

113TH CONGRESS
1ST SESSION

H. R. 1155

AN ACT

To reform the National Association of Registered Agents
and Brokers, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Association
3 of Registered Agents and Brokers Reform Act of 2013”.

4 **SEC. 2. REESTABLISHMENT OF THE NATIONAL ASSOCIA-**
5 **TION OF REGISTERED AGENTS AND BRO-**
6 **KERS.**

7 (a) IN GENERAL.—Subtitle C of title III of the
8 Gramm-Leach-Bliley Act (15 U.S.C. 6751 et seq.) is
9 amended to read as follows:

10 **“Subtitle C—National Association**
11 **of Registered Agents and Brokers**

12 **“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED**
13 **AGENTS AND BROKERS.**

14 “(a) ESTABLISHMENT.—There is established the Na-
15 tional Association of Registered Agents and Brokers (re-
16 ferred to in this subtitle as the ‘Association’).

17 “(b) STATUS.—The Association shall—

18 “(1) be a nonprofit corporation;

19 “(2) not be an agent or instrumentality of the
20 Federal Government;

21 “(3) be an independent organization that may
22 not be merged with or into any other private or pub-
23 lic entity; and

24 “(4) except as otherwise provided in this sub-
25 title, be subject to, and have all the powers conferred
26 upon, a nonprofit corporation by the District of Co-

1 lumbia Nonprofit Corporation Act (D.C. Code, sec.
2 29–301.01 et seq.) or any successor thereto.

3 **“SEC. 322. PURPOSE.**

4 “The purpose of the Association shall be to provide
5 a mechanism through which licensing, continuing edu-
6 cation, and other nonresident insurance producer quali-
7 fication requirements and conditions may be adopted and
8 applied on a multi-state basis without affecting the laws,
9 rules, and regulations, and preserving the rights of a
10 State, pertaining to—

11 “(1) licensing, continuing education, and other
12 qualification requirements of insurance producers
13 that are not members of the Association;

14 “(2) resident or nonresident insurance producer
15 appointment requirements;

16 “(3) supervising and disciplining resident and
17 nonresident insurance producers;

18 “(4) establishing licensing fees for resident and
19 nonresident insurance producers so that there is no
20 loss of insurance producer licensing revenue to the
21 State; and

22 “(5) prescribing and enforcing laws and regula-
23 tions regulating the conduct of resident and non-
24 resident insurance producers.

1 **“SEC. 323. MEMBERSHIP.**

2 “(a) ELIGIBILITY.—

3 “(1) IN GENERAL.—Any insurance producer li-
4 censed in its home State shall, subject to paragraphs
5 (2) and (4), be eligible to become a member of the
6 Association.

7 “(2) INELIGIBILITY FOR SUSPENSION OR REV-
8 OCATION OF LICENSE.—Subject to paragraph (3),
9 an insurance producer is not eligible to become a
10 member of the Association if a State insurance regu-
11 lator has suspended or revoked the insurance license
12 of the insurance producer in that State.

13 “(3) RESUMPTION OF ELIGIBILITY.—Paragraph
14 (2) shall cease to apply to any insurance producer
15 if—

16 “(A) the State insurance regulator reissues
17 or renews the license of the insurance producer
18 in the State in which the license was suspended
19 or revoked, or otherwise terminates or vacates
20 the suspension or revocation; or

21 “(B) the suspension or revocation expires
22 or is subsequently overturned by a court of
23 competent jurisdiction.

24 “(4) CRIMINAL HISTORY RECORD CHECK RE-
25 QUIRED.—

1 “(A) IN GENERAL.—An insurance pro-
2 ducer who is an individual shall not be eligible
3 to become a member of the Association unless
4 the insurance producer has undergone a crimi-
5 nal history record check that complies with reg-
6 ulations prescribed by the Attorney General of
7 the United States under subparagraph (K).

8 “(B) CRIMINAL HISTORY RECORD CHECK
9 REQUESTED BY HOME STATE.—An insurance
10 producer who is licensed in a State and who has
11 undergone a criminal history record check dur-
12 ing the 2-year period preceding the date of sub-
13 mission of an application to become a member
14 of the Association, in compliance with a re-
15 quirement to undergo such criminal history
16 record check as a condition for such licensure
17 in the State, shall be deemed to have undergone
18 a criminal history record check for purposes of
19 subparagraph (A).

20 “(C) CRIMINAL HISTORY RECORD CHECK
21 REQUESTED BY ASSOCIATION.—

22 “(i) IN GENERAL.—The Association
23 shall, upon request by an insurance pro-
24 ducer licensed in a State, submit finger-
25 prints or other identification information

1 obtained from the insurance producer, and
2 a request for a criminal history record
3 check of the insurance producer, to the
4 Federal Bureau of Investigation.

5 “(ii) PROCEDURES.—The board of di-
6 rectors of the Association (referred to in
7 this subtitle as the ‘Board’) shall prescribe
8 procedures for obtaining and utilizing fin-
9 gerprints or other identification informa-
10 tion and criminal history record informa-
11 tion, including the establishment of reason-
12 able fees to defray the expenses of the As-
13 sociation in connection with the perform-
14 ance of a criminal history record check and
15 appropriate safeguards for maintaining
16 confidentiality and security of the informa-
17 tion. Any fees charged pursuant to this
18 clause shall be separate and distinct from
19 those charged by the Attorney General
20 pursuant to subparagraph (I).

21 “(D) FORM OF REQUEST.—A submission
22 under subparagraph (C)(i) shall include such
23 fingerprints or other identification information
24 as is required by the Attorney General con-
25 cerning the person about whom the criminal

1 history record check is requested, and a state-
2 ment signed by the person authorizing the At-
3 torney General to provide the information to
4 the Association and for the Association to re-
5 ceive the information.

6 “(E) PROVISION OF INFORMATION BY AT-
7 TORNEY GENERAL.—Upon receiving a submis-
8 sion under subparagraph (C)(i) from the Asso-
9 ciation, the Attorney General shall search all
10 criminal history records of the Federal Bureau
11 of Investigation, including records of the Crimi-
12 nal Justice Information Services Division of the
13 Federal Bureau of Investigation, that the At-
14 torney General determines appropriate for
15 criminal history records corresponding to the
16 fingerprints or other identification information
17 provided under subparagraph (D) and provide
18 all criminal history record information included
19 in the request to the Association.

20 “(F) LIMITATION ON PERMISSIBLE USES
21 OF INFORMATION.—Any information provided
22 to the Association under subparagraph (E) may
23 only—

1 “(i) be used for purposes of deter-
2 mining compliance with membership cri-
3 teria established by the Association;

4 “(ii) be disclosed to State insurance
5 regulators, or Federal or State law en-
6 forcement agencies, in conformance with
7 applicable law; or

8 “(iii) be disclosed, upon request, to
9 the insurance producer to whom the crimi-
10 nal history record information relates.

11 “(G) PENALTY FOR IMPROPER USE OR
12 DISCLOSURE.—Whoever knowingly uses any in-
13 formation provided under subparagraph (E) for
14 a purpose not authorized in subparagraph (F),
15 or discloses any such information to anyone not
16 authorized to receive it, shall be fined not more
17 than \$50,000 per violation as determined by a
18 court of competent jurisdiction.

19 “(H) RELIANCE ON INFORMATION.—Nei-
20 ther the Association nor any of its Board mem-
21 bers, officers, or employees shall be liable in
22 any action for using information provided under
23 subparagraph (E) as permitted under subpara-
24 graph (F) in good faith and in reasonable reli-
25 ance on its accuracy.

1 “(I) FEES.—The Attorney General may
2 charge a reasonable fee for conducting the
3 search and providing the information under
4 subparagraph (E), and any such fee shall be
5 collected and remitted by the Association to the
6 Attorney General.

7 “(J) RULE OF CONSTRUCTION.—Nothing
8 in this paragraph shall be construed as—

9 “(i) requiring a State insurance regu-
10 lator to perform criminal history record
11 checks under this section; or

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

14 “(K) REGULATIONS.—The Attorney Gen-
15 eral shall prescribe regulations to carry out this
16 paragraph, which shall include—

17 “(i) appropriate protections for ensur-
18 ing the confidentiality of information pro-
19 vided under subparagraph (E); and

20 “(ii) procedures providing a reason-
21 able opportunity for an insurance producer
22 to contest the accuracy of information re-
23 garding the insurance producer provided
24 under subparagraph (E).

25 “(L) INELIGIBILITY FOR MEMBERSHIP.—

1 “(i) IN GENERAL.—The Association
2 may, under reasonably consistently applied
3 standards, deny membership to an insur-
4 ance producer on the basis of criminal his-
5 tory record information provided under
6 subparagraph (E), or where the insurance
7 producer has been subject to disciplinary
8 action, as described in paragraph (2).

9 “(ii) RIGHTS OF APPLICANTS DENIED
10 MEMBERSHIP.—The Association shall no-
11 tify any insurance producer who is denied
12 membership on the basis of criminal his-
13 tory record information provided under
14 subparagraph (E) of the right of the insur-
15 ance producer to—

16 “(I) obtain a copy of all criminal
17 history record information provided to
18 the Association under subparagraph
19 (E) with respect to the insurance pro-
20 ducer; and

21 “(II) challenge the denial of
22 membership based on the accuracy
23 and completeness of the information.

24 “(M) DEFINITION.—For purposes of this
25 paragraph, the term ‘criminal history record

1 check' means a national background check of
2 criminal history records of the Federal Bureau
3 of Investigation.

4 “(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRI-
5 TERIA.—The Association may establish membership cri-
6 teria that bear a reasonable relationship to the purposes
7 for which the Association was established.

8 “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES
9 OF MEMBERSHIP.—

10 “(1) CLASSES OF MEMBERSHIP.—The Associa-
11 tion may establish separate classes of membership,
12 with separate criteria, if the Association reasonably
13 determines that performance of different duties re-
14 quires different levels of education, training, experi-
15 ence, or other qualifications.

16 “(2) BUSINESS ENTITIES.—The Association
17 shall establish a class of membership and member-
18 ship criteria for business entities. A business entity
19 that applies for membership shall be required to des-
20 ignate an individual Association member responsible
21 for the compliance of the business entity with Asso-
22 ciation standards and the insurance laws, standards,
23 and regulations of any State in which the business
24 entity seeks to do business on the basis of Associa-
25 tion membership.

1 “(3) CATEGORIES.—

2 “(A) SEPARATE CATEGORIES FOR INSUR-
3 ANCE PRODUCERS PERMITTED.—The Associa-
4 tion may establish separate categories of mem-
5 bership for insurance producers and for other
6 persons or entities within each class, based on
7 the types of licensing categories that exist
8 under State laws.

9 “(B) SEPARATE TREATMENT FOR DEPOSI-
10 TORY INSTITUTIONS PROHIBITED.—No special
11 categories of membership, and no distinct mem-
12 bership criteria, shall be established for mem-
13 bers that are depository institutions or for em-
14 ployees, agents, or affiliates of depository insti-
15 tutions.

16 “(d) MEMBERSHIP CRITERIA.—

17 “(1) IN GENERAL.—The Association may estab-
18 lish criteria for membership which shall include
19 standards for personal qualifications, education,
20 training, and experience. The Association shall not
21 establish criteria that unfairly limit the ability of a
22 small insurance producer to become a member of the
23 Association, including imposing discriminatory mem-
24 bership fees.

1 “(2) QUALIFICATIONS.—In establishing criteria
2 under paragraph (1), the Association shall not adopt
3 any qualification less protective to the public than
4 that contained in the National Association of Insur-
5 ance Commissioners (referred to in this subtitle as
6 the ‘NAIC’) Producer Licensing Model Act in effect
7 as of the date of enactment of the National Associa-
8 tion of Registered Agents and Brokers Reform Act
9 of 2013, and shall consider the highest levels of in-
10 surance producer qualifications established under
11 the licensing laws of the States.

12 “(3) ASSISTANCE FROM STATES.—

13 “(A) IN GENERAL.—The Association may
14 request a State to provide assistance in inves-
15 tigating and evaluating the eligibility of a pro-
16 spective member for membership in the Associa-
17 tion.

18 “(B) AUTHORIZATION OF INFORMATION
19 SHARING.—A submission under subsection
20 (a)(4)(C)(i) made by an insurance producer li-
21 censed in a State shall include a statement
22 signed by the person about whom the assistance
23 is requested authorizing—

24 “(i) the State to share information
25 with the Association; and

1 “(ii) the Association to receive the in-
2 formation.

3 “(C) RULE OF CONSTRUCTION.—Subpara-
4 graph (A) shall not be construed as requiring or
5 authorizing any State to adopt new or addi-
6 tional requirements concerning the licensing or
7 evaluation of insurance producers.

8 “(4) DENIAL OF MEMBERSHIP.—The Associa-
9 tion may, based on reasonably consistently applied
10 standards, deny membership to any State-licensed
11 insurance producer for failure to meet the member-
12 ship criteria established by the Association.

13 “(e) EFFECT OF MEMBERSHIP.—

14 “(1) AUTHORITY OF ASSOCIATION MEMBERS.—
15 Membership in the Association shall—

16 “(A) authorize an insurance producer to
17 sell, solicit, or negotiate insurance in any State
18 for which the member pays the licensing fee set
19 by the State for any line or lines of insurance
20 specified in the home State license of the insur-
21 ance producer, and exercise all such incidental
22 powers as shall be necessary to carry out such
23 activities, including claims adjustments and set-
24 tlement to the extent permissible under the laws
25 of the State, risk management, employee bene-

1 fits advice, retirement planning, and any other
2 insurance-related consulting activities;

3 “(B) be the equivalent of a nonresident in-
4 surance producer license for purposes of author-
5 izing the insurance producer to engage in the
6 activities described in subparagraph (A) in any
7 State where the member pays the licensing fee;
8 and

9 “(C) be the equivalent of a nonresident in-
10 surance producer license for the purpose of sub-
11 jecting an insurance producer to all laws, regu-
12 lations, provisions or other action of any State
13 concerning revocation, suspension, or other en-
14 forcement action related to the ability of a
15 member to engage in any activity within the
16 scope of authority granted under this subsection
17 and to all State laws, regulations, provisions,
18 and actions preserved under paragraph (5).

19 “(2) VIOLENT CRIME CONTROL AND LAW EN-
20 FORCEMENT ACT OF 1994.—Nothing in this subtitle
21 shall be construed to alter, modify, or supercede any
22 requirement established by section 1033 of title 18,
23 United States Code.

24 “(3) AGENT FOR REMITTING FEES.—The Asso-
25 ciation shall act as an agent for any member for

1 purposes of remitting licensing fees to any State
2 pursuant to paragraph (1).

3 “(4) NOTIFICATION OF ACTION.—

4 “(A) IN GENERAL.—The Association shall
5 notify the States (including State insurance
6 regulators) and the NAIC when an insurance
7 producer has satisfied the membership criteria
8 of this section. The States (including State in-
9 surance regulators) shall have 10 business days
10 after the date of the notification in order to
11 provide the Association with evidence that the
12 insurance producer does not satisfy the criteria
13 for membership in the Association.

14 “(B) ONGOING DISCLOSURES REQUIRED.—

15 On an ongoing basis, the Association shall dis-
16 close to the States (including State insurance
17 regulators) and the NAIC a list of the States
18 in which each member is authorized to operate.
19 The Association shall immediately notify the
20 States (including State insurance regulators)
21 and the NAIC when a member is newly author-
22 ized to operate in one or more States, or is no
23 longer authorized to operate in one or more
24 States on the basis of Association membership.

1 “(5) PRESERVATION OF CONSUMER PROTEC-
2 TION AND MARKET CONDUCT REGULATION.—

3 “(A) IN GENERAL.—No provision of this
4 section shall be construed as altering or affect-
5 ing the applicability or continuing effectiveness
6 of any law, regulation, provision, or other action
7 of any State, including those described in sub-
8 paragraph (B), to the extent that the State law,
9 regulation, provision, or other action is not in-
10 consistent with the provisions of this subtitle re-
11 lated to market entry for nonresident insurance
12 producers, and then only to the extent of the in-
13 consistency.

14 “(B) PRESERVED REGULATIONS.—The
15 laws, regulations, provisions, or other actions of
16 any State referred to in subparagraph (A) in-
17 clude laws, regulations, provisions, or other ac-
18 tions that—

19 “(i) regulate market conduct, insur-
20 ance producer conduct, or unfair trade
21 practices;

22 “(ii) establish consumer protections;

23 or

1 “(iii) require insurance producers to
2 be appointed by a licensed or authorized
3 insurer.

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

6 “(g) CONTINUING EDUCATION.—

7 “(1) IN GENERAL.—The Association shall es-
8 tablish, as a condition of membership, continuing
9 education requirements which shall be comparable to
10 the continuing education requirements under the li-
11 censing laws of a majority of the States.

12 “(2) STATE CONTINUING EDUCATION REQUIRE-
13 MENTS.—A member may not be required to satisfy
14 continuing education requirements imposed under
15 the laws, regulations, provisions, or actions of any
16 State other than the home State of the member.

17 “(3) RECIPROCITY.—The Association shall not
18 require a member to satisfy continuing education re-
19 quirements that are equivalent to any continuing
20 education requirements of the home State of the
21 member that have been satisfied by the member dur-
22 ing the applicable licensing period.

23 “(4) LIMITATION ON THE ASSOCIATION.—The
24 Association shall not directly or indirectly offer any

1 continuing education courses for insurance pro-
2 ducers.

3 “(h) PROBATION, SUSPENSION AND REVOCATION.—

4 “(1) DISCIPLINARY ACTION.—The Association
5 may place an insurance producer that is a member
6 of the Association on probation or suspend or revoke
7 the membership of the insurance producer in the As-
8 sociation, or assess monetary fines or penalties, as
9 the Association determines to be appropriate, if—

10 “(A) the insurance producer fails to meet
11 the applicable membership criteria or other
12 standards established by the Association;

13 “(B) the insurance producer has been sub-
14 ject to disciplinary action pursuant to a final
15 adjudicatory proceeding under the jurisdiction
16 of a State insurance regulator;

17 “(C) an insurance license held by the in-
18 surance producer has been suspended or re-
19 voked by a State insurance regulator; or

20 “(D) the insurance producer has been con-
21 victed of a crime that would have resulted in
22 the denial of membership pursuant to sub-
23 section (a)(4)(L)(i) at the time of application,
24 and the Association has received a copy of the

1 final disposition from a court of competent ju-
2 risdiction.

3 “(2) VIOLATIONS OF ASSOCIATION STAND-
4 ARDS.—The Association shall have the power to in-
5 vestigate alleged violations of Association standards.

6 “(3) REPORTING.—The Association shall imme-
7 diately notify the States (including State insurance
8 regulators) and the NAIC when the membership of
9 an insurance producer has been placed on probation
10 or has been suspended, revoked, or otherwise termi-
11 nated, or when the Association has assessed mone-
12 tary fines or penalties.

13 “(i) CONSUMER COMPLAINTS.—

14 “(1) IN GENERAL.—The Association shall—

15 “(A) refer any complaint against a mem-
16 ber of the Association from a consumer relating
17 to alleged misconduct or violations of State in-
18 surance laws to the State insurance regulator
19 where the consumer resides and, when appro-
20 priate, to any additional State insurance regu-
21 lator, as determined by standards adopted by
22 the Association; and

23 “(B) make any related records and infor-
24 mation available to each State insurance regu-
25 lator to whom the complaint is forwarded.

1 “(2) TELEPHONE AND OTHER ACCESS.—The
2 Association shall maintain a toll-free number for
3 purposes of this subsection and, as practicable, other
4 alternative means of communication with consumers,
5 such as an Internet webpage.

6 “(3) FINAL DISPOSITION OF INVESTIGATION.—
7 State insurance regulators shall provide the Associa-
8 tion with information regarding the final disposition
9 of a complaint referred pursuant to paragraph
10 (1)(A), but nothing shall be construed to compel a
11 State to release confidential investigation reports or
12 other information protected by State law to the As-
13 sociation.

14 “(j) INFORMATION SHARING.—The Association
15 may—

16 “(1) share documents, materials, or other infor-
17 mation, including confidential and privileged docu-
18 ments, with a State, Federal, or international gov-
19 ernmental entity or with the NAIC or other appro-
20 priate entity referred to paragraphs (3) and (4),
21 provided that the recipient has the authority and
22 agrees to maintain the confidentiality or privileged
23 status of the document, material, or other informa-
24 tion;

1 “(2) limit the sharing of information as re-
2 quired under this subtitle with the NAIC or any
3 other non-governmental entity, in circumstances
4 under which the Association determines that the
5 sharing of such information is unnecessary to fur-
6 ther the purposes of this subtitle;

7 “(3) establish a central clearinghouse, or utilize
8 the NAIC or another appropriate entity, as deter-
9 mined by the Association, as a central clearinghouse,
10 for use by the Association and the States (including
11 State insurance regulators), through which members
12 of the Association may disclose their intent to oper-
13 ate in 1 or more States and pay the licensing fees
14 to the appropriate States; and

15 “(4) establish a database, or utilize the NAIC
16 or another appropriate entity, as determined by the
17 Association, as a database, for use by the Associa-
18 tion and the States (including State insurance regu-
19 lators) for the collection of regulatory information
20 concerning the activities of insurance producers.

21 “(k) EFFECTIVE DATE.—The provisions of this sec-
22 tion shall take effect on the later of—

23 “(1) the expiration of the 2-year period begin-
24 ning on the date of enactment of the National Asso-

1 ciation of Registered Agents and Brokers Reform
2 Act of 2013; and

3 “(2) the date of incorporation of the Associa-
4 tion.

5 **“SEC. 324. BOARD OF DIRECTORS.**

6 “(a) ESTABLISHMENT.—There is established a board
7 of directors of the Association, which shall have authority
8 to govern and supervise all activities of the Association.

9 “(b) POWERS.—The Board shall have such of the
10 powers and authority of the Association as may be speci-
11 fied in the bylaws of the Association.

12 “(c) COMPOSITION.—

13 “(1) IN GENERAL.—The Board shall consist of
14 13 members who shall be appointed by the Presi-
15 dent, by and with the advice and consent of the Sen-
16 ate, in accordance with the procedures established
17 under Senate Resolution 116 of the 112th Congress,
18 of whom—

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

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

4 “(C) 2 shall have demonstrated expertise
5 and experience with life or health insurance
6 producer licensing.

7 “(2) STATE INSURANCE REGULATOR REP-
8 RESENTATIVES.—

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

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

23 “(C) FORMER STATE INSURANCE COMMIS-
24 SIONERS.—

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

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

23 “(D) SERVICE THROUGH TERM.—If a
24 Board member appointed under paragraph
25 (1)(A) ceases to be a State insurance commis-

1 sioner during the term of the Board member,
2 the Board member shall cease to be a Board
3 member.

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

10 “(4) STATE INSURANCE COMMISSIONER DE-
11 FINED.—For purposes of this subsection, the term
12 ‘State insurance commissioner’ means a person who
13 serves in the position in State government, or on the
14 board, commission, or other body that is the primary
15 insurance regulatory authority for the State.

16 “(d) TERMS.—

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

20 “(2) EXCEPTIONS.—

21 “(A) 1-YEAR TERMS.—The term of service
22 shall be 1 year, as designated by the President
23 at the time of the nomination of the subject
24 Board members for—

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

6 “(ii) 1 of the Board members initially
7 appointed under paragraph (1)(B); and

8 “(iii) 1 of the Board members initially
9 appointed under paragraph (1)(C).

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

15 “(C) MID-TERM APPOINTMENTS.—A
16 Board member appointed to fill a vacancy oc-
17 curring before the expiration of the term for
18 which the predecessor of the Board member
19 was appointed shall be appointed only for the
20 remainder of that term.

21 “(3) SUCCESSIVE TERMS.—Board members
22 may be reappointed to successive terms.

23 “(e) INITIAL APPOINTMENTS.—The appointment of
24 initial Board members shall be made no later than 90 days

1 after the date of enactment of the National Association
2 of Registered Agents and Brokers Reform Act of 2013.

3 “(f) MEETINGS.—

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

5 “(A) at the call of the chairperson;

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

8 “(C) as otherwise provided by the bylaws
9 of the Association.

10 “(2) QUORUM REQUIRED.—A majority of all
11 Board members shall constitute a quorum.

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

15 “(4) INITIAL MEETING.—The Board shall hold
16 its first meeting not later than 45 days after the
17 date on which all initial Board members have been
18 appointed.

19 “(g) RESTRICTION ON CONFIDENTIAL INFORMA-
20 TION.—Board members appointed pursuant to subpara-
21 graphs (B) and (C) of subsection (e)(1) shall not have ac-
22 cess to confidential information received by the Associa-
23 tion in connection with complaints, investigations, or dis-
24 ciplinary proceedings involving insurance producers.

1 “(h) ETHICS AND CONFLICTS OF INTEREST.—The
2 Board shall issue and enforce an ethical conduct code to
3 address permissible and prohibited activities of Board
4 members and Association officers, employees, agents, or
5 consultants. The code shall, at a minimum, include provi-
6 sions that prohibit any Board member or Association offi-
7 cer, employee, agent or consultant from—

8 “(1) engaging in unethical conduct in the
9 course of performing Association duties;

10 “(2) participating in the making or influencing
11 the making of any Association decision, the outcome
12 of which the Board member, officer, employee,
13 agent, or consultant knows or had reason to know
14 would have a reasonably foreseeable material finan-
15 cial effect, distinguishable from its effect on the pub-
16 lic generally, on the person or a member of the im-
17 mediate family of the person;

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

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

23 “(5) lobbying or paying a person to lobby on
24 behalf of the Association.

25 “(i) COMPENSATION.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), no Board member may receive any com-
3 pensation from the Association or any other person
4 or entity on account of Board membership.

5 “(2) TRAVEL EXPENSES AND PER DIEM.—
6 Board members may be reimbursed only by the As-
7 sociation for travel expenses, including per diem in
8 lieu of subsistence, at rates consistent with rates au-
9 thorized for employees of Federal agencies under
10 subchapter I of chapter 57 of title 5, United States
11 Code, while away from home or regular places of
12 business in performance of services for the Associa-
13 tion.

14 **“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY AC-**
15 **TIONS.**

16 “(a) ADOPTION AND AMENDMENT OF BYLAWS AND
17 STANDARDS.—

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

24 “(2) COPY REQUIRED TO BE FILED.—The
25 Board shall submit to the President, through the

1 Department of the Treasury, and the States (includ-
2 ing State insurance regulators), and shall publish on
3 the website of the Association, all proposed bylaws
4 and standards of the Association, or any proposed
5 amendment to the bylaws or standards of the Asso-
6 ciation, accompanied by a concise general statement
7 of the basis and purpose of such proposal.

8 “(3) EFFECTIVE DATE.—Any proposed bylaw
9 or standard of the Association, and any proposed
10 amendment to the bylaws or standards of the Asso-
11 ciation, shall take effect, after notice under para-
12 graph (2) and opportunity for public comment, on
13 such date as the Association may designate, unless
14 suspended under section 329(e).

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

21 “(b) DISCIPLINARY ACTION BY THE ASSOCIATION.—

22 “(1) SPECIFICATION OF CHARGES.—In any pro-
23 ceeding to determine whether membership shall be
24 denied, suspended, revoked, or not renewed, or to
25 determine whether a member of the Association

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

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

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

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

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

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

20 “(A) participate in any disciplinary action
21 or be counted toward establishing a quorum
22 during a disciplinary action; and

23 “(B) have access to confidential informa-
24 tion 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 Asso-
10 ciation 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 special-
17 ists, and elect or appoint officers, and to fix their
18 compensation, define their duties and give them ap-
19 propriate authority to carry out the purposes of this
20 subtitle, 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
24 applicable, and qualifications of personnel;

25 “(7) borrow money; and

1 “(8) secure funding for such amounts as the
2 Association determines to be necessary and appro-
3 priate to organize and begin operations of the Asso-
4 ciation, which shall be treated as loans to be repaid
5 by the Association 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
9 the President, through the Department of the Treasury,
10 and the States (including State insurance regulators), and
11 shall publish on the website of the Association, a written
12 report regarding the conduct of its business, and the exer-
13 cise of the other rights and powers granted by this sub-
14 title, during such fiscal year.

15 “(b) FINANCIAL STATEMENTS.—Each report sub-
16 mitted under subsection (a) with respect to any fiscal year
17 shall include audited financial statements setting forth the
18 financial position of the Association at the end of such
19 fiscal year and the results of its operations (including the
20 source and 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 pro-
4 visions imposing premium taxes, regulating insurer sol-
5 vency or financial condition, establishing guaranty funds
6 and levying assessments, or requiring claims settlement
7 practices.

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

14 **“SEC. 329. PRESIDENTIAL OVERSIGHT.**

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

1 bers to fill the vacancies on the Board for the remainder
2 of the terms.

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

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

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

14 “(a) PREEMPTION OF STATE LAWS.—State laws,
15 regulations, provisions, or other actions purporting to reg-
16 ulate insurance producers shall be preempted to the extent
17 provided in subsection (b).

18 “(b) PROHIBITED ACTIONS.—

19 “(1) IN GENERAL.—No State shall—

20 “(A) impede the activities of, take any ac-
21 tion against, or apply any provision of law or
22 regulation arbitrarily or discriminatorily to, any
23 insurance producer because that insurance pro-
24 ducer or any affiliate plans to become, has ap-

1 plied to become, or is a member of the Associa-
2 tion;

3 “(B) impose any requirement upon a mem-
4 ber of the Association that it pay fees different
5 from those required to be paid to that State
6 were it not a member of the Association; or

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

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

13 “(A) impose any licensing, personal or cor-
14 porate qualifications, education, training, expe-
15 rience, residency, continuing education, or
16 bonding requirement upon a member of the As-
17 sociation that is different from the criteria for
18 membership in the Association or renewal of
19 such membership;

20 “(B) impose any requirement upon a mem-
21 ber of the Association that it be licensed, reg-
22 istered, or otherwise qualified to do business or
23 remain in good standing in the State, including
24 any requirement that the insurance producer

1 register as a foreign company with the sec-
2 retary of state or equivalent State official;

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

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

18 “(3) PRESERVATION OF STATE DISCIPLINARY
19 AUTHORITY.—Nothing in this section may be con-
20 strued to prohibit a State from investigating and
21 taking appropriate disciplinary action, including sus-
22 pension or revocation of authority of an insurance
23 producer to do business in a State, in accordance
24 with State law and that is not inconsistent with the
25 provisions of this section, against a member of the

1 Association as a result of a complaint or for any al-
2 leged activity, regardless of whether the activity oc-
3 curred before or after the insurance producer com-
4 menced doing business in the State pursuant to As-
5 sociation membership.

6 **“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY**
7 **REGULATORY AUTHORITY.**

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

14 **“SEC. 332. RIGHT OF ACTION.**

15 “(a) RIGHT OF ACTION.—Any person aggrieved by
16 a decision or action of the Association may, after reason-
17 ably exhausting available avenues for resolution within the
18 Association, commence a civil action in an appropriate
19 United States district court, and obtain all appropriate re-
20 lief.

21 “(b) ASSOCIATION INTERPRETATIONS.—In any ac-
22 tion under subsection (a), the court shall give appropriate
23 weight to the interpretation of the Association of its by-
24 laws and standards and this subtitle.

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

2 “The Association may not receive, accept, or borrow
3 any amounts from the Federal Government to pay for, or
4 reimburse, the Association for, the costs of establishing
5 or operating the Association.

6 **“SEC. 334. DEFINITIONS.**

7 “For purposes of this subtitle, the following defini-
8 tions shall apply:

9 “(1) BUSINESS ENTITY.—The term ‘business
10 entity’ means a corporation, association, partnership,
11 limited liability company, limited liability partner-
12 ship, or other legal entity.

13 “(2) DEPOSITORY INSTITUTION.—The term ‘de-
14 pository institution’ has the meaning as in section 3
15 of the Federal Deposit Insurance Act (12 U.S.C.
16 1813).

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

21 “(4) INSURANCE.—The term ‘insurance’ means
22 any product, other than title insurance or bail
23 bonds, defined or regulated as insurance by the ap-
24 propriate State insurance regulatory authority.

25 “(5) INSURANCE PRODUCER.—The term ‘insur-
26 ance producer’ means any insurance agent or

1 broker, excess or surplus lines broker or agent, in-
2 surance consultant, limited insurance representative,
3 and any other individual or entity that sells, solicits,
4 or negotiates policies of insurance or offers advice,
5 counsel, opinions or services related to insurance.

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

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

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

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

“Sec. 333. Federal funding prohibited.
“Sec. 334. Definitions.”.

Passed the House of Representatives September 10,
2013.

Attest:

Clerk.

113TH CONGRESS
1ST SESSION

H. R. 1155

AN ACT

To reform the National Association of Registered Agents and Brokers, and for other purposes.