

111TH CONGRESS
1ST SESSION

H. R. 2554

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

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Mr. SCOTT of Georgia (for himself, Mr. NEUGEBAUER, Mr. AKIN, Mr. MEEKS of New York, Mr. WILSON of Ohio, Mr. DAVIS of Kentucky, Mr. KIND, Ms. MOORE of Wisconsin, Mrs. MYRICK, Mr. HOLDEN, Mr. JONES, Ms. FOXX, Mr. DONNELLY of Indiana, Mr. POMEROY, Ms. ROS-LEHTINEN, Ms. GINNY BROWN-WAITE of Florida, Mr. BARRETT of South Carolina, Mr. ROSS, Mr. CLAY, Mr. CHILDERS, Ms. KOSMAS, Mr. MILLER of North Carolina, Mr. MORAN of Kansas, Mr. MCHENRY, Mr. LEE of New York, Mr. MOORE of Kansas, Mr. PUTNAM, Mr. MELANCON, Ms. JENKINS, Mr. GERLACH, Mr. KANJORSKI, Mr. CAPUANO, Mr. ADLER of New Jersey, Mr. GARRETT of New Jersey, and Mr. BACHUS) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Association
5 of Registered Agents and Brokers Reform Act of 2009”.

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

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

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

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

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

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

15 “(1) be a nonprofit corporation;

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

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

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

1 **“SEC. 322. PURPOSE.**

2 “The purpose of the Association shall be to provide
3 a mechanism through which licensing, continuing edu-
4 cation, and other nonresident insurance producer quali-
5 fication requirements and conditions can be adopted and
6 applied on a multi-state basis (without affecting the laws,
7 rules, and regulations pertaining to resident insurance
8 producers or appointments or producing a net loss of pro-
9 ducer licensing revenues to States), while preserving the
10 right of States to license, supervise, discipline, and estab-
11 lish licensing fees for insurance producers, and to pre-
12 scribe and enforce laws and regulations with regard to in-
13 surance-related consumer protection and unfair trade
14 practices.

15 **“SEC. 323. MEMBERSHIP.**

16 “(a) **ELIGIBILITY.**—

17 “(1) **IN GENERAL.**—Any insurance producer li-
18 censed in its home State shall be eligible to become
19 a member of the Association.

20 “(2) **INELIGIBILITY FOR SUSPENSION OR REV-**
21 **OCATION OF LICENSE.**—Notwithstanding paragraph
22 (1), a State-licensed insurance producer shall not be
23 eligible to become a member if a State insurance
24 regulator has suspended or revoked such producer’s
25 license in that State during the 3-year period pre-

1 ceding the date on which such producer applies for
2 membership.

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

6 “(A) the State insurance regulator reissues
7 or renews the license of such producer in the
8 State in which the license was suspended or re-
9 voked; or

10 “(B) the suspension or revocation is subse-
11 quently overturned.

12 “(4) CRIMINAL BACKGROUND CHECK RE-
13 QUIRED.—

14 “(A) IN GENERAL.—A State-licensed in-
15 surance producer shall not be eligible to become
16 a member unless the producer has submitted to
17 a national criminal background record check.

18 “(B) CRIMINAL BACKGROUND CHECK OR-
19 DERED BY HOME STATE.—Any insurance pro-
20 ducer licensed in a State that, as a condition
21 for such licensure, requires the submission of
22 identification information to the Federal Bu-
23 reau of Investigation for a national criminal
24 background record check shall be deemed to
25 have submitted to a national criminal back-

1 ground record check for purposes of subpara-
2 graph (A).

3 “(C) CRIMINAL HISTORY CHECK ORDERED
4 BY ASSOCIATION.—

5 “(i) IN GENERAL.—The Association
6 may submit identification information ob-
7 tained from any State-licensed insurance
8 producer licensed in a State that has not
9 submitted to a national criminal back-
10 ground record check, and a request for a
11 national criminal background record check
12 of such producer, to the Federal Bureau of
13 Investigation.

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

22 “(D) ATTORNEY GENERAL AUTHORIZA-
23 TION.—Upon receiving a request from the Asso-
24 ciation, the Attorney General shall—

1 “(i) search any records of the Crimi-
2 nal Justice Information Services Division
3 of the Federal Bureau of Investigation
4 that the Attorney General deems appro-
5 priate for criminal history records cor-
6 responding to the identification informa-
7 tion provided under subparagraph (F);

8 “(ii) provide any relevant information
9 contained in such records that pertain to
10 the request directly to the Association; and

11 “(iii) destroy any fingerprints, finger-
12 print cards, or other copies or images of
13 fingerprints obtained pursuant to this sec-
14 tion upon completion of the criminal his-
15 tory record check.

16 “(E) RELEVANT INFORMATION DE-
17 FINED.—For purposes of subparagraph (D)(ii),
18 the term ‘relevant information’ means any of
19 the following records:

20 “(i) All felony convictions.

21 “(ii) All misdemeanor convictions in-
22 volving—

23 “(I) violation of a law involving
24 financial activities;

1 “(II) dishonesty or breach of
2 trust, within the meaning of section
3 1033 of title 18, United States Code,
4 including taking, withholding, mis-
5 appropriating, or converting money or
6 property;

7 “(III) failure to comply with
8 child support obligations;

9 “(IV) failure to pay taxes; and

10 “(V) domestic violence, child
11 abuse, burglary of a dwelling, or a
12 criminal offense that has as an ele-
13 ment the use or attempted use of
14 physical force, or threat of great bod-
15 ily harm, or the use, attempted use,
16 or threatened use of a deadly weapon,
17 against an individual, including com-
18 mitting or attempting to commit mur-
19 der, manslaughter, kidnapping, aggra-
20 vated assault, forcible sex offenses,
21 robbery, arson, extortion, and extor-
22 tionate extension of credit.

23 “(F) FORM OF REQUEST.—A request
24 under subparagraph (C) shall include a copy of
25 any necessary identification information re-

1 quired by the Attorney General concerning the
2 person about whom the record is requested and
3 a statement signed by the person acknowledging
4 that the Association may request the search.

5 “(G) LIMITATION ON PERMISSIBLE USES
6 OF INFORMATION.—Information obtained under
7 this section may—

8 “(i) be used only for regulatory or law
9 enforcement purposes or for purposes of
10 determining compliance with membership
11 criteria established by the Association;

12 “(ii) be disclosed only to the Associa-
13 tion, State insurance regulators, or Federal
14 or State law enforcement agencies; and

15 “(iii) be disclosed only if the recipient
16 agrees to—

17 “(I) maintain the confidentiality
18 of such information; and

19 “(II) limit the use of such infor-
20 mation to the purposes described in
21 clause (i).

22 “(H) APPLICANT ACCESS TO CRIMINAL
23 HISTORY RECORDS.—Notwithstanding subpara-
24 graph (G), an applicant shall have the right to
25 obtain a copy of any criminal history record in-

1 formation concerning the applicant that is pro-
2 vided to the Association pursuant to this sec-
3 tion.

4 “(I) PENALTY FOR IMPROPER USE.—Who-
5 ever uses any information obtained under this
6 section knowingly and willfully for an unauthor-
7 ized purpose shall be fined under title 18,
8 United States Code, imprisoned for not more
9 than 2 years, or both.

10 “(J) RELIANCE ON INFORMATION.—Nei-
11 ther the Association nor any of its directors, of-
12 ficers, or employees who reasonably rely on in-
13 formation provided under this section shall be
14 liable in any action for using information as
15 permitted under this section in good faith.

16 “(K) CLARIFICATION OF SECTION 1033.—

17 “(i) IN GENERAL.—With respect to
18 any action brought under section
19 1033(e)(1)(B) of title 18, United States
20 Code, no person engaged in the business of
21 conducting financial activities shall be sub-
22 ject to any penalty resulting from such sec-
23 tion if the individual whom the person per-
24 mitted to engage in the business of insur-
25 ance is a member of the Association or is

1 licensed, or approved (as part of an appli-
2 cation or otherwise), by a State insurance
3 regulator that performs criminal back-
4 ground checks, unless such person has ac-
5 tual knowledge that the individual is in
6 violation of section 1033(e)(1)(A) of such
7 title.

8 “(ii) FINANCIAL ACTIVITIES DE-
9 FINED.—For purposes of this subpara-
10 graph, the term ‘financial activities’—

11 “(I) means banking activities (in-
12 cluding the ownership of a bank), se-
13 curities activities, insurance activities,
14 or commodities activities; and

15 “(II) includes all activities that
16 are financial in nature or are inci-
17 dental to a financial activity (as de-
18 fined under section 4(k) of the Bank
19 Holding Company Act of 1956).

20 “(L) FEES.—The Attorney General may
21 charge a reasonable fee for the provision of in-
22 formation under this paragraph, and any such
23 fee shall be collected and remitted by the Asso-
24 ciation.

1 “(M) RULE OF CONSTRUCTION.—No provi-
2 sion of this paragraph shall be construed as—

3 “(i) requiring a State insurance regu-
4 lator to perform criminal background
5 checks under this section; or

6 “(ii) superseding or otherwise limiting
7 any other authority that allows access to
8 criminal background records.

9 “(N) REGULATIONS.—The Attorney Gen-
10 eral may prescribe regulations to carry out this
11 paragraph.

12 “(O) INELIGIBILITY FOR MEMBERSHIP.—

13 “(i) IN GENERAL.—The Association
14 may deny membership to any State-li-
15 censed insurance producer on the basis of
16 criminal history information obtained pur-
17 suant to subparagraph (D).

18 “(ii) RIGHTS OF APPLICANTS DENIED
19 MEMBERSHIP.—The Association shall no-
20 tify any applicant who is denied member-
21 ship on the basis of criminal history record
22 information obtained pursuant to subpara-
23 graph (D) of the right of the applicant
24 to—

1 “(I) obtain a copy of any such
2 criminal history record information
3 provided to the Association; and

4 “(II) challenge the accuracy and
5 completeness of the information.

6 “(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRI-
7 TERIA.—The Association may establish membership cri-
8 teria that—

9 “(1) bear a reasonable relationship to the pur-
10 poses for which the Association was established; and

11 “(2) do not unfairly limit the access of smaller
12 agencies to the Association membership, including
13 imposing discriminatory membership fees on smaller
14 insurance producers.

15 “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES
16 OF MEMBERSHIP.—

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

23 “(2) CATEGORIES.—

24 “(A) SEPARATE CATEGORIES FOR PRO-
25 DUCERS PERMITTED.—The Association may es-

1 tabish separate categories of membership for
2 producers and for other persons within each
3 class, based on the types of licensing categories
4 that exist under State laws.

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

12 “(d) MEMBERSHIP CRITERIA.—

13 “(1) IN GENERAL.—The Association may estab-
14 lish criteria for membership which shall include
15 standards for personal qualifications, education,
16 training, and experience.

17 “(2) QUALIFICATIONS.—In establishing criteria
18 under paragraph (1), the Association shall consider
19 the NAIC Producer Licensing Model Act and the
20 highest levels of insurance producer qualifications
21 established under the licensing laws of the States.

22 “(3) ASSISTANCE FROM STATES.—

23 “(A) IN GENERAL.—The Association may
24 request a State to provide assistance in inves-

1 tigating and evaluating a prospective member’s
2 eligibility for membership in the Association.

3 “(B) RULE OF CONSTRUCTION.—Subpara-
4 graph (A) shall not be construed as requiring or
5 authorizing any State to adopt new or addi-
6 tional requirements concerning the licensing or
7 evaluation of insurance producers.

8 “(4) DENIAL OF MEMBERSHIP.—The Associa-
9 tion may deny membership to any State-licensed in-
10 surance producer for failure to meet the membership
11 criteria established by the Association.

12 “(e) EFFECT OF MEMBERSHIP.—

13 “(1) AUTHORITY OF ASSOCIATION MEMBERS.—
14 Membership in the Association shall—

15 “(A) authorize an insurance producer to
16 sell, solicit, negotiate, effect, procure, deliver,
17 renew, continue, or bind insurance in any State
18 for which the member pays the licensing fee set
19 by such State for any line or lines of insurance
20 specified in such producer’s home State license,
21 and exercise all such incidental powers, as shall
22 be necessary to carry out such activities, includ-
23 ing claims adjustments and settlement, risk
24 management, employee benefits advice, retire-

1 ment planning, and any other insurance-related
2 consulting activities;

3 “(B) be the equivalent of a nonresident in-
4 surance producer license issued in any State
5 where the member pays the licensing fee; and

6 “(C) subject an insurance producer to all
7 laws, regulations, provisions or other action of
8 any State concerning revocation or suspension
9 of a member’s ability to engage in any activity
10 within the scope of authority granted under this
11 subsection and to all State laws, regulations,
12 provisions and actions preserved under para-
13 graph (5).

14 “(2) DUPLICATIVE LICENSES.—No State, other
15 than the member’s home State, may require an indi-
16 vidual member to obtain a business entity license or
17 membership in order to engage in any activity within
18 the scope of authority granted in paragraph (1) or
19 in order for the member or any employer, employee,
20 or affiliate of the member to receive compensation
21 for the member’s performance of any such activity.

22 “(3) AGENT FOR REMITTING FEES.—The Asso-
23 ciation shall act as any member’s agent for purposes
24 of remitting licensing fees to any State pursuant to
25 paragraph (1).

1 “(4) REGULATOR NOTIFICATION.—The Associa-
2 tion shall notify the National Association of Insur-
3 ance Commissioners (hereinafter in this subtitle re-
4 ferred to as the ‘NAIC’) or its designee when a pro-
5 ducer becomes a member and identify, on an ongo-
6 ing basis, the States in which the member is author-
7 ized to operate.

8 “(5) PRESERVATION OF STATE CONSUMER PRO-
9 TECTION AND MARKET CONDUCT REGULATION.—No
10 provision of this section shall be construed as alter-
11 ing or affecting the continuing effectiveness of any
12 law, regulation, provision, or other action of any
13 State which purports to regulate market conduct or
14 unfair trade practices or establish consumer protec-
15 tions to the extent that such law, regulation, provi-
16 sion, or other action is not inconsistent with the pro-
17 visions of this subtitle, and then only to the extent
18 of such inconsistency.

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

21 “(g) CONTINUING EDUCATION.—

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

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

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

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

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

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

18 “(1) DISCIPLINARY ACTION.—The Association
19 may place an insurance producer that is a member
20 of the Association on probation or suspend or revoke
21 such producer’s membership in the Association, as
22 the Association determines to be appropriate, if—

23 “(A) the producer fails to meet the appli-
24 cable membership criteria of the Association; or

1 “(B) the producer has been subject to dis-
2 ciplinary action pursuant to a final adjudicatory
3 proceeding under the jurisdiction of a State in-
4 surance regulator.

5 “(2) REPORTING TO STATE REGULATORS.—The
6 Association shall notify the NAIC or its designee
7 when a producer’s membership has been suspended,
8 revoked, and otherwise terminated.

9 “(i) CONSUMER COMPLAINTS.—

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

11 “(A) receive and, when appropriate, inves-
12 tigate complaints from both consumers and
13 State insurance regulators related to members
14 of the Association;

15 “(B) refer any proper complaint received
16 in accordance with subparagraph (A) and make
17 any related records and information available to
18 the NAIC or its designee and to each State in-
19 surance regulator for the State of residence of
20 the consumer who filed the complaint; and

21 “(C) refer, when appropriate, any such
22 complaint to any additional appropriate State
23 insurance regulator.

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

1 ber for the purpose of this subsection and, as prac-
 2 ticable, other alternative means of communication
 3 with consumers, such as an Internet web page.

4 **“SEC. 324. BOARD OF DIRECTORS.**

5 “(a) ESTABLISHMENT.—There is established the
 6 board of directors of the Association (hereafter in this sub-
 7 title referred to as the ‘Board’) for the purpose of gov-
 8 erning and supervising the activities of the Association.

9 “(b) POWERS.—The Board shall have such powers
 10 and authority as may be specified in the bylaws of the
 11 Association.

12 “(c) COMPOSITION.—

13 “(1) IN GENERAL.—The Board shall consist of
 14 11 members who shall be appointed by the Presi-
 15 dent, by and with the advice and consent of the Sen-
 16 ate, of whom—

17 “(A) 6 shall be State insurance commis-
 18 sioners appointed in the manner provided in
 19 paragraph (2),

20 “(B) 2 shall be representatives of property
 21 and casualty insurance producers,

22 “(C) 1 shall be a representative of life or
 23 health insurance producers,

24 “(D) 1 shall be a representative of prop-
 25 erty and casualty insurers, and

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

3 “(2) STATE INSURANCE REGULATOR REP-
4 RESENTATIVES.—

5 “(A) In making any appointments pursu-
6 ant to subparagraph (A) of paragraph (1), the
7 President shall solicit a list of recommended
8 candidates from the NAIC. If the NAIC fails to
9 submit list of recommendations within 15 days
10 of the request, the President shall make the
11 requisite appointments without considering the
12 views of the NAIC.

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

17 “(C) If fewer than 6 State insurance com-
18 missioners accept appointment to the Board,
19 the President may appoint the remaining State
20 insurance commissioner members of the Board
21 from among individuals who are former State
22 insurance commissioners, provided that any
23 former insurance commissioner appointed by
24 the President shall not be employed by or have
25 a present direct or indirect financial interest in

1 any insurer or other entity in the insurance in-
2 dustry other than direct or indirect ownership
3 of, or beneficial interest in, any insurance policy
4 or annuity contract written or sold by an in-
5 surer.

6 “(3) PRIVATE SECTOR REPRESENTATIVES.—In
7 making any appointments pursuant to subpara-
8 graphs (B) through (E) of paragraph (1), the Presi-
9 dent may seek recommended candidates from na-
10 tional trade associations representing the category of
11 individuals described.

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

18 “(d) TERMS.—

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

21 “(A) the term of—

22 “(i) 3 of the State insurance commis-
23 sioner members of the Board initially ap-
24 pointed under subparagraph (A) of para-
25 graph (1),

1 “(ii) 1 of the property and casualty
2 insurance producer members of the Board
3 initially appointed under subparagraph (B)
4 of paragraph (1), and

5 “(iii) 1 of the insurer representative
6 members of the Board initially appointed
7 under subparagraphs (D) and (E) of para-
8 graph (1),

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

11 “(B) a member of the Board may continue
12 to serve after the expiration of the term to
13 which such member was appointed until a suc-
14 cessor is qualified; and

15 “(C) any member of the Board appointed
16 to fill a vacancy occurring before the expiration
17 of the term for which the member’s predecessor
18 was appointed shall be appointed only for the
19 remainder of that term.

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

22 “(e) MEETINGS.—

23 “(1) IN GENERAL.—The Board shall meet at
24 the call of the chairperson, as requested in writing
25 to the chairperson by at least four members of the

1 Board, or as otherwise provided by the bylaws of the
2 Association.

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

5 “(3) VOTING.—Decisions of the Board shall re-
6 quire the approval of a majority of all directors
7 present at a meeting.

8 **“SEC. 325. OFFICERS.**

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

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

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

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

20 “(1) COPY REQUIRED TO BE FILED.—The
21 board of directors of the Association shall submit to
22 the President and the NAIC any proposed bylaw or
23 rules of the Association or any proposed amendment
24 to the bylaws or rules, accompanied by a concise

1 general statement of the basis and purpose of such
2 proposal.

3 “(2) EFFECTIVE DATE.—Any proposed bylaw
4 or rule or proposed amendment to the bylaws or
5 rules shall take effect, after notice published in the
6 Federal Register and opportunity for comment, upon
7 such date as the Association may designate.

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

9 “(1) SPECIFICATION OF CHARGES.—In any pro-
10 ceeding to determine whether membership shall be
11 denied, suspended, revoked, or not renewed (here-
12 after in this section referred to as a ‘disciplinary ac-
13 tion’) or to determine whether a member of the As-
14 sociation should be placed on probation, the Associa-
15 tion shall bring specific charges, notify such member
16 of such charges, give the member an opportunity to
17 defend against the charges, and keep a record.

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

21 “(A) any act or practice in which such
22 member has been found to have been engaged;

23 “(B) the specific provision of this subtitle,
24 the rules or regulations under this subtitle, or

1 the rules of the Association which any such act
2 or practice is deemed to violate; and

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

5 **“SEC. 327. POWERS.**

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

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

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

16 “(3) To establish procedures for providing no-
17 tice and opportunity for comment pursuant to sec-
18 tion 326(a).

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

21 “(5) To 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; and to es-

1 establish the Association’s personnel policies and pro-
2 grams relating to, among other things, conflicts of
3 interest, rates of compensation. and qualifications of
4 personnel.

5 “(6) To borrow money.

6 “(7) To secure funding from board member or-
7 ganizations and other industry associations for such
8 amounts that the Association determines to be nec-
9 essary and appropriate to organize and begin oper-
10 ations of the Association, which shall be treated as
11 loans to be repaid by the Association with interest
12 at market rate.

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

14 “(a) IN GENERAL.—As soon as practicable after the
15 close of each fiscal year, the Association shall submit to
16 the President and the NAIC a written report regarding
17 the conduct of its business, and the exercise of the other
18 rights and powers granted by this subtitle, during such
19 fiscal year.

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

1 **“SEC. 329. LIABILITY OF THE ASSOCIATION AND THE DI-**
2 **RECTORS, OFFICERS, AND EMPLOYEES OF**
3 **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 THE ASSOCIATION, ITS DIREC-
14 TORS, OFFICERS, AND EMPLOYEES.—Neither the Associa-
15 tion nor any of its directors, officers, or employees shall
16 have any liability to any person for any action taken or
17 omitted in good faith under or in connection with any mat-
18 ter subject to this subtitle.

19 **“SEC. 330. PRESIDENTIAL OVERSIGHT.**

20 “(a) REMOVAL.—If the President determines that the
21 Association is acting in a manner contrary to the interests
22 of the public or the purposes of this subtitle or has failed
23 to perform its duties under this subtitle, the President
24 may remove the entire existing Board for the remainder
25 of the term to which the members of the Board were ap-
26 pointed and appoint, in accordance with section 324 and

1 with the advice and consent of the Senate, new members
2 to fill the vacancies on the Board for the remainder of
3 such terms.

4 “(b) REMOVAL OF BOARD MEMBERS.—The Presi-
5 dent may remove a member of the Board only for neglect
6 of duty or malfeasance in office.

7 “(c) SUSPENSION OF RULES OR ACTIONS.—The
8 President, or a person designated by the President for
9 such purpose, may suspend the effectiveness of any rule,
10 or prohibit any action, of the Association which the Presi-
11 dent or the designee determines is contrary to the pur-
12 poses of this subtitle.

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

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

18 “(b) PROHIBITED ACTIONS.—

19 “(1) IN GENERAL.—No State shall—

20 “(A) impede the activities of, take any ac-
21 tion against, or apply any provision of law or
22 regulation to, any insurance producer because
23 that insurance producer or any affiliate plans to
24 become, has applied to become, or is a member
25 of the Association;

1 “(B) impose any requirement upon a mem-
2 ber of the Association that it pay fees different
3 from those required to be paid to that State
4 were it not a member of the Association;

5 “(C) impose any continuing education re-
6 quirements on nonresident insurance producers;
7 or

8 “(D) impose any licensing, registration, or
9 appointment requirements upon any non-
10 resident insurance producer that sells, solicits,
11 negotiates, effects, procures, delivers, renews,
12 continues, or binds insurance for commercial
13 property and casualty risks to an insured with
14 risks located in more than 1 State, provided
15 that such nonresident insurance producer is
16 otherwise licensed as an insurance producer in
17 the State where the insured maintains its prin-
18 cipal place of business and the contract of in-
19 surance insures risks located in that State.

20 “(2) STATES OTHER THAN A HOME STATE.—
21 No State, other than a member’s home State,
22 shall—

23 “(A) impose any licensing, integrity, per-
24 sonal or corporate qualifications, education,
25 training, experience, residency, continuing edu-

1 cation, or bonding requirement upon a member
2 of the Association that is different from the cri-
3 teria for membership in the Association or re-
4 newal of such membership;

5 “(B) impose any requirement upon a mem-
6 ber of the Association that it be licensed, reg-
7 istered, or otherwise qualified to do business or
8 remain in good standing in such State, includ-
9 ing any requirement that such insurance pro-
10 ducer register as a foreign company with the
11 secretary of state or equivalent State official; or

12 “(C) require that a member of the Associa-
13 tion submit to a criminal history record check
14 as a condition of doing business in such State.

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

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

18 “(1) establish a central clearinghouse, or utilize
19 the NAIC or any other entity as a central clearing-
20 house, through which members of the Association
21 may pursuant to section 323(e) disclose their intent
22 to operate in 1 or more States and pay the licensing
23 fees to the appropriate States; and

24 “(2) establish a national database for the collec-
25 tion of regulatory information concerning the activi-

1 ties of insurance producers or contract with the
2 NAIC or any other entity to utilize such a database.

3 “(b) COORDINATION WITH THE FINANCIAL INDUS-
4 TRY REGULATORY AUTHORITY.—The Association shall
5 coordinate with the Financial Industry Regulatory Au-
6 thority in order to ease any administrative burdens that
7 fall on persons that are members of both associations, con-
8 sistent with the purposes of this subtitle and the Federal
9 securities laws.

10 **“SEC. 333. JUDICIAL REVIEW AND ENFORCEMENT.**

11 “(a) JURISDICTION.—The appropriate United States
12 district court shall have exclusive jurisdiction over litiga-
13 tion to which the Association is a party or any matter aris-
14 ing under this subtitle, including disputes between the As-
15 sociation and its members that arise under this subtitle,
16 subject to chapter 7 of title 5, United States Code.

17 “(b) EXHAUSTION OF REMEDIES.—An aggrieved
18 person shall be required to exhaust all available adminis-
19 trative remedies before the Association before it may seek
20 judicial review of an Association decision.

21 “(c) EQUAL WEIGHT AND DEFERENCE.—In any
22 other proceeding involving this subtitle, the court shall
23 give at least equal weight and deference to the interpreta-
24 tions of the Association as would be given to any State

1 or Federal agency with respect to any law, regulation, in-
2 terpretation, or order addressing the same issues.

3 **“SEC. 334. DEFINITIONS.**

4 “For purposes of this subtitle, the following defini-
5 tions shall apply:

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

10 “(2) INSURANCE.—The term ‘insurance’ means
11 any product, other than title insurance, defined or
12 regulated as insurance by the appropriate State in-
13 surance regulatory authority.

14 “(3) INSURANCE PRODUCER.—The term ‘insur-
15 ance producer’ means any insurance agent or
16 broker, excess or surplus lines broker or agent, in-
17 surance consultant, limited insurance representative,
18 and any other individual or entity that solicits, nego-
19 tiates, effects, procures, delivers, renews, continues
20 or binds policies of insurance or offers advice, coun-
21 sel, opinions or services related to insurance.

22 “(4) STATE.—The term ‘State’ includes any
23 State, the District of Columbia, any territory of the
24 United States, and Puerto Rico, Guam, American
25 Samoa, the Trust Territory of the Pacific Islands,

1 the Virgin Islands, and the Northern Mariana Is-
2 lands.

3 “(5) STATE LAW.—

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

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

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

“Subtitle C—National Association of Registered Agents and Brokers

“Sec. 321. National association of registered agents and brokers.

“Sec. 322. Purpose.

“Sec. 323. Membership.

“Sec. 324. Board of directors.

“Sec. 325. Officers.

“Sec. 326. Bylaws, rules, and disciplinary action.

“Sec. 327. Powers.

“Sec. 328. Report by association.

“Sec. 329. Liability of the association and the directors, officers, and employees
of the association.

“Sec. 330. Presidential oversight.

“Sec. 331. Relationship to State law.

“Sec. 332. Coordination with other regulators.

“Sec. 333. Judicial review and enforcement.

“Sec. 334. Definitions.”.

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