of any State law, rule, regulation, or order regu-  
17 lating or taxing insurers, insurance producers, or other en-  
18 tities engaged in the business of insurance, including pro-  
19 visions imposing premium taxes, regulating insurer sol-  
20 vency or financial condition, establishing guaranty funds  
21 and levying assessments, or requiring claims settlement  
22 practices.

23       “(b) LIABILITY OF BOARD MEMBERS, OFFICERS,  
24 AND EMPLOYEES.—No Board member, officer, or em-  
25 ployee of the Association shall be personally liable to any

1 person for any action taken or omitted in good faith in  
2 any matter within the scope of their responsibilities in con-  
3 nection with the Association.

4 **“SEC. 329. PRESIDENTIAL OVERSIGHT.**

5       “(a) REMOVAL OF BOARD.—If the President deter-  
6 mines that the Association is acting in a manner contrary  
7 to the interests of the public or the purposes of this sub-  
8 title or has failed to perform its duties under this subtitle,  
9 the President may remove the entire existing Board for  
10 the remainder of the term to which the Board members  
11 were appointed and appoint, in accordance with section  
12 324 and with the advice and consent of the Senate, in  
13 accordance with the procedures established under Senate  
14 Resolution 116 of the 112<sup>th</sup> Congress, new Board mem-  
15 bers to fill the vacancies on the Board for the remainder  
16 of the terms.

17       “(b) REMOVAL OF BOARD MEMBER.—The President  
18 may remove a Board member only for neglect of duty or  
19 malfeasance in office.

20       “(c) SUSPENSION OF BYLAWS AND STANDARDS AND  
21 PROHIBITION OF ACTIONS.—Following notice to the  
22 Board, the President, or a person designated by the Presi-  
23 dent for such purpose, may suspend the effectiveness of  
24 any bylaw or standard, or prohibit any action, of the Asso-

1 ciation that the President or the designee determines is  
2 contrary to the purposes of this subtitle.

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

4       “(a) **PREEMPTION OF STATE LAWS.**—State laws,  
5 regulations, provisions, or other actions purporting to reg-  
6 ulate insurance producers shall be preempted to the extent  
7 provided in subsection (b).

8       “(b) **PROHIBITED ACTIONS.**—

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

10               “(A) impede the activities of, take any ac-  
11 tion against, or apply any provision of law or  
12 regulation arbitrarily or discriminatorily to, any  
13 insurance producer because that insurance pro-  
14 ducer or any affiliate plans to become, has ap-  
15 plied to become, or is a member of the Associa-  
16 tion;

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

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

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

4           “(A) impose any licensing, personal or cor-  
5       porate qualifications, education, training, expe-  
6       rience, residency, continuing education, or  
7       bonding requirement upon a member of the As-  
8       sociation that is different from the criteria for  
9       membership in the Association or renewal of  
10      such membership;

11          “(B) impose any requirement upon a mem-  
12      ber of the Association that it be licensed, reg-  
13      istered, or otherwise qualified to do business or  
14      remain in good standing in the State, including  
15      any requirement that the insurance producer  
16      register as a foreign company with the sec-  
17      retary of state or equivalent State official;

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

21          “(D) impose any licensing, registration, or  
22      appointment requirements upon a member of  
23      the Association, or require a member of the As-  
24      sociation to be authorized to operate as an in-  
25      surance producer, in order to sell, solicit, or ne-

1           gotiate insurance for commercial property and  
2           casualty risks to an insured with risks located  
3           in more than one State, if the member is li-  
4           censed or otherwise authorized to operate in the  
5           State where the insured maintains its principal  
6           place of business and the contract of insurance  
7           insures risks located in that State.

8           “(3) PRESERVATION OF STATE DISCIPLINARY  
9           AUTHORITY.—Nothing in this section may be con-  
10          strued to prohibit a State from investigating and  
11          taking appropriate disciplinary action, including sus-  
12          pension or revocation of authority of an insurance  
13          producer to do business in a State, in accordance  
14          with State law and that is not inconsistent with the  
15          provisions of this section, against a member of the  
16          Association as a result of a complaint or for any al-  
17          leged activity, regardless of whether the activity oc-  
18          curred before or after the insurance producer com-  
19          menced doing business in the State pursuant to As-  
20          sociation membership.

21   **“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY**  
22                                   **REGULATORY AUTHORITY.**

23          “The Association shall coordinate with the Financial  
24          Industry Regulatory Authority in order to ease any admin-  
25          istrative burdens that fall on members of the Association

1 that are subject to regulation by the Financial Industry  
2 Regulatory Authority, consistent with the requirements of  
3 this subtitle and the Federal securities laws.

4 **“SEC. 332. RIGHT OF ACTION.**

5       “(a) RIGHT OF ACTION.—Any person aggrieved by  
6 a decision or action of the Association may, after reason-  
7 ably exhausting available avenues for resolution within the  
8 Association, commence a civil action in an appropriate  
9 United States district court, and obtain all appropriate re-  
10 lief.

11       “(b) ASSOCIATION INTERPRETATIONS.—In any ac-  
12 tion under subsection (a), the court shall give appropriate  
13 weight to the interpretation of the Association of its by-  
14 laws and standards and this subtitle.

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

16       “The Association may not receive, accept, or borrow  
17 any amounts from the Federal Government to pay for, or  
18 reimburse, the Association for, the costs of establishing  
19 or operating the Association.

20 **“SEC. 334. DEFINITIONS.**

21       “For purposes of this subtitle, the following defini-  
22 tions shall apply:

23               “(1) BUSINESS ENTITY.—The term ‘business  
24 entity’ means a corporation, association, partnership,

1 limited liability company, limited liability partner-  
2 ship, or other legal entity.

3 “(2) DEPOSITORY INSTITUTION.—The term ‘de-  
4 pository institution’ has the meaning as in section 3  
5 of the Federal Deposit Insurance Act (12 U.S.C.  
6 1813).

7 “(3) HOME STATE.—The term ‘home State’  
8 means the State in which the insurance producer  
9 maintains its principal place of residence or business  
10 and is licensed to act as an insurance producer.

11 “(4) INSURANCE.—The term ‘insurance’ means  
12 any product, other than title insurance or bail  
13 bonds, defined or regulated as insurance by the ap-  
14 propriate State insurance regulatory authority.

15 “(5) INSURANCE PRODUCER.—The term ‘insur-  
16 ance producer’ means any insurance agent or  
17 broker, excess or surplus lines broker or agent, in-  
18 surance consultant, limited insurance representative,  
19 and any other individual or entity that sells, solicits,  
20 or negotiates policies of insurance or offers advice,  
21 counsel, opinions or services related to insurance.

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

1           “(7) PRINCIPAL PLACE OF BUSINESS.—The  
2           term ‘principal place of business’ means the State in  
3           which an insurance producer maintains the head-  
4           quarters of the insurance producer and, in the case  
5           of a business entity, where high-level officers of the  
6           entity direct, control, and coordinate the business  
7           activities of the business entity.

8           “(8) PRINCIPAL PLACE OF RESIDENCE.—The  
9           term ‘principal place of residence’ means the State  
10          in which an insurance producer resides for the great-  
11          est number of days during a calendar year.

12          “(9) STATE.—The term ‘State’ includes any  
13          State, the District of Columbia, any territory of the  
14          United States, and Puerto Rico, Guam, American  
15          Samoa, the Trust Territory of the Pacific Islands,  
16          the Virgin Islands, and the Northern Mariana Is-  
17          lands.

18          “(10) STATE LAW.—

19                 “(A) IN GENERAL.—The term ‘State law’  
20                 includes all laws, decisions, rules, regulations,  
21                 or other State action having the effect of law,  
22                 of any State.

23                 “(B) LAWS APPLICABLE IN THE DISTRICT  
24                 OF COLUMBIA.—A law of the United States ap-  
25                 plicable only to or within the District of Colum-

1           bia shall be treated as a State law rather than  
2           a law of the United States.”.

3           (b) TECHNICAL AMENDMENT.—The table of contents  
4 for the Gramm-Leach-Bliley Act is amended by striking  
5 the items relating to subtitle C of title III and inserting  
6 the following new items:

          “Subtitle C—National Association of Registered Agents and Brokers

          “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.”.

7   **TITLE III—BUSINESS RISK MITI-**  
8           **GATION AND PRICE STA-**  
9           **BILIZATION**

10 **SEC. 301. SHORT TITLE.**

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

13 **SEC. 302. MARGIN REQUIREMENTS.**

14           (a) COMMODITY EXCHANGE ACT AMENDMENT.—  
15 Section 4s(e) of the Commodity Exchange Act (7 U.S.C.  
16 6s(e)), as added by section 731 of the Dodd-Frank Wall

1 Street Reform and Consumer Protection Act, is amended  
2 by adding at the end the following new paragraph:

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

14           (b) SECURITIES EXCHANGE ACT AMENDMENT.—  
15 Section 15F(e) of the Securities Exchange Act of 1934  
16 (15 U.S.C. 78o–10(e)), as added by section 764(a) of the  
17 Dodd-Frank Wall Street Reform and Consumer Protec-  
18 tion Act, is amended by adding at the end the following  
19 new paragraph:

20           “(4) APPLICABILITY WITH RESPECT TO  
21 COUNTERPARTIES.—The requirements of paragraphs  
22 (2)(A)(ii) and (2)(B)(ii) shall not apply to a secu-  
23 rity-based swap in which a counterparty qualifies for  
24 an exception under section 3C(g)(1) or satisfies the  
25 criteria in section 3C(g)(4).”.

1 **SEC. 303. IMPLEMENTATION.**

2 The amendments made by this title to the Commodity  
3 Exchange Act shall be implemented—

4 (1) without regard to—

5 (A) chapter 35 of title 44, United States  
6 Code; and

7 (B) the notice and comment provisions of  
8 section 553 of title 5, United States Code;

9 (2) through the promulgation of an interim  
10 final rule, pursuant to which public comment will be  
11 sought before a final rule is issued; and

12 (3) such that paragraph (1) shall apply solely  
13 to changes to rules and regulations, or proposed  
14 rules and regulations, that are limited to and di-  
15 rectly a consequence of such amendments.

