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113TH CONGRESS
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[Report No. 113-82]

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

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2013

Mr. TESTER (for himself, Mr. JOHANNIS, Mr. BENNET, Mr. CRAPO, Mr. MURPHY, Mr. CHAMBLISS, Mr. WARNER, Ms. HEITKAMP, Mr. WICKER, Mr. CARPER, Mr. MORAN, Mr. MENENDEZ, Mr. NELSON, Mr. HELLER, Mr. BLUNT, Mr. UDALL of Colorado, Mr. BAUCUS, Mrs. SHAHEEN, Mr. HARKIN, Mr. THUNE, Mr. BROWN, Mr. COONS, Ms. AYOTTE, and Ms. KLOBUCHAR) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

JULY 29, 2013

Reported by Mr. JOHNSON of South Dakota, with an amendment
[Strike out all after the enacting clause and insert the part printed in italic]

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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. REESTABLISHMENT OF THE NATIONAL ASSOCIA-**
5 **TION OF REGISTERED AGENTS AND BRO-**
6 **KERS.**

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

10 **“Subtitle C—National Association**
11 **of Registered Agents and Brokers**

12 **“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED**
13 **AGENTS AND BROKERS.**

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

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

18 “(1) be a nonprofit corporation;

19 “(2) have succession until dissolved by an Act
20 of Congress;

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

23 “(4) except as otherwise provided in this sub-
24 title, be subject to, and have all the powers conferred
25 upon, a nonprofit corporation by the District of Co-

1 Columbia Nonprofit Corporation Act (D.C. Code, sec.
2 29-301.01 et seq.).

3 “(c) **EFFECTIVE DATE.**—The provisions of this sub-
4 title shall take effect upon the expiration of the 24-month
5 period beginning on the date of enactment of the National
6 Association of Registered Agents and Brokers Reform Act
7 of 2013. Notwithstanding the effective date, such persons
8 as are required to establish the Association shall take such
9 actions as are necessary to establish the operations of the
10 Association by the effective date.

11 **“SEC. 322. PURPOSE.**

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

19 “(1) licensing, continuing education, and other
20 qualification requirements of insurance producers
21 who are not members of the Association;

22 “(2) resident or nonresident insurance producer
23 appointment requirements;

24 “(3) supervising and disciplining resident and
25 nonresident insurance producers;

1 “(4) establishing licensing fees for resident and
2 nonresident insurance producers so that there is no
3 loss of insurance producer licensing revenue to the
4 State; and

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

8 **“SEC. 323. MEMBERSHIP.**

9 “(a) ELIGIBILITY.—

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

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

20 “(3) RESUMPTION OF ELIGIBILITY.—Paragraph
21 (2) shall cease to apply to any insurance producer
22 if—

23 “(A) the State insurance regulator reissues
24 or renews the license of the insurance producer
25 in the State in which the license was suspended

1 or revoked, or otherwise terminates or vacates
 2 the suspension or revocation; or

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

6 “(4) CRIMINAL BACKGROUND RECORD CHECK
 7 REQUIRED.—

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

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

1 deemed to have undergone a national criminal
2 background record check for purposes of sub-
3 paragraph (A).

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

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

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

24 “(D) FORM OF REQUEST.—A submission
25 under subparagraph (C)(i) shall include such

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

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

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

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

1 “(ii) to disclose to State insurance
2 regulators, or Federal or State law en-
3 forcement agencies, in conformance with
4 applicable law.

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

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

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

1 (F) in good faith and in reasonable reliance on
2 its accuracy.

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

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

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

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

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

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

23 “(ii) procedures providing a reason-
24 able opportunity for an insurance producer
25 to contest the accuracy of information re-

1 garding the insurance producer provided
2 under subparagraph (E).

3 “(M) INELIGIBILITY FOR MEMBERSHIP.—

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

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

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

24 “(II) challenge the accuracy and
25 completeness of the information.

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

5 “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES
 6 OF MEMBERSHIP.—

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

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

23 “(3) CATEGORIES.—

24 “(A) SEPARATE CATEGORIES FOR INSUR-
 25 ANCE PRODUCERS PERMITTED.—The Associa-

1 tion may establish separate categories of mem-
 2 bership for insurance producers and for other
 3 persons within each class, based on the types of
 4 licensing categories that exist under State laws.

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

12 “(d) MEMBERSHIP CRITERIA.—

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

21 “(2) QUALIFICATIONS.—In establishing criteria
 22 under paragraph (1), the Association shall not adopt
 23 any qualification less protective to the public than
 24 that contained in the NAIC Producer Licensing
 25 Model Act in effect as of the date of enactment of

1 the National Association of Registered Agents and
2 Brokers Reform Act of 2013, and shall consider the
3 highest levels of insurance producer qualifications
4 established under 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) RULE OF CONSTRUCTION.—Subpara-~~
12 ~~graph (A) shall not be construed as requiring or~~
13 ~~authorizing any State to adopt new or addi-~~
14 ~~tional requirements concerning the licensing or~~
15 ~~evaluation of insurance producers.~~

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

21 ~~“(e) EFFECT OF MEMBERSHIP.—~~

22 ~~“(1) AUTHORITY OF ASSOCIATION MEMBERS.—~~
23 ~~Membership in the Association shall—~~

24 ~~“(A) authorize an insurance producer to~~
25 ~~sell, solicit, or negotiate insurance in any State~~

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

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

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

1 and to all State laws, regulations, provisions,
2 and actions preserved under paragraph (5).

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

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

12 ~~“(4) REGULATOR NOTIFICATION.—~~

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

1 “(B) ONGOING DISCLOSURES REQUIRED.—

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

11 “(5) PRESERVATION OF STATE CONSUMER PRO-

12 TECTION AND MARKET CONDUCT REGULATION.—No
 13 provision of this section shall be construed as alter-
 14 ing or affecting the applicability or continuing effec-
 15 tiveness of any law, regulation, provision, or other
 16 action of any State, including any law, regulation,
 17 provision, or other action that—

18 “(A) regulates market conduct, insurance
 19 producer conduct, or unfair trade practices;

20 “(B) establishes consumer protections; or

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

1 resident insurance producers, and then only to the
2 extent of the inconsistency.

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

5 ~~“(g) CONTINUING EDUCATION.—~~

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

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

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

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

25 ~~“(h) PROBATION, SUSPENSION AND REVOCATION.—~~

1 “(1) DISCIPLINARY ACTION.—The Association
2 may place an insurance producer that is a member
3 of the Association on probation or suspend or revoke
4 the membership of the insurance producer in the As-
5 sociation, or assess monetary fines or penalties, as
6 the Association determines to be appropriate, if—

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

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

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

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

1 ~~“(2) VIOLATIONS OF ASSOCIATION RULES.—~~

2 The Association shall have the power to investigate
3 alleged violations of Association rules.

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

10 ~~“(i) CONSUMER COMPLAINTS.—~~

11 ~~“(1) IN GENERAL.—~~The Association shall—

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

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

24 ~~“(2) TELEPHONE AND OTHER ACCESS.—~~The
25 Association shall maintain a toll-free number for

1 purposes of this subsection and, as practicable, other
 2 alternative means of communication with consumers,
 3 such as an Internet webpage.

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

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

20 **~~“SEC. 324. BOARD OF DIRECTORS.~~**

21 ~~“(a) ESTABLISHMENT.—~~There is established the
 22 board of directors of the Association (hereafter in this sub-
 23 title referred to as the ‘Board’), which shall have authority
 24 to govern and supervise all activities of the Association.

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

4 “(c) COMPOSITION.—

5 “(1) IN GENERAL.—The Board shall consist of
6 ~~13~~ members who shall be appointed by the Presi-
7 dent, by and with the advice and consent of the Sen-
8 ate, of whom—

9 “(A) ~~8~~ shall be State insurance commis-
10 sioners appointed in the manner provided in
11 paragraph (2);

12 “(B) ~~2~~ shall be representatives of property
13 and casualty insurance producers;

14 “(C) ~~1~~ shall be a representative of life or
15 health insurance producers;

16 “(D) ~~1~~ shall be a representative of prop-
17 erty and casualty insurers; and

18 “(E) ~~1~~ shall be a representative of life or
19 health insurers.

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

22 “(A) Before making any appointments
23 pursuant to subparagraph (A) of paragraph
24 (1), the President shall request a list of rec-
25 ommended candidates from NAIC, which shall

1 not be binding on the President. If NAIC fails
2 to submit a list of recommendations within 15
3 business days of the request, the President may
4 make the requisite appointments without con-
5 sidering the views of NAIC.

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

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

24 “(3) PRIVATE SECTOR REPRESENTATIVES.—In
25 making any appointments pursuant to subpara-

1 graphs (B) through (E) of paragraph (1), the Presi-
 2 dent may seek recommendations for candidates from
 3 national trade associations representing the category
 4 of individuals described, which shall not be binding
 5 on the President.

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

12 “(d) TERMS.—

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

15 “(A) the term of—

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

20 “(ii) 1 of the property and casualty
 21 insurance producer members of the Board
 22 initially appointed under subparagraph (B)
 23 of paragraph (1); and

24 “(iii) 1 of the insurer representative
 25 members of the Board initially appointed

1 under subparagraphs ~~(D)~~ and ~~(E)~~ of para-
2 graph (1);

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

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

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

14 “~~(2)~~ SUCCESSIVE TERMS.—Board members
15 may be reappointed to successive terms.

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

20 “~~(f)~~ MEETINGS.—

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

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

3 ~~“(3) VOTING.—~~Decisions of the Board shall re-
4 ~~quire the approval of a majority of all directors~~
5 ~~present at a meeting, a quorum being present.~~

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

10 ~~“(g) RESTRICTION ON CONFIDENTIAL INFORMA-~~
11 ~~TION.—~~Members of the Board appointed pursuant to
12 ~~paragraph (3) of subsection (c) shall not have access to~~
13 ~~confidential information received by the Association in~~
14 ~~connection with complaints, investigations, or disciplinary~~
15 ~~proceedings involving insurance producers.~~

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

23 ~~“(1) engaging in unethical conduct in the~~
24 ~~course of performing Association duties;~~

1 “(2) participating in the making or influencing
2 the making of any Association decision, the outcome
3 of which he or she knows or had reason to know
4 would have a reasonably foreseeable material finan-
5 cial effect, distinguishable from its effect on the pub-
6 licly generally, on the person or a member of his or
7 her immediate family;

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

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

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

15 **“SEC. 325. OFFICERS.**

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

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

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

2 “(a) **ADOPTION AND AMENDMENT OF BYLAWS AND**
 3 **RULES.—**

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

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

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

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

1 the member an opportunity to defend against the
2 charges, and keep a record.

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

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

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

12 “(C) the sanction imposed and the reason
13 for the sanction.

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

19 **“SEC. 327. POWERS.**

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

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

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

7 “(3) To establish procedures for providing no-
8 tice and opportunity for comment pursuant to sec-
9 tion 326(a).

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

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

21 “(6) To borrow money.

22 “(7) To secure funding for such amounts as the
23 Association determines to be necessary and appro-
24 priate to organize and begin operations of the Asso-
25 ciation, which shall be treated as loans to be repaid

1 by the Association with interest at market rate, ex-
 2 cept that the Board shall not secure funding from
 3 an insurer, insurance producer, or insurance associa-
 4 tion, but may secure funding from NAIC.

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

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

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

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

21 “(a) IN GENERAL.—The Association shall not be
 22 deemed to be an insurer or insurance producer within the
 23 meaning of any State law, rule, regulation, or order regu-
 24 lating or taxing insurers, insurance producers, or other en-
 25 tities engaged in the business of insurance, including pro-

1 visions imposing premium taxes, regulating insurer sol-
2 vency or financial condition, establishing guaranty funds
3 and levying assessments, or requiring claims settlement
4 practices.

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

11 **“SEC. 330. PRESIDENTIAL OVERSIGHT.**

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

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

1 “(e) **SUSPENSION OF RULES OR ACTIONS.**—Fol-
 2 lowing notice to the Board, the President, or a person des-
 3 ignated by the President for such purpose, may suspend
 4 the effectiveness of any rule, or prohibit any action, of the
 5 Association which the President or the designee deter-
 6 mines is contrary to the purposes of this subtitle.

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

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

12 “(b) **PROHIBITED ACTIONS.**—

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

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

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

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

4 ~~“(2) STATES OTHER THAN A HOME STATE.—~~
 5 No State, other than a member’s home State,
 6 shall—

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

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

21 ~~“(C) require that a member of the Associa-
 22 tion submit to a criminal history record check
 23 as a condition of doing business in the State; or~~

24 ~~“(D) impose any licensing, registration, or
 25 appointment requirements upon a member of~~

1 the Association, or require a member of the As-
2 sociation to be authorized to operate as an in-
3 surance producer, in order to sell, solicit, or ne-
4 gotiate insurance for commercial property and
5 casualty risks to an insured with risks located
6 in more than one State, if the member is li-
7 censed or otherwise authorized to operate in the
8 State where the insured maintains its principal
9 place of business and the contract of insurance
10 insures risks located in that State.

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

1 **“SEC. 332. COORDINATION WITH OTHER REGULATORS.**

2 “(a) **COORDINATION WITH STATE INSURANCE REGU-**
 3 **LATORS.**—The Association may—

4 “(1) establish a central clearinghouse, or utilize
 5 NAIC or any other appropriate entity as a central
 6 clearinghouse, through which members of the Asso-
 7 ciation may pursuant to section 323(e) disclose their
 8 intent to operate in 1 or more States and pay the
 9 licensing fees to the appropriate States; and

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

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

21 **“SEC. 333. RIGHT OF ACTION.**

22 “(a) **RIGHT OF ACTION.**—Any person aggrieved by
 23 a decision or action of the Association may, after reason-
 24 ably exhausting available avenues for resolution within the
 25 Association, commence a civil action in an appropriate

1 United States district court, and obtain all appropriate re-
2 lief.

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

6 **“SEC. 334. DEFINITIONS.**

7 “For purposes of this subtitle, the following defini-
8 tions shall apply:

9 “(1) BUSINESS ENTITY.—The term ‘business
10 entity’ means a corporation, association, partnership,
11 limited liability company, limited liability partner-
12 ship, or other legal entity.

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

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

21 “(4) INSURANCE PRODUCER.—The term ‘insur-
22 ance producer’ means any insurance agent or
23 broker, excess or surplus lines broker or agent, in-
24 surance consultant, limited insurance representative,
25 and any other individual or entity that sells, solicits,

1 or negotiates policies of insurance or offers advice,
2 counsel, opinions or services related to insurance.

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

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

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

20 “(8) STATE LAW.—

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

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

6 (b) CLERICAL AMENDMENT.—The table of contents
7 for the Gramm-Leach-Bliley Act is amended by striking
8 the items relating to subtitle C of title III and inserting
9 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 employ-
 ees 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.”.

10 **SECTION 1. SHORT TITLE.**

11 *This Act may be cited as the “National Association*
12 *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 amend-*
 6 *ed 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 (re-*
 13 *ferred to in this subtitle as the ‘Association’).*

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

15 *“(1) be a nonprofit corporation;*

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

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

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

1 **“SEC. 322. PURPOSE.**

2 *“The purpose of the Association shall be to provide a*
 3 *mechanism through which licensing, continuing education,*
 4 *and other nonresident insurance producer qualification re-*
 5 *quirements and conditions may be adopted and applied on*
 6 *a multi-state basis without affecting the laws, rules, and*
 7 *regulations, and preserving the rights of a State, pertaining*
 8 *to—*

9 *“(1) licensing, continuing education, and other*
 10 *qualification requirements of insurance producers*
 11 *that are not members of the Association;*

12 *“(2) resident or nonresident insurance producer*
 13 *appointment requirements;*

14 *“(3) supervising and disciplining resident and*
 15 *nonresident insurance producers;*

16 *“(4) establishing licensing fees for resident and*
 17 *nonresident insurance producers so that there is no*
 18 *loss of insurance producer licensing revenue to the*
 19 *State; and*

20 *“(5) prescribing and enforcing laws and regula-*
 21 *tions regulating the conduct of resident and non-*
 22 *resident insurance producers.*

23 **“SEC. 323. MEMBERSHIP.**

24 *“(a) ELIGIBILITY.—*

25 *“(1) IN GENERAL.—Any insurance producer li-*
 26 *censed in its home State shall, subject to paragraphs*

1 (2) and (4), be eligible to become a member of the As-
2 sociation.

3 “(2) *INELIGIBILITY FOR SUSPENSION OR REV-*
4 *OCATION OF LICENSE.*—Subject to paragraph (3), an
5 insurance producer is not eligible to become a member
6 of the Association if a State insurance regulator has
7 suspended or revoked the insurance license of the in-
8 surance producer in that State.

9 “(3) *RESUMPTION OF ELIGIBILITY.*—Paragraph
10 (2) shall cease to apply to any insurance producer
11 if—

12 “(A) the State insurance regulator reissues
13 or renews the license of the insurance producer
14 in the State in which the license was suspended
15 or revoked, or otherwise terminates or vacates the
16 suspension or revocation; or

17 “(B) the suspension or revocation expires or
18 is subsequently overturned by a court of com-
19 petent jurisdiction.

20 “(4) *CRIMINAL HISTORY RECORD CHECK RE-*
21 *QUIRED.*—

22 “(A) *IN GENERAL.*—An insurance producer
23 who is an individual shall not be eligible to be-
24 come a member of the Association unless the in-
25 surance producer has undergone a criminal his-

1 *tory record check that complies with regulations*
2 *prescribed by the Attorney General of the United*
3 *States under subparagraph (K).*

4 “(B) *CRIMINAL HISTORY RECORD CHECK*
5 *REQUESTED BY HOME STATE.—An insurance*
6 *producer who is licensed in a State and who has*
7 *undergone a criminal history record check dur-*
8 *ing the 2-year period preceding the date of sub-*
9 *mission of an application to become a member of*
10 *the Association, in compliance with a require-*
11 *ment to undergo such criminal history record*
12 *check as a condition for such licensure in the*
13 *State, shall be deemed to have undergone a*
14 *criminal history record check for purposes of*
15 *subparagraph (A).*

16 “(C) *CRIMINAL HISTORY RECORD CHECK*
17 *REQUESTED BY ASSOCIATION.—*

18 “(i) *IN GENERAL.—The Association*
19 *shall, upon request by an insurance pro-*
20 *ducer licensed in a State, submit identifica-*
21 *tion information obtained from the insur-*
22 *ance producer, and a request for a criminal*
23 *history record check of the insurance pro-*
24 *ducer, to the Federal Bureau of Investiga-*
25 *tion.*

1 “(i) *PROCEDURES.*—The board of di-
2 rectors of the Association (referred to in this
3 subtitle as the ‘Board’) shall prescribe pro-
4 cedures for obtaining and utilizing identi-
5 fication information and criminal history
6 record information, including the establish-
7 ment of reasonable fees required to perform
8 a criminal history record check and appro-
9 priate safeguards for maintaining confiden-
10 tiality and security of the information.

11 “(D) *FORM OF REQUEST.*—A submission
12 under subparagraph (C)(i) shall include such
13 identification information as is required by the
14 Attorney General concerning the person about
15 whom the criminal history record check is re-
16 quested, and a statement signed by the person
17 authorizing the Attorney General to provide the
18 information to the Association and for the Asso-
19 ciation to receive the information.

20 “(E) *PROVISION OF INFORMATION BY AT-*
21 *TORNEY GENERAL.*—Upon receiving a submis-
22 sion under subparagraph (C)(i) from the Asso-
23 ciation, the Attorney General shall search all
24 criminal history records of the Federal Bureau of
25 Investigation, including records of the Criminal

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

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

11 “(i) *be used for purposes of deter-*
12 *mining compliance with membership cri-*
13 *teria established by the Association;*

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

18 “(iii) *be disclosed, upon request, to the*
19 *insurance producer to whom the criminal*
20 *history record information relates.*

21 “(G) *PENALTY FOR IMPROPER USE OR DIS-*
22 *CLOSURE.—Whoever knowingly uses any infor-*
23 *mation provided under subparagraph (E) for a*
24 *purpose not authorized in subparagraph (F), or*
25 *discloses any such information to anyone not au-*

1 *thorized to receive it, shall be fined under title*
2 *18, United States Code, imprisoned for not more*
3 *than 2 years, or both.*

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

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

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

19 “(i) *requiring a State insurance regu-*
20 *lator to perform criminal history record*
21 *checks under this section; or*

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

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

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

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

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

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

21 “(ii) *RIGHTS OF APPLICANTS DENIED*
22 *MEMBERSHIP.*—*The Association shall notify*
23 *any insurance producer who is denied mem-*
24 *bership on the basis of criminal history*
25 *record information provided under subpara-*

1 graph (E) of the right of the insurance pro-
2 ducer to—

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

8 “(II) challenge the denial of mem-
9 bership based on the accuracy and
10 completeness of the information.

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

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

20 “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES
21 OF MEMBERSHIP.—

22 “(1) CLASSES OF MEMBERSHIP.—The Associa-
23 tion may establish separate classes of membership,
24 with separate criteria, if the Association reasonably
25 determines that performance of different duties re-

1 quires different levels of education, training, experi-
2 ence, or other qualifications.

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

12 “(3) *CATEGORIES.*—

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

19 “(B) *SEPARATE TREATMENT FOR DEPOSI-*
20 *TORY INSTITUTIONS PROHIBITED.*—*No special*
21 *categories of membership, and no distinct mem-*
22 *bership criteria, shall be established for members*
23 *that are depository institutions or for employees,*
24 *agents, or affiliates of depository institutions.*

25 “(d) *MEMBERSHIP CRITERIA.*—

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

9 “(2) *QUALIFICATIONS.*—*In establishing criteria*
10 *under paragraph (1), the Association shall not adopt*
11 *any qualification less protective to the public than*
12 *that contained in the National Association of Insur-*
13 *ance Commissioners (referred to in this subtitle as the*
14 *‘NAIC’) Producer Licensing Model Act in effect as of*
15 *the date of enactment of the National Association of*
16 *Registered Agents and Brokers Reform Act of 2013,*
17 *and shall consider the highest levels of insurance pro-*
18 *ducer qualifications established under the licensing*
19 *laws of the States.*

20 “(3) *ASSISTANCE FROM STATES.*—

21 “(A) *IN GENERAL.*—*The Association may*
22 *request a State to provide assistance in inves-*
23 *tigating and evaluating the eligibility of a pro-*
24 *spective member for membership in the Associa-*
25 *tion.*

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

7 “(i) *the State to share information*
8 *with the Association; and*

9 “(ii) *the Association to receive the in-*
10 *formation.*

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

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

21 “(e) *EFFECT OF MEMBERSHIP.*—

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

24 “(A) *authorize an insurance producer to*
25 *sell, solicit, or negotiate insurance in any State*

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

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

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

1 *all State laws, regulations, provisions, and ac-*
2 *tions preserved under paragraph (5).*

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

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

12 “(4) *NOTIFICATION OF ACTION.—*

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

23 “(B) *ONGOING DISCLOSURES REQUIRED.—*
24 *On an ongoing basis, the Association shall dis-*
25 *close to the States (including State insurance*

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

9 “(5) *PRESERVATION OF CONSUMER PROTECTION*
 10 *AND MARKET CONDUCT REGULATION.*—

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

22 “(B) *PRESERVED REGULATIONS.*—The laws,
 23 regulations, provisions, or other actions of any
 24 State referred to in subparagraph (A) include

1 *laws, regulations, provisions, or other actions*
2 *that—*

3 “(i) *regulate market conduct, insur-*
4 *ance producer conduct, or unfair trade*
5 *practices;*

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

7 “(iii) *require insurance producers to be*
8 *appointed by a licensed or authorized in-*
9 *surer.*

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

12 “(g) *CONTINUING EDUCATION.—*

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

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

23 “(3) *RECIPROCITY.—The Association shall not*
24 *require a member to satisfy continuing education re-*
25 *quirements that are equivalent to any continuing*

1 *education requirements of the home State of the mem-*
2 *ber that have been satisfied by the member during the*
3 *applicable licensing period.*

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

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

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

14 *“(A) the insurance producer fails to meet*
15 *the applicable membership criteria or other*
16 *standards established by the Association;*

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

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

24 *“(D) the insurance producer has been con-*
25 *victed of a crime that would have resulted in the*

1 *denial of membership pursuant to subsection*
2 *(a)(4)(L)(i) at the time of application, and the*
3 *Association has received a copy of the final dis-*
4 *position from a court of competent jurisdiction.*

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

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

15 “(i) *CONSUMER COMPLAINTS.—*

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

17 “(A) *refer any complaint against a member*
18 *of the Association from a consumer relating to*
19 *alleged misconduct or violations of State insur-*
20 *ance laws to the State insurance regulator where*
21 *the consumer resides and, when appropriate, to*
22 *any additional State insurance regulator, as de-*
23 *termined by standards adopted by the Associa-*
24 *tion; and*

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

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

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

17 “(j) INFORMATION SHARING.—The Association may—

18 “(1) share documents, materials, or other infor-
19 mation, including confidential and privileged docu-
20 ments, with a State, Federal, or international govern-
21 mental entity or with the NAIC or other appropriate
22 entity referenced in paragraphs (3) and (4), provided
23 that the recipient has the authority and agrees to
24 maintain the confidentiality or privileged status of
25 the document, material, or other information;

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

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

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

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

23 “(1) *the expiration of the 2-year period begin-*
24 *ning on the date of enactment of the National Asso-*

1 *ciation of Registered Agents and Brokers Reform Act*
2 *of 2013; and*

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

4 **“SEC. 324. BOARD OF DIRECTORS.**

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

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

11 *“(c) COMPOSITION.—*

12 *“(1) IN GENERAL.—The Board shall consist of 13*
13 *members who shall be appointed by the President, by*
14 *and with the advice and consent of the Senate, in ac-*
15 *cordance with the procedures established under Senate*
16 *Resolution 116 of the 112th Congress, of whom—*

17 *“(A) 8 shall be State insurance commis-*
18 *sioners appointed in the manner provided in*
19 *paragraph (2), 1 of whom shall be designated by*
20 *the President to serve as the chairperson of the*
21 *Board until the Board elects one such State in-*
22 *surance commissioner Board member to serve as*
23 *the chairperson of the Board;*

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

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

7 “(2) STATE INSURANCE REGULATOR REPRESENT-
8 ATIVES.—

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

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

23 “(C) FORMER STATE INSURANCE COMMIS-
24 SIONERS.—

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

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

23 “(D) *SERVICE THROUGH TERM.*—If a
24 Board member appointed under paragraph
25 (1)(A) ceases to be a State insurance commis-

1 sioner during the term of the Board member, the
2 Board member shall cease to be a Board member.

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

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

15 “(d) *TERMS.*—

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

19 “(2) *EXCEPTIONS.*—

20 “(A) *1-YEAR TERMS.*—The term of service
21 shall be 1 year, as designated by the President
22 at the time of the nomination of the subject
23 Board members for—

24 “(i) 4 of the State insurance commis-
25 sioner Board members initially appointed

1 under paragraph (1)(A), of whom not more
2 than 2 shall belong to the same political
3 party;

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

6 “(iii) 1 of the Board members initially
7 appointed under paragraph (1)(C).

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

13 “(C) *MID-TERM APPOINTMENTS.*—A Board
14 member appointed to fill a vacancy occurring be-
15 fore the expiration of the term for which the
16 predecessor of the Board member was appointed
17 shall be appointed only for the remainder of that
18 term.

19 “(3) *SUCCESSIVE TERMS.*—Board members may
20 be reappointed to successive terms.

21 “(e) *INITIAL APPOINTMENTS.*—The appointment of
22 initial Board members shall be made no later than 90 days
23 after the date of enactment of the National Association of
24 Registered Agents and Brokers Reform Act of 2013.

25 “(f) *MEETINGS.*—

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

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

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

5 “(C) *as otherwise provided by the bylaws of*
6 *the Association.*

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

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

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

16 “(g) *RESTRICTION ON CONFIDENTIAL INFORMATION.*—
17 *Board members appointed pursuant to subparagraphs (B)*
18 *and (C) of subsection (c)(1) shall not have access to con-*
19 *fidential information received by the Association in connec-*
20 *tion with complaints, investigations, or disciplinary pro-*
21 *ceedings involving insurance producers.*

22 “(h) *ETHICS AND CONFLICTS OF INTEREST.*—*The*
23 *Board shall issue and enforce an ethical conduct code to*
24 *address permissible and prohibited activities of Board*
25 *members and Association officers, employees, agents, or con-*

1 *sultants. The code shall, at a minimum, include provisions*
2 *that prohibit any Board member or Association officer, em-*
3 *ployee, agent or consultant from—*

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

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

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

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

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

21 “(i) *COMPENSATION.—*

22 “(1) *IN GENERAL.—Except as provided in para-*
23 *graph (2), no Board member may receive any com-*
24 *penetration from the Association or any other person or*
25 *entity on account of Board membership.*

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

9 **“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY AC-**
10 **TIONS.**

11 “(a) *ADOPTION AND AMENDMENT OF BYLAWS AND*
12 *STANDARDS.*—

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

18 “(2) *COPY REQUIRED TO BE FILED.*—*The Board*
19 *shall submit to the President, through the Department*
20 *of the Treasury, and the States (including State in-*
21 *surance regulators), and shall publish on the website*
22 *of the Association, all proposed bylaws and standards*
23 *of the Association, or any proposed amendment to the*
24 *bylaws or standards of the Association, accompanied*

1 *by a concise general statement of the basis and pur-*
2 *pose of such proposal.*

3 “(3) *EFFECTIVE DATE.*—*Any proposed bylaw or*
4 *standard of the Association, and any proposed*
5 *amendment to the bylaws or standards of the Associa-*
6 *tion, shall take effect, after notice under paragraph*
7 *(2) and opportunity for public comment, on such date*
8 *as the Association may designate, unless suspended*
9 *under section 329(c).*

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

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

16 “(1) *SPECIFICATION OF CHARGES.*—*In any pro-*
17 *ceeding to determine whether membership shall be de-*
18 *nied, suspended, revoked, or not renewed, or to deter-*
19 *mine whether a member of the Association should be*
20 *placed on probation (referred to in this section as a*
21 *‘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 or*
 7 *standard of the Association that any such act or*
 8 *practice is deemed to violate; and*

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

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

14 “(A) *participate in any disciplinary action*
 15 *or be counted toward establishing a quorum dur-*
 16 *ing a disciplinary action; and*

17 “(B) *have access to confidential information*
 18 *concerning any disciplinary action.*

19 **“SEC. 326. POWERS.**

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

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

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

4 “(3) establish procedures for providing notice
5 and opportunity for comment pursuant to section
6 325(a);

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

9 “(5) hire employees, professionals, or specialists,
10 and elect or appoint officers, and to fix their com-
11 pensation, define their duties and give them appro-
12 priate authority to carry out the purposes of this sub-
13 title, and determine their qualification;

14 “(6) establish personnel policies of the Associa-
15 tion and programs relating to, among other things,
16 conflicts of interest, rates of compensation, where ap-
17 plicable, and qualifications of personnel;

18 “(7) borrow money; and

19 “(8) secure funding for such amounts as the As-
20 sociation determines to be necessary and appropriate
21 to organize and begin operations of the Association,
22 which shall be treated as loans to be repaid by the As-
23 sociation with interest at market rate.

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

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

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

16 **“SEC. 328. LIABILITY OF THE ASSOCIATION AND THE**
17 **BOARD MEMBERS, OFFICERS, AND EMPLOY-**
18 **EES OF 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 provi-
24 sions imposing premium taxes, regulating insurer solvency
25 or financial condition, establishing guaranty funds and lev-
26 ying assessments, or requiring claims settlement practices.

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

7 “**SEC. 329. PRESIDENTIAL OVERSIGHT.**

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

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

22 “(c) *SUSPENSION OF BYLAWS AND STANDARDS AND*
23 *PROHIBITION OF ACTIONS.*—Following notice to the Board,
24 the President, or a person designated by the President for
25 such purpose, may suspend the effectiveness of any bylaw

1 *or standard, or prohibit any action, of the Association that*
2 *the President or the designee determines is contrary to the*
3 *purposes of this subtitle.*

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

5 “(a) *PREEMPTION OF STATE LAWS.—State laws, regu-*
6 *lations, provisions, or other actions purporting to regulate*
7 *insurance producers shall be preempted to the extent pro-*
8 *vided 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,*
14 *any insurance producer because that insurance*
15 *producer or any affiliate plans to become, has*
16 *applied 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 were*
21 *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.*—No
2 *State, other than the home State of a member of the*
3 *Association, shall—*

4 “(A) *impose any licensing, personal or cor-*
5 *porate qualifications, education, training, expe-*
6 *rience, residency, continuing education, or bond-*
7 *ing requirement upon a member of the Associa-*
8 *tion that is different from the criteria for mem-*
9 *bership in the Association or renewal of such*
10 *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 secretary*
17 *of state or equivalent State official;*

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

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

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

8 “(3) *PRESERVATION OF STATE DISCIPLINARY AU-*
9 *THORITY.—Nothing in this section may be construed*
10 *to prohibit a State from investigating and taking ap-*
11 *propriate disciplinary action, including suspension*
12 *or revocation of authority of an insurance producer*
13 *to do business in a State, in accordance with State*
14 *law and that is not inconsistent with the provisions*
15 *of this section, against a member of the Association*
16 *as a result of a complaint or for any alleged activity,*
17 *regardless of whether the activity occurred before or*
18 *after the insurance producer commenced doing busi-*
19 *ness in the State pursuant to Association member-*
20 *ship.*

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 a*
6 *decision or action of the Association may, after reasonably*
7 *exhausting available avenues for resolution within the Asso-*
8 *ciation, commence a civil action in an appropriate United*
9 *States district court, and obtain all appropriate relief.*

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

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

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

19 **“SEC. 334. DEFINITIONS.**

20 “*For purposes of this subtitle, the following definitions*
21 *shall apply:*

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

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

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

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

13 “(5) *INSURANCE PRODUCER.*—*The term ‘insur-*
14 *ance producer’ means any insurance agent or broker,*
15 *excess or surplus lines broker or agent, insurance con-*
16 *sultant, limited insurance representative, and any*
17 *other individual or entity that sells, solicits, or nego-*
18 *tiates policies of insurance or offers advice, counsel,*
19 *opinions or services related to insurance.*

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

23 “(7) *PRINCIPAL PLACE OF BUSINESS.*—*The term*
24 *‘principal place of business’ means the State in which*
25 *an insurance producer maintains the headquarters of*

1 *the insurance producer and, in the case of a business*
2 *entity, where high-level officers of the entity direct,*
3 *control, and coordinate the business activities of the*
4 *business entity.*

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

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

14 “(10) *STATE LAW.*—

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

19 “(B) *LAWS APPLICABLE IN THE DISTRICT*
20 *OF COLUMBIA.*—*A law of the United States ap-*
21 *licable 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) *TECHNICAL AMENDMENT.*—*The table of contents*
25 *for the Gramm-Leach-Bliley Act is amended by striking the*

- 1 *items relating to subtitle C of title III and inserting the*
- 2 *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.”.*

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[Report No. 113-82]

A BILL

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

JULY 29, 2013

Reported with an amendment