116TH CONGRESS 2D SESSION

H.R. 1418

AN ACT

- To restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.
 - 1 Be it enacted by the Senate and House of Representa-
 - ${\it 2\ tives\ of\ the\ United\ States\ of\ America\ in\ Congress\ assembled},$

1 SECTION 1. SHORT TITLE.

- This Act may be cited as the "Competitive Health
- 3 Insurance Reform Act of 2020".
- 4 SEC. 2. RESTORING THE APPLICATION OF ANTITRUST
- 5 LAWS TO THE BUSINESS OF HEALTH INSUR-
- 6 ANCE.
- 7 (a) Amendment to McCarran-Ferguson Act.—
- 8 Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013),
- 9 commonly known as the McCarran-Ferguson Act, is
- 10 amended by adding at the end the following:
- " (c)(1) Nothing contained in this Act shall modify,
- 12 impair, or supersede the operation of any of the antitrust
- 13 laws with respect to the business of health insurance (in-
- 14 cluding the business of dental insurance and limited-scope
- 15 dental benefits).
- 16 "(2) Paragraph (1) shall not apply with respect to
- 17 making a contract, or engaging in a combination or con-
- 18 spiracy—
- 19 "(A) to collect, compile, or disseminate histor-
- 20 ical loss data;
- 21 "(B) to determine a loss development factor ap-
- 22 plicable to historical loss data;
- 23 "(C) to perform actuarial services if such con-
- tract, combination, or conspiracy does not involve a
- 25 restraint of trade; or

1	"(D) to develop or disseminate a standard in-
2	surance policy form (including a standard addendum
3	to an insurance policy form and standard termi-
4	nology in an insurance policy form) if such contract,
5	combination, or conspiracy is not to adhere to such
6	standard form or require adherence to such standard
7	form.
8	"(3) For purposes of this subsection—
9	"(A) the term 'antitrust laws' has the meaning
10	given it in subsection (a) of the first section of the
11	Clayton Act (15 U.S.C. 12), except that such term
12	includes section 5 of the Federal Trade Commission
13	Act (15 U.S.C. 45) to the extent that such section
14	5 applies to unfair methods of competition;
15	"(B) the term 'business of health insurance (in-
16	cluding the business of dental insurance and limited-
17	scope dental benefits)' does not include—
18	"(i) the business of life insurance (includ-
19	ing annuities); or
20	"(ii) the business of property or casualty
21	insurance, including but not limited to—
22	"(I) any insurance or benefits defined
23	as 'excepted benefits' under paragraph (1),
24	subparagraph (B) or (C) of paragraph (2),
25	or paragraph (3) of section 9832(c) of the

1	Internal Revenue Code of 1986 (26 U.S.C.
2	9832(c)) whether offered separately or in
3	combination with insurance or benefits de-
4	scribed in paragraph (2)(A) of such sec-
5	tion; and
6	"(II) any other line of insurance that
7	is classified as property or casualty insur-
8	ance under State law;
9	"(C) the term 'historical loss data' means infor-
10	mation respecting claims paid, or reserves held for
11	claims reported, by any person engaged in the busi-
12	ness of insurance; and
13	"(D) the term 'loss development factor' means
14	an adjustment to be made to reserves held for losses
15	incurred for claims reported by any person engaged
16	in the business of insurance, for the purpose of
17	bringing such reserves to an ultimate paid basis.".
18	(b) Related Provision.—For purposes of section
19	5 of the Federal Trade Commission Act (15 U.S.C. 45)
20	to the extent such section applies to unfair methods of
21	competition, section 3(c) of the McCarran-Ferguson Act
22	shall apply with respect to the business of health insurance
23	without regard to whether such business is carried on for
24	profit, notwithstanding the definition of "Corporation"

- 1 contained in section 4 of the Federal Trade Commission
- 2 Act.
- 3 SEC. 3. DETERMINATION OF BUDGETARY EFFECTS.
- 4 The budgetary effects of this Act, for the purpose of
- 5 complying with the Statutory Pay-As-You-Go Act of 2010,
- 6 shall be determined by reference to the latest statement
- 7 titled "Budgetary Effects of PAYGO Legislation" for this
- 8 Act, submitted for printing in the Congressional Record
- 9 by the Chairman of the House Budget Committee, pro-
- 10 vided that such statement has been submitted prior to the
- 11 vote on passage.

Passed the House of Representatives September 21, 2020.

Attest:

Clerk.

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