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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2017

Mr. Gosar (for himself, Mr. Brat, Mr. Brooks of Alabama, Mr. DesJarlais, Mr. Duncan of Tennessee, Mr. Gohmert, Mr. Jones, Mr. King of Iowa, Mr. Roe of Tennessee, Mr. Austin Scott of Georgia, Mr. Yoho, Mr. Ferguson, Mr. Wittman, Mr. Babin, and Mr. Smith of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

MARCH 15 (legislative day, MARCH 13), 2017

Additional sponsors: Mr. Biggs, Mr. Lamborn, Mr. Sanford, Mr. Garrett, Mr. Labrador, and Mr. Tipton

MARCH 15 (legislative day, MARCH 13), 2017

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

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

[For text of introduced bill, see copy of bill as introduced on January 9, 2017]
A BILL

To restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.
Be it enacted by the Senate and House of Representa-
atives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Competitive Health In-
surance Reform Act of 2017”.

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

(a) Amendment to McCarran-Ferguson Act.—
Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013),
commonly known as the McCarran-Ferguson Act, is amend-
ed by adding at the end the following:

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

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

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

“(B) to determine a loss development factor ap-
licable to historical loss data;
“(C) to perform actuarial services if such contract, combination, or conspiracy does not involve a restraint of trade; or

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

“(3) For purposes of this subsection—

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

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

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

“(ii) the business of property or casualty insurance, including but not limited to—
“(I) any insurance or benefits defined as ‘excepted benefits’ under paragraph (1), subparagraph (B) or (C) of paragraph (2), or paragraph (3) of section 9832(c) of the Internal Revenue Code of 1986 (26 U.S.C. 9832(c)) whether offered separately or in combination with insurance or benefits described in paragraph (2)(A) of such section; and

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

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

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

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

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MARCH 15 (Legislative Day), MARCH 13, 2017

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Report No. 115–36