

116TH CONGRESS
1ST SESSION

H. R. 1418

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2019

Mr. DEFazio (for himself, Mr. GOSAR, Mr. MEEKS, Mr. LYNCH, Mr. GRIMALVA, Mr. GARAMENDI, Mr. NORMAN, Mr. DESJARLAIS, Mr. DAVIDSON of Ohio, and Mr. YOHO) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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

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 “Competitive Health
5 Insurance Reform Act of 2019”.

1 **SEC. 2. RESTORING THE APPLICATION OF ANTITRUST**
2 **LAWS TO THE BUSINESS OF HEALTH INSUR-**
3 **ANCE.**

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

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

13 “(2) Paragraph (1) shall not apply with respect to
14 making a contract, or engaging in a combination or con-
15 spiracy—

16 “(A) to collect, compile, or disseminate histor-
17 ical loss data;

18 “(B) to determine a loss development factor ap-
19 plicable to historical loss data;

20 “(C) to perform actuarial services if such con-
21 tract, combination, or conspiracy does not involve a
22 restraint of trade; or

23 “(D) to develop or disseminate a standard in-
24 surance policy form (including a standard addendum
25 to an insurance policy form and standard termi-
26 nology in an insurance policy form) if such contract,

1 combination, or conspiracy is not to adhere to such
2 standard form or require adherence to such standard
3 form.

4 “(3) For purposes of this subsection—

5 “(A) the term ‘antitrust laws’ has the meaning
6 given it in subsection (a) of the first section of the
7 Clayton Act (15 U.S.C. 12), except that such term
8 includes section 5 of the Federal Trade Commission
9 Act (15 U.S.C. 45) to the extent that such section
10 5 applies to unfair methods of competition;

11 “(B) the term ‘business of health insurance (in-
12 cluding the business of dental insurance and limited-
13 scope dental benefits)’ does not include—

14 “(i) the business of life insurance (includ-
15 ing annuities); or

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

18 “(I) any insurance or benefits defined
19 as ‘excepted benefits’ under paragraph (1),
20 subparagraph (B) or (C) of paragraph (2),
21 or paragraph (3) of section 9832(c) of the
22 Internal Revenue Code of 1986 (26 U.S.C.
23 9832(c)) whether offered separately or in
24 combination with insurance or benefits de-

1 scribed in paragraph (2)(A) of such sec-
2 tion; and

3 “(II) any other line of insurance that
4 is classified as property or casualty insur-
5 ance under State law;

6 “(C) the term ‘historical loss data’ means infor-
7 mation respecting claims paid, or reserves held for
8 claims reported, by any person engaged in the busi-
9 ness of insurance; and

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

15 (b) RELATED PROVISION.—For purposes of section
16 5 of the Federal Trade Commission Act (15 U.S.C. 45)
17 to the extent such section applies to unfair methods of
18 competition, section 3(e) of the McCarran-Ferguson Act
19 shall apply with respect to the business of health insurance
20 without regard to whether such business is carried on for
21 profit, notwithstanding the definition of “Corporation”
22 contained in section 4 of the Federal Trade Commission
23 Act.

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