

# Calendar No. 294

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

# S. 1926

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and to reform the National Association of Registered Agents and Brokers, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

JANUARY 14, 2014

Mr. MENENDEZ (for himself, Mr. ISAKSON, Mr. VITTER, and Ms. LANDRIEU)  
introduced the following bill; which was read the first time

JANUARY 15, 2014

Read the second time and placed on the calendar

---

## A BILL

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and to reform the National Association of Registered Agents and Brokers, and for other purposes.

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

3 **SECTION 1. TABLE OF CONTENTS.**

4 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—HOMEOWNER FLOOD INSURANCE AFFORDABILITY ACT

- Sec. 101. Short title.  
 Sec. 102. Definitions.  
 Sec. 103. Delayed implementation of flood insurance rate increases; draft affordability framework.  
 Sec. 104. Affordability study and report.  
 Sec. 105. Affordability study funding.  
 Sec. 106. Funds to reimburse homeowners for successful map appeals.  
 Sec. 107. Flood protection systems.  
 Sec. 108. Treatment of floodproofed residential basements.  
 Sec. 109. Designation of flood insurance advocate.

TITLE II—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND  
 BROKERS

- Sec. 201. Short Title.  
 Sec. 202. Reestablishment of the National Association of Registered Agents and Brokers.

1 **TITLE I—HOMEOWNER FLOOD**  
 2 **INSURANCE AFFORDABILITY**  
 3 **ACT**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Homeowner Flood In-  
 6 surance Affordability Act of 2014”.

7 **SEC. 102. DEFINITIONS.**

8 As used in this title, the following definitions shall  
 9 apply:

10 (1) **ADJUSTED BASE FLOOD ELEVATION.**—For  
 11 purposes of rating a floodproofed covered structure,  
 12 the term “adjusted base flood elevation” means the  
 13 base flood elevation for a covered structure on the  
 14 applicable effective flood insurance rate map, plus 1  
 15 foot.

1           (2) ADMINISTRATOR.—The term “Adminis-  
2           trator” means the Administrator of the Federal  
3           Emergency Management Agency.

4           (3) AFFORDABILITY STUDY.—The term “af-  
5           fordability study” means the study required under  
6           section 100236 of the Biggert-Waters Flood Insur-  
7           ance Reform Act of 2012 (Public Law 112–141; 126  
8           Stat. 957).

9           (4) APPLICABLE FLOOD PLAIN MANAGEMENT  
10          MEASURES.—The term “applicable flood plain man-  
11          agement measures” means flood plain management  
12          measures adopted by a community under section  
13          60.3(c) of title 44, Code of Federal Regulations.

14          (5) COVERED STRUCTURE.—The term “covered  
15          structure” means a residential structure—

16                (A) that is located in a community that  
17                has adopted flood plain management measures  
18                that are approved by the Federal Emergency  
19                Management Agency and that satisfy the re-  
20                quirements for an exception for floodproofed  
21                residential basements under section 60.6(c) of  
22                title 44, Code of Federal Regulations; and

23                (B) that was built in compliance with the  
24                applicable flood plain management measures.

1           (6) DRAFT AFFORDABILITY FRAMEWORK.—The  
2 term “draft affordability framework” means the  
3 draft programmatic and regulatory framework re-  
4 quired to be prepared by the Administrator and sub-  
5 mitted to Congress under section 103(d) addressing  
6 the issues of affordability of flood insurance sold  
7 under the National Flood Insurance Program, in-  
8 cluding issues identified in the affordability study.

9           (7) FLOODPROOFED ELEVATION.—The term  
10 “floodproofed elevation” means the height of  
11 floodproofing on a covered structure, as identified on  
12 the Residential Basement Floodproofing Certificate  
13 for the covered structure.

14           (8) NATIONAL FLOOD INSURANCE PROGRAM.—  
15 The term “National Flood Insurance Program”  
16 means the program established under the National  
17 Flood Insurance Act of 1968 (42 U.S.C. 4001 et  
18 seq.).

19 **SEC. 103. DELAYED IMPLEMENTATION OF FLOOD INSUR-**  
20 **ANCE RATE INCREASES; DRAFT AFFORD-**  
21 **ABILITY FRAMEWORK.**

22           (a) DELAYED IMPLEMENTATION OF FLOOD INSUR-  
23 ANCE RATE INCREASES.—

24           (1) GRANDFATHERED PROPERTIES.—Beginning  
25 on the date of enactment of this Act, the Adminis-

1 trator may not implement section 1308(h) of the  
2 National Flood Insurance Act of 1968 (42 U.S.C.  
3 4015(h)).

4 (2) PRE-FIRM PROPERTIES.—Beginning on the  
5 date of enactment of this Act, the Administrator  
6 may not implement—

7 (A) section 1307(g)(1) of the National  
8 Flood Insurance Act of 1968 (42 U.S.C.  
9 4014(g)(1)); or

10 (B) section 1307(g)(3) of the National  
11 Flood Insurance Act of 1968 (42 U.S.C.  
12 4014(g)(3)) with respect to any policy described  
13 in that section, provided that the decision of the  
14 policy holder to permit a lapse in flood insur-  
15 ance coverage was as a result of the property  
16 covered by the policy no longer being required  
17 to retain such coverage.

18 (3) EXPIRATION.—The prohibitions set forth  
19 under paragraphs (1) and (2) shall expire 6 months  
20 after the later of—

21 (A) the date on which the Administrator  
22 proposes the draft affordability framework; or

23 (B) the date on which the Administrator  
24 certifies in writing to Congress that the Federal  
25 Emergency Management Agency has imple-

1           mented a flood mapping approach that, when  
2           applied, results in technically credible flood haz-  
3           ard data in all areas where Flood Insurance  
4           Rate Maps are prepared or updated.

5           (b) PROPERTY SALE TRIGGER.—

6           (1) IN GENERAL.—Section 1307(g)(2) of the  
7           National Flood Insurance Act of 1968 (42 U.S.C.  
8           4014(g)(2)) is amended to read as follows:

9           “(2) any property purchased after the expira-  
10          tion of the 6-month period set forth under section  
11          103(a)(3) of the Homeowner Flood Insurance Af-  
12          fordability Act of 2014;”.

13          (2) PROTECTION OF SUBSIDY FOR PROPERTIES  
14          PURCHASED ON OR BEFORE EXPIRATION DATE.—  
15          Notwithstanding paragraph (1) or (3) of section  
16          1307(g) of the National Flood Insurance Act of  
17          1968 (42 U.S.C. 4014(g)(1) and (3)), the Adminis-  
18          trator may not reduce the risk premium rate subsidy  
19          for flood insurance for a property purchased on or  
20          before the expiration of the 6-month period set forth  
21          under subsection (a)(3) of this section based on the  
22          fact that—

23                 (A) the property was not insured by the  
24                 flood insurance program as of the date of en-  
25                 actment of the Biggert-Waters Flood Insurance

1 Reform Act of 2012 (Public Law 112–141; 126  
2 Stat. 916); or

3 (B) on or before the expiration of that 6-  
4 month period, the policy for the property had  
5 lapsed in coverage as a result of the deliberate  
6 choice of the policy holder, provided that the  
7 decision of the policy holder to permit a lapse  
8 in coverage was as a result of the property no  
9 longer being required to retain such coverage.

10 (c) TREATMENT OF PRE-FIRM PROPERTIES.—Be-  
11 ginning on the date of enactment of this Act and ending  
12 upon the expiration of the 6-month period set forth under  
13 subsection (a)(3), the Administrator shall restore the risk  
14 premium rate subsidies for flood insurance estimated  
15 under section 1307(a)(2) of the National Flood Insurance  
16 Act of 1968 (42 U.S.C. 4014(a)(2)) for any property—

17 (1) with respect to which the Administrator  
18 may not, under subsection (a)(2)(A) of this section,  
19 implement section 1307(g)(1) of the National Flood  
20 Insurance Act of 1968;

21 (2) with respect to which the Administrator  
22 may not, under subsection (a)(2)(B) of this section,  
23 implement section 1307(g)(3) of the National Flood  
24 Insurance Act of 1968; or

1           (3) described in section 1307(g)(2) of the Na-  
2           tional Flood Insurance Act of 1968 (42 U.S.C.  
3           4014(g)(2)), as in effect on the day before the date  
4           of enactment of this Act.

5           (d) DRAFT AFFORDABILITY FRAMEWORK.—

6           (1) IN GENERAL.—The Administrator shall pre-  
7           pare a draft affordability framework that proposes  
8           to address, via programmatic and regulatory  
9           changes, the issues of affordability of flood insur-  
10          ance sold under the National Flood Insurance Pro-  
11          gram, including issues identified in the affordability  
12          study.

13          (2) CRITERIA.—In carrying out the require-  
14          ments under paragraph (1), the Administrator shall  
15          consider the following criteria:

16                (A) Accurate communication to consumers  
17                of the flood risk associated with their property.

18                (B) Targeted assistance to flood insurance  
19                policy holders based on their financial ability to  
20                continue to participate in the National Flood  
21                Insurance Program.

22                (C) Individual or community actions to  
23                mitigate the risk of flood or lower the cost of  
24                flood insurance.

1           (D) The impact of increases in risk pre-  
2           mium rates on participation in the National  
3           Flood Insurance Program.

4           (E) The impact flood insurance rate map  
5           updates have on the affordability of flood insur-  
6           ance.

7           (3) DEADLINE FOR SUBMISSION.—Not later  
8           than 18 months after the date on which the Admin-  
9           istrator submits the affordability study, the Admin-  
10          istrator shall submit to the full Committee on Bank-  
11          ing, Housing, and Urban Affairs and the full Com-  
12          mittee on Appropriations of the Senate and the full  
13          Committee on Financial Services and the full Com-  
14          mittee on Appropriations of the House of Represent-  
15          atives the draft affordability framework.

16          (e) INTERAGENCY AGREEMENTS.—The Adminis-  
17          trator may enter into an agreement with another Federal  
18          agency to—

19                (1) complete the affordability study; or

20                (2) prepare the draft affordability framework.

21          (f) CLEAR COMMUNICATIONS.—The Administrator  
22          shall clearly communicate full flood risk determinations to  
23          individual property owners regardless of whether their pre-  
24          mium rates are full actuarial rates.

1 (g) RULE OF CONSTRUCTION.—Nothing in this sec-  
2 tion shall be construed to provide the Administrator with  
3 the authority to provide assistance to homeowners based  
4 on affordability that was not available prior to the enact-  
5 ment of the Biggert-Waters Flood Insurance Reform Act  
6 of 2012 (Public Law 112–141; 126 Stat. 916).

7 **SEC. 104. AFFORDABILITY STUDY AND REPORT.**

8 Notwithstanding the deadline under section  
9 100236(c) of the Biggert-Waters Flood Insurance Reform  
10 Act of 2012 (Public Law 112–141; 126 Stat. 957), not  
11 later than 2 years after the date of enactment of this Act,  
12 the Administrator shall submit to the full Committee on  
13 Banking, Housing, and Urban Affairs and the full Com-  
14 mittee on Appropriations of the Senate and the full Com-  
15 mittee on Financial Services and the full Committee on  
16 Appropriations of the House of Representatives the af-  
17 fordability study and report required under such section.

18 **SEC. 105. AFFORDABILITY STUDY FUNDING.**

19 Section 100236(d) of the Biggert-Waters Flood In-  
20 surance Reform Act of 2012 (Public Law 112–141; 126  
21 Stat. 957) is amended by striking “not more than  
22 \$750,000” and inserting “such amounts as may be nec-  
23 essary”.

1 **SEC. 106. FUNDS TO REIMBURSE HOMEOWNERS FOR SUCCESSFUL MAP APPEALS.**  
2

3 (a) IN GENERAL.—Section 1363(f) of the National  
4 Flood Insurance Act of 1968 (42 U.S.C. 4104(f)) is  
5 amended by striking the second sentence and inserting the  
6 following: “The Administrator may use such amounts  
7 from the National Flood Insurance Fund established  
8 under section 1310 as may be necessary to carry out this  
9 subsection.”.

10 (b) CONFORMING AMENDMENT.—Section 1310(a) of  
11 the National Flood Insurance Act of 1968 (42 U.S.C.  
12 4017(a)) is amended—

13 (1) in paragraph (6), by striking “and” at the  
14 end;

15 (2) in paragraph (7), by striking the period at  
16 the end and inserting “; and”; and

17 (3) by adding at the end the following:

18 “(8) for carrying out section 1363(f).”.

19 **SEC. 107. FLOOD PROTECTION SYSTEMS.**

20 (a) ADEQUATE PROGRESS ON CONSTRUCTION OF  
21 FLOOD PROTECTION SYSTEMS.—Section 1307(e) of the  
22 National Flood Insurance Act of 1968 (42 U.S.C.  
23 4014(e)) is amended—

24 (1) in the first sentence, by inserting “or recon-  
25 struction” after “construction”;

1           (2) by striking the second sentence and insert-  
2           ing the following: “The Administrator shall find that  
3           adequate progress on the construction or reconstruc-  
4           tion of a flood protection system, based on the  
5           present value of the completed flood protection sys-  
6           tem, has been made only if (1) 100 percent of the  
7           cost of the system has been authorized, (2) at least  
8           60 percent of the cost of the system has been appro-  
9           priated, (3) at least 50 percent of the cost of the  
10          system has been expended, and (4) the system is at  
11          least 50 percent completed.”; and

12          (3) by adding at the end the following: “Not-  
13          withstanding any other provision of law, in deter-  
14          mining whether a community has made adequate  
15          progress on the construction, reconstruction, or im-  
16          provement of a flood protection system, the Adminis-  
17          trator shall consider all sources of funding, including  
18          Federal, State, and local funds.”.

19          (b) COMMUNITIES RESTORING DISACCREDITED  
20 FLOOD PROTECTION SYSTEMS.—Section 1307(f) of the  
21 National Flood Insurance Act of 1968 (42 U.S.C.  
22 4014(f)) is amended by striking the first sentence and in-  
23 serting the following: “Notwithstanding any other provi-  
24 sion of law, this subsection shall apply to riverine and  
25 coastal levees that are located in a community which has

1 been determined by the Administrator of the Federal  
2 Emergency Management Agency to be in the process of  
3 restoring flood protection afforded by a flood protection  
4 system that had been previously accredited on a Flood In-  
5 surance Rate Map as providing 100-year frequency flood  
6 protection but no longer does so, and shall apply without  
7 regard to the level of Federal funding of or participation  
8 in the construction, reconstruction, or improvement of the  
9 flood protection system.”.

10 **SEC. 108. TREATMENT OF FLOODPROOFED RESIDENTIAL**  
11 **BASEMENTS.**

12 In implementing section 1308(h) of the National  
13 Flood Insurance Act of 1968 (42 U.S.C. 4015(h)), the Ad-  
14 ministrator shall rate a covered structure using the ele-  
15 vation difference between the floodproofed elevation of the  
16 covered structure and the adjusted base flood elevation of  
17 the covered structure.

18 **SEC. 109. DESIGNATION OF FLOOD INSURANCE ADVOCATE.**

19 (a) IN GENERAL.—The Administrator shall designate  
20 a Flood Insurance Advocate to advocate for the fair treat-  
21 ment of policy holders under the National Flood Insurance  
22 Program and property owners in the mapping of flood  
23 hazards, the identification of risks from flood, and the im-  
24 plementation of measures to minimize the risk of flood.

1 (b) DUTIES AND RESPONSIBILITIES.—The duties  
2 and responsibilities of the Flood Insurance Advocate des-  
3 ignated under subsection (a) shall be to—

4 (1) educate property owners and policyholders  
5 under the National Flood Insurance Program on—

6 (A) individual flood risks;

7 (B) flood mitigation;

8 (C) measures to reduce flood insurance  
9 rates through effective mitigation; and

10 (D) the flood insurance rate map review  
11 and amendment process;

12 (2) assist policy holders under the National  
13 Flood Insurance Program and property owners to  
14 understand the procedural requirements related to  
15 appealing preliminary flood insurance rate maps and  
16 implementing measures to mitigate evolving flood  
17 risks;

18 (3) assist in the development of regional capac-  
19 ity to respond to individual constituent concerns  
20 about flood insurance rate map amendments and re-  
21 visions;

22 (4) coordinate outreach and education with  
23 local officials and community leaders in areas im-  
24 pacted by proposed flood insurance rate map amend-  
25 ments and revisions; and

1           (5) aid potential policy holders under the Na-  
2           tional Flood Insurance Program in obtaining and  
3           verifying accurate and reliable flood insurance rate  
4           information when purchasing or renewing a flood in-  
5           surance policy.

6           (c) AUTHORIZATION OF APPROPRIATIONS.—There  
7           are authorized to be appropriated for each fiscal year such  
8           sums as may be necessary to carry out the duties and re-  
9           sponsibilities of the Flood Insurance Advocate.

10       **TITLE II—NATIONAL ASSOCIA-**  
11       **TION OF REGISTERED**  
12       **AGENTS AND BROKERS**

13       **SEC. 201. SHORT TITLE.**

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

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

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

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

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

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

8 “(b) STATUS.—The Association shall—

9 “(1) be a nonprofit corporation;

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

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

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

20 **“SEC. 322. PURPOSE.**

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

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

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

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

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

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

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

17 **“SEC. 323. MEMBERSHIP.**

18 “(a) **ELIGIBILITY.**—

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

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

1 member of the Association if a State insurance regu-  
2 lator has suspended or revoked the insurance license  
3 of the insurance producer in that State.

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

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

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

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

17 “(A) IN GENERAL.—An insurance pro-  
18 ducer who is an individual shall not be eligible  
19 to become a member of the Association unless  
20 the insurance producer has undergone a crimi-  
21 nal history record check that complies with reg-  
22 ulations prescribed by the Attorney General of  
23 the United States under subparagraph (K).

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

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

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

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

21 “(ii) PROCEDURES.—The board of di-  
22 rectors of the Association (referred to in  
23 this subtitle as the Board) shall prescribe  
24 procedures for obtaining and utilizing iden-  
25 tification information and criminal history

1 record information, including the establish-  
2 ment of reasonable fees required to per-  
3 form a criminal history record check and  
4 appropriate safeguards for maintaining  
5 confidentiality and security of the informa-  
6 tion.

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

16 “(E) PROVISION OF INFORMATION BY AT-  
17 TORNEY GENERAL.—Upon receiving a submis-  
18 sion under subparagraph (C)(i) from the Asso-  
19 ciation, the Attorney General shall search all  
20 criminal history records of the Federal Bureau  
21 of Investigation, including records of the Crimi-  
22 nal Justice Information Services Division of the  
23 Federal Bureau of Investigation, that the At-  
24 torney General determines appropriate for  
25 criminal history records corresponding to the

1 identification information provided under sub-  
2 paragraph (D) and provide all criminal history  
3 record information included in the request to  
4 the Association.

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

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

12 “(ii) be disclosed to State insurance  
13 regulators, or Federal or State law en-  
14 forcement agencies, in conformance with  
15 applicable law; or

16 “(iii) be disclosed, upon request, to  
17 the insurance producer to whom the crimi-  
18 nal history record information relates.

19 “(G) PENALTY FOR IMPROPER USE OR  
20 DISCLOSURE.—Whoever knowingly uses any in-  
21 formation provided under subparagraph (E) for  
22 a purpose not authorized in subparagraph (F),  
23 or discloses any such information to anyone not  
24 authorized to receive it, shall be fined under

1 title 18, United States Code, imprisoned for not  
2 more than 2 years, or both.

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

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

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

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

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

23 “(K) REGULATIONS.—The Attorney Gen-  
24 eral shall prescribe regulations to carry out this  
25 paragraph, which shall include—

1           “(i) appropriate protections for ensur-  
2           ing the confidentiality of information pro-  
3           vided under subparagraph (E); and

4           “(ii) procedures providing a reason-  
5           able opportunity for an insurance producer  
6           to contest the accuracy of information re-  
7           garding the insurance producer provided  
8           under subparagraph (E).

9           “(L) INELIGIBILITY FOR MEMBERSHIP.—

10           “(i) IN GENERAL.—The Association  
11           may, under reasonably consistently applied  
12           standards, deny membership to an insur-  
13           ance producer on the basis of criminal his-  
14           tory record information provided under  
15           subparagraph (E), or where the insurance  
16           producer has been subject to disciplinary  
17           action, as described in paragraph (2).

18           “(ii) RIGHTS OF APPLICANTS DENIED  
19           MEMBERSHIP.—The Association shall no-  
20           tify any insurance producer who is denied  
21           membership on the basis of criminal his-  
22           tory record information provided under  
23           subparagraph (E) of the right of the insur-  
24           ance producer to—

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

6                   “(II) challenge the denial of  
7                   membership based on the accuracy  
8                   and completeness of the information.

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

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

18               “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES  
19               OF MEMBERSHIP.—

20               “(1) CLASSES OF MEMBERSHIP.—The Associa-  
21               tion may establish separate classes of membership,  
22               with separate criteria, if the Association reasonably  
23               determines that performance of different duties re-  
24               quires different levels of education, training, experi-  
25               ence, or other qualifications.

1           “(2) BUSINESS ENTITIES.—The Association  
2 shall establish a class of membership and member-  
3 ship criteria for business entities. A business entity  
4 that applies for membership shall be required to des-  
5 ignate an individual Association member responsible  
6 for the compliance of the business entity with Asso-  
7 ciation standards and the insurance laws, rules, and  
8 regulations of any State in which the business entity  
9 seeks to do business on the basis of Association  
10 membership.

11           “(3) CATEGORIES.—

12           “(A) SEPARATE CATEGORIES FOR INSUR-  
13 ANCE PRODUCERS PERMITTED.—The Associa-  
14 tion may establish separate categories of mem-  
15 bership for insurance producers and for other  
16 persons or entities within each class, based on  
17 the types of licensing categories that exist  
18 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 mem-  
23 bers that are depository institutions or for em-  
24 ployees, agents, or affiliates of depository insti-  
25 tutions.

1 “(d) MEMBERSHIP CRITERIA.—

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

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

21 “(3) ASSISTANCE FROM STATES.—

22 “(A) IN GENERAL.—The Association may  
23 request a State to provide assistance in inves-  
24 tigating and evaluating the eligibility of a pro-

1           spective member for membership in the Associa-  
2           tion.

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

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

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

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

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

23           “(e) EFFECT OF MEMBERSHIP.—

24           “(1) AUTHORITY OF ASSOCIATION MEMBERS.—  
25           Membership in the Association shall—

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

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

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

1 scope of authority granted under this subsection  
2 and to all State laws, regulations, provisions,  
3 and actions preserved under paragraph (5).

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

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

13 “(4) NOTIFICATION OF ACTION.—

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

24 “(B) ONGOING DISCLOSURES REQUIRED.—

25 On an ongoing basis, the Association shall dis-

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

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

12 “(A) IN GENERAL.—No provision of this  
13 section shall be construed as altering or affect-  
14 ing the applicability or continuing effectiveness  
15 of any law, regulation, provision, or other action  
16 of any State, including those described in sub-  
17 paragraph (B), to the extent that the State law,  
18 regulation, provision, or other action is not in-  
19 consistent with the provisions of this subtitle re-  
20 lated to market entry for nonresident insurance  
21 producers, and then only to the extent of the in-  
22 consistency.

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

1           clude laws, regulations, provisions, or other ac-  
2           tions that—

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

6                   “(ii) establish consumer protections;  
7                   or

8                   “(iii) require insurance producers to  
9                   be appointed by a licensed or authorized  
10                  insurer.

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

13          “(g) CONTINUING EDUCATION.—

14                  “(1) IN GENERAL.—The Association shall es-  
15                  tablish, as a condition of membership, continuing  
16                  education requirements which shall be comparable to  
17                  the continuing education requirements under the li-  
18                  censing laws of a majority of the States.

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

24                  “(3) RECIPROCITY.—The Association shall not  
25                  require a member to satisfy continuing education re-

1        requirements that are equivalent to any continuing  
2        education requirements of the home State of the  
3        member that have been satisfied by the member dur-  
4        ing the applicable licensing period.

5            “(4) LIMITATION ON THE ASSOCIATION.—The  
6        Association shall not directly or indirectly offer any  
7        continuing education courses for insurance pro-  
8        ducers.

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

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

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

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

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

1           “(D) the insurance producer has been con-  
2           victed of a crime that would have resulted in  
3           the denial of membership pursuant to sub-  
4           section (a)(4)(L)(i) at the time of application,  
5           and the Association has received a copy of the  
6           final disposition from a court of competent ju-  
7           risdiction.

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

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

18          “(i) CONSUMER COMPLAINTS.—

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

20                   “(A) refer any complaint against a mem-  
21                   ber of the Association from a consumer relating  
22                   to alleged misconduct or violations of State in-  
23                   surance laws to the State insurance regulator  
24                   where the consumer resides and, when appro-  
25                   priate, to any additional State insurance regu-

1 lator, as determined by standards adopted by  
2 the Association; and

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

6 “(2) TELEPHONE AND OTHER ACCESS.—The  
7 Association shall maintain a toll-free number for  
8 purposes of this subsection and, as practicable, other  
9 alternative means of communication with consumers,  
10 such as an Internet webpage.

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

19 “(j) INFORMATION SHARING.—The Association  
20 may—

21 “(1) share documents, materials, or other infor-  
22 mation, including confidential and privileged docu-  
23 ments, with a State, Federal, or international gov-  
24 ernmental entity or with the NAIC or other appro-  
25 priate entity referenced in paragraphs (3) and (4),

1 provided that the recipient has the authority and  
2 agrees to maintain the confidentiality or privileged  
3 status of the document, material, or other informa-  
4 tion;

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

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

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

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

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

7               “(2) the date of incorporation of the Associa-  
8 tion.

9 **“SEC. 324. BOARD OF DIRECTORS.**

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

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

16       “(c) COMPOSITION.—

17               “(1) IN GENERAL.—The Board shall consist of  
18 13 members who shall be appointed by the Presi-  
19 dent, by and with the advice and consent of the Sen-  
20 ate, in accordance with the procedures established  
21 under Senate Resolution 116 of the 112th Congress,  
22 of whom—

23                       “(A) 8 shall be State insurance commis-  
24 sioners appointed in the manner provided in  
25 paragraph (2), 1 of whom shall be designated

1 by the President to serve as the chairperson of  
2 the Board until the Board elects one such State  
3 insurance commissioner Board member to serve  
4 as the chairperson of the Board;

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

8 “(C) 2 shall have demonstrated expertise  
9 and experience with life or health insurance  
10 producer licensing.

11 “(2) STATE INSURANCE REGULATOR REP-  
12 RESENTATIVES.—

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

23 “(B) POLITICAL AFFILIATION.—Not more  
24 than 4 Board members appointed under para-

1 graph (1)(A) shall belong to the same political  
2 party.

3 “(C) FORMER STATE INSURANCE COMMIS-  
4 SIONERS.—

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

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

1           surance policy or annuity contract written  
2           or sold by an insurer.

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

9           “(3) PRIVATE SECTOR REPRESENTATIVES.—In  
10          making any appointment pursuant to subparagraphs  
11          (B) and (C) of paragraph (1), the President may  
12          seek recommendations for candidates from groups  
13          representing the category of individuals described,  
14          which shall not be binding on the President.

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

21          “(d) TERMS.—

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

25                  “(2) EXCEPTIONS.—

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

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

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

12           “(iii) 1 of the Board members initially  
13 appointed under paragraph (1)(C).

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

19           “(C) MID-TERM APPOINTMENTS.—A  
20 Board member appointed to fill a vacancy oc-  
21 ccurring before the expiration of the term for  
22 which the predecessor of the Board member  
23 was appointed shall be appointed only for the  
24 remainder of that term.

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

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

7           “(f) MEETINGS.—

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

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

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

12                   “(C) as otherwise provided by the bylaws  
13           of the Association.

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

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

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

23           “(g) RESTRICTION ON CONFIDENTIAL INFORMA-  
24           TION.—Board members appointed pursuant to subpara-  
25           graphs (B) and (C) of subsection (c)(1) shall not have ac-

1 cess to confidential information received by the Associa-  
2 tion in connection with complaints, investigations, or dis-  
3 ciplinary proceedings involving insurance producers.

4 “(h) ETHICS AND CONFLICTS OF INTEREST.—The  
5 Board shall issue and enforce an ethical conduct code to  
6 address permissible and prohibited activities of Board  
7 members and Association officers, employees, agents, or  
8 consultants. The code shall, at a minimum, include provi-  
9 sions that prohibit any Board member or Association offi-  
10 cer, employee, agent or consultant from—

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

13 “(2) participating in the making or influencing  
14 the making of any Association decision, the outcome  
15 of which the Board member, officer, employee,  
16 agent, or consultant knows or had reason to know  
17 would have a reasonably foreseeable material finan-  
18 cial effect, distinguishable from its effect on the pub-  
19 lic generally, on the person or a member of the im-  
20 mediate family of the person;

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

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

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

3           “(i) COMPENSATION.—

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

8           “(2) TRAVEL EXPENSES AND PER DIEM.—

9           Board members may be reimbursed only by the As-  
10          sociation for travel expenses, including per diem in  
11          lieu of subsistence, at rates consistent with rates au-  
12          thorized for employees of Federal agencies under  
13          subchapter I of chapter 57 of title 5, United States  
14          Code, while away from home or regular places of  
15          business in performance of services for the Associa-  
16          tion.

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

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

21          “(1) PROCEDURES.—The Association shall  
22          adopt procedures for the adoption of bylaws and  
23          standards that are similar to procedures under sub-  
24          chapter II of chapter 5 of title 5, United States

1 Code (commonly known as the Administrative Proce-  
2 dure Act).

3 “(2) COPY REQUIRED TO BE FILED.—The  
4 Board shall submit to the President, through the  
5 Department of the Treasury, and the States (includ-  
6 ing State insurance regulators), and shall publish on  
7 the website of the Association, all proposed bylaws  
8 and standards of the Association, or any proposed  
9 amendment to the bylaws or standards of the Asso-  
10 ciation, accompanied by a concise general statement  
11 of the basis and purpose of such proposal.

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

19 “(4) RULE OF CONSTRUCTION.—Nothing in  
20 this section shall be construed to subject the Board  
21 or the Association to the requirements of subchapter  
22 II of chapter 5 of title 5, United States Code (com-  
23 monly known as the Administrative Procedure Act).

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

1           “(1) SPECIFICATION OF CHARGES.—In any pro-  
2           ceeding to determine whether membership shall be  
3           denied, suspended, revoked, or not renewed, or to  
4           determine whether a member of the Association  
5           should be placed on probation (referred to in this  
6           section as a disciplinary action) or whether to assess  
7           fines or monetary penalties, the Association shall  
8           bring specific charges, notify the member of the  
9           charges, give the member an opportunity to defend  
10          against the charges, and keep a record.

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

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

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

19                 “(C) the sanction imposed and the reason  
20                 for the sanction.

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

1           “(A) participate in any disciplinary action  
2           or be counted toward establishing a quorum  
3           during a disciplinary action; and

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

6 **“SEC. 326. POWERS.**

7           “In addition to all the powers conferred upon a non-  
8           profit corporation by the District of Columbia Nonprofit  
9           Corporation Act, the Association shall have the power to—

10           “(1) establish and collect such membership fees  
11           as the Association finds necessary to impose to cover  
12           the costs of its operations;

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

16           “(3) establish procedures for providing notice  
17           and opportunity for comment pursuant to section  
18           325(a);

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

21           “(5) hire employees, professionals, or special-  
22           ists, and elect or appoint officers, and to fix their  
23           compensation, define their duties and give them ap-  
24           propriate authority to carry out the purposes of this  
25           subtitle, and determine their qualification;

1           “(6) establish personnel policies of the Associa-  
2           tion and programs relating to, among other things,  
3           conflicts of interest, rates of compensation, where  
4           applicable, and qualifications of personnel;

5           “(7) borrow money; and

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

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

12          “(a) IN GENERAL.—As soon as practicable after the  
13          close of each fiscal year, the Association shall submit to  
14          the President, through the Department of the Treasury,  
15          and the States (including State insurance regulators), and  
16          shall publish on the website of the Association, a written  
17          report regarding the conduct of its business, and the exer-  
18          cise of the other rights and powers granted by this sub-  
19          title, during such fiscal year.

20          “(b) FINANCIAL STATEMENTS.—Each report sub-  
21          mitted under subsection (a) with respect to any fiscal year  
22          shall include audited financial statements setting forth the  
23          financial position of the Association at the end of such  
24          fiscal year and the results of its operations (including the  
25          source and application of its funds) for such fiscal year.

1 **“SEC. 328. LIABILITY OF THE ASSOCIATION AND THE**  
2 **BOARD MEMBERS, OFFICERS, AND EMPLOY-**  
3 **EES OF THE ASSOCIATION.**

4 “(a) IN GENERAL.—The Association shall not be  
5 deemed to be an insurer or insurance producer within the  
6 meaning of any State law, rule, regulation, or order regu-  
7 lating or taxing insurers, insurance producers, or other en-  
8 tities engaged in the business of insurance, including pro-  
9 visions imposing premium taxes, regulating insurer sol-  
10 vency or financial condition, establishing guaranty funds  
11 and levying assessments, or requiring claims settlement  
12 practices.

13 “(b) LIABILITY OF BOARD MEMBERS, OFFICERS,  
14 AND EMPLOYEES.—No Board member, officer, or em-  
15 ployee of the Association shall be personally liable to any  
16 person for any action taken or omitted in good faith in  
17 any matter within the scope of their responsibilities in con-  
18 nection with the Association.

19 **“SEC. 329. PRESIDENTIAL OVERSIGHT.**

20 “(a) REMOVAL OF BOARD.—If the President deter-  
21 mines that the Association is acting in a manner contrary  
22 to the interests of the public or the purposes of this sub-  
23 title or has failed to perform its duties under this subtitle,  
24 the President may remove the entire existing Board for  
25 the remainder of the term to which the Board members  
26 were appointed and appoint, in accordance with section

1 324 and with the advice and consent of the Senate, in  
 2 accordance with the procedures established under Senate  
 3 Resolution 116 of the 112th Congress, new Board mem-  
 4 bers to fill the vacancies on the Board for the remainder  
 5 of the terms.

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

9 “(c) SUSPENSION OF BYLAWS AND STANDARDS AND  
 10 PROHIBITION OF ACTIONS.—Following notice to the  
 11 Board, the President, or a person designated by the Presi-  
 12 dent for such purpose, may suspend the effectiveness of  
 13 any bylaw or standard, or prohibit any action, of the Asso-  
 14 ciation that the President or the designee determines is  
 15 contrary to the purposes of this subtitle.

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

17 “(a) PREEMPTION OF STATE LAWS.—State laws,  
 18 regulations, provisions, or other actions purporting to reg-  
 19 ulate insurance producers shall be preempted to the extent  
 20 provided in subsection (b).

21 “(b) PROHIBITED ACTIONS.—

22 “(1) IN GENERAL.—No State shall—

23 “(A) impede the activities of, take any ac-  
 24 tion against, or apply any provision of law or  
 25 regulation arbitrarily or discriminatorily to, any

1 insurance producer because that insurance pro-  
2 ducer or any affiliate plans to become, has ap-  
3 plied to become, or is a member of the Associa-  
4 tion;

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

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

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

15 “(A) impose any licensing, personal or cor-  
16 porate qualifications, education, training, expe-  
17 rience, residency, continuing education, or  
18 bonding requirement upon a member of the As-  
19 sociation that is different from the criteria for  
20 membership in the Association or renewal of  
21 such membership;

22 “(B) impose any requirement upon a mem-  
23 ber of the Association that it be licensed, reg-  
24 istered, or otherwise qualified to do business or  
25 remain in good standing in the State, including

1 any requirement that the insurance producer  
2 register as a foreign company with the sec-  
3 retary of state or equivalent State official;

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

7 “(D) impose any licensing, registration, or  
8 appointment requirements upon a member of  
9 the Association, or require a member of the As-  
10 sociation to be authorized to operate as an in-  
11 surance producer, in order to sell, solicit, or ne-  
12 gotiate insurance for commercial property and  
13 casualty risks to an insured with risks located  
14 in more than one State, if the member is li-  
15 censed or otherwise authorized to operate in the  
16 State where the insured maintains its principal  
17 place of business and the contract of insurance  
18 insures risks located in that State.

19 “(3) PRESERVATION OF STATE DISCIPLINARY  
20 AUTHORITY.—Nothing in this section may be con-  
21 strued to prohibit a State from investigating and  
22 taking appropriate disciplinary action, including sus-  
23 pension or revocation of authority of an insurance  
24 producer to do business in a State, in accordance  
25 with State law and that is not inconsistent with the

1 provisions of this section, against a member of the  
2 Association as a result of a complaint or for any al-  
3 leged activity, regardless of whether the activity oc-  
4 curred before or after the insurance producer com-  
5 menced doing business in the State pursuant to As-  
6 sociation membership.

7 **“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY**  
8 **REGULATORY AUTHORITY.**

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

15 **“SEC. 332. RIGHT OF ACTION.**

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

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

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

2 “The Association may not receive, accept, or borrow  
3 any amounts from the Federal Government to pay for, or  
4 reimburse the Association for, the costs of establishing or  
5 operating the Association.

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) DEPOSITORY INSTITUTION.—The term de-  
14 pository institution has the meaning as in section 3  
15 of the Federal Deposit Insurance Act (12 U.S.C.  
16 1813).

17 “(3) HOME STATE.—The term home State  
18 means the State in which the insurance producer  
19 maintains its principal place of residence or business  
20 and is licensed to act as an insurance producer.

21 “(4) INSURANCE.—The term insurance means  
22 any product, other than title insurance or bail  
23 bonds, defined or regulated as insurance by the ap-  
24 propriate State insurance regulatory authority.

25 “(5) INSURANCE PRODUCER.—The term insur-  
26 ance producer means any insurance agent or broker,

1 excess or surplus lines broker or agent, insurance  
2 consultant, limited insurance representative, and any  
3 other individual or entity that sells, solicits, or nego-  
4 tiates policies of insurance or offers advice, counsel,  
5 opinions or services related to insurance.

6 “(6) INSURER.—The term insurer has the  
7 meaning as in section 313(e)(2)(B) of title 31,  
8 United States Code .

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

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

20 “(9) STATE.—The term State includes any  
21 State, the District of Columbia, any territory of the  
22 United States, and Puerto Rico, Guam, American  
23 Samoa, the Trust Territory of the Pacific Islands,  
24 the Virgin Islands, and the Northern Mariana Is-  
25 lands.

1 “(10) STATE LAW.—

2 “(A) IN GENERAL.—The term State law  
3 includes all laws, decisions, rules, regulations,  
4 or other State action having the effect of law,  
5 of any State.

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

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

“Subtitle C—National Association of Registered Agents and Brokers

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

“Sec. 322. Purpose.

“Sec. 323. Membership.

“Sec. 324. Board of directors.

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

“Sec. 326. Powers.

“Sec. 327. Report by the Association.

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

“Sec. 329. Presidential oversight.

“Sec. 330. Relationship to State law.

“Sec. 331. Coordination with Financial Industry Regulatory Authority.

“Sec. 332. Right of action.

“Sec. 333. Federal funding prohibited.

“Sec. 334. Definitions.”.

**Calendar No. 294**

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

**S. 1926**

**A BILL**

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and to reform the National Association of Registered Agents and Brokers, and for other purposes.

JANUARY 15, 2014

Read the second time and placed on the calendar