

103^D CONGRESS
1ST SESSION

H. R. 2753

To provide for public access to information regarding the availability of insurance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1993

Mr. FOGLIETTA introduced the following bill; which was referred jointly to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce

A BILL

To provide for public access to information regarding the availability of insurance, 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 “Insurance Anti-Redlin-
5 ing Act of 1993”.

6 **SEC. 2. FINDINGS AND CONSTRUCTION.**

7 (a) FINDINGS.—The Congress finds that—

8 (1) there are disparities in property and cas-
9 ualty insurance coverage provided by some insurers

1 between areas of different incomes and racial com-
2 position;

3 (2) such disparities adversely affect the afford-
4 ability and availability of insurance for consumers;

5 (3) the lack of affordable and adequate insur-
6 ance for qualified consumers severely limits the abil-
7 ity of such consumers to obtain credit for home,
8 business, and automobile purchases; and

9 (4) disclosures of insurance activities of insur-
10 ers would benefit consumers and insurance regu-
11 lators without imposing any undue burden on insur-
12 ers.

13 (b) CONSTRUCTION.—Nothing in this Act is intended
14 to, nor shall it be construed to, encourage unsound under-
15 writing practices.

16 **SEC. 3. MAINTENANCE OF INFORMATION AND PUBLIC DIS-**
17 **CLOSURE.**

18 (a) DESIGNATED INSURERS.—Except as provided in
19 section 4(e), each insurer designated under section
20 7(a)(2), which sells a line of insurance designated under
21 section 7(a)(3) in a Metropolitan Statistical Area or Con-
22 solidated Metropolitan Statistical Area (both hereafter in
23 this Act referred to as an “MSA”) designated by the Di-
24 rector of the Office of Management and Budget, shall
25 compile and make available for each calendar year to the

1 Secretary of Commerce (in accordance with section 6 and
2 regulations of the Secretary) and to the public for inspec-
3 tion and copying at the home office or at a central deposi-
4 tory established under section 5 and at least one branch
5 office (if there is one) within such MSA—

6 (1) the number and total coverage amount of
7 insurance policies by designated line which were is-
8 sued in such MSA;

9 (2) the number and total coverage amount of
10 insurance policies by designated line for which the
11 insurer received a completed application in such
12 MSA;

13 (3) the number and total coverage amount of
14 insurance policies by designated line for which the
15 insurer received a completed application and which
16 were not issued, in such MSA;

17 (4) the number and total coverage amount of
18 insurance policies by designated line which were re-
19 newed in such MSA;

20 (5) the number and total coverage amount of
21 insurance policies by designated line for which the
22 insurer received a completed application for renewal
23 in such MSA;

24 (6) the number and total coverage amount of
25 insurance policies by designated line for which the

1 insurer received a completed application for renewal
2 and which were not renewed, in such MSA;

3 (7) the number and total coverage amount of
4 insurance policies by designated line which were can-
5 celed by the insurer, in such MSA;

6 (8) the number of agents of such insurer whose
7 principal place of business is located in such MSA
8 and the number within each census tract or county,
9 as applicable, in such MSA and with respect to each
10 such agent, whether such agent is an employee,
11 independent contractor working exclusively for such
12 insurer, or an independent contractor appointed to
13 represent such insurer on a nonexclusive basis;

14 (9) the number of agents of such insurer whose
15 principal place of business was located in such MSA
16 but which was relocated outside such MSA or whose
17 agency was terminated, and the number of such
18 agents for each census tract or county, as applicable,
19 in such MSA; and

20 (10) the number of agents of such insurer
21 whose principal place of business was established at
22 a location in such MSA and the number of such
23 agents for each census tract or county, as applicable,
24 in such MSA.

1 (b) NONDESIGNATED INSURERS.—Except as pro-
2 vided in section 4(e), each insurer which sells an insurance
3 policy in a designated line of insurance in an MSA and
4 which is not a designated insurer in such MSA shall report
5 for each calendar year to the Secretary (in accordance
6 with section 6 and regulations of the Secretary) the num-
7 ber of insurance policies in a designated line sold in such
8 MSA on an annualized basis which adjusts for varying du-
9 rations of insurance policies sold—

10 (1) itemized by census tract for policies sold
11 within any county with a population of more than
12 30,000 within the MSA; or

13 (2) by county for insurance policies sold within
14 any other county in such MSA.

15 Such information shall be made available to the public on
16 a timetable determined by the Secretary but not later than
17 September 1 of the calendar year following the calendar
18 year for which the information is required to be reported.

19 **SEC. 4. REQUIREMENTS.**

20 (a) CONTENT.—The information required to be main-
21 tained and made available under section 3(a) shall—

22 (1) be itemized in order to clearly and conspicu-
23 ously disclose the number and coverage amount for
24 each line of insurance for which information is re-
25 quired by—

1 (A) census tracts for insurance policies
2 within any county with a population of more
3 than 30,000 within the MSA; or

4 (B) county for insurance policies within
5 any other county within such MSA;

6 (2) disclose for each designated line of insur-
7 ance in an MSA and, with respect to each such line,
8 for each census tract or county, as applicable, in the
9 MSA—

10 (A) the total number of claims made which
11 with respect to property insurance shall be
12 disaggregated by the type and use of the prop-
13 erty insured, which types and uses shall in-
14 clude—

15 (i) properties consisting of 1 to 4
16 dwelling units;

17 (ii) properties consisting of more than
18 4 dwelling units;

19 (iii) owner-occupied properties;

20 (iv) rental properties; and

21 (v) vacant properties; and

22 (B) the total amount paid in claims which
23 with respect to property insurance shall be
24 disaggregated by the type and use of the prop-
25 erty insured, which types and uses shall include

1 the types and uses described in clauses (i)
2 through (v) of subparagraph (A);

3 (3) disclose the standards and criteria used in
4 underwriting each designated line of insurance; and

5 (4) be made available to the public on a time-
6 table determined by the Secretary but not later than
7 September 1 of the calendar year following the cal-
8 endar year for which the information is required to
9 be made available.

10 (b) ITEMIZATION OF DATA.—With respect to insur-
11 ance and applications for which information is required
12 to be maintained and made available under section 3(a),
13 the following information shall be maintained and made
14 available for each policy and each completed application:

15 (1) The MSA for which such insurance is is-
16 sued or applied and within such MSA the census
17 tract or county, as applicable, for which such insur-
18 ance is issued or requested.

19 (2) The designated insurer who issued such in-
20 surance or to whom the application was made.

21 (3) The date of the issuance of such insurance.

22 (4) The line of the insurance which is des-
23 ignated and any subline or class of such insurance.

1 (5) The type of insurance or policy form for
2 which applications are made and the types of insur-
3 ance and policy forms which are issued.

4 (6) The amount of coverage provided under
5 such insurance and any applicable deductibles.

6 (7) The amount of the premiums for such in-
7 surance.

8 (8) The durations of such insurance.

9 (9) The racial characteristics and gender of the
10 applicants for such insurance.

11 (10) A notation if such insurance was issued in
12 a voluntary or residual market.

13 (11) The date of, and reason for, any declina-
14 tion, cancellation, or nonrenewal made for such in-
15 surance.

16 (12) With respect to property insurance, the
17 market value of the property insured and the type
18 and use of property insured.

19 (c) PERIOD OF MAINTENANCE.—Any information re-
20 quired to be compiled and made available under section
21 3 shall be maintained and made available for a period of
22 5 years after the close of the first year during which such
23 information is required to be maintained and made avail-
24 able.

1 (d) FORMAT FOR DISCLOSURES.—Subject to section
2 5, the Secretary shall prescribe a standard format for
3 making information available as required by section 3.
4 Such format shall encourage the submission of informa-
5 tion in a form readable by a computer.

6 (e) EXEMPTIONS.—

7 (1) SECRETARIAL ACTION.—The Secretary may
8 by regulation exempt from the requirements of sec-
9 tion 3 any insurer within any State if the Secretary
10 determines that under the laws of such State that
11 such insurer is subject to disclosure requirements on
12 a census tract basis substantially similar to those of
13 section 3 and that such law contains adequate provi-
14 sions for enforcement.

15 (2) UNITED STATES PROGRAM.—Reporting
16 shall not be required under section 3 with respect to
17 insurance provided by a program underwritten or
18 administered by the United States, including the na-
19 tional flood insurance program under the National
20 Flood Insurance Act of 1968, the program for insur-
21 ance against burglary and theft under title XII of
22 the National Housing Act, and mortgage insurance
23 under the National Housing Act.

1 (f) COMPLETED APPLICATION.—For purposes of sec-
2 tion 3 and this section, the Secretary shall define “com-
3 pleted applications” to—

4 (1) ensure that the disclosure required by such
5 sections appropriately reflects the characteristics of
6 the applicants interested in purchasing insurance in
7 an MSA; and

8 (2) prevent insurers from evading the intent of
9 such sections through practices designed to discour-
10 age applicants from completing applications.

11 **SEC. 5. ACCESS SYSTEM.**

12 (a) IN GENERAL.—The Secretary shall implement a
13 system to facilitate access to information required to be
14 maintained and made available under section 3. Such sys-
15 tem shall also include arrangements for a publicly acces-
16 sible central depository of information in each MSA, as
17 provided under subsection (b), and for a telephone number
18 which can be used by the public, at cost, to request such
19 information. Written statements containing such informa-
20 tion shall be made available to the public for inspection
21 and copying at such central depository of information for
22 all designated insurers within such MSA. The Secretary
23 shall make copies of such statements available in forms
24 readable by widely used personal computers. The Sec-
25 retary may charge a fee for such information, which may

1 not exceed the amount, determined by the Secretary, that
2 is equal to the cost of producing the computer statements.

3 (b) USE OF HOME MORTGAGE DISCLOSURE ACT DE-
4 POSITORIES.—To the extent practicable, the central de-
5 positories referred to in subsection (a) shall be the central
6 depositories established under section 304(f) of the Home
7 Mortgage Disclosure Act of 1975. The Federal Financial
8 Institutions Examination Council shall consult with the
9 Secretary regarding the use of such depositories and shall
10 provide for the use of such depositories to the extent
11 agreed to by such Council and the Secretary.

12 **SEC. 6. SUBMISSION TO SECRETARY.**

13 The information referred to in section 3 shall be sub-
14 mitted to the Secretary. The Secretary shall develop regu-
15 lations prescribing—

16 (1) the format for making such information
17 available;

18 (2) the method for submission of such informa-
19 tion; and

20 (3) the procedures for making the information
21 available to the public.

22 Any reporting insurer may submit in writing to the Sec-
23 retary such additional data or explanations as it deems
24 relevant to the decision by such insurer to sell insurance.

1 **SEC. 7. DESIGNATIONS.**

2 (a) DESIGNATIONS BY THE SECRETARY.—

3 (1) DESIGNATIONS OF MSA'S.—The Secretary
4 shall, on an annual basis, designate the MSA's for
5 which reporting is required under section 3. At a
6 minimum, the Secretary shall designate the 150
7 MSA's having the largest population. The Secretary
8 may designate additional MSA's on the basis of such
9 criteria as the Secretary may by rule develop. Such
10 a rule shall be issued in accordance with section 553
11 of title 5, United States Code.

12 (2) DESIGNATION OF INSURERS.—For each
13 MSA designated under paragraph (1), the Secretary
14 shall take the following actions:

15 (A) The Secretary shall annually designate
16 the insurers transacting insurance business in
17 such MSA for which reporting is required under
18 section 3. At a minimum, the Secretary shall
19 annually designate the 25 insurers in such MSA
20 having the largest premium volume in the
21 designated lines of insurance.

22 (B) The Secretary shall also annually des-
23 ignate any entity providing insurance in a des-
24 ignated line of insurance as part of a residual
25 market established by State law.

1 (C) The Secretary may designate addi-
2 tional insurers on the basis of such criteria as
3 the Secretary may by rule develop. Such a rule
4 shall be issued in accordance with section 553
5 of title 5, United States Code. In considering
6 whether to designate additional insurers, the
7 Secretary shall ensure that—

8 (i) insurers who specialize in selling
9 insurance in urban areas, including surplus
10 lines insurers, are specifically considered
11 for designation notwithstanding their pre-
12 mium volume; and

13 (ii) that insurers representing at least
14 90 percent of the premium volume in
15 the designated lines of insurance are
16 designated in such MSA.

17 (3) DESIGNATION OF LINES OF INSURANCE.—

18 For each MSA designated under paragraph (1) the
19 Secretary shall designate the lines of property and
20 casualty insurance sold in such MSA for which re-
21 porting is required under section 3. At a minimum,
22 the Secretary shall annually designate—

23 (A) private passenger automobile insurance
24 (including appropriate sublines and classes);

1 (B) property insurance which does not
2 cover commercial property (including appro-
3 priate sublines and classes and related cov-
4 erages such as coverage of property contents
5 and property insured at cash value); and

6 (C) commercial insurance for small busi-
7 ness.

8 The Secretary may designate additional lines of in-
9 surance on the basis of such criteria as the Sec-
10 retary may by rule develop. Such a rule shall be
11 issued in accordance with section 553 of title 5,
12 United States Code. For purposes of this Act, the
13 designation of a line of insurance includes a designa-
14 tion of a subline or class of insurance.

15 (4) TIMING OF DESIGNATIONS.—The Secretary
16 shall make the annual designations required by
17 paragraphs (1), (2), and (3) no later than Septem-
18 ber 1 of the year preceding the year for which re-
19 porting is required under section 3. The Secretary
20 shall notify persons involved in the designations no
21 later than the October 1 which follows the designa-
22 tion.

23 (b) OBTAINING INFORMATION.—The Secretary may
24 obtain from insurers such information as the Secretary
25 may require to make designations under subsection (a).

1 **SEC. 8. DISCLOSURES TO REJECTED APPLICANTS.**

2 (a) IN GENERAL.—Except as provided in subsection
3 (e), the Secretary shall, by regulations issued under sec-
4 tion 553 of title 5, United States Code—

5 (1) require insurers to provide to each applicant
6 for insurance in a designated line—

7 (A) reasons for denying an application for
8 such insurance or for canceling or not renewing
9 a policy in force; and

10 (B) actions the applicant may take to qual-
11 ify for such insurance; and

12 (2) restrict the use insurers may make of infor-
13 mation relating to—

14 (A) adverse underwriting decisions; or

15 (B) insurance coverage in a residual mar-
16 ket.

17 (b) MODEL ACTS.—In issuing regulations under sub-
18 section (a), the Secretary shall consider relevant portions
19 of model acts developed by the National Association of In-
20 surance Commissioners.

21 (c) ENFORCEMENT.—The Secretary may delegate to
22 the States the authority to enforce the requirements of
23 regulations issued under subsection (a).

24 (d) PREEMPTION.—Subsection (a) is not to be con-
25 strued to preempt any State from imposing on insurers
26 requirements of the type stated in such subsection, includ-

1 ing requirements which are more stringent or more com-
2 prehensive.

3 (e) EXEMPTION.—A regulation issued under sub-
4 section (a) may not apply to insurance provided under a
5 program underwritten or administered by the United
6 States, including the national flood insurance program
7 under the National Flood Insurance Act of 1968, the pro-
8 gram for insurance against burglary and theft under title
9 XII of the National Housing Act, and mortgage insurance
10 under the National Housing Act.

11 (f) DEFINITION.—For purposes of subsection
12 (a)(2)(A), an adverse underwriting decision means any of
13 the following actions with respect to insurance trans-
14 actions involving insurance coverage which is individually
15 underwritten:

16 (1) A declination of insurance coverage.

17 (2) A termination of insurance coverage.

18 (3) Failure of an agent to apply for insurance
19 coverage with a specific insurance entity which the
20 agent represents and which is requested by the ap-
21 plicant.

22 (4) In the case of property or casualty insur-
23 ance coverage—

24 (A) placement by an insurance entity or
25 agent of a risk with a residual market mecha-

1 nism, an unauthorized insurer, or an insurance
2 entity which specializes in substandard risks; or
3 (B) the charging of higher rates on the
4 basis of information which differs from that
5 which the applicant or policyholder furnished.

6 **SEC. 9. TERMINATION OF AGENTS.**

7 (a) REGULATIONS.—Except as provided in subsection
8 (d), the Secretary shall, by regulation issued under section
9 553 of title 5, United States Code, ensure that the prac-
10 tices of insurers in terminating agents who handle private
11 mortgage insurance or property or casualty insurance do
12 not result in an inappropriate effect on the availability or
13 affordability of insurance from such insurers. Such regula-
14 tions shall specifically ensure that such practices do not
15 result in unfair discrimination against agents as a result
16 of their geographic locations or of the geographic locations
17 of their clients. Regulations under this subsection shall be
18 stated in terms of minimum standards.

19 (b) PREEMPTION.—Subsection (a) may not be con-
20 strued to preempt any State from imposing on insurers
21 requirements of the type stated in such subsection, includ-
22 ing requirements which are more stringent or more com-
23 prehensive.

24 (c) ENFORCEMENT.—The Secretary may delegate to
25 the States the enforcement of such regulations.

1 (d) EXEMPTION.—A regulation issued under sub-
2 section (a) may not apply to insurance provided under a
3 program underwritten or administered by the United
4 States, including the national flood insurance program
5 under the National Flood Insurance Act of 1968, the pro-
6 gram for insurance against burglary and theft under title
7 XII of the National Housing Act, and mortgage insurance
8 under the National Housing Act.

9 **SEC. 10. IMPLEMENTATION.**

10 (a) IN GENERAL.—The Secretary shall prescribe
11 such regulations as may be necessary to carry out sections
12 3 through 6. Such regulations may contain such classifica-
13 tions, differentiations, or other provisions, and may pro-
14 vide for such adjustments and exceptions for any class of
15 transactions, as in the judgment of the Secretary are nec-
16 essary and proper to effectuate the purposes of such sec-
17 tion and to prevent circumvention or evasion thereof or
18 to facilitate compliance therewith.

19 (b) BURDENS.—In prescribing regulations under sub-
20 section (a), the Secretary shall take into consideration the
21 administrative, paperwork, and other burdens on insur-
22 ance agents, including independent insurance agents, in-
23 volved in complying with the requirements of sections 3
24 through 6 and shall minimize the burdens imposed by such
25 requirements with respect to such agents.

1 **SEC. 11. IMPROVED METHODS.**

2 The Secretary shall develop, or assist in the improve-
3 ment of, methods of matching addresses and census tracts
4 to facilitate compliance by insurers, in as economical a
5 manner as possible, with the requirements of this Act.

6 **SEC. 12. COMPILATION OF AGGREGATE DATA.**

7 (a) SCOPE OF DATA AND TABLES.—The Secretary
8 shall compile each year, for each MSA, aggregate data by
9 census tract for all insurers who are subject to section 3
10 or who are exempt from section 3 under the provisions
11 of section 4(e)(1) of such section. The Secretary shall also
12 produce tables indicating, for each MSA, aggregate insur-
13 ance underwriting patterns for various categories of cen-
14 sus tracts grouped according to location, age of property,
15 income level, and racial characteristics.

16 (b) AVAILABILITY TO PUBLIC.—The data compiled
17 and the tables produced pursuant to subsection (a) shall
18 be made available to the public on a timetable determined
19 by the Secretary but not later than December 1 of the
20 year following the calendar year on which the data and
21 tables are based. The data shall be made available using
22 the system implemented under section 5, in the forms re-
23 quired under such section, and subject to the provisions
24 of such section.

1 **SEC. 13. TESTERS.**

2 The Secretary may utilize employees and officers of
3 the Department of Commerce and may provide advice and
4 technical assistance to State and local government agen-
5 cies and public and private entities (including nonprofit
6 organizations), to develop, implement, carry out, or coordi-
7 nate programs or activities designed to—

8 (1) prevent or eliminate discriminatory insur-
9 ance practices; or

10 (2) obtain enforcement of Federal and State
11 laws prohibiting discriminatory insurance practices.

12 **SEC. 14. ENFORCEMENT.**

13 (a) CIVIL PENALTIES.—An insurer who does not
14 comply with the requirements of sections 3 through 6, or
15 a regulation issued under section 8 or 9, shall be subject
16 to a civil penalty of not to exceed \$5,000 for each day
17 during which such violation continues.

18 (b) INJUNCTION.—The district courts of the United
19 States shall have jurisdiction over a petition of the Sec-
20 retary to enjoin an insurer from actions which are in viola-
21 tion of the requirements of sections 3 through 6 or of a
22 regulation issued under section 8 or 9.

23 **SEC. 15. RELATION TO STATE LAWS.**

24 This Act does not annul, alter, affect, or exempt the
25 obligation of any insurer subject to this Act to comply with

1 the laws of any State or subdivision thereof with respect
2 to public disclosure and recordkeeping.

3 **SEC. 16. DEFINITIONS.**

4 For purposes of this Act:

5 (1) The term “commercial insurance” means
6 any line of property and casualty insurance, except
7 private passenger automobile and homeowner’s in-
8 surance.

9 (2) The term “designated insurer” means an
10 insured designated by the Secretary under section
11 7(a)(2).

12 (3) The term “designated line” means a line of
13 insurance designated by the Secretary under section
14 7(a)(3).

15 (4) The term “insurer” means any corporation,
16 association, society, order, firm, company, partner-
17 ship, individual, or aggregation of individuals which
18 is subject to examination or supervision by any State
19 insurance regulator, or which is doing or represents
20 an insurance business.

21 (5) The term “private mortgage insurance”
22 means insurance against the nonpayment of, or de-
23 fault on, a mortgage or loan for residential or com-
24 mercial property, except that such term does not in-

1 clude mortgage insurance made available under the
2 National Housing Act.

3 (6) The term “property and casualty insur-
4 ance” means insurance against loss of or damage to
5 property, insurance against loss of income or extra
6 expense incurred because of loss of, or damage to,
7 property, and insurance against third party liability
8 claims caused by negligence or imposed by statute or
9 contract.

10 (7) The term “residual market” means an as-
11 signed risk plan, joint underwriting association, or
12 any similar mechanism designed to make insurance
13 available to those unable to obtain it in the vol-
14 untary market.

15 (8) The term “Secretary” means the Secretary
16 of Commerce.

17 (9) The term “State” means any State, the
18 District of Columbia, the Commonwealth of Puerto
19 Rico, the Northern Mariana Islands, the Virgin Is-
20 lands, American Samoa, and the Trust Territory of
21 the Pacific Islands.

22 **SEC. 17. EFFECTIVE DATE.**

23 The requirements of this Act shall take effect with
24 respect to calendar year 1994.



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