

112TH CONGRESS  
1ST SESSION

# H. R. 3559

To prohibit the Federal Insurance Office of the Department of the Treasury and other financial regulators from collecting data directly from an insurance company.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 5, 2011

Mr. STIVERS introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit the Federal Insurance Office of the Department of the Treasury and other financial regulators from collecting data directly from an insurance company.

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 Data Pro-  
5 tection Act”.

1 **SEC. 2. REPEAL OF SUBPOENA AND ENFORCEMENT AU-**  
2 **THORITY.**

3 Subsection (e) of section 313 of title 31, United  
4 States Code, is amended by striking paragraph (6).

5 **SEC. 3. CONFIDENTIALITY BY FEDERAL INSURANCE OF-**  
6 **FICE.**

7 Paragraph (5) of section 313(e) of title 31, United  
8 States Code, is amended—

9 (1) in subparagraph (A), by inserting after “Of-  
10 fice” the following: “and the sharing of any nonpub-  
11 licly available data with or by the Office among  
12 other Federal agencies, the State insurance regu-  
13 lators and their collective agents, or any other enti-  
14 ties”;

15 (2) in subparagraph (C)(ii), by inserting “any  
16 privilege referred to in subparagraph (A) and” after  
17 “including”; and

18 (3) in subparagraph (D), by inserting “includ-  
19 ing the exceptions thereunder,” after “United States  
20 Code,”.

21 **SEC. 4. LIMITATION ON SUBPOENAS BY THE OFFICE OF FI-**  
22 **NANCIAL RESEARCH.**

23 Section 153(f)(1) of the Dodd-Frank Wall Street Re-  
24 form and Consumer Protection Act is amended by insert-  
25 ing after “financial company,” the following: “other than

1 an insurance company (as defined under section  
2 201(a)(13)),”.

3 **SEC. 5. CONFIDENTIALITY BY FINANCIAL REGULATORS.**

4 (a) IN GENERAL.—Title I of the Dodd-Frank Wall  
5 Street Reform and Consumer Protection Act is amended  
6 by inserting at the end the following:

7 **“Subtitle D—Treatment of Data**  
8 **Collected From Insurance Com-**  
9 **panies**

10 **“SEC. 181. TREATMENT OF DATA COLLECTED FROM INSUR-**  
11 **ANCE COMPANIES BY FINANCIAL REGU-**  
12 **LATORS.**

13 “(a) ADVANCE COORDINATION.—Before collecting  
14 any data or information from a nonbank financial com-  
15 pany that is an insurance company pursuant to this title  
16 or title II, a financial regulator shall coordinate with each  
17 relevant Federal agency and State insurance regulator and  
18 any publicly available sources to determine if the informa-  
19 tion to be collected is available from, and may be obtained  
20 in a timely manner by, such Federal agency or State in-  
21 surance regulator, individually or collectively, other regu-  
22 latory agency, or publicly available sources. If the financial  
23 regulator determines that such data or information is  
24 available, and may be obtained in a timely manner, from  
25 such an agency, regulator, regulatory agency, or source,

1 the financial regulator shall obtain the data or information  
2 from such agency, regulator, regulatory agency, or source.  
3 If the financial regulator determines that such data or in-  
4 formation is not so available, the financial regulator may  
5 collect such data or information from an insurance com-  
6 pany only if the financial regulator complies with the re-  
7 quirements of subchapter I of chapter 35 of title 44,  
8 United States Code (relating to Federal information pol-  
9 icy; commonly known as the Paperwork Reduction Act),  
10 in collecting such data or information. Notwithstanding  
11 any other provision of law, each such relevant Federal  
12 agency and State insurance regulator or other Federal or  
13 State regulatory agency is authorized to provide to the fi-  
14 nancial regulator such data or information.

15 “(b) CONFIDENTIALITY.—

16 “(1) RETENTION OF PRIVILEGE.—The sharing  
17 by a nonbank financial company that is an insurance  
18 company of any nonpublicly available data and infor-  
19 mation with a financial regulator under this title or  
20 title II shall not constitute a waiver of, or otherwise  
21 affect, any privilege arising under Federal or State  
22 law (including the rules of any Federal or State  
23 court) to which the data or information is otherwise  
24 subject.

1           “(2) CONTINUED APPLICATION OF PRIOR CON-  
2       FIDENTIALITY AGREEMENTS.—Any requirement  
3       under Federal or State law to the extent otherwise  
4       applicable, or any requirement pursuant to a written  
5       agreement in effect between the original source of  
6       any nonpublicly available data or information and  
7       the source of such data or information to the finan-  
8       cial regulator, regarding the privacy or confiden-  
9       tiality of any data or information in the possession  
10      of the source to a financial regulator, shall continue  
11      to apply to such data or information after the data  
12      or information has been provided pursuant to this  
13      subsection to the financial regulator.

14           “(3) INFORMATION-SHARING AGREEMENT.—  
15      Any data or information obtained by a financial reg-  
16      ulator may be made available to State insurance reg-  
17      ulators, individually or collectively, through an infor-  
18      mation-sharing agreement that—

19                   “(A) shall comply with applicable Federal  
20                   law; and

21                   “(B) shall not constitute a waiver of, or  
22                   otherwise affect, any privilege under Federal or  
23                   State law (including any privilege referred to in  
24                   paragraph (1) and the rules of any Federal or

1 State court) to which the data or information is  
 2 otherwise subject.

3 “(4) AGENCY DISCLOSURE REQUIREMENTS.—  
 4 Section 552 of title 5, United States Code, including  
 5 the exceptions thereunder, shall apply to any data or  
 6 information submitted to a financial regulator by a  
 7 nonbank financial company that is an insurance  
 8 company.

9 “(c) DEFINITIONS.—For purposes of this section:

10 “(1) FINANCIAL REGULATOR.—The term ‘fi-  
 11 nancial regulator’ means the Commission, the Com-  
 12 modity Futures Trading Commission, the Council,  
 13 the Federal banking agencies, and the Office of Fi-  
 14 nancial Research.

15 “(2) INSURANCE COMPANY.—The term ‘insur-  
 16 ance company’ has the meaning given such term  
 17 under section 201(a)(13).”.

18 (b) TECHNICAL AMENDMENT.—The table of contents  
 19 for such Act is amended by inserting after the item relat-  
 20 ing to section 176 the following:

“Subtitle D—Treatment of data collected from insurance companies

“Sec. 181. Treatment of Data Collected From Insurance Companies by  
 Financial Regulators.”.

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