

107TH CONGRESS
2D SESSION

S. 3143

To provide for the establishment of the Consumer and Shareholder Protection Association, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2002

Mr. WELLSTONE introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for the establishment of the Consumer and Shareholder Protection Association, 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,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Consumer and Shareholder Protection Association Act of
6 2002”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Policy.
- Sec. 4. Definitions.
- Sec. 5. Establishment of the Association.

Sec. 6. Authorization of appropriations and allotments of grants.
 Sec. 7. Mission, duties, and powers of the Association.
 Sec. 8. Interim board.
 Sec. 9. Insert and notice provisions.
 Sec. 10. Board of directors.
 Sec. 11. Election of directors.
 Sec. 12. Qualifications.
 Sec. 13. Ballot issues.
 Sec. 14. Access to member mailings.
 Sec. 15. Prohibited acts.
 Sec. 16. Penalties.
 Sec. 17. Administrative enforcement.
 Sec. 18. Dissolution.
 Sec. 19. Relationship to existing law.
 Sec. 20. Construction.
 Sec. 21. Severability.

1 SEC. 2. FINDINGS AND PURPOSES.

2 (a) FINDINGS.—The Congress finds that—

3 (1) scandals involving deceptive and fraudulent
 4 business practices have brought public confidence in
 5 the integrity and fairness of many of the Nation’s
 6 largest corporations to an all-time low and threaten
 7 the basic strengths of the United States economic
 8 system;

9 (2) contributing to the loss of public confidence
 10 are perceptions of inadequate oversight and insuffi-
 11 cient independence between corporations and their
 12 regulators;

13 (3) the collapse of major corporations resulting
 14 from fraudulent practices has caused the loss of
 15 hundreds of billions of dollars of lifetime savings in
 16 401(k) plans, pensions, and investor portfolios;

17 (4) resources available for representation of
 18 consumers and shareholders need to be expanded so

1 that citizens can better monitor the performance of
2 Federal agencies that regulate corporations and par-
3 ticipate in the public debate concerning the oversight
4 of these corporations;

5 (5) the Federal Government has a substantial
6 interest in the creation of a public-purpose, demo-
7 cratically controlled, self-funded, nationwide mem-
8 bership association of consumers and shareholders to
9 enhance their representation and to effectively com-
10 bat corporate fraud; and

11 (6) the requirement that informational and
12 statutory inserts be included in the mailings of enti-
13 ties subject to this Act is essential to the creation,
14 maintenance, and funding of such an association.

15 (b) PURPOSES.—The purposes of this Act are—

16 (1) to establish a public-purpose, nonprofit,
17 democratically controlled, membership Association of
18 consumers and shareholders;

19 (2) to give the Association a mandate to inform
20 and represent consumers, shareholders, and the pub-
21 lic interest, and to further the effective and vigorous
22 oversight of corporate entities;

23 (3) to establish democratic rules of governance
24 for the Association;

1 (4) to require any entity subject to this Act to
2 periodically include inserts concerning the Associa-
3 tion within their statements and billings to con-
4 sumers; and

5 (5) to prescribe the text and format of such in-
6 sert.

7 **SEC. 3. POLICY.**

8 The policy of Congress is that it is in the public inter-
9 est to authorize the establishment, through the exercise
10 of the powers provided in this Act, of an orderly procedure
11 for developing and financing (through the use of statutory
12 inserts) the creation of the Consumer and Shareholder
13 Protection Association.

14 **SEC. 4. DEFINITIONS.**

15 For purposes of this Act, the following definitions
16 shall apply:

17 (1) ASSOCIATION.—The term “Association”
18 means the Consumer and Shareholder Protection
19 Association established in accordance with this Act.

20 (2) ASSOCIATION DIRECTOR.—The terms “As-
21 sociation director” and “director” mean any person
22 duly elected or appointed to the Association board of
23 directors pursuant to this Act, except where the con-
24 text otherwise requires.

1 (3) COMMISSION.—The term “Commission”
2 means the Federal Trade Commission.

3 (4) CONSUMER.—The term “consumer” means
4 any person who uses, purchases, leases, or acquires
5 any real or personal property, tangible or intangible
6 goods, services, or credit.

7 (5) ENTITY SUBJECT TO THIS ACT.—The term
8 “entity subject to this Act” means—

9 (A) any company that—

10 (i) is required to file periodic reports
11 under section 13(a) or 15(d) of the Securi-
12 ties Exchange Act of 1934 (15 U.S.C.
13 78m(a), 78o(d)); and

14 (ii) has revenues during its last fiscal
15 year of greater than \$1,200,000,000; and

16 (B) any insured depository institution, as
17 defined in section 3 of the Federal Deposit In-
18 surance Act (12 U.S.C. 1813).

19 (6) INSERT CARRIER.—The term “insert car-
20 rier” includes—

21 (A) any deposit account statement which—

22 (i) indicates the balance on a deposit
23 account; or

24 (ii) involves an outstanding deposit
25 account contract or agreement between an

1 insured depository institution and a cus-
2 tomer of such institution; and

3 (B) any proxy statement required to be
4 provided to a shareholder in accordance with
5 the securities laws (as defined in section 3 of
6 the Securities Exchange Act of 1934 (15
7 U.S.C. 78c).

8 (7) MEMBER.—The term “member” means any
9 person who meets the requirements for membership
10 in the Association, as set forth in section 4.

11 (8) REGULATORY AGENCY.—The term “regu-
12 latory agency” means any governmental office, agen-
13 cy, department, or commission of the Federal Gov-
14 ernment, which regulates, monitors, directs, or gov-
15 erns publicly traded corporations, financial services,
16 or consumer transactions.

17 (9) REGULATORY PROCEEDING.—The term
18 “regulatory proceeding” means any rulemaking, ad-
19 judication, or ancillary proceeding conducted by any
20 governmental office, agency, department, or commis-
21 sion at the Federal, State, or local level, which af-
22 fects any entity subject to this Act.

23 (10) STATUTORY INSERT.—The term “statu-
24 tory insert” means any digital or printed statement,
25 card, or envelope and statement combination, or a

1 statement, application, and preaddressed business
2 reply envelope used by the Association to solicit in-
3 formation and contributions or membership fees
4 from consumers and shareholders and explain the
5 purpose, history, nature, activities, achievements,
6 and membership criteria of the Association.

7 **SEC. 5. ESTABLISHMENT OF THE ASSOCIATION.**

8 (a) CHARTER.—There is authorized to be established
9 a nonprofit corporation by the interim board of directors
10 to be known as the “Consumer and Shareholder Protec-
11 tion Association”. The Association shall be subject to the
12 provisions of this Act, and, to the extent consistent with
13 this Act, to the District of Columbia Nonprofit Corpora-
14 tions Act. The main office of the Association shall be lo-
15 cated in Washington, D.C.

16 (b) NONGOVERNMENTAL STATUS.—The Association
17 shall be a private corporation and shall not, for any pur-
18 pose, be considered to be a department, agency, or instru-
19 mentality of the United States Government. An officer or
20 employee of the corporation shall not, for any purpose, be
21 considered to be an officer or employee of the Federal Gov-
22 ernment.

23 (c) REGIONAL AND LOCAL OFFICES.—The Associa-
24 tion may establish regional offices as needed, in any of
25 the several States.

1 (d) BYLAWS.—Except as provided in this Act and in
 2 the District of Columbia Nonprofit Corporations Act, the
 3 affairs of the Association shall be regulated as determined
 4 in the bylaws of the Association.

5 (e) NONPROFIT, NONSTOCK STATUS.—The Associa-
 6 tion chartered under this section—

7 (1) shall be a nonprofit corporation; and

8 (2) may not issue any shares of stock or other
 9 securities or pay any dividends.

10 (f) MEMBERSHIP.—The membership of the Associa-
 11 tion shall consist solely of individuals who—

12 (1) are 16 years of age or older; and

13 (2) have contributed the required annual mem-
 14 bership fee to the Association.

15 (g) MEMBERSHIP FEE.—

16 (1) INITIAL FEE.—Until the end of the 180-day
 17 period beginning on the date of the first election of
 18 directors, the annual membership fee of the Associa-
 19 tion shall be \$10.

20 (2) PERMANENT MEMBERSHIP FEES DETER-
 21 MINED BY BOARD OF DIRECTORS.—After the end of
 22 the 180-day period referred to in subsection (e), the
 23 Association may, by vote of the board of directors,
 24 alter the annual membership fee. The board of direc-
 25 tors shall adopt a reduced fee structure, offering re-

1 duced-cost membership fees for low-income popu-
2 lations and senior citizens.

3 (h) **POLITICAL CONTRIBUTIONS PROHIBITED.**—The
4 Association shall not make any contributions to any polit-
5 ical candidate or party, or to any national or State polit-
6 ical committee, as defined in section 301 of the Federal
7 Election Campaign Act of 1971 (2 U.S.C. 431), or partici-
8 pate in or intervene in any political campaign on behalf
9 of or in opposition to any candidate for public office.

10 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS AND ALLOT-**
11 **MENTS OF GRANTS.**

12 There is authorized to be appropriated to the Federal
13 Trade Commission, for the purpose of establishing the As-
14 sociation, \$5,000,000 for the fiscal year ending 1 year
15 after the date of enactment of this Act.

16 **SEC. 7. MISSION, DUTIES, AND POWERS OF THE ASSOCIA-**
17 **TION.**

18 (a) **MISSION.**—The Association shall advance the
19 rights and remedies available to consumers and share-
20 holders with respect to financial services, securities invest-
21 ments, insurance, and consumer credit, by developing ini-
22 tiatives to—

23 (1) improve the flow of accurate information
24 from entities subject to this Act to consumers and
25 shareholders;

1 (2) increase the independence of the manage-
2 ment of entities subject to this Act; and

3 (3) empower and represent the shareholders of
4 entities subject to this Act, by educating share-
5 holders about options for more democratic voting
6 procedures and broader review authority.

7 (b) DUTIES.—The duties of the Association shall
8 be—

9 (1) to inform, educate, and advise consumers
10 and shareholders about the actions of entities sub-
11 ject to this Act;

12 (2) to represent and promote the interests of
13 consumers collectively, and, when necessary, to nego-
14 tiate on behalf of consumers and shareholders with
15 entities subject to this Act;

16 (3) to take affirmative measures to encourage
17 membership by low- and moderate-income and mi-
18 nority consumers, and to disseminate information
19 and advice to consumers;

20 (4) to inform, insofar as possible, consumers
21 about the mission of the Association, including the
22 procedures for obtaining membership in the Associa-
23 tion;

1 (5) to provide consumers and shareholders with
2 information about how corporate initiatives will af-
3 fect them;

4 (6) to monitor the availability and quality of fi-
5 nancial or shareholder services to low- and mod-
6 erate-income constituencies and the elderly; and

7 (7) to develop data to assist shareholders and
8 consumers in making informed decisions in the mar-
9 ketplace.

10 (c) POWERS.—In addition to the rights and powers
11 provided by other provisions of this Act, the Association
12 shall—

13 (1) represent the interests of consumers in gen-
14 eral before Federal regulatory agencies, legislative
15 bodies, the courts, and in other public forums;

16 (2) initiate, to intervene as a party, or other-
17 wise participate on behalf of consumers or share-
18 holders in any regulatory proceeding which the Asso-
19 ciation reasonably determines may affect their inter-
20 ests;

21 (3) sue on behalf of any member, group of
22 members, or all members of the Association for judi-
23 cial relief, including damages, in any court of com-
24 petent jurisdiction in regard to any consumer or
25 shareholder matter; and

1 (4) conduct, support, and assist research, sur-
2 veys, and investigations in consumer matters.

3 (d) **STANDING.**—The Association shall be deemed to
4 have an interest sufficient to obtain judicial review or en-
5 forcement in any court of competent jurisdiction of any
6 regulatory decision or other regulatory action which the
7 Association reasonably determines may affect the interest
8 of consumers and shareholders, pursuant to this Act.

9 **SEC. 8. INTERIM BOARD.**

10 (a) **ESTABLISHMENT OF INTERIM BOARD.**—Members
11 of the interim board of directors of the Association shall
12 be appointed not later than 6 months after the date of
13 enactment of this Act, as follows:

14 (1) 3 members shall be appointed by the Presi-
15 dent of the United States.

16 (2) 3 members shall be appointed by the Speak-
17 er of the House of Representatives.

18 (3) 3 members shall be appointed by the Presi-
19 dent Pro Tempore of the Senate.

20 (4) 1 member shall be appointed by the Minor-
21 ity Leader of the House of Representatives.

22 (5) 1 member shall be appointed by the Minor-
23 ity Leader of the Senate.

24 (b) **MEMBER CRITERIA.**—Individuals considered for
25 appointment to the interim board shall, to the extent pos-

1 sible, represent different regions of the United States, and
2 represent categories of citizens' organizations including—

- 3 (1) consumer groups;
- 4 (2) institutional shareholder groups;
- 5 (3) labor unions;
- 6 (4) civil rights groups;
- 7 (5) neighborhood groups;
- 8 (6) elderly groups; and
- 9 (7) organizations representing low-income per-
- 10 sons.

11 (c) ELIGIBILITY.—To qualify for nomination or ap-
12 pointment as an interim director of the Association rep-
13 resenting a designated category of citizens' organizations,
14 an individual shall be an active officer, employee, or mem-
15 ber of a citizens' organization within such category or pre-
16 viously have been an officer or employee of 1 or more such
17 citizens' organizations within such category for a cumu-
18 lative period of at least 2 years.

19 (d) DUTIES OF INTERIM BOARD.—The interim board
20 of directors of the Association shall—

- 21 (1) not later than 60 days after the date of ap-
22 pointment of all members, incorporate the Associa-
23 tion under the laws of the District of Columbia, sub-
24 ject to the provisions and limitations of this Act;

1 (2) manage the affairs of the Association until
2 the first elected board of directors takes office;

3 (3) inform the public of the existence, nature,
4 and purpose of the Association, and encourage such
5 persons to join the Association, participate in its ac-
6 tivities, and contribute to the Association;

7 (4) adopt procedures and standards, consistent
8 with the requirements of this Act, for the nomina-
9 tion and election of the first elected board of direc-
10 tors of the Association;

11 (5) make all necessary preparations for the first
12 election of the board of directors of the Association,
13 oversee the election campaign, and tally the votes;
14 and

15 (6) employ such interim staff as the interim
16 board of directors deem necessary to carry out their
17 responsibilities under this Act.

18 (e) APPLICABILITY OF CERTAIN OTHER PROVISIONS
19 OF THIS ACT.—Members of the interim board of directors
20 shall be subject to the requirements of the applicable pro-
21 visions of this Act.

22 (f) LIMITATION ON AUTHORITY TO APPEAR BEFORE
23 OTHER BODIES.—The interim board of directors shall not
24 engage in representation or intervention on behalf of con-
25 sumers, except to the extent necessary to maintain or exer-

1 cise the powers granted and the duties imposed upon in-
2 terim directors by this Act.

3 (g) CONDUCT FIRST GENERAL ELECTION.—

4 (1) IN GENERAL.—Once the membership of the
5 Association reaches 50,000, or within 18 months of
6 the date of the appointment of the last interim di-
7 rector, whichever occurs first, the interim board of
8 directors shall set a date for the first general elec-
9 tion of the board of directors, and shall promptly no-
10 tify each member of the Association.

11 (2) TIMELY ELECTION REQUIREMENT.—The
12 date set for the election shall be not more than 90
13 days after notification under paragraph (1).

14 **SEC. 9. STATUTORY INSERTS.**

15 (a) INCLUSION IN STATEMENTS OF ENTITIES SUB-
16 JECT TO THIS ACT.—

17 (1) IN GENERAL.—Entities subject to this Act
18 shall include, or cause its agent to include, a statu-
19 tory insert or an Association insert in 4 mailings to
20 its shareholders and customers each year, and in
21 any proxy statement sent to shareholders.

22 (2) STATUTORY INSERT.—The Association shall
23 have the right to have statutory inserts included in
24 the mailings to the customers and shareholders of
25 each entity subject to this Act once each calendar

1 quarter. The Association may also require entities
 2 subject to this Act to send the information contained
 3 in the statutory insert to consumers and share-
 4 holders once each year via electronic e-mail or other
 5 electronic means. The Association shall only pay the
 6 reasonable incremental costs of the electronic dis-
 7 tribution of such information.

8 (3) ASSOCIATION INSERTS.—

9 (A) IN GENERAL.—In addition, the Asso-
 10 ciation shall have the right to have included in
 11 the mailings referred to in paragraph (2) once
 12 each calendar quarter, an insert that it pre-
 13 pares and furnishes to any institution required
 14 to carry a statutory insert.

15 (B) LIMITATION.—An insert furnished by
 16 the Association shall be limited to—

17 (i) soliciting information and contribu-
 18 tions or membership fees from consumers;

19 and

20 (ii) explaining—

21 (I) the purpose, history, nature,
 22 activities, and achievements of the As-
 23 sociation;

1 (II) that the Association member-
2 ship is open to any resident of the
3 United States who is 16 years of age;

4 (III) that the Association is not
5 connected to any entity subject to this
6 Act;

7 (IV) that the Association is a
8 nonprofit association directed by its
9 consumer members;

10 (V) the procedure for contrib-
11 uting to or becoming a member of the
12 Association; and

13 (VI) the yearly membership fee.

14 (b) FTC OVERSIGHT.—Any entity subject to this Act
15 may, if it believes that the contents of an insert are false
16 or misleading, submit the insert to the Commission for
17 review. The Commission shall review the insert and make
18 a determination promptly, but in no event later than 21
19 calendar days after receipt of the insert. The Commission
20 may disapprove the insert for mailing if it finds that the
21 insert is false or misleading, or contains information not
22 permitted by this section.

23 (c) CONTENT OF STATUTORY INSERTS.—Each statu-
24 tory insert required by this Act shall contain—

25 (1) a statement of the following information:

1 “The Consumer and Shareholder Protection Associa-
2 tion is a consumer and shareholder membership organiza-
3 tion established under Federal law to inform and rep-
4 resent consumers.

5 “The Association will work on behalf of consumers
6 and shareholders to prevent corporate fraud and deceptive
7 business practices, and to ensure the protection of retire-
8 ment funds and investments.

9 “The Association provides consumers with informa-
10 tion and advice on a range of consumer issues.

11 “The Association also represents consumers before
12 regulatory agencies and legislative bodies.

13 “The Association is a democratically controlled con-
14 sumer membership organization.

15 “Although the Association has been established under
16 Federal law, as a consumer membership organization, the
17 Association is primarily supported by membership fees,
18 not public funds. Thus the Consumer and Shareholder
19 Protection Association depends on its membership base for
20 funding to undertake its information and representation
21 activities.

22 “Anyone who is 16 years of age or older may become
23 a member of the Association by paying the annual mem-
24 bership fee. The amount of the annual membership fee
25 is \$_____.

1 “You may become a member simply by filling out the
2 attached application and mailing it and the membership
3 fee to the Consumer and Shareholder Protection Associa-
4 tion in the attached preaddressed envelope.”;

5 (2) an application for Association membership,
6 which requests the applicant’s name and address,
7 and indicates the annual membership fee; and

8 (3) a preaddressed business reply envelope for
9 mailing the application and membership fee to the
10 Association.

11 (d) OTHER REQUIREMENTS APPLICABLE TO STATU-
12 TORY INSERTS.—With respect to a statutory insert re-
13 quired by this Act—

14 (1) the statement, application, and
15 preaddressed business reply envelope specified in
16 subsection (c) shall be presented to the customer as
17 a single document (except that the document may be
18 separable into different parts by tearing along per-
19 forated lines);

20 (2) the statement and application shall be
21 printed in at least 10-point type; and

22 (3) the Association shall pay the cost of print-
23 ing and placement of the statutory insert in all ap-
24 propriate mailings, but shall not pay any postage
25 costs if the insert weighs less than 0.35 ounces.

1 **SEC. 10. BOARD OF DIRECTORS.**

2 (a) MANAGEMENT OF ASSOCIATION.—The affairs of
3 the Association shall be managed by a board of directors,
4 which shall be elected by the members of the Association
5 in accordance with the provisions of section 7. The board
6 of directors shall consist of 17 members. Twelve directors
7 shall constitute a quorum.

8 (b) ONE-PERSON ONE-VOTE.—Each director shall
9 have one vote on the board of directors.

10 (c) TERMS OF OFFICE.—The term of office for a di-
11 rector shall be 3 years, except as provided otherwise in
12 this Act, and no director shall serve more than 2 consecu-
13 tive terms.

14 (d) POWERS AND DUTIES OF BOARD.—The board of
15 directors, shall, in addition to its other responsibilities
16 under this Act—

17 (1) conduct meetings of the board of directors
18 at least once every 6 months, which shall be open to
19 the public, unless the board of directors by a $\frac{2}{3}$ ma-
20 jority votes to adjourn into executive session;

21 (2) limit matters discussed in executive session
22 only to personnel actions, potential or pending civil
23 or criminal proceedings involving the Association,
24 and material which would result in an unwarranted
25 invasion of personal privacy if discussed in open ses-
26 sions;

1 (3) keep minutes, financial records, and other
2 records which shall reflect the acts and transactions
3 of the board of directors;

4 (4) cause the financial books of the Association
5 to be audited by a qualified certified public account-
6 ant at least once each fiscal year;

7 (5) prepare quarterly statements and an annual
8 report indicating the substantive activities and fi-
9 nancial operations of the Association;

10 (6) approve the bylaws of the Association, con-
11 sistent with the requirements of this Act;

12 (7) make available to the public and include on
13 the Association's web page, documents prepared by
14 or filed with the Association within the preceding 5
15 years, including—

16 (A) minutes of the board of directors meet-
17 ing;

18 (B) directors' or executive directors' finan-
19 cial statements;

20 (C) candidates' financial statements; and

21 (D) candidates' statements; and

22 (8) conduct 3 mailings each year to the mem-
23 bership of the Association, to inform the member-
24 ship about the work of the Association and to con-
25 duct the business of the Association.

1 (e) ELECTION OF OFFICERS.—At the first regular
2 meeting of the board of directors at which a majority of
3 its members are present, subsequent to the installation of
4 new directors following each annual election, the board
5 shall elect by majority vote of directors present and voting,
6 and from among the directors, a president, a vice presi-
7 dent, a secretary, and a treasurer. The board may also
8 elect a comptroller and such other officers as it deems nec-
9 essary.

10 (f) EXECUTIVE DIRECTOR OF ASSOCIATION.—

11 (1) IN GENERAL.—The board of directors shall
12 hire and supervise an executive director for the As-
13 sociation.

14 (2) DUTIES OF EXECUTIVE DIRECTOR.—The
15 executive director shall implement the policies estab-
16 lished by the board of directors, employ and dis-
17 charge Association employees, and manage the of-
18 fices, facilities, and employees of the Association.

19 (3) ELIGIBILITY STANDARDS.—Any applicant
20 for the position of executive director, and each exec-
21 utive director, shall satisfy the requirements for di-
22 rector eligibility established by this Act.

23 (4) TERM LIMIT.—The executive director shall
24 only be eligible to serve as an employee of the Asso-
25 ciation for 6 consecutive years. After such 6-year

1 term, the executive director shall be prohibited from
2 serving as an agent, consultant, attorney, account-
3 ant, or subcontractor for the Association, and shall
4 be ineligible to receive any monetary compensation
5 from the Association.

6 (g) NO COMPENSATION FOR ASSOCIATION DIREC-
7 TORS.—A member of the board of directors of the Associa-
8 tion may not receive any compensation for his or her serv-
9 ices as a director, but shall be reimbursed for wages actu-
10 ally lost in an amount not to exceed \$160 per day, and
11 for necessary expenses including travel expenses incurred
12 in the discharge of Association duties.

13 (h) BONDING REQUIREMENT FOR STAFF.—Any di-
14 rector or staff of the Association eligible to receive, handle,
15 or disburse funds on behalf of the Association shall be
16 bonded. The cost of such bonds shall be paid for by the
17 Association.

18 (i) ANNUAL FINANCIAL STATEMENTS OF DIREC-
19 TORS.—Each director and the executive director of the As-
20 sociation shall file annually with the board of directors a
21 director's financial statement, which shall include the
22 same information required in section 102 of title 5, United
23 States Code.

24 (j) ANNUAL MEETINGS.—

1 (1) IN GENERAL.—An annual meeting of mem-
2 bers of the Association shall be held in the month
3 of January, on a date and at a place within the
4 United States to be determined by the board of di-
5 rectors at least 6 months in advance of the meeting.

6 (2) AGENDA.—Items may be placed on the an-
7 nual meeting agenda—

8 (A) by request of any director, not less
9 than 10 days and not more than 4 months in
10 advance of the date of such meeting; and

11 (B) by petition containing the valid signa-
12 tures of at least 1 percent of the total member-
13 ship of the Association, which petition shall be
14 filed with the board of directors not less than
15 10 days and not more than 4 months in ad-
16 vance of the date of such meeting.

17 (3) NOTICE OF AGENDA.—The executive direc-
18 tor shall present proposed agenda items to the mem-
19 bership through its regular mailings.

20 (4) PUBLIC MEETINGS.—The annual meeting of
21 Association members shall be open to the public, ex-
22 cept that seating preference shall be given to Asso-
23 ciation members. Association members shall be given
24 a reasonable opportunity at such meetings to present

1 comments, criticisms, and suggestions concerning
2 the Association.

3 (5) MINUTES.—Complete minutes of the annual
4 meetings shall be kept and distributed to all deposi-
5 tory libraries in the United States and placed on the
6 Association's webpage.

7 (k) VACANCY.—In the event that a board member po-
8 sition becomes vacant, the board of directors shall install
9 the person having the highest vote total in the last election
10 who was not elected to the board. If this is impossible,
11 the board of directors, by vote of not less than $\frac{2}{3}$ of all
12 directors, shall appoint a successor within 60 days for the
13 remainder of the current term. The person appointed by
14 the board of directors shall meet all qualifications for
15 board members.

16 (l) RECALL.—

17 (1) IN GENERAL.—Upon receipt by the presi-
18 dent of the board of directors of a petition to recall
19 any director with the valid signatures of at least 5
20 percent of the members, the president shall call an
21 election, to be held not less than 4 months and not
22 more than 6 months after receipt of the petition, for
23 the purpose of selecting a director.

24 (2) LIMITATIONS.—No petition to recall a di-
25 rector under paragraph (1) may be filed within 6

1 months of his or her election. An election pursuant
 2 to the filing of a recall petition shall be conducted
 3 in accordance with the provisions of this Act. A di-
 4 rector recalled may become a candidate in the elec-
 5 tion triggered by the filing of the recall petition. The
 6 director recalled shall continue to serve until the in-
 7 stallment in office of his or her successor, or until
 8 his or her reelection. The election triggered by the
 9 filing of a recall petition shall be conducted via one
 10 of the Association's quarterly mailings.

11 **SEC. 11. PROCEDURES FOR ELECTION OF DIRECTORS.**

12 (a) ELECTION OF THE BOARD OF DIRECTORS.—
 13 Each Association member shall cast not more than 17
 14 votes, and may distribute them among candidates in any
 15 manner that the member chooses, including casting more
 16 than 1 vote for a candidate. The 17 candidates receiving
 17 the most votes shall be elected. There shall be no runoff.
 18 Ties shall be broken by lot.

19 (b) ELIGIBILITY STANDARDS FOR THE BOARD OF
 20 DIRECTORS.—To qualify for nomination as a candidate
 21 for election to the board of directors of the Association,
 22 a person must—

- 23 (1) be a member of the Association;
- 24 (2) be nominated by 100 or more other mem-
- 25 bers; and

1 (3) to the extent possible, represent the cat-
2 egories of citizens' organizations, including—

3 (A) consumer groups;

4 (B) institutional shareholder groups;

5 (C) labor unions;

6 (D) civil rights groups;

7 (E) neighborhood groups;

8 (F) elderly groups; and

9 (G) organizations representing low-income
10 persons.

11 (c) APPLICABILITY TO ALL BOARD ELECTIONS.—

12 The requirements of this section shall apply to the first
13 election of directors conducted by the interim board of di-
14 rectors pursuant to section 7, as well as to all subsequent
15 elections.

16 **SEC. 12. QUALIFICATIONS.**

17 (a) CANDIDATE'S STATEMENT.—Any person seeking
18 nomination as a candidate for election to the board of di-
19 rectors of the Association shall file a candidate statement
20 with the Association, not less than 60 days and not more
21 than 120 days prior to the election. The contents of a can-
22 didate statement may not contain false statements, and
23 the Association may, by bylaw or interim board of direc-
24 tors' procedure, impose a uniform limitation on the length
25 of all candidate statements.

1 (b) FINANCIAL STATEMENT.—Any person seeking
2 nomination as a candidate for election to the board of di-
3 rectors shall file with the Association, not less than 60
4 days and not more than 120 days prior to the election,
5 a report containing the information required by section
6 102 of title 5, United States Code.

7 (c) INELIGIBILITY OF INTERIM DIRECTORS AND
8 STAFF DURING FIRST ELECTION.—No interim director
9 shall be eligible for election to the board of directors dur-
10 ing the first election following the appointment of the in-
11 terim directors. The executive director and other Associa-
12 tion staff persons, including interim staff persons, shall
13 not be eligible for election to the board of directors while
14 serving in the capacity of executive director or staff per-
15 son, or for 1 year after such service is concluded.

16 (d) INELIGIBILITY OF DIRECTORS TO HOLD OTHER
17 PUBLIC OFFICE.—No director shall hold any elective Fed-
18 eral, State, or local office, or be a candidate for such of-
19 fice, or be appointed to hold such office, unless such ap-
20 pointee receives no compensation other than reimburse-
21 ment of expenses.

22 (e) INELIGIBILITY OF OFFICERS, DIRECTORS OF AN
23 ENTITY SUBJECT TO THIS ACT.—No present director, of-
24 ficer, agent, consultant, attorney, or accountant for any
25 entity subject to this Act, or member of the immediate

1 family of such persons, shall be eligible to be a director
2 of the Association.

3 (f) INELIGIBILITY OF OFFICERS AND EMPLOYEES OF
4 AGENCIES.—No officer or employee of any Federal, State,
5 or local agency that regulates any entity subject to this
6 Act shall be eligible to be a director of the Association.

7 **SEC. 13. BALLOT ISSUES.**

8 Issues may be placed on a ballot for vote by the gen-
9 eral membership, provided a majority of the board votes
10 to place an issue before the membership for vote. The
11 rules and procedures for placing an issue before the mem-
12 bership for a vote shall be developed by the Commission.

13 **SEC. 14. LIMITS ON ACCESS TO MEMBER MAILINGS.**

14 No person may use any list of members of the Asso-
15 ciation, or any part of such list, for purposes other than
16 the conduct of the business of the Association, as pre-
17 scribed in this Act. The board of directors shall, however,
18 develop criteria for providing Association member access
19 through Association mailings to the Association's member-
20 ship for Association purposes only. No person shall dis-
21 close any such list or part thereof to another person, un-
22 less there is substantial reason to believe that such list
23 or part thereof is intended to be used for the lawful pur-
24 poses described in this Act.

1 **SEC. 15. PROHIBITED ACTS.**

2 (a) ENTITIES SUBJECT TO THIS ACT.—No entity
3 subject to this Act or officer, employee, or agent of any
4 entity subject to this Act may interfere or threaten to
5 interfere with or cause any interference with the utility
6 service of, or penalize or threaten to penalize or cause to
7 be penalized, any person who contributes to the Associa-
8 tion or participates in any of its activities, in retribution
9 for such contribution or participation.

10 (b) GENERAL PROHIBITION.—No person may act
11 with intent to prevent, interfere with, or hinder the activi-
12 ties permitted under this Act.

13 **SEC. 16. PENALTIES.**

14 A violation of any provision of this Act by an entity
15 subject to this Act or officer, employee, or agent thereof
16 or of the Association shall be subject to a civil penalty
17 of not more than \$10,000 for each violation, to be levied
18 by the Commission.

19 **SEC. 17. ADMINISTRATIVE ENFORCEMENT.**

20 Compliance with the provisions of this Act shall be
21 enforced by the Commission in the same manner and with
22 the same power and authority as the Commission has
23 under the Federal Trade Commission Act (15 U.S.C. 41
24 et seq.).

1 **SEC. 18. DISSOLUTION OF THE ASSOCIATION.**

2 If, at the end of the 3-year period beginning on the
3 date on which the Association is incorporated, the Associa-
4 tion's membership remains below 25,000 members during
5 any 1-year period, the board of directors of the Association
6 shall dissolve the Association. Upon the termination, dis-
7 solution, or winding up of the Association in any manner
8 or for any reason, voluntary or involuntary, its assets, if
9 any, remaining after the payment or provision for payment
10 of all liabilities of the Association shall be distributed to,
11 and only to, 1 or more charitable organizations. No part
12 of the income or assets of the Association shall inure to
13 any of its members, directors, or officers, or be distributed
14 to any such person during the life of the Association or
15 upon its dissolution , except in payment of a legal obliga-
16 tion owed to such person. At the time of dissolution, any
17 unexpended funds appropriated by Congress for the estab-
18 lishment of the Association shall be returned to the United
19 States Treasury.

20 **SEC. 19. RELATIONSHIP TO EXISTING LAW.**

21 Nothing in this Act shall be construed to limit the
22 right of any individual or group of individuals to initiate,
23 intervene in, or otherwise participate in any proceeding be-
24 fore a regulatory agency or court, nor to relieve any regu-
25 latory agency, court, or other public body of any obliga-
26 tion, or affect its discretion to permit intervention or par-

1 participation by a consumer or group or class of consumers
2 or citizens in any proceeding or activity.

3 **SEC. 20. CONSTRUCTION.**

4 The provisions of this Act shall be construed in such
5 a manner as best to enable the Association to effectively
6 represent and protect the interests of consumers and
7 shareholders.

8 **SEC. 21. SEVERABILITY.**

9 If any provision of this Act shall be declared invalid,
10 the other provisions of this Act shall remain in effect.

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