# "Subtitle C-National Association of Registered Agents and Brokers

"SEC. 321. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BRO-KERS

- "(a) Establishment.—There is established the National Association of Registered Agents and Brokers (referred to in this subtitle as the 'Association').

  "(b) Status.—The Association shall—

- "(1) be a nonprofit corporation; "(2) not be an agent or instrumentality of the Federal Government;
- "(3) be an independent organization that may not be merged with or into any other private or public entity; and "(4) except as otherwise provided in this subtitle, be subject to, and have all the powers conferred upon, a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–301.01 et seq.) or any successor thereto. "SEC. 322. PURPOSE.

"The purpose of the Association shall be to provide a mechanism through which licensing, continuing education, and other nonresident insurance producer qualification requirements and conditions may be adopted and applied on a multi-state basis without affecting the laws, rules, and regulations, and preserving the rights

of a State, pertaining to—

"(1) licensing, continuing education, and other qualification requirements of insurance producers that are not members of the Association:

"(2) resident or nonresident insurance producer appointment requirements;

"(3) supervising and disciplining resident and nonresident insurance producers;

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

"(5) prescribing and enforcing laws and regulations regulating the conduct of resident and nonresident insurance producers.

#### "SEC. 323. MEMBERSHIP.

"(a) ELIGIBILITY.

"(1) IN GENERAL.—Any insurance producer licensed in its home State shall, subject to paragraphs (2) and (4), be eligible to become a member of the Association.

"(2) Ineligibility for suspension or revocation of LICENSE.—Subject to paragraph (3), an insurance producer is not eligible to become a member of the Association if a State insurance regulator has suspended or revoked the insurance license of the insurance producer in that State.

"(3) RESUMPTION OF ELIGIBILITY.—Paragraph (2) shall cease to apply to any insurance producer if—
"(A) the State insurance regulator reissues or renews

the license of the insurance producer in the State in which the license was suspended or revoked, or otherwise terminates or vacates the suspension or revocation; or

"(B) the suspension or revocation expires or is subsequently overturned by a court of competent jurisdiction.

(4) CRIMINAL HISTORY RECORD CHECK REQUIRED.—
(A) IN GENERAL.—An insurance producer who is an individual shall not be eligible to become a member of the Association unless the insurance producer has undergone a criminal history record check that complies with regulations prescribed by the Attorney General of the United States under subparagraph (K).

(B) CRIMINAL HISTORY RECORD CHECK REQUESTED BY HOME STATE.—An insurance producer who is licensed in a State and who has undergone a criminal history record check during the 2-year period preceding the date of submission of an application to become a member of the Association, in compliance with a requirement to undergo such criminal history record check as a condition for such licensure in the State, shall be deemed to have undergone a criminal history record check for purposes of subparagraph (A).

"(C) Criminal history record check requested by

ASSOCIATION.—

"(i) IN GENERAL.—The Association shall, upon request by an insurance producer licensed in a State, submit fingerprints or other identification information obtained from the insurance producer, and a request for a criminal history record check of the insurance producer, to the Federal Bureau of Investigation.

"(ii) PROCEDURES.—The board of directors of the Association (referred to in this subtitle as the 'Board') shall prescribe procedures for obtaining and utilizing fingerprints or other identification information and criminal history record information, including the establishment of reasonable fees to defray the expenses of the Association in connection with the performance of a criminal history record check and appropriate safeguards for maintaining confidentiality and security of the information. Any fees charged pursuant to this clause shall be separate and distinct from those charged by the Attorney General pursuant to subparagraph (I).

"(D) FORM OF REQUEST.—A submission under subparagraph (C)(i) shall include such fingerprints or other identi-

fication information as is required by the Attorney General concerning the person about whom the criminal history record check is requested, and a statement signed by the person authorizing the Attorney General to provide the information to the Association and for the Association to

receive the information.

"(E) Provision of Information by Attorney Gen-ERAL.—Upon receiving a submission under subparagraph (C)(i) from the Association, the Attorney General shall search all criminal history records of the Federal Bureau of Investigation, including records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation, that the Attorney General determines appropriate for criminal history records corresponding to the fingerprints or other identification information provided under subparagraph (D) and provide all criminal history record information included in the request to the Associa-

tion.

"(F) LIMITATION ON PERMISSIBLE USES OF INFORMA-TION.—Any information provided to the Association under subparagraph (E) may only—

"(i) be used for purposes of determining compliance with membership criteria established by the Associa-

"(ii) be disclosed to State insurance regulators, or Federal or State law enforcement agencies, in

conformance with applicable law; or

"(iii) be disclosed, upon request, to the insurance
producer to whom the criminal history record informa-

tion relates.

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

"(H) RELIANCE ON INFORMATION.—Neither the Association nor any of its Board members, officers, or employees shall be liable in any action for using information provided under subparagraph (E) as permitted under subparagraph (F) in good faith and in reasonable reliance on its accuracy.

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

"(J) RULE OF CONSTRUCTION.—Nothing in this para-

graph shall be construed as—

"(i) requiring a State insurance regulator to perform criminal history record checks under this section;

"(ii) limiting any other authority that allows access

to criminal history records. "(K) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this paragraph, which shall

"(i) appropriate protections for ensuring the confidentiality of information provided under subparagraph (E); and

"(ii) procedures providing a reasonable opportunity

"(11) procedures providing a reasonable opportunity for an insurance producer to contest the accuracy of information regarding the insurance producer provided under subparagraph (E).

"(L) INELIGIBILITY FOR MEMBERSHIP.—

"(i) IN GENERAL.—The Association may, under reasonably consistently applied standards, deny membership to an insurance producer on the basis of criminal history record information provided under subparagraph (E), or where the insurance producer has been subject to disciplinary action as described has been subject to disciplinary action, as described in paragraph (2).

"(ii) Rights of applicants denied membership.— "(II) RIGHTS OF APPLICANTS DENIED MEMBERSHIP.—
The Association shall notify any insurance producer who is denied membership on the basis of criminal history record information provided under subparagraph (E) of the right of the insurance producer to—
"(I) obtain a copy of all criminal history record information provided to the Association under subparagraph (E) with respect to the insurance producer; and

producer; and

"(II) challenge the denial of membership based on the accuracy and completeness of the informa-

tion.

"(M) DEFINITION.—For purposes of this paragraph, the term 'criminal history record check' means a national background check of criminal history records of the Federal Bureau of Investigation.

"(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The

Association may establish membership criteria that bear a reasonable relationship to the purposes for which the Association was

"(c) Establishment of Classes and Categories of Member-SHIP.

"(1) CLASSES OF MEMBERSHIP.—The Association may establish separate classes of membership, with separate criteria, if the Association reasonably determines that performance of different duties requires different levels of education, training, experience, or other qualifications.

"(2) BUSINESS ENTITIES.—The Association shall establish a class of membership and membership criteria for business entities. A business entity that applies for membership shall be required to designate an individual Association member responsible for the compliance of the business entity with Association standards and the insurance laws, standards, and regulations of any State in which the business entity seeks to do business on the basis of Association membership.

"(3) Categories.—

"(A) SEPARATE CATEGORIES FOR INSURANCE PRODUCERS PERMITTED.—The Association may establish separate categories of membership for insurance producers and for other persons or entities within each class, based on the types of licensing categories that exist under State laws.

"(B) Separate treatment for depository institutions or for members that are depository institutions or for employees, agents, or affiliates of depository institutions. "(d) MEMBERSHIP CRITERIA.-

"(1) IN GENERAL.—The Association may establish criteria for membership which shall include standards for personal qualifications, education, training, and experience. The Association shall not establish criteria that unfairly limit the ability of a small insurance producer to become a member of the Association, including imposing discriminatory membership fees.

"(2) QUALIFICATIONS.—In establishing criteria under paragraph (1), the Association shall not adopt any qualification less protective to the public than that contained in the National Association of Insurance Commissioners (referred to in this subtitle as the 'NAIC') Producer Licensing Model Act in effect as of the date of enactment of the National Association of Registered Agents and Brokers Reform Act of 2015, and shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

"(3) ASSISTANCE FROM STATES.—
"(A) IN GENERAL.—The Association may request a State to provide assistance in investigating and evaluating the eligibility of a prospective member for membership in the

"(B) AUTHORIZATION OF INFORMATION SHARING.—A submission under subsection (a)(4)(C)(i) made by an insurance producer licensed in a State shall include a statement signed by the person about whom the assistance requested authorizing-

"(i) the State to share information with the

Association; and

"(ii) the Association to receive the information. "(C) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as requiring or authorizing any State to adopt new or additional requirements concerning the

licensing or evaluation of insurance producers.
"(4) DENIAL OF MEMBERSHIP.—The Association may, based on reasonably consistently applied standards, deny membership to any State-licensed insurance producer for failure to meet the membership criteria established by the Association.

"(e) Effect of Membership.—

"(1) AUTHORITY OF ASSOCIATION MEMBERS.—Membership in the Association shall—
"(A) authorize an insurance producer to sell, solicit,

or negotiate insurance in any State for which the member or negotiate insurance in any state for which the memoer pays the licensing fee set by the State for any line or lines of insurance specified in the home State license of the insurance producer, and exercise all such incidental powers as shall be necessary to carry out such activities, including claims adjustments and settlement to the extent permissible under the laws of the State, risk management, employee benefits advice, retirement planning, and any other insurance-related consulting activities;

"(B) be the equivalent of a nonresident insurance producer license for purposes of authorizing the insurance producer to engage in the activities described in subparagraph (A) in any State where the member pays the licensing fee; and

"(C) be the equivalent of a nonresident insurance producer license for the purpose of subjecting an insurance producer to all laws, regulations, provisions or other action of any State concerning revocation, suspension, or other enforcement action related to the ability of a member to engage in any activity within the scope of authority granted under this subsection and to all State laws, regulations,

provisions, and actions preserved under paragraph (5).

"(2) VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT
OF 1994.—Nothing in this subtitle shall be construed to alter, modify, or supercede any requirement established by section 1033 of title 18, United States Code.

"(3) AGENT FOR REMITTING FEES.—The Association shall act as an agent for any member for purposes of remitting licensing fees to any State pursuant to paragraph (1).

"(4) NOTIFICATION OF ACTION.—
"(A) IN GENERAL.—The Association shall notify the States (including State insurance regulators) and the NAIC when an insurance producer has satisfied the membership criteria of this section. The States (including State insurance regulators) shall have 10 business days after the date of the notification in order to provide the Association with evidence that the insurance producer does not satisfy the criteria for membership in the Association.

"(B) Ongoing disclosures required.—On an ongoing basis, the Association shall disclose to the States (including State insurance regulators) and the NAIC a list of the States in which each member is authorized to operate. The Association shall immediately notify the States (including State insurance regulators) and the NAIC when a member is newly authorized to operate in one or more States, or is no longer authorized to operate in one or more States on the basis of Association membership.

(5) Preservation of consumer protection and market

CONDUCT REGULATION.-

"(A) IN GENERAL.—No provision of this section shall be construed as altering or affecting the applicability or continuing effectiveness of any law, regulation, provision, or other action of any State, including those described in subparagraph (B), to the extent that the State law, regulation, provision, or other action is not inconsistent with the provisions of this subtitle related to market entry for nonresident insurance producers, and then only to the extent of the inconsistency.

"(B) Preserved regulations.—The laws, regulations, provisions, or other actions of any State referred to in subparagraph (A) include laws, regulations, provisions, or

other actions that-

"(i) regulate market conduct, insurance producer conduct, or unfair trade practices;

"(ii) establish consumer protections; or

"(iii) require insurance producers to be appointed by a licensed or authorized insurer.

"(f) BIENNIAL RENEWAL.—Membership in the Association shall be renewed on a biennial basis.

"(g) CONTINUING EDUCATION.—
"(1) IN GENERAL.—The Association shall establish, as a condition of membership, continuing education requirements which shall be comparable to the continuing education requirements under the licensing laws of a majority of the States.

"(2) State continuing education requirements.—A member may not be required to satisfy continuing education requirements imposed under the laws, regulations, provisions, or actions of any State other than the home State of the member.

"(3) RECIPROCITY.—The Association shall not require a member to satisfy continuing education requirements that are equivalent to any continuing education requirements of the home State of the member that have been satisfied by the member during the applicable licensing period.

"(4) LIMITATION ON THE ASSOCIATION.—The Association shall not directly or indirectly offer any continuing education courses for insurance producers.
"(h) Probation, Suspension and Revocation.-

(1) DISCIPLINARY ACTION.—The Association may place an insurance producer that is a member of the Association on probation or suspend or revoke the membership of the insurance producer in the Association, or assess monetary fines or penalties, as the Association determines to be appropriate, if—

"(A) the insurance producer fails to meet the applicable membership criteria or other standards established by the

"(B) the insurance producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator;

"(C) an insurance license held by the insurance producer has been suspended or revoked by a State insurance regulator; or

"(D) the insurance producer has been convicted of a crime that would have resulted in the denial of membership pursuant to subsection (a)(4)(L)(i) at the time of application, and the Association has received a copy of the final disposition from a court of competent jurisdiction.

"(2) VIOLATIONS OF ASSOCIATION STANDARDS.—The Association shall have the power to investigate alleged violations of

Association standards.

"(3) REPORTING.—The Association shall immediately notify the States (including State insurance regulators) and the NAIC when the membership of an insurance producer has been placed on probation or has been suspended, revoked, or otherwise terminated, or when the Association has assessed monetary fines or penalties.

"(i) Consumer Complaints.—

"(1) IN GENERAL.—The Association shall—

"(A) refer any complaint against a member of the Association from a consumer relating to alleged misconduct or violations of State insurance laws to the State insurance regulator where the consumer resides and, when appropriate, to any additional State insurance regulator, as determined by standards adopted by the Association; and

(B) make any related records and information available to each State insurance regulator to whom the com-

plaint is forwarded.

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

"(3) Final disposition of investigation.—State insurance regulators shall provide the Association with information regarding the final disposition of a complaint referred pursuant to paragraph (1)(A), but nothing shall be construed to compel a State to release confidential investigation reports or other information protected by State law to the Association.

"(j) Information Sharing.—The Association may-

"(1) share documents, materials, or other information, including confidential and privileged documents, with a State, Federal, or international governmental entity or with the NAIC or other appropriate entity referred to paragraphs (3) and (4), provided that the recipient has the authority and agrees to maintain the confidentiality or privileged status of the document, material, or other information;

"(2) limit the sharing of information as required under this subtitle with the NAIC or any other non-governmental entity, in circumstances under which the Association determines that the sharing of such information is unnecessary to further the purposes of this subtitle;

"(3) establish a central clearinghouse, or utilize the NAIC

or another appropriate entity, as determined by the Association, as a central clearinghouse, for use by the Association and the States (including State insurance regulators), through which members of the Association may disclose their intent to operate in 1 or more States and pay the licensing fees to the appropriate States; and

"(4) establish a database, or utilize the NAIC or another appropriate entity, as determined by the Association, as a database, for use by the Association and the States (including State insurance regulators) for the collection of regulatory information concerning the activities of insurance producers "(k) Effective Date.—The provisions of this section shall take

effect on the later of-

"(1) the expiration of the 2-year period beginning on the date of enactment of the National Association of Registered Agents and Brokers Reform Act of 2015; and

"(2) the date of incorporation of the Association.

#### "SEC. 324. BOARD OF DIRECTORS.

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

"(b) POWERS.—The Board shall have such of the powers and authority of the Association as may be specified in the bylaws of the Association.

"(c) COMPOSITION.—
"(1) IN GENERAL.—The Board shall consist of 13 members who shall be appointed by the President, by and with the advice and consent of the Senate, in accordance with the procedures established under Senate Resolution 116 of the 112th

Congress, of whom—

"(A) 8 shall be State insurance commissioners appointed in the manner provided in paragraph (2), 1 of whom shall be designated by the President to serve as the chairperson of the Board until the Board elects one such State insurance commissioner Board member to serve as the chairperson of the Board;

"(B) 3 shall have demonstrated expertise and experience with property and casualty insurance producer licensing; and

"(C) 2 shall have demonstrated expertise and experience with life or health insurance producer licensing. "(2) STATE INSURANCE REGULATOR REPRESENTATIVES.—

"(A) RECOMMENDATIONS.—Before making any appointments pursuant to paragraph (1)(A), the President shall request a list of recommended candidates from the States through the NAIC, which shall not be binding on the President. If the NAIC fails to submit a list of recommendations not later than 15 business days after the date of the request, the President may make the requisite appointments without considering the views of the NAIC.

"(B) POLITICAL AFFILIATION.—Not more than 4 Board members appointed under paragraph (1)(A) shall belong

to the same political party.

"(C) FORMER STATE INSURANCE COMMISSIONERS.—

"(i) IN GENERAL.—If, after offering each currently serving State insurance commissioner an appointment to the Board, fewer than 8 State insurance commissioners have accepted appointment to the Board, the President may appoint the remaining State insurance commissioner Board members, as required under paragraph (1)(A), of the appropriate political party as required under subparagraph (B), from among individ-

uals who are former State insurance commissioners.

"(ii) Limitation.—A former State insurance commissioner appointed as described in clause (i) may not be employed by or have any present direct or indirect financial interest in any insurer, insurance producer, or other entity in the insurance industry, other than direct or indirect ownership of, or beneficial interest in, an insurance policy or annuity contract written or sold by an insurer.

"(D) SERVICE THROUGH TERM.—If a Board member appointed under paragraph (1)(A) ceases to be a State

insurance commissioner during the term of the Board member, the Board member shall cease to be a Board

member.
"(3) PRIVATE SECTOR REPRESENTATIVES.—In making any appointment pursuant to subparagraph (B) or (C) of paragraph (1), the President may seek recommendations for candidates from groups representing the category of individuals described,

which shall not be binding on the President.

"(4) STATE INSURANCE COMMISSIONER DEFINED.—For purposes of this subsection, the term 'State insurance commissioner' means a person who serves in the position in State government, or on the board, commission, or other body that is the primary insurance regulatory authority for the State.

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

"(2) Exceptions.—

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

"(i) 4 of the State insurance commissioner Board

members initially appointed under paragraph (1)(A), of whom not more than 2 shall belong to the same political party;

"(ii) 1 of the Board members initially appointed under paragraph (1)(B); and

"(iii) 1 of the Board members initially appointed under paragraph (1)(C).
"(B) EXPIRATION OF TERM.—A Board member may continue to serve after the expiration of the term to which the Board member was appointed for the earlier of 2 years or until a successor is appointed.

"(C) MID-TERM APPOINTMENTS.—A Board member

appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the Board member was appointed shall be appointed only for the remainder of that term.

"(3) Successive terms.—Board members may be re-

appointed to successive terms.

"(e) INITIAL APPOINTMENTS.—The appointment of initial Board members shall be made no later than 90 days after the date of enactment of the National Association of Registered Agents and Brokers Reform Act of 2015.

"(f) MEETINGS.-

"(1) IN GENERAL.—The Board shall meet—
"(A) at the call of the chairperson;

"(B) as requested in writing to the chairperson by not fewer than 5 Board members; or

"(C) as otherwise provided by the bylaws of the Association.

"(2) QUORUM REQUIRED.—A majority of all Board members

shall constitute a quorum.

"(3) VOTING.—Decisions of the Board shall require the approval of a majority of all Board members present at a meeting, a quorum being present.

"(4) INITIAL MEETING.—The Board shall hold its first meeting not later than 45 days after the date on which all

initial Board members have been appointed.
"(g) RESTRICTION ON CONFIDENTIAL INFORMATION.—Board members appointed pursuant to subparagraphs (B) and (C) of subsection (c)(1) shall not have access to confidential information received by the Association in connection with complaints, investiga-

tions, or disciplinary proceedings involving insurance producers.

"(h) ETHICS AND CONFLICTS OF INTEREST.—The Board shall issue and enforce an ethical conduct code to address permissible and prohibited activities of Board members and Association officers, employees, agents, or consultants. The code shall, at a minimum, include provisions that prohibit any Board member or Association officer, employee, agent or consultant from—

"(1) engaging in unethical conduct in the course of per-

forming Association duties;

"(2) participating in the making or influencing the making of any Association decision, the outcome of which the Board member, officer, employee, agent, or consultant knows or had reason to know would have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the person or a member of the immediate family

of the person;

"(3) accepting any gift from any person or entity other than the Association that is given because of the position held

by the person in the Association;

"(4) making political contributions to any person or entity on behalf of the Association; and

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

"(i) Compensation.-

"(1) IN GENERAL.—Except as provided in paragraph (2), no Board member may receive any compensation from the Association or any other person or entity on account of Board membership.

(2) TRAVEL EXPENSES AND PER DIEM.—Board members may be reimbursed only by the Association for travel expenses, including per diem in lieu of subsistence, at rates consistent with rates authorized for employees of Federal agencies under subchapter I of chapter 57 of title 5, United States Code, while away from home or regular places of business in performance of services for the Association.

#### "SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY ACTIONS.

"(a) Adoption and Amendment of Bylaws and Standards.-"(1) PROCEDURES.—The Association shall adopt procedures for the adoption of bylaws and standards that are similar to procedures under subchapter II of chapter 5 of title 5, United States Code (commonly known as the 'Administrative Procedure

Act').

"(2) COPY REQUIRED TO BE FILED.—The Board shall submit the Department of the Treasury, to the President, through the Department of the Treasury, and the States (including State insurance regulators), and shall publish on the website of the Association, all proposed bylaws and standards of the Association, or any proposed amendment to the bylaws or standards of the Association, accompanied by a concise general statement of the basis and purpose of

such proposal.

"(3) EFFECTIVE DATE.—Any proposed bylaw or standard of the Association, and any proposed amendment to the bylaws or standards of the Association, shall take effect, after notice under paragraph (2) and opportunity for public comment, on such date as the Association may designate, unless suspended

under section 329(c).

"(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to subject the Board or the Association to the requirements of subchapter II of chapter 5 of title 5, United States Code (commonly known as the 'Administrative Procedure

Act').
"(b) DISCIPLINARY ACTION BY THE ASSOCIATION.—

"(1) DISCIPLINARY ACTION BY THE ASSOCIATION.—
"(1) SPECIFICATION OF CHARGES.—In any proceeding to determine whether membership shall be denied, suspended, revoked, or not renewed, or to determine whether a member of the Association should be placed on probation (referred to in this section as a 'disciplinary action') or whether to assess fines or monetary penalties, the Association shall bring specific charges notify the member of the charges give the member. charges, notify the member of the charges, give the member

an opportunity to defend against the charges, and keep a record. "(2) Supporting statement.—A determination to take disciplinary action shall be supported by a statement setting

"(A) any act or practice in which the member has been found to have been engaged;

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

(C) the sanction imposed and the reason for the sanction.

"(3) Ineligibility of private sector representatives.-Board members appointed pursuant to section 324(c)(3) may

(A) participate in any disciplinary action or be counted toward establishing a quorum during a disciplinary action;

"(B) have access to confidential information concerning any disciplinary action.

#### "SEC. 326. POWERS.

"In addition to all the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation  $\operatorname{Act}$ , the Association shall have the power to—

"(1) establish and collect such membership fees as the

Association finds necessary to impose to cover the costs of

its operations;
"(2) adopt, amend, and repeal bylaws, procedures, or standards governing the conduct of Association business and perform-

"(3) establish procedures for providing notice and opportunity for comment pursuant to section 325(a);
"(4) enter into and perform such agreements as necessary

to carry out the duties of the Association;

"(5) hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of this subtitle, and determine their qualification; "(6) establish personnel policies of the Association and pro-

grams relating to, among other things, conflicts of interest, rates of compensation, where applicable, and qualifications of personnel;

"(7) borrow money; and

"(8) secure funding for such amounts as the Association determines to be necessary and appropriate to organize and begin operations of the Association, which shall be treated as loans to be repaid by the Association with interest at market

#### "SEC. 327. REPORT BY THE ASSOCIATION.

"(a) IN GENERAL.—As soon as practicable after the close of each fiscal year, the Association shall submit to the President, through the Department of the Treasury, and the States (including State insurance regulators), and shall publish on the website of the Association, a written report regarding the conduct of its busi-ness, and the exercise of the other rights and powers granted

by this subtitle, during such fiscal year.

"(b) Financial Statements.—Each report submitted under subsection (a) with respect to any fiscal year shall include audited financial statements setting forth the financial position of the Association at the end of such fiscal year and the results of its operations (including the source and application of its funds) for such fiscal year.

"SEC. 328. LIABILITY OF THE ASSOCIATION AND THE BOARD MEMBERS, OFFICERS, AND EMPLOYEES OF THE ASSOCIATION.

"(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the meaning of any State law, rule, regulation, or order regulating or taxing insurers, insurance producers, or other entities engaged in the business of insurance, including provisions imposing premium taxes, regulating insurer solvency or financial condition, establishing guaranty funds and levying assessments, or requiring claims settlement practices.

"(b) Liability of Board Members, Officers, and Employees.—No Board member, officer, or employee of the Association of the state of th

"(b) Liability of Board Members, Officers, and Employees.—No Board member, officer, or employee of the Association shall be personally liable to any person for any action taken or omitted in good faith in any matter within the scope of their responsibilities in connection with the Association.

#### "SEC. 329. PRESIDENTIAL OVERSIGHT.

"(a) REMOVAL OF BOARD.—If the President determines that the Association is acting in a manner contrary to the interests of the public or the purposes of this subtitle or has failed to perform its duties under this subtitle, the President may remove the entire existing Board for the remainder of the term to which the Board members were appointed and appoint, in accordance with section 324 and with the advice and consent of the Senate, in accordance with the procedures established under Senate Resolution 116 of the 112th Congress, new Board members to fill the vacancies on the Board for the remainder of the terms.

"(b) REMOVAL OF BOARD MEMBER.—The President may remove a Board member only for neglect of duty or malfeasance in office.
"(c) SUSPENSION OF BYLAWS AND STANDARDS AND PROHIBITION OF ACTIONS.—Following notice to the Board, the President, or a person designated by the President for such purpose, may suspend the effectiveness of any bylaw or standard, or prohibit any action, of the Association that the President or the designee determines

# is contrary to the purposes of this subtitle. "SEC. 330. RELATIONSHIP TO STATE LAW.

"(a) Preemption of State Laws.—State laws, regulations, provisions, or other actions purporting to regulate insurance producers shall be preempted to the extent provided in subsection (b).

## "(b) PROHIBITED ACTIONS.—

"(1) IN GENERAL.—No State shall—

"(A) impede the activities of, take any action against, or apply any provision of law or regulation arbitrarily or discriminatorily to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association; "(B) impose any requirement upon a member of the

Association that it pay fees different from those required to be paid to that State were it not a member of the Association; or

"(C) impose any continuing education requirements on any nonresident insurance producer that is a member of the Association.

``(2) States other than a home state.—No State, other than the home State of a member of the Association, shall—

"(A) impose any licensing, personal or corporate qualifications, education, training, experience, residency, continuing education, or bonding requirement upon a member of the Association that is different from the criteria for membership in the Association or renewal of such membership."

"(B) impose any requirement upon a member of the Association that it be licensed, registered, or otherwise qualified to do business or remain in good standing in the State, including any requirement that the insurance producer register as a foreign company with the secretary of state or equivalent State official:

of state or equivalent State official;

"(C) require that a member of the Association submit to a criminal history record check as a condition of doing

business in the State; or

"(D) impose any licensing, registration, or appointment requirements upon a member of the Association, or require a member of the Association to be authorized to operate as an insurance producer, in order to sell, solicit, or negotiate insurance for commercial property and casualty risks to an insured with risks located in more than one State, if the member is licensed or otherwise authorized to operate in the State where the insured maintains its principal place of business and the contract of insurance insures risks located in that State.

"(3) Preservation of State disciplinary authority.— Nothing in this section may be construed to prohibit a State from investigating and taking appropriate disciplinary action, including suspension or revocation of authority of an insurance producer to do business in a State, in accordance with State law and that is not inconsistent with the provisions of this section, against a member of the Association as a result of a complaint or for any alleged activity, regardless of whether the activity occurred before or after the insurance producer commenced doing business in the State pursuant to Association membership.

# "SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY REGULATORY AUTHORITY.

"The Association shall coordinate with the Financial Industry Regulatory Authority in order to ease any administrative burdens that fall on members of the Association that are subject to regulation by the Financial Industry Regulatory Authority, consistent with the requirements of this subtitle and the Federal securities laws.

### "SEC. 332. RIGHT OF ACTION.

"(a) RIGHT OF ACTION.—Any person aggrieved by a decision or action of the Association may, after reasonably exhausting available avenues for resolution within the Association, commence a civil action in an appropriate United States district court, and obtain all appropriate relief.

"(b) ASSOCIATION INTERPRETATIONS.—In any action under subsection (a), the court shall give appropriate weight to the interpretation of the Association of its bylaws and standards and this subtitle.

"SEC. 333. FEDERAL FUNDING PROHIBITED.

"The Association may not receive, accept, or borrow any amounts from the Federal Government to pay for, or reimburse, the Association for, the costs of establishing or operating the

"SEC. 334. DEFINITIONS.

"For purposes of this subtitle, the following definitions shall apply:

"(1) Business entity .- The term 'business entity' means "(1) BUSINESS ENTITY.—The term 'business entity' means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' has the meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

"(3) HOME STATE.—The term 'home State' means the State in which the insurance are described in the state in which the insurance are described.

in which the insurance producer maintains its principal place of residence or business and is licensed to act as an insurance

"(4) Insurance.—The term 'insurance' means any product, other than title insurance or bail bonds, defined or regulated as insurance by the appropriate State insurance regulatory

"(5) Insurance producer.—The term 'insurance producer' "(5) INSURANCE PRODUCER.—The term 'insurance producer' means any insurance agent or broker, excess or surplus lines broker or agent, insurance consultant, limited insurance representative, and any other individual or entity that sells, solicits, or negotiates policies of insurance or offers advice, counsel, opinions or services related to insurance.

"(6) INSURER.—The term 'insurer' has the meaning as in section 313(e)(2)(B) of title 31, United States Code.

"(7) PRINCIPAL PLACE OF BUSINESS.—The term 'principal place of business' means the State in which an insurance pro-

place of business' means the State in which an insurance producer maintains the headquarters of the insurance producer and, in the case of a business entity, where high-level officers of the entity direct, control, and coordinate the business activi-

ties of the business entity.

"(8) PRINCIPAL PLACE OF RESIDENCE.—The term 'principal place of residence' means the State in which an insurance producer resides for the greatest number of days during a

calendar year.
"(9) State.—The term 'State' includes any State, the District of Columbia, any territory of the United States, and Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

"(10) STATE LAW.-

"(A) IN GENERAL.—The term 'State law' includes all laws, decisions, rules, regulations, or other State action

having the effect of law, of any State.

"(B) Laws applicable in the district of columbia A law of the United States applicable only to or within the District of Columbia shall be treated as a State law rather than a law of the United States."

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