S. 1926

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and to reform the National Association of Registered Agents and Brokers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 14, 2014

Mr. MENENDEZ (for himself, Mr. ISAKSON, Mr. VITTER, and Ms. LANDRIEU) introduced the following bill; which was read the first time

JANUARY 15, 2014

Read the second time and placed on the calendar

A BILL

To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and to reform the National Association of Registered Agents and Brokers, and for other purposes.

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

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—HOMEOWNER FLOOD INSURANCE AFFORDABILITY ACT
Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Delayed implementation of flood insurance rate increases; draft affordability framework.
Sec. 104. Affordability study and report.
Sec. 105. Affordability study funding.
Sec. 106. Funds to reimburse homeowners for successful map appeals.
Sec. 107. Flood protection systems.
Sec. 108. Treatment of floodproofed residential basements.
Sec. 109. Designation of flood insurance advocate.

TITLE II—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS

Sec. 201. Short Title.
Sec. 202. Reestablishment of the National Association of Registered Agents and Brokers.

TITLE I—HOMEOWNER FLOOD INSURANCE AFFORDABILITY ACT

SEC. 101. SHORT TITLE.

This title may be cited as the “Homeowner Flood Insurance Affordability Act of 2014”.

SEC. 102. DEFINITIONS.

As used in this title, the following definitions shall apply:

(1) Adjusted base flood elevation.—For purposes of rating a floodproofed covered structure, the term “adjusted base flood elevation” means the base flood elevation for a covered structure on the applicable effective flood insurance rate map, plus 1 foot.
(2) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Federal Emergency Management Agency.

(3) **AFFORDABILITY STUDY.**—The term “affordability study” means the study required under section 100236 of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 957).

(4) **APPLICABLE FLOOD PLAIN MANAGEMENT MEASURES.**—The term “applicable flood plain management measures” means flood plain management measures adopted by a community under section 60.3(c) of title 44, Code of Federal Regulations.

(5) **COVERED STRUCTURE.**—The term “covered structure” means a residential structure—

(A) that is located in a community that has adopted flood plain management measures that are approved by the Federal Emergency Management Agency and that satisfy the requirements for an exception for floodproofed residential basements under section 60.6(c) of title 44, Code of Federal Regulations; and

(B) that was built in compliance with the applicable flood plain management measures.
(6) Draft Affordability Framework.—The term “draft affordability framework” means the draft programmatic and regulatory framework required to be prepared by the Administrator and submitted to Congress under section 103(d) addressing the issues of affordability of flood insurance sold under the National Flood Insurance Program, including issues identified in the affordability study.

(7) Floodproofed Elevation.—The term “floodproofed elevation” means the height of floodproofing on a covered structure, as identified on the Residential Basement Floodproofing Certificate for the covered structure.

(8) National Flood Insurance Program.—The term “National Flood Insurance Program” means the program established under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.).

SEC. 103. DELAYED IMPLEMENTATION OF FLOOD INSURANCE RATE INCREASES; DRAFT AFFORDABILITY FRAMEWORK.

(a) Delayed Implementation of Flood Insurance Rate Increases.—

(1) Grandfathered Properties.—Beginning on the date of enactment of this Act, the Adminis-
trator may not implement section 1308(h) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(h)).

(2) PRE-FIRM PROPERTIES.—Beginning on the date of enactment of this Act, the Administrator may not implement—

(A) section 1307(g)(1) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(1)); or

(B) section 1307(g)(3) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(3)) with respect to any policy described in that section, provided that the decision of the policy holder to permit a lapse in flood insurance coverage was as a result of the property covered by the policy no longer being required to retain such coverage.

(3) EXPIRATION.—The prohibitions set forth under paragraphs (1) and (2) shall expire 6 months after the later of—

(A) the date on which the Administrator proposes the draft affordability framework; or

(B) the date on which the Administrator certifies in writing to Congress that the Federal Emergency Management Agency has imple-
mented a flood mapping approach that, when
applied, results in technically credible flood haz-
ard data in all areas where Flood Insurance
Rate Maps are prepared or updated.

(b) Property Sale Trigger.—

(1) In general.—Section 1307(g)(2) of the
4014(g)(2)) is amended to read as follows:
“(2) any property purchased after the expira-
tion of the 6-month period set forth under section
103(a)(3) of the Homeowner Flood Insurance Af-
fordability Act of 2014;”.

(2) Protection of subsidy for properties
purchased on or before expiration date.—
Notwithstanding paragraph (1) or (3) of section
1307(g) of the National Flood Insurance Act of
1968 (42 U.S.C. 4014(g)(1) and (3)), the Adminis-
trator may not reduce the risk premium rate subsidy
for flood insurance for a property purchased on or
before the expiration of the 6-month period set forth
under subsection (a)(3) of this section based on the
fact that—

(A) the property was not insured by the
flood insurance program as of the date of en-
actment of the Biggert-Waters Flood Insurance
Reform Act of 2012 (Public Law 112–141; 126 Stat. 916); or

(B) on or before the expiration of that 6-month period, the policy for the property had lapsed in coverage as a result of the deliberate choice of the policy holder, provided that the decision of the policy holder to permit a lapse in coverage was as a result of the property no longer being required to retain such coverage.

(c) TREATMENT OF PRE-FIRM PROPERTIES.—Beginning on the date of enactment of this Act and ending upon the expiration of the 6-month period set forth under subsection (a)(3), the Administrator shall restore the risk premium rate subsidies for flood insurance estimated under section 1307(a)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)(2)) for any property—

(1) with respect to which the Administrator may not, under subsection (a)(2)(A) of this section, implement section 1307(g)(1) of the National Flood Insurance Act of 1968;

(2) with respect to which the Administrator may not, under subsection (a)(2)(B) of this section, implement section 1307(g)(3) of the National Flood Insurance Act of 1968; or
(3) described in section 1307(g)(2) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(g)(2)), as in effect on the day before the date of enactment of this Act.

(d) DRAFT AFFORDABILITY FRAMEWORK.—

(1) IN GENERAL.—The Administrator shall prepare a draft affordability framework that proposes to address, via programmatic and regulatory changes, the issues of affordability of flood insurance sold under the National Flood Insurance Program, including issues identified in the affordability study.

(2) CRITERIA.—In carrying out the requirements under paragraph (1), the Administrator shall consider the following criteria:

(A) Accurate communication to consumers of the flood risk associated with their property.

(B) Targeted assistance to flood insurance policy holders based on their financial ability to continue to participate in the National Flood Insurance Program.

(C) Individual or community actions to mitigate the risk of flood or lower the cost of flood insurance.
(D) The impact of increases in risk premium rates on participation in the National Flood Insurance Program.

(E) The impact flood insurance rate map updates have on the affordability of flood insurance.

(3) **DEADLINE FOR SUBMISSION.**—Not later than 18 months after the date on which the Administrator submits the affordability study, the Administrator shall submit to the full Committee on Banking, Housing, and Urban Affairs and the full Committee on Appropriations of the Senate and the full Committee on Financial Services and the full Committee on Appropriations of the House of Representatives the draft affordability framework.

(e) **INTERAGENCY AGREEMENTS.**—The Administrator may enter into an agreement with another Federal agency to—

(1) complete the affordability study; or

(2) prepare the draft affordability framework.

(f) **CLEAR COMMUNICATIONS.**—The Administrator shall clearly communicate full flood risk determinations to individual property owners regardless of whether their premium rates are full actuarial rates.
(g) Rule of Construction.—Nothing in this section shall be construed to provide the Administrator with the authority to provide assistance to homeowners based on affordability that was not available prior to the enactment of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 916).

SEC. 104. AFFORDABILITY STUDY AND REPORT.

Notwithstanding the deadline under section 100236(c) of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 957), not later than 2 years after the date of enactment of this Act, the Administrator shall submit to the full Committee on Banking, Housing, and Urban Affairs and the full Committee on Appropriations of the Senate and the full Committee on Financial Services and the full Committee on Appropriations of the House of Representatives the affordability study and report required under such section.

SEC. 105. AFFORDABILITY STUDY FUNDING.

Section 100236(d) of the Biggert-Waters Flood Insurance Reform Act of 2012 (Public Law 112–141; 126 Stat. 957) is amended by striking “not more than $750,000” and inserting “such amounts as may be necessary”.
SEC. 106. FUNDS TO REIMBURSE HOMEOWNERS FOR SUCCESSFUL MAP APPEALS.

(a) In General.—Section 1363(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104(f)) is amended by striking the second sentence and inserting the following: “The Administrator may use such amounts from the National Flood Insurance Fund established under section 1310 as may be necessary to carry out this subsection.”.

(b) Conforming Amendment.—Section 1310(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)) is amended—

   (1) in paragraph (6), by striking “and” at the end;

   (2) in paragraph (7), by striking the period at the end and inserting “; and”;

   (3) by adding at the end the following:

   “(8) for carrying out section 1363(f).”.

SEC. 107. FLOOD PROTECTION SYSTEMS.

(a) Adequate Progress on Construction of Flood Protection Systems.—Section 1307(e) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(e)) is amended—

   (1) in the first sentence, by inserting “or reconstruction” after “construction”;

   (2) in the second sentence, by inserting “construction” after “against”;

   (3) in the third sentence, by inserting “or reconstruction” after “construction”;

   (4) in the fourth sentence, by striking “and” and inserting “; and”;

   (5) by adding at the end the following:

   “(8) may be used for construction or reconstruction of a public works project.”.
(2) by striking the second sentence and inserting the following: “The Administrator shall find that adequate progress on the construction or reconstruction of a flood protection system, based on the present value of the completed flood protection system, has been made only if (1) 100 percent of the cost of the system has been authorized, (2) at least 60 percent of the cost of the system has been appropriated, (3) at least 50 percent of the cost of the system has been expended, and (4) the system is at least 50 percent completed.”; and

(3) by adding at the end the following: “Notwithstanding any other provision of law, in determining whether a community has made adequate progress on the construction, reconstruction, or improvement of a flood protection system, the Administrator shall consider all sources of funding, including Federal, State, and local funds.”.

(b) COMMUNITIES RESTORING DISACCREDITED FLOOD PROTECTION SYSTEMS.—Section 1307(f) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(f)) is amended by striking the first sentence and inserting the following: “Notwithstanding any other provision of law, this subsection shall apply to riverine and coastal levees that are located in a community which has
been determined by the Administrator of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so, and shall apply without regard to the level of Federal funding of or participation in the construction, reconstruction, or improvement of the flood protection system.”.

SEC. 108. TREATMENT OF FLOODPROOFED RESIDENTIAL BASEMENTS.

In implementing section 1308(h) of the National Flood Insurance Act of 1968 (42 U.S.C. 4015(h)), the Administrator shall rate a covered structure using the elevation difference between the floodproofed elevation of the covered structure and the adjusted base flood elevation of the covered structure.

SEC. 109. DESIGNATION OF FLOOD INSURANCE ADVOCATE.

(a) IN GENERAL.—The Administrator shall designate a Flood Insurance Advocate to advocate for the fair treatment of policy holders under the National Flood Insurance Program and property owners in the mapping of flood hazards, the identification of risks from flood, and the implementation of measures to minimize the risk of flood.
(b) DUTIES AND RESPONSIBILITIES.—The duties and responsibilities of the Flood Insurance Advocate designated under subsection (a) shall be to—

(1) educate property owners and policyholders under the National Flood Insurance Program on—

(A) individual flood risks;

(B) flood mitigation;

(C) measures to reduce flood insurance rates through effective mitigation; and

(D) the flood insurance rate map review and amendment process;

(2) assist policy holders under the National Flood Insurance Program and property owners to understand the procedural requirements related to appealing preliminary flood insurance rate maps and implementing measures to mitigate evolving flood risks;

(3) assist in the development of regional capacity to respond to individual constituent concerns about flood insurance rate map amendments and revisions;

(4) coordinate outreach and education with local officials and community leaders in areas impacted by proposed flood insurance rate map amendments and revisions; and
(5) aid potential policy holders under the National Flood Insurance Program in obtaining and verifying accurate and reliable flood insurance rate information when purchasing or renewing a flood insurance policy.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the duties and responsibilities of the Flood Insurance Advocate.

TITLE II—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS

SEC. 201. SHORT TITLE.
This title may be cited as the “National Association of Registered Agents and Brokers Reform Act of 2014”.

SEC. 202. REESTABLISHMENT OF THE NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) IN GENERAL.—Subtitle C of title III of the Gramm-Leach-Bliley Act (15 U.S.C. 6751 et seq.) is amended to read as follows:
“Subtitle C—National Association
of Registered Agents and Brokers

“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED
AGENTS AND BROKERS.

“(a) Establishment.—There is established the Na-
tional Association of Registered Agents and Brokers (re-
ferred to in this subtitle as the Association).

“(b) Status.—The Association shall—

“(1) be a nonprofit corporation;

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

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

“(4) except as otherwise provided in this sub-
title, be subject to, and have all the powers conferred
upon, a nonprofit corporation by the District of Co-
29–301.01 et seq.) or any successor thereto.

“SEC. 322. PURPOSE.

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

“(1) licensing, continuing education, and other
qualification requirements of insurance producers
that are not members of the Association;
“(2) resident or nonresident insurance producer
appointment requirements;
“(3) supervising and disciplining resident and
nonresident insurance producers;
“(4) establishing licensing fees for resident and
nonresident insurance producers so that there is no
loss of insurance producer licensing revenue to the
State; and
“(5) prescribing and enforcing laws and regula-
tions regulating the conduct of resident and non-
resident insurance producers.

“SEC. 323. MEMBERSHIP.

“(a) ELIGIBILITY.—
“(1) IN GENERAL.—Any insurance producer li-
censed in its home State shall, subject to paragraphs
(2) and (4), be eligible to become a member of the
Association.
“(2) INELIGIBILITY FOR SUSPENSION OR REV-
OCATION OF LICENSE.—Subject to paragraph (3),
an insurance producer is not eligible to become a
member of the Association if a State insurance regu-
lator has suspended or revoked the insurance license
of the insurance producer in that State.

“(3) Resumption of Eligibility.—Paragraph
(2) shall cease to apply to any insurance producer
if—

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

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

“(4) Criminal History Record Check Re-
quired.—

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

“(B) Criminal History Record Check
requested by Home State.—An insurance
producer who is licensed in a State and who has undergone a criminal history record check during the 2-year period preceding the date of submission of an application to become a member of the Association, in compliance with a requirement to undergo such criminal history record check as a condition for such licensure in the State, shall be deemed to have undergone a criminal history record check for purposes of subparagraph (A).

“(C) Criminal history record check requested by Association.—

“(i) In general.—The Association shall, upon request by an insurance producer licensed in a State, submit identification information obtained from the insurance producer, and a request for a criminal history record check of the insurance producer, to the Federal Bureau of Investigation.

“(ii) Procedures.—The board of directors of the Association (referred to in this subtitle as the Board) shall prescribe procedures for obtaining and utilizing identification information and criminal history
record information, including the establishment of reasonable fees required to perform a criminal history record check and appropriate safeguards for maintaining confidentiality and security of the information.

“(D) FORM OF REQUEST.—A submission under subparagraph (C)(i) shall include such identification information as is required by the Attorney General concerning the person about whom the criminal history record check is requested, and a statement signed by the person authorizing the Attorney General to provide the information to the Association and for the Association to receive the information.

“(E) PROVISION OF INFORMATION BY ATTORNEY GENERAL.—Upon receiving a submission under subparagraph (C)(i) from the Association, the Attorney General shall search all criminal history records of the Federal Bureau of Investigation, including records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation, that the Attorney General determines appropriate for criminal history records corresponding to the
identification information provided under sub-
paragraph (D) and provide all criminal history
record information included in the request to
the Association.

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

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

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

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

“(G) PENALTY FOR IMPROPER USE OR
DISCLOSURE.—Whoever knowingly uses any in-
formation provided under subparagraph (E) for
a purpose not authorized in subparagraph (F),
or discloses any such information to anyone not
authorized to receive it, shall be fined under
title 18, United States Code, imprisoned for not more than 2 years, or both.

“(H) RELIANCE ON INFORMATION.—Neither the Association nor any of its Board members, officers, or employees shall be liable in any action for using information provided under subparagraph (E) as permitted under subparagraph (F) in good faith and in reasonable reliance on its accuracy.

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

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

“(i) requiring a State insurance regulator to perform criminal history record checks under this section; or

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

“(K) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this paragraph, which shall include—
“(i) appropriate protections for ensuring the confidentiality of information provided under subparagraph (E); and

“(ii) procedures providing a reasonable opportunity for an insurance producer to contest the accuracy of information regarding the insurance producer provided under subparagraph (E).

“(L) INELIGIBILITY FOR MEMBERSHIP.—

“(i) IN GENERAL.—The Association may, under reasonably consistently applied standards, deny membership to an insurance producer on the basis of criminal history record information provided under subparagraph (E), or where the insurance producer has been subject to disciplinary action, as described in paragraph (2).

“(ii) RIGHTS OF APPLICANTS DENIED MEMBERSHIP.—The Association shall notify any insurance producer who is denied membership on the basis of criminal history record information provided under subparagraph (E) of the right of the insurance producer to—
“(I) obtain a copy of all criminal
history record information provided to
the Association under subparagraph
(E) with respect to the insurance pro-
ducer; and
“(II) challenge the denial of
membership based on the accuracy
and completeness of the information.
“(M) DEFINITION.—For purposes of this
paragraph, the term criminal history record
check means a national background check of
criminal history records of the Federal Bureau
of Investigation.
“(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association may establish membership cri-
teria that bear a reasonable relationship to the purposes
for which the Association was established.
“(c) ESTABLISHMENT OF CLASSES AND CATEGORIES
OF MEMBERSHIP.—
“(1) CLASSES OF MEMBERSHIP.—The Associa-
tion may establish separate classes of membership,
with separate criteria, if the Association reasonably
determines that performance of different duties re-
quires different levels of education, training, experi-
ence, or other qualifications.
“(2) Business Entities.—The Association shall establish a class of membership and membership criteria for business entities. A business entity that applies for membership shall be required to designate an individual Association member responsible for the compliance of the business entity with Association standards and the insurance laws, rules, and regulations of any State in which the business entity seeks to do business on the basis of Association membership.

“(3) Categories.—

“(A) Separate categories for insurance producers permitted.—The Association may establish separate categories of membership for insurance producers and for other persons or entities within each class, based on the types of licensing categories that exist under State laws.

“(B) Separate treatment for depository institutions prohibited.—No special categories of membership, and no distinct membership criteria, shall be established for members that are depository institutions or for employees, agents, or affiliates of depository institutions.
“(d) Membership Criteria.—

“(1) In general.—The Association may establish criteria for membership which shall include standards for personal qualifications, education, training, and experience. The Association shall not establish criteria that unfairly limit the ability of a small insurance producer to become a member of the Association, including imposing discriminatory membership fees.

“(2) Qualifications.—In establishing criteria under paragraph (1), the Association shall not adopt any qualification less protective to the public than that contained in the National Association of Insurance Commissioners (referred to in this subtitle as the NAIC) Producer Licensing Model Act in effect as of the date of enactment of the National Association of Registered Agents and Brokers Reform Act of 2014, and shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

“(3) Assistance from States.—

“(A) In general.—The Association may request a State to provide assistance in investigating and evaluating the eligibility of a pro-
pective member for membership in the Association.

“(B) Authorization of Information Sharing.—A submission under subsection (a)(4)(C)(i) made by an insurance producer licensed in a State shall include a statement signed by the person about whom the assistance is requested authorizing—

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

“(ii) the Association to receive the information.

“(C) Rule of Construction.—Subparagraph (A) shall not be construed as requiring or authorizing any State to adopt new or additional requirements concerning the licensing or evaluation of insurance producers.

“(4) Denial of Membership.—The Association may, based on reasonably consistently applied standards, deny membership to any State-licensed insurance producer for failure to meet the membership criteria established by the Association.

“(e) Effect of Membership.—

“(1) Authority of Association Members.—Membership in the Association shall—
“(A) authorize an insurance producer to sell, solicit, or negotiate insurance in any State for which the member pays the licensing fee set by the State for any line or lines of insurance specified in the home State license of the insurance producer, and exercise all such incidental powers as shall be necessary to carry out such activities, including claims adjustments and settlement to the extent permissible under the laws of the State, risk management, employee benefits advice, retirement planning, and any other insurance-related consulting activities;

“(B) be the equivalent of a nonresident insurance producer license for purposes of authorizing the insurance producer to engage in the activities described in subparagraph (A) in any State where the member pays the licensing fee; and

“(C) be the equivalent of a nonresident insurance producer license for the purpose of subjecting an insurance producer to all laws, regulations, provisions or other action of any State concerning revocation, suspension, or other enforcement action related to the ability of a member to engage in any activity within the
scope of authority granted under this subsection
and to all State laws, regulations, provisions,
and actions preserved under paragraph (5).

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

“(3) AGENT FOR REMITTING FEES.—The Asso-
ciation shall act as an agent for any member for
purposes of remitting licensing fees to any State
pursuant to paragraph (1).

“(4) NOTIFICATION OF ACTION.—

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

“(B) ONGOING DISCLOSURES REQUIRED.—
On an ongoing basis, the Association shall dis-
close to the States (including State insurance regulators) and the NAIC a list of the States in which each member is authorized to operate. The Association shall immediately notify the States (including State insurance regulators) and the NAIC when a member is newly authorized to operate in one or more States, or is no longer authorized to operate in one or more States on the basis of Association membership.

“(5) PRESERVATION OF CONSUMER PROTECTION AND MARKET CONDUCT REGULATION.—

“(A) IN GENERAL.—No provision of this section shall be construed as altering or affecting the applicability or continuing effectiveness of any law, regulation, provision, or other action of any State, including those described in subparagraph (B), to the extent that the State law, regulation, provision, or other action is not inconsistent with the provisions of this subtitle related to market entry for nonresident insurance producers, and then only to the extent of the inconsistency.

“(B) PRESERVED REGULATIONS.—The laws, regulations, provisions, or other actions of any State referred to in subparagraph (A) in-
clude laws, regulations, provisions, or other actions that—

“(i) regulate market conduct, insurance producer conduct, or unfair trade practices;

“(ii) establish consumer protections;

or

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

“(f) BIENNIAL RENEWAL.—Membership in the Association shall be renewed on a biennial basis.

“(g) CONTINUING EDUCATION.—

“(1) IN GENERAL.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to the continuing education requirements under the licensing laws of a majority of the States.

“(2) STATE CONTINUING EDUCATION REQUIREMENTS.—A member may not be required to satisfy continuing education requirements imposed under the laws, regulations, provisions, or actions of any State other than the home State of the member.

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

“(4) LIMITATION ON THE ASSOCIATION.—The
Association shall not directly or indirectly offer any
continuing education courses for insurance pro-
ducers.

“(h) PROBATION, SUSPENSION AND REVOCATION.—

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

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

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

“(C) an insurance license held by the in-
surance producer has been suspended or re-
voked by a State insurance regulator; or
“(D) the insurance producer has been convicted of a crime that would have resulted in the denial of membership pursuant to subsection (a)(4)(L)(i) at the time of application, and the Association has received a copy of the final disposition from a court of competent jurisdiction.

“(2) Violations of Association Standards.—The Association shall have the power to investigate alleged violations of Association standards.

“(3) Reporting.—The Association shall immediately notify the States (including State insurance regulators) and the NAIC when the membership of an insurance producer has been placed on probation or has been suspended, revoked, or otherwise terminated, or when the Association has assessed monetary fines or penalties.

“(i) Consumer Complaints.—

“(1) In General.—The Association shall—

“(A) refer any complaint against a member of the Association from a consumer relating to alleged misconduct or violations of State insurance laws to the State insurance regulator where the consumer resides and, when appropriate, to any additional State insurance regu-
lator, as determined by standards adopted by the Association; and

“(B) make any related records and information available to each State insurance regulator to whom the complaint is forwarded.

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

“(3) FINAL DISPOSITION OF INVESTIGATION.—State insurance regulators shall provide the Association with information regarding the final disposition of a complaint referred pursuant to paragraph (1)(A), but nothing shall be construed to compel a State to release confidential investigation reports or other information protected by State law to the Association.

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

“(1) share documents, materials, or other information, including confidential and privileged documents, with a State, Federal, or international governmental entity or with the NAIC or other appropriate entity referenced in paragraphs (3) and (4),
provided that the recipient has the authority and
agrees to maintain the confidentiality or privileged
status of the document, material, or other informa-
tion;

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

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

“(4) establish a database, or utilize the NAIC
or another appropriate entity, as determined by the
Association, as a database, for use by the Associa-
tion and the States (including State insurance regu-
lators) for the collection of regulatory information
concerning the activities of insurance producers.
“(k) Effective Date.—The provisions of this section shall take effect on the later of—

“(1) the expiration of the 2-year period beginning on the date of enactment of the National Association of Registered Agents and Brokers Reform Act of 2014; and

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

“SEC. 324. BOARD OF DIRECTORS.

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

“(b) Powers.—The Board shall have such of the powers and authority of the Association as may be specified in the bylaws of the Association.

“(c) Composition.—

“(1) In general.—The Board shall consist of 13 members who shall be appointed by the President, by and with the advice and consent of the Senate, in accordance with the procedures established under Senate Resolution 116 of the 112th Congress, of whom—

“(A) 8 shall be State insurance commissioners appointed in the manner provided in paragraph (2), 1 of whom shall be designated
by the President to serve as the chairperson of the Board until the Board elects one such State insurance commissioner Board member to serve as the chairperson of the Board;

“(B) 3 shall have demonstrated expertise and experience with property and casualty insurance producer licensing; and

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

“(2) State insurance regulator representatives.—

“(A) Recommendations.—Before making any appointments pursuant to paragraph (1)(A), the President shall request a list of recommended candidates from the States through the NAIC, which shall not be binding on the President. If the NAIC fails to submit a list of recommendations not later than 15 business days after the date of the request, the President may make the requisite appointments without considering the views of the NAIC.

“(B) Political affiliation.—Not more than 4 Board members appointed under para-
graph (1)(A) shall belong to the same political party.

“(C) Former state insurance commissioners.—

“(i) In general.—If, after offering each currently serving State insurance commissioner an appointment to the Board, fewer than 8 State insurance commissioners have accepted appointment to the Board, the President may appoint the remaining State insurance commissioner Board members, as required under paragraph (1)(A), of the appropriate political party as required under subparagraph (B), from among individuals who are former State insurance commissioners.

“(ii) Limitation.—A former State insurance commissioner appointed as described in clause (i) may not be employed by or have any present direct or indirect financial interest in any insurer, insurance producer, or other entity in the insurance industry, other than direct or indirect ownership of, or beneficial interest in, an in-
insurance policy or annuity contract written
or sold by an insurer.

“(D) Service through term.—If a
Board member appointed under paragraph
(1)(A) ceases to be a State insurance commis-
sioner during the term of the Board member,
the Board member shall cease to be a Board
member.

“(3) Private sector representatives.—In
making any appointment pursuant to subparagraphs
(B) and (C) of paragraph (1), the President may
seek recommendations for candidates from groups
representing the category of individuals described,
which shall not be binding on the President.

“(4) State insurance commissioner de-
fined.—For purposes of this subsection, the term
State insurance commissioner means a person who
serves in the position in State government, or on the
board, commission, or other body that is the primary
insurance regulatory authority for the State.

“(d) Terms.—

“(1) In general.—Except as provided under
paragraph (2), the term of service for each Board
member shall be 2 years.

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

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

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

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

“(B) EXPIRATION OF TERM.—A Board member may continue to serve after the expiration of the term to which the Board member was appointed for the earlier of 2 years or until a successor is appointed.

“(C) MID-TERM APPOINTMENTS.—A Board member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the Board member was appointed shall be appointed only for the remainder of that term.
“(3) Successive Terms.—Board members may be reappointed to successive terms.

“(e) Initial Appointments.—The appointment of initial Board members shall be made no later than 90 days after the date of enactment of the National Association of Registered Agents and Brokers Reform Act of 2014.

“(f) Meetings.—

“(1) In General.—The Board shall meet—

“(A) at the call of the chairperson;

“(B) as requested in writing to the chairperson by not fewer than 5 Board members; or

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

“(2) Quorum Required.—A majority of all Board members shall constitute a quorum.

“(3) Voting.—Decisions of the Board shall require the approval of a majority of all Board members present at a meeting, a quorum being present.

“(4) Initial Meeting.—The Board shall hold its first meeting not later than 45 days after the date on which all initial Board members have been appointed.

“(g) Restriction on Confidential Information.—Board members appointed pursuant to subparagraphs (B) and (C) of subsection (e)(1) shall not have ac-
cess to confidential information received by the Association in connection with complaints, investigations, or disciplinary proceedings involving insurance producers.

“(h) ETHICS AND CONFLICTS OF INTEREST.—The Board shall issue and enforce an ethical conduct code to address permissible and prohibited activities of Board members and Association officers, employees, agents, or consultants. The code shall, at a minimum, include provisions that prohibit any Board member or Association officer, employee, agent or consultant from—

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

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

“(3) accepting any gift from any person or entity other than the Association that is given because of the position held by the person in the Association;

“(4) making political contributions to any person or entity on behalf of the Association; and
“(5) lobbying or paying a person to lobby on behalf of the Association.

“(i) Compensation.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no Board member may receive any compensation from the Association or any other person or entity on account of Board membership.

“(2) TRAVEL EXPENSES AND PER DIEM.—Board members may be reimbursed only by the Association for travel expenses, including per diem in lieu of subsistence, at rates consistent with rates authorized for employees of Federal agencies under subchapter I of chapter 57 of title 5, United States Code, while away from home or regular places of business in performance of services for the Association.

“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY ACTIONS.

“(a) Adoption and Amendment of Bylaws and Standards.—

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

“(2) COPY REQUIRED TO BE FILED.—The Board shall submit to the President, through the Department of the Treasury, and the States (including State insurance regulators), and shall publish on the website of the Association, all proposed bylaws and standards of the Association, or any proposed amendment to the bylaws or standards of the Association, accompanied by a concise general statement of the basis and purpose of such proposal.

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

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

“(b) DISCIPLINARY ACTION BY THE ASSOCIATION.—
“(1) Specification of charges.—In any proceeding to determine whether membership shall be denied, suspended, revoked, or not renewed, or to determine whether a member of the Association should be placed on probation (referred to in this section as a disciplinary action) or whether to assess fines or monetary penalties, the Association shall bring specific charges, notify the member of the charges, give the member an opportunity to defend against the charges, and keep a record.

“(2) Supporting statement.—A determination to take disciplinary action shall be supported by a statement setting forth—

“(A) any act or practice in which the member has been found to have been engaged;

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

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

“(3) Ineligibility of private sector representatives.—Board members appointed pursuant to section 324(e)(3) may not—
“(A) participate in any disciplinary action or be counted toward establishing a quorum during a disciplinary action; and

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

“SEC. 326. POWERS.

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

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

“(2) adopt, amend, and repeal bylaws, procedures, or standards governing the conduct of Association business and performance of its duties;

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

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

“(5) hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of this subtitle, and determine their qualification;
“(6) establish personnel policies of the Association and programs relating to, among other things, conflicts of interest, rates of compensation, where applicable, and qualifications of personnel;

“(7) borrow money; and

“(8) secure funding for such amounts as the Association determines to be necessary and appropriate to organize and begin operations of the Association, which shall be treated as loans to be repaid by the Association with interest at market rate.

“SEC. 327. REPORT BY THE ASSOCIATION.

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

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

“(a) In General.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

“(b) Liability of Board Members, Officers, and Employees.—No Board member, officer, or employee of the Association shall be personally liable to any person for any action taken or omitted in good faith in any matter within the scope of their responsibilities in connection with the Association.

“SEC. 329. PRESIDENTIAL OVERSIGHT.

“(a) Removal of Board.—If the President determines that the Association is acting in a manner contrary to the interests of the public or the purposes of this subtitle or has failed to perform its duties under this subtitle, the President may remove the entire existing Board for the remainder of the term to which the Board members were appointed and appoint, in accordance with section
324 and with the advice and consent of the Senate, in accordance with the procedures established under Senate Resolution 116 of the 112th Congress, new Board members to fill the vacancies on the Board for the remainder of the terms.

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

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

“SEC. 330. RELATIONSHIP TO STATE LAW.

“(a) PREEMPTION OF STATE LAWS.—State laws, regulations, provisions, or other actions purporting to regulate insurance producers shall be preempted to the extent provided in subsection (b).

“(b) PROHIBITED ACTIONS.—

“(1) IN GENERAL.—No State shall—

“(A) impede the activities of, take any action against, or apply any provision of law or regulation arbitrarily or discriminatorily to, any
insurance producer because that insurance pro-
der or any affiliate plans to become, has ap-
pied to become, or is a member of the Associa-
tion;

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

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

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

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

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

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

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

“(3) **Preservation of State Disciplinary
Authority.**—Nothing in this section may be con-
strued to prohibit a State from investigating and
taking appropriate disciplinary action, including sus-
pension or revocation of authority of an insurance
producer to do business in a State, in accordance
with State law and that is not inconsistent with the
provisions of this section, against a member of the
Association as a result of a complaint or for any al-
leged activity, regardless of whether the activity oc-
curred before or after the insurance producer com-
menced doing business in the State pursuant to As-
sociation membership.

"SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY
REGULATORY AUTHORITY.

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

"SEC. 332. RIGHT OF ACTION.

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

"(b) ASSOCIATION INTERPRETATIONS.—In any ac-
tion under subsection (a), the court shall give appropriate
weight to the interpretation of the Association of its by-
laws and standards and this subtitle.
“SEC. 333. FEDERAL FUNDING PROHIBITED.

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

“SEC. 334. DEFINITIONS.

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

“(1) BUSINESS ENTITY.—The term business entity means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

“(2) DEPOSITORY INSTITUTION.—The term depository institution has the meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

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

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

“(5) INSURANCE PRODUCER.—The term insurance producer means any insurance agent or broker,
excess or surplus lines broker or agent, insurance consultant, limited insurance representative, and any other individual or entity that sells, solicits, or negotiates policies of insurance or offers advice, counsel, opinions or services related to insurance.

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

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

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

“(9) STATE.—The term State includes any State, the District of Columbia, any territory of the United States, and Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.
"(10) STATE LAW.—

"(A) IN GENERAL.—The term State law includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State.

"(B) LAWS APPLICABLE IN THE DISTRICT OF COLUMBIA.—A law of the United States applicable only to or within the District of Columbia shall be treated as a State law rather than a law of the United States.”.

(b) TECHNICAL AMENDMENT.—The table of contents for the Gramm-Leach-Bliley Act is amended by striking the items relating to subtitle C of title III and inserting the following new items:

"Subtitle C—National Association of Registered Agents and Brokers

"Sec. 321. National Association of Registered Agents and Brokers.
"Sec. 322. Purpose.
"Sec. 323. Membership.
"Sec. 324. Board of directors.
"Sec. 325. Bylaws, standards, and disciplinary actions.
"Sec. 326. Powers.
"Sec. 327. Report by the Association.
"Sec. 328. Liability of the Association and the Board members, officers, and employees of the Association.
"Sec. 329. Presidential oversight.
"Sec. 330. Relationship to State law.
"Sec. 331. Coordination with Financial Industry Regulatory Authority.
"Sec. 332. Right of action.
"Sec. 333. Federal funding prohibited.
"Sec. 334. Definitions.”.
A BILL
To delay the implementation of certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and to reform the National Association of Registered Agents and Brokers, and for other purposes.

Read the second time and placed on the calendar.

January 15, 2014