

**AMENDMENT TO H.R. \_\_\_\_\_**  
**OFFERED BY MR. NEUGEBAUER OF TEXAS**  
**[TRIA Reform Act]**

Before section 2, insert the following:

1           **TITLE I—TRIA REFORM**

In section 2, strike “this Act” and insert “this title”.

Redesignate sections 2 through 16 as sections 101 through 115, respectively (and conform any references to such sections, accordingly).

At the end of the bill, add the following new title:

2   **TITLE II—NATIONAL ASSOCIA-**  
3       **TION OF REGISTERED**  
4       **AGENTS AND BROKERS RE-**  
5       **FORM**

6   **SEC. 201. SHORT TITLE.**

7       This title may be cited as the “National Association  
8 of Registered Agents and Brokers Reform Act of 2013”.

1 **SEC. 202. REESTABLISHMENT OF THE NATIONAL ASSOCIA-**  
2 **TION OF REGISTERED AGENTS AND BRO-**  
3 **KERS.**

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

7 **“Subtitle C—National Association**  
8 **of Registered Agents and Brokers**

9 **“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED**  
10 **AGENTS AND BROKERS.**

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

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

15 “(1) be a nonprofit corporation;

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

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

21 “(4) except as otherwise provided in this sub-  
22 title, be subject to, and have all the powers conferred  
23 upon, a nonprofit corporation by the District of Co-  
24 lumbia Nonprofit Corporation Act (D.C. Code, sec.  
25 29–301.01 et seq.) or any successor thereto.

1 **“SEC. 322. PURPOSE.**

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

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

12 “(2) resident or nonresident insurance producer  
13 appointment requirements;

14 “(3) supervising and disciplining resident and  
15 nonresident insurance producers;

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

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

23 **“SEC. 323. MEMBERSHIP.**

24 “(a) **ELIGIBILITY.**—

25 “(1) **IN GENERAL.**—Any insurance producer li-  
26 censed in its home State shall, subject to paragraphs

1 (2) and (4), be eligible to become a member of the  
2 Association.

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

9 “(3) RESUMPTION OF ELIGIBILITY.—Paragraph  
10 (2) shall cease to apply to any insurance producer  
11 if—

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

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

20 “(4) CRIMINAL HISTORY RECORD CHECK RE-  
21 QUIRED.—

22 “(A) IN GENERAL.—An insurance pro-  
23 ducer who is an individual shall not be eligible  
24 to become a member of the Association unless  
25 the insurance producer has undergone a crimi-

1           nal history record check that complies with reg-  
2           ulations prescribed by the Attorney General of  
3           the United States under subparagraph (K).

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

16          “(C) CRIMINAL HISTORY RECORD CHECK  
17          REQUESTED BY ASSOCIATION.—

18                 “(i) IN GENERAL.—The Association  
19                 shall, upon request by an insurance pro-  
20                 ducer licensed in a State, submit finger-  
21                 prints or other identification information  
22                 obtained from the insurance producer, and  
23                 a request for a criminal history record  
24                 check of the insurance producer, to the  
25                 Federal Bureau of Investigation.

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

17                  “(D) FORM OF REQUEST.—A submission  
18                  under subparagraph (C)(i) shall include such  
19                  fingerprints or other identification information  
20                  as is required by the Attorney General con-  
21                  cerning the person about whom the criminal  
22                  history record check is requested, and a state-  
23                  ment signed by the person authorizing the At-  
24                  torney General to provide the information to

1 the Association and for the Association to re-  
2 ceive the information.

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

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

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

24 “(ii) be disclosed to State insurance  
25 regulators, or Federal or State law en-

1                   forcement agencies, in conformance with  
2                   applicable law; or

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

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

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

21                  “(I) FEES.—The Attorney General may  
22                  charge a reasonable fee for conducting the  
23                  search and providing the information under  
24                  subparagraph (E), and any such fee shall be



1 collected and remitted by the Association to the  
2 Attorney General.

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

5 “(i) requiring a State insurance regu-  
6 lator to perform criminal history record  
7 checks under this section; or

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

10 “(K) REGULATIONS.—The Attorney Gen-  
11 eral shall prescribe regulations to carry out this  
12 paragraph, which shall include—

13 “(i) appropriate protections for ensur-  
14 ing the confidentiality of information pro-  
15 vided under subparagraph (E); and

16 “(ii) procedures providing a reason-  
17 able opportunity for an insurance producer  
18 to contest the accuracy of information re-  
19 garding the insurance producer provided  
20 under subparagraph (E).

21 “(L) INELIGIBILITY FOR MEMBERSHIP.—

22 “(i) IN GENERAL.—The Association  
23 may, under reasonably consistently applied  
24 standards, deny membership to an insur-  
25 ance producer on the basis of criminal his-

1 tory record information provided under  
2 subparagraph (E), or where the insurance  
3 producer has been subject to disciplinary  
4 action, as described in paragraph (2).

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

12 “(I) obtain a copy of all criminal  
13 history record information provided to  
14 the Association under subparagraph  
15 (E) with respect to the insurance pro-  
16 ducer; and

17 “(II) challenge the denial of  
18 membership based on the accuracy  
19 and completeness of the information.

20 “(M) DEFINITION.—For purposes of this  
21 paragraph, the term ‘criminal history record  
22 check’ means a national background check of  
23 criminal history records of the Federal Bureau  
24 of Investigation.

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

5       “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES  
6       OF MEMBERSHIP.—

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

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

23              “(3) CATEGORIES.—

24                      “(A) SEPARATE CATEGORIES FOR INSUR-  
25      ANCE PRODUCERS PERMITTED.—The Associa-

1           tion may establish separate categories of mem-  
2           bership for insurance producers and for other  
3           persons or entities within each class, based on  
4           the types of licensing categories that exist  
5           under State laws.

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

13          “(d) MEMBERSHIP CRITERIA.—

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

22                 “(2) QUALIFICATIONS.—In establishing criteria  
23                 under paragraph (1), the Association shall not adopt  
24                 any qualification less protective to the public than  
25                 that contained in the National Association of Insur-

1       ance Commissioners (referred to in this subtitle as  
2       the ‘NAIC’) Producer Licensing Model Act in effect  
3       as of the date of enactment of the National Associa-  
4       tion of Registered Agents and Brokers Reform Act  
5       of 2013, and shall consider the highest levels of in-  
6       surance producer qualifications established under  
7       the licensing laws of the States.

8               “(3) ASSISTANCE FROM STATES.—

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

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

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

22                               “(ii) the Association to receive the in-  
23                               formation.

24                     “(C) RULE OF CONSTRUCTION.—Subpara-  
25                     graph (A) shall not be construed as requiring or

1 authorizing any State to adopt new or addi-  
2 tional requirements concerning the licensing or  
3 evaluation of insurance producers.

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

9 “(e) EFFECT OF MEMBERSHIP.—

10 “(1) AUTHORITY OF ASSOCIATION MEMBERS.—  
11 Membership in the Association shall—

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

24 “(B) be the equivalent of a nonresident in-  
25 surance producer license for purposes of author-

1           izing the insurance producer to engage in the  
2           activities described in subparagraph (A) in any  
3           State where the member pays the licensing fee;  
4           and

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

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

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

24                   “(4) NOTIFICATION OF ACTION.—

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

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

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

24          “(A) IN GENERAL.—No provision of this  
25          section shall be construed as altering or affect-



1           ing the applicability or continuing effectiveness  
2           of any law, regulation, provision, or other action  
3           of any State, including those described in sub-  
4           paragraph (B), to the extent that the State law,  
5           regulation, provision, or other action is not in-  
6           consistent with the provisions of this subtitle re-  
7           lated to market entry for nonresident insurance  
8           producers, and then only to the extent of the in-  
9           consistency.

10           “(B) PRESERVED REGULATIONS.—The  
11           laws, regulations, provisions, or other actions of  
12           any State referred to in subparagraph (A) in-  
13           clude laws, regulations, provisions, or other ac-  
14           tions that—

15                   “(i) regulate market conduct, insur-  
16                   ance producer conduct, or unfair trade  
17                   practices;

18                   “(ii) establish consumer protections;

19                   or

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

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

25           “(g) CONTINUING EDUCATION.—

1           “(1) IN GENERAL.—The Association shall es-  
2           tablish, as a condition of membership, continuing  
3           education requirements which shall be comparable to  
4           the continuing education requirements under the li-  
5           censing laws of a majority of the States.

6           “(2) STATE CONTINUING EDUCATION REQUIRE-  
7           MENTS.—A member may not be required to satisfy  
8           continuing education requirements imposed under  
9           the laws, regulations, provisions, or actions of any  
10          State other than the home State of the member.

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

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

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

22                 “(1) DISCIPLINARY ACTION.—The Association  
23                 may place an insurance producer that is a member  
24                 of the Association on probation or suspend or revoke  
25                 the membership of the insurance producer in the As-

1       society, or assess monetary fines or penalties, as  
2       the Association determines to be appropriate, if—

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

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

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

13              “(D) the insurance producer has been con-  
14              victed of a crime that would have resulted in  
15              the denial of membership pursuant to sub-  
16              section (a)(4)(L)(i) at the time of application,  
17              and the Association has received a copy of the  
18              final disposition from a court of competent ju-  
19              risdiction.

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

23              “(3) REPORTING.—The Association shall imme-  
24              diately notify the States (including State insurance  
25              regulators) and the NAIC when the membership of

1 an insurance producer has been placed on probation  
2 or has been suspended, revoked, or otherwise termi-  
3 nated, or when the Association has assessed mone-  
4 tary fines or penalties.

5 “(i) CONSUMER COMPLAINTS.—

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

7 “(A) refer any complaint against a mem-  
8 ber of the Association from a consumer relating  
9 to alleged misconduct or violations of State in-  
10 surance laws to the State insurance regulator  
11 where the consumer resides and, when appro-  
12 priate, to any additional State insurance regu-  
13 lator, as determined by standards adopted by  
14 the Association; and

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

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

23 “(3) FINAL DISPOSITION OF INVESTIGATION.—  
24 State insurance regulators shall provide the Associa-  
25 tion with information regarding the final disposition

1 of a complaint referred pursuant to paragraph  
2 (1)(A), but nothing shall be construed to compel a  
3 State to release confidential investigation reports or  
4 other information protected by State law to the As-  
5 sociation.

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

8 “(1) share documents, materials, or other infor-  
9 mation, including confidential and privileged docu-  
10 ments, with a State, Federal, or international gov-  
11 ernmental entity or with the NAIC or other appro-  
12 priate entity referred to paragraphs (3) and (4),  
13 provided that the recipient has the authority and  
14 agrees to maintain the confidentiality or privileged  
15 status of the document, material, or other informa-  
16 tion;

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

23 “(3) establish a central clearinghouse, or utilize  
24 the NAIC or another appropriate entity, as deter-  
25 mined by the Association, as a central clearinghouse,

1 for use by the Association and the States (including  
2 State insurance regulators), through which members  
3 of the Association may disclose their intent to oper-  
4 ate in 1 or more States and pay the licensing fees  
5 to the appropriate States; and

6 “(4) establish a database, or utilize the NAIC  
7 or another appropriate entity, as determined by the  
8 Association, as a database, for use by the Associa-  
9 tion and the States (including State insurance regu-  
10 lators) for the collection of regulatory information  
11 concerning the activities of insurance producers.

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

14 “(1) the expiration of the 2-year period begin-  
15 ning on the date of enactment of the National Asso-  
16 ciation of Registered Agents and Brokers Reform  
17 Act of 2013; and

18 “(2) the date of incorporation of the Associa-  
19 tion.

20 **“SEC. 324. BOARD OF DIRECTORS.**

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

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

4       “(c) COMPOSITION.—

5           “(1) IN GENERAL.—The Board shall consist of  
6 13 members who shall be appointed by the Presi-  
7 dent, by and with the advice and consent of the Sen-  
8 ate, in accordance with the procedures established  
9 under Senate Resolution 116 of the 112<sup>th</sup> Congress,  
10 of whom—

11           “(A) 8 shall be State insurance commis-  
12 sioners appointed in the manner provided in  
13 paragraph (2), 1 of whom shall be designated  
14 by the President to serve as the chairperson of  
15 the Board until the Board elects one such State  
16 insurance commissioner Board member to serve  
17 as the chairperson of the Board;

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

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

24           “(2) STATE INSURANCE REGULATOR REP-  
25 RESENTATIVES.—

1           “(A) RECOMMENDATIONS.—Before making  
2 any appointments pursuant to paragraph  
3 (1)(A), the President shall request a list of rec-  
4 ommended candidates from the States through  
5 the NAIC, which shall not be binding on the  
6 President. If the NAIC fails to submit a list of  
7 recommendations not later than 15 business  
8 days after the date of the request, the President  
9 may make the requisite appointments without  
10 considering the views of the NAIC.

11           “(B) POLITICAL AFFILIATION.—Not more  
12 than 4 Board members appointed under para-  
13 graph (1)(A) shall belong to the same political  
14 party.

15           “(C) FORMER STATE INSURANCE COMMIS-  
16 SIONERS.—

17           “(i) IN GENERAL.—If, after offering  
18 each currently serving State insurance  
19 commissioner an appointment to the  
20 Board, fewer than 8 State insurance com-  
21 missioners have accepted appointment to  
22 the Board, the President may appoint the  
23 remaining State insurance commissioner  
24 Board members, as required under para-  
25 graph (1)(A), of the appropriate political



1 party as required under subparagraph (B),  
2 from among individuals who are former  
3 State insurance commissioners.

4 “(ii) LIMITATION.—A former State  
5 insurance commissioner appointed as de-  
6 scribed in clause (i) may not be employed  
7 by or have any present direct or indirect fi-  
8 nancial interest in any insurer, insurance  
9 producer, or other entity in the insurance  
10 industry, other than direct or indirect own-  
11 ership of, or beneficial interest in, an in-  
12 surance policy or annuity contract written  
13 or sold by an insurer.

14 “(D) SERVICE THROUGH TERM.—If a  
15 Board member appointed under paragraph  
16 (1)(A) ceases to be a State insurance commis-  
17 sioner during the term of the Board member,  
18 the Board member shall cease to be a Board  
19 member.

20 “(3) PRIVATE SECTOR REPRESENTATIVES.—In  
21 making any appointment pursuant to subparagraph  
22 (B) or (C) of paragraph (1), the President may seek  
23 recommendations for candidates from groups rep-  
24 resenting the category of individuals described,  
25 which shall not be binding on the President.

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

7           “(d) TERMS.—

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

11           “(2) EXCEPTIONS.—

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

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

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

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

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

6           “(C) MID-TERM APPOINTMENTS.—A  
7 Board member appointed to fill a vacancy oc-  
8 ccurring before the expiration of the term for  
9 which the predecessor of the Board member  
10 was appointed shall be appointed only for the  
11 remainder of that term.

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

14          “(e) INITIAL APPOINTMENTS.—The appointment of  
15 initial Board members shall be made no later than 90 days  
16 after the date of enactment of the National Association  
17 of Registered Agents and Brokers Reform Act of 2013.

18          “(f) MEETINGS.—

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

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

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

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

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

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

6           “(4) INITIAL MEETING.—The Board shall hold  
7 its first meeting not later than 45 days after the  
8 date on which all initial Board members have been  
9 appointed.

10          “(g) RESTRICTION ON CONFIDENTIAL INFORMA-  
11 TION.—Board members appointed pursuant to subpara-  
12 graphs (B) and (C) of subsection (c)(1) shall not have ac-  
13 cess to confidential information received by the Associa-  
14 tion in connection with complaints, investigations, or dis-  
15 ciplinary proceedings involving insurance producers.

16          “(h) ETHICS AND CONFLICTS OF INTEREST.—The  
17 Board shall issue and enforce an ethical conduct code to  
18 address permissible and prohibited activities of Board  
19 members and Association officers, employees, agents, or  
20 consultants. The code shall, at a minimum, include provi-  
21 sions that prohibit any Board member or Association offi-  
22 cer, employee, agent or consultant from—

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

1           “(2) participating in the making or influencing  
2           the making of any Association decision, the outcome  
3           of which the Board member, officer, employee,  
4           agent, or consultant knows or had reason to know  
5           would have a reasonably foreseeable material finan-  
6           cial effect, distinguishable from its effect on the pub-  
7           lic generally, on the person or a member of the im-  
8           mediate family of the person;

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

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

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

16          “(i) COMPENSATION.—

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

21               “(2) TRAVEL EXPENSES AND PER DIEM.—

22               Board members may be reimbursed only by the As-  
23               sociation for travel expenses, including per diem in  
24               lieu of subsistence, at rates consistent with rates au-  
25               thorized for employees of Federal agencies under

1 subchapter I of chapter 57 of title 5, United States  
2 Code, while away from home or regular places of  
3 business in performance of services for the Associa-  
4 tion.

5 **“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY AC-**  
6 **TIONS.**

7 “(a) ADOPTION AND AMENDMENT OF BYLAWS AND  
8 STANDARDS.—

9 “(1) PROCEDURES.—The Association shall  
10 adopt procedures for the adoption of bylaws and  
11 standards that are similar to procedures under sub-  
12 chapter II of chapter 5 of title 5, United States  
13 Code (commonly known as the ‘Administrative Pro-  
14 cedure Act’).

15 “(2) COPY REQUIRED TO BE FILED.—The  
16 Board shall submit to the President, through the  
17 Department of the Treasury, and the States (includ-  
18 ing State insurance regulators), and shall publish on  
19 the website of the Association, all proposed bylaws  
20 and standards of the Association, or any proposed  
21 amendment to the bylaws or standards of the Asso-  
22 ciation, accompanied by a concise general statement  
23 of the basis and purpose of such proposal.

24 “(3) EFFECTIVE DATE.—Any proposed bylaw  
25 or standard of the Association, and any proposed

1 amendment to the bylaws or standards of the Asso-  
2 ciation, shall take effect, after notice under para-  
3 graph (2) and opportunity for public comment, on  
4 such date as the Association may designate, unless  
5 suspended under section 329(e).

6 “(4) RULE OF CONSTRUCTION.—Nothing in  
7 this section shall be construed to subject the Board  
8 or the Association to the requirements of subchapter  
9 II of chapter 5 of title 5, United States Code (com-  
10 monly known as the ‘Administrative Procedure  
11 Act’).

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

13 “(1) SPECIFICATION OF CHARGES.—In any pro-  
14 ceeding to determine whether membership shall be  
15 denied, suspended, revoked, or not renewed, or to  
16 determine whether a member of the Association  
17 should be placed on probation (referred to in this  
18 section as a ‘disciplinary action’) or whether to as-  
19 sess fines or monetary penalties, the Association  
20 shall bring specific charges, notify the member of  
21 the charges, give the member an opportunity to de-  
22 fend against the charges, and keep a record.

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

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

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

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

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

11          “(A) participate in any disciplinary action  
12          or be counted toward establishing a quorum  
13          during a disciplinary action; and

14          “(B) have access to confidential informa-  
15          tion concerning any disciplinary action.

16   **“SEC. 326. POWERS.**

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

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

23          “(2) adopt, amend, and repeal bylaws, proce-  
24          dures, or standards governing the conduct of Asso-  
25          ciation business and performance of its duties;



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

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

6           “(5) hire employees, professionals, or special-  
7           ists, and elect or appoint officers, and to fix their  
8           compensation, define their duties and give them ap-  
9           propriate authority to carry out the purposes of this  
10          subtitle, and determine their qualification;

11          “(6) establish personnel policies of the Associa-  
12          tion and programs relating to, among other things,  
13          conflicts of interest, rates of compensation, where  
14          applicable, and qualifications of personnel;

15          “(7) borrow money; and

16          “(8) secure funding for such amounts as the  
17          Association determines to be necessary and appro-  
18          priate to organize and begin operations of the Asso-  
19          ciation, which shall be treated as loans to be repaid  
20          by the Association with interest at market rate.

21       **“SEC. 327. REPORT BY THE ASSOCIATION.**

22          “(a) IN GENERAL.—As soon as practicable after the  
23          close of each fiscal year, the Association shall submit to  
24          the President, through the Department of the Treasury,  
25          and the States (including State insurance regulators), and

1 shall publish on the website of the Association, a written  
2 report regarding the conduct of its business, and the exer-  
3 cise of the other rights and powers granted by this sub-  
4 title, during such fiscal year.

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

11 **“SEC. 328. LIABILITY OF THE ASSOCIATION AND THE**  
12 **BOARD MEMBERS, OFFICERS, AND EMPLOY-**  
13 **EES OF THE ASSOCIATION.**

14 “(a) IN GENERAL.—The Association shall not be  
15 deemed to be an insurer or insurance producer within the  
16 meaning of any State law, rule, regulation, or order regu-  
17 lating or taxing insurers, insurance producers, or other en-  
18 tities engaged in the business of insurance, including pro-  
19 visions imposing premium taxes, regulating insurer sol-  
20 vency or financial condition, establishing guaranty funds  
21 and levying assessments, or requiring claims settlement  
22 practices.

23 “(b) LIABILITY OF BOARD MEMBERS, OFFICERS,  
24 AND EMPLOYEES.—No Board member, officer, or em-  
25 ployee of the Association shall be personally liable to any

1 person for any action taken or omitted in good faith in  
2 any matter within the scope of their responsibilities in con-  
3 nection with the Association.

4 **“SEC. 329. PRESIDENTIAL OVERSIGHT.**

5       “(a) REMOVAL OF BOARD.—If the President deter-  
6 mines that the Association is acting in a manner contrary  
7 to the interests of the public or the purposes of this sub-  
8 title or has failed to perform its duties under this subtitle,  
9 the President may remove the entire existing Board for  
10 the remainder of the term to which the Board members  
11 were appointed and appoint, in accordance with section  
12 324 and with the advice and consent of the Senate, in  
13 accordance with the procedures established under Senate  
14 Resolution 116 of the 112<sup>th</sup> Congress, new Board mem-  
15 bers to fill the vacancies on the Board for the remainder  
16 of the terms.

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

20       “(c) SUSPENSION OF BYLAWS AND STANDARDS AND  
21 PROHIBITION OF ACTIONS.—Following notice to the  
22 Board, the President, or a person designated by the Presi-  
23 dent for such purpose, may suspend the effectiveness of  
24 any bylaw or standard, or prohibit any action, of the Asso-

1 ciation that the President or the designee determines is  
2 contrary to the purposes of this subtitle.

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

4 “(a) **PREEMPTION OF STATE LAWS.**—State laws,  
5 regulations, provisions, or other actions purporting to reg-  
6 ulate insurance producers shall be preempted to the extent  
7 provided in subsection (b).

8 “(b) **PROHIBITED ACTIONS.**—

9 “(1) **IN GENERAL.**—No State shall—

10 “(A) impede the activities of, take any ac-  
11 tion against, or apply any provision of law or  
12 regulation arbitrarily or discriminatorily to, any  
13 insurance producer because that insurance pro-  
14 ducer or any affiliate plans to become, has ap-  
15 plied to become, or is a member of the Associa-  
16 tion;

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

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

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

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

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

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

21          “(D) impose any licensing, registration, or  
22      appointment requirements upon a member of  
23      the Association, or require a member of the As-  
24      sociation to be authorized to operate as an in-  
25      surance producer, in order to sell, solicit, or ne-

1           gotiate insurance for commercial property and  
2           casualty risks to an insured with risks located  
3           in more than one State, if the member is li-  
4           censed or otherwise authorized to operate in the  
5           State where the insured maintains its principal  
6           place of business and the contract of insurance  
7           insures risks located in that State.

8           “(3) PRESERVATION OF STATE DISCIPLINARY  
9           AUTHORITY.—Nothing in this section may be con-  
10          strued to prohibit a State from investigating and  
11          taking appropriate disciplinary action, including sus-  
12          pension or revocation of authority of an insurance  
13          producer to do business in a State, in accordance  
14          with State law and that is not inconsistent with the  
15          provisions of this section, against a member of the  
16          Association as a result of a complaint or for any al-  
17          leged activity, regardless of whether the activity oc-  
18          curred before or after the insurance producer com-  
19          menced doing business in the State pursuant to As-  
20          sociation membership.

21       **“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY**  
22                               **REGULATORY AUTHORITY.**

23           “The Association shall coordinate with the Financial  
24   Industry Regulatory Authority in order to ease any admin-  
25   istrative burdens that fall on members of the Association

1 that are subject to regulation by the Financial Industry  
2 Regulatory Authority, consistent with the requirements of  
3 this subtitle and the Federal securities laws.

4 **“SEC. 332. RIGHT OF ACTION.**

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

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

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

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

20 **“SEC. 334. DEFINITIONS.**

21 “For purposes of this subtitle, the following defini-  
22 tions shall apply:

23 “(1) BUSINESS ENTITY.—The term ‘business  
24 entity’ means a corporation, association, partnership,

1 limited liability company, limited liability partner-  
2 ship, or other legal entity.

3 “(2) DEPOSITORY INSTITUTION.—The term ‘de-  
4 pository institution’ has the meaning as in section 3  
5 of the Federal Deposit Insurance Act (12 U.S.C.  
6 1813).

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

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

15 “(5) INSURANCE PRODUCER.—The term ‘insur-  
16 ance producer’ means any insurance agent or  
17 broker, excess or surplus lines broker or agent, in-  
18 surance consultant, limited insurance representative,  
19 and any other individual or entity that sells, solicits,  
20 or negotiates policies of insurance or offers advice,  
21 counsel, opinions or services related to insurance.

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



1           “(7) PRINCIPAL PLACE OF BUSINESS.—The  
2 term ‘principal place of business’ means the State in  
3 which an insurance producer maintains the head-  
4 quarters of the insurance producer and, in the case  
5 of a business entity, where high-level officers of the  
6 entity direct, control, and coordinate the business  
7 activities of the business entity.

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

12           “(9) STATE.—The term ‘State’ includes any  
13 State, the District of Columbia, any territory of the  
14 United States, and Puerto Rico, Guam, American  
15 Samoa, the Trust Territory of the Pacific Islands,  
16 the Virgin Islands, and the Northern Mariana Is-  
17 lands.

18           “(10) STATE LAW.—

19           “(A) IN GENERAL.—The term ‘State law’  
20 includes all laws, decisions, rules, regulations,  
21 or other State action having the effect of law,  
22 of any State.

23           “(B) LAWS APPLICABLE IN THE DISTRICT  
24 OF COLUMBIA.—A law of the United States ap-  
25 plicable only to or within the District of Colum-

1           bia shall be treated as a State law rather than  
2           a law of the United States.”.

3           (b) TECHNICAL AMENDMENT.—The table of contents  
4 for the Gramm-Leach-Bliley Act is amended by striking  
5 the items relating to subtitle C of title III and inserting  
6 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 regulators.
- “Sec. 332. Right of action.
- “Sec. 333. Federal funding prohibited.
- “Sec. 334. Definitions.”.

