

109TH CONGRESS
2^D SESSION

S. 4025

To strengthen antitrust enforcement in the insurance industry.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2006

Mr. SPECTER (for himself, Mr. LOTT, Mr. LEAHY, and Ms. LANDRIEU) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To strengthen antitrust enforcement in the insurance industry.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Insurance Industry
5 Antitrust Enforcement Act of 2006”.

6 **SEC. 2. AMENDMENTS.**

7 Section 2(b) of the Act of March 9, 1945 (15 U.S.C.
8 1012(b)), commonly known as the McCarran-Ferguson
9 Act, is amended by—

1 (1) inserting “section 5 of” after “Clayton Act,
2 and”;

3 (2) inserting “as section 5 relates to unfair
4 methods of competition,” after “Commission Act, as
5 amended,”;

6 (3) striking “to the extent that” and all that
7 follows through “law.” and inserting the following:
8 “except to the extent—

9 “(1) the conduct of a person engaged in the
10 business of insurance is undertaken pursuant to a
11 clearly articulated policy of a State that is actively
12 supervised by that State; or

13 “(2) the conduct involves a third party not en-
14 gaged in the business of insurance—

15 “(A) that collects, compiles or disseminates
16 aggregated historical loss data;

17 “(B) that develops and disseminates stand-
18 ardized insurance policy forms, contracts
19 addendums or language; or

20 “(C) that—

21 “(i) facilitates other joint conduct
22 pursuant to guidelines issued by the Fed-
23 eral Trade Commission or existing law;
24 and

25 “(ii) does not include—

1 “(I) exchanging information
2 among competitors relating to sales,
3 profitability, prices, marketing, or dis-
4 tribution of any product, process, or
5 service that is not reasonably required
6 for the purposes enumerated in sub-
7 paragraph (A) or (B);

8 “(II) entering into any agree-
9 ment or engaging in any other con-
10 duct that would allocate a market
11 with a competitor; or

12 “(III) entering into any agree-
13 ment or conspiracy that would set or
14 restrain prices of any good or serv-
15 ice.”; and

16 (4) adding at the end the following:

17 “Except as it relates to unfair methods of competition,
18 the Federal Trade Commission Act shall be applicable to
19 the business of insurance to the extent that such business
20 is not regulated by State law.”.

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