

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 534

To reform the National Association of Registered Agents
and Brokers, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. TESTER (for himself and Mr.
JOHANNIS)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Association
5 of Registered Agents and Brokers Reform Act of 2013”.

6 **SEC. 2. REESTABLISHMENT OF THE NATIONAL ASSOCIA-**
7 **TION OF REGISTERED AGENTS AND BRO-**
8 **KERS.**

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

1 **“Subtitle C—National Association**
2 **of Registered Agents and Brokers**

3 **“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED**
4 **AGENTS AND BROKERS.**

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

8 “(b) STATUS.—The Association shall—

9 “(1) be a nonprofit corporation;

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

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

15 “(4) except as otherwise provided in this sub-
16 title, be subject to, and have all the powers conferred
17 upon, a nonprofit corporation by the District of Co-
18 lumbia Nonprofit Corporation Act (D.C. Code, sec.
19 29–301.01 et seq.) or any successor thereto.

20 **“SEC. 322. PURPOSE.**

21 “The purpose of the Association shall be to provide
22 a mechanism through which licensing, continuing edu-
23 cation, and other nonresident insurance producer quali-
24 fication requirements and conditions may be adopted and
25 applied on a multi-state basis without affecting the laws,

1 rules, and regulations, and preserving the rights of a
2 State, pertaining to—

3 “(1) licensing, continuing education, and other
4 qualification requirements of insurance producers
5 that are not members of the Association;

6 “(2) resident or nonresident insurance producer
7 appointment requirements;

8 “(3) supervising and disciplining resident and
9 nonresident insurance producers;

10 “(4) establishing licensing fees for resident and
11 nonresident insurance producers so that there is no
12 loss of insurance producer licensing revenue to the
13 State; and

14 “(5) prescribing and enforcing laws and regula-
15 tions regulating the conduct of resident and non-
16 resident insurance producers.

17 **“SEC. 323. MEMBERSHIP.**

18 “(a) **ELIGIBILITY.—**

19 “(1) **IN GENERAL.—**Any insurance producer li-
20 censed in its home State shall, subject to paragraphs
21 (2) and (4), be eligible to become a member of the
22 Association.

23 “(2) **INELIGIBILITY FOR SUSPENSION OR REV-**
24 **OCATION OF LICENSE.—**Subject to paragraph (3),
25 an insurance producer is not eligible to become a

1 member of the Association if a State insurance regu-
2 lator has suspended or revoked the insurance license
3 of the insurance producer in that State.

4 “(3) RESUMPTION OF ELIGIBILITY.—Paragraph
5 (2) shall cease to apply to any insurance producer
6 if—

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

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

15 “(4) CRIMINAL HISTORY RECORD CHECK RE-
16 QUIRED.—

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

24 “(B) CRIMINAL HISTORY RECORD CHECK
25 REQUESTED BY HOME STATE.—An insurance

1 producer who is licensed in a State and who has
2 undergone a criminal history record check dur-
3 ing the 2-year period preceding the date of sub-
4 mission of an application to become a member
5 of the Association, in compliance with a re-
6 quirement to undergo such criminal history
7 record check as a condition for such licensure
8 in the State, shall be deemed to have undergone
9 a criminal history record check for purposes of
10 subparagraph (A).

11 “(C) CRIMINAL HISTORY RECORD CHECK
12 REQUESTED BY ASSOCIATION.—

13 “(i) IN GENERAL.—The Association
14 shall, upon request by an insurance pro-
15 ducer licensed in a State, submit identi-
16 fication information obtained from the in-
17 surance producer, and a request for a
18 criminal history record check of the insur-
19 ance producer, to the Federal Bureau of
20 Investigation.

21 “(ii) PROCEDURES.—The board of di-
22 rectors of the Association (referred to in
23 this subtitle as the ‘Board’) shall prescribe
24 procedures for obtaining and utilizing iden-
25 tification information and criminal history

1 record information, including the establish-
2 ment of reasonable fees required to per-
3 form a criminal history record check and
4 appropriate safeguards for maintaining
5 confidentiality and security of the informa-
6 tion.

7 “(D) FORM OF REQUEST.—A submission
8 under subparagraph (C)(i) shall include such
9 identification information as is required by the
10 Attorney General concerning the person about
11 whom the criminal history record check is re-
12 quested, and a statement signed by the person
13 authorizing the Attorney General to provide the
14 information to the Association and for the As-
15 sociation to receive the information.

16 “(E) PROVISION OF INFORMATION BY AT-
17 TORNEY GENERAL.—Upon receiving a submis-
18 sion under subparagraph (C)(i) from the Asso-
19 ciation, the Attorney General shall search all
20 criminal history records of the Federal Bureau
21 of Investigation, including records of the Crimi-
22 nal Justice Information Services Division of the
23 Federal Bureau of Investigation, that the At-
24 torney General determines appropriate for
25 criminal history records corresponding to the

1 identification information provided under sub-
2 paragraph (D) and provide all criminal history
3 record information included in the request to
4 the Association.

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

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

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

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

19 “(G) PENALTY FOR IMPROPER USE OR
20 DISCLOSURE.—Whoever knowingly uses any in-
21 formation provided under subparagraph (E) for
22 a purpose not authorized in subparagraph (F),
23 or discloses any such information to anyone not
24 authorized to receive it, shall be fined under

1 title 18, United States Code, imprisoned for not
2 more than 2 years, or both.

3 “(H) RELIANCE ON INFORMATION.—Nei-
4 ther the Association nor any of its Board mem-
5 bers, officers, or employees shall be liable in
6 any action for using information provided under
7 subparagraph (E) as permitted under subpara-
8 graph (F) in good faith and in reasonable reli-
9 ance on its accuracy.

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

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

18 “(i) requiring a State insurance regu-
19 lator to perform criminal history record
20 checks under this section; or

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

23 “(K) REGULATIONS.—The Attorney Gen-
24 eral shall prescribe regulations to carry out this
25 paragraph, which shall include—

1 “(i) appropriate protections for ensur-
2 ing the confidentiality of information pro-
3 vided under subparagraph (E); and

4 “(ii) procedures providing a reason-
5 able opportunity for an insurance producer
6 to contest the accuracy of information re-
7 garding the insurance producer provided
8 under subparagraph (E).

9 “(L) INELIGIBILITY FOR MEMBERSHIP.—

10 “(i) IN GENERAL.—The Association
11 may, under reasonably consistently applied
12 standards, deny membership to an insur-
13 ance producer on the basis of criminal his-
14 tory record information provided under
15 subparagraph (E), or where the insurance
16 producer has been subject to disciplinary
17 action, as described in paragraph (2).

18 “(ii) RIGHTS OF APPLICANTS DENIED
19 MEMBERSHIP.—The Association shall no-
20 tify any insurance producer who is denied
21 membership on the basis of criminal his-
22 tory record information provided under
23 subparagraph (E) of the right of the insur-
24 ance producer to—

1 “(I) obtain a copy of all criminal
2 history record information provided to
3 the Association under subparagraph
4 (E) with respect to the insurance pro-
5 ducer; and

6 “(II) challenge the denial of
7 membership based on the accuracy
8 and completeness of the information.

9 “(M) DEFINITION.—For purposes of this
10 paragraph, the term ‘criminal history record
11 check’ means a national background check of
12 criminal history records of the Federal Bureau
13 of Investigation.

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

18 “(c) ESTABLISHMENT OF CLASSES AND CATEGORIES
19 OF MEMBERSHIP.—

20 “(1) CLASSES OF MEMBERSHIP.—The Associa-
21 tion may establish separate classes of membership,
22 with separate criteria, if the Association reasonably
23 determines that performance of different duties re-
24 quires different levels of education, training, experi-
25 ence, or other qualifications.

1 “(2) BUSINESS ENTITIES.—The Association
2 shall establish a class of membership and member-
3 ship criteria for business entities. A business entity
4 that applies for membership shall be required to des-
5 ignate an individual Association member responsible
6 for the compliance of the business entity with Asso-
7 ciation standards and the insurance laws, rules, and
8 regulations of any State in which the business entity
9 seeks to do business on the basis of Association
10 membership.

11 “(3) CATEGORIES.—

12 “(A) SEPARATE CATEGORIES FOR INSUR-
13 ANCE PRODUCERS PERMITTED.—The Associa-
14 tion may establish separate categories of mem-
15 bership for insurance producers and for other
16 persons or entities within each class, based on
17 the types of licensing categories that exist
18 under State laws.

19 “(B) SEPARATE TREATMENT FOR DEPOSI-
20 TORY INSTITUTIONS PROHIBITED.—No special
21 categories of membership, and no distinct mem-
22 bership criteria, shall be established for mem-
23 bers that are depository institutions or for em-
24 ployees, agents, or affiliates of depository insti-
25 tutions.

1 “(d) MEMBERSHIP CRITERIA.—

2 “(1) IN GENERAL.—The Association may estab-
3 lish criteria for membership which shall include
4 standards for personal qualifications, education,
5 training, and experience. The Association shall not
6 establish criteria that unfairly limit the ability of a
7 small insurance producer to become a member of the
8 Association, including imposing discriminatory mem-
9 bership fees.

10 “(2) QUALIFICATIONS.—In establishing criteria
11 under paragraph (1), the Association shall not adopt
12 any qualification less protective to the public than
13 that contained in the National Association of Insur-
14 ance Commissioners (referred to in this subtitle as
15 the ‘NAIC’) Producer Licensing Model Act in effect
16 as of the date of enactment of the National Associa-
17 tion of Registered Agents and Brokers Reform Act
18 of 2013, and shall consider the highest levels of in-
19 surance producer qualifications established under
20 the licensing laws of the States.

21 “(3) ASSISTANCE FROM STATES.—

22 “(A) IN GENERAL.—The Association may
23 request a State to provide assistance in inves-
24 tigating and evaluating the eligibility of a pro-

1 spective member for membership in the Associa-
2 tion.

3 “(B) AUTHORIZATION OF INFORMATION
4 SHARING.—A submission under subsection
5 (a)(4)(C)(i) made by an insurance producer li-
6 censed in a State shall include a statement
7 signed by the person about whom the assistance
8 is requested authorizing—

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

11 “(ii) the Association to receive the in-
12 formation.

13 “(C) RULE OF CONSTRUCTION.—Subpara-
14 graph (A) shall not be construed as requiring or
15 authorizing any State to adopt new or addi-
16 tional requirements concerning the licensing or
17 evaluation of insurance producers.

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

23 “(e) EFFECT OF MEMBERSHIP.—

24 “(1) AUTHORITY OF ASSOCIATION MEMBERS.—
25 Membership in the Association shall—

1 “(A) authorize an insurance producer to
2 sell, solicit, or negotiate insurance in any State
3 for which the member pays the licensing fee set
4 by the State for any line or lines of insurance
5 specified in the home State license of the insur-
6 ance producer, and exercise all such incidental
7 powers as shall be necessary to carry out such
8 activities, including claims adjustments and set-
9 tlement to the extent permissible under the laws
10 of the State, risk management, employee bene-
11 fits advice, retirement planning, and any other
12 insurance-related consulting activities;

13 “(B) be the equivalent of a nonresident in-
14 surance producer license for purposes of author-
15 izing the insurance producer to engage in the
16 activities described in subparagraph (A) in any
17 State where the member pays the licensing fee;
18 and

19 “(C) be the equivalent of a nonresident in-
20 surance producer license for the purpose of sub-
21 jecting an insurance producer to all laws, regu-
22 lations, provisions or other action of any State
23 concerning revocation, suspension, or other en-
24 forcement action related to the ability of a
25 member to engage in any activity within the

1 scope of authority granted under this subsection
2 and to all State laws, regulations, provisions,
3 and actions preserved under paragraph (5).

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

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

13 “(4) NOTIFICATION OF ACTION.—

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

24 “(B) ONGOING DISCLOSURES REQUIRED.—
25 On an ongoing basis, the Association shall dis-

1 close to the States (including State insurance
2 regulators) and the NAIC a list of the States
3 in which each member is authorized to operate.
4 The Association shall immediately notify the
5 States (including State insurance regulators)
6 and the NAIC when a member is newly author-
7 ized to operate in one or more States, or is no
8 longer authorized to operate in one or more
9 States on the basis of Association membership.

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

12 “(A) IN GENERAL.—No provision of this
13 section shall be construed as altering or affect-
14 ing the applicability or continuing effectiveness
15 of any law, regulation, provision, or other action
16 of any State, including those described in sub-
17 paragraph (B), to the extent that the State law,
18 regulation, provision, or other action is not in-
19 consistent with the provisions of this subtitle re-
20 lated to market entry for nonresident insurance
21 producers, and then only to the extent of the in-
22 consistency.

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

1 clude laws, regulations, provisions, or other ac-
2 tions that—

3 “(i) regulate market conduct, insur-
4 ance producer conduct, or unfair trade
5 practices;

6 “(ii) establish consumer protections;
7 or

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

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

13 “(g) CONTINUING EDUCATION.—

14 “(1) IN GENERAL.—The Association shall es-
15 tablish, as a condition of membership, continuing
16 education requirements which shall be comparable to
17 the continuing education requirements under the li-
18 censing laws of a majority of the States.

19 “(2) STATE CONTINUING EDUCATION REQUIRE-
20 MENTS.—A member may not be required to satisfy
21 continuing education requirements imposed under
22 the laws, regulations, provisions, or actions of any
23 State other than the home State of the member.

24 “(3) RECIPROCITY.—The Association shall not
25 require a member to satisfy continuing education re-

1 requirements that are equivalent to any continuing
2 education requirements of the home State of the
3 member that have been satisfied by the member dur-
4 ing the applicable licensing period.

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

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

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

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

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

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

1 “(D) the insurance producer has been con-
2 victed of a crime that would have resulted in
3 the denial of membership pursuant to sub-
4 section (a)(4)(L)(i) at the time of application,
5 and the Association has received a copy of the
6 final disposition from a court of competent ju-
7 risdiction.

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

11 “(3) REPORTING.—The Association shall imme-
12 diately notify the States (including State insurance
13 regulators) and the NAIC when the membership of
14 an insurance producer has been placed on probation
15 or has been suspended, revoked, or otherwise termi-
16 nated, or when the Association has assessed mone-
17 tary fines or penalties.

18 “(i) CONSUMER COMPLAINTS.—

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

20 “(A) refer any complaint against a mem-
21 ber of the Association from a consumer relating
22 to alleged misconduct or violations of State in-
23 surance laws to the State insurance regulator
24 where the consumer resides and, when appro-
25 priate, to any additional State insurance regu-

1 lator, as determined by standards adopted by
2 the Association; and

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

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

11 “(3) FINAL DISPOSITION OF INVESTIGATION.—
12 State insurance regulators shall provide the Associa-
13 tion with information regarding the final disposition
14 of a complaint referred pursuant to paragraph
15 (1)(A), but nothing shall be construed to compel a
16 State to release confidential investigation reports or
17 other information protected by State law to the As-
18 sociation.

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

21 “(1) share documents, materials, or other infor-
22 mation, including confidential and privileged docu-
23 ments, with a State, Federal, or international gov-
24 ernmental entity or with the NAIC or other appro-
25 priate entity referenced in paragraphs (3) and (4),

1 provided that the recipient has the authority and
2 agrees to maintain the confidentiality or privileged
3 status of the document, material, or other informa-
4 tion;

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

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

19 “(4) establish a database, or utilize the NAIC
20 or another appropriate entity, as determined by the
21 Association, as a database, for use by the Associa-
22 tion and the States (including State insurance regu-
23 lators) for the collection of regulatory information
24 concerning the activities of insurance producers.

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

3 “(1) the expiration of the 2-year period begin-
4 ning on the date of enactment of the National Asso-
5 ciation of Registered Agents and Brokers Reform
6 Act of 2013; and

7 “(2) the date of incorporation of the Associa-
8 tion.

9 **“SEC. 324. BOARD OF DIRECTORS.**

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

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

16 “(c) COMPOSITION.—

17 “(1) IN GENERAL.—The Board shall consist of
18 13 members who shall be appointed by the Presi-
19 dent, by and with the advice and consent of the Sen-
20 ate, in accordance with the procedures established
21 under Senate Resolution 116 of the 112th Congress,
22 of whom—

23 “(A) 8 shall be State insurance commis-
24 sioners appointed in the manner provided in
25 paragraph (2), 1 of whom shall be designated

1 by the President to serve as the chairperson of
2 the Board until the Board elects one such State
3 insurance commissioner Board member to serve
4 as the chairperson of the Board;

5 “(B) 2 shall be representatives of property
6 and casualty insurance producers;

7 “(C) 1 shall be a representative of life or
8 health insurance producers;

9 “(D) 1 shall be a representative of prop-
10 erty and casualty insurers; and

11 “(E) 1 shall be a representative of life or
12 health insurers.

13 “(2) STATE INSURANCE REGULATOR REP-
14 RESENTATIVES.—

15 “(A) RECOMMENDATIONS.—Before making
16 any appointments pursuant to paragraph
17 (1)(A), the President shall request a list of rec-
18 ommended candidates from the States through
19 the NAIC, which shall not be binding on the
20 President. If the NAIC fails to submit a list of
21 recommendations not later than 15 business
22 days after the date of the request, the President
23 may make the requisite appointments without
24 considering the views of the NAIC.

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

5 “(C) FORMER STATE INSURANCE COMMIS-
6 SIONERS.—

7 “(i) IN GENERAL.—If, after offering
8 each currently serving State insurance
9 commissioner an appointment to the
10 Board, fewer than 8 State insurance com-
11 missioners have accepted appointment to
12 the Board, the President may appoint the
13 remaining State insurance commissioner
14 Board members, as required under para-
15 graph (1)(A), of the appropriate political
16 party as required under subparagraph (B),
17 from among individuals who are former
18 State insurance commissioners.

19 “(ii) LIMITATION.—A former State
20 insurance commissioner appointed as de-
21 scribed in clause (i) may not be employed
22 by or have any present direct or indirect fi-
23 nancial interest in any insurer, insurance
24 producer, or other entity in the insurance
25 industry, other than direct or indirect own-

1 ership of, or beneficial interest in, an in-
2 surance policy or annuity contract written
3 or sold by an insurer.

4 “(D) SERVICE THROUGH TERM.—If a
5 Board member appointed under paragraph
6 (1)(A) ceases to be a State insurance commis-
7 sioner during the term of the Board member,
8 the Board member shall cease to be a Board
9 member.

10 “(3) PRIVATE SECTOR REPRESENTATIVES.—In
11 making any appointment pursuant to subparagraphs
12 (B) through (E) of paragraph (1), the President
13 may seek recommendations for candidates from
14 groups representing the category of individuals de-
15 scribed, which shall not be binding on the President.

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

22 “(d) TERMS.—

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

1 “(2) EXCEPTIONS.—

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

6 “(i) 4 of the State insurance commis-
7 sioner Board members initially appointed
8 under paragraph (1)(A), of whom not more
9 than 2 shall belong to the same political
10 party;

11 “(ii) 1 of the property and casualty
12 insurance producer Board members ini-
13 tially appointed under paragraph (1)(B);
14 and

15 “(iii) 1 of the insurer representative
16 Board members initially appointed under
17 subparagraphs (D) and (E) of paragraph
18 (1).

19 “(B) EXPIRATION OF TERM.—A Board
20 member may continue to serve after the expira-
21 tion of the term to which the Board member
22 was appointed for the earlier of 2 years or until
23 a successor is appointed.

24 “(C) MID-TERM APPOINTMENTS.—A
25 Board member appointed to fill a vacancy oc-

1 curring before the expiration of the term for
2 which the predecessor of the Board member
3 was appointed shall be appointed only for the
4 remainder of that term.

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

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

11 “(f) MEETINGS.—

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

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

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

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

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

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

23 “(4) INITIAL MEETING.—The Board shall hold
24 its first meeting not later than 45 days after the

1 date on which all initial Board members have been
2 appointed.

3 “(g) RESTRICTION ON CONFIDENTIAL INFORMA-
4 TION.—Board members appointed pursuant to subpara-
5 graphs (B) through (E) of subsection (c)(1) shall not have
6 access to confidential information received by the Associa-
7 tion in connection with complaints, investigations, or dis-
8 ciplinary proceedings involving insurance producers.

9 “(h) ETHICS AND CONFLICTS OF INTEREST.—The
10 Board shall issue and enforce an ethical conduct code to
11 address permissible and prohibited activities of Board
12 members and Association officers, employees, agents, or
13 consultants. The code shall, at a minimum, include provi-
14 sions that prohibit any Board member or Association offi-
15 cer, employee, agent or consultant from—

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

18 “(2) participating in the making or influencing
19 the making of any Association decision, the outcome
20 of which the Board member, officer, employee,
21 agent, or consultant knows or had reason to know
22 would have a reasonably foreseeable material finan-
23 cial effect, distinguishable from its effect on the pub-
24 lic generally, on the person or a member of the im-
25 mediate family of the person;

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

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

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

8 “(i) COMPENSATION.—

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

13 “(2) TRAVEL EXPENSES AND PER DIEM.—
14 Board members may be reimbursed only by the As-
15 sociation for travel expenses, including per diem in
16 lieu of subsistence, at rates consistent with rates au-
17 thorized for employees of Federal agencies under
18 subchapter I of chapter 57 of title 5, United States
19 Code, while away from home or regular places of
20 business in performance of services for the Associa-
21 tion.

22 **“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY AC-**
23 **TIONS.**

24 “(a) ADOPTION AND AMENDMENT OF BYLAWS AND
25 STANDARDS.—

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

7 “(2) COPY REQUIRED TO BE FILED.—The
8 Board shall submit to the President, through the
9 Department of the Treasury, and the States (includ-
10 ing State insurance regulators), and shall publish on
11 the website of the Association, all proposed bylaws
12 and standards of the Association, or any proposed
13 amendment to the bylaws or standards of the Asso-
14 ciation, accompanied by a concise general statement
15 of the basis and purpose of such proposal.

16 “(3) EFFECTIVE DATE.—Any proposed bylaw
17 or standard of the Association, and any proposed
18 amendment to the bylaws or standards of the Asso-
19 ciation, shall take effect, after notice under para-
20 graph (2) and opportunity for public comment, on
21 such date as the Association may designate, unless
22 suspended under section 329(e).

23 “(4) RULE OF CONSTRUCTION.—Nothing in
24 this section shall be construed to subject the Board
25 or the Association to the requirements of subchapter

1 II of chapter 5 of title 5, United States Code (com-
2 monly known as the ‘Administrative Procedure
3 Act’).

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

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

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

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

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

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

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

4 “(A) participate in any disciplinary action
5 or be counted toward establishing a quorum
6 during a disciplinary action; and

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

9 **“SEC. 326. POWERS.**

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

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

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

19 “(3) establish procedures for providing notice
20 and opportunity for comment pursuant to section
21 325(a);

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

24 “(5) hire employees, professionals, or special-
25 ists, and elect or appoint officers, and to fix their

1 compensation, define their duties and give them ap-
2 propriate authority to carry out the purposes of this
3 subtitle, and determine their qualification;

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

8 “(7) borrow money; and

9 “(8) secure funding for such amounts as the
10 Association determines to be necessary and appro-
11 priate to organize and begin operations of the Asso-
12 ciation, which shall be treated as loans to be repaid
13 by the Association with interest at market rate.

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

15 “(a) IN GENERAL.—As soon as practicable after the
16 close of each fiscal year, the Association shall submit to
17 the President, through the Department of the Treasury,
18 and the States (including State insurance regulators), and
19 shall publish on the website of the Association, a written
20 report regarding the conduct of its business, and the exer-
21 cise of the other rights and powers granted by this sub-
22 title, during such fiscal year.

23 “(b) FINANCIAL STATEMENTS.—Each report sub-
24 mitted under subsection (a) with respect to any fiscal year
25 shall include audited financial statements setting forth the

1 financial position of the Association at the end of such
2 fiscal year and the results of its operations (including the
3 source and application of its funds) for such fiscal year.

4 **“SEC. 328. LIABILITY OF THE ASSOCIATION AND THE**
5 **BOARD MEMBERS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.**

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

16 “(b) LIABILITY OF BOARD MEMBERS, OFFICERS,
17 AND EMPLOYEES.—No Board member, officer, or em-
18 ployee of the Association shall be personally liable to any
19 person for any action taken or omitted in good faith in
20 any matter within the scope of their responsibilities in con-
21 nection with the Association.

22 **“SEC. 329. PRESIDENTIAL OVERSIGHT.**

23 “(a) REMOVAL OF BOARD.—If the President deter-
24 mines that the Association is acting in a manner contrary
25 to the interests of the public or the purposes of this sub-

1 title or has failed to perform its duties under this subtitle,
2 the President may remove the entire existing Board for
3 the remainder of the term to which the Board members
4 were appointed and appoint, in accordance with section
5 324 and with the advice and consent of the Senate, in
6 accordance with the procedures established under Senate
7 Resolution 116 of the 112th Congress, new Board mem-
8 bers to fill the vacancies on the Board for the remainder
9 of the terms.

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

13 “(c) SUSPENSION OF BYLAWS AND STANDARDS AND
14 PROHIBITION OF ACTIONS.—Following notice to the
15 Board, the President, or a person designated by the Presi-
16 dent for such purpose, may suspend the effectiveness of
17 any bylaw or standard, or prohibit any action, of the Asso-
18 ciation that the President or the designee determines is
19 contrary to the purposes of this subtitle.

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

21 “(a) PREEMPTION OF STATE LAWS.—State laws,
22 regulations, provisions, or other actions purporting to reg-
23 ulate insurance producers shall be preempted to the extent
24 provided in subsection (b).

25 “(b) PROHIBITED ACTIONS.—

1 “(1) IN GENERAL.—No State shall—

2 “(A) impede the activities of, take any ac-
3 tion against, or apply any provision of law or
4 regulation arbitrarily or discriminatorily to, any
5 insurance producer because that insurance pro-
6 ducer or any affiliate plans to become, has ap-
7 plied to become, or is a member of the Associa-
8 tion;

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

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

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

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

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

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

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

23 “(3) PRESERVATION OF STATE DISCIPLINARY
24 AUTHORITY.—Nothing in this section may be con-
25 strued to prohibit a State from investigating and

1 taking appropriate disciplinary action, including sus-
2 pension or revocation of authority of an insurance
3 producer to do business in a State, in accordance
4 with State law and that is not inconsistent with the
5 provisions of this section, against a member of the
6 Association as a result of a complaint or for any al-
7 leged activity, regardless of whether the activity oc-
8 curred before or after the insurance producer com-
9 menced doing business in the State pursuant to As-
10 sociation membership.

11 **“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY**
12 **REGULATORY AUTHORITY.**

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

19 **“SEC. 332. RIGHT OF ACTION.**

20 “(a) **RIGHT OF ACTION.**—Any person aggrieved by
21 a decision or action of the Association may, after reason-
22 ably exhausting available avenues for resolution within the
23 Association, commence a civil action in an appropriate
24 United States district court, and obtain all appropriate re-
25 lief.

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

5 **“SEC. 333. DEFINITIONS.**

6 “For purposes of this subtitle, the following defini-
7 tions shall apply:

8 “(1) BUSINESS ENTITY.—The term ‘business
9 entity’ means a corporation, association, partnership,
10 limited liability company, limited liability partner-
11 ship, or other legal entity.

12 “(2) DEPOSITORY INSTITUTION.—The term ‘de-
13 pository institution’ has the meaning as in section 3
14 of the Federal Deposit Insurance Act (12 U.S.C.
15 1813).

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

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

24 “(5) INSURANCE PRODUCER.—The term ‘insur-
25 ance producer’ means any insurance agent or

1 broker, excess or surplus lines broker or agent, in-
2 surance consultant, limited insurance representative,
3 and any other individual or entity that sells, solicits,
4 or negotiates policies of insurance or offers advice,
5 counsel, opinions or services related to insurance.

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

9 “(7) PRINCIPAL PLACE OF BUSINESS.—The
10 term ‘principal place of business’ means the State in
11 which an insurance producer maintains the head-
12 quarters of the insurance producer and, in the case
13 of a business entity, where high-level officers of the
14 entity direct, control, and coordinate the business
15 activities of the business entity.

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

20 “(9) STATE.—The term ‘State’ includes any
21 State, the District of Columbia, any territory of the
22 United States, and Puerto Rico, Guam, American
23 Samoa, the Trust Territory of the Pacific Islands,
24 the Virgin Islands, and the Northern Mariana Is-
25 lands.

1 “(10) STATE LAW.—

2 “(A) IN GENERAL.—The term ‘State law’
3 includes all laws, decisions, rules, regulations,
4 or other State action having the effect of law,
5 of any State.

6 “(B) LAWS APPLICABLE IN THE DISTRICT
7 OF COLUMBIA.—A law of the United States ap-
8 plicable only to or within the District of Colum-
9 bia shall be treated as a State law rather than
10 a law of the United States.”.

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

“Subtitle C—National Association of Registered Agents and Brokers

“Sec. 321. National Association of Registered Agents and Brokers.

“Sec. 322. Purpose.

“Sec. 323. Membership.

“Sec. 324. Board of directors.

“Sec. 325. Bylaws, standards, and disciplinary actions.

“Sec. 326. Powers.

“Sec. 327. Report by the Association.

“Sec. 328. Liability of the Association and the Board members, officers, and
employees of the Association.

“Sec. 329. Presidential oversight.

“Sec. 330. Relationship to State law.

“Sec. 331. Coordination with Financial Industry Regulatory Authority.

“Sec. 332. Right of action.

“Sec. 333. Definitions.”.