

One Hundred Sixteenth Congress
of the
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Friday,
the third day of January, two thousand and twenty*

An Act

To restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Competitive Health Insurance Reform Act of 2020”.

SEC. 2. RESTORING THE APPLICATION OF ANTITRUST LAWS TO THE BUSINESS OF HEALTH INSURANCE.

(a) AMENDMENT TO MCCARRAN-FERGUSON ACT.—Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013), commonly known as the McCarran-Ferguson Act, is amended by adding at the end the following:

“(c)(1) Nothing contained in this Act shall modify, impair, or supersede the operation of any of the antitrust laws with respect to the business of health insurance (including the business of dental insurance and limited-scope dental benefits).

“(2) Paragraph (1) shall not apply with respect to making a contract, or engaging in a combination or conspiracy—

“(A) to collect, compile, or disseminate historical loss data;

“(B) to determine a loss development factor applicable to historical loss data;

“(C) to perform actuarial services if such contract, combination, or conspiracy does not involve a restraint of trade; or

“(D) to develop or disseminate a standard insurance policy form (including a standard addendum to an insurance policy form and standard terminology in an insurance policy form) if such contract, combination, or conspiracy is not to adhere to such standard form or require adherence to such standard form.

“(3) For purposes of this subsection—

“(A) the term ‘antitrust laws’ has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition;

“(B) the term ‘business of health insurance (including the business of dental insurance and limited-scope dental benefits)’ does not include—

“(i) the business of life insurance (including annuities);

or

“(ii) the business of property or casualty insurance, including but not limited to—

“(I) any insurance or benefits defined as ‘excepted benefits’ under paragraph (1), subparagraph (B) or (C) of paragraph (2), or paragraph (3) of section 9832(c) of the Internal Revenue Code of 1986 (26 U.S.C. 9832(c)) whether offered separately or in combination with insurance or benefits described in paragraph (2)(A) of such section; and

“(II) any other line of insurance that is classified as property or casualty insurance under State law;

“(C) the term ‘historical loss data’ means information respecting claims paid, or reserves held for claims reported, by any person engaged in the business of insurance; and

“(D) the term ‘loss development factor’ means an adjustment to be made to reserves held for losses incurred for claims reported by any person engaged in the business of insurance, for the purpose of bringing such reserves to an ultimate paid basis.”.

(b) RELATED PROVISION.—For purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section applies to unfair methods of competition, section 3(c) of the McCarran-Ferguson Act shall apply with respect to the business of health insurance without regard to whether such business is carried on for profit, notwithstanding the definition of “Corporation” contained in section 4 of the Federal Trade Commission Act.

SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*