

113TH CONGRESS  
1ST SESSION

# S. 534

To reform the National Association of Registered Agents and Brokers, and  
for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 12, 2013

Mr. TESTER (for himself, Mr. JOHANNES, Mr. BENNET, Mr. CRAPO, Mr. MURPHY, Mr. CHAMBLISS, Mr. WARNER, Ms. HEITKAMP, Mr. WICKER, Mr. CARPER, Mr. MORAN, Mr. MENENDEZ, Mr. NELSON, and Mr. HELLER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To reform the National Association of Registered Agents  
and Brokers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Association  
5 of Registered Agents and Brokers Reform Act of 2013”.

1 **SEC. 2. REESTABLISHMENT OF THE NATIONAL ASSOCIA-**  
2 **TION OF REGISTERED AGENTS AND BRO-**  
3 **KERS.**

4 (a) IN GENERAL.—Subtitle C of title III of the  
5 Gramm-Leach-Bliley Act (15 U.S.C. 6751 et seq.) is  
6 amended to read as follows:

7 **“Subtitle C—National Association**  
8 **of Registered Agents and Brokers**

9 **“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED**  
10 **AGENTS AND BROKERS.**

11 “(a) ESTABLISHMENT.—There is established the Na-  
12 tional Association of Registered Agents and Brokers  
13 (hereafter in this subtitle referred to as the ‘Association’).

14 “(b) STATUS.—The Association shall—

15 “(1) be a nonprofit corporation;

16 “(2) have succession until dissolved by an Act  
17 of Congress;

18 “(3) not be an agent or instrumentality of the  
19 United States Government; and

20 “(4) except as otherwise provided in this sub-  
21 title, be subject to, and have all the powers conferred  
22 upon, a nonprofit corporation by the District of Co-  
23 lumbia Nonprofit Corporation Act (D.C. Code, sec.  
24 29–301.01 et seq.).

25 “(c) EFFECTIVE DATE.—The provisions of this sub-  
26 title shall take effect upon the expiration of the 24-month

1 period beginning on the date of enactment of the National  
2 Association of Registered Agents and Brokers Reform Act  
3 of 2013. Notwithstanding the effective date, such persons  
4 as are required to establish the Association shall take such  
5 actions as are necessary to establish the operations of the  
6 Association by the effective date.

7 **“SEC. 322. PURPOSE.**

8 “The purpose of the Association shall be to provide  
9 a mechanism through which licensing, continuing edu-  
10 cation, and other nonresident insurance producer quali-  
11 fication requirements and conditions may be adopted and  
12 applied on a multi-state basis without affecting the laws,  
13 rules, and regulations, and preserving the rights of a  
14 State, pertaining to—

15 “(1) licensing, continuing education, and other  
16 qualification requirements of insurance producers  
17 who are not members of the Association;

18 “(2) resident or nonresident insurance producer  
19 appointment requirements;

20 “(3) supervising and disciplining resident and  
21 nonresident insurance producers;

22 “(4) establishing licensing fees for resident and  
23 nonresident insurance producers so that there is no  
24 loss of insurance producer licensing revenue to the  
25 State; and

1           “(5) prescribing and enforcing laws and regula-  
2           tions regulating the conduct of resident and non-  
3           resident insurance producers.

4   **“SEC. 323. MEMBERSHIP.**

5           “(a) ELIGIBILITY.—

6           “(1) IN GENERAL.—Any insurance producer li-  
7           censed in its home State shall, subject to paragraphs  
8           (2) and (4), be eligible to become a member of the  
9           Association.

10           “(2) INELIGIBILITY FOR SUSPENSION OR REV-  
11           OCATION OF LICENSE.—Subject to paragraph (3),  
12           an insurance producer is not eligible to become a  
13           member of the Association if a State insurance regu-  
14           lator has suspended or revoked the insurance license  
15           of the insurance producer in that State.

16           “(3) RESUMPTION OF ELIGIBILITY.—Paragraph  
17           (2) shall cease to apply to any insurance producer  
18           if—

19                   “(A) the State insurance regulator reissues  
20                   or renews the license of the insurance producer  
21                   in the State in which the license was suspended  
22                   or revoked, or otherwise terminates or vacates  
23                   the suspension or revocation; or

1           “(B) the suspension or revocation expires  
2 or is subsequently overturned by a court of  
3 competent jurisdiction.

4           “(4) CRIMINAL BACKGROUND RECORD CHECK  
5 REQUIRED.—

6           “(A) IN GENERAL.—An insurance pro-  
7 ducer shall not be eligible to become a member  
8 of the Association unless the insurance pro-  
9 ducer has undergone a national criminal back-  
10 ground record check of its Federal Bureau of  
11 Investigation identification record that complies  
12 with regulations prescribed by the Attorney  
13 General under subparagraph (L).

14           “(B) CRIMINAL BACKGROUND RECORD  
15 CHECK REQUESTED BY HOME STATE.—An in-  
16 surance producer who is licensed in a State and  
17 who has undergone a national criminal back-  
18 ground record check of its Federal Bureau of  
19 Investigation identification record during the 2-  
20 year period preceding the date of submission of  
21 an application to become a member of the Asso-  
22 ciation, in compliance with such requirements  
23 as a condition for such licensure, shall be  
24 deemed to have undergone a national criminal

1 background record check for purposes of sub-  
2 paragraph (A).

3 “(C) CRIMINAL BACKGROUND RECORD  
4 CHECK REQUESTED BY ASSOCIATION.—

5 “(i) IN GENERAL.—The Association  
6 shall, upon request by an insurance pro-  
7 ducer licensed in a State, submit identi-  
8 fication information obtained from the in-  
9 surance producer, and a request for a na-  
10 tional criminal background record check of  
11 the insurance producer, to the Federal Bu-  
12 reau of Investigation.

13 “(ii) BYLAWS OR RULES.—The board  
14 of directors of the Association shall pre-  
15 scribe bylaws or rules for obtaining and  
16 utilizing identification information and  
17 criminal history record information, includ-  
18 ing the establishment of reasonable fees re-  
19 quired to perform a criminal background  
20 record check and appropriate safeguards  
21 for maintaining confidentiality and security  
22 of the information.

23 “(D) FORM OF REQUEST.—A submission  
24 under subparagraph (C)(i) shall include such  
25 identification information as required by the At-

1           torney General concerning the person about  
2           whom the record is requested and a statement  
3           signed by the person authorizing the Associa-  
4           tion to obtain the information.

5           “(E) PROVISION OF INFORMATION BY AT-  
6           TORNEY GENERAL.—Upon receiving a submis-  
7           sion under subparagraph (C)(ii) from the Asso-  
8           ciation, the Attorney General shall search all  
9           records of the Criminal Justice Information  
10          Services Division of the Federal Bureau of In-  
11          vestigation that the Attorney General deems ap-  
12          propriate for criminal history records cor-  
13          responding to the identification information  
14          provided under subparagraph (D) and provide  
15          all information contained in the records that  
16          pertains to the request to the Association.

17          “(F) LIMITATION ON PERMISSIBLE USES  
18          OF INFORMATION.—The Association may use  
19          information provided under subparagraph (E)  
20          only—

21                 “(i) for purposes of determining com-  
22                 pliance with membership criteria estab-  
23                 lished by the Association; or

24                 “(ii) to disclose to State insurance  
25                 regulators, or Federal or State law en-

1           forcement agencies, in conformance with  
2           applicable law.

3           “(G) APPLICANT ACCESS TO CRIMINAL  
4 HISTORY RECORDS.—Notwithstanding subpara-  
5 graph (F), an insurance producer shall have the  
6 right to obtain from the Association a copy of  
7 any criminal history record information con-  
8 cerning the insurance producer that is provided  
9 to the Association under subparagraph (E).

10           “(H) PENALTY FOR IMPROPER USE OR  
11 DISCLOSURE.—Whoever knowingly uses any in-  
12 formation provided under subparagraph (E) for  
13 a purpose not authorized in subparagraph (F),  
14 or discloses any such information to anyone not  
15 authorized to receive it, shall be fined under  
16 title 18, United States Code, imprisoned for not  
17 more than 2 years, or both.

18           “(I) RELIANCE ON INFORMATION.—Nei-  
19 ther the Association nor any of its directors, of-  
20 ficers, or employees shall be liable in any action  
21 for using information provided under subpara-  
22 graph (E) as permitted under subparagraph  
23 (F) in good faith and in reasonable reliance on  
24 its accuracy.



1           “(J) FEES.—The Attorney General may  
2 charge a reasonable fee to defray the expense of  
3 conducting the search and providing the infor-  
4 mation under subparagraph (E), and any such  
5 fee shall be collected and remitted by the Asso-  
6 ciation.

7           “(K) RULE OF CONSTRUCTION.—Nothing  
8 in this paragraph shall be construed as—

9           “(i) requiring a State insurance regu-  
10 lator to perform criminal background  
11 checks under this section; or

12           “(ii) limiting any other authority that  
13 allows access to criminal background  
14 records.

15           “(L) REGULATIONS.—The Attorney Gen-  
16 eral shall prescribe regulations to carry out this  
17 paragraph, which shall include—

18           “(i) appropriate protections for ensur-  
19 ing the confidentiality of information pro-  
20 vided under subparagraph (E); and

21           “(ii) procedures providing a reason-  
22 able opportunity for an insurance producer  
23 to contest the accuracy of information re-  
24 garding the insurance producer provided  
25 under subparagraph (E).

1 “(M) INELIGIBILITY FOR MEMBERSHIP.—

2 “(i) IN GENERAL.—The Association  
3 may, under reasonably consistently applied  
4 standards, deny membership to an insur-  
5 ance producer on the basis of criminal his-  
6 tory information provided under subpara-  
7 graph (E), or where the insurance pro-  
8 ducer has been subject to disciplinary ac-  
9 tion, as described in paragraph (2).

10 “(ii) RIGHTS OF APPLICANTS DENIED  
11 MEMBERSHIP.—The Association shall no-  
12 tify any insurance producer who is denied  
13 membership on the basis of criminal his-  
14 tory record information provided under  
15 subparagraph (E) of the right of the insur-  
16 ance producer to—

17 “(I) obtain a copy of all criminal  
18 history record information provided to  
19 the Association under subparagraph  
20 (E) with respect to the insurance pro-  
21 ducer; and

22 “(II) challenge the accuracy and  
23 completeness of the information.

24 “(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRI-  
25 TERIA.—The Association may establish membership cri-

1 teria that bear a reasonable relationship to the purposes  
2 for which the Association was established.

3 “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES  
4 OF MEMBERSHIP.—

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

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

21 “(3) CATEGORIES.—

22 “(A) SEPARATE CATEGORIES FOR INSUR-  
23 ANCE PRODUCERS PERMITTED.—The Associa-  
24 tion may establish separate categories of mem-  
25 bership for insurance producers and for other

1 persons within each class, based on the types of  
2 licensing categories that exist under State laws.

3 “(B) SEPARATE TREATMENT FOR DEPOSITORY INSTITUTIONS PROHIBITED.—No special  
4 categories of membership, and no distinct mem-  
5 bership criteria, shall be established for mem-  
6 bers which are depository institutions or for  
7 employees, agents, or affiliates of depository in-  
8 stitutions.  
9

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 NAIC Producer Licensing  
23 Model Act in effect as of the date of enactment of  
24 the National Association of Registered Agents and  
25 Brokers Reform Act of 2013, and shall consider the

1 highest levels of insurance producer qualifications  
2 established under the licensing laws of the States.

3 “(3) ASSISTANCE FROM STATES.—

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

9 “(B) RULE OF CONSTRUCTION.—Subpara-  
10 graph (A) shall not be construed as requiring or  
11 authorizing any State to adopt new or addi-  
12 tional requirements concerning the licensing or  
13 evaluation of insurance producers.

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

19 “(e) EFFECT OF MEMBERSHIP.—

20 “(1) AUTHORITY OF ASSOCIATION MEMBERS.—  
21 Membership in the Association shall—

22 “(A) authorize an insurance producer to  
23 sell, solicit, or negotiate insurance in any State  
24 for which the member pays the licensing fee set  
25 by the State for any line or lines of insurance

1 specified in the home State license of the insur-  
2 ance producer, and exercise all such incidental  
3 powers as shall be necessary to carry out such  
4 activities, including claims adjustments and set-  
5 tlement to the extent permissible under the laws  
6 of the State, risk management, employee bene-  
7 fits advice, retirement planning, and any other  
8 insurance-related consulting activities;

9 “(B) be the equivalent of a nonresident in-  
10 surance producer license for purposes of author-  
11 izing the insurance producer to engage in the  
12 activities described in subparagraph (A) in any  
13 State where the member pays the licensing fee;  
14 and

15 “(C) be the equivalent of a nonresident in-  
16 surance producer license for the purpose of sub-  
17 jecting an insurance producer to all laws, regu-  
18 lations, provisions or other action of any State  
19 concerning revocation, suspension, or other en-  
20 forcement action related to the ability of a  
21 member to engage in any activity within the  
22 scope of authority granted under this subsection  
23 and to all State laws, regulations, provisions,  
24 and actions preserved under paragraph (5).

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

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

10          “(4) REGULATOR NOTIFICATION.—

11                 “(A) IN GENERAL.—The Association shall  
12                 notify the States and National Association of  
13                 Insurance Commissioners (hereinafter referred  
14                 to in this subtitle as ‘NAIC’) or its designee  
15                 when an insurance producer has satisfied the  
16                 membership criteria of this section. The States  
17                 and NAIC or its designee shall have 10 business  
18                 days after the notification to provide the Asso-  
19                 ciation with evidence that the insurance pro-  
20                 ducer does not satisfy the criteria for member-  
21                 ship for consideration by the Association in its  
22                 final membership determination.

23                 “(B) ONGOING DISCLOSURES REQUIRED.—  
24                 On an ongoing basis, the Association shall dis-  
25                 close to the States and NAIC or its designee

1 the States in which each member is authorized  
2 to operate. The Association shall immediately  
3 notify the States and NAIC or its designee  
4 when a member is newly authorized to operate  
5 in one or more States, or is no longer author-  
6 ized to operate in one or more States on the  
7 basis of Association membership.

8 “(5) PRESERVATION OF STATE CONSUMER PRO-  
9 TECTION AND MARKET CONDUCT REGULATION.—No  
10 provision of this section shall be construed as alter-  
11 ing or affecting the applicability or continuing effec-  
12 tiveness of any law, regulation, provision, or other  
13 action of any State, including any law, regulation,  
14 provision, or other action that—

15 “(A) regulates market conduct, insurance  
16 producer conduct, or unfair trade practices;

17 “(B) establishes consumer protections; or

18 “(C) requires insurance producers to be  
19 appointed by a licensed or authorized insurer,  
20 to the extent that the law, regulation, provision, or  
21 other action is not inconsistent with the provisions  
22 of this subtitle related to market entry for non-  
23 resident insurance producers, and then only to the  
24 extent of the inconsistency.



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

3       “(g) CONTINUING EDUCATION.—

4           “(1) IN GENERAL.—The Association shall es-  
5 tablish, as a condition of membership, continuing  
6 education requirements which shall be comparable to  
7 the continuing education requirements under the li-  
8 censing laws of a majority of the States.

9           “(2) STATE CONTINUING EDUCATION REQUIRE-  
10 MENTS.—A member may not be required to satisfy  
11 continuing education requirements imposed under  
12 the laws, regulations, provisions, or actions of any  
13 State other than the home State of the member.

14           “(3) RECIPROCITY.—The Association shall not  
15 require a member to satisfy continuing education re-  
16 quirements that are equivalent to any continuing  
17 education requirements of the home State of the  
18 member that have been satisfied by the member dur-  
19 ing the applicable licensing period.

20           “(4) LIMITATION ON ASSOCIATION.—The Asso-  
21 ciation shall not directly or indirectly offer any con-  
22 tinuing education courses for insurance producers.

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

24           “(1) DISCIPLINARY ACTION.—The Association  
25 may place an insurance producer that is a member

1 of the Association on probation or suspend or revoke  
2 the membership of the insurance producer in the As-  
3 sociation, or assess monetary fines or penalties, as  
4 the Association determines to be appropriate, if—

5 “(A) the insurance producer fails to meet  
6 the applicable membership criteria or other  
7 rules of the Association;

8 “(B) the insurance producer has been sub-  
9 ject to disciplinary action pursuant to a final  
10 adjudicatory proceeding under the jurisdiction  
11 of a State insurance regulator;

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

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

22 “(2) VIOLATIONS OF ASSOCIATION RULES.—

23 The Association shall have the power to investigate  
24 alleged violations of Association rules.

1           “(3) REPORTING.—The Association shall imme-  
2           diately notify NAIC or its designee when the mem-  
3           bership of an insurance producer has been placed on  
4           probation or has been suspended, revoked, or other-  
5           wise terminated, or when the Association has as-  
6           sessed monetary fines or penalties.

7           “(i) CONSUMER COMPLAINTS.—

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

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

17                   “(B) make any related records and infor-  
18                  mation available to NAIC or its designee and to  
19                  each State insurance regulator to whom the  
20                  complaint is forwarded.

21           “(2) TELEPHONE AND OTHER ACCESS.—The  
22           Association shall maintain a toll-free number for  
23           purposes of this subsection and, as practicable, other  
24           alternative means of communication with consumers,  
25           such as an Internet webpage.

1           “(3) FINAL DISPOSITION OF INVESTIGATION.—  
2           State insurance regulators shall provide the Associa-  
3           tion with information regarding the final disposition  
4           of a complaint referred pursuant to paragraph  
5           (1)(A), but nothing shall be construed to compel a  
6           State to release confidential investigation reports or  
7           other information protected by State law to the As-  
8           sociation.

9           “(j) INFORMATION SHARING.—The Association may  
10          share documents, materials, or other information, includ-  
11          ing confidential and privileged documents, with a State,  
12          Federal, or international regulatory agency or enforce-  
13          ment authority, or with NAIC or its designee, provided  
14          that the recipient has the authority and agrees to maintain  
15          the confidentiality or privileged status of the document,  
16          material, or other information.

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

18           “(a) ESTABLISHMENT.—There is established the  
19          board of directors of the Association (hereafter in this sub-  
20          title referred to as the ‘Board’), 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, of whom—

5                   “(A) 8 shall be State insurance commis-  
6                   sioners appointed in the manner provided in  
7                   paragraph (2);

8                   “(B) 2 shall be representatives of property  
9                   and casualty insurance producers;

10                   “(C) 1 shall be a representative of life or  
11                   health insurance producers;

12                   “(D) 1 shall be a representative of prop-  
13                   erty and casualty insurers; and

14                   “(E) 1 shall be a representative of life or  
15                   health insurers.

16           “(2) STATE INSURANCE REGULATOR REP-  
17           RESENTATIVES.—

18                   “(A) Before making any appointments  
19                   pursuant to subparagraph (A) of paragraph  
20                   (1), the President shall request a list of rec-  
21                   ommended candidates from NAIC, which shall  
22                   not be binding on the President. If NAIC fails  
23                   to submit a list of recommendations within 15  
24                   business days of the request, the President may

1           make the requisite appointments without con-  
2           sidering the views of NAIC.

3           “(B) Not more than 4 members appointed  
4           to membership on the Board pursuant to sub-  
5           paragraph (A) of paragraph (1) shall belong to  
6           the same political party.

7           “(C) If fewer than 8 State insurance com-  
8           missioners accept appointment to the Board,  
9           the President may appoint the remaining State  
10          insurance commissioner members of the Board  
11          from among individuals who are former State  
12          insurance commissioners, provided that any  
13          former insurance commissioner so appointed  
14          shall not be employed by or have a present di-  
15          rect or indirect financial interest in any insurer,  
16          insurance producer, or other entity in the insur-  
17          ance industry other than direct or indirect own-  
18          ership of, or beneficial interest in, an insurance  
19          policy or annuity contract written or sold by an  
20          insurer.

21          “(3) PRIVATE SECTOR REPRESENTATIVES.—In  
22          making any appointments pursuant to subpara-  
23          graphs (B) through (E) of paragraph (1), the Presi-  
24          dent may seek recommendations for candidates from  
25          national trade associations representing the category

1 of individuals described, which shall not be binding  
2 on the President.

3 “(4) STATE INSURANCE COMMISSIONER DE-  
4 FINED.—For purposes of this subsection, the term  
5 ‘State insurance commissioner’ means a person who  
6 serves in the position in State government, or on the  
7 board, commission, or other body that is the prin-  
8 cipal insurance regulatory authority for the State.

9 “(d) TERMS.—

10 “(1) IN GENERAL.—The term of each Board  
11 member shall be for 2 years, except that—

12 “(A) the term of—

13 “(i) 4 of the State insurance commis-  
14 sioner members of the Board initially ap-  
15 pointed under subparagraph (A) of para-  
16 graph (1);

17 “(ii) 1 of the property and casualty  
18 insurance producer members of the Board  
19 initially appointed under subparagraph (B)  
20 of paragraph (1); and

21 “(iii) 1 of the insurer representative  
22 members of the Board initially appointed  
23 under subparagraphs (D) and (E) of para-  
24 graph (1),

1 shall be 1 year, as designated by the President  
2 at the time of the nomination of the members;

3 “(B) a member of the Board may continue  
4 to serve after the expiration of the term to  
5 which the member was appointed until a suc-  
6 cessor is qualified; and

7 “(C) any member of the Board appointed  
8 to fill a vacancy occurring before the expiration  
9 of the term for which the predecessor of the  
10 member was appointed shall be appointed only  
11 for the remainder of that term.

12 “(2) SUCCESSIVE TERMS.—Board members  
13 may be reappointed to successive terms.

14 “(e) INITIAL APPOINTMENTS.—The appointment of  
15 initial Board members shall be made no later than 90 days  
16 after the date of enactment of the National Association  
17 of Registered Agents and Brokers Reform Act of 2013.

18 “(f) MEETINGS.—

19 “(1) IN GENERAL.—The Board shall meet at  
20 the call of the chairperson, as requested in writing  
21 to the chairperson by at least 5 members of the  
22 Board, or as otherwise provided by the bylaws of the  
23 Association.

24 “(2) QUORUM REQUIRED.—A majority of direc-  
25 tors shall constitute a quorum.



1           “(3) VOTING.—Decisions of the Board shall re-  
2           quire the approval of a majority of all directors  
3           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 members of the Board have  
7           been appointed.

8           “(g) RESTRICTION ON CONFIDENTIAL INFORMA-  
9           TION.—Members of the Board appointed pursuant to  
10          paragraph (3) of subsection (c) shall not have access to  
11          confidential information received by the Association in  
12          connection with complaints, investigations, or disciplinary  
13          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 he or she knows or had reason to know

1 would have a reasonably foreseeable material finan-  
2 cial effect, distinguishable from its effect on the pub-  
3 licly generally, on the person or a member of his or  
4 her immediate family;

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

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

10 “(5) lobbying or paying someone to lobby on be-  
11 half of the Association.

12 **“SEC. 325. OFFICERS.**

13 “(a) POSITIONS.—The officers of the Association  
14 shall consist of a chairperson and a vice chairperson of  
15 the Board, an executive director, secretary, and treasurer  
16 of the Association, and such other officers and assistant  
17 officers as may be deemed necessary.

18 “(b) MANNER OF SELECTION.—Each officer of the  
19 Board and the Association shall be elected or appointed  
20 at such time, in such manner, and for such terms as may  
21 be prescribed in the bylaws of the Association.

22 **“SEC. 326. BYLAWS, RULES, AND DISCIPLINARY ACTION.**

23 “(a) ADOPTION AND AMENDMENT OF BYLAWS AND  
24 RULES.—

1           “(1) COPY REQUIRED TO BE FILED.—The  
2 Board shall submit to the President and NAIC any  
3 proposed bylaw or rules of the Association or any  
4 proposed amendment to the bylaws or rules, accom-  
5 panied by a concise general statement of the basis  
6 and purpose of such proposal. Rules shall be promul-  
7 gated in accordance with the Federal Administrative  
8 Procedure Act.

9           “(2) EFFECTIVE DATE.—Any proposed bylaw  
10 or rule or proposed amendment to the bylaws or  
11 rules shall take effect, after notice published in the  
12 Federal Register and opportunity for comment, upon  
13 such date as the Association may designate, unless  
14 suspended under subsection (c) of section 330.

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

16           “(1) SPECIFICATION OF CHARGES.—In any pro-  
17 ceeding to determine whether membership shall be  
18 denied, suspended, revoked, or not renewed or to de-  
19 termine whether a member of the Association should  
20 be placed on probation (in this section referred to as  
21 a ‘disciplinary action’) or whether to assess fines or  
22 monetary penalties, the Association shall bring spe-  
23 cific charges, notify the member of the charges, give  
24 the member an opportunity to defend against the  
25 charges, and keep a record.

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

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

6                   “(B) the specific provision of this subtitle,  
7                   the rules or regulations under this subtitle, or  
8                   the rules of the Association which any such act  
9                   or practice is deemed to violate; and

10                   “(C) the sanction imposed and the reason  
11                   for the sanction.

12           “(3) INELIGIBILITY OF PRIVATE SECTOR REP-  
13           PRESENTATIVES.—Members of the Board appointed  
14           pursuant to section 324(c)(3) shall not participate in  
15           any disciplinary action, and shall not have access to  
16           confidential information concerning the actions.

17 **“SEC. 327. POWERS.**

18           “In addition to all the powers conferred upon a non-  
19           profit corporation by the District of Columbia Nonprofit  
20           Corporation Act, the Association shall have the following  
21           powers:

22                   “(1) To establish and collect such membership  
23                   fees as the Association finds necessary to impose to  
24                   cover the costs of its operations.

1           “(2) To adopt, amend, and repeal bylaws and  
2 rules governing the conduct of Association business  
3 and performance of its duties.

4           “(3) To establish procedures for providing no-  
5 tice and opportunity for comment pursuant to sec-  
6 tion 326(a).

7           “(4) To enter into and perform such agree-  
8 ments as necessary to carry out its duties.

9           “(5) To hire employees, professionals, or spe-  
10 cialists, and elect or appoint officers, and to fix their  
11 compensation, define their duties and give them ap-  
12 propriate authority to carry out the purposes of this  
13 subtitle, and determine their qualification; and to es-  
14 tablish the Association’s personnel policies and pro-  
15 grams relating to, among other things, conflicts of  
16 interest, rates of compensation, and qualifications of  
17 personnel.

18           “(6) To borrow money.

19           “(7) To secure funding for such amounts as the  
20 Association determines to be necessary and appro-  
21 priate to organize and begin operations of the Asso-  
22 ciation, which shall be treated as loans to be repaid  
23 by the Association with interest at market rate, ex-  
24 cept that the Board shall not secure funding from

1 an insurer, insurance producer, or insurance associa-  
2 tion, but may secure funding from NAIC.

3 **“SEC. 328. REPORT BY ASSOCIATION.**

4 “(a) IN GENERAL.—As soon as practicable after the  
5 close of each fiscal year, the Association shall submit to  
6 the President and NAIC a written report regarding the  
7 conduct of its business, and the exercise of the other rights  
8 and powers granted by this subtitle, during such fiscal  
9 year.

10 “(b) FINANCIAL STATEMENTS.—Each report sub-  
11 mitted under subsection (a) with respect to any fiscal year  
12 shall include financial statements setting forth the finan-  
13 cial position of the Association at the end of such fiscal  
14 year and the results of its operations (including the source  
15 and application of its funds) for such fiscal year.

16 **“SEC. 329. LIABILITY OF THE ASSOCIATION AND THE DI-**  
17 **RECTORS, OFFICERS, AND EMPLOYEES OF**  
18 **THE ASSOCIATION.**

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

1 and levying assessments, or requiring claims settlement  
2 practices.

3 “(b) LIABILITY OF DIRECTORS, OFFICERS, AND EM-  
4 PLOYEES.—No director, officer, or employee of the Asso-  
5 ciation shall be personally liable to any person for any ac-  
6 tion taken or omitted in good faith in any matter within  
7 the scope of their responsibilities in connection with the  
8 Association.

9 **“SEC. 330. PRESIDENTIAL OVERSIGHT.**

10 “(a) REMOVAL OF BOARD.—If the President deter-  
11 mines that the Association is acting in a manner contrary  
12 to the interests of the public or the purposes of this sub-  
13 title or has failed to perform its duties under this subtitle,  
14 the President may remove the entire existing Board for  
15 the remainder of the term to which the members of the  
16 Board were appointed and appoint, in accordance with  
17 section 324 and with the advice and consent of the Senate,  
18 new members to fill the vacancies on the Board for the  
19 remainder of the terms.

20 “(b) REMOVAL OF BOARD MEMBER.—The President  
21 may remove a member of the Board only for neglect of  
22 duty or malfeasance in office.

23 “(c) SUSPENSION OF RULES OR ACTIONS.—Fol-  
24 lowing notice to the Board, the President, or a person des-  
25 ignated by the President for such purpose, may suspend

1 the effectiveness of any rule, or prohibit any action, of the  
2 Association which the President or the designee deter-  
3 mines is contrary to the purposes of this subtitle.

4 **“SEC. 331. RELATIONSHIP TO STATE LAW.**

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

9       “(b) **PROHIBITED ACTIONS.**—

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

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

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

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



1           “(2) STATES OTHER THAN A HOME STATE.—  
2       No State, other than a member’s home State,  
3       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. 332. COORDINATION WITH OTHER REGULATORS.**

22           “(a) COORDINATION WITH STATE INSURANCE REGU-  
23          LATORS.—The Association may—

24           “(1) establish a central clearinghouse, or utilize  
25          NAIC or any other appropriate entity as a central

1 clearinghouse, through which members of the Asso-  
2 ciation may pursuant to section 323(e) disclose their  
3 intent to operate in 1 or more States and pay the  
4 licensing fees to the appropriate States; and

5 “(2) establish a national database for the collec-  
6 tion of regulatory information concerning the activi-  
7 ties of insurance producers or contract with NAIC  
8 or any other entity to utilize such a database.

9 “(b) COORDINATION WITH THE FINANCIAL INDUS-  
10 TRY REGULATORY AUTHORITY.—The Association shall  
11 coordinate with the Financial Industry Regulatory Au-  
12 thority in order to ease any administrative burdens that  
13 fall on persons that are members of both associations, con-  
14 sistent with the requirements of this subtitle and the Fed-  
15 eral securities laws.

16 **“SEC. 333. RIGHT OF ACTION.**

17 “(a) RIGHT OF ACTION.—Any person aggrieved by  
18 a decision or action of the Association may, after reason-  
19 ably exhausting available avenues for resolution within the  
20 Association, commence a civil action in an appropriate  
21 United States district court, and obtain all appropriate re-  
22 lief.

23 “(b) ASSOCIATION INTERPRETATIONS.—In any such  
24 action, the court shall give appropriate weight to the Asso-  
25 ciation’s interpretation of its bylaws and this subtitle.

1 **“SEC. 334. DEFINITIONS.**

2 “For purposes of this subtitle, the following defini-  
3 tions shall apply:

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

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

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

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

23 “(5) PRINCIPAL PLACE OF BUSINESS.—The  
24 term ‘principal place of business’ means the State in  
25 which an insurance producer maintains the head-  
26 quarters of the insurance producer and, in the case

1 of a business entity, where high-level officers of the  
2 entity direct, control, and coordinate the business  
3 activities of the business entity.

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

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

14 “(8) STATE LAW.—

15 “(A) IN GENERAL.—The term ‘State law’  
16 includes all laws, decisions, rules, regulations,  
17 or other State action having the effect of law,  
18 of any State.

19 “(B) LAWS APPLICABLE IN THE DISTRICT  
20 OF COLUMBIA.—A law of the United States ap-  
21 plicable only to or within the District of Colum-  
22 bia shall be treated as a State law rather than  
23 a law of the United States.”.

24 (b) CLERICAL AMENDMENT.—The table of contents  
25 for the Gramm-Leach-Bliley Act is amended by striking

- 1 the items relating to subtitle C of title III and inserting
- 2 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. Officers.
- “Sec. 326. Bylaws, rules, and disciplinary action.
- “Sec. 327. Powers.
- “Sec. 328. Report by Association.
- “Sec. 329. Liability of the Association and the directors, officers, and employees of the Association.
- “Sec. 330. Presidential oversight.
- “Sec. 331. Relationship to State law.
- “Sec. 332. Coordination with other regulators.
- “Sec. 333. Right of action.
- “Sec. 334. Definitions.”.

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