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113TH CONGRESS
2^D SESSION

H. R. 4871

[Report No. 113-523]

To reauthorize the Terrorism Risk Insurance Act of 2002, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2014

Mr. NEUGEBAUER (for himself and Mr. WESTMORELAND) introduced the following bill; which was referred to the Committee on Financial Services

JULY 16, 2014

Additional sponsors: Mr. ROYCE, Mr. BACHUS, Mr. MULVANEY, Mr. MCHENRY, Mr. GARRETT, Mr. STIVERS, Mr. FINCHER, Mr. HUIZENGA of Michigan, Mr. ROSS, Ms. GRANGER, Mr. OLSON, Mr. CARTER, Mr. SMITH of Texas, Mr. SAM JOHNSON of Texas, Mr. THORNBERRY, Mr. CULBERSON, Mr. SESSIONS, Mr. CONAWAY, Mr. WEBER of Texas, Mr. STOCKMAN, Mr. HALL, Mr. MARCHANT, Mr. DUFFY, Mr. LUETKEMEYER, Mr. HURT, Mr. ROGERS of Alabama, and Mr. JOLLY

JULY 16, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 17, 2014]

A BILL

To reauthorize the Terrorism Risk Insurance Act of 2002,
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 AND TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
 5 *“TRIA Reform Act of 2014”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
 7 *this Act is as follows:*

Sec. 1. Short title and table of contents.

TITLE I—TRIA REFORM

Sec. 101. References.

Sec. 102. Extension of program.

Sec. 103. Certification of acts of terrorism.

Sec. 104. Separate treatment of conventional terrorism from NBCR terrorism.

Sec. 105. Availability of coverage.

Sec. 106. Terrorism loss risk-spreading premiums amount.

Sec. 107. Increase of aggregate retention amount; mandatory recoupment.

Sec. 108. Terrorism loss risk-spreading premium.

Sec. 109. Risk-sharing mechanisms.

Sec. 110. Reporting of terrorism insurance data.

Sec. 111. Delivery of notices to policyholders.

Sec. 112. Definition of control.

Sec. 113. Annual study of small insurer market competitiveness.

Sec. 114. CBO and OMB studies regarding budgeting for costs of Federal insur-
ance programs.

Sec. 115. GAO study on upfront premiums and capital reserve fund.

**TITLE II—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND
 BROKERS REFORM**

Sec. 201. Short title.

Sec. 202. Reestablishment of the National Association of Registered Agents and
Brokers.

8 **TITLE I—TRIA REFORM**

9 **SEC. 101. REFERENCES.**

10 *Except as otherwise expressly provided, wherever in*
 11 *this title an amendment or repeal is expressed in terms of*
 12 *an amendment to, or repeal of, a section or other provision,*
 13 *the reference shall be considered to be made to a section or*

1 *other provision of the Terrorism Risk Insurance Act of 2002*
2 *(15 U.S.C. 6701 note).*

3 **SEC. 102. EXTENSION OF PROGRAM.**

4 *(a) IN GENERAL.—Subsection (a) of section 108 (15*
5 *U.S.C. 6701 note) is amended by striking “December 31,*
6 *2014” and inserting “December 31, 2019”.*

7 *(b) PROGRAM YEARS.—Subparagraph (G) of section*
8 *102(11) (15 U.S.C. 6701 note) is amended by striking*
9 *“2014” and inserting “2019”.*

10 **SEC. 103. CERTIFICATION OF ACTS OF TERRORISM.**

11 *(a) IN GENERAL.—Paragraph (1) of section 102 (15*
12 *U.S.C. 6701 note) is amended—*

13 *(1) in subparagraph (A), in the matter preceding*
14 *clause (i), by striking “concurrence with the Secretary*
15 *of State” and inserting “consultation with the Sec-*
16 *retary of Homeland Security”;*

17 *(2) in subparagraph (B)—*

18 *(A) in clause (i), by striking “; or” and in-*
19 *serting a period;*

20 *(B) by striking clause (ii); and*

21 *(C) by striking “terrorism if—” and all*
22 *that follows through “(i) the act” and inserting*
23 *“terrorism if the act”;*

24 *(3) by redesignating subparagraphs (C) and (D)*
25 *as subparagraphs (E) and (G), respectively;*

1 (4) by inserting after subparagraph (B) the fol-
2 lowing new subparagraph:

3 “(C) *TIMING OF CERTIFICATION.*—

4 “(i) *PRELIMINARY CERTIFICATION NO-*
5 *TICE.*—*The Secretary shall issue a prelimi-*
6 *nary certification notice indicating whether*
7 *an act is expected to be a certified act of*
8 *terrorism not later than 15 days after—*

9 “(I) *the date of the occurrence of*
10 *a potential act of terrorism; or*

11 “(II) *the receipt of a petition seek-*
12 *ing a preliminary certification deci-*
13 *sion submitted by an insurer having*
14 *an in-force policy or policies that could*
15 *be affected by a certification decision.*

16 “(ii) *FINAL CERTIFICATION NOTICE.*—
17 *Not later than 90 days after the date of the*
18 *occurrence of a potential act of terrorism or*
19 *the receipt of a petition submitted to the*
20 *Secretary pursuant to clause (i)(II), the*
21 *Secretary shall issue a final certification*
22 *notice indicating whether an act is a cer-*
23 *tified act of terrorism for purposes of this*
24 *Act.*

1 “(iii) *RULE OF CONSTRUCTION.*—*Fail-*
2 *ure to issue a preliminary certification no-*
3 *tice under clause (i) shall not prevent the*
4 *Secretary from issuing a final certification*
5 *notice under clause (ii).”; and*

6 (5) *by inserting before subparagraph (G), as so*
7 *redesignated by paragraph (3) of this subsection, the*
8 *following new subparagraph:*

9 “(F) *FAILURE TO MAKE DETERMINATION.*—
10 *If the Secretary does not certify, or make a deter-*
11 *mination not to certify, an act as an act of ter-*
12 *rorism before the expiration of the 90-day period*
13 *beginning on the occurrence of such act, such act*
14 *shall be treated for purposes of this Act as hav-*
15 *ing been determined by the Secretary not to be*
16 *an act of terrorism and such determination shall*
17 *be final and shall not be subject to judicial re-*
18 *view.”.*

19 (b) *APPLICABILITY.*—*The amendments made by sub-*
20 *section (a) shall apply to the Program Year for the Ter-*
21 *rorism Insurance Program established by title I of the Ter-*
22 *rorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note)*
23 *that begins on January 1, 2015, and Program Years there-*
24 *after.*

1 **SEC. 104. SEPARATE TREATMENT OF CONVENTIONAL TER-**
2 **RORISM FROM NBCR TERRORISM.**

3 (a) *DEFINITION.*—

4 (1) *IN GENERAL.*—Section 102 (15 U.S.C. 6701
5 note) is amended—

6 (A) in paragraph (1), by inserting after
7 subparagraph (C), as added by section 103(a)(4)
8 of this Act, the following new subparagraph:

9 “(D) *ACT OF NBCR TERRORISM.*—Each cer-
10 tification of an act of terrorism under subpara-
11 graph (A) shall include a determination of
12 whether such act involves NBCR terrorism.”;

13 (B) by redesignating paragraphs (9)
14 through (16) as paragraphs (10) through (17),
15 respectively; and

16 (C) by inserting after paragraph (8) the fol-
17 lowing new paragraph:

18 “(9) *NBCR TERRORISM.*—Notwithstanding
19 paragraph (1), the term ‘NBCR terrorism’ means an
20 act of terrorism to the extent that the insured losses
21 involve, regardless of any other cause or event that
22 contributes concurrently or in any sequence to such
23 insurance loss—

24 “(A) an act of terrorism that is carried out
25 by means of the dispersal or application of ra-
26 dioactive material, or through the use of a nu-

1 clear weapon or device that involves or produces
2 a nuclear reaction, nuclear radiation, or radio-
3 active contamination;

4 “(B) the release of radioactive material, and
5 it appears that one purpose of the act of ter-
6 rorism was to release such material;

7 “(C) an act of terrorism that is carried out
8 by means of the dispersal or application of path-
9 ogenic or poisonous biological or chemical mate-
10 rial; or

11 “(D) the release of pathogenic or poisonous
12 biological or chemical material, and it appears
13 that one purpose of the act of terrorism was to
14 release such material.”.

15 (2) *APPLICABILITY.*—The amendments made by
16 paragraph (1) shall apply to the Program Year for
17 the Terrorism Insurance Program established by title
18 I of the Terrorism Risk Insurance Act of 2002 (15
19 U.S.C. 6701 note) that begins on January 1, 2016,
20 and Program Years thereafter.

21 (b) *FEDERAL SHARE OF INSURED LOSS COMPENSA-*
22 *TION.*—Subparagraph (A) of section 103(e)(1) (15 U.S.C.
23 6701 note) is amended—

1 (1) by striking “The Federal share” and insert-
2 ing “Subject to subparagraphs (B) and (C), the Fed-
3 eral share”;

4 (2) by striking “an insurer during the Transi-
5 tion period” and inserting the following: “an in-
6 surer—

7 “(i) during the Transition period,”;

8 (3) by inserting “through the Program Year end-
9 ing on December 31, 2015,” after “each Program Year
10 thereafter”;

11 (4) by striking the period at the end and insert-
12 ing “; and”; and

13 (5) by adding at the end the following new
14 clause:

15 “(ii) shall be equal to—

16 “(I) except as provided in sub-
17 clause (II)—

18 “(aa) during the Program
19 Year beginning on January 1,
20 2016, 84 percent of that portion of
21 the amount of such insured losses
22 that exceeds the applicable insurer
23 deductible required to be paid
24 during such Program Year;

1 “(bb) during the Program
2 Year beginning on January 1,
3 2017, 83 percent of that portion of
4 the amount of such insured losses
5 that exceeds the applicable insurer
6 deductible required to be paid
7 during such Program Year;

8 “(cc) during the Program
9 Year beginning on January 1,
10 2018, 82 percent of that portion of
11 the amount of such insured losses
12 that exceeds the applicable insurer
13 deductible required to be paid
14 during such Program Year; and

15 “(dd) during the Program
16 Year beginning on January 1,
17 2019, 80 percent of that portion of
18 the amount of such insured losses
19 that exceeds the applicable insurer
20 deductible required to be paid
21 during such Program Year; and

22 “(II) in the case of insured losses
23 resulting from acts of NBCR terrorism,
24 during the Program Year beginning on
25 January 1, 2016, and each Program

1 Year thereafter, 85 percent of that por-
2 tion of the amount of such insured
3 losses that exceeds the applicable in-
4 surer deductible required to be paid
5 during such Program Year.”.

6 (c) PROGRAM TRIGGER.—Subparagraph (B) of section
7 103(e)(1) (15 U.S.C. 6701 note) is amended—

8 (1) in the matter preceding clause (i)—

9 (A) by striking “a certified act” and insert-
10 ing “certified acts”; and

11 (B) by striking “such certified act” and in-
12 serting “such certified acts”;

13 (2) in clause (i) by striking “or” at the end;

14 (3) in clause (ii), by striking the period at the
15 end and inserting the following “through the Program
16 Year ending on December 31, 2015; or”;

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

18 “(iii)(I) except as provided in sub-
19 clause (II)—

20 “(aa) \$200,000,000, with respect
21 to such insured losses occurring in the
22 Program Year beginning on January
23 1, 2016;

24 “(bb) \$300,000,000, with respect
25 to such insured losses occurring in the

1 *Program Year beginning on January*
2 *1, 2017;*

3 “(cc) \$400,000,000, *with respect*
4 *to such insured losses occurring in the*
5 *Program Year beginning on January*
6 *1, 2018; and*

7 “(dd) \$500,000,000, *with respect*
8 *to such insured losses occurring in the*
9 *Program Year beginning on January*
10 *1, 2019; and*

11 “(II) *in the case of an act of NBCR*
12 *terrorism, \$100,000,000, with respect to*
13 *such insured losses occurring in the Pro-*
14 *gram Year beginning on January 1, 2016,*
15 *or any Program Year thereafter.”; and*

16 (5) *by adding after and below clause (iii), as*
17 *added by paragraph (4) of this subsection, the fol-*
18 *lowing:*

19 “*In determining the aggregate industry insured*
20 *losses resulting from certified acts of terrorism*
21 *for purposes of this subparagraph, the Secretary*
22 *shall not consider any act of terrorism resulting,*
23 *in the aggregate, in less than \$50,000,000 in in-*
24 *sured losses.”.*

1 **SEC. 105. AVAILABILITY OF COVERAGE.**

2 *Subsection (c) of section 103 (15 U.S.C. 6701 note) is*
3 *amended to read as follows:*

4 *“(c) MANDATORY AVAILABILITY.—*

5 *“(1) IN GENERAL.—Except as provided in para-*
6 *graph (2), during each Program Year, each entity*
7 *that meets the definition of an insurer under section*
8 *102 shall make available—*

9 *“(A) in all of its property and casualty in-*
10 *surance policies, coverage for insured losses; and*

11 *“(B) property and casualty insurance cov-*
12 *erage for insured losses that does not differ mate-*
13 *rially from the terms, amounts, and other cov-*
14 *erage limitations applicable to losses arising*
15 *from events other than acts of terrorism.*

16 *“(2) NO MANDATORY AVAILABILITY FOR SMALL*
17 *INSURERS.—The Secretary shall provide, by regula-*
18 *tion and in consultation with State insurance regu-*
19 *latory authorities, that paragraph (1) shall not apply*
20 *for a Program Year with respect to any small insurer*
21 *(as such term is defined in such regulations by the*
22 *Secretary) that, at the option of the insurer, makes a*
23 *request for such inapplicability for such Program*
24 *Year to the appropriate State insurance regulatory*
25 *authority for the State in which such insurer is domi-*
26 *ciled and is determined by such State insurance regu-*

1 *latory authority to meet such requirements for finan-*
2 *cial hardship or financial infeasibility of providing*
3 *coverage for insured losses as the Secretary shall es-*
4 *tablish in such regulations. The insurer shall provide*
5 *notice, in a manner satisfactory to the State insur-*
6 *ance regulatory authority, informing affected prospec-*
7 *tive and current policyholders whether such coverage*
8 *is not provided by the insurer. This paragraph may*
9 *not be construed to require any State insurance regu-*
10 *latory authority to undertake making determinations*
11 *under this paragraph.”.*

12 **SEC. 106. TERRORISM LOSS RISK-SPREADING PREMIUMS**
13 **AMOUNT.**

14 *(a) IN GENERAL.—Subparagraph (C) of section*
15 *103(e)(7) (15 U.S.C. 6701 note) is amended—*

16 *(1) by striking “subparagraphs (A) through (E)”*
17 *and inserting “subparagraphs (A) through (F)”;* and

18 *(2) by striking “133 percent” and inserting “150*
19 *percent”.*

20 *(b) APPLICABILITY.—The amendment made by sub-*
21 *section (a) shall apply to the Program Year for the Ter-*
22 *rorism Insurance Program established by title I of the Ter-*
23 *rorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note)*
24 *that begins on January 1, 2016, and Program Years there-*
25 *after.*

1 **SEC. 107. INCREASE OF AGGREGATE RETENTION AMOUNT;**
2 **MANDATORY RECOUPMENT.**

3 (a) *IN GENERAL.*—Paragraph (6) of section 103(e) (15
4 U.S.C. 6701 note) is amended—

5 (1) in subparagraph (D)(ii), by striking “and”
6 at the end;

7 (2) in subparagraph (E)—

8 (A) in the matter preceding clause (i), by
9 inserting “through the Program Year ending on
10 December 31, 2015” before the comma; and

11 (B) in clause (ii), by striking the period at
12 the end and inserting “; and”; and

13 (3) by adding at the end the following new sub-
14 paragraph:

15 “(F) for the Program Year beginning Janu-
16 ary 1, 2016, and each Program Year thereafter,
17 the lesser of—

18 “(i) the amount that is equal to the
19 sum of the insurer deductibles for the Pro-
20 gram Year for all insurers participating in
21 the Program; and

22 “(ii) the aggregate amount, for all in-
23 surers, of insured losses during such Pro-
24 gram Year.”.

25 (b) *MANDATORY RECOUPMENT.*—

1 (1) *AMOUNT; TIMING.*—Paragraph (7) of section
2 103(e) (15 U.S.C. 6701 note) is amended—

3 (A) by striking subparagraphs (A) and (B)
4 and inserting the following new subparagraph:

5 “(A) *MANDATORY RECOUPMENT AMOUNT.*—
6 For purposes of this paragraph, the mandatory
7 recoupment amount for each of the periods re-
8 ferred to in subparagraphs (A) through (F) of
9 paragraph (6) shall be equal to the lesser of—

10 “(i) the aggregate amount, for all in-
11 surers, of insured losses during such period
12 that are compensated by the Federal Gov-
13 ernment pursuant to paragraph (1); or

14 “(ii) the insurance marketplace aggre-
15 gate retention amount under paragraph (6)
16 for such period.”;

17 (B) in subparagraph (E)(i)(III), by strik-
18 ing “after January 1, 2012” and inserting “be-
19 fore December 31, 2014”; and

20 (C) by redesignating subparagraphs (C),
21 (D), (E) (as so amended), and (F) as subpara-
22 graphs (B), (C), (D), and (E), respectively.

23 (2) *CONFORMING AMENDMENTS.*—Section 103(e)
24 (15 U.S.C. 6701 note) is amended in paragraph
25 (7)(D)(i), as so redesignated by paragraph (1)(C) of

1 *this subsection, by striking “subparagraph (C)” and*
2 *inserting “subparagraph (B)”.*

3 **SEC. 108. TERRORISM LOSS RISK-SPREADING PREMIUM.**

4 *(a) IN GENERAL.—Section 103(e) (15 U.S.C. 6701*
5 *note) is amended by striking paragraph (8) and inserting*
6 *the following new paragraph:*

7 *“(8) TERRORISM LOSS RISK-SPREADING PRE-*
8 *MIUMS.—*

9 *“(A) ESTABLISHMENT.—After an act of ter-*
10 *rorism, the Secretary shall, to the extent pro-*
11 *vided in paragraph (7)(B), and may, to the ex-*
12 *tent provided in paragraph (7)(C), establish ter-*
13 *rorism loss risk-spreading premiums, which shall*
14 *be imposed as a policyholder premium surcharge*
15 *on property and casualty insurance policies for*
16 *all participating insurers in force after the date*
17 *of such establishment.*

18 *“(B) COLLECTION.—The Secretary shall*
19 *provide for insurers to collect terrorism loss risk-*
20 *spreading premiums and remit such amounts*
21 *collected to the Secretary.*

22 *“(C) DETERMINATION OF PREMIUMS.—In*
23 *determining the method and manner of imposing*
24 *terrorism loss risk-spreading premiums, includ-*

1 *ing the amount of such premiums, the Secretary*
2 *shall—*

3 *“(i) impose such terrorism loss risk-*
4 *spreading premiums beginning with such*
5 *period of coverage during the year as the*
6 *Secretary determines appropriate, but shall*
7 *commence imposition of such premiums not*
8 *later than 18 months after the occurrence of*
9 *the act of terrorism for which such pre-*
10 *miums are imposed;*

11 *“(ii) base any terrorism loss risk-*
12 *spreading premium on a percentage of the*
13 *premium amount charged for property and*
14 *casualty insurance coverage under the pol-*
15 *icy; and*

16 *“(iii) take into consideration—*

17 *“(I) the economic impact on com-*
18 *mmercial centers of urban areas, includ-*
19 *ing the effect on commercial rents and*
20 *commercial insurance premiums, par-*
21 *ticularly rents and premiums charged*
22 *to small businesses, and the avail-*
23 *ability of lease space and commercial*
24 *insurance within urban areas;*

1 “(II) the risk factors related to
2 rural areas and smaller commercial
3 centers, including the potential expo-
4 sure to loss and the likely magnitude of
5 such loss, as well as any resulting
6 cross-subsidization that might result;
7 and

8 “(III) the various exposures to
9 terrorism risk for different lines of in-
10 surance.

11 “(D) *PERCENTAGE LIMITATION.*—A ter-
12 rorism loss risk-spreading premium collected on
13 a discretionary basis pursuant to paragraph
14 (7)(C) shall not be less than, on an annual basis,
15 the amount equal to 3 percent of the premium
16 charged for property and casualty insurance cov-
17 erage under the policy.

18 “(E) *TIMING OF PREMIUMS.*—The Secretary
19 may adjust the timing of terrorism loss risk-
20 spreading premiums to provide for equivalent
21 application of the provisions of this title to poli-
22 cies that are not based on a calendar year, or to
23 apply such provisions on a daily, monthly, or
24 quarterly basis, as appropriate.”.

1 (b) *APPLICABILITY.*—*The amendment made by sub-*
2 *section (a) shall apply to the Program Year for the Ter-*
3 *rorism Insurance Program established by title I of the Ter-*
4 *rorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note)*
5 *that begins on January 1, 2016, and Program Years there-*
6 *after.*

7 **SEC. 109. RISK-SHARING MECHANISMS.**

8 (a) *IN GENERAL.*—*Section 103(e) (15 U.S.C. 6701*
9 *note) is amended by adding at the end the following new*
10 *paragraph:*

11 “(9) *RISK-SHARING MECHANISMS.*—

12 “(A) *FINDING; RULE OF CONSTRUCTION.*—

13 *The Congress finds that it is desirable to encour-*
14 *age the growth of nongovernmental, private mar-*
15 *ket reinsurance capacity for protection against*
16 *losses arising from acts of terrorism. Therefore,*
17 *nothing in this title shall prohibit insurers from*
18 *developing risk-sharing mechanisms (including*
19 *mutual reinsurance facilities and agreements,*
20 *use of the capital markets, and insurance-linked*
21 *securities) to voluntarily reinsure terrorism*
22 *losses between and among themselves that are not*
23 *subject to reimbursement under this section.*

1 “(B) *ESTABLISHMENT OF ADVISORY COM-*
2 *MITTEE.—The Secretary shall appoint an Advi-*
3 *sory Committee to—*

4 “(i) *encourage the creation and devel-*
5 *opment of such risk-sharing mechanisms;*

6 “(ii) *assist the Secretary and be avail-*
7 *able to administer such risk-sharing mecha-*
8 *nisms; and*

9 “(iii) *develop articles of incorporation,*
10 *bylaws, and a plan of operation for any*
11 *long-term reinsurance facility authorized or*
12 *created in the future.*

13 “(C) *MEMBERSHIP.—The Advisory Com-*
14 *mittee shall be composed of nine members who*
15 *are directors, officers, or other employees of in-*
16 *surers, reinsurers, or capital market participants*
17 *that are participating or that desire to partici-*
18 *pate in such mechanisms, and who are represent-*
19 *ative of the affected sectors of the insurance in-*
20 *dustry, including commercial property insur-*
21 *ance, commercial casualty insurance, reinsur-*
22 *ance, and alternative risk transfer industries.”.*

23 (b) *APPLICABILITY.—The amendment made by sub-*
24 *section (a) shall apply to the Program Year for the Ter-*
25 *rorism Insurance Program established by title I of the Ter-*

1 *rorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note)*
2 *that begins on January 1, 2015, and Program Years there-*
3 *after.*

4 **SEC. 110. REPORTING OF TERRORISM INSURANCE DATA.**

5 *Section 104 (15 U.S.C. 6701 note) is amended by add-*
6 *ing at the end the following new subsection:*

7 *“(h) REPORTING OF TERRORISM INSURANCE DATA.—*

8 *“(1) AUTHORITY.—During the Program Year be-*
9 *ginning on January 1, 2016, and in each Program*
10 *Year thereafter, the Secretary shall require insurers*
11 *participating in the Program to submit to the Sec-*
12 *retary such information regarding insurance coverage*
13 *for terrorism losses of such insurers as the Secretary*
14 *considers appropriate to analyze the effectiveness of*
15 *the Program, which shall include information regard-*
16 *ing—*

17 *“(A) lines of insurance with exposure to*
18 *such losses;*

19 *“(B) premiums earned on such coverage;*

20 *“(C) geographical location of exposures;*

21 *“(D) pricing of such coverage;*

22 *“(E) the take-up rate for such coverage;*

23 *“(F) the amount of private reinsurance for*
24 *acts of terrorism purchased; and*

1 “(G) such other matters as the Secretary
2 considers appropriate.

3 “(2) *REPORTS.*—Not later than 6 months after
4 the termination of the Program Year beginning on
5 January 1, 2016, and not later than 6 months after
6 the termination of each Program Year thereafter, the
7 Secretary shall submit a report to the Committee on
8 Financial Services of the House of Representatives
9 and the Committee on Banking, Housing, and Urban
10 Affairs of the Senate that includes—

11 “(A) an analysis of the overall effectiveness
12 of the Program;

13 “(B) an evaluation of any changes or trends
14 in the data collected under paragraph (1);

15 “(C) an evaluation of whether any aspects
16 of the Program have the effect of discouraging or
17 impeding insurers from providing commercial
18 property casualty insurance coverage or coverage
19 for acts of terrorism;

20 “(D) an evaluation of the impact of the
21 Program on workers’ compensation insurers;

22 “(E) an evaluation of the impact on avail-
23 ability and affordability of terrorism insurance
24 coverage and fiscal protection of the taxpayers of
25 separate Federal treatment under the Program

1 *for nuclear, biological, chemical, and radiological*
2 *terrorism; and*

3 “(F) *in the case of the data reported in*
4 *paragraph (1)(B), an updated estimate of the*
5 *total amount earned since the commencement of*
6 *Program Year 1.*

7 “(3) *PROTECTION OF DATA.—To the extent pos-*
8 *sible, the Secretary shall contract with an insurance*
9 *statistical aggregator to collect the information de-*
10 *scribed in paragraph (1), which shall keep any non-*
11 *public information confidential and provide it to the*
12 *Secretary in an aggregate form or in such other form*
13 *or manner that does not permit identification of the*
14 *insurer submitting such information.*

15 “(4) *ADVANCE COORDINATION.—Before collecting*
16 *any data or information under paragraph (1) from*
17 *an insurer, or affiliate of an insurer, the Secretary*
18 *shall coordinate with the appropriate State insurance*
19 *regulatory authorities or their representatives and*
20 *any relevant government agency or publicly available*
21 *sources to determine if the information to be collected*
22 *is available from, and may be obtained in a timely*
23 *manner by, individually or collectively, such entities.*
24 *If the Secretary determines that such data or infor-*
25 *mation is available, and may be obtained in a timely*

1 *matter, from such entities, the Secretary shall obtain*
2 *the data or information from such entities. If the Sec-*
3 *retary determines that such data or information is*
4 *not so available, the Secretary may collect such data*
5 *or information from an insurer and affiliates.*

6 *“(5) CONFIDENTIALITY.—*

7 *“(A) RETENTION OF PRIVILEGE.—The sub-*
8 *mission of any non-publicly available data and*
9 *information to the Secretary and the sharing of*
10 *any non-publicly available data with or by the*
11 *Secretary among other Federal agencies, the*
12 *State insurance regulatory authorities and their*
13 *collective agents, or any other entities under this*
14 *subsection shall not constitute a waiver of, or*
15 *otherwise affect, any privilege arising under*
16 *Federal or State law (including the rules of any*
17 *Federal or State court) to which the data or in-*
18 *formation is otherwise subject.*

19 *“(B) CONTINUED APPLICATION OF PRIOR*
20 *CONFIDENTIALITY AGREEMENTS.—Any require-*
21 *ment under Federal or State law to the extent*
22 *otherwise applicable, or any requirement pursu-*
23 *ant to a written agreement in effect between the*
24 *original source of any non-publicly available*
25 *data or information and the source of such data*

1 *or information to the Secretary, regarding the*
2 *privacy or confidentiality of any data or infor-*
3 *mation in the possession of the source to the Sec-*
4 *retary, shall continue to apply to such data or*
5 *information after the data or information has*
6 *been provided pursuant to this subsection.*

7 “(C) *INFORMATION-SHARING AGREEMENT.—*
8 *Any data or information obtained by the Sec-*
9 *retary under this subsection may be made avail-*
10 *able to State insurance regulatory authorities,*
11 *individually or collectively through an informa-*
12 *tion-sharing agreement that—*

13 “(i) *shall comply with applicable Fed-*
14 *eral law; and*

15 “(ii) *shall not constitute a waiver of,*
16 *or otherwise affect, any privilege under Fed-*
17 *eral or State law (including any privilege*
18 *referred to in subparagraph (A) and the*
19 *rules of any Federal or State court) to*
20 *which the data or information is otherwise*
21 *subject.*

22 “(D) *AGENCY DISCLOSURE REQUIRE-*
23 *MENTS.—Section 552 of title 5, United States*
24 *Code, including any exceptions thereunder, shall*
25 *apply to any data or information submitted*

1 under this subsection to the Secretary by an in-
2 surer or affiliate of an insurer.”.

3 **SEC. 111. DELIVERY OF NOTICES TO POLICYHOLDERS.**

4 Section 103(b)(2) (15 U.S.C. 6701 note) is amended—

5 (1) in subparagraph (B), by striking “, pur-
6 chase,”; and

7 (2) in subparagraph (C), by striking “, pur-
8 chase,”.

9 **SEC. 112. DEFINITION OF CONTROL.**

10 Paragraph (3) of section 102 (15 U.S.C. 6701 note)
11 is amended—

12 (1) by redesignating subparagraphs (A), (B),
13 and (C) as clauses (i), (ii), and (iii), respectively and
14 realigning such clauses, as so redesignated, so as to be
15 indented six ems from the left margin;

16 (2) in the matter preceding clause (i) (as so re-
17 designated), by striking “An entity has” and insert-
18 ing the following:

19 “(A) *IN GENERAL.*—An entity has”; and

20 (3) by adding at the end the following new sub-
21 paragraph:

22 “(B) *RULE OF CONSTRUCTION.*—An entity,
23 including any affiliate thereof, does not have
24 control over another entity if, as of the date of
25 the enactment of the TRIA Reform Act of 2014,

1 *the entity is acting as an attorney-in-fact, as de-*
 2 *defined by the Secretary, for the other entity and*
 3 *such other entity is a reciprocal insurer, pro-*
 4 *vided that the entity is not, for reasons other*
 5 *than the attorney-in-fact relationship, defined as*
 6 *having control under subparagraph (A).”.*

7 **SEC. 113. ANNUAL STUDY OF SMALL INSURER MARKET**
 8 **COMPETITIVENESS.**

9 *Section 108 (15 U.S.C. 6701 note) is amended by add-*
 10 *ing at the end the following new subsection:*

11 “(h) **STUDY OF SMALL INSURER MARKET COMPETI-**
 12 **TIVENESS.**—

13 “(1) **IN GENERAL.**—*The Secretary shall conduct*
 14 *an annual study of small insurers participating in*
 15 *the Program, and identify any competitive challenges*
 16 *small insurers face in the terrorism risk insurance*
 17 *marketplace, including—*

18 “(A) *changes to the market share, premium*
 19 *volume, and policyholder surplus of small insur-*
 20 *ers relative to large insurers;*

21 “(B) *how the property and casualty insur-*
 22 *ance market for terrorism risk differs between*
 23 *small and large insurers, and whether such a*
 24 *difference exists within other perils;*

1 “(C) the impact of the Program’s manda-
2 tory availability requirement under section
3 103(c) and the voluntary opt-out for small insur-
4 ers;

5 “(D) the effect of increasing the trigger
6 amount for the Program under section
7 103(e)(1)(B)(iii)(I) on small insurers;

8 “(E) the availability and cost of private re-
9 insurance for small insurers; and

10 “(F) the impact that State workers com-
11 pensation laws have on small insurers, particu-
12 larly the impact of mandatory, non-excludable
13 participation and unlimited financial liability.

14 “(2) *TIMING AND REPORT.*—The Secretary shall
15 complete the first study under paragraph (1) and sub-
16 mit a report to the Congress setting forth the findings
17 and conclusions of the study not later than June 30,
18 2016, and shall complete an annual study under
19 paragraph (1) and submit a report regarding such
20 study to the Congress by June 1 annually thereafter.”.

21 **SEC. 114. CBO AND OMB STUDIES REGARDING BUDGETING**
22 **FOR COSTS OF FEDERAL INSURANCE PRO-**
23 **GRAMS.**

24 Not later than the expiration of the 12-month period
25 beginning on the date of the enactment of this Act, the Di-

1 *rector of the Congressional Budget Office and the Director*
2 *of the Office of Management and Budget shall each—*

3 *(1) conduct a study to determine the feasibility*
4 *of applying accrual accounting concepts to budgeting*
5 *for the costs of the Terrorism Risk Insurance Program*
6 *and for the costs of the other Federal insurance pro-*
7 *grams; and*

8 *(2) submit a report regarding such study to the*
9 *Committees on the Budget of the House of Representa-*
10 *tives and the Senate, which shall include a rec-*
11 *ommendation specifically addressing the feasibility of*
12 *applying fair value concepts to budgeting for the costs*
13 *of Federal insurance programs, including the Ter-*
14 *rorism Risk Insurance Program.*

15 **SEC. 115. GAO STUDY ON UPFRONT PREMIUMS AND CAP-**
16 **ITAL RESERVE FUND.**

17 *(a) STUDY.—Not later than 2 years after the date of*
18 *the enactment of this Act, the Comptroller General of the*
19 *United States shall complete a study on the viability of the*
20 *Federal Government—*

21 *(1) assessing and collecting upfront premiums on*
22 *insurers that participate in the Terrorism Risk In-*
23 *surance Program established under the Terrorism*
24 *Risk Insurance Act of 2002 (15 U.S.C. 6701 note) (in*
25 *this section referred to as the “Program”), which shall*

1 *include a comparison of practices in international*
2 *markets to assess and collect premiums either before*
3 *or after terrorism losses are incurred; and*

4 *(2) creating a capital reserve fund under the*
5 *Program and requiring insurers participating in the*
6 *Program to dedicate capital specifically for terrorism*
7 *losses before such losses are incurred, which shall in-*
8 *clude a comparison of practices in international mar-*
9 *kets to establish reserve funds.*

10 *(b) REQUIRED CONTENT.—The study required under*
11 *subsection (a) shall examine, but shall not be limited to,*
12 *the following issues:*

13 *(1) UPFRONT PREMIUMS.—With respect to up-*
14 *front premiums described in subsection (a)(1)—*

15 *(A) how the Federal Government could de-*
16 *termine the price of such upfront premiums on*
17 *insurers that participate in the Program;*

18 *(B) how the Federal Government could col-*
19 *lect such upfront premiums;*

20 *(C) how the Federal Government could en-*
21 *sure that such upfront premiums are not spent*
22 *for purposes other than satisfying claims through*
23 *the Program;*

24 *(D) how the assessment and collection of*
25 *such upfront premiums could affect take-up rates*

1 *for terrorism risk coverage in different regions*
2 *and industries;*

3 *(E) the effect of collecting such upfront pre-*
4 *miums on the private market for terrorism risk*
5 *reinsurance; and*

6 *(F) the size of the Federal Government sub-*
7 *sidy insurers currently receive through their par-*
8 *ticipation in the Program.*

9 (2) *CAPITAL RESERVE FUND.*—*With respect to*
10 *the capital reserve fund described in subsection*
11 *(a)(2)—*

12 *(A) how the creation of a capital reserve*
13 *fund would affect the Federal Government’s fis-*
14 *cal exposure under the Terrorism Risk Insurance*
15 *Program and the ability of the Program to meet*
16 *its statutory purposes;*

17 *(B) how a capital reserve fund would im-*
18 *part impact insurers and reinsurers, including liquid-*
19 *ity, insurance pricing, and capacity to provide*
20 *terrorism risk coverage;*

21 *(C) the feasibility of segregating funds at-*
22 *tributable to terrorism risk from funds attrib-*
23 *utable to other insurance lines;*

24 *(D) how a capital reserve fund would be*
25 *viewed and treated under current Financial Ac-*

1 *counting Standards Board accounting rules and*
2 *the tax laws; and*

3 *(E) how a capital reserve fund would affect*
4 *the States' ability to regulate insurers partici-*
5 *pating in the Program.*

6 (3) *INTERNATIONAL PRACTICES.*—*With respect to*
7 *international markets referred to in paragraphs (1)*
8 *and (2) of subsection (A), how other countries, if*
9 *any—*

10 *(A) have established terrorism insurance*
11 *structures;*

12 *(B) charge premiums or otherwise collect*
13 *funds to pay for the costs of terrorism insurance*
14 *structures, including risk and administrative*
15 *costs; and*

16 *(C) have established capital reserve funds to*
17 *pay for the costs of terrorism insurance struc-*
18 *tures.*

19 (4) *DURATION.*—*With respect to the capital re-*
20 *serve fund described in subsection (a)(2), how the du-*
21 *ration of the Program would affect the viability of*
22 *such capital reserve fund.*

23 (c) *REPORT.*—*Upon completion of the study required*
24 *under subsection (a), the Comptroller General shall submit*
25 *a report on the results of such study to the Committee on*

1 *Banking, Housing, and Urban Affairs of the Senate and*
2 *the Committee on Financial Services of the House of Rep-*
3 *resentatives.*

4 (d) *PUBLIC AVAILABILITY.*—*The study and report re-*
5 *quired under this section shall be made available to the pub-*
6 *lic in electronic form and shall be published on the website*
7 *of the Government Accountability Office.*

8 **TITLE II—NATIONAL ASSOCIA-**
9 **TION OF REGISTERED**
10 **AGENTS AND BROKERS RE-**
11 **FORM**

12 **SEC. 201. SHORT TITLE.**

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

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

18 (a) *IN GENERAL.*—*Subtitle C of title III of the*
19 *Gramm-Leach-Bliley Act (15 U.S.C. 6751 et seq.) is amend-*
20 *ed 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 subtitle,*
16 *be subject to, and have all the powers conferred upon,*
17 *a nonprofit corporation by the District of Columbia*
18 *Nonprofit Corporation Act (D.C. Code, sec. 29–301.01*
19 *et seq.) or any successor thereto.*

20 **“SEC. 322. PURPOSE.**

21 *“The purpose of the Association shall be to provide a*
22 *mechanism through which licensing, continuing education,*
23 *and other nonresident insurance producer qualification re-*
24 *quirements and conditions may be adopted and applied on*
25 *a multi-state basis without affecting the laws, rules, and*

1 *regulations, and preserving the rights of a State, pertaining*
2 *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 As-*
22 *sociation.*

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

1 *of the Association if a State insurance regulator has*
2 *suspended or revoked the insurance license of the in-*
3 *urance 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 the*
11 *suspension or revocation; or*

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

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

17 “(A) *IN GENERAL.—An insurance producer*
18 *who is an individual shall not be eligible to be-*
19 *come a member of the Association unless the in-*
20 *urance producer has undergone a criminal his-*
21 *tory record check that complies with regulations*
22 *prescribed by the Attorney General of the United*
23 *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 of*
5 *the Association, in compliance with a require-*
6 *ment to undergo such criminal history record*
7 *check as a condition for such licensure in the*
8 *State, shall be deemed to have undergone a*
9 *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 finger-*
16 *prints or other identification information*
17 *obtained from the insurance producer, and*
18 *a request for a criminal history record check*
19 *of the insurance producer, to the Federal*
20 *Bureau of Investigation.*

21 “(ii) *PROCEDURES.—The board of di-*
22 *rectors of the Association (referred to in this*
23 *subtitle as the ‘Board’) shall prescribe pro-*
24 *cedures for obtaining and utilizing finger-*
25 *prints or other identification information*

1 *and criminal history record information,*
2 *including the establishment of reasonable*
3 *fees to defray the expenses of the Association*
4 *in connection with the performance of a*
5 *criminal history record check and appro-*
6 *priate safeguards for maintaining confiden-*
7 *tiality and security of the information. Any*
8 *fees charged pursuant to this clause shall be*
9 *separate and distinct from those charged by*
10 *the Attorney General pursuant to subpara-*
11 *graph (I).*

12 “(D) *FORM OF REQUEST.*—*A submission*
13 *under subparagraph (C)(i) shall include such*
14 *fingerprints or other identification information*
15 *as is required by the Attorney General con-*
16 *cerning the person about whom the criminal his-*
17 *tory record check is requested, and a statement*
18 *signed by the person authorizing the Attorney*
19 *General to provide the information to the Asso-*
20 *ciation and for the Association to receive the in-*
21 *formation.*

22 “(E) *PROVISION OF INFORMATION BY AT-*
23 *TORNEY GENERAL.*—*Upon receiving a submis-*
24 *sion under subparagraph (C)(i) from the Asso-*
25 *ciation, the Attorney General shall search all*

1 *criminal history records of the Federal Bureau of*
2 *Investigation, including records of the Criminal*
3 *Justice Information Services Division of the Fed-*
4 *eral Bureau of Investigation, that the Attorney*
5 *General determines appropriate for criminal his-*
6 *tory records corresponding to the fingerprints or*
7 *other identification information provided under*
8 *subparagraph (D) and provide all criminal his-*
9 *tory record information included in the request*
10 *to the Association.*

11 *“(F) LIMITATION ON PERMISSIBLE USES OF*
12 *INFORMATION.—Any information provided to the*
13 *Association under subparagraph (E) may only—*

14 *“(i) be used for purposes of deter-*
15 *mining compliance with membership cri-*
16 *teria established by the Association;*

17 *“(ii) be disclosed to State insurance*
18 *regulators, or Federal or State law enforce-*
19 *ment agencies, in conformance with appli-*
20 *cable law; or*

21 *“(iii) be disclosed, upon request, to the*
22 *insurance producer to whom the criminal*
23 *history record information relates.*

24 *“(G) PENALTY FOR IMPROPER USE OR DIS-*
25 *CLOSURE.—Whoever knowingly uses any infor-*

1 *mation provided under subparagraph (E) for a*
2 *purpose not authorized in subparagraph (F), or*
3 *discloses any such information to anyone not au-*
4 *thorized to receive it, shall be fined not more*
5 *than \$50,000 per violation as determined by a*
6 *court of competent jurisdiction.*

7 *“(H) RELIANCE ON INFORMATION.—Neither*
8 *the Association nor any of its Board members,*
9 *officers, or employees shall be liable in any ac-*
10 *tion for using information provided under sub-*
11 *paragraph (E) as permitted under subparagraph*
12 *(F) in good faith and in reasonable reliance on*
13 *its accuracy.*

14 *“(I) FEES.—The Attorney General may*
15 *charge a reasonable fee for conducting the search*
16 *and providing the information under subpara-*
17 *graph (E), and any such fee shall be collected*
18 *and remitted by the Association to the Attorney*
19 *General.*

20 *“(J) RULE OF CONSTRUCTION.—Nothing in*
21 *this paragraph shall be construed as—*

22 *“(i) requiring a State insurance regu-*
23 *lator to perform criminal history record*
24 *checks under this section; or*

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

3 “(K) REGULATIONS.—The Attorney General
4 shall prescribe regulations to carry out this
5 paragraph, which shall include—

6 “(i) appropriate protections for ensur-
7 ing the confidentiality of information pro-
8 vided under subparagraph (E); and

9 “(ii) procedures providing a reasonable
10 opportunity for an insurance producer to
11 contest the accuracy of information regard-
12 ing the insurance producer provided under
13 subparagraph (E).

14 “(L) INELIGIBILITY FOR MEMBERSHIP.—

15 “(i) IN GENERAL.—The Association
16 may, under reasonably consistently applied
17 standards, deny membership to an insur-
18 ance producer on the basis of criminal his-
19 tory record information provided under sub-
20 paragraph (E), or where the insurance pro-
21 ducer has been subject to disciplinary ac-
22 tion, as described in paragraph (2).

23 “(ii) RIGHTS OF APPLICANTS DENIED
24 MEMBERSHIP.—The Association shall notify
25 any insurance producer who is denied mem-

1 *bership on the basis of criminal history*
2 *record information provided under subpara-*
3 *graph (E) of the right of the insurance pro-*
4 *ducer to—*

5 *“(I) obtain a copy of all criminal*
6 *history record information provided to*
7 *the Association under subparagraph*
8 *(E) with respect to the insurance pro-*
9 *ducer; and*

10 *“(II) challenge the denial of mem-*
11 *bership based on the accuracy and*
12 *completeness of the information.*

13 *“(M) DEFINITION.—For purposes of this*
14 *paragraph, the term ‘criminal history record*
15 *check’ means a national background check of*
16 *criminal history records of the Federal Bureau of*
17 *Investigation.*

18 *“(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRI-*
19 *TERIA.—The Association may establish membership criteria*
20 *that bear a reasonable relationship to the purposes for*
21 *which the Association was established.*

22 *“(c) ESTABLISHMENT OF CLASSES AND CATEGORIES*
23 *OF MEMBERSHIP.—*

24 *“(1) CLASSES OF MEMBERSHIP.—The Associa-*
25 *tion may establish separate classes of membership,*

1 with separate criteria, if the Association reasonably
2 determines that performance of different duties re-
3 quires different levels of education, training, experi-
4 ence, or other qualifications.

5 “(2) *BUSINESS ENTITIES.*—The Association shall
6 establish a class of membership and membership cri-
7 teria for business entities. A business entity that ap-
8 plies for membership shall be required to designate an
9 individual Association member responsible for the
10 compliance of the business entity with Association
11 standards and the insurance laws, standards, and
12 regulations of any State in which the business entity
13 seeks to do business on the basis of Association mem-
14 bership.

15 “(3) *CATEGORIES.*—

16 “(A) *SEPARATE CATEGORIES FOR INSUR-*
17 *ANCE PRODUCERS PERMITTED.*—The Association
18 may establish separate categories of membership
19 for insurance producers and for other persons or
20 entities within each class, based on the types of
21 licensing categories that exist under State laws.

22 “(B) *SEPARATE TREATMENT FOR DEPOSI-*
23 *TORY INSTITUTIONS PROHIBITED.*—No special
24 categories of membership, and no distinct mem-
25 bership criteria, shall be established for members

1 *that are depository institutions or for employees,*
2 *agents, or affiliates of depository institutions.*

3 “(d) *MEMBERSHIP CRITERIA.*—

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

12 “(2) *QUALIFICATIONS.*—*In establishing criteria*
13 *under paragraph (1), the Association shall not adopt*
14 *any qualification less protective to the public than*
15 *that contained in the National Association of Insur-*
16 *ance Commissioners (referred to in this subtitle as the*
17 *‘NAIC’) Producer Licensing Model Act in effect as of*
18 *the date of enactment of the National Association of*
19 *Registered Agents and Brokers Reform Act of 2013,*
20 *and shall consider the highest levels of insurance pro-*
21 *ducer qualifications established under the licensing*
22 *laws of the States.*

23 “(3) *ASSISTANCE FROM STATES.*—

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

1 *tigating and evaluating the eligibility of a pro-*
2 *spective member for membership in the Associa-*
3 *tion.*

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

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

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

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

19 “(4) *DENIAL OF MEMBERSHIP.—The Association*
20 *may, based on reasonably consistently applied stand-*
21 *ards, deny membership to any State-licensed insur-*
22 *ance producer for failure to meet the membership cri-*
23 *teria established by the Association.*

24 “(e) *EFFECT OF MEMBERSHIP.—*

1 “(1) *AUTHORITY OF ASSOCIATION MEMBERS.—*
2 *Membership in the Association shall—*

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

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

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

1 *forcement action related to the ability of a mem-*
2 *ber to engage in any activity within the scope of*
3 *authority granted under this subsection and to*
4 *all State laws, regulations, provisions, and ac-*
5 *tions preserved under paragraph (5).*

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

11 “(3) *AGENT FOR REMITTING FEES.—The Asso-*
12 *ciation shall act as an agent for any member for pur-*
13 *poses of remitting licensing fees to any State pursu-*
14 *ant to paragraph (1).*

15 “(4) *NOTIFICATION OF ACTION.—*

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

1 “(B) *ONGOING DISCLOSURES REQUIRED.*—

2 *On an ongoing basis, the Association shall dis-*
3 *close to the States (including State insurance*
4 *regulators) and the NAIC a list of the States in*
5 *which each member is authorized to operate. The*
6 *Association shall immediately notify the States*
7 *(including State insurance regulators) and the*
8 *NAIC when a member is newly authorized to op-*
9 *erate in one or more States, or is no longer au-*
10 *thorized to operate in one or more States on the*
11 *basis of Association membership.*

12 “(5) *PRESERVATION OF CONSUMER PROTECTION*

13 *AND MARKET CONDUCT REGULATION.*—

14 “(A) *IN GENERAL.*—*No provision of this*
15 *section shall be construed as altering or affecting*
16 *the applicability or continuing effectiveness of*
17 *any law, regulation, provision, or other action of*
18 *any State, including those described in subpara-*
19 *graph (B), to the extent that the State law, regu-*
20 *lation, provision, or other action is not incon-*
21 *sistent with the provisions of this subtitle related*
22 *to market entry for nonresident insurance pro-*
23 *ducers, and then only to the extent of the incon-*
24 *sistency.*

1 “(B) *PRESERVED REGULATIONS.*—*The laws,*
2 *regulations, provisions, or other actions of any*
3 *State referred to in subparagraph (A) include*
4 *laws, regulations, provisions, or other actions*
5 *that—*

6 “(i) *regulate market conduct, insur-*
7 *ance producer conduct, or unfair trade*
8 *practices;*

9 “(ii) *establish consumer protections; or*

10 “(iii) *require insurance producers to be*
11 *appointed by a licensed or authorized in-*
12 *surer.*

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

15 “(g) *CONTINUING EDUCATION.*—

16 “(1) *IN GENERAL.*—*The Association shall estab-*
17 *lish, as a condition of membership, continuing edu-*
18 *cation requirements which shall be comparable to the*
19 *continuing education requirements under the licens-*
20 *ing laws of a majority of the States.*

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

1 “(3) *RECIPROCITY.*—*The Association shall not*
2 *require a member to satisfy continuing education re-*
3 *quirements that are equivalent to any continuing*
4 *education requirements of the home State of the mem-*
5 *ber that have been satisfied by the member during the*
6 *applicable licensing period.*

7 “(4) *LIMITATION ON THE ASSOCIATION.*—*The As-*
8 *sociation shall not directly or indirectly offer any*
9 *continuing education courses for insurance producers.*

10 “(h) *PROBATION, SUSPENSION AND REVOCATION.*—

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

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

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

1 “(C) *an insurance license held by the insur-*
2 *ance producer has been suspended or revoked by*
3 *a State insurance regulator; or*

4 “(D) *the insurance producer has been con-*
5 *victed of a crime that would have resulted in the*
6 *denial of membership pursuant to subsection*
7 *(a)(4)(L)(i) at the time of application, and the*
8 *Association has received a copy of the final dis-*
9 *position from a court of competent jurisdiction.*

10 “(2) *VIOLATIONS OF ASSOCIATION STANDARDS.—*
11 *The Association shall have the power to investigate al-*
12 *leged violations of Association standards.*

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

20 “(i) *CONSUMER COMPLAINTS.—*

21 “(1) *IN GENERAL.—The Association shall—*

22 “(A) *refer any complaint against a member*
23 *of the Association from a consumer relating to*
24 *alleged misconduct or violations of State insur-*
25 *ance laws to the State insurance regulator where*

1 *the consumer resides and, when appropriate, to*
2 *any additional State insurance regulator, as de-*
3 *termined by standards adopted by the Associa-*
4 *tion; and*

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

8 “(2) *TELEPHONE AND OTHER ACCESS.—The As-*
9 *sociation shall maintain a toll-free number for pur-*
10 *poses of this subsection and, as practicable, other al-*
11 *ternative means of communication with consumers,*
12 *such as an Internet webpage.*

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

21 “(j) *INFORMATION SHARING.—The Association may—*

22 “(1) *share documents, materials, or other infor-*
23 *mation, including confidential and privileged docu-*
24 *ments, with a State, Federal, or international govern-*
25 *mental entity or with the NAIC or other appropriate*

1 entity referred to paragraphs (3) and (4), provided
2 that the recipient has the authority and agrees to
3 maintain the confidentiality or privileged status of
4 the document, material, or other information;

5 “(2) limit the sharing of information as required
6 under this subtitle with the NAIC or any other non-
7 governmental entity, in circumstances under which
8 the Association determines that the sharing of such
9 information is unnecessary to further the purposes of
10 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 operate
17 in 1 or more States and pay the licensing fees to the
18 appropriate States; and

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

1 “(k) *EFFECTIVE DATE.*—*The provisions of this section*
2 *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 Act*
6 *of 2013; and*

7 “(2) *the date of incorporation of the Association.*

8 **“SEC. 324. BOARD OF DIRECTORS.**

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

12 “(b) *POWERS.*—*The Board shall have such of the pow-*
13 *ers and authority of the Association as may be specified*
14 *in the bylaws of the Association.*

15 “(c) *COMPOSITION.*—

16 “(1) *IN GENERAL.*—*The Board shall consist of 13*
17 *members who shall be appointed by the President, by*
18 *and with the advice and consent of the Senate, in ac-*
19 *cordance with the procedures established under Senate*
20 *Resolution 116 of the 112th Congress, of whom—*

21 “(A) *8 shall be State insurance commis-*
22 *sioners appointed in the manner provided in*
23 *paragraph (2), 1 of whom shall be designated by*
24 *the President to serve as the chairperson of the*
25 *Board until the Board elects one such State in-*

1 *insurance commissioner Board member to serve as*
2 *the chairperson of the Board;*

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

6 “(C) 2 shall have demonstrated expertise
7 and experience with life or health insurance pro-
8 ducer licensing.

9 “(2) STATE INSURANCE REGULATOR REPRESENT-
10 ATIVES.—

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

21 “(B) POLITICAL AFFILIATION.—*Not more*
22 *than 4 Board members appointed under para-*
23 *graph (1)(A) shall belong to the same political*
24 *party.*

1 “(C) *FORMER STATE INSURANCE COMMIS-*
2 *SIONERS.—*

3 “(i) *IN GENERAL.—If, after offering*
4 *each currently serving State insurance com-*
5 *missioner an appointment to the Board,*
6 *fewer than 8 State insurance commissioners*
7 *have accepted appointment to the Board,*
8 *the President may appoint the remaining*
9 *State insurance commissioner Board mem-*
10 *bers, as required under paragraph (1)(A), of*
11 *the appropriate political party as required*
12 *under subparagraph (B), from among indi-*
13 *viduals who are former State insurance*
14 *commissioners.*

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

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

6 “(3) *PRIVATE SECTOR REPRESENTATIVES.*—In
7 *making any appointment pursuant to subparagraph*
8 *(B) or (C) of paragraph (1), the President may seek*
9 *recommendations for candidates from groups rep-*
10 *resenting the category of individuals described, which*
11 *shall not be binding on the President.*

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 primary*
17 *insurance regulatory authority for the State.*

18 “(d) *TERMS.*—

19 “(1) *IN GENERAL.*—Except as provided under
20 *paragraph (2), the term of service for each Board*
21 *member shall be 2 years.*

22 “(2) *EXCEPTIONS.*—

23 “(A) *1-YEAR TERMS.*—The term of service
24 *shall be 1 year, as designated by the President*

1 *at the time of the nomination of the subject*
2 *Board members for—*

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

8 “(ii) *1 of the Board members initially*
9 *appointed under paragraph (1)(B); and*

10 “(iii) *1 of the Board members initially*
11 *appointed under paragraph (1)(C).*

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

17 “(C) *MID-TERM APPOINTMENTS.—A Board*
18 *member appointed to fill a vacancy occurring be-*
19 *fore the expiration of the term for which the*
20 *predecessor of the Board member was appointed*
21 *shall be appointed only for the remainder of that*
22 *term.*

23 “(3) *SUCCESSIVE TERMS.—Board members may*
24 *be reappointed to successive terms.*

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

5 “(f) *MEETINGS.*—

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

7 “(A) *at the call of the chairperson;*

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

10 “(C) *as otherwise provided by the bylaws of*
11 *the Association.*

12 “(2) *QUORUM REQUIRED.*—*A majority of all*
13 *Board members shall constitute a quorum.*

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

17 “(4) *INITIAL MEETING.*—*The Board shall hold*
18 *its first meeting not later than 45 days after the date*
19 *on which all initial Board members have been ap-*
20 *pointed.*

21 “(g) *RESTRICTION ON CONFIDENTIAL INFORMATION.*—
22 *Board members appointed pursuant to subparagraphs (B)*
23 *and (C) of subsection (c)(1) shall not have access to con-*
24 *fidential information received by the Association in connec-*

1 *tion with complaints, investigations, or disciplinary pro-*
2 *ceedings involving insurance producers.*

3 “(h) *ETHICS AND CONFLICTS OF INTEREST.—The*
4 *Board shall issue and enforce an ethical conduct code to*
5 *address permissible and prohibited activities of Board*
6 *members and Association officers, employees, agents, or con-*
7 *sultants. The code shall, at a minimum, include provisions*
8 *that prohibit any Board member or Association officer, em-*
9 *ployee, agent or consultant from—*

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

12 “(2) *participating in the making or influencing*
13 *the making of any Association decision, the outcome*
14 *of which the Board member, officer, employee, agent,*
15 *or consultant knows or had reason to know would*
16 *have a reasonably foreseeable material financial effect,*
17 *distinguishable from its effect on the public generally,*
18 *on the person or a member of the immediate family*
19 *of the person;*

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

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

1 “(5) lobbying or paying a person to lobby on be-
2 half 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 or
7 entity on account of Board membership.

8 “(2) TRAVEL EXPENSES AND PER DIEM.—Board
9 members may be reimbursed only by the Association
10 for travel expenses, including per diem in lieu of sub-
11 sistence, at rates consistent with rates authorized for
12 employees of Federal agencies under subchapter I of
13 chapter 57 of title 5, United States Code, while away
14 from home or regular places of business in perform-
15 ance of services for the Association.

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

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

20 “(1) PROCEDURES.—The Association shall adopt
21 procedures for the adoption of bylaws and standards
22 that are similar to procedures under subchapter II of
23 chapter 5 of title 5, United States Code (commonly
24 known as the ‘Administrative Procedure Act’).

1 “(2) *COPY REQUIRED TO BE FILED.*—*The Board*
2 *shall submit to the President, through the Department*
3 *of the Treasury, and the States (including State in-*
4 *surance regulators), and shall publish on the website*
5 *of the Association, all proposed bylaws and standards*
6 *of the Association, or any proposed amendment to the*
7 *bylaws or standards of the Association, accompanied*
8 *by a concise general statement of the basis and pur-*
9 *pose of such proposal.*

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

17 “(4) *RULE OF CONSTRUCTION.*—*Nothing in this*
18 *section shall be construed to subject the Board or the*
19 *Association to the requirements of subchapter II of*
20 *chapter 5 of title 5, United States Code (commonly*
21 *known as the ‘Administrative Procedure Act’).*

22 “(b) *DISCIPLINARY ACTION BY THE ASSOCIATION.*—

23 “(1) *SPECIFICATION OF CHARGES.*—*In any pro-*
24 *ceeding to determine whether membership shall be de-*
25 *nied, suspended, revoked, or not renewed, or to deter-*

1 *mine whether a member of the Association should be*
2 *placed on probation (referred to in this section as a*
3 *‘disciplinary action’) or whether to assess fines or*
4 *monetary penalties, the Association shall bring spe-*
5 *cific charges, notify the member of the charges, give*
6 *the member an opportunity to defend against the*
7 *charges, and keep a record.*

8 “(2) *SUPPORTING STATEMENT.*—*A determina-*
9 *tion to take disciplinary action shall be supported by*
10 *a statement setting forth—*

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

13 “(B) *the specific provision of this subtitle or*
14 *standard of the Association that any such act or*
15 *practice is deemed to violate; and*

16 “(C) *the sanction imposed and the reason*
17 *for the sanction.*

18 “(3) *INELIGIBILITY OF PRIVATE SECTOR REP-*
19 *RESENTATIVES.*—*Board members appointed pursuant*
20 *to section 324(c)(3) may not—*

21 “(A) *participate in any disciplinary action*
22 *or be counted toward establishing a quorum dur-*
23 *ing a disciplinary action; and*

24 “(B) *have access to confidential information*
25 *concerning any disciplinary action.*

1 **“SEC. 326. POWERS.**

2 *“In addition to all the powers conferred upon a non-*
3 *profit corporation by the District of Columbia Nonprofit*
4 *Corporation Act, the Association shall have the power to—*

5 *“(1) establish and collect such membership fees*
6 *as the Association finds necessary to impose to cover*
7 *the costs of its operations;*

8 *“(2) adopt, amend, and repeal bylaws, proce-*
9 *dures, or standards governing the conduct of Associa-*
10 *tion business and performance of its duties;*

11 *“(3) establish procedures for providing notice*
12 *and opportunity for comment pursuant to section*
13 *325(a);*

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

16 *“(5) hire employees, professionals, or specialists,*
17 *and elect or appoint officers, and to fix their com-*
18 *pen-sation, define their duties and give them appro-*
19 *priate authority to carry out the purposes of this sub-*
20 *title, and determine their qualification;*

21 *“(6) establish personnel policies of the Associa-*
22 *tion and programs relating to, among other things,*
23 *conflicts of interest, rates of compensation, where ap-*
24 *plicable, and qualifications of personnel;*

25 *“(7) borrow money; and*

1 “(8) *secure funding for such amounts as the As-*
2 *sociation determines to be necessary and appropriate*
3 *to organize and begin operations of the Association,*
4 *which shall be treated as loans to be repaid by the As-*
5 *sociation with interest at market rate.*

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

7 “(a) *IN GENERAL.—As soon as practicable after the*
8 *close of each fiscal year, the Association shall submit to the*
9 *President, through the Department of the Treasury, and the*
10 *States (including State insurance regulators), and shall*
11 *publish on the website of the Association, a written report*
12 *regarding the conduct of its business, and the exercise of*
13 *the other rights and powers granted by this subtitle, during*
14 *such fiscal year.*

15 “(b) *FINANCIAL STATEMENTS.—Each report submitted*
16 *under subsection (a) with respect to any fiscal year shall*
17 *include audited financial statements setting forth the finan-*
18 *cial position of the Association at the end of such fiscal year*
19 *and the results of its operations (including the source and*
20 *application of its funds) for such fiscal year.*

21 **“SEC. 328. LIABILITY OF THE ASSOCIATION AND THE**
22 **BOARD MEMBERS, OFFICERS, AND EMPLOY-**
23 **EES OF THE ASSOCIATION.**

24 “(a) *IN GENERAL.—The Association shall not be*
25 *deemed to be an insurer or insurance producer within the*

1 *meaning of any State law, rule, regulation, or order regu-*
2 *lating or taxing insurers, insurance producers, or other en-*
3 *tities engaged in the business of insurance, including provi-*
4 *sions imposing premium taxes, regulating insurer solvency*
5 *or financial condition, establishing guaranty funds and lev-*
6 *ying assessments, or requiring claims settlement practices.*

7 “(b) *LIABILITY OF BOARD MEMBERS, OFFICERS, AND*
8 *EMPLOYEES.—No Board member, officer, or employee of the*
9 *Association shall be personally liable to any person for any*
10 *action taken or omitted in good faith in any matter within*
11 *the scope of their responsibilities in connection with the As-*
12 *sociation.*

13 **“SEC. 329. PRESIDENTIAL OVERSIGHT.**

14 “(a) *REMOVAL OF BOARD.—If the President deter-*
15 *mines that the Association is acting in a manner contrary*
16 *to the interests of the public or the purposes of this subtitle*
17 *or has failed to perform its duties under this subtitle, the*
18 *President may remove the entire existing Board for the re-*
19 *mainder of the term to which the Board members were ap-*
20 *pointed and appoint, in accordance with section 324 and*
21 *with the advice and consent of the Senate, in accordance*
22 *with the procedures established under Senate Resolution*
23 *116 of the 112th Congress, new Board members to fill the*
24 *vacancies on the Board for the remainder of the terms.*

1 “(b) *REMOVAL OF BOARD MEMBER.*—*The President*
2 *may remove a Board member only for neglect of duty or*
3 *malfeasance in office.*

4 “(c) *SUSPENSION OF BYLAWS AND STANDARDS AND*
5 *PROHIBITION OF ACTIONS.*—*Following notice to the Board,*
6 *the President, or a person designated by the President for*
7 *such purpose, may suspend the effectiveness of any bylaw*
8 *or standard, or prohibit any action, of the Association that*
9 *the President or the designee determines is contrary to the*
10 *purposes of this subtitle.*

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

12 “(a) *PREEMPTION OF STATE LAWS.*—*State laws, regu-*
13 *lations, provisions, or other actions purporting to regulate*
14 *insurance producers shall be preempted to the extent pro-*
15 *vided in subsection (b).*

16 “(b) *PROHIBITED ACTIONS.*—

17 “(1) *IN GENERAL.*—*No State shall—*

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

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 were
4 it not a member of the Association; or

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

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

11 “(A) impose any licensing, personal or cor-
12 porate qualifications, education, training, expe-
13 rience, residency, continuing education, or bond-
14 ing requirement upon a member of the Associa-
15 tion that is different from the criteria for mem-
16 bership in the Association or renewal of such
17 membership;

18 “(B) impose any requirement upon a mem-
19 ber of the Association that it be licensed, reg-
20 istered, or otherwise qualified to do business or
21 remain in good standing in the State, including
22 any requirement that the insurance producer
23 register as a foreign company with the secretary
24 of state or equivalent State official;

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

4 “(D) impose any licensing, registration, or
5 appointment requirements upon a member of the
6 Association, or require a member of the Associa-
7 tion to be authorized to operate as an insurance
8 producer, in order to sell, solicit, or negotiate in-
9 surance for commercial property and casualty
10 risks to an insured with risks located in more
11 than one State, if the member is licensed or oth-
12 erwise authorized to operate in the State where
13 the insured maintains its principal place of
14 business and the contract of insurance insures
15 risks located in that State.

16 “(3) *PRESERVATION OF STATE DISCIPLINARY AU-*
17 *THORITY.*—Nothing in this section may be construed
18 to prohibit a State from investigating and taking ap-
19 propriate disciplinary action, including suspension
20 or revocation of authority of an insurance producer
21 to do business in a State, in accordance with State
22 law and that is not inconsistent with the provisions
23 of this section, against a member of the Association
24 as a result of a complaint or for any alleged activity,
25 regardless of whether the activity occurred before or

1 *after the insurance producer commenced doing busi-*
2 *ness in the State pursuant to Association member-*
3 *ship.*

4 **“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY**
5 **REGULATORY AUTHORITY.**

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

12 **“SEC. 332. RIGHT OF ACTION.**

13 *“(a) RIGHT OF ACTION.—Any person aggrieved by a*
14 *decision or action of the Association may, after reasonably*
15 *exhausting available avenues for resolution within the Asso-*
16 *ciation, commence a civil action in an appropriate United*
17 *States district court, and obtain all appropriate relief.*

18 *“(b) ASSOCIATION INTERPRETATIONS.—In any action*
19 *under subsection (a), the court shall give appropriate*
20 *weight to the interpretation of the Association of its bylaws*
21 *and standards and this subtitle.*

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

23 *“The Association may not receive, accept, or borrow*
24 *any amounts from the Federal Government to pay for, or*

1 *reimburse, the Association for, the costs of establishing or*
2 *operating the Association.*

3 **“SEC. 334. DEFINITIONS.**

4 *“For purposes of this subtitle, the following definitions*
5 *shall apply:*

6 *“(1) BUSINESS ENTITY.—The term ‘business en-*
7 *tity’ means a corporation, association, partnership,*
8 *limited liability company, limited liability partner-*
9 *ship, or other legal entity.*

10 *“(2) DEPOSITORY INSTITUTION.—The term ‘de-*
11 *pository institution’ has the meaning as in section 3*
12 *of the Federal Deposit Insurance Act (12 U.S.C.*
13 *1813).*

14 *“(3) HOME STATE.—The term ‘home State’*
15 *means the State in which the insurance producer*
16 *maintains its principal place of residence or business*
17 *and is licensed to act as an insurance producer.*

18 *“(4) INSURANCE.—The term ‘insurance’ means*
19 *any product, other than title insurance or bail bonds,*
20 *defined or regulated as insurance by the appropriate*
21 *State insurance regulatory authority.*

22 *“(5) INSURANCE PRODUCER.—The term ‘insur-*
23 *ance producer’ means any insurance agent or broker,*
24 *excess or surplus lines broker or agent, insurance con-*
25 *sultant, limited insurance representative, and any*

1 *other individual or entity that sells, solicits, or nego-*
2 *tiates policies of insurance or offers advice, counsel,*
3 *opinions or services related to insurance.*

4 “(6) *INSURER.*—*The term ‘insurer’ has the*
5 *meaning as in section 313(e)(2)(B) of title 31, United*
6 *States Code.*

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

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

18 “(9) *STATE.*—*The term ‘State’ includes any*
19 *State, the District of Columbia, any territory of the*
20 *United States, and Puerto Rico, Guam, American*
21 *Samoa, the Trust Territory of the Pacific Islands, the*
22 *Virgin Islands, and the Northern Mariana Islands.*

23 “(10) *STATE LAW.*—

24 “(A) *IN GENERAL.*—*The term ‘State law’*
25 *includes all laws, decisions, rules, regulations, or*

Union Calendar No. 391

113TH CONGRESS
2^D SESSION

H. R. 4871

[Report No. 113-523]

A BILL

To reauthorize the Terrorism Risk Insurance Act of 2002, and for other purposes.

JULY 16, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed