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(Original Signature of Member)

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R.** \_\_\_\_\_

To authorize the issuance of Federal charters and licenses for carrying on the sale, solicitation, negotiation, and underwriting of insurance or any other insurance operations, to provide a comprehensive system for the regulation and supervision of National Insurers and National Agencies, to provide for policyholder protections in the event of an insolvency or impairment of a National Insurer, and for other purposes.

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**IN THE HOUSE OF REPRESENTATIVES**

Mr. ROYCE introduced the following bill; which was referred to the Committee on \_\_\_\_\_

\_\_\_\_\_  
**A BILL**

To authorize the issuance of Federal charters and licenses for carrying on the sale, solicitation, negotiation, and underwriting of insurance or any other insurance operations, to provide a comprehensive system for the regulation and supervision of National Insurers and National Agencies, to provide for policyholder protections in the event of an insolvency or impairment of a National Insurer, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the  
 5 “National Insurance Act of 2006”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Definitions.

TITLE I—OFFICE OF NATIONAL INSURANCE

Subtitle A—Establishment of Office of National Insurance

- Sec. 101. Establishment.
- Sec. 102. Commissioner of National Insurance.
- Sec. 103. Office personnel matters.
- Sec. 104. Division of Insurance Fraud.
- Sec. 105. Division of Consumer Affairs.
- Sec. 106. Insurance self-regulatory organizations.
- Sec. 107. Office of the Ombudsman.

Subtitle B—Supervision of National Insurers and National Agencies

- Sec. 121. Examination of National Insurers and National Agencies.
- Sec. 122. Examination fees and other assessments.
- Sec. 123. Disclosure of information.
- Sec. 124. Reporting requirement.
- Sec. 125. Relationship to State law.

Subtitle C—Enforcement of Federal Insurance Laws

- Sec. 141. National Insurer license suspension, restriction, or revocation.
- Sec. 142. Suspension, restriction, or revocation of Federal license of National Agencies and federally licensed insurance producers.
- Sec. 143. Cease-and-desist proceedings.
- Sec. 144. Affirmative action to correct conditions resulting from violations or conduct.
- Sec. 145. Suspension, removal, and prohibition authority.
- Sec. 146. Suspension or prohibition based on criminal activity.
- Sec. 147. Ancillary provisions.
- Sec. 148. Hearings and judicial review of removal, suspension, or prohibition order.
- Sec. 149. Civil and criminal penalties.
- Sec. 150. Public disclosures of final orders and agreements.
- Sec. 151. Foreign investigations.
- Sec. 152. Action or proceeding against non-United States Insurers.

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Sec. 153. Cooperation between Commissioner and State commissioners.

Subtitle D—Insurance Fraud

Sec. 161. Investigation of insurance fraud.

Sec. 162. Penalties.

TITLE II—NATIONAL INSURANCE COMPANIES AND NATIONAL  
INSURANCE AGENCIES

Subtitle A—Organization, Licensing, and Operations

Sec. 201. Organization, operation, and regulation of National Insurance Companies and National Insurance Agencies.

Sec. 202. United States branches of non-United States Insurers.

Sec. 203. Federal licensing of National Insurers.

Sec. 204. Corporate governance.

Sec. 205. Conversion of State Insurer to National Insurer or State Insurance Agency to National Agency.

Sec. 206. Conversion of National Insurer to State Insurer or National Agency to State Agency.

Sec. 207. Powers.

Sec. 208. Separate accounts of National Life Insurer.

Sec. 209. Protected cells.

Sec. 210. Chartering and licensing commencement date.

Subtitle B—Financial, Product, and Market Regulation

Sec. 211. Transitional financial regulations.

Sec. 212. Other financial regulations.

Sec. 213. Product regulation for National Life Insurers.

Sec. 214. Product regulation for National Property/Casualty Insurers.

Sec. 215. Regulation of sales and marketing.

Subtitle C—Reinsurance

Sec. 221. Federal licensing of reinsurers.

Sec. 222. Credit for reinsurance.

Sec. 223. Relationship to State law.

Subtitle D—Acquisitions of Control; Mergers; Bulk Transfers; Domestication

Sec. 231. Acquisition of control of National Insurers and National Agencies.

Sec. 232. Mergers, consolidations, and acquisitions of National Insurers.

Sec. 233. Bulk transfers.

Sec. 234. Domestication of United States branch of a non-United States Insurer.

Sec. 235. Mergers, consolidations, and acquisitions of National Agencies.

Subtitle E—Conversions

Sec. 241. Definitions.

Sec. 242. Conversion of stock life insurer to National Life Insurer in mutual form.

Sec. 243. Conversion of mutual insurer to National Insurer in stock form.

Subtitle F—State Taxation

Sec. 251. State taxation of National Insurers.

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Sec. 252. State taxation of National Agencies.

TITLE III—INSURANCE PRODUCERS AND OTHER INSURANCE  
SERVICING PERSONS

- Sec. 301. Federal licensing of insurance producers.  
Sec. 302. Producer database.  
Sec. 303. Supervision and oversight of federally licensed insurance producers.  
Sec. 304. Relationship to State law.  
Sec. 305. Licensing commencement date.

TITLE IV—HOLDING COMPANIES

- Sec. 401. Definitions.  
Sec. 402. Registration.  
Sec. 403. Standards and management of a National Insurer within an insurance holding company system.  
Sec. 404. Relationship to State law.  
Sec. 405. Conflict with other Federal laws.  
Sec. 406. No delegation permitted.

TITLE V—PROMPT CORRECTIVE ACTION AND RECEIVERSHIP

Subtitle A—Prompt Corrective Action

- Sec. 501. Prompt corrective action.

Subtitle B—Receivership

- Sec. 551. Appointment of Office as receiver.  
Sec. 552. Automatic stay.  
Sec. 553. Powers and duties.  
Sec. 554. Rulemaking.  
Sec. 555. Judicial review.

TITLE VI—INSOLVENCY PROTECTION

- Sec. 601. Participation in guaranty associations.  
Sec. 602. Qualified and nonqualified State.  
Sec. 603. Establishment of the National Insurance Guaranty Corporation.  
Sec. 604. Benefits for policy holders of National Life Insurers.  
Sec. 605. Claims covered for policyholders of National Property/Casualty Insurers.  
Sec. 606. Powers and duties of the Corporation.  
Sec. 607. Subrogation.  
Sec. 608. Assessments.  
Sec. 609. Regulation.  
Sec. 610. State taxation.  
Sec. 611. Examination of the Corporation; annual report.

TITLE VII—CONFORMING AMENDMENTS AND MISCELLANEOUS  
PROVISIONS

- Sec. 701. Nondiscrimination.  
Sec. 702. Application of the Federal antitrust laws to National Insurers, National Agencies, and federally licensed insurance producers.  
Sec. 703. Application of State law and regulation to National Insurers, National Agencies, and federally licensed insurance producers.

- Sec. 704. Federal Court jurisdiction.
- Sec. 705. Federal Court venue.
- Sec. 706. Judicial review.
- Sec. 707. Amendment to Freedom of Information Act.
- Sec. 708. Amendments to the Federal securities laws.
- Sec. 709. Amendments to the Employee Retirement Income Security Act of 1974.
- Sec. 710. Amendments to the Gramm-Leach-Bliley Act.
- Sec. 711. Amendments to the Federal Deposit Insurance Act.
- Sec. 712. Amendments to the Bank Holding Company Act of 1956.
- Sec. 713. Amendments to title 18 (crimes and criminal procedure).
- Sec. 714. Amendments to Americans with Disabilities Act of 1990.
- Sec. 715. Amendment to Age Discrimination in Employment Act.
- Sec. 716. Amendments to the Fair Credit Reporting Act.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to—

3 (1) establish a comprehensive system of Federal  
4 chartering, licensing, regulation, and supervision for  
5 insurers and insurance producers that is inde-  
6 pendent of the State system of insurance licensing,  
7 regulation, and supervision, yet that requires feder-  
8 ally chartered and licensed insurers and producers to  
9 comply with certain State laws, including State tax  
10 laws;

11 (2) provide for the creation of an Office of Na-  
12 tional Insurance within the Department of the  
13 Treasury that is funded by assessments imposed  
14 upon federally chartered and licensed insurers and  
15 insurance producers; and

16 (3) provide for the appointment of a Commis-  
17 sioner of National Insurance, who, among other du-  
18 ties, is authorized to—

1 (A) issue Federal charters and licenses to  
2 insurers and insurance producers;

3 (B) exclusively regulate and supervise the  
4 operations and solvency of federally chartered  
5 or licensed insurers and producers on a uni-  
6 form, nationwide basis, including the conduct of  
7 such insurers and producers with policyholders;  
8 and

9 (C) protect the interests of policyholders  
10 by establishing a comprehensive scheme for the  
11 receivership for federally chartered insurers  
12 that requires federally chartered insurers to  
13 participate in qualified State guaranty funds.

14 **SEC. 3. DEFINITIONS.**

15 In this Act:

16 (1) **AFFILIATE.**—The term “affiliate” means  
17 any person that controls, is controlled by, or is  
18 under common control with another person.

19 (2) **AFFILIATE INSURER.**—The term “affiliate  
20 insurer” means any person that controls, is con-  
21 trolled by, or is under common control with, a Na-  
22 tional Insurer or a National Agency.

23 (3) **BUSINESS OF INSURANCE.**—The term  
24 “business of insurance” has the meaning given to

1 such term in section 1033(f) of title 18, United  
2 States Code.

3 (4) COMMISSIONER.—The term “Commis-  
4 sioner” means the Commissioner of National Insur-  
5 ance.

6 (5) CONTROL.—The term “control”, including  
7 the terms “controlling”, “controlled by”, and “under  
8 common control with”, means the possession, direct  
9 or indirect, of the power to direct or cause the direc-  
10 tion of the management and policies of a business  
11 entity, whether through the ownership of voting se-  
12 curities, by contract or otherwise, unless the power  
13 is the result of an official position with or corporate  
14 office held by a person. For purposes of sections  
15 204(c), 231, 243(g), and title III, control shall be  
16 presumed to exist if any person, directly or indi-  
17 rectly, owns, controls, holds with the power to vote,  
18 or holds proxies representing, 10 percent or more of  
19 the voting securities of any other person.

20 (6) CORPORATION.—The term “Corporation”  
21 means the National Insurance Guaranty Corporation  
22 that is established in section 603.

23 (7) FEDERAL BANKING AGENCIES.—The term  
24 “Federal banking agencies” means the Office of the  
25 Comptroller of the Currency, the Board of Gov-

1 errors of the Federal Reserve System, the Federal  
2 Deposit Insurance Corporation, and the Office of  
3 Thrift Supervision.

4 (8) **FEDERALLY LICENSED INSURANCE PRO-**  
5 **DUCER.**—The term “federally licensed insurance  
6 producer” means a person, including a National  
7 Agency and a natural person acting on behalf of a  
8 National Agency, that is an insurance producer li-  
9 censed pursuant to section 301.

10 (9) **FRAUDULENT INSURANCE ACT.**—The term  
11 “fraudulent insurance act” has the meaning given to  
12 such term in section 1037A(d)(3) of title 18, United  
13 States Code.

14 (10) **FUNCTIONAL REGULATOR.**—The term  
15 “functional regulator” shall mean—

16 (A) in the case of a broker-dealer, invest-  
17 ment advisor or investment Company, the Secu-  
18 rities and Exchange Commission;

19 (B) in the case of a State insurer or State  
20 insurance producer, the appropriate State in-  
21 surance regulator of a State that has jurisdic-  
22 tion over such insurer or insurance producer;

23 (C) in the case of a bank holding company  
24 or financial holding company, the Federal Re-  
25 serve Board;

1 (D) in the case of a savings and loan hold-  
2 ing company, the Office of Thrift Supervision;

3 (E) in the case of a national bank, the Of-  
4 fice of the Comptroller of the Currency;

5 (F) in the case of a Federal savings bank  
6 or Federal savings association, the Office of  
7 Thrift Supervision;

8 (G) in the case of a State bank, the appro-  
9 priate State banking authority for the State in  
10 which the bank is chartered or the Federal De-  
11 posit Insurance Corporation, in the case of a  
12 State bank that is not a member of the Federal  
13 Reserve System, or the Federal Reserve Board,  
14 in the case of a State bank that is a member  
15 of the Federal Reserve System;

16 (H) in the case of a State savings bank or  
17 State savings association, the appropriate bank-  
18 ing authority for the State in which the thrift  
19 is chartered; and

20 (I) in the case of a commodities company,  
21 the Commodities Exchange Commission.

22 (11) FUNCTIONALLY REGULATED AFFILIATE.—  
23 The term “functionally regulated affiliate” shall  
24 mean—

1 (A) a broker or dealer that is registered  
2 under the Securities Exchange Act of 1934;

3 (B) a registered investment adviser, reg-  
4 istered by or on behalf of either the Securities  
5 and Exchange Commission or any State;

6 (C) an investment company that is reg-  
7 istered under the Investment Company Act of  
8 1940;

9 (D) a State insurer or State insurance pro-  
10 ducer that is subject to supervision by a State  
11 insurance regulator;

12 (E) a bank holding company or financial  
13 holding company registered with or certified by  
14 the Federal Reserve Board;

15 (F) a national bank subject to the super-  
16 vision of the Office of the Comptroller of the  
17 Currency;

18 (G) a State bank subject to the supervision  
19 of a State banking regulator;

20 (H) a Federal savings bank or Federal  
21 savings association subject to the supervision of  
22 the Office of Thrift Supervision;

23 (I) a State savings bank or State savings  
24 association subject to the supervision of a State  
25 banking regulator; and

1           (J) a business entity that is subject to reg-  
2           ulation by the Commodity Futures Trading  
3           Commission, with respect to commodities activi-  
4           ties of such entity and activities incidental to  
5           such commodities activities.

6           (12) INSOLVENCY; INSOLVENT.—

7           (A) IN GENERAL.—The term “insolvency”  
8           or “insolvent” means the inability of an insurer  
9           to pay its obligations when they are due or  
10          when assets do not exceed liabilities plus the  
11          greater of—

12                   (i) any capital and surplus required  
13                   by law for its organization; or

14                   (ii) the total par or stated value of its  
15                   authorized and issued capital stock.

16          (B) LIABILITIES.—In this paragraph, the  
17          term “liabilities” shall include reserves required  
18          by statute or by rule or specific requirements  
19          imposed by the Commissioner upon an insurer.

20          (13) INSURANCE OPERATIONS.—The term “in-  
21          surance operations” includes but is not limited to—

22                   (A) the business of insurance;

23                   (B) all acts and transactions relating to  
24                   the sale, solicitation, negotiation, and under-  
25                   writing of insurance;

1 (C) all acts and transactions relating to  
2 claims adjustment and settlement; and

3 (D) all acts and transactions relating to  
4 the establishment of rates, rules, risk classifica-  
5 tions, rating classifications, rating territories  
6 and forms (including, but not limited to, en-  
7 dorsements, addendums and policy language)  
8 for insurance.

9 (14) INSURANCE PERSON.—The term “insur-  
10 ance person” has the meaning given such term in  
11 section 1037A(d)(4) of title 18.

12 (15) INSURANCE PRODUCER.—The term “in-  
13 surance producer” means any person, including a  
14 National Agency and a natural person acting on be-  
15 half of a National Agency, that sells, solicits or ne-  
16 gotiates policies of insurance, except that none of  
17 the following is an insurance producer:

18 (A) A National Insurer.

19 (B) An officer, director, or employee of a  
20 National Insurer or of an insurance producer,  
21 provided that the officer, director, or employee  
22 does not receive any commission or other com-  
23 pensation on insurance policies written or sold  
24 by the National Insurer or insurance producer  
25 which commission or other compensation is di-

1 rectly dependent upon the amount of insurance  
2 policies written or sold and—

3 (i) the officer, director, or employee's  
4 activities are executive, administrative,  
5 managerial, clerical or a combination of  
6 these, and are only indirectly related to the  
7 sale, solicitation or negotiation of insur-  
8 ance;

9 (ii) the officer, director, or employee's  
10 function relates to underwriting, loss con-  
11 trol, inspection or the processing, adjust-  
12 ing, investigating, or settling of a claim on  
13 a policy of insurance; or

14 (iii) the officer, director, or employee  
15 is acting in the capacity of a special agent  
16 or agency supervisor assisting insurance  
17 producers where the person's activities are  
18 limited to providing technical advice and  
19 assistance to federally licensed insurance  
20 producers and do not include the sale, so-  
21 licitation or negotiation of insurance.

22 (C) A person who secures and furnishes in-  
23 formation for the purpose of group insurance  
24 policies; or for the purpose of enrolling individ-  
25 uals under plans, or issuing certificates under

1 plans or otherwise assisting in administering  
2 plans, where no commission or other compensa-  
3 tion directly dependent upon the amount of in-  
4 surance policies written or sold is paid to the  
5 person for the service.

6 (D) An employer or association or its offi-  
7 cers, directors, employees, or the trustees of an  
8 employee trust plan, to the extent that the em-  
9 ployer, officer, employee, director or trustee is  
10 engaged in the administration or operation of a  
11 program of employee benefits for the employer's  
12 or association's own employees or the employees  
13 of its subsidiaries or affiliates, which program  
14 involves the use of insurance written by the Na-  
15 tional Insurer, as long as the employers, asso-  
16 ciations, officers, directors, employees or trust-  
17 ees are not in any manner compensated, di-  
18 rectly or indirectly, by the National Insurer.

19 (E) An employee of a National Insurer or  
20 an organization employed by a National Insurer  
21 that is engaging in the inspection, rating or  
22 classification of risks, or in the supervision of  
23 the training of insurance producers and that is  
24 not individually engaged in the sale, solicitation,  
25 or negotiation of insurance.

1 (F) A person whose activities are limited  
2 to advertising without the intent to solicit in-  
3 surance through communications in printed  
4 publications or other forms of electronic mass  
5 media, provided that the person does not sell,  
6 solicit, or negotiate insurance.

7 (G) A salaried full-time employee who  
8 counsels or advises his or her employer relative  
9 to the insurance interests of the employer or of  
10 the subsidiaries or business affiliates of the em-  
11 ployer provided that the employee does not sell  
12 or solicit insurance or receive a commission or  
13 other compensation directly dependent upon the  
14 amount of insurance policies written or sold.

15 (H) A person that sells, solicits, or nego-  
16 tiates a funding agreement.

17 (I) Any other kind of person identified by  
18 the Commissioner, by regulation, as not being  
19 an insurance producer within the meaning of  
20 this definition.

21 (16) INSURANCE SECURITIZATION.—The term  
22 “insurance securitization” means the issuance of  
23 debt instruments by a National Insurer, the pro-  
24 ceeds from which support the exposures attributed  
25 to a protected cell, where repayment of principal or

1 interest, or both, to investors under the transaction  
2 terms is contingent upon the occurrence or non-  
3 occurrence of an event with respect to which the Na-  
4 tional Insurer is exposed to loss under insurance  
5 policies or reinsurance contracts it has written.

6 (17) INSURER-AFFILIATED PARTY.—The term  
7 “insurer-affiliated party” means—

8 (A) any director, officer, employee, or con-  
9 trolling shareholder (other than a holding com-  
10 pany) of, or agent for, a National Insurer or a  
11 National Agency;

12 (B) any other person who has filed or is  
13 required to file a statement with the Commis-  
14 sioner under section 231;

15 (C) any shareholder (other than a holding  
16 company), consultant, joint venture partner,  
17 and any other person as determined by the  
18 Commissioner (by regulation or case-by-case)  
19 who participates in the conduct of the affairs of  
20 a National Insurer or a National Agency; and

21 (D) any independent contractor (including  
22 any attorney, actuary, or accountant) of a Na-  
23 tional Insurer or a National Agency who in that  
24 capacity knowingly or recklessly participates in  
25 any violation of any law or regulation, any

1 breach of fiduciary duty, or any conduct that  
2 involves an undue risk of loss to a National In-  
3 surer's policyholders as a whole, and which vio-  
4 lation, breach or conduct caused or is likely to  
5 cause more than a minimal financial loss to, or  
6 a significant adverse effect on, a National In-  
7 surer or the policyholders of a National Insurer.

8 (18) INSURER IN FRATERNAL FORM.—The  
9 term “insurer in fraternal form” means an incor-  
10 porated society, order or supreme lodge, without  
11 capital stock (generally known as a fraternal benefit  
12 society), that—

13 (A) is conducted solely for the benefit of  
14 its members and their beneficiaries and not for  
15 profit;

16 (B) is operated on a lodge system with rit-  
17 ualistic form of work;

18 (C) has a representative form of govern-  
19 ment;

20 (D) provides benefits to members and their  
21 dependents; and

22 (E) operates for 1 or more social, intellec-  
23 tual, educational, charitable, benevolent, moral,  
24 fraternal, patriotic, or religious purposes for the

1 benefit of its members, which may also be ex-  
2 tended to others.

3 (19) NAIC.—The term “NAIC” means the Na-  
4 tional Association of Insurance Commissioners.

5 (20) NATIONAL AGENCY.—The term “National  
6 Agency” means a National Insurance Agency char-  
7 tered under section 201.

8 (21) NATIONAL INSURER.—The term “National  
9 Insurer” means a National Insurance Company  
10 chartered under section 201.

11 (22) NATIONAL LIFE INSURER.—The term  
12 “National Life Insurer” means a National Insurer  
13 that holds a Federal license to sell, solicit, negotiate,  
14 and underwrite 1 or both of life insurance and annu-  
15 ities, provided that a National Life Insurer may also  
16 sell, solicit, negotiate, and underwrite disability in-  
17 come insurance, long-term care insurance, and fund-  
18 ing agreements.

19 (23) NATIONAL PROPERTY/CASUALTY IN-  
20 SURER.—The term “National Property/Casualty In-  
21 surer” means a National Insurer that holds a Fed-  
22 eral license to sell, solicit, negotiate, and underwrite  
23 any combination of lines of property/casualty insur-  
24 ance.

1           (24) NEGOTIATE.—The term “negotiate”, in  
2           the context of negotiating insurance, means the act  
3           of conferring directly with or offering advice directly  
4           to a purchaser or prospective purchaser of a par-  
5           ticular policy of insurance concerning any of the  
6           substantive benefits, terms, or conditions of the con-  
7           tract, provided that the person engaged in that act  
8           either sells insurance to or obtains insurance cov-  
9           erage for purchasers.

10           (25) NON-UNITED STATES INSURER.—The term  
11           “non-United States Insurer” means a business enti-  
12           ty that is chartered or licensed by a foreign country  
13           to sell, solicit, negotiate, and underwrite insurance.

14           (26) OFFICE.—The term “Office” means the  
15           Office of National Insurance.

16           (27) PERSON.—The term “person” means any  
17           natural person, business entity, governmental body  
18           or entity, voluntary organization, or similar organi-  
19           zation.

20           (28) POLICY OF INSURANCE; INSURANCE POL-  
21           ICY.—The term “policy of insurance” or “insurance  
22           policy” means a policy, contract, certificate, or other  
23           evidence of insurance. “Policy of insurance” includes  
24           an annuity contract and a funding agreement.

1           (29) POLICYHOLDER.—The term “policyholder”  
2 of an insurance policy means the person who is iden-  
3 tified as the legal owner under the terms of the in-  
4 surance policy or who is otherwise vested with legal  
5 title to the insurance policy. An assignment, absolute  
6 on its face, completed in accordance with the terms  
7 of the insurance policy and properly recording the  
8 assignee as the policyholder on the books of the in-  
9 surer vests legal title in the name of the assignee.  
10 The term “policyholder” does not include a person  
11 with a mere beneficial interest in an insurance policy  
12 or a person to whom an insurance policy is assigned  
13 for collateral security purposes.

14           (30) PROPERTY/CASUALTY INSURANCE.—The  
15 term “property/casualty insurance”—

16           (A) means a product that insures, guaran-  
17 tees, or indemnifies against liability, loss of life,  
18 loss of health, or loss through damage to or de-  
19 struction of property, including surety bonds,  
20 private passenger or commercial automobile,  
21 homeowners, mortgage guaranty, financial  
22 guaranty, commercial multiperil, general liabil-  
23 ity, professional liability, workers’ compensa-  
24 tion, fire and allied lines, farm or ranch owners  
25 multiperil, aircraft, fidelity, surety, medical

1 malpractice, ocean marine, inland marine, and  
2 boiler and machinery insurance; and

3 (B) does not include life insurance, dis-  
4 ability income insurance, long-term care insur-  
5 ance, health insurance, annuities, a funding  
6 agreement, or title insurance.

7 (31) PROTECTED CELL.—The term “protected  
8 cell” means an identified pool of assets and liabil-  
9 ities of a National Insurer segregated and insulated  
10 from the remainder of the National Insurer’s assets  
11 and liabilities. The remainder of the National Insur-  
12 er’s assets and liabilities includes general account  
13 assets and liabilities, separate account assets and li-  
14 abilities, and assets and liabilities of other protected  
15 cells.

16 (32) PROTECTED CELL ACCOUNT.—The term  
17 “protected cell account” means a specifically identi-  
18 fied bank or custodial account established by a Na-  
19 tional Insurer for the purpose of segregating the  
20 protected cell assets of 1 protected cell from the pro-  
21 tected cell assets of other protected cells and from  
22 the assets of the National Insurer’s general account  
23 and separate accounts.

24 (33) SELL.—The term “sell”, in the context of  
25 selling a policy of insurance, includes exchanging a

1 policy of insurance by any means, for money or any  
2 other valuable consideration, on behalf of an insurer.

3 (34) SEPARATE ACCOUNT.—The term “separate  
4 account” means an account established and main-  
5 tained by a National Life Insurer under which in-  
6 come, gains, and losses, whether or not realized,  
7 from assets allocated to such account, are, in accord-  
8 ance with the applicable contract, credited to or  
9 charged against such account without regard to  
10 other income, gains, or losses of the National Life  
11 Insurer.

12 (35) SOLICIT.—The term “solicit”, in the con-  
13 text of soliciting a policy of insurance, means at-  
14 tempting to sell insurance or asking or urging a per-  
15 son to apply for a particular kind of insurance from  
16 a particular insurer.

17 (36) STATE.—The term “State” means each of  
18 the 50 States, the District of Columbia, the Com-  
19 monwealth of Puerto Rico, any territory of the  
20 United States, Guam, American Samoa, the Trust  
21 Territory of the Pacific Islands, the United States  
22 Virgin Islands, and the Commonwealth of the North-  
23 ern Mariana Islands.

1           (37) STATE INSURANCE AGENCY.—The term  
2           “State insurance agency” means an insurance pro-  
3           ducer that is incorporated under State law.

4           (38) STATE INSURER.—The term “State in-  
5           surer” means an insurer incorporated or organized  
6           under the laws of a State.

7           (39) SUBSIDIARY.—The term “subsidiary”  
8           means a business entity controlled, directly or indi-  
9           rectly, by another business entity. For the purposes  
10          of this definition—

11           (A) a business entity is conclusively pre-  
12           sumed to be controlled by a person that, di-  
13           rectly or indirectly, with power to vote, owns,  
14           controls, or holds a majority of the outstanding  
15           voting securities of such business entity;

16           (B) no presumption, either of control or of  
17           absence of control, arises if such ownership,  
18           control, or holding of voting securities is less  
19           than a majority but more than 5 percent;

20           (C) absence of control is presumed if such  
21           ownership, control or holding of voting securi-  
22           ties is 5 percent or less; and

23           (D) in determining control, voting securi-  
24           ties held in separate accounts of a business en-  
25           tity shall be deemed to be owned by the busi-

1           ness entity, but voting securities in an invest-  
2           ment advisory account that are not owned by a  
3           business entity but are held in an account as to  
4           which the business entity is an investment ad-  
5           viser shall not be deemed to be controlled or  
6           held by such business entity.

7           (40) TRUSTEED ASSETS.—The term “trusteed  
8           assets” means assets required or permitted by this  
9           title to be deposited by a non-United States insurer  
10          with a qualified trustee for the security of its policy-  
11          holders and creditors in the United States.

12          (41) TRUSTEED SURPLUS.—The term “trusteed  
13          surplus” means, with respect to a United States  
14          branch, the value of the insurer’s trusteed assets de-  
15          posited with a trustee under section 202(b), plus ac-  
16          crued investment income thereon where such income  
17          is collectible by the trustee, less the aggregate net  
18          amount of all of its reserves and other liabilities in  
19          the United States as determined under section  
20          202(b).

21          (42) UNITED STATES BRANCH.—The term  
22          “United States branch” means the business unit  
23          through which business is transacted within the  
24          United States by a non-United States insurer and

1 the assets and liabilities of the insurer within the  
2 United States pertaining to such business.

3 (43) UNITED STATES HOLDING COMPANY.—

4 The term “United States holding company” means,  
5 with respect to a National Insurer, a person orga-  
6 nized or incorporated in a State that directly or indi-  
7 rectly controls a National Insurer.

8 (44) VIOLATION.—The term “violation” in-  
9 cludes any action or inaction (alone or with another  
10 or others) for or toward causing, bringing about,  
11 participating in, counseling, or aiding or abetting a  
12 violation.

13 (45) VOTING SECURITIES.—The term “voting  
14 securities” means securities of any class or any own-  
15 ership interest having voting power for the election  
16 of directors, trustees, or management of a business  
17 entity, other than securities having such power only  
18 by reason of the happening of a contingency.

19 **TITLE I—OFFICE OF NATIONAL**  
20 **INSURANCE**  
21 **Subtitle A—Establishment of Office**  
22 **of National Insurance**

23 **SEC. 101. ESTABLISHMENT.**

24 (a) IN GENERAL.—There is established, in the De-  
25 partment of the Treasury, the Office of National Insur-

1   ance, which shall be headed by the Commissioner of Na-  
2   tional Insurance.

3       (b) OFFICES.—The Commissioner shall establish a  
4   main office in Washington, D.C., not fewer than 6 regional  
5   offices, and such additional offices, within or outside the  
6   United States, as the Commissioner determines to be nec-  
7   essary to carry out the provisions of this Act.

8       (c) FUNDING.—The operations of the Office, includ-  
9   ing the compensation of the Commissioner and all employ-  
10   ees of the Office, shall be paid from fees and assessments  
11   imposed under the terms of section 122.

12       (d) APPLICABILITY OF ADMINISTRATIVE PROCE-  
13   DURES ACT.—The Office shall be an agency of the United  
14   States for purposes of subchapter II of chapter 5 and  
15   chapter 6 of title 5, United States Code.

16       (e) ANNUAL REPORT.—The Commissioner shall pre-  
17   pare and submit to Congress an annual report on the ac-  
18   tivities of the Office.

19   **SEC. 102. COMMISSIONER OF NATIONAL INSURANCE.**

20       (a) APPOINTMENT.—

21           (1) IN GENERAL.—The Commissioner of Na-  
22   tional Insurance shall be appointed by the President,  
23   by and with the advice and consent of the Senate,  
24   from among individuals who are citizens of the  
25   United States.

1           (2) TERM.—The Commissioner shall be ap-  
2           pointed for a term of 5 years.

3           (3) VACANCY.—A vacancy in the position of the  
4           Commissioner, which occurs before the expiration of  
5           the term for which the Commissioner was appointed  
6           shall be filled in the manner established under para-  
7           graph (1). The Commissioner appointed to fill the  
8           vacancy shall be appointed only for the remainder of  
9           the term of the preceding Commissioner.

10          (4) SERVICE AFTER TERM.—An individual may  
11          serve as the Commissioner after the expiration of  
12          the term for which appointed until the earlier of—

13                (A) such time as a successor has been ap-  
14                pointed; or

15                (B) 1 year after the expiration of the indi-  
16                vidual's term.

17          (5) PROHIBITION ON FINANCIAL INTERESTS.—  
18          The Commissioner may not have a direct or indirect  
19          financial interest in any National Insurer, National  
20          Agency, or other federally licensed insurance pro-  
21          ducer, except that the Commissioner may own, di-  
22          rectly or indirectly, or may have a direct or indirect  
23          beneficial interest in any insurance policy written or  
24          sold by a National Insurer or National Agency.

1           (6) OVERSIGHT.—The Commissioner shall be  
2 subject to the general oversight of the Secretary of  
3 the Treasury, who may not intervene in any matter  
4 or proceeding before the Commissioner (including  
5 agency enforcement, supervisory, reporting and ad-  
6 ministrative actions, and research, financial analysis,  
7 and solvency determinations) unless otherwise spe-  
8 cifically provided by law.

9           (7) EXECUTIVE SCHEDULE.—

10           (A) IN GENERAL.—The Commissioner  
11 shall receive compensation at the rate pre-  
12 scribed by law under section 5314 of title 5,  
13 United States Code, for positions at level III of  
14 the Executive Schedule.

15           (B) TECHNICAL AMENDMENT.—Section  
16 5314 of title 5, United States Code, is amended  
17 by inserting “Commissioner of National Insur-  
18 ance, Department of the Treasury.” as a new  
19 item after “Administrator, Pipeline and Haz-  
20 ardous Materials Safety Administration.”.

21           (b) POWERS OF THE COMMISSIONER.—

22           (1) IN GENERAL.—

23           (A) POWERS.—The Commissioner shall—

24                   (i) oversee the organization, incorpo-  
25 ration, operation, regulation, and super-

1 vision of National Insurers and National  
2 Agencies;

3 (ii) issue charters and licenses for Na-  
4 tional Insurers and National Agencies;

5 (iii) license, regulate, and supervise  
6 federally licensed insurance producers  
7 other than National Agencies; and

8 (iv) have exclusive authority to deter-  
9 mine whether a person subject to this Act  
10 has complied with the Act or the applica-  
11 tion of any State law to matters regulated  
12 under this Act, including the determination  
13 of any complaint raised by any person.

14 (B) FINAL AGENCY ACTION.—A deter-  
15 mination of the Commissioner under subpara-  
16 graph (A)(iv) shall be the final agency action  
17 for purposes of judicial review of that action.

18 (2) RULEMAKING.—

19 (A) ISSUANCE OF REGULATIONS AND  
20 OTHER ACTIONS.—The Commissioner may issue  
21 such rules, regulations, orders, and interpreta-  
22 tions as the Commissioner determines to be  
23 necessary to carry out the purposes of this Act.

24 (B) AUTONOMY.—The Secretary of the  
25 Treasury may not delay or prevent the issuance

1 of any rule, regulation, order, or interpretation  
2 by the Commissioner unless otherwise specifi-  
3 cally authorized by law.

4 (C) NO DELEGATION PERMITTED.—The  
5 Commissioner may not delegate any authority  
6 conferred under subparagraph (A) to any insur-  
7 ance self-regulatory organization.

8 (3) LITIGATION AUTHORITY.—

9 (A) IN GENERAL.—The Commissioner may  
10 sue and be sued, complain and defend, and oth-  
11 erwise litigate, in the Commissioner's name and  
12 through the Commissioner's own attorney, in  
13 any Federal or State court, other than the Su-  
14 preme Court of the United States in which the  
15 Commissioner shall be represented by the Solic-  
16 itor General of the United States.

17 (B) ENFORCEMENT.—The Commissioner  
18 may apply to the United States district court  
19 for the jurisdiction in which the main office of  
20 a National Insurer or National Agency is lo-  
21 cated, or in which any other federally licensed  
22 insurance producer or other person is located,  
23 for the enforcement of any effective and out-  
24 standing rule, regulation, order, or interpreta-  
25 tion issued pursuant to this Act.

1           (4) CONSULTATION WITH STATE INSURANCE  
2 REGULATORS.—The Commissioner may, as appro-  
3 priate, consult with State insurance regulators re-  
4 sponsible for the supervision of States insurers,  
5 State insurance agencies, and State licensed insur-  
6 ance producers regarding regulatory and supervisory  
7 matters of common interest.

8           (5) INTERNATIONAL COORDINATION AND CO-  
9 OPERATION.—

10           (A) IN GENERAL.—The Commissioner may  
11 engage in international efforts to secure bilat-  
12 eral and multilateral cooperation and agree-  
13 ments, as appropriate, with respect to insurance  
14 regulation in global markets in order to pro-  
15 mote open and fair competition in such markets  
16 and to improve the quality and uniformity of in-  
17 surance regulation in all countries.

18           (B) FOREIGN INSURANCE REGULATORS.—  
19 The Commissioner may provide appropriate  
20 technical assistance to, and cooperation with,  
21 individual foreign insurance regulators and re-  
22 gional and global regulatory organizations in in-  
23 surance matters affecting international com-  
24 merce, including—

1 (i) the development and implementa-  
2 tion of international regulatory standards;  
3 and

4 (ii) the development and implementa-  
5 tion of bilateral and multilateral mutual  
6 recognition agreements on the licensing of  
7 insurance companies and insurance pro-  
8 ducers.

9 (C) CONSULTATION AND COOPERATION.—

10 In exercising the authority granted under sub-  
11 paragraphs (A) and (B), the Commissioner—

12 (i) shall consult and cooperate with  
13 the Executive Office of the President and  
14 the United States Trade Representative;  
15 and

16 (ii) may include a representative of  
17 any interested State insurance regulators  
18 as the Commissioner determines to be ap-  
19 propriate.

20 (6) INDEPENDENCE IN CONGRESSIONAL TESTI-  
21 MONY AND RECOMMENDATIONS.—Section 111 of  
22 Public Law 93–495 (12 U.S.C. 250) is amended by  
23 inserting “the Commissioner of the National Insur-  
24 ance,” after “the Director of the Office of Thrift Su-  
25 pervision,”.

1 (c) GAO AUDIT.—The Commissioner shall make  
2 available to the Comptroller General of the United States  
3 all books and records necessary to audit all of the activities  
4 of the Office.

5 **SEC. 103. OFFICE PERSONNEL MATTERS.**

6 (a) IN GENERAL.—The Commissioner may employ  
7 such examiners, lawyers, accountants, actuaries and other  
8 employees as are necessary to carry out the provisions of  
9 this Act.

10 (b) COMPENSATION.—The Commissioner shall fix the  
11 compensation and number of employees of the Office with-  
12 out regard to chapter 51 or subchapter III of chapter 53  
13 of title 5, United States Code.

14 (c) ADDITIONAL COMPENSATION.—The Commis-  
15 sioner may provide additional compensation and benefits  
16 to employees of the Office if the same type of compensa-  
17 tion or benefits are then being provided by any Federal  
18 banking agency or, if not then being provided, could be  
19 provided by any such agency under applicable provisions  
20 of law or regulation. In setting and adjusting the total  
21 amount of compensation and benefits for employees of the  
22 Office, the Commissioner shall consult, and seek to main-  
23 tain comparability with, the Federal banking agencies.

24 (d) ACTING COMMISSIONER.—The Commissioner  
25 shall designate an employee of the Office to serve as the

1 Acting Commissioner during the absence or disability of  
2 the Commissioner.

3 (e) DELEGATION OF POWERS.—

4 (1) EMPLOYEES AND OTHERS.—Unless other-  
5 wise prohibited by this Act, the Commissioner may  
6 delegate to any employee, representative, or agent  
7 any power of the Commissioner.

8 (2) SELF-REGULATORY ORGANIZATIONS.—Un-  
9 less otherwise prohibited by this Act, the Commis-  
10 sioner may, by regulation, delegate to any insurance  
11 self-regulatory organization any power of the Com-  
12 missioner in accordance with the terms of section  
13 106.

14 **SEC. 104. DIVISION OF INSURANCE FRAUD.**

15 (a) ESTABLISHMENT.—There is established, within  
16 the Office, a Division of Insurance Fraud.

17 (b) AUTHORITY.—The Division of Insurance Fraud  
18 shall have all powers necessary to enforce the terms of  
19 subtitle D, other than the power to execute search and  
20 arrest warrants.

21 **SEC. 105. DIVISION OF CONSUMER AFFAIRS.**

22 (a) ESTABLISHMENT.—There is established, within  
23 the Office, a Division of Consumer Affairs.

24 (b) AUTHORITY.—The Division of Consumer Affairs  
25 shall support the Commissioner in the implementation and

1 enforcement of the market conduct regulations issued pur-  
2 suant to section 215.

3 **SEC. 106. INSURANCE SELF-REGULATORY ORGANIZATIONS.**

4 (a) **AUTHORITY OF THE COMMISSIONER.**—Subject to  
5 the terms of this section, and the regulations issued pursu-  
6 ant to this section, the Commissioner shall have the au-  
7 thority to—

8 (1) provide for the registration of an insurance  
9 self-regulatory organization; and

10 (2) supervise and regulate any registered insur-  
11 ance self-regulatory organization, which shall include  
12 the authority to—

13 (A) review, approve, abrogate, modify, or  
14 add to the operating rules of an insurance self-  
15 regulatory organization;

16 (B) review, approve, abrogate, or modify  
17 any disciplinary action taken by an insurance  
18 self-regulatory organization;

19 (C) remove, suspend, or bar an individual  
20 from serving as an officer or director of an in-  
21 surance self-regulatory organization;

22 (D) remove or suspend a member of an in-  
23 surance self-regulatory organization; and

24 (E) suspend or revoke the registration of  
25 an insurance self-regulatory organization.

1 (b) AUTHORITY OF REGISTERED INSURANCE SELF-  
2 REGULATORY ORGANIZATIONS.—An insurance self-regu-  
3 latory organization that is registered by the Commissioner  
4 shall have the authority to—

- 5 (1) carry out the purpose of this Act; and  
6 (2) enforce compliance by its members with the  
7 provisions of this Act, applicable regulations issued  
8 by the Commissioner, and the rules of the organiza-  
9 tion.

10 (c) MEMBERSHIP.—An insurance self-regulatory or-  
11 ganization may be formed by, and consist exclusively of—

- 12 (1) National Insurers;  
13 (2) National Agencies;  
14 (3) federally licensed insurance producers; or  
15 (4) any combination of National Insurers, Na-  
16 tional Agencies and federally licensed insurance pro-  
17 ducers.

18 (d) REGULATIONS.—Not later than 2 years after the  
19 date of enactment of this Act, the Commissioner shall  
20 issue regulations governing the registration and operations  
21 of insurance self-regulatory organizations. Such regula-  
22 tions shall establish—

- 23 (1) the procedures insurance self-regulatory or-  
24 ganizations must follow to be registered by the Com-  
25 missioner, which shall provide for public notice and

1 an opportunity for public comment on the proposed  
2 registration;

3 (2) the standards that the Commissioner shall  
4 apply in reviewing a proposed registration, which  
5 shall require an insurance self-regulatory organiza-  
6 tion to demonstrate that—

7 (A) it has the capacity to—

8 (i) carry out the purpose of this Act;

9 and

10 (ii) enforce compliance by its members  
11 with the provisions of this Act, applicable  
12 regulations, and the rules of the organiza-  
13 tion; and

14 (B) its operating rules—

15 (i) assure a fair representation of its  
16 members in the selection of its directors  
17 and the administration of its affairs;

18 (ii) provide for the equitable allocation  
19 of fees, dues, and other charges among its  
20 members;

21 (iii) provide for the organization to  
22 take appropriate disciplinary actions  
23 against members, including the revocation  
24 of membership status, for violations of this  
25 Act, the regulations issued pursuant to this

1 Act, or the operating rules of the organiza-  
2 tion; and

3 (iv) include procedures for members  
4 that are subject to disciplinary actions to  
5 obtain review of such actions by the Com-  
6 missioner;

7 (3) the procedures and standards the Commis-  
8 sioner shall follow in reviewing, approving, abro-  
9 gating, or modifying any new operating rule or any  
10 amendment to an existing operating rule that is pro-  
11 posed by an insurance self-regulatory organization,  
12 which shall include procedures for public notice and  
13 comment on such rule or amendment;

14 (4) the procedures and standards the Commis-  
15 sioner shall follow in abrogating, modifying, or add-  
16 ing to the operating rules of an insurance self-regu-  
17 latory organization;

18 (5) the procedures and standards the Commis-  
19 sioner shall follow in reviewing, approving, abro-  
20 gating, or modifying any disciplinary action by an  
21 insurance self-regulatory organization;

22 (6) the procedures and standards the Commis-  
23 sioner shall follow in removing, suspending, or bar-  
24 ing any individual from serving as an office, or di-  
25 rector of an insurance self-regulatory organization;

1           (7) the procedures and standards the Commis-  
2           sioner shall follow in suspending or revoking the reg-  
3           istration of an insurance self-regulatory organiza-  
4           tion; and

5           (8) such other matters as the Commissioner de-  
6           termines appropriate to ensure and protect the pub-  
7           lic interest and the interests of policyholders.

8   **SEC. 107. OFFICE OF THE OMBUDSMAN.**

9           (a) ESTABLISHMENT OF THE OFFICE OF THE OM-  
10          BUDSMAN.—There is established within the Office, an Of-  
11          fice of the Ombudsman. The Commissioner shall appoint  
12          an Ombudsman to administer the Office of the Ombuds-  
13          man. The Ombudsman shall report directly to the Com-  
14          missioner.

15          (b) DUTIES OF THE OMBUDSMAN.—The Ombudsman  
16          shall act as a liaison between the Office and any person  
17          adversely affected by the Office's supervisory or regulatory  
18          activities, including the failure of the Office to take a re-  
19          quested action. The Ombudsman shall assure that safe-  
20          guards exist to encourage complainants to come forward  
21          and preserve confidentiality.

22          (c) POWERS OF THE OMBUDSMAN.—The powers of  
23          the Ombudsman are the following:

24                 (1) with the prior consent of the Commissioner,  
25          the Ombudsman may stay any appealable decision or

1 action during the resolution of an appealable matter;  
2 and

3 (2) review and report any weakness in policy or  
4 procedures to the Commissioner, and make rec-  
5 ommendations regarding changes in such policies or  
6 procedures.

7 (d) APPEALABLE MATTERS.—Any party adversely af-  
8 fected by an Office decision or action may seek Ombuds-  
9 man review of such decision or action, except for the fol-  
10 lowing:

11 (1) Appointments of receiver or conservators.

12 (2) Preliminary examination conclusions com-  
13 municated to the regulated entity before a final ex-  
14 amination report is issued.

15 (3) Any formal enforcement-related action or  
16 decision, including the issuance of a formal super-  
17 visory agreement, a cease-and-desist order, a civil  
18 money penalty, or to take prompt corrective action,  
19 issue a safety and soundness order, or commence a  
20 formal investigation.

21 (4) Formal and informal rulemakings pursuant  
22 to subchapter II of chapter 5 of title 5, United  
23 States Code.

24 (5) Decisions or recommended decisions fol-  
25 lowing formal adjudications conducted pursuant to

1 subchapter II of chapter 5 of title 5, United States  
2 Code.

3 (6) Requests for agency records pursuant to  
4 section 552 of title 5, United States Code (com-  
5 monly referred to as the Freedom of Information  
6 Act).

7 (e) PROCEDURES FOR FILING AN APPEAL TO THE  
8 OMBUDSMAN.—An aggrieved party may seek review of an  
9 appealable matter by filing a written appeal with the Of-  
10 fice of the Ombudsman. In the case of a National Insurer  
11 or National Agency, the appeal shall be signed by the  
12 President or Chief Executive Officer of the Insurer or  
13 Agency. The appeal shall set forth all of the reasons for  
14 the appeal and supporting documentation. The Ombuds-  
15 man may arrange for a meeting of Office personnel and  
16 the complainants to discuss the appeal.

17 (f) EFFECT OF FILING AN APPEAL.—Unless the Om-  
18 budsman determines otherwise, and obtains the concur-  
19 rence of the Commissioner, material supervisory decisions  
20 and actions are not stayed pending an appeal.

21 (g) DECISION OF THE OMBUDSMAN.—After a thor-  
22 ough investigation of the matter, and after considering all  
23 relevant information provided by the complainant and the  
24 Office, the Ombudsman shall issue a written determina-  
25 tion of the appeal. Such determination shall become the

1 final decision of the Office, unless reversed, modified, or  
2 stayed by the Commissioner.

3 (h) RETALIATION PROHIBITED.—The Office and its  
4 staff may not take any adverse action against a complain-  
5 ant for appealing any decision or action to the Ombuds-  
6 man. Upon learning of any possible retaliatory actions, the  
7 Ombudsman shall investigate the matter, and if the Om-  
8 budsman determines that reasonable grounds exist to con-  
9 clude that retaliation has taken place, shall refer the mat-  
10 ter to the Commissioner.

11 **Subtitle B—Supervision of Na-**  
12 **tional Insurers and National**  
13 **Agencies**

14 **SEC. 121. EXAMINATION OF NATIONAL INSURERS AND NA-**  
15 **TIONAL AGENCIES.**

16 (a) IN GENERAL.—

17 (1) EXAMINATION.—The Commissioner shall  
18 provide for examinations of National Insurers and  
19 National Agencies.

20 (2) REGULAR AND SPECIAL EXAMINATIONS OF  
21 NATIONAL INSURERS.—Not less than once during  
22 each 36-month period, the Commissioner shall con-  
23 duct an on-site examination of each National In-  
24 surer, and may conduct a special examination of a

1 National Insurer whenever the Commissioner deter-  
2 mines that a special examination is necessary.

3 (3) EXAMINATION OF NATIONAL AGENCIES.—

4 The Commissioner may examine a National Agency  
5 only in response to a complaint or any other evi-  
6 dence that the National Agency has violated or is  
7 about to violate—

8 (A) a law, rule, or regulation;

9 (B) any condition imposed in writing by  
10 the Commissioner in connection with issuing a  
11 license for a federally licensed insurance pro-  
12 ducer; or

13 (C) any written agreement entered into  
14 with the Commissioner.

15 (4) AFFILIATES.—

16 (A) IN GENERAL.—In making examina-  
17 tions of National Insurers or National Agencies,  
18 the Commissioner may, to the extent necessary  
19 to discover information concerning activities of  
20 an affiliate that may have a materially adverse  
21 effect on the operations, management, or finan-  
22 cial condition of the National Insurer or Na-  
23 tional Agency—

1 (i) require an affiliate to make such  
2 reports and provide such material as the  
3 Commissioner may direct; and

4 (ii) conduct an examination of the af-  
5 fairs of an affiliate, if—

6 (I) the Commissioner has reason-  
7 able cause to believe that the activities  
8 of the affiliate may have such an ef-  
9 fect;

10 (II) the examination is limited to  
11 the extent necessary to disclose infor-  
12 mation related to such effect; and

13 (III) the Commissioner is unable  
14 to obtain the necessary information  
15 from the National Insurer or National  
16 Agency.

17 (B) ACCEPTANCE OF AVAILABLE INFORMA-  
18 TION.—To the extent that the Commissioner re-  
19 quires an affiliate to make reports or provide  
20 material under subparagraph (A), the Commis-  
21 sioner shall, to the fullest extent possible, ac-  
22 cept—

23 (i) reports that the affiliate has pro-  
24 vided or been required to provide to other

1 Federal or State regulatory authorities or  
2 appropriate self-regulatory organizations;

3 (ii) information that is otherwise re-  
4 quired to be reported publicly; and

5 (iii) audited financial statements.

6 (C) USE OF REGULATORY REPORTS.—If  
7 the Commissioner determines to conduct an ex-  
8 amination of an affiliate under subparagraph  
9 (B) and such affiliate is a functionally regu-  
10 lated affiliate, the Commissioner shall, to the  
11 fullest extent possible, rely on the examination  
12 reports made by the functional regulator of  
13 such affiliate.

14 (b) ACCESS TO PEOPLE AND RECORDS.—

15 (1) IN GENERAL.—The Commissioner, upon re-  
16 quest, shall be given prompt and reasonable access  
17 to National Insurer or National Agency officers, em-  
18 ployees, and agents, and relevant books, records, and  
19 documents in the course of supervision, oversight, or  
20 examination of any National Insurer or National  
21 Agency.

22 (2) COURT ORDER.—If prompt and reasonable  
23 access is not given as required under paragraph (1),  
24 the Commissioner may apply to the United States  
25 district court for the judicial district in which the

1 main office of the National Insurer or the National  
2 Agency is located, or in which the person denying  
3 such access resides or carries on business, for an  
4 order requiring that such information be promptly  
5 provided.

6 (3) SUBPOENA POWER.—In connection with ex-  
7 aminations of National Insurers, National Agencies,  
8 or affiliates under this section and the examination  
9 of federally licensed insurance producers under sec-  
10 tion 301, the Commissioner may—

11 (A) administer oaths and affirmations;

12 (B) examine, take, and preserve testimony  
13 under oath as to any matter in respect of the  
14 affairs or ownership of any such National In-  
15 surer, National Agency, affiliate, or federally li-  
16 censed insurance producer;

17 (C) issue subpoenas; and

18 (D) in order to enforce a subpoena issued  
19 under subparagraph (C), apply to the United  
20 States district court for the judicial district—

21 (i) in which the main office of the Na-  
22 tional Insurer, National Agency, or affil-  
23 iate is located;

24 (ii) in which the federally licensed in-  
25 surance producer is located; or

1 (iii) in which the witness resides or  
2 carries on business.

3 **SEC. 122. EXAMINATION FEES AND OTHER ASSESSMENTS.**

4 (a) EXAMINATION FEE.—

5 (1) NATIONAL INSURERS, NATIONAL AGENCIES,  
6 AND FEDERALLY LICENSED INSURANCE PRO-  
7 DUCERS.—The Commissioner shall assess the cost of  
8 conducting examinations of National Insurers, Na-  
9 tional Agencies, and federally licensed insurance pro-  
10 ducers against each such Insurer, Agency, or pro-  
11 ducer, as the Commissioner determines to be appro-  
12 priate.

13 (2) AFFILIATES.—The Commissioner shall as-  
14 sess the cost of conducting examinations of affiliates  
15 against each such affiliate, as the Commissioner de-  
16 termines to be appropriate.

17 (3) REFUSAL TO PAY.—

18 (A) IN GENERAL.—Subject to subpara-  
19 graph (B), if any affiliate refuses to pay an as-  
20 sessment imposed pursuant to paragraph (2),  
21 the Commissioner may assess such cost against  
22 the affiliated National Insurer or National  
23 Agency.

24 (B) SHARED AFFILIATES.—If an affiliate  
25 is an affiliate of more than 1 National Insurer

1 or National Agency, the assessment with re-  
2 spect to that affiliate may be assessed against,  
3 and collected from, any affiliated National In-  
4 surer or National Agency, in such proportions  
5 as the Commissioner may prescribe.

6 (b) PROCESSING FEE.—The Commissioner may as-  
7 sess a fee against any person who submits to the Office  
8 an application, filing, statement, notice, or request for ap-  
9 proval to cover the cost of processing such submission.

10 (c) OTHER ASSESSMENTS.—The Commissioner may  
11 assess against National Insurers, National Agencies, and  
12 federally licensed insurance producers such additional fees  
13 as the Commissioner determines to be necessary and ap-  
14 propriate to fund the expenses of the Office.

15 (d) NOTICE.—The Commissioner shall notify Na-  
16 tional Insurers, National Agencies, and federally licensed  
17 insurance producers of—

18 (1) the initial fees and assessments imposed  
19 under this section; and

20 (2) any change in fees and assessments.

21 (e) TREATMENT OF FEES AND ASSESSMENTS.—

22 (1) DEPOSITS.—Amounts received by the Com-  
23 missioner from fees and assessments imposed under  
24 this section shall be deposited in the manner pro-  
25 vided in section 5234 of the Revised Statutes (12

1 U.S.C. 192) with respect to assessments by the  
2 Comptroller of the Currency.

3 (2) GOVERNMENT FUNDS; APPORTIONMENT.—  
4 Notwithstanding any other provision of law,  
5 amounts received by the Commissioner from any fee  
6 or assessment imposed under this section—

7 (A) shall not be considered Government or  
8 public funds or appropriated money; and

9 (B) shall not be subject to apportionment  
10 for purpose of chapter 15 of title 31, United  
11 States Code, or under any other authority.

12 (f) WORKING CAPITAL FUND.—

13 (1) IN GENERAL.—The Commissioner may im-  
14 pose fees and assessments pursuant to subsections  
15 (a), (b), and (c), in excess of actual expenses for any  
16 given year, to maintain an appropriate working cap-  
17 ital fund.

18 (2) REFUNDS.—The Commissioner shall remit  
19 to the payers of such fees and assessments any  
20 funds collected in excess of what the Commissioner  
21 determines to be necessary to maintain such working  
22 capital fund.

23 (g) USE OF FUNDS.—The Commissioner may use the  
24 combined resources collected through fees and assess-  
25 ments imposed pursuant to this section to pay all direct

1 and indirect operating costs of the Office, including the  
2 salary and administrative expenses of the Office.

3 (h) APPROPRIATIONS DURING START-UP PERIOD.—

4 (1) AUTHORIZATION.—The Commissioner may  
5 borrow from the Secretary of the Treasury such  
6 funds as the Commissioner determines to be nec-  
7 essary and appropriate to organize and begin oper-  
8 ations of the Office.

9 (2) PAYMENT.—Any loan extended pursuant to  
10 paragraph (1) shall be repaid, in full (with interest  
11 at a rate set by the Secretary of the Treasury),  
12 within 30 years following the date of enactment of  
13 this Act, with individual payments on any loan to be  
14 made in such amounts and at such times as the  
15 Commissioner determines to be appropriate.

16 (i) RULEMAKING.—The Commissioner shall promul-  
17 gate regulations with respect to the computation, assess-  
18 ment, and collection of the fees and assessments provided  
19 for in this section.

20 **SEC. 123. DISCLOSURE OF INFORMATION.**

21 (a) REGULATIONS REQUIRED.—The Commissioner  
22 shall, by regulation, establish standards for the disclosure  
23 of examination reports, applications, filings, correspond-  
24 ence, records, and other information prepared by, or sub-  
25 mitted to, the Commissioner.

1 (b) SUPERVISORY PRIVILEGE.—The regulation  
2 issued pursuant to subsection (a) shall prohibit the disclo-  
3 sure of confidential supervisory information, as such infor-  
4 mation is defined by the Commissioner in such regulation.

5 (c) OTHER PRIVILEGES.—The submission of any in-  
6 formation to the Commissioner shall not waive or other-  
7 wise affect any privilege a person may claim with respect  
8 to such information under Federal or State law as to a  
9 party other than the Commissioner.

10 **SEC. 124. REPORTING REQUIREMENT.**

11 (a) GENERAL AUTHORITY.—The Commissioner is  
12 authorized to require National Insurers and National  
13 Agencies to make such reports, containing such informa-  
14 tion and in such form, as the Commissioner may prescribe  
15 by regulation.

16 (b) FINANCIAL STATEMENTS.—Each National In-  
17 surer holding a Federal license shall submit annual and  
18 quarterly financial statements, in compliance with the ac-  
19 counting principles and auditing standards specified under  
20 section 211, to the Commissioner at such times and in  
21 such form as the Commissioner may require under regula-  
22 tions promulgated pursuant to subsection (c).

23 (c) REGULATIONS.—The Commissioner shall promul-  
24 gate regulations that—

1           (1) specify the information that shall be dis-  
2           closed in the financial statements required under  
3           subsection (b); and

4           (2) specify any additional financial schedules  
5           that National Insurers shall make available for ex-  
6           amination by the Commissioner upon request.

7   **SEC. 125. RELATIONSHIP TO STATE LAW.**

8           (a) **IN GENERAL.**—Except as provided under sub-  
9           section (b) or otherwise authorized under Federal law, Na-  
10          tional Insurers, National Agencies, and federally licensed  
11          insurance producers shall not be subject to any form of  
12          State licensing, examination, reporting, regulation, or  
13          other supervision relating to—

14               (1) the sale, solicitation, or negotiation of insur-  
15               ance;

16               (2) the underwriting of insurance; or

17               (3) any other insurance operations, including all  
18               products, marketing and sales practices, claims ad-  
19               justment and settlement, financial condition and sol-  
20               vency, and holding company transactions.

21           (b) **APPLICABLE STATE LAWS.**—Notwithstanding  
22          subsection (a), National Insurers, National Agencies, and  
23          federally licensed insurance producers shall be subject  
24          to—

1           (1) applicable State unclaimed property and es-  
2           cheat laws;

3           (2) applicable tax laws of a State in accordance  
4           with sections 251 and 252;

5           (3) applicable State law relating to participa-  
6           tion in an assigned risk plan, mandatory joint un-  
7           derwriting association, or any other mandatory re-  
8           sidual market mechanism designed to make insur-  
9           ance available to those unable to obtain insurance in  
10          the voluntary market, except to the extent that such  
11          State law—

12                   (A) relates to participation in any vol-  
13                   untary joint underwriting association or similar  
14                   arrangement;

15                   (B) results in rates in effect for an as-  
16                   signed risk plan, mandatory joint underwriting  
17                   association, or any other mandatory residual  
18                   market mechanism that fail to cover the ex-  
19                   pected value of all future costs associated with  
20                   insurance policies written by such residual mar-  
21                   ket mechanism;

22                   (C) requires a National Insurer to use any  
23                   particular rate, rating element, price or form;  
24                   or

1 (D) is inconsistent with any provision of  
2 this Act;

3 (4) applicable State insurance law that pre-  
4 scribes the compulsory coverage requirements for  
5 workers' compensation or motor vehicle insurance,  
6 or both, that every insurer must provide if the in-  
7 surer issues insurance policies in such State, except  
8 to the extent that such State law requires a National  
9 Insurer to use any particular rate, rating element, or  
10 price;

11 (5) applicable State insurance law mandating  
12 the participation of insurers in an advisory or statis-  
13 tical organization, except to the extent that such  
14 State law requires a National Insurer to use any  
15 particular rate, rating element, price, or form; and

16 (6) applicable State law relating to participa-  
17 tion in a workers' compensation administration  
18 mechanism, except to the extent that such State law  
19 is inconsistent with any provision of this Act.

20 **Subtitle C—Enforcement of**  
21 **Federal Insurance Laws**

22 **SEC. 141. NATIONAL INSURER LICENSE SUSPENSION, RE-**  
23 **STRICTION, OR REVOCATION.**

24 (a) IN GENERAL.—In accordance with the conditions  
25 under this section, the Commissioner may revoke or re-

1 strict the Federal license of a National Insurer if the Com-  
2 missioner determines that the National Insurer—

3 (1) has engaged in conduct that is hazardous to  
4 the National Insurer and that involves an undue risk  
5 to the National Insurer's policyholders;

6 (2) is in a financial or other condition that is  
7 not consistent with the continuation of existing oper-  
8 ations; or

9 (3) has violated any—

10 (A) applicable law or regulation;

11 (B) order or condition imposed in writing  
12 by the Commissioner in connection with the ap-  
13 proval of an application, filing, statement, no-  
14 tice, or other request by the National Insurer;  
15 or

16 (C) written agreement entered into be-  
17 tween the National Insurer and the Commis-  
18 sioner.

19 (b) NOTICE TO NATIONAL INSURER.—

20 (1) IN GENERAL.—If the Commissioner deter-  
21 mines under subsection (a) that the Federal license  
22 of a National Insurer should be revoked or re-  
23 stricted, the Commissioner shall—

1 (A) serve the National Insurer with written  
2 notice of the intent of the Commissioner to re-  
3 voke or restrict such Federal license;

4 (B) provide the National Insurer with a  
5 statement of the basis for the determination to  
6 revoke or restrict such Federal license; and

7 (C) notify, not less than 30 days before a  
8 hearing under subsection (e), of the date and  
9 place of the hearing.

10 (2) NOTICE OF SERVICE.—Any service required  
11 or authorized to be made by the Commissioner  
12 under this section may be made by registered mail,  
13 or in such other manner reasonably calculated to  
14 give actual notice as the Commissioner may by regu-  
15 lation or otherwise provide.

16 (c) REVOCATION OR RESTRICTION HEARING.—

17 (1) IN GENERAL.—Before revoking or restrict-  
18 ing a Federal license, the Commissioner shall con-  
19 duct a hearing in accordance with section 554 of  
20 title 5, United States Code, to determine if the con-  
21 ditions described in subsection (a) exist.

22 (2) AUTHORITY TO REVOKE OR RESTRICT FED-  
23 ERAL LICENSE.—If, on the basis of the evidence pre-  
24 sented at the hearing under paragraph (1) and the  
25 written findings of the Commissioner with respect to

1 such evidence, the Commissioner establishes the ex-  
2 istence of any conduct, condition, or violation speci-  
3 fied in the notice sent to a National Insurer under  
4 subsection (b), the Commissioner may issue an order  
5 revoking or restricting the Federal license of the Na-  
6 tional Insurer, which shall be effective as of a date  
7 subsequent to such finding.

8 (3) CONSENT TO REVOCATION OR RESTRIC-  
9 TION.—If a duly authorized representative of the  
10 National Insurer fails to appear at the hearing  
11 under this subsection, the National Insurer shall be  
12 deemed to have consented to the revocation or re-  
13 striction of its Federal license, and the Commis-  
14 sioner may immediately revoke or restrict such Fed-  
15 eral license.

16 (d) PUBLICATION OF NOTICE OF REVOCATION OR  
17 RESTRICTION.—

18 (1) NOTICE BY NATIONAL INSURER.—

19 (A) IN GENERAL.—The National Insurer  
20 shall give notice of a revocation or restriction of  
21 its Federal license under this section to each  
22 policyholder affected by the revocation or re-  
23 striction.

24 (B) TYPE OF NOTICE.—Notice under this  
25 paragraph shall be sent to the policyholder's

1 last address of record on the books of the Na-  
2 tional Insurer, in such manner and at such time  
3 as the Commissioner determines to be necessary  
4 for the protection of policyholders.

5 (2) NOTICE BY COMMISSIONER.—

6 (A) IN GENERAL.—The Commissioner  
7 shall publish notice of a revocation or restric-  
8 tion under this section. If the Commissioner de-  
9 termines that a National Insurer has not given  
10 notice of an order under this subsection in ac-  
11 cordance with the requirements of the Commis-  
12 sioner, the Commissioner may provide such no-  
13 tice in such manner as the Commissioner may  
14 find to be necessary and proper.

15 (B) COSTS.—The cost of any notice pro-  
16 vided under subparagraph (A) shall be paid by  
17 the National Insurer.

18 (e) TEMPORARY SUSPENSION OR RESTRICTION.—

19 (1) IN GENERAL.—If the Commissioner, in the  
20 course of a revocation proceeding under this section,  
21 finds that the National Insurer poses an immediate  
22 threat to the interests of its policyholders or to the  
23 public, the Commissioner shall issue an order tempo-  
24 rarily suspending or restricting the Federal license  
25 of the National Insurer.

1           (2) NOTICE OF TEMPORARY ORDER.—A Na-  
2           tional Insurer whose Federal license is temporarily  
3           suspended or restricted under this subsection shall  
4           give notice of an order issued under this paragraph  
5           to each affected policyholder in such manner and at  
6           such times as the Commissioner may find to be nec-  
7           essary and may order for the protection of policy-  
8           holders and the public.

9           (3) EFFECTIVE PERIOD OF TEMPORARY  
10          ORDER.—A temporary order issued under paragraph  
11          (1) shall—

12                 (A) become effective not earlier than 10  
13                 days from the date of service upon the National  
14                 Insurer; and

15                 (B) unless set aside, limited, or suspended  
16                 by a court in proceedings authorized under  
17                 paragraph (4), remain effective and enforceable  
18                 until the earlier of—

19                         (i) the effective date of an order under  
20                         subsection (c)(2); or

21                         (ii) the date on which the Commis-  
22                         sioner determines that there is insufficient  
23                         evidence to revoke or restrict a Federal li-  
24                         cense under this subsection.

25          (4) JUDICIAL REVIEW.—

1 (A) IN GENERAL.—During the 10-day pe-  
2 riod beginning on the date on which a tem-  
3 porary order has been issued under paragraph  
4 (1), the National Insurer may apply to a court  
5 described in subparagraph (B) for an injunction  
6 setting aside, limiting, or suspending the en-  
7 forcement, operation, or effectiveness of such  
8 order.

9 (B) JURISDICTION.—The United States  
10 District Court for the District of Columbia and  
11 the United States district court for the judicial  
12 district in which the main office of the National  
13 Insurer is located shall have jurisdiction to  
14 issue an injunction under this paragraph.

15 (f) DECISION TO SUSPEND, RESTRICT, OR RE-  
16 VOKE.—

17 (1) IN GENERAL.—Except as provided under  
18 paragraph (2), any decision by the Commissioner to  
19 suspend, restrict, or revoke a Federal license under  
20 this section shall be made by the Commissioner and  
21 may not be delegated.

22 (2) EXCEPTION.—The Commissioner may, by  
23 order, designate an employee of the Office who may  
24 make a decision described in paragraph (1) if the

1 Commissioner is not able to act by reason of recusal  
2 or is otherwise disqualified from acting.

3 (g) JUDICIAL REVIEW.—Any National Insurer whose  
4 Federal license has been revoked or restricted by order  
5 of the Commissioner under this section shall have the  
6 right of judicial review of such order only to the same ex-  
7 tent as provided for the review of orders under section  
8 148.

9 **SEC. 142. SUSPENSION, RESTRICTION, OR REVOCATION OF**  
10 **FEDERAL LICENSE OF NATIONAL AGENCIES**  
11 **AND FEDERALLY LICENSED INSURANCE PRO-**  
12 **DUCERS.**

13 (a) IN GENERAL.—In accordance with the provisions  
14 of this section, the Commissioner may revoke or restrict  
15 the Federal producer license, including lines of insurance  
16 covered by such license, of a National Agency or other fed-  
17 erally licensed insurance producer if the Commissioner de-  
18 termines that the Agency or producer has—

19 (1) violated any applicable law, regulation,  
20 order, condition imposed in writing by the Commis-  
21 sioner in connection with the approval of an applica-  
22 tion, filing, statement, notice or other request by the  
23 producer, or written agreement entered into between  
24 the producer and the Commissioner;

1           (2) provided incorrect, misleading, incomplete  
2           or materially untrue information in an application  
3           for a Federal charter or a Federal producer license;

4           (3) used fraudulent, coercive, or dishonest prac-  
5           tices; or

6           (4)           demonstrated           incompetence,  
7           untrustworthiness, or financial irresponsibility as an  
8           insurance producer.

9           (b) NOTICE TO FEDERALLY LICENSED INSURANCE  
10          PRODUCER.—If the Commissioner determines that any  
11          conduct, breach, or violation specified in subsection (a) re-  
12          quires revocation or restriction of the Federal producer li-  
13          cense of a National Agency or other federally licensed in-  
14          surance producer, the Commissioner shall—

15                (1) serve written notice on the National Agency  
16                or other federally licensed insurance producer of the  
17                Commissioner’s intention to revoke or restrict the  
18                Federal producer license;

19                (2) provide the National Agency or other feder-  
20                ally licensed insurance producer with a statement of  
21                the basis for the determination to revoke or restrict  
22                the Federal producer license; and

23                (3) notify the National Agency or other feder-  
24                ally licensed insurance producer, not less than 30

1 days before a hearing under subsection (c), of the  
2 date and place of the hearing.

3 (c) REVOCATION OR RESTRICTION HEARING.—

4 (1) IN GENERAL.—Before revoking or restrict-  
5 ing a Federal producer license, the Commissioner  
6 shall conduct a hearing in accordance with section  
7 554 of title 5, United States Code, to determine if  
8 the conditions described in subsection (a) exist.

9 (2) AUTHORITY TO REVOKE OR RESTRICT FED-  
10 ERAL LICENSE.—If, on the basis of the evidence pre-  
11 sented at the hearing under paragraph (1) and the  
12 written findings of the Commissioner with respect to  
13 such evidence, the Commissioner finds any conduct,  
14 condition, or violation specified in the notice sent to  
15 a National Agency or other federally licensed insur-  
16 ance producer under subsection (b), the Commis-  
17 sioner may issue an order revoking or restricting the  
18 Federal producer license of the National Agency or  
19 other federally licensed insurance producer, which  
20 shall be effective as of a date subsequent to such  
21 finding.

22 (3) CONSENT TO REVOCATION OR RESTRIC-  
23 TION.—If a duly authorized representative of the  
24 National Agency or other federally licensed insur-  
25 ance producer fails to appear at the hearing under

1       this subsection, the National Agency or other feder-  
2       ally licensed insurance producer shall be deemed to  
3       have consented to the revocation or restriction of its  
4       Federal producer license, and the Commissioner may  
5       immediately revoke or restrict such Federal producer  
6       license.

7       (d) NOTICE OF REVOCATION OR RESTRICTION.—

8               (1) NOTICE BY FEDERALLY LICENSED INSUR-  
9       ANCE PRODUCER.—Each National Agency or other  
10      federally licensed insurance producer shall give writ-  
11      ten notice of such revocation or restriction to each  
12      National Insurer, State insurer, or United States  
13      branch of a non-United States insurer for which  
14      such producer acts as an insurance producer.

15             (2) NOTICE BY COMMISSIONER.—

16               (A) IN GENERAL.—The Commissioner  
17      shall publish notice of a revocation or restric-  
18      tion under this section. If the Commissioner de-  
19      termines that a National Agency or other feder-  
20      ally licensed insurance producer has not given  
21      notice of an order under this subsection in ac-  
22      cordance with the requirements of the Commis-  
23      sioner, the Commissioner may provide such no-  
24      tice in any manner the Commissioner deter-  
25      mines to be necessary and proper.

1                   (B) COSTS.—The cost of any notice pro-  
2                   vided under subparagraph (A) shall be paid by  
3                   the National Agency or other federally licensed  
4                   insurance producer.

5                   (e) TEMPORARY SUSPENSION OR RESTRICTION.—

6                   (1) IN GENERAL.—If the Commissioner, in the  
7                   course of a revocation or restriction proceeding  
8                   under this section, finds that the National Agency or  
9                   other federally licensed insurance producer poses an  
10                  immediate threat to the interests of the policyholders  
11                  of a National Insurer, a State insurer, or a United  
12                  States branch of a non-United States insurer or to  
13                  the public, the Commissioner may issue a temporary  
14                  order suspending or restricting the Agency's or other  
15                  producer's Federal producer license.

16                  (2) NOTICE OF TEMPORARY ORDER.—The Na-  
17                  tional Agency or other federally licensed insurance  
18                  producer shall give notice of a temporary order  
19                  issued under this paragraph in such manner and at  
20                  such times as the Commissioner may find to be nec-  
21                  essary and may order for the protection of policy-  
22                  holders and the public.

23                  (3) EFFECTIVE PERIOD OF TEMPORARY  
24                  ORDER.—Any temporary order issued under para-  
25                  graph (1) shall—

1 (A) become effective not earlier than 10  
2 days from the date of service upon the National  
3 Agency or other federally licensed insurance  
4 producer; and

5 (B) unless set aside, limited, or suspended  
6 by a court under paragraph (4), remain effec-  
7 tive and enforceable until an order of the Com-  
8 missioner under subsection (c) becomes final or  
9 until the Commissioner dismisses the pro-  
10 ceedings under paragraph (4).

11 (4) JUDICIAL REVIEW.—

12 (A) IN GENERAL.—During the 10-day pe-  
13 riod beginning on the date on which a tem-  
14 porary order has been issued under paragraph  
15 (1), the National Agency or other federally li-  
16 censed insurance producer may apply to a court  
17 described in subparagraph (B) for an injunction  
18 setting aside, limiting, or suspending the en-  
19 forcement, operation, or effectiveness of such  
20 order.

21 (B) JURISDICTION.—The United States  
22 District Court for the District of Columbia and  
23 the United States district court for the judicial  
24 district in which the federally licensed insurance  
25 producers (or the main office of the National

1           Agency) is located shall have jurisdiction to  
2           issue an injunction under this paragraph.

3           (f) JUDICIAL REVIEW.—Any National Agency or  
4 other federally licensed insurance producer whose Federal  
5 producer license has been revoked or restricted by order  
6 of the Commissioner under this subsection shall have the  
7 right of judicial review of such order only to the same ex-  
8 tent as provided for the review of orders under section  
9 148.

10 **SEC. 143. CEASE-AND-DESIST PROCEEDINGS.**

11           (a) NOTICE.—

12           (1) ISSUANCE.—The Commissioner may issue  
13 and serve upon a National Insurer, National Agency,  
14 federally licensed insurance producer, or insurer-af-  
15 filiated party a notice of charges if the Commis-  
16 sioner determines that such Insurer, Agency, pro-  
17 ducer, or party—

18           (A) has engaged, or is about to engage, in  
19 conduct that is hazardous to a National In-  
20 surer, a State insurer, or a United States  
21 branch of a non-United States insurer and in-  
22 volves an undue risk to the policyholders, as a  
23 whole, of a National Insurer, a State insurer, or  
24 a United States branch of a non-United States  
25 insurer; or

1 (B) has violated, or is about to violate—  
2 (i) a law, rule, or regulation;  
3 (ii) any condition imposed in writing  
4 by the Commissioner in connection with  
5 the granting of any application, filing,  
6 statement, notice, or other request by the  
7 National Insurer, National Agency or the  
8 federally licensed insurance producer; or  
9 (iii) any written agreement entered  
10 into with the Commissioner.

11 (2) CONTENTS.—The notice issued under para-  
12 graph (1) shall—

13 (A) contain a statement of the facts consti-  
14 tuting the alleged violations; and

15 (B) state the time and place at which a  
16 hearing will be held to determine whether an  
17 order to cease and desist should be issued  
18 against the National Insurer, National Agency,  
19 federally licensed insurance producer, or in-  
20 surer-affiliated party.

21 (b) HEARING.—

22 (1) TIMING.—A hearing under this section shall  
23 be scheduled for a date which is not earlier than 30  
24 days nor later than 60 days after the service of no-  
25 tice under subsection (a) unless another date is set

1 by the Commissioner at the request of any party so  
2 served.

3 (2) CONSENT.—If a duly authorized representa-  
4 tive of a party served notice under subsection (a)  
5 fails to appear at a hearing under this section, the  
6 party shall be deemed to have consented to the  
7 issuance of the cease-and-desist order.

8 (c) CEASE-AND-DESIST ORDER.—

9 (1) IN GENERAL.—If the Commissioner finds,  
10 upon the record made at a hearing under this sec-  
11 tion, that any violation or conduct specified in the  
12 notice of charges has been established, or if the  
13 party consents, the Commissioner may issue and  
14 serve upon the National Insurer, National Agency,  
15 federally licensed insurance producer, or insurer-af-  
16 filiated party, an order to cease and desist from any  
17 such violation or conduct.

18 (2) CONTENTS.—A cease-and-desist order  
19 under this section may—

20 (A) require the National Insurer, National  
21 Agency, federally licensed insurance producer,  
22 or insurer-affiliated party to cease and desist  
23 from the alleged violation or conduct; and

1           (B) take affirmative action to correct the  
2           conditions resulting from any such violation or  
3           conduct.

4           (3) EFFECTIVE DATE.—A cease-and-desist  
5           order shall—

6           (A) take effect on the expiration of the  
7           date which is 30 days after the service of such  
8           order upon the party or on another date, if  
9           issued upon consent; and

10          (B) remain in effect and enforceable as  
11          provided therein, unless stayed, modified, termi-  
12          nated, or set aside by action of the Commis-  
13          sioner or a reviewing court.

14          (4) AUTHORITY TO LIMIT ACTIVITIES.—The au-  
15          thority to issue an order under this section includes  
16          the authority to place limitations on the activities or  
17          functions of a National Insurer, National Agency, a  
18          federally licensed insurance producer or an insurer-  
19          affiliated party.

20          (5) STANDARD FOR CERTAIN ORDERS.—No au-  
21          thority under this section to prohibit any insurer-af-  
22          filiated party from withdrawing, transferring, remov-  
23          ing, dissipating, or disposing of any funds, assets, or  
24          other property may be exercised unless the Commis-  
25          sioner meets the standards of Rule 65 of the Federal

1 Rules of Civil Procedure, without regard to the re-  
2 quirement of such rule that the applicant show that  
3 the injury, loss, or damage is irreparable and imme-  
4 diate.

5 (d) TEMPORARY CEASE-AND-DESIST ORDERS.—

6 (1) IN GENERAL.—If the Commissioner deter-  
7 mines that the violation, threatened violation, or  
8 conduct specified in the notice of charges served  
9 under subsection (c)(1) is likely to cause insolvency  
10 or significant dissipation of assets or earnings of a  
11 National Insurer, a State insurer, a United States  
12 branch of a non-United States insurer or is likely to  
13 weaken the condition of a National Insurer, a State  
14 insurer, or a United States branch of a non-United  
15 States insurer or otherwise prejudice the interests of  
16 the policyholders of a National Insurer, a State in-  
17 surer, or a United States branch of a non-United  
18 States insurer before the completion of the pro-  
19 ceedings conducted under subsection (c)(1), the  
20 Commissioner may issue a temporary order requir-  
21 ing the National Insurer, National Agency, pro-  
22 ducer, or party to—

23 (A) cease and desist from any such viola-  
24 tion or conduct; and

1 (B) take affirmative action to prevent or  
2 remedy such insolvency, dissipation, condition,  
3 or prejudice pending completion of such pro-  
4 ceedings.

5 (2) CONTENTS OF ORDER; EFFECTIVE DATE.—

6 An order under paragraph (1)—

7 (A) may include any action authorized  
8 under section 144(2);

9 (B) shall become effective upon service  
10 upon the National Insurer, National Agency,  
11 producer, or party; and

12 (C) unless set aside, limited, or suspended  
13 by a court under paragraph (3), shall remain in  
14 effect and enforceable until the date on which—

15 (i) administrative proceedings pursu-  
16 ant to such order are completed;

17 (ii) the Commissioner dismisses the  
18 charges specified in such order; or

19 (iii) if a cease-and-desist order is  
20 issued against such National Insurer, Na-  
21 tional Agency, producer, or party, such  
22 order is effective.

23 (3) INJUNCTION.—

24 (A) IN GENERAL.—A National Insurer,  
25 National Agency, federally licensed insurance

1 producer, or insurer-affiliated party that has  
2 been served with a temporary cease-and-desist  
3 order may, not later than 10 days after the  
4 date of such service, apply to a court described  
5 in subparagraph (B) for an injunction setting  
6 aside, limiting, or suspending the enforcement,  
7 operation, or effectiveness of such order until  
8 the completion of administrative proceedings  
9 under this section.

10 (B) JURISDICTION.—The United States  
11 District Court for the District of Columbia and  
12 the United States district court for the judicial  
13 district in which the producer, party, or main  
14 office of the National Insurer or National Agen-  
15 cy is located shall have jurisdiction to issue an  
16 injunction under this paragraph.

17 (4) INCOMPLETE OR INACCURATE RECORDS.—

18 (A) TEMPORARY ORDER.—If a notice of  
19 charges served under subsection (a) specifies,  
20 on the basis of particular facts and cir-  
21 cumstances, that the books and records of a  
22 National Insurer are so incomplete or inac-  
23 curate that the Commissioner is unable,  
24 through the normal supervisory process, to de-  
25 termine the financial condition of that National

1 Insurer or the details or purpose of any trans-  
2 action or transactions that may have a material  
3 effect on the financial condition of that Na-  
4 tional Insurer, the Commissioner may issue a  
5 temporary order requiring—

6 (i) the cessation of any activity or  
7 practice which gave rise to the incomplete  
8 or inaccurate state of the books or records;  
9 or

10 (ii) affirmative action to restore such  
11 books or records to a complete and accu-  
12 rate state.

13 (B) EFFECTIVE PERIOD.—Any temporary  
14 order issued under subparagraph (A)—

15 (i) shall become effective upon service;  
16 and

17 (ii) unless set aside, limited, or sus-  
18 pended by a court in proceedings under  
19 paragraph (2), shall remain in effect and  
20 enforceable until the earlier of—

21 (I) the completion of the pro-  
22 ceeding initiated under subsection (a)  
23 in connection with the notice of  
24 charges; or

1 (II) the date the Commissioner  
2 determines, by examination or other-  
3 wise, that the books and records of  
4 the National Insurer accurately reflect  
5 the financial condition of the National  
6 Insurer.

7 **SEC. 144. AFFIRMATIVE ACTION TO CORRECT CONDITIONS**  
8 **RESULTING FROM VIOLATIONS OR CONDUCT.**

9 The authority granted to the Commissioner under  
10 this subtitle to issue an order that requires a National In-  
11 surer, National Agency, a federally licensed insurance pro-  
12 ducer, or an insurer-affiliated party to take affirmative ac-  
13 tion to correct or remedy any condition resulting from any  
14 violation or conduct with respect to which such order is  
15 issued includes the authority to require such National In-  
16 surer, National Agency, producer or party to—

- 17 (1) restrict the growth of the National Insurer;  
18 (2) dispose of any asset or insurance contract,  
19 including any insurance policy;  
20 (3) rescind any other agreements or contracts,  
21 other than insurance contracts, to which the Na-  
22 tional Insurer is the issuer;  
23 (4) employ qualified officers or employees, sub-  
24 ject to approval by the Commissioner; and

1           (5) take such other action as the Commissioner  
2 determines to be appropriate if—

3           (A) such National Insurer, National Agen-  
4 cy, producer, or party was unjustly enriched in  
5 connection with such violation or conduct; or

6           (B) the violation or conduct involved a  
7 reckless disregard for the law or any applicable  
8 regulations or prior order of the Commissioner.

9 **SEC. 145. SUSPENSION, REMOVAL, AND PROHIBITION AU-**  
10 **THORITY.**

11       (a) **AUTHORITY TO ISSUE ORDER.**—The Commis-  
12 sioner may serve a written notice of the Commissioner's  
13 intention to suspend or remove a party from office or to  
14 prohibit any further participation by such party in the  
15 conduct of the affairs of any National Insurer or National  
16 Agency, if the Commissioner determines that—

17           (1) an insurer-affiliated party has—

18           (A) violated—

19           (i) any law or regulation;

20           (ii) any final cease-and-desist order  
21 issued under section 143;

22           (iii) any condition imposed in writing  
23 by the Commissioner in connection with  
24 the grant of any application, filing, state-

1                   ment, notice, or other request by such Na-  
2                   tional Insurer or National Agency; or

3                   (iv) any written agreement between  
4                   such National Insurer or National Agency  
5                   and the Commissioner;

6                   (B) engaged or participated in any conduct  
7                   that—

8                   (i) is hazardous to the National In-  
9                   surer or National Agency; and

10                  (ii) involves an undue risk to the pol-  
11                  icyholders of such National Insurer or the  
12                  policyholders serviced by such National  
13                  Agency; or

14                  (C) committed or engaged in any act,  
15                  omission, or practice, which constitutes a  
16                  breach of fiduciary duty;

17                  (2) through any violation, conduct, practice, or  
18                  breach described in paragraph (1)—

19                  (A) such National Insurer or National  
20                  Agency has suffered, or will probably suffer, fi-  
21                  nancial loss or other damage;

22                  (B) the interests of the policyholders of the  
23                  National Insurer or the policyholders serviced  
24                  by the National Agency have been, or could be,  
25                  prejudiced; or

1 (C) such party has received financial gain  
2 or other benefit by reason of such violation,  
3 practice, or breach; and

4 (3) the violation, conduct, practice, or breach—  
5 (A) involves personal dishonesty on the  
6 part of such party; or

7 (B) demonstrates willful or continuing dis-  
8 regard by such party for the condition of such  
9 National Insurer or National Agency or the in-  
10 terests of the National Insurer's policyholders  
11 or the policyholders serviced by the National  
12 Agency.

13 (b) TEMPORARY SUSPENSION ORDER.—

14 (1) SUSPENSION OR PROHIBITION AUTHOR-  
15 IZED.—If the Commissioner serves written notice  
16 under subsection (a) on any insurer-affiliated party  
17 of the Commissioner's intention to issue an order  
18 under such subsection, the Commissioner may issue  
19 a temporary order suspending such party from office  
20 or prohibiting such party from further participation  
21 in any manner in the conduct of the affairs of the  
22 National Insurer or National Agency, if the Commis-  
23 sioner—

24 (A) determines that such action is nec-  
25 essary for the protection of the National In-

1 insurer or its policyholders or the National Agen-  
2 cy or the policyholders serviced by such Agency;  
3 and

4 (B) serves such party with the temporary  
5 order of suspension or prohibition.

6 (2) EFFECTIVE PERIOD.—Any temporary order  
7 issued under paragraph (1)—

8 (A) shall become effective upon service;  
9 and

10 (B) unless a court issues a stay of such  
11 order under subsection (e), shall remain in ef-  
12 fect and enforceable until—

13 (i) the date the Commissioner dis-  
14 misses the charges contained in the notice  
15 served under subsection (a) with respect to  
16 such party; or

17 (ii) the effective date of an order  
18 issued by the Commissioner to such party  
19 under subsection (a).

20 (3) COPY OF ORDER.—If the Commissioner  
21 issues a temporary order under paragraph (1) to any  
22 insurer-affiliated party, the Commissioner shall serve  
23 a copy of such order on any National Insurer or Na-  
24 tional Agency with which such party is affiliated at  
25 the time such order is issued.

1 (c) PROCEDURES.—

2 (1) CONTENTS OF NOTICE.—A notice served  
3 under subsection (a) shall include—

4 (A) a statement of the grounds for facts  
5 underlying such notice; and

6 (B) the time and place of a hearing to be  
7 held thereon.

8 (2) HEARING.—The hearing referred to in  
9 paragraph (1)(B) shall take place not earlier than  
10 30 days nor later than 60 days after the date of  
11 service of notice under subsection (a), unless another  
12 date is set by the Commissioner at the request of  
13 such party.

14 (3) SUSPENSION OR REMOVAL.—

15 (A) FAILURE TO APPEAR.—If a duly au-  
16 thorized representative of the party receiving  
17 notice of a hearing under this subsection fails  
18 to appear at such hearing, such party shall be  
19 deemed to have consented to the issuance of an  
20 order of such removal or prohibition.

21 (B) SUSPENSION OR REMOVAL.—In the  
22 event of such consent, or if upon the record  
23 made at any hearing under this subsection the  
24 Commissioner finds that any of the grounds  
25 specified in such notice have been established,

1 the Commissioner may issue such orders of sus-  
2 pension or removal from office, or prohibition  
3 from participation in the conduct of the affairs  
4 of the National Insurer or National Agency, as  
5 the Commissioner determines to be appropriate.

6 (C) EFFECTIVE DATE.—Any order issued  
7 under subparagraph (B) shall become effective  
8 on the expiration of 30 days after service upon  
9 the National Insurer or National Agency and  
10 such party (except in the case of an order  
11 issued upon consent, which shall become effec-  
12 tive at the time specified in such order). Such  
13 order shall remain effective and enforceable as  
14 provided therein, except to such extent as it is  
15 stayed, modified, terminated, or set aside by ac-  
16 tion of the Commissioner or a reviewing court.

17 (d) INDUSTRYWIDE PROHIBITION.—

18 (1) IN GENERAL.—Except as provided under  
19 paragraph (2), any person who, pursuant to any  
20 order issued under this section or section 146, has  
21 been removed or suspended from office in a National  
22 Insurer or National Agency or prohibited from par-  
23 ticipating in the conduct of the affairs of a National  
24 Insurer or National Agency may not, while such  
25 order is in effect—

1 (A) continue or commence to hold any of-  
2 fice in, or participate in any manner in the con-  
3 duct of the affairs of any National Insurer or  
4 National Agency;

5 (B) solicit, procure, transfer, attempt to  
6 transfer, vote, or attempt to vote any proxy,  
7 consent, or authorization with respect to any  
8 voting rights in any National Insurer or Na-  
9 tional Agency;

10 (C) act as an insurer-affiliated party; or

11 (D) act as a federally licensed insurance  
12 producer.

13 (2) EXCEPTION.—If, on or after the date an  
14 order is issued under this subsection, which removes  
15 or suspends from office any insurer-affiliated party  
16 or prohibits such party from participating in the  
17 conduct of the affairs of a National Insurer or Na-  
18 tional Agency, such party receives the written con-  
19 sent of the Commissioner, paragraph (1) shall, to  
20 the extent of such consent, cease to apply to such  
21 party with respect to the National Insurer or Na-  
22 tional Agency described in each written consent.

23 (3) VIOLATION OF ORDER.—Any violation of  
24 paragraph (1) by any person who is subject to an

1 order described in such subparagraph shall be treat-  
2 ed as a violation of the order.

3 (e) **STAY OF SUSPENSION OR PROHIBITION.**—Not  
4 later than 10 days after any insurer-affiliated party has  
5 been suspended from office or prohibited from participa-  
6 tion in the conduct of the affairs of a National Insurer  
7 or National Agency by a temporary order issued under  
8 subsection (b), such party may apply to the United States  
9 district court for the judicial district in which the main  
10 office of the National Insurer or National Agency is lo-  
11 cated, or the United States District Court for the District  
12 of Columbia, for a stay of such suspension or prohibition  
13 pending the completion of the administrative proceedings  
14 pursuant to the notice served upon such party under sub-  
15 section (a), and such court shall have jurisdiction to stay  
16 such suspension or prohibition.

17 **SEC. 146. SUSPENSION OR PROHIBITION BASED ON CRIMI-**  
18 **NAL ACTIVITY.**

19 (a) **SUSPENSION OR PROHIBITION.**—

20 (1) **IN GENERAL.**—The Commissioner may sus-  
21 pend an insurer-affiliated party from office or pro-  
22 hibit such party from further participation in any  
23 manner in the conduct of the affairs of a National  
24 Insurer or National Agency, by written notice served

1       upon such party and the National Insurer or Na-  
2       tional Agency, if—

3               (A) continued service or participation by  
4               such party may pose a threat to the National  
5               Insurer or National Agency or the interests of  
6               the National Insurer's policyholders or the pol-  
7               icyholders serviced by the National Agency; and

8               (B) such party is charged in any informa-  
9               tion, indictment, or complaint, of participation  
10              in—

11                   (i) a crime involving dishonesty or  
12                   breach of trust which is punishable by im-  
13                   prisonment for a term exceeding 1 year  
14                   under Federal or State law; or

15                   (ii) a criminal violation of section  
16                   1956, 1957, or 1960 of title 18, United  
17                   States Code, or section 5322 or 5324 of  
18                   title 31, United States Code.

19               (2) EFFECTIVE PERIOD.—A suspension or pro-  
20               hibition under paragraph (1) shall remain in effect  
21               until the information, indictment, or complaint re-  
22               ferred to in paragraph (1)(B) is resolved or other-  
23               wise terminated by the Commissioner.

24               (b) REMOVAL OR PROHIBITION.—

1           (1) IN GENERAL.—If a judgment of conviction  
2           or an agreement to enter a pretrial diversion or  
3           other similar program is entered against an insurer-  
4           affiliated party in connection with a crime described  
5           in subsection (a)(1)(B)(i), the Commissioner may  
6           issue and serve upon such party and the National  
7           Insurer or National Agency an order removing such  
8           party from office or prohibiting such party from fur-  
9           ther participation in any manner in the conduct of  
10          the affairs of the National Insurer or National  
11          Agency without the prior written consent of the  
12          Commissioner if—

13                 (A) such judgment is not subject to further  
14                 appellate review; and

15                 (B) continued service or participation by  
16                 such party may pose a threat to the National  
17                 Insurer or the interests of the policyholders of  
18                 the National Insurer or a National Agency or  
19                 the policyholders serviced by such Agency.

20          (2) REQUIRED FOR CERTAIN OFFENSES.—In  
21          the case of a judgment of conviction or agreement  
22          against an insurer-affiliated party in connection with  
23          a violation described in subsection (a)(1)(B)(ii), the  
24          Commissioner shall issue and serve upon such party  
25          and the National Insurer or National Agency an

1 order removing such party from office or prohibiting  
2 such party from further participation in any manner  
3 in the conduct of the affairs of the National Insurer  
4 or National Agency without the prior written con-  
5 sent of the Commissioner.

6 (3) EFFECT ON DIRECTOR OR OFFICER.—An  
7 insurer-affiliated party who is a director or officer  
8 and who is subject to an order under this subsection,  
9 shall cease to be a director or officer of a National  
10 Insurer or National Agency.

11 (4) EFFECT OF ACQUITTAL.—A finding of not  
12 guilty or other disposition of the charge shall not  
13 preclude the Commissioner from instituting pro-  
14 ceedings after such finding or disposition to remove  
15 such party from office or to prohibit further partici-  
16 pation in National Insurer or National Agency af-  
17 fairs under subsection (a) or (b) of section 145.

18 (5) EFFECTIVE PERIOD.—A notice of suspen-  
19 sion or order of removal issued under this subsection  
20 shall remain effective and outstanding until the com-  
21 pletion of any hearing or appeal under subsection (c)  
22 or unless the suspension or order of removal is oth-  
23 erwise terminated by the Commissioner.

24 (c) ADMINISTRATIVE HEARING.—

1           (1) REQUEST.—Not later than 30 days after  
2           the date on which a notice of suspension or order of  
3           removal is received by an insurer-affiliated party  
4           under this subsection, such party may submit a writ-  
5           ten request to the Commissioner for an opportunity  
6           to appear before the Commissioner to show that the  
7           continued service to, or participation in, the conduct  
8           of the affairs of the National Insurer or National  
9           Agency by such party will not pose a threat to the  
10          National Insurer or to the interests of its policy-  
11          holders or to a National Agency or the policyholders  
12          serviced by such Agency.

13          (2) TIME AND PLACE.—Upon receipt of a re-  
14          quest under paragraph (1), the Commissioner shall  
15          set a time and place at which the requesting party  
16          may appear, personally or through counsel, before 1  
17          or more designated employees of the Commissioner  
18          to submit written materials or, at the discretion of  
19          the Commissioner, oral testimony, and oral argu-  
20          ment. A hearing under this subsection shall take  
21          place not later than 30 days after the receipt of a  
22          request under paragraph (1), unless extended at the  
23          request of the party.

24          (3) NOTIFICATION OF DECISION.—Not later  
25          than 60 days after a hearing under this subsection,

1 the Commissioner shall provide written notification  
2 to the insurer-affiliated party that indicates—

3 (A) whether the suspension or prohibition  
4 from participation in any manner in the con-  
5 duct of the affairs of the National Insurer or  
6 National Agency will be continued, terminated,  
7 or otherwise modified;

8 (B) whether the order removing such party  
9 from office or prohibiting such party from fur-  
10 ther participation in any manner in the conduct  
11 of the affairs of the National Insurer or Na-  
12 tional Agency will be rescinded or otherwise  
13 modified; and

14 (C) the basis for any decision by the Com-  
15 missioner that is adverse to such party.

16 **SEC. 147. ANCILLARY PROVISIONS.**

17 (a) **POWERS RELATED TO HEARINGS.**—In the course  
18 of or in connection with any proceeding or other action  
19 under this subtitle, the Commissioner, and any person des-  
20 ignated to conduct any hearing under this section, may—

21 (1) administer oaths and affirmations;

22 (2) take depositions or cause depositions to be  
23 taken; and

24 (3) issue, revoke, quash, or modify subpoenas  
25 and subpoenas duces tecum.

1 (b) SUBPOENA POWER.—

2 (1) IN GENERAL.—The Commissioner, or des-  
3 ignee of the Commissioner, may require the attend-  
4 ance of witnesses and the production of documents  
5 provided for in this section from any place in any  
6 State or other place subject to the jurisdiction of the  
7 United States at any designated place where such  
8 proceeding or other action is being conducted.

9 (2) ENFORCEMENT.—The Commissioner or any  
10 party to proceedings under this section may apply  
11 for the enforcement of any subpoena or subpoena  
12 duces tecum issued under this section to—

13 (A) the United States District Court for  
14 the District of Columbia; or

15 (B) the United States district court for the  
16 judicial district in which—

17 (i) such proceeding or other action is  
18 being conducted; or

19 (ii) the witness resides or carries on  
20 business.

21 (3) JURISDICTION.—The courts described under  
22 paragraph (2) shall have jurisdiction and power to  
23 order and require compliance with any subpoena or  
24 subpoena duces tecum issued under this section.

1           (4) FEES AND MILEAGE.—Any witness subpoenaed under this subsection shall be paid the same  
2 fees and mileage that are paid witnesses in the district  
3 courts of the United States.  
4

5           (5) PENALTY FOR NONCOMPLIANCE.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce  
6 books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena  
7 of the Commissioner, shall be guilty of a misdemeanor and, upon conviction, shall be subject to  
8 a fine of not more than \$1,000 or to imprisonment for a term of not more than 1 year or both.  
9  
10  
11  
12  
13  
14

15       (c) EXPENSES AND ATTORNEY FEES.—

16           (1) IN GENERAL.—Any court having jurisdiction of any proceeding or other action instituted  
17 under this section by a National Insurer or National Agency, a federally licensed insurance producer, or  
18 an insurer-affiliated party may allow any such party to receive such reasonable expenses and attorneys'  
19 fees as it determines to be just and proper.  
20  
21  
22

23           (2) PAYMENT OF EXPENSES AND FEES.—Expenses and fees awarded under paragraph (1) shall  
24 be paid by the National Insurer or National Agency,  
25

1 the federally licensed insurance producer, or the in-  
2 surer-affiliated party from the assets of such in-  
3 surer, agency, producer, or party.

4 (d) RULEMAKING.—The Commissioner may promul-  
5 gate such regulations as may be necessary with respect  
6 to any proceedings, claims, examinations, investigations,  
7 or other actions authorized by this subtitle.

8 (e) EFFECT ON BOARD OF DIRECTORS.—

9 (1) LACK OF QUORUM.—If the suspension of 1  
10 or more directors under this subtitle reduces the  
11 board of directors of a National Insurer or National  
12 Agency below a quorum, all powers and functions  
13 vested in or exercisable by such board shall vest in,  
14 and be exercisable by, the director or directors on  
15 the board not so suspended, until a quorum is rees-  
16 tablished.

17 (2) TEMPORARY APPOINTMENTS.—If all of the  
18 directors of a National Insurer or National Agency  
19 are suspended under this subtitle, the Commissioner  
20 shall appoint persons to serve temporarily as direc-  
21 tors in their place until the earlier of the date on  
22 which—

23 (A) the suspensions are terminated; or

1 (B) the suspended directors are replaced  
2 on the board of directors of the National In-  
3 surer or National Agency.

4 (f) NOTICE AFTER SEPARATION FROM SERVICE.—  
5 The resignation, termination of employment or participa-  
6 tion, or separation of an insurer-affiliated party (including  
7 a separation caused by the closing of a National Insurer  
8 or National Agency) shall not affect the jurisdiction and  
9 authority of the Commissioner to issue any notice against  
10 any such party under this subtitle if such notice is served  
11 before the end of the 6-year period beginning on the date  
12 on which such party ceased to be an insurer-affiliated  
13 party with respect to such National Insurer or National  
14 Agency.

15 **SEC. 148. HEARINGS AND JUDICIAL REVIEW OF REMOVAL,**  
16 **SUSPENSION, OR PROHIBITION ORDER.**

17 (a) JUDICIAL HEARING.—

18 (1) IN GENERAL.—A hearing under this subtitle  
19 (except for a hearing under section 146(c))—

20 (A) shall be conducted in accordance with  
21 the provisions of chapter 5 of title 5, United  
22 States Code; and

23 (B) shall be held in the Federal judicial  
24 district in which the main office of the National  
25 Insurer or National Agency is located or in

1           which the federally licensed insurance producer  
2           or the insurer-affiliated party is located, unless  
3           the party afforded the hearing consents to an-  
4           other place.

5           (2) JUDGMENT.—After a hearing under this  
6           subsection and not later than 90 days after the  
7           Commissioner has notified the parties that the case  
8           has been submitted to the Commissioner for final  
9           decision, the Commissioner shall—

10                   (A) render a decision;

11                   (B) issue and serve upon each party to the  
12           proceeding an order or orders consistent with  
13           the provisions of this subtitle; and

14                   (C) include findings of fact upon which the  
15           Commissioner's decision is predicated.

16           (b) JUDICIAL REVIEW.—

17                   (1) IN GENERAL.—Judicial review of any order  
18           under this subtitle shall be limited to the provisions  
19           under this section.

20                   (2) MODIFICATION OR TERMINATION OF ORDER  
21           BY COMMISSIONER.—

22                   (A) BEFORE APPEAL.—Until a petition for  
23           review is timely filed in a court of appeals of  
24           the United States, in accordance with para-  
25           graph (3), the Commissioner may modify, ter-

1           minate, or set aside any order under this sec-  
2           tion.

3                   (B) AFTER APPEAL.—After an appeal de-  
4           scribed under subparagraph (A) is filed, the  
5           Commissioner may not modify, terminate, or  
6           set aside any order under this section without  
7           the permission of the court.

8           (3) FILING OF PETITION.—

9                   (A) IN GENERAL.—Except as provided  
10          under subparagraph (B), any party to a pro-  
11          ceeding under this section may obtain judicial  
12          review of any order served under subsection (a)  
13          by filing a written petition in a court of appeals  
14          described in subparagraph (C) not later than  
15          30 days after the date of service of such order,  
16          requesting that the order of the Commissioner  
17          be modified, terminated, or set aside.

18                   (B) EXCEPTION.—Judicial review shall not  
19          be available for an order issued under sub-  
20          section (d) with the consent of the National In-  
21          surer or National Agency, the federally licensed  
22          insurance producer, or the insurer-affiliated  
23          party.

24                   (C) JURISDICTION.—After a petition is  
25          filed under this paragraph, the following courts

1 shall have exclusive jurisdiction to modify, ter-  
2minate, or set aside, in whole or in part, the  
3order of the Commissioner:

4 (i) The court of appeals of the United  
5 States for the circuit in which—

6 (I) the main office of the Na-  
7 tional Insurer or National Agency is  
8 located; or

9 (II) the federally licensed insur-  
10 ance producer or the insurer-affiliated  
11 party is located.

12 (ii) The United States Court of Ap-  
13 peals for the District of Columbia.

14 (4) FILING OF RECORD.—The clerk of the court  
15 shall transmit a copy of the petition filed under  
16 paragraph (3) to the Commissioner, who shall file in  
17 the court the record in the proceeding, in accordance  
18 with section 2112 of title 28, United States Code.

19 (5) EFFECT OF REVIEW PROCEEDINGS.—The  
20 commencement of proceedings for judicial review  
21 under this subsection shall not, unless specifically  
22 ordered by the court, operate as a stay of any order  
23 issued by the Commissioner.

24 (6) FINAL JUDGMENT.—Judicial review under  
25 this section shall be subject to chapter 7 of title 5,

1 United States Code. The judgment and decree of the  
2 court shall be final, except that the same shall be  
3 subject to review by the Supreme Court upon certio-  
4 rari, as provided in section 1254 of title 28, United  
5 States Code.

6 (c) ENFORCEMENT OF COMMISSIONER ORDER.—

7 (1) APPLICATION.—The Commissioner may  
8 submit an application, to enforce any effective and  
9 outstanding notice or order issued under this sec-  
10 tion, to the United States district court for the judi-  
11 cial district in which—

12 (A) the main office of the National Insurer  
13 or National Agency is located;

14 (B) the federally licensed insurance pro-  
15 ducer is located; or

16 (C) the insurer-affiliated party is located.

17 (2) JURISDICTION.—The courts described in  
18 paragraph (1)—

19 (A) shall have jurisdiction and power to  
20 order and require compliance with an order of  
21 the Commissioner under this subtitle; and

22 (B) except as otherwise provided in this  
23 subtitle, shall not have jurisdiction to affect, by  
24 injunction or otherwise, the issuance or enforce-  
25 ment of any notice or order under this subtitle,

1 or to review, modify, suspend, terminate, or set  
2 aside any such notice or order.

3 **SEC. 149. CIVIL AND CRIMINAL PENALTIES.**

4 (a) CIVIL MONEY PENALTY.—

5 (1) FIRST TIER.—A National Insurer or Na-  
6 tional Agency, federally licensed insurance producer,  
7 or insurer-affiliated party shall pay a civil penalty of  
8 not more than \$5,000 for each day during which  
9 such entity—

10 (A) violates any law or regulation;

11 (B) violates any final order or temporary  
12 order issued pursuant to section 143, 144, 145,  
13 or 146;

14 (C) violates any condition imposed in writ-  
15 ing by the Commissioner in connection with the  
16 grant of any application or other request by  
17 such National Insurer or National Agency, pro-  
18 ducer or party; or

19 (D) violates any written agreement be-  
20 tween such National Insurer or National Agen-  
21 cy, producer, or party and the Commissioner.

22 (2) SECOND TIER.—Notwithstanding paragraph  
23 (1), a National Insurer, National Agency, federally  
24 licensed insurance producer, or insurer-affiliated

1 party shall pay a civil penalty of not more than  
2 \$25,000 for each day—

3 (A) during which such entity—

4 (i) commits any violation described in  
5 any clause of paragraph (1);

6 (ii) recklessly engages in any conduct  
7 that is hazardous to a National Insurer,  
8 State insurer, United States branch of a  
9 non-United States insurer, or National  
10 Agency and that involves an undue risk to  
11 the policyholders, as a whole, of such Na-  
12 tional Insurer, State insurer, or United  
13 States branch of a non-United States in-  
14 surer or the policyholders, as a whole, serv-  
15 iced by such National Agency; or

16 (iii) breaches any fiduciary duty; and

17 (B) for which such violation, conduct, or  
18 breach—

19 (i) is part of a pattern of misconduct;

20 (ii) causes or is likely to cause more  
21 than a minimal loss to such National In-  
22 surer, State insurer, or United States  
23 branch of a non-United States insurer; or

1 (iii) results in pecuniary gain or other  
2 benefit to such National Agency, producer  
3 or affiliated party.

4 (3) THIRD TIER.—Notwithstanding paragraphs  
5 (1) and (2), a National Insurer, National Agency,  
6 federally licensed insurance producer, or any in-  
7 surer-affiliated party shall pay a civil penalty in an  
8 amount not to exceed the applicable maximum  
9 amount determined under paragraph (4) for each  
10 day during which such entity—

11 (A) knowingly—

12 (i)(I) commits any violation described  
13 in any clause of paragraph (1); or

14 (II) engages in any conduct that is  
15 hazardous to a National Insurer, State in-  
16 surer, United States branch of a non-  
17 United States insurer, or National Agency  
18 and that involves an undue risk to the pol-  
19 icyholders, as a whole, of such National In-  
20 surer, State insurer, or United States  
21 branch of a non-United States insurer or  
22 the policyholders, as a whole, serviced by  
23 such National Agency; and

24 (ii) breaches any fiduciary duty; and

1 (B) knowingly or recklessly causes a sub-  
2 stantial loss to such National Insurer, State in-  
3 surer, United States branch of a non-United  
4 States insurer, or National Agency or a sub-  
5 stantial pecuniary gain or other benefit to such  
6 producer or affiliated party by reason of such  
7 violation, conduct, or breach.

8 (4) MAXIMUM AMOUNTS OF PENALTIES FOR  
9 ANY VIOLATION DESCRIBED IN PARAGRAPH (3).—  
10 The maximum daily amount of any civil penalty  
11 which may be assessed under paragraph (3) for any  
12 violation, practice, or breach described in such para-  
13 graph is \$1,000,000.

14 (5) ASSESSMENT.—

15 (A) WRITTEN NOTICE.—Any penalty im-  
16 posed under paragraph (1), (2), or (3) may be  
17 assessed and collected by the Commissioner by  
18 written notice, which shall contain a statement  
19 of the facts constituting the basis for the as-  
20 sessment of any penalty imposed under para-  
21 graph (1), (2), or (3).

22 (B) FINALITY OF ASSESSMENT.—If, with  
23 respect to any assessment under subparagraph  
24 (A), a hearing is not requested under para-  
25 graph (8) within the period of time allowed

1           under such paragraph, the assessment shall  
2           constitute a final and unappealable order.

3           (6) AUTHORITY TO MODIFY OR REMIT PEN-  
4           ALTY.—The Commissioner may compromise, modify,  
5           or remit any penalty which the Commissioner may  
6           assess or had already assessed under paragraph (1),  
7           (2), or (3).

8           (7) MITIGATING FACTORS.—In determining the  
9           amount of any penalty imposed under paragraph  
10          (1), (2), or (3), the Commissioner shall take into ac-  
11          count the appropriateness of the penalty in relation  
12          to—

13                   (A) the size of financial resources and good  
14                   faith of the National Insurer, National Agency,  
15                   or other person charged;

16                   (B) the gravity of the violation;

17                   (C) the history of previous violations; and

18                   (D) such other matters as justice may re-  
19                   quire.

20          (8) HEARING.—The National Insurer, National  
21          Agency, or other person against whom any penalty  
22          is assessed under this paragraph shall be afforded a  
23          hearing by the Commissioner if such National In-  
24          surer, National Agency, or person submits a request

1 for such hearing within 20 days after the issuance  
2 of the notice of assessment.

3 (9) COLLECTION.—

4 (A) REFERRAL.—If any National Insurer,  
5 National Agency, or other person fails to pay  
6 an assessment after any penalty assessed under  
7 this paragraph has become final, the Commis-  
8 sioner shall recover the amount assessed by ac-  
9 tion in the appropriate United States district  
10 court.

11 (B) APPROPRIATENESS OF PENALTY NOT  
12 REVIEWABLE.—In any civil action under sub-  
13 paragraph (A), the validity and appropriateness  
14 of the penalty shall not be subject to review.

15 (10) DISBURSEMENT AND USE.—All penalties  
16 collected under authority of this paragraph shall be  
17 deposited into the Treasury, and shall not be used  
18 to fund the compensation of the Commissioner or  
19 employees of the Office or the expenses of the Of-  
20 fice.

21 (b) PREJUDGMENT ATTACHMENT.—

22 (1) IN GENERAL.—In any action brought by the  
23 Commissioner under this section, or in actions  
24 brought in aid of, or to enforce an order in, any ad-  
25 ministrative or other civil action for money damages,

1 restitution, or civil money penalties brought by the  
2 Commissioner, the court may, upon application of  
3 the Commissioner, issue a restraining order that—

4 (A) prohibits any person subject to the  
5 proceeding from withdrawing, transferring, re-  
6 moving, dissipating, or disposing of any funds,  
7 assets, or other property; and

8 (B) appoints a temporary receiver to ad-  
9 minister the restraining order.

10 (2) STANDARD.—

11 (A) SHOWING.—Rule 65 of the Federal  
12 Rules of Civil Procedure shall apply with re-  
13 spect to any proceeding under paragraph (1),  
14 without regard to the requirement of such rule  
15 that the applicant show that the injury, loss, or  
16 damage is irreparable and immediate.

17 (B) STATE PROCEEDING.—If, in the case  
18 of any proceeding in a State court, the court  
19 determines that rules of civil procedure avail-  
20 able under the laws of such State provide sub-  
21 stantially similar protections to a party's right  
22 to due process as Rule 65, the relief sought  
23 under paragraph (1) may be requested under  
24 the laws of such State.

25 (c) CRIMINAL PENALTY.—

1 (1) IN GENERAL.—Chapter 21 of title 18,  
2 United States Code, is amended by adding at the  
3 end the following:

4 **“§ 404. Violation of order by Commissioner of Na-**  
5 **tional Insurance**

6 “Any person who, being subject to an order under  
7 section 145 or 146 of the National Insurance Act of 2006,  
8 without the prior written approval of the Commissioner  
9 of National Insurance, knowingly participates, directly or  
10 indirectly, in any manner (including by engaging in an ac-  
11 tivity specifically prohibited in such an order) in the con-  
12 duct of the affairs of any National Insurer or National  
13 Agency shall be fined not more than \$1,000,000, impris-  
14 oned for not more than 5 years, or both.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-  
16 tions at the beginning of chapter 21 of title 18,  
17 United States Code, is amended by adding at the  
18 end the following:

“Sec. 404. Violation of order by Commissioner of National Insurance.”.

19 **SEC. 150. PUBLIC DISCLOSURES OF FINAL ORDERS AND**  
20 **AGREEMENTS.**

21 (a) IN GENERAL.—Unless the Commissioner deter-  
22 mines that publication of any such agreement, statement,  
23 order, modification, or termination would be contrary to  
24 the public interest, the Commissioner shall, on a monthly  
25 basis, publish and make publicly available—

1           (1) any written agreement or other written  
2           statement for which a violation may be enforced by  
3           the Commissioner;

4           (2) any final order issued with respect to any  
5           administrative enforcement proceeding initiated by  
6           the Commissioner under this section or any other  
7           law; and

8           (3) any modification to or termination of any  
9           order or agreement made public pursuant to this  
10          paragraph.

11         (b) HEARINGS.—All hearings on the record with re-  
12         spect to any notice of charges issued by the Commissioner  
13         shall be open to the public, unless the Commissioner deter-  
14         mines that holding an open hearing would be contrary to  
15         the public interest.

16         (c) TRANSCRIPT OF HEARING.—A transcript con-  
17         taining all testimony and other documentary evidence shall  
18         be prepared for all hearings commenced pursuant to sec-  
19         tion 148. A transcript of public hearings shall be made  
20         available to the public pursuant to section 552 of title 5,  
21         United States Code.

22         (d) DOCUMENTS FILED UNDER SEAL.—

23                 (1) IN GENERAL.—The Commissioner may file  
24                 any document or part of a document under seal in  
25                 any administrative hearing commenced by the Com-

1       missioner if the Commissioner determines that dis-  
2       closure of all or part of the document would be con-  
3       trary to the public interest.

4               (2) WRITTEN REPORT.—A written report shall  
5       be made part of any determination to withhold any  
6       part of a document from the transcript of the hear-  
7       ing required under subsection (b).

8       (e) RETENTION OF DOCUMENTS.—The Commis-  
9       sioner shall maintain a record for not less than 6 years  
10      of—

11             (1) all the documents described in subsection  
12      (a); and

13             (2) all informal enforcement agreements and  
14      other supervisory actions and supporting documents  
15      issued in connection with any administrative enforce-  
16      ment proceeding initiated by the Commissioner.

17      (f) DISCLOSURES TO CONGRESS.—No provision of  
18      this section may be construed to authorize the with-  
19      holding, or to prohibit the disclosure, of any information  
20      to Congress.

21      **SEC. 151. FOREIGN INVESTIGATIONS.**

22             (a) REQUESTING ASSISTANCE FROM FOREIGN GOV-  
23      ERNMENTS.—In conducting any investigation, examina-  
24      tion, or enforcement action under this subtitle, the Com-

1 missioner may request the assistance of any foreign gov-  
2 ernment.

3 (b) PROVIDING ASSISTANCE TO FOREIGN GOVERN-  
4 MENTS.—

5 (1) IN GENERAL.—The Commissioner may as-  
6 sist any foreign government that is conducting an  
7 investigation to determine whether any person has  
8 violated, is violating, or is about to violate any law  
9 or regulation relating to insurance matters or cur-  
10 rency transactions administered or enforced by such  
11 foreign government.

12 (2) INVESTIGATION BY COMMISSIONER.—The  
13 Commissioner may investigate and collect informa-  
14 tion and evidence pertinent to a request for assist-  
15 ance under paragraph (1). Any such investigation  
16 shall comply with the laws of the United States and  
17 the policies and procedures of the Commissioner.

18 (3) FACTORS TO CONSIDER.—In deciding  
19 whether to provide assistance under this section, the  
20 Commissioner shall consider—

21 (A) whether the requesting authority has  
22 agreed to provide reciprocal assistance with re-  
23 spect to insurance matters within the jurisdic-  
24 tion of the Commissioner; and

1 (B) whether compliance with the request  
2 would prejudice the public interest of the  
3 United States.

4 (c) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
5 tion shall be construed to limit the authority of the Com-  
6 missioner or any other Federal agency to provide or re-  
7 ceive assistance or information to or from any foreign gov-  
8 ernmental authority with respect to any matter.

9 **SEC. 152. ACTION OR PROCEEDING AGAINST NON-UNITED**  
10 **STATES INSURERS.**

11 (a) **IN GENERAL.**—The Commissioner may not take  
12 any action under this subtitle against a non-United States  
13 insurer or any officer, director, employee, or agent of such  
14 insurer unless the Commissioner believes that conduct or  
15 practice of such insurer or individual has been, is, or is  
16 likely to be, carried on in connection with an act or prac-  
17 tice within 1 or more States, which constitutes an appro-  
18 priate basis for action by the Commissioner under this  
19 subtitle.

20 (b) **REMOVAL OF OFFICER OR DIRECTOR.**—If an of-  
21 ficer, director, or other person associated with a non-  
22 United States insurer fails to appear promptly as a party  
23 in any case in which an action or proceeding is brought,  
24 pursuant to an allegation under subsection (a), for the  
25 suspension or removal of such officer, director, or other

1 person, or fails to comply with any effective order or judg-  
2 ment therein, any failure by the non-United States insurer  
3 to secure the removal of the officer, director, or other per-  
4 son from any office such person holds in such insurer and  
5 from any further participation in its affairs shall con-  
6 stitute grounds for ordering the non-United States Insurer  
7 to terminate all sale, solicitation, negotiation, and under-  
8 writing of insurance and all other insurance operations in  
9 the United States.

10 (c) VENUE.—

11 (1) IN GENERAL.—Except as provided under  
12 paragraph (2), if the venue of any judicial or admin-  
13 istrative proceeding under this section is to be deter-  
14 mined by reference to the location of the main office  
15 of a National Insurer, the venue of such a pro-  
16 ceeding shall be within the judicial district or other  
17 relevant jurisdiction in which the non-United States  
18 insurer has 1 or more offices.

19 (2) MULTIPLE JURISDICTIONS.—If a National  
20 Insurer has offices in more than 1 jurisdiction, the  
21 venue of a proceeding under this section—

22 (A) shall be in the jurisdiction within  
23 which the office or offices involved in the pro-  
24 ceeding are located; and

1 (B) if there is more than 1 jurisdiction  
2 under subparagraph (A), shall be proper in any  
3 such jurisdiction in which the proceeding is  
4 brought or to which it may appropriately be  
5 transferred.

6 (d) SERVICE OF PROCESS.—

7 (1) IN GENERAL.—Any service required or au-  
8 thorized to be made on a non-United States insurer  
9 may be made on any office located within any State.

10 (2) EXCEPTION.—If any service of process  
11 under paragraph (1) is in connection with an action  
12 or proceeding involving 1 or more offices located in  
13 any State, service shall be made on at least 1 office  
14 so involved.

15 **SEC. 153. COOPERATION BETWEEN COMMISSIONER AND**  
16 **STATE COMMISSIONERS.**

17 (a) NOTICE TO STATE COMMISSIONERS.—The Com-  
18 missioner shall notify the State commissioner in each  
19 State in which a National Insurer or National Agency is  
20 doing business not later than 30 days after the date of  
21 taking any of the following actions:

22 (1) Revocation, suspension, or restriction of the  
23 National Insurer's or National Agency's authority to  
24 transact insurance.

1           (2) The entry of a formal order that the Na-  
2           tional Insurer restrict its premium writing, obtain  
3           additional contributions to surplus, reinsure all or  
4           any part of its business, or increase capital, surplus,  
5           or any other account for the security of policyowners  
6           or creditors.

7           (3) The placement of a National Insurer into  
8           receivership.

## 9           **Subtitle D—Insurance Fraud**

### 10       **SEC. 161. INVESTIGATION OF INSURANCE FRAUD.**

11       (a) INVESTIGATIVE AUTHORITY OF COMMIS-  
12       SIONER.—The Commissioner may investigate suspected  
13       fraudulent insurance acts by insurance persons engaged  
14       in the business of insurance or by other persons.

15       (b) FRAUD WARNING REQUIRED.—The Commis-  
16       sioner, by regulation, shall require each National Insurer  
17       to place a fraud warning on claim forms and applications  
18       for policies of insurance written, or to be written, by a  
19       National Insurer, regardless of the form of transmission.

20       (c) MANDATORY REPORTING OF FRAUDULENT IN-  
21       SURANCE ACTS.—A National Insurer, or an insurance  
22       person engaged in the business of insurance, that knows  
23       or reasonably believes that a fraudulent insurance act is  
24       being, will be, or has been committed, shall submit such

1 information to the Commissioner in a form and manner  
2 prescribed by the Commissioner.

3 (d) IMMUNITY FROM LIABILITY.—

4 (1) IN GENERAL.—Except as provided under  
5 paragraphs (2) and (3), any person who furnishes  
6 information concerning suspected, anticipated, or  
7 completed fraudulent insurance acts shall not be lia-  
8 ble to any person under any law or regulation of the  
9 United States, any constitution, law, or regulation of  
10 any State or political subdivision of any State, or  
11 under any contract or other legally enforceable  
12 agreement (including any arbitration agreement), for  
13 such act, if the information is provided to or re-  
14 ceived from—

15 (A) the Commissioner or any employee,  
16 agent, or representative of the Commissioner;

17 (B) Federal, State, or local enforcement or  
18 regulatory officials or their employees, agents,  
19 or representatives;

20 (C) a self-regulatory organization or its  
21 employees, agents, or representatives;

22 (D) a person involved in the prevention  
23 and detection of fraudulent insurance acts or  
24 that person's agents, employees, or representa-  
25 tives; or

1 (E) the NAIC or its employees, agents, or  
2 representatives.

3 (2) MALICE.—

4 (A) IN GENERAL.—Paragraph (1) shall not  
5 apply to false statements made with actual mal-  
6 ice.

7 (B) CONTENTS OF COMPLAINT.—In an ac-  
8 tion brought against a person for filing a report  
9 or furnishing other information concerning a  
10 fraudulent insurance act, the party bringing the  
11 action shall plead specifically any allegation  
12 that paragraph (1) does not apply because the  
13 person filed the report or furnished the infor-  
14 mation with actual malice.

15 (3) PRESERVATION OF PRIVILEGE AND IMMUNI-  
16 TIES.—This subsection does not abrogate or modify  
17 common law or statutory privileges or immunities  
18 enjoyed by a person described in paragraph (1).

19 **SEC. 162. PENALTIES.**

20 If a person committing an offense under subsection  
21 (a) or (c) of section 1037A of title 18, United States Code,  
22 is a National Insurer, a National Agency, or other feder-  
23 ally licensed insurance producer, or an insurer-affiliated  
24 party, the Commissioner may, in addition to the punish-  
25 ment set forth in such section 1037A—

1 (1) revoke, suspend, or restrict the Federal li-  
2 cense of such National Insurer, National Agency, or  
3 other federally licensed insurance producer, or in-  
4 surer-affiliated party pursuant to subtitle C; and

5 (2) order such National Insurer, National  
6 Agency, or other federally licensed insurance pro-  
7 ducer, or insurer-affiliated party to make restitution  
8 to persons aggrieved by such offenses.

9 **TITLE II—NATIONAL INSURANCE**  
10 **COMPANIES AND NATIONAL**  
11 **INSURANCE AGENCIES**

12 **Subtitle A—Organization,**  
13 **Licensing, and Operations**

14 **SEC. 201. ORGANIZATION, OPERATION, AND REGULATION**  
15 **OF NATIONAL INSURANCE COMPANIES AND**  
16 **NATIONAL INSURANCE AGENCIES.**

17 (a) AUTHORIZATION.—

18 (1) IN GENERAL.—The Commissioner may, in  
19 accordance with the provisions of this Act, and  
20 under regulations prescribed by the Commissioner  
21 pursuant to paragraph (2)—

22 (A) provide for the organization, incorpora-  
23 tion, operation, and regulation of National In-  
24 surance Companies and National Insurance  
25 Agencies; and

1 (B) issue charters therefore.

2 (2) RULEMAKING.—The Commissioner shall  
3 issue regulations that permit the organization of Na-  
4 tional Insurers in stock, mutual, reciprocal, or fra-  
5 ternal form, and address such other matters related  
6 to the chartering and licensing of National Insurers  
7 and National Agencies, as the Commissioner deter-  
8 mines appropriate.

9 (3) ORGANIZATION.—The Commissioner shall  
10 require National Agencies to be organized in stock  
11 form.

12 (b) CHARTERING CRITERIA.—

13 (1) FACTORS.—In determining whether to issue  
14 a charter for a National Insurer or National Agency,  
15 the Commissioner shall consider—

16 (A) the character and competency of the  
17 parties seeking the charter; and

18 (B) the financial resources and future  
19 prospects of the proposed National Insurer or  
20 proposed National Agency.

21 (2) INFORMATION.—The Commissioner shall re-  
22 quest such information from the applicant as the  
23 Commissioner determines necessary to make the  
24 evaluation required under paragraph (1).

25 (3) CORPORATE NAME.—

1           (A) NATIONAL INSURERS.—The corporate  
2           name of each National Insurer shall include at  
3           the end the words “National Insurer” or the  
4           initials “N.I.”.

5           (B) NATIONAL AGENCIES.—The corporate  
6           name of each National Agency shall include at  
7           the end the words “National Insurance Agency”  
8           or the initials “NIA”.

9           (C) SAVINGS PROVISION.—Nothing in this  
10          Act shall preclude a State insurer or State in-  
11          surance agency from using the word “national”  
12          or “Federal” in its corporate name if such word  
13          was included in the State insurer’s or agency’s  
14          corporate name on or before the date of enact-  
15          ment of this Act.

16       (c) ISSUANCE OR DENIAL OF CHARTER.—

17           (1) DETERMINATION.—Not later than 60 days  
18          after the receipt of the articles of incorporation or  
19          other organization document from a proposed Na-  
20          tional Insurer or National Agency, and such other  
21          information required under subsection (b)(2), the  
22          Commissioner shall—

23           (A) issue a charter certificate to the appli-  
24          cant; or

1 (B) provide the applicant with a written  
2 explanation of the grounds for denying a char-  
3 ter.

4 (2) FEDERAL PRODUCER LICENSE.—If the  
5 Commissioner issues a charter certificate to a Na-  
6 tional Agency, the Commissioner shall concurrently  
7 issue a Federal producer license to the applicant  
8 pursuant to section 301. A National Agency may not  
9 sell, solicit, or negotiate any line of insurance for  
10 which it does not hold a Federal producer license.

11 (3) GROUNDS FOR DENIAL.—The Commissioner  
12 shall not grant a charter to an applicant if—

13 (A) the applicant fails to—

14 (i) comply with all applicable forma-  
15 tion requirements; and

16 (ii) provide any information requested  
17 by the Commissioner under subsection  
18 (b)(2);

19 (B) the applicant lacks—

20 (i) the financial resources necessary to  
21 comply with the standards under this Act;

22 or

23 (ii) the character or competence to op-  
24 erate the National Insurer or National

1 Agency in accordance with the standards  
2 under this Act; or

3 (C) the Commissioner determines that the  
4 National Insurer or National Agency is being  
5 formed for an illegitimate purpose.

6 (d) AMENDMENT OF CHARTER.—The Commissioner  
7 may, under such regulations as the Commissioner may  
8 prescribe, provide for the amendment of charters issued  
9 to National Insurers and National Agencies.

10 (e) NO DELEGATION PERMITTED.—The Commis-  
11 sioner may not delegate to any insurance self-regulatory  
12 organization any authority conferred under this section  
13 with respect to—

14 (1) the organization, incorporation, and powers  
15 of National Insurers or National Agencies; or

16 (2) the issuance and amendment of charters to  
17 a National Insurer or National Agency.

18 (f) MAIN OFFICE.—

19 (1) DESIGNATION.—Subject to the approval of  
20 the Commissioner, a National Insurer or National  
21 Agency may designate any office at which it con-  
22 ducts insurance operations as its main office.

23 (2) CHARTER TO SPECIFY MAIN OFFICE.—A  
24 National Insurer or National Agency shall specify  
25 the State in which its main office is located.

1           (3) CHANGE IN MAIN OFFICE.—With the ap-  
2           proval of the Commissioner, a National Insurer or  
3           National Agency may change the designation of its  
4           main office, including to another existing office of  
5           the National Insurer or National Agency.

6           (4) CITIZENSHIP.—For purposes of jurisdiction,  
7           a National Insurer or National Agency shall be  
8           deemed a citizen of the State in which its main of-  
9           fice is located and of the State in which it has its  
10          principal place of business.

11 **SEC. 202. UNITED STATES BRANCHES OF NON-UNITED**  
12 **STATES INSURERS.**

13          (a) AUTHORIZATION OF NON-UNITED STATES IN-  
14          SURER.—A non-United States insurer may transact insur-  
15          ance in the United States through a United States branch  
16          by qualifying and licensing the United States branch to  
17          do business as a National Insurer under this Act, under  
18          such regulations as the Commissioner may prescribe.

19          (b) TRUST ACCOUNT.—

20                (1) IN GENERAL.—The Commissioner shall not  
21                license a United States branch until the non-United  
22                States insurer establishes a trust account, pursuant  
23                to a deed of trust that meets the requirements of  
24                this subsection.

1           (2) ASSETS.—The trusted assets of a United  
2 States branch shall be held pursuant to a deed of  
3 trust with a United States bank that meets such re-  
4 quirements as the Commissioner may prescribe, in  
5 trust for the exclusive benefit, security, and protec-  
6 tion of the policyholders, or policyholders and credi-  
7 tors, of the United States branch in the United  
8 States maintained as long as there is outstanding  
9 any liability of the United States branch arising out  
10 of its insurance transactions in the United States.

11           (3) SURPLUS.—The trusted surplus of a  
12 United States branch shall be subject to the same  
13 solvency standards required of National Insurers, in-  
14 cluding the risk-based capital standards described in  
15 section 211.

16           (4) FILING.—The Commissioner may require a  
17 United States branch to file a statement, in such  
18 form as the Commissioner may prescribe, that has  
19 been certified by the trustee.

20           (c) SUBJECT TO APPLICABLE LAWS.—Except as oth-  
21 erwise provided under this section, a United States branch  
22 established under this section—

23           (1) shall be subject to all laws applicable to a  
24 National Insurer; and

1           (2) shall be treated as a National Insurer for  
2           all purposes of this Act.

3 **SEC. 203. FEDERAL LICENSING OF NATIONAL INSURERS.**

4           (a) IN GENERAL.—A National Insurer may not sell,  
5           solicit, negotiate, or underwrite any line of insurance for  
6           which it does not hold a Federal license.

7           (b) ISSUANCE OF FEDERAL LICENSES.—

8           (1) IN GENERAL.—The Commissioner may,  
9           under such regulations as the Commissioner may  
10          prescribe, issue Federal licenses that—

11                 (A) permit National Insurers to sell, so-  
12                 licit, negotiate, and underwrite lines of insur-  
13                 ance; and

14                 (B) specify the lines of insurance that each  
15                 National Insurer may sell, solicit, negotiate,  
16                 and underwrite.

17          (2) RULEMAKING.—The regulations prescribed  
18          by the Commissioner pursuant to paragraph (1)  
19          shall provide that—

20                 (A) a National Insurer may hold a license  
21                 to sell, solicit, negotiate, and underwrite prop-  
22                 erty/casualty insurance;

23                 (B) a National Insurer that holds a license  
24                 to sell, solicit, negotiate, and underwrite life in-  
25                 surance may also sell, solicit, negotiate, and un-

1           derwrite disability income insurance, long-term  
2           care insurance, annuities, and funding agree-  
3           ments; and

4           (C) no National Insurer may obtain—

5                 (i) a Federal license to engage in the  
6                 sale, solicitation, negotiation, and under-  
7                 writing of property/casualty insurance; and

8                 (ii) a Federal license to engage in the  
9                 sale, solicitation, negotiation, and under-  
10                writing of life insurance, annuities, or  
11                funding agreements.

12           (3) AUTHORITY TO LIMIT SCOPE OF INSUR-  
13           ANCE.—Subject to paragraph (2), the regulations  
14           prescribed by the Commissioner pursuant to para-  
15           graph (1) may provide that a National Insurer that  
16           holds a license to sell, solicit, negotiate, and under-  
17           write specified lines of insurance may not hold a li-  
18           cense to sell, solicit, negotiate, and underwrite other  
19           specified lines of insurance.

20           (4) DURATION.—A Federal license issued by  
21           the Commissioner pursuant to this subsection shall  
22           remain in effect until the license is—

23                 (A) surrendered by the National Insurer;

24                 or

1 (B) revoked or suspended by the Commis-  
2 sioner in accordance with the provisions of this  
3 Act.

4 (c) REINSURANCE.—A National Insurer may—

5 (1) only reinsure the lines of insurance that the  
6 National Insurer is—

7 (A) licensed to sell, solicit, negotiate, and  
8 underwrite under its Federal license; or

9 (B) otherwise permitted to reinsure by the  
10 terms of its Federal license; and

11 (2) confine its business to reinsurance.

12 (d) NONDISCRIMINATION.—

13 (1) IN GENERAL.—Except as provided in para-  
14 graph (2) and section 202, the Commissioner may  
15 not impose any condition for the granting of a Fed-  
16 eral license to a National Insurer under this section  
17 solely because the National Insurer is—

18 (A) a subsidiary of a non-United States  
19 person;

20 (B) partially owned by a non-United States  
21 person; or

22 (C) a United States branch of a non-  
23 United States insurer.

24 (2) EXCEPTION.—Notwithstanding paragraph  
25 (1), the Commissioner may impose conditions for the

1 granting of a Federal license that are different from  
2 those imposed on other National Insurers—

3 (A) if the conditions attached are imposed  
4 on the legal form in which the National Insurer  
5 chooses to operate; or

6 (B) if the Commissioner makes a written  
7 finding that the conditions are related to the  
8 protection of policyholders and are the min-  
9 imum conditions necessary to achieve the pur-  
10 poses of this Act.

11 **SEC. 204. CORPORATE GOVERNANCE.**

12 (a) COMPLIANCE WITH THIS ACT AND APPLICABLE  
13 REGULATIONS.—The corporate governance procedures of  
14 a National Insurer and a National Agency shall be con-  
15 sistent with the provisions of this Act and all regulations  
16 issued by the Commissioner under this Act.

17 (b) ADHERENCE TO STATE LAW.—

18 (1) IN GENERAL.—Except as provided under  
19 paragraph (3), each National Insurer and National  
20 Agency shall adhere to corporate governance proce-  
21 dures of the relevant State law of the State in which  
22 its main office is located or the State in which 1 of  
23 its United States holding companies is organized or  
24 incorporated.

1           (2) DESIGNATION.—Each National Insurer and  
2           National Agency shall designate in its bylaws the  
3           body of relevant State law selected for its corporate  
4           governance procedures.

5           (3) DISCRIMINATORY PROVISION.—If the Com-  
6           missioner determines that any provision of a State  
7           corporate governance law is discriminatory as ap-  
8           plied to National Insurers or National Agencies,  
9           such Insurer or Agency—

10                   (A) shall not be obligated to follow such a  
11                   provision of the relevant State law; and

12                   (B) may follow such other provision of law  
13                   as the Commissioner determines to be appro-  
14                   priate.

15           (c) INDEPENDENT AUDIT COMMITTEE FOR NA-  
16           TIONAL INSURERS.—

17           (1) ESTABLISHMENT.—Each National Insurer  
18           shall establish an audit committee of its board of di-  
19           rectors, which shall be composed entirely of outside  
20           directors who are independent of management of the  
21           National Insurer.

22           (2) SATISFACTION.—The requirement described  
23           in paragraph (1) will be satisfied if—

24                   (A) any person that controls the National  
25                   Insurer has established an audit committee of

1 its board of directors entirely composed of out-  
2 side directors who are independent of manage-  
3 ment of such controlling person; and

4 (B) the role of the audit committee of the  
5 controlling person in subparagraph (A) includes  
6 review of financial statements of the National  
7 Insurer.

8 **SEC. 205. CONVERSION OF STATE INSURER TO NATIONAL**  
9 **INSURER OR STATE INSURANCE AGENCY TO**  
10 **NATIONAL AGENCY.**

11 (a) AUTHORIZATION TO CONVERT.—

12 (1) IN GENERAL.—Notwithstanding any other  
13 provision of law and subject to the approval of the  
14 Commissioner, a State insurer may convert to a Na-  
15 tional Insurer and a State insurance agency may  
16 convert to a National Agency.

17 (2) ORGANIZATIONAL FORM.—A State insurer  
18 that converts to a National Insurer under paragraph  
19 (1) may—

20 (A) retain an organizational form per-  
21 mitted under section 201(a)(2); or

22 (B) change directly to another organiza-  
23 tional form that is permitted under section  
24 201(a)(2).

25 (b) CONVERSION PROCEDURES.—

1           (1) IN GENERAL.—The Commissioner may,  
2           under such regulations as the Commissioner may  
3           prescribe, provide for—

4                   (A) the conversion of State insurers into  
5           National Insurers;

6                   (B) the conversion of State insurance  
7           agencies to National Agencies; and

8                   (C) the issuance of charters to such con-  
9           verted insurers and agencies.

10          (2) RULEMAKING.—The regulations issued by  
11          the Commissioner under this section shall be con-  
12          sistent with—

13                   (A) the regulations issued by the Commis-  
14          sioner under section 201; and

15                   (B) the provisions of section 242 or 243,  
16          in the case of a change of form effected at the  
17          time of a conversion of a State insurer into a  
18          National Insurer.

19          (c) EFFECT OF CONVERSION.—

20           (1) IN GENERAL.—Except as provided under  
21          paragraph (2), a State insurer or State insurance  
22          agency that converts under this section—

23                   (A) shall be subject to the provisions of  
24          this Act and to examination and regulation as  
25          provided under this Act to the same extent as

1 other National Insurers and National Agencies  
2 organized under this Act;

3 (B) shall be deemed to be a continuation  
4 of the corporate existence of the State insurer  
5 or State insurance agency, as applicable; and

6 (C) shall, by operation of law and without  
7 further action, hold and be subject to all rights,  
8 privileges, liabilities, property interests, and  
9 other interests and obligations that the State  
10 insurer or State insurance agency held, or was  
11 subject to, immediately before the conversion.

12 (2) EXCEPTIONS.—Notwithstanding paragraph  
13 (1), a State insurer or State insurance agency that  
14 converts under this section—

15 (A) shall not be subject to any requirement  
16 to maintain deposits with State insurance regu-  
17 latory authorities;

18 (B) shall not hold any State license to sell,  
19 solicit, negotiate, and underwrite insurance that  
20 was held by the State insurer or State insur-  
21 ance agency; and

22 (C) shall obtain, in accordance with section  
23 203 or 301, as applicable, a Federal license for  
24 all lines of insurance that it sells, solicits, nego-  
25 tiates, or underwrites.

1           (d) SPECIAL AUTHORITY.—The Commissioner may,  
2 subject to such conditions as the Commissioner may pre-  
3 scribe by regulation, permit a National Insurer or Na-  
4 tional Agency resulting from the conversion of a State in-  
5 surer or State insurance agency, as applicable, to retain,  
6 hold, or exercise assets, liabilities, powers, and authorities  
7 that do not conform to the legal requirements otherwise  
8 applicable to National Insurers or National Agencies to  
9 the extent the Commissioner determines is appropriate.

10          (e) MUTUAL HOLDING COMPANY CONTROLLING  
11 STATE INSURERS IN STOCK FORM.—

12           (1) IN GENERAL.—If a State insurer converting  
13 under this section is an insurer in stock form that  
14 is controlled by a mutual holding company as a re-  
15 sult of a previous conversion under State law from  
16 an insurer in mutual form to an insurer in stock  
17 form, and, after the conversion under this section,  
18 the mutual holding company would not control any  
19 other State insurers having policies in force that give  
20 rise to membership in the mutual holding company,  
21 then, notwithstanding any other provision of law, in  
22 accordance with this section and regulations issued  
23 by the Commissioner—

24           (A) upon the conversion under this section,  
25           the mutual holding company may remain a cor-

1           poration organized under the law of the State  
2           under which it was incorporated or may merge  
3           into a mutual holding company incorporated  
4           under the law of another State; and

5                   (B) upon and after the conversion under  
6           this section, the mutual holding company—

7                           (i) shall, to the extent provided in reg-  
8                           ulations issued by the Commissioner, be  
9                           subject to—

10                                   (I) title V; and

11                                   (II) examination, reporting, regu-  
12                                   lation, and other supervision under  
13                                   this Act; and

14                                   (ii) shall not be subject to any form of  
15                                   licensing, examination, reporting, regula-  
16                                   tion, or other supervision by reason of  
17                                   being a mutual holding company or relat-  
18                                   ing to the rights of members, the sale, so-  
19                                   licitation, negotiation, or underwriting of  
20                                   insurance (including all products of Na-  
21                                   tional Insurers) or any other insurance op-  
22                                   erations except as authorized under Fed-  
23                                   eral law and except as provided in section  
24                                   125(b), as if the mutual holding company  
25                                   were a National Insurer under this Act.

1           (2) CONVERSION TO A CORPORATION IN STOCK  
2 FORM.—Notwithstanding any other provision of law  
3 and in accordance with this subsection and regula-  
4 tions issued by the Commissioner, a mutual holding  
5 company described in paragraph (1) may convert to  
6 a corporation in stock form in a manner that—

7           (A) is found by the Commissioner to be  
8 fair and equitable to the mutual holding com-  
9 pany and its members; and

10           (B) is generally similar to conversion of an  
11 insurer in mutual form to a National Insurer in  
12 stock form pursuant to section 243.

13       (f) NO DELEGATION PERMITTED.—The Commis-  
14 sioner may not delegate any authority under this section  
15 involving the conversion of a State insurer into a National  
16 Insurer or a State insurance agency into a National Agen-  
17 cy to any insurance self-regulatory organization.

18 **SEC. 206. CONVERSION OF NATIONAL INSURER TO STATE**  
19 **INSURER OR NATIONAL AGENCY TO STATE**  
20 **AGENCY.**

21       (a) IN GENERAL.—Subject to such notification proce-  
22 dures as the Commissioner may prescribe by regulation,  
23 a National Insurer may convert into a State insurer and  
24 a National Agency may convert into a State insurance  
25 agency, in accordance with applicable State law.

1 (b) SAVINGS PROVISION.—Nothing in this section or  
2 in the conversion of a National Insurer into a State in-  
3 surer or a National Agency into a State insurance Agency  
4 shall operate to abrogate any rights, privileges, liabilities,  
5 property interests, or other interests or obligations that  
6 a National Insurer or National Agency held or was subject  
7 to immediately before the conversion.

8 **SEC. 207. POWERS.**

9 (a) IN GENERAL.—Upon issuance of its charter, a  
10 National Insurer or National Agency shall have the power,  
11 subject to such regulations as the Commissioner may pre-  
12 scribe, to—

13 (1) have, alter, use, and reproduce a corporate  
14 seal, or a facsimile of it;

15 (2) have perpetual succession until such time as  
16 it is liquidated, dissolved, merged, or otherwise  
17 wound up in accordance with applicable law;

18 (3) adopt, amend, and repeal by-laws;

19 (4) sue or be sued, complain and defend, and  
20 otherwise litigate in any court and participate, as a  
21 party or otherwise, in any judicial, administrative,  
22 arbitral, or other proceeding, in its corporate name;

23 (5) make contracts and guarantees, incur liabil-  
24 ities, borrow money, issue notes, bonds, and other  
25 obligations (which may be convertible into or include

1 the option to purchase other securities of the Na-  
2 tional Insurer or National Agency), and secure any  
3 of its obligations by mortgage or pledge of any of its  
4 property, franchises, or income;

5 (6) purchase, receive, subscribe for, or other-  
6 wise acquire, own, hold, vote, improve, employ, use,  
7 and otherwise deal in and with real and personal  
8 property or other assets, or any interest therein, and  
9 sell, convey, mortgage, lease, exchange, transfer, or  
10 otherwise dispose of, or mortgage or pledge, all or  
11 any of its property and assets, or any interest there-  
12 in;

13 (7) lend money, invest, and reinvest its funds  
14 and receive and hold real and personal property as  
15 security for repayment;

16 (8) participate with others in any corporation,  
17 partnership, limited partnership, joint venture, or  
18 other association, or in any transaction, under-  
19 taking, or arrangement, which the National Insurer  
20 or National Agency would have power to conduct by  
21 itself, whether or not such participation involves  
22 sharing or delegating control with or to others;

23 (9) elect or appoint directors, officers, employ-  
24 ees, and agents of the National Insurer or National

1 Agency, define their duties, fix their compensation,  
2 and lend them money and credit;

3 (10) pay pensions and establish pension plans,  
4 pension trusts, profit-sharing plans, share bonus  
5 plans, share option plans, and other benefit or incen-  
6 tive plans for any or all current or former directors,  
7 officers, employees, and agents of the National In-  
8 surer or National Agency, its subsidiaries or its af-  
9 filiates;

10 (11) provide insurance for its benefit on the life  
11 of any of its directors, officers, or employees, or on  
12 the life of any shareholder for the purpose of acquir-  
13 ing at such shareholder's death shares of its stock  
14 owned by such shareholder;

15 (12) in the case of a National Life Insurer—

16 (A) establish and maintain 1 or more sepa-  
17 rate accounts and allocate amounts to such ac-  
18 counts (including any proceeds applied under  
19 optional modes of settlement or under dividend  
20 options);

21 (B) provide life insurance, annuities, dis-  
22 ability income insurance, long-term care insur-  
23 ance, or funding agreements (and incidental  
24 benefits), payable in fixed or variable amounts

1 from the accounts described in subparagraph  
2 (A) or from the general account;

3 (C) hold and accumulate funds pursuant to  
4 funding agreements; and

5 (D) provide investment advice and invest-  
6 ment management services;

7 (13) in the case of a National Insurer—

8 (A) engage in the sale, solicitation, nego-  
9 tiation, and underwriting of insurance;

10 (B) establish and maintain 1 or more pro-  
11 tected cells in connection with an insurance  
12 securitization and attribute to such cells insur-  
13 ance and reinsurance obligations with respect to  
14 its general account, obligations relating to the  
15 insurance securitization and assets to fund such  
16 obligations; and

17 (C) engage in all other insurance oper-  
18 ations and exercise all such incidental powers as  
19 shall be necessary to carry on insurance oper-  
20 ations;

21 (14) in the case of a National Agency, engage  
22 in the sale, solicitation, and negotiation of policies of  
23 insurance issued by any National Insurer, State in-  
24 surer, or United States branch of a non-United  
25 States insurer, and exercise all such incidental pow-

1       ers as shall be necessary to carry out such activities,  
2       including claims adjustment and settlement, risk  
3       management, employee benefits advice, and retire-  
4       ment planning;

5           (15) provide benefits or payments to its direc-  
6       tors, officers, and employees, subsidiaries or affili-  
7       ates, and to their estates, families, dependents, or  
8       beneficiaries, in recognition of the past services of  
9       the directors, officers, and employees to the National  
10      Insurer or National Agency or its subsidiaries or af-  
11      filiates;

12          (16) make donations and otherwise devote its  
13      resources for the public welfare or for charitable, sci-  
14      entific, educational, humanitarian, philanthropic, or  
15      religious purposes;

16          (17) serve as a promoter, partner, member, as-  
17      sociate, or manager of any business entity;

18          (18) provide loss control, advice, exposure iden-  
19      tification, and reduction strategies, and recommend  
20      and expedite risk financing alternatives;

21          (19) engage in any other lawful activity that is  
22      necessary or convenient to further its activities and  
23      affairs; and

24          (20) exercise the powers granted by this Act in  
25      any State and in any foreign jurisdiction.

1 (b) EFFECT ON STATE LAW.—No State may, by stat-  
2 ute, regulation, order, interpretation, or other action, pre-  
3 vent or restrict a National Insurer or National Agency  
4 from exercising any power conferred by this section or by  
5 any regulation authorized by this section.

6 (c) SUBSIDIARIES.—

7 (1) NATIONAL INSURERS.—

8 (A) AUTHORIZATION.—

9 (i) IN GENERAL.—A National Insurer  
10 may establish, invest in, or otherwise ac-  
11 quire 1 or more subsidiaries engaged or or-  
12 ganized to engage in any business lawful  
13 under the laws of the jurisdictions in which  
14 the subsidiaries are organized.

15 (ii) RESTRICTION.—Without the prior  
16 written approval of the Commissioner, not  
17 more than 20 percent of the National In-  
18 surer's assets may be invested in any 1  
19 subsidiary described in clause (i) and not  
20 more than 40 percent of a National Insur-  
21 er's assets may be invested in 2 or more  
22 subsidiaries engaged in such other activi-  
23 ties.

24 (B) CALCULATION.—In calculating the  
25 amount invested by a National Insurer in a

1 subsidiary under subparagraph (A), there shall  
2 be included only the following:

3 (i) Total net monies or other consider-  
4 ation expended and obligations assumed by  
5 the National Insurer in the acquisition or  
6 formation of the subsidiary, including all  
7 organizational expenses and contributions  
8 to capital and surplus of the subsidiary  
9 whether or not represented by the pur-  
10 chase of capital stock or issuance of other  
11 securities.

12 (ii) All amounts expended by the Na-  
13 tional Insurer in acquiring additional com-  
14 mon stock, preferred stock, debt obliga-  
15 tions, and other securities of the sub-  
16 sidiary.

17 (iii) All contributions by the National  
18 Insurer to the capital or surplus of the  
19 subsidiary subsequent to its acquisition or  
20 formation.

21 (C) QUALIFICATION OF INVESTMENT;  
22 WHEN DETERMINED.—Whether any investment  
23 made pursuant to subparagraph (A) meets the  
24 applicable requirements of such subparagraph  
25 shall be determined before the investment is

1           made by calculating the applicable investment  
2           limitations as though the investment had al-  
3           ready been made, taking into account the then  
4           outstanding principal balance on all previous in-  
5           vestments in debt obligations, and the value of  
6           all previous investments in equity securities as  
7           of the day they were made, net of any return  
8           of capital invested, not including dividends.

9           (D) EXCEPTION.—The limitations provided  
10          for in subparagraph (A) shall not apply to in-  
11          vestments by a National Insurer in—

12                 (i) any subsidiary engaged primarily  
13                 in the sale, solicitation, negotiation, and  
14                 underwriting of any line of insurance that  
15                 the National Insurer is authorized to sell,  
16                 solicit, negotiate, and underwrite; or

17                 (ii) any subsidiary whose sole business  
18                 function is to own assets (including other  
19                 subsidiaries) that the National Insurer  
20                 itself is authorized to own.

21          (E) NOTICE.—A National Insurer shall no-  
22          tify the Commissioner, in writing, not later  
23          than 20 calendar days after establishing, invest-  
24          ing in, or acquiring a subsidiary, unless the

1 transaction requires the prior written approval  
2 of the Commissioner under subparagraph (A).

3 (2) NATIONAL AGENCIES.—

4 (A) AUTHORIZATION.—A National Agency  
5 may establish, invest in, or otherwise acquire 1  
6 or more subsidiaries engaged or organized to  
7 engage in any business activity that is lawful  
8 for a National Agency under this Act.

9 (B) NOTICE.—A National Agency shall no-  
10 tify the Commissioner, in writing, not later  
11 than 30 calendar days after establishing, invest-  
12 ing in, or acquiring a subsidiary.

13 (d) DIVIDENDS AND DISTRIBUTIONS TO SHARE-  
14 HOLDERS.—

15 (1) SHAREHOLDER DIVIDENDS AND DISTRIBUTIONS PERMITTED.—A National Insurer may de-  
16 clare and pay dividends or make other distributions  
17 in cash, bonds, or property on its outstanding  
18 shares, unless—

20 (A) the National Insurer is insolvent or  
21 would be made insolvent by such payment; or

22 (B) the declaration, payment, or distribu-  
23 tion would be contrary to any restrictions con-  
24 tained in the charter of the National Insurer.

1           (2) SOURCE OF SHAREHOLDER DIVIDENDS AND  
2           DISTRIBUTIONS.—A National Insurer may only de-  
3           clare and pay dividends or make other distributions  
4           out of surplus if the assets of the National Insurer  
5           after such declaration, payment, or distribution is  
6           not less than the amount of its capital.

7           (3) OTHER PROVISIONS.—Shareholder divi-  
8           dends and distributions made pursuant to this sub-  
9           section shall be subject to—

10                   (A) the standards set forth in section  
11                   403(a)(1)(E); and

12                   (B) the notice requirements of section  
13                   403(b).

14 **SEC. 208. SEPARATE ACCOUNTS OF NATIONAL LIFE IN-**  
15 **SURER.**

16           (a) OWNERSHIP.—Any amount allocated by a Na-  
17           tional Life Insurer to a separate account shall be owned  
18           and controlled by the National Life Insurer and no Na-  
19           tional Life Insurer by reason of such account shall be or  
20           hold itself out to be a trustee.

21           (b) LIABILITIES.—Assets allocated by a National  
22           Life Insurer to a separate account shall not be chargeable  
23           with liabilities arising out of any other business of the Na-  
24           tional Life Insurer to the extent so provided in the applica-  
25           ble agreements.

1 (c) SECURITY INTERESTS PERMITTED.—A National  
2 Life Insurer may allow for a security interest to attach  
3 to assets allocated to a separate account if the security  
4 interest is in favor of a creditor of the separate account  
5 and otherwise allowed under applicable law.

6 **SEC. 209. PROTECTED CELLS.**

7 (a) ESTABLISHMENT.—A National Insurer may es-  
8 tablish 1 or more protected cells with the approval of the  
9 Commissioner.

10 (b) PROTECTED CELL ASSETS.—

11 (1) OWNERSHIP.—All amounts attributed to a  
12 protected cell established under this section, includ-  
13 ing assets transferred to a protected cell account,  
14 shall be owned by the National Insurer.

15 (2) TRUSTEE.—The National Insurer may not  
16 be, nor hold itself out to be, a trustee with respect  
17 to the protected cell assets of the protected cell ac-  
18 count described in paragraph (1).

19 (3) LIABILITIES.—The assets of a protected cell  
20 established under this section shall not be chargeable  
21 with liabilities arising out of any other business of  
22 the National Insurer.

23 (c) SECURITY INTERESTS PERMITTED.—A National  
24 Insurer may allow for a security interest to attach to pro-  
25 tected cell assets or a protected cell account if the security

1 interest is in favor of a creditor of the protected cell and  
2 otherwise allowed under applicable law.

3 (d) REACH OF CREDITORS AND OTHER CLAIM-  
4 ANTS.—

5 (1) AVAILABILITY.—Protected cell assets shall  
6 only be available to the creditors of a National In-  
7 surer that are creditors in respect to that protected  
8 cell.

9 (2) RECOURSE.—Creditors with respect to a  
10 protected cell shall have no recourse against the pro-  
11 tected cell assets of other protected cells or the gen-  
12 eral account assets of the National Insurer.

13 (3) FRAUD.—The establishment of a protected  
14 cell shall not, in and of itself, constitute a fraudulent  
15 conveyance, an intent by a National Insurer to de-  
16 fraud creditors, or the carrying out of business by  
17 a National Insurer for any other fraudulent purpose.

18 (e) RULEMAKING.—The Commissioner shall promul-  
19 gate regulations that establish standards for protected  
20 cells established by National Insurers.

21 (f) EFFECT ON STATE LAW.—No State may, by stat-  
22 ute, regulation, order, interpretation, or otherwise, require  
23 licensing or otherwise regulate in any manner—

1 (1) an investor in an insurance securitization,  
2 solely by reason of its investment, as an insurer, re-  
3 insurer, or other person transacting insurance; or

4 (2) an underwriter or selling agent (or its part-  
5 ners, directors, officers, members, managers, em-  
6 ployees, agents, representatives, or advisors) in an  
7 insurance securitization as an insurance or reinsur-  
8 ance agent, broker, producer, intermediary, advisor,  
9 consultant, or similar insurance professional by vir-  
10 tue of its activities in connection with the insurance  
11 securitization.

12 **SEC. 210. CHARTERING AND LICENSING COMMENCEMENT**

13 **DATE.**

14 (a) NATIONAL INSURER.—The Commissioner may  
15 charter or license a National Insurer when the following  
16 regulations have been published in interim final form:

17 (1) The fee and assessment regulations author-  
18 ized by section 122.

19 (2) The reporting regulations authorized by sec-  
20 tion 124.

21 (3) The organizational regulations authorized  
22 by section 201.

23 (4) The licensing regulations authorized by sec-  
24 tion 203.

1           (5) The charter conversion regulations author-  
2 ized by section 205.

3           (6) The transitional financial regulations au-  
4 thORIZED by section 211.

5           (7) The product regulations authorized by sec-  
6 tion 213.

7           (8) The market conduct regulations authorized  
8 by section 215.

9           (9) The control regulations authorized by sec-  
10 tion 231.

11          (10) The merger, consolidation, and acquisition  
12 regulations authorized by section 232.

13          (11) The bulk transfer regulations authorized  
14 by section 233.

15          (12) The conversion regulations authorized by  
16 sections 242 and 243.

17          (13) The holding company regulations author-  
18 ized by sections 402 and 403.

19          (14) The receivership regulations authorized by  
20 section 554.

21          (15) The insolvency protection regulations au-  
22 thORIZED by section 609.

23          (b) NATIONAL AGENCIES.—The Commissioner may  
24 charter or license a National Agency when the following  
25 regulations have been published in interim final form:

1           (1) The fee and assessment regulations author-  
2           ized by section 122.

3           (2) The reporting regulations authorized by sec-  
4           tion 124.

5           (3) The organizational regulations authorized  
6           by section 201.

7           (4) The charter conversion regulations author-  
8           ized by section 1205.

9           (5) The market conduct regulations authorized  
10          by section 215.

11          (6) The control regulations authorized by sec-  
12          tion 231.

13          (7) The merger, consolidation, and acquisition  
14          regulations authorized by section 232.

15          (8) The producer licensing regulations author-  
16          ized by section 301.

17          (9) The holding company regulations authorized  
18          by sections 402 and 403.

19          (c) TIMING AND NOTICE.—

20           (1) TIMING.—The regulations described in sub-  
21           sections (a) and (b) shall be published in interim  
22           final form not later than 2 years after the initial ap-  
23           pointment and confirmation of the Commissioner.

24           (2) NOTICE.—At such time as the regulations  
25           described in subsections (a) or (b) have been issued

1 in interim final form, the Commissioner shall publish  
2 a notice in the Federal Register announcing that the  
3 Office is prepared to act on chartering and licensing  
4 applications.

5 (3) CONSIDERING AND ACTING UPON APPLICA-  
6 TIONS.—Notwithstanding any challenge to the regu-  
7 lations described in subsections (a) and (b), the  
8 Commissioner shall have the authority to consider,  
9 and act upon, chartering and licensing applications  
10 immediately upon publication of the notice described  
11 in paragraph (2).

## 12 **Subtitle B—Financial, Product, and** 13 **Market Regulation**

### 14 **SEC. 211. TRANSITIONAL FINANCIAL REGULATIONS.**

15 (a) PROMULGATION OF INITIAL FINANCIAL REGULA-  
16 TIONS THAT ARE CONSISTENT WITH NAIC STANDARDS  
17 AND MODELS.—The Commissioner shall establish, by reg-  
18 ulation, the following:

19 (1) Accounting principles for a National In-  
20 surer, which are consistent with the statutory ac-  
21 counting practices promulgated by the NAIC in its  
22 “Accounting Practices and Procedures Manual”.

23 (2) Auditing standards for a National Insurer,  
24 which are consistent with the guidance prescribed by

1 the NAIC in its “Model Regulation Requiring An-  
2 nual Audited Financial Reports”.

3 (3) Investment standards for a National In-  
4 surer, which are consistent with the NAIC’s “Invest-  
5 ment of Insurers Model Act (Defined Standards  
6 Version)”.

7 (4) Risk-based capital standards for a National  
8 Insurer, which are consistent with NAIC’s “Risk-  
9 Based Capital (RBC) for Insurers Model Act” and  
10 the related “RBC Instructions”.

11 (5) Valuation standards for the obligations and  
12 liabilities of a National Life Insurer, which are con-  
13 sistent with the NAIC’s “Standard Valuation Law,  
14 Valuation of Life Insurance Policies Regulation,  
15 Universal Life Insurance Model Regulation, and  
16 Variable Life Insurance Model Regulation”.

17 (6) Continuing and alternative (nonforfeiture)  
18 benefits standards applicable to National Life Insur-  
19 ers, which are consistent with the NAIC’s “Standard  
20 Nonforfeiture Law for Life Insurance, Variable Life  
21 Insurance Model Regulation, Standard Nonforfeiture  
22 Law for Individual Deferred Annuities, Long-Term  
23 Care Insurance Model Act, and Long-Term Care In-  
24 surance Model Regulation”.

1           (7) Standards for the preparation and filing of  
2           an annual actuarial opinion on the adequacy of a  
3           National Life Insurer’s assets to meet its reasonably  
4           expected obligations and liabilities, which are con-  
5           sistent with the NAIC’s “Actuarial Opinion and  
6           Memorandum Regulation”.

7           (8) Standards for the preparation and filing of  
8           an annual actuarial opinion on the loss and loss ad-  
9           justment expense reserves of a National Property/  
10          Casualty Insurer, which are consistent with the  
11          NAIC’s “Property and Casualty Actuarial Opinion  
12          Model Law” and applicable “NAIC Property and  
13          Casualty Annual Statement Instructions”.

14          (b) NAIC STANDARDS AND MODELS.—The NAIC  
15          standards and models cited in subsection (a) shall be the  
16          standards and models adopted by the NAIC as of the date  
17          of introduction of the National Insurance Act of 2006 as  
18          a bill in Congress.

19          (c) EFFECTIVE DATE AND FIVE-YEAR TRANSI-  
20          TIONAL PERIOD FOR INITIAL FINANCIAL REGULA-  
21          TIONS.—The financial regulations specified in subsection  
22          (a) shall be issued in final form no later than 2 years fol-  
23          lowing the initial appointment and confirmation of the  
24          Commissioner, and each regulation shall remain in effect

1 for 5 years following the date upon which it becomes effec-  
2 tive.

3 (d) NAIC AMENDMENTS.—If, after the date of intro-  
4 duction of the National Insurance Act of 2006 as a bill  
5 in Congress, the NAIC amends any standard or model  
6 upon which the initial financial regulations are based, the  
7 Commissioner shall determine, by regulation, whether  
8 such amendment shall apply to a National Insurer. If the  
9 Commissioner determines that an NAIC amendment to a  
10 standard or model should apply to a National Insurer, the  
11 Commissioner may specify, by regulation, whether the  
12 amendment applies in whole or in part.

13 (e) REVISIONS OR MODIFICATIONS TO INITIAL REGU-  
14 LATIONS BY COMMISSIONER.—

15 (1) IN GENERAL.—Subject to paragraph (2),  
16 after an initial financial regulation specified in sub-  
17 section (a) has been in effect for 5 years, the Com-  
18 missioner may, by regulation, revise or modify the  
19 regulation.

20 (2) SPECIAL CIRCUMSTANCE.—The Commis-  
21 sioner may, by regulation, revise or modify an initial  
22 financial regulation at any time if the Commissioner  
23 determines that any such revision or modification is  
24 necessary to protect policyholders or prevent haz-  
25 ardous conduct by a National Insurer.

1 **SEC. 212. OTHER FINANCIAL REGULATIONS.**

2 In addition to the financial regulations specified in  
3 section 211, the Commissioner may issue other financial  
4 regulations as the Commissioner determines necessary.

5 **SEC. 213. PRODUCT REGULATION FOR NATIONAL LIFE IN-**  
6 **SURERS.**

7 (a) **APPLICABILITY.**—This section shall apply to the  
8 insurance business of National Life Insurers.

9 (b) **UNDERWRITING STANDARDS.**—A National In-  
10 surer may classify or underwrite risks if any decision to  
11 refuse to insure, to continue to insure, to limit the amount,  
12 extent, or kind of coverage, or to charge a different rate  
13 for the same coverage is—

14 (1) based on sound actuarial principles; or

15 (2) related to actual or reasonably anticipated  
16 experience.

17 (c) **LAW APPLICABLE TO INSURANCE POLICIES OR**  
18 **OTHER PRODUCTS OF NATIONAL INSURERS.**—

19 (1) **LAW SPECIFIED BY PARTIES.**—Subject to  
20 any applicable Federal law, the provisions of any in-  
21 surance policy or other product of a National In-  
22 surer shall be interpreted in accordance with the law  
23 of the jurisdiction specified by the parties to the in-  
24 surance policy or other product if the parties have  
25 specified the law of—

1 (A) the jurisdiction in which the main of-  
2 fice of the National Insurer is located;

3 (B) the jurisdiction in which the principal  
4 place of business of the National Insurer is lo-  
5 cated; or

6 (C) the jurisdiction in which the insurance  
7 policy or other product is delivered.

8 (2) DEFAULT LAW.—If the parties to an insur-  
9 ance policy or other product of a National Insurer  
10 have not specified the jurisdiction whose law shall  
11 govern the provisions of the insurance policy or  
12 other product, such provisions shall be interpreted in  
13 accordance with the law of the jurisdiction in which  
14 the insurance policy or other product is delivered.

15 (3) RULEMAKING.—The Commissioner shall es-  
16 tablish, by regulation, choice of law rules and stand-  
17 ards under this subsection.

18 (d) STANDARDS FOR POLICIES.—

19 (1) POLICY.—In this subsection, the term “pol-  
20 icy”—

21 (A) means—

22 (i) a policy, contract, certificate, or  
23 other evidence of life insurance, disability  
24 income insurance, or long-term care insur-  
25 ance; or

1 (ii) an annuity contract or a rider or  
2 endorsement to such contract; and

3 (B) does not include—

4 (i) a funding agreement;

5 (ii) a reinsurance contract; or

6 (iii) an agreement, special rider, or  
7 endorsement relating only to the manner of  
8 distributing benefits or to the reservation  
9 of rights and benefits used at the request  
10 of the individual policyholder.

11 (2) RULEMAKING.—The Commissioner shall es-  
12 tablish, by regulation, standards for policies issued  
13 by a National Insurer.

14 (3) TYPES OF POLICY REQUIREMENTS.—The  
15 standards established under paragraph (1) may in-  
16 clude general policy requirements and requirements  
17 regarding particular classes of policies.

18 (e) PRODUCT FILINGS.—

19 (1) FORM APPROVAL.—A National Insurer shall  
20 not issue a policy until the form of the policy has  
21 been received by the Commissioner.

22 (2) EXEMPTIONS.—The Commissioner may, by  
23 regulation, exempt particular categories of policies  
24 from the filing requirement.

1           (3) COMPLIANCE CERTIFICATE.—In accordance  
2 with regulations promulgated by the Commissioner,  
3 any filing of a policy form shall be accompanied by  
4 written certification by an officer of the National In-  
5 surer that the policy form complies with the stand-  
6 ards applicable to such form.

7 (f) INTERPRETIVE RULINGS.—

8           (1) PROCEDURES.—The Commissioner shall es-  
9 tablish procedures by which National Insurers may  
10 obtain interpretive rulings from the Office regarding  
11 the interpretation and application of the standards  
12 established under this section.

13           (2) PUBLIC AVAILABILITY.—Except as provided  
14 under paragraph (3), requests by National Insurers  
15 for interpretive rulings from the Office and the com-  
16 plete text of such interpretive rulings shall not be  
17 made available to the public.

18           (3) PUBLICATION OF SUMMARIES.—Notwith-  
19 standing paragraph (2), the Commissioner shall pub-  
20 lish a summary of each interpretive opinion, exclud-  
21 ing the name of the National Insurer and any other  
22 identifying information, either promptly after the  
23 issuance of such opinion or, upon the request of the  
24 National Insurer, after such delay as the Commis-  
25 sioner determines appropriate.

1 (g) GROUP, BLANKET, AND FRANCHISE INSUR-  
2 ANCE.—

3 (1) AUTHORIZATION.—A National Insurer  
4 may—

5 (A) sell, solicit, negotiate, and underwrite  
6 group, blanket, and franchise insurance policies;  
7 and

8 (B) extend group, blanket, or franchise in-  
9 surance policies to insure the dependents of em-  
10 ployees or members, or any class of employees  
11 or members.

12 (2) RULEMAKING.—The Commissioner shall, by  
13 regulation, establish standards for kinds and quali-  
14 fications of permissible groups for group, blanket,  
15 and franchise insurance policies.

16 (h) INSURABLE INTEREST.—The Commissioner shall  
17 define, by regulation, the term “insurable interest.”

18 (i) CRITERIA UNDER WHICH NEW LIFE INSURANCE  
19 MAY EXCEED THE INSURANCE BEING REPLACED.—Any  
20 new life insurance may exceed the insurance being re-  
21 placed—

22 (1) if a business entity or a trust entity has an  
23 insurable interest and the authority to purchase life  
24 insurance;

1           (2) to the extent the application of the cash  
2           surrender value of the insurance being replaced as a  
3           premium under the new life insurance policy re-  
4           quires a larger amount of insurance—

5                   (A) to qualify as life insurance; or

6                   (B) to not be treated as a modified endow-  
7           ment contract for Federal income tax purposes;

8           (3) to otherwise comply with applicable Federal  
9           law; and

10           (4) if, upon cessation of premium payments, a  
11           former employee or trustee elects under the insur-  
12           ance policy to use the cash value available under the  
13           insurance policy to restructure the term, face  
14           amount, or investment options under the insurance  
15           policy.

16           (j) EFFECT OF STATE LAW.—No State may impose  
17           any standard, relating to any matter addressed in this sec-  
18           tion, on National Insurers or persons who purchase insur-  
19           ance from National Insurers.

20           **SEC. 214. PRODUCT REGULATION FOR NATIONAL PROP-**  
21   **ERTY/CASUALTY INSURERS.**

22           (a) APPLICATION.—This section shall apply to the  
23           business of National Property/Casualty Insurers.

1 (b) MAINTENANCE OF COPIES OF POLICIES.—A Na-  
2 tional Insurer shall maintain for inspection a copy of every  
3 insurance policy form that it uses to insure risks.

4 (c) ANNUAL POLICY FORM LISTING.—A National In-  
5 surer shall annually provide the Commissioner with a list  
6 of all standard policy forms it uses to insure risks.

7 (d) RATES, RATING ELEMENTS, PRICE, AND  
8 FORMS.—The Act does not authorize the Commissioner  
9 to require a National Insurer to use any particular rate,  
10 rating element, price, or form.

11 **SEC. 215. REGULATION OF SALES AND MARKETING.**

12 (a) PURPOSE.—The purpose of this section is to en-  
13 sure appropriate Federal regulation of the sales and mar-  
14 keting practices of National Insurers, National Agencies,  
15 and federally licensed insurance producers to prevent un-  
16 fair methods of competition and unfair and deceptive acts  
17 and practices in the advertising, sale, issuance, distribu-  
18 tion, and administration of insurance policies and other  
19 products of National Insurers and claims under insurance  
20 policies and other products of National Insurers.

21 (b) RULEMAKING.—The Commissioner shall promul-  
22 gate such regulations, applicable to National Insurers, Na-  
23 tional Agencies, and federally licensed insurance pro-  
24 ducers, as the Commissioner determines to be necessary  
25 to carry out the purpose of this section, including rules

1 governing the advertising, sale, issuance, distribution, and  
2 administration of insurance policies and other products of  
3 National Insurers and claims under insurance policies and  
4 other products of National Insurers.

## 5 **Subtitle C—Reinsurance**

### 6 **SEC. 221. FEDERAL LICENSING OF REINSURERS.**

#### 7 (a) **AUTHORITY TO LICENSE.—**

8 (1) **IN GENERAL.—**The Commissioner may—

9 (A) license insurers that are not National  
10 Insurers to provide reinsurance; and

11 (B) prescribe, by regulation, the standards  
12 and procedures for granting such licenses.

13 (2) **CRITERIA.—**The standards prescribed under  
14 paragraph (1)(B) shall give due consideration to—

15 (A) the public interest in providing secure  
16 and sufficient reinsurance capacity in the  
17 United States; and

18 (B) the need for promoting fair and effec-  
19 tive competition.

#### 20 (b) **DETERMINATION AND FINDING; ISSUANCE OF LI-** 21 **CENSE.—**

22 (1) **EXAMINATION AND INVESTIGATION.—**Upon  
23 the receipt of an application for a license under this  
24 section, the Commissioner shall examine the infor-  
25 mation submitted by the applicant and may conduct

1 further examinations and investigations, as nec-  
2 essary, to determine whether the applicant satisfies  
3 the standards for a license under this section.

4 (2) PUBLICATION OF FINDINGS.—The Commis-  
5 sioner shall publish the Commissioner's findings and  
6 determination under paragraph (1).

7 (3) ISSUANCE OF FEDERAL LICENSE.—

8 (A) IN GENERAL.—Except as provided in  
9 subparagraph (B), if the Commissioner deter-  
10 mines that the applicant has satisfied the appli-  
11 cable requirements of this section, the Commis-  
12 sioner shall issue a Federal license to provide  
13 reinsurance.

14 (B) RESTRICTION.—The Commissioner  
15 shall not issue a Federal license for reinsurance  
16 until after the Commissioner is authorized to  
17 charter and license a National Insurer pursuant  
18 to section 210.

19 (c) MINIMUM STANDARDS FOR LICENSING OF NON-  
20 UNITED STATES INSURERS.—The Commissioner shall not  
21 issue a license under this section to any insurer that is  
22 not a State insurer or a United States branch of a non-  
23 United States insurer unless the insurer agrees to—

24 (1) subject its financial statements to the Com-  
25 missioner for review and audit on a basis that the

1 Commissioner determines to be substantially similar  
2 to that required of National Insurers under section  
3 124;

4 (2) submit to the jurisdiction of Federal, State,  
5 and local courts in the United States, which shall  
6 not constitute a waiver of the insurer's right to re-  
7 move an action to a United States Federal Court or  
8 to seek a transfer of a case to another court as per-  
9 mitted by the laws of the United States or of any  
10 State; and

11 (3) demonstrate that all judgments of all  
12 United States courts would be enforceable and col-  
13 lectible by—

14 (A) being organized or incorporated in a  
15 jurisdiction—

16 (i) with which the United States has  
17 entered into a treaty on the recognition  
18 and enforcement of judgments rendered by  
19 Federal, State, and local courts in the  
20 United States; or

21 (ii) which is a signatory to the United  
22 Nations Convention on the Recognition  
23 and Enforcement of Foreign Arbitral  
24 Awards, and agreeing to include in the re-  
25 insurance contract a clause that is satisfac-

1 tory to the Commissioner requiring that all  
2 disputes arising out of the interpretation of  
3 the reinsurance contract be submitted to  
4 arbitration; or

5 (B) agreeing to post prejudgment security  
6 in the United States upon the commencement  
7 of any litigation or arbitration in the United  
8 States, subject to such regulations as the Com-  
9 missioner may prescribe.

10 (d) REVOCATION OF LICENSE.—

11 (1) IN GENERAL.—The Commissioner may re-  
12 voke, suspend, or restrict a Federal reinsurer's li-  
13 cense in accordance with subtitle C of title I.

14 (2) STATUS OF FEDERALLY LICENSED REIN-  
15 SURER.—For purposes of this subsection, a federally  
16 licensed reinsurer shall be deemed to be a National  
17 Insurer under subtitle C of title I.

18 (e) ANNUAL REPORTS.—The Commissioner shall re-  
19 quire each reinsurer licensed under this section to submit  
20 an annual report of its financial condition.

21 **SEC. 222. CREDIT FOR REINSURANCE.**

22 (a) CREDIT FOR REINSURANCE CEDED TO A NA-  
23 TIONAL INSURER OR A FEDERALLY LICENSED REIN-  
24 SURER.—A National Insurer may establish an asset or re-  
25 duce its liabilities, to the extent of such liabilities, for rein-

1 surance ceded to another National Insurer or a federally  
2 licensed reinsurer.

3 (b) OTHER ASSET OR REDUCTION FROM LIABILITY  
4 FOR REINSURANCE CEDED.—A National Insurer may es-  
5 tablish an asset or reduce its liabilities, to the extent of  
6 such liabilities, for reinsurance—

7 (1) that is ceded to—

8 (A) a State insurer;

9 (B) a United States branch entered  
10 through a State; or

11 (C) a non-United States insurer; and

12 (2) if such reinsurance is secured consistent  
13 with the regulation issued by the Commissioner pur-  
14 suant to subsection (c).

15 (c) REGULATION.—The Commissioner shall establish,  
16 by regulation, security standards governing the ceding of  
17 insurance by a National Insurer to any of the entities list-  
18 ed in subsection (b)(1) in order to protect the policy-  
19 holders of a National Insurer, which standards shall not  
20 be applied in a discriminatory manner with respect to any  
21 such entity.

22 (d) ANNUAL REPORTS.—As a condition of the asset  
23 or reduction of liabilities treatment, the Commissioner  
24 may require any entity listed in subsection (b)(1) to sub-  
25 mit an annual report on the condition of any trust fund

1 required as security under this section in such form as  
2 may be prescribed by the Commissioner.

3 **SEC. 223. RELATIONSHIP TO STATE LAW.**

4 No State may prevent a State insurer from—

5 (1) ceding insurance to a National Insurer or a  
6 federally licensed reinsurer; or

7 (2) establishing an asset or reducing its liabil-  
8 ities as a result of such reinsurance to the same ex-  
9 tent as the State would allow such insurer if the in-  
10 surance were ceded to another State insurer.

11 **Subtitle D—Acquisitions of Con-**  
12 **trol; Mergers; Bulk Transfers;**  
13 **Domestication**

14 **SEC. 231. ACQUISITION OF CONTROL OF NATIONAL INSUR-**  
15 **ERS AND NATIONAL AGENCIES.**

16 (a) DEFINITIONS.—For purposes of this section—

17 (1) the terms “National Insurer” and “Na-  
18 tional Agency” include any person controlling a Na-  
19 tional Insurer or National Agency; and

20 (2) the term “person” does not include any se-  
21 curities broker holding, in the usual and customary  
22 broker’s function, less than 20 percent of the voting  
23 securities of a National Insurer or National Agency  
24 or of any person which controls a National Insurer  
25 or National Agency.

1 (b) COMMISSIONER APPROVAL REQUIRED.—

2 (1) IN GENERAL.—No person other than the  
3 issuer shall make a tender offer for, make a request  
4 or invitation for tenders of, or enter into any agree-  
5 ment to exchange securities for, or acquire, in the  
6 open market or otherwise, any voting security of a  
7 National Insurer or National Agency if, after the  
8 consummation of such transaction, such person  
9 would, directly or indirectly (or by conversion or by  
10 exercise of any right to acquire) be in control of the  
11 National Insurer or National Agency. No person  
12 shall enter into an agreement to merge with or oth-  
13 erwise acquire control of a National Insurer or Na-  
14 tional Agency or any person controlling a National  
15 Insurer or National Agency unless, at the time the  
16 offer, request, or invitation is made or the agree-  
17 ment is entered into, or before the acquisition of the  
18 securities if no offer or agreement is involved—

19 (A) such person has filed with the Com-  
20 missioner and has sent to the National Insurer  
21 or National Agency, a statement that complies  
22 with the regulations prescribed under para-  
23 graph (3); and

1 (B) the offer, request, invitation, agree-  
2 ment, or acquisition has been approved by the  
3 Commissioner.

4 (2) SAVINGS PROVISION.—Nothing in this sub-  
5 section shall be construed to prohibit a person from  
6 making an offer, request, or invitation or entering  
7 into an agreement to acquire control of a National  
8 Insurer or National Agency, if such transaction is  
9 conditioned upon obtaining the approval of the Com-  
10 missioner in accordance with paragraph (1).

11 (3) FORM AND CONTENT OF STATEMENT.—The  
12 Commissioner shall, by regulation, prescribe the  
13 form and content of the statement to be filed under  
14 paragraph (1)(A).

15 (4) APPROVAL BY COMMISSIONER.—The Com-  
16 missioner shall approve any merger or other acquisi-  
17 tion of control referred to in this subsection unless  
18 the Commissioner finds that—

19 (A) after the acquisition of control, the  
20 National Insurer or National Agency would not  
21 be able to satisfy the requirements for the  
22 issuance of a Federal license to write the line  
23 or lines of insurance for which the National In-  
24 surer or National Agency was previously li-  
25 censed;

1 (B) the financial condition of any acquir-  
2 ing person may jeopardize the financial stability  
3 of the National Insurer or National Agency or  
4 be hazardous to the policyholders of the Na-  
5 tional Insurer;

6 (C) the plans or proposals of the acquiring  
7 person to liquidate the National Insurer or Na-  
8 tional Agency, sell its assets, consolidate or  
9 merge it with any person, or make any other  
10 material change in its business or corporate  
11 structure or management, are unfair and un-  
12 reasonable to policyholders of the National In-  
13 surer and not in the public interest;

14 (D) those persons who would control the  
15 operation of the National Insurer or National  
16 Agency lack the competence, experience, or in-  
17 tegrity required to protect the interests of pol-  
18 icyholders of the National Insurer or National  
19 Agency; or

20 (E) the acquisition is likely to be haz-  
21 ardous to the insurance-buying public.

22 (c) HEARING.—

23 (1) IN GENERAL.—The Commissioner may, in  
24 his sole discretion, hold a hearing on a merger or  
25 other acquisition of control that is subject to this

1 section and for which a statement has been filed  
2 under subsection (b)(1)(A).

3 (2) PROCEDURES.—A hearing under this sub-  
4 section shall be subject to the procedures under sec-  
5 tion 148, except that the Commissioner may deter-  
6 mine the location of such hearing.

7 (d) EXEMPTIONS.—The provisions of this section  
8 shall not apply to—

9 (1) any offer, request, invitation, agreement, or  
10 acquisition exempted by the Commissioner for not  
11 having been made or entered into for the purpose,  
12 and not having the effect, of changing or influencing  
13 the control of a National Insurer or National Agen-  
14 cy, or as otherwise not comprehended within the  
15 purposes of this section; or

16 (2) a merger, consolidation, or acquisition sub-  
17 ject to section 232.

18 (e) VOTING OF SECURITIES.—

19 (1) PROHIBITION.—No security which is the  
20 subject of any agreement or arrangement regarding  
21 acquisition, or which is acquired or to be acquired,  
22 in contravention of the provisions of this section may  
23 be voted at any shareholder's meeting, or may be  
24 counted for quorum purposes.

1           (2) EFFECT ON SHARES.—Any action of share-  
2 holders requiring the affirmative vote of a percent-  
3 age of shares may be taken as though the securities  
4 described under paragraph (1) were not issued and  
5 outstanding.

6           (3) INVALIDATION OF ACTION.—No action  
7 taken at any meeting described under paragraph (1)  
8 shall be invalidated by the voting of the securities,  
9 unless—

10                   (A) the action would affect control of the  
11 National Insurer or National Agency; or

12                   (B) such invalidation is ordered by a court.

13           (4) ACQUISITION IN CONTRAVENTION OF THIS  
14 ACT.—If a National Insurer or the Commissioner  
15 has reason to believe that any security of the Na-  
16 tional Insurer or National Agency has been or is  
17 about to be acquired in contravention of the provi-  
18 sions of this section, the National Insurer or Na-  
19 tional Agency or the Commissioner may apply to the  
20 United States district court for the judicial district  
21 in which the main office of the National Insurer or  
22 National Agency is located or the United States Dis-  
23 trict Court for the District of Columbia—

1 (A) to enjoin any offer, request, invitation,  
2 agreement, or acquisition made in contravention  
3 of this section;

4 (B) to enjoin the voting of any security so  
5 acquired;

6 (C) to void any vote of the security already  
7 cast at any meeting of shareholders; and

8 (D) for such other equitable relief as the  
9 nature of the case and the interest of the Na-  
10 tional Insurer's policyholders, the creditors and  
11 shareholders of the National Insurer or Na-  
12 tional Agency or the public may require.

13 (f) SEQUESTRATION OF VOTING SECURITIES.—

14 (1) IN GENERAL.—If a person has acquired or  
15 is proposing to acquire any voting securities in viola-  
16 tion of this section, the National Insurer ,National  
17 Agency or the Commissioner may request the United  
18 States district court for the judicial district in which  
19 the main office of the National Insurer is located or  
20 the United States District Court for the District of  
21 Columbia to—

22 (A) seize or sequester any voting securities  
23 of the National Insurer or National Agency  
24 owned directly or indirectly by the person; and

1 (B) issue such order as may be appropriate  
2 to carry out the provisions of this section.

3 (2) SITUS OF OWNERSHIP.—Notwithstanding  
4 any other provision of law, for the purposes of this  
5 section, the situs of ownership of the securities of  
6 National Insurers and National Agencies shall be  
7 deemed to be the State in which the main office of  
8 the National Insurer or National Agency is located.

9 (g) CONFLICT WITH OTHER FEDERAL LAWS.—This  
10 section shall be interpreted and applied so as not to con-  
11 flict with or supersede the provisions of any other Federal  
12 law or regulation governing the regulation of holding com-  
13 panies, including financial holding companies (as defined  
14 in section 2(p) of the Bank Holding Company Act of 1956  
15 (12 U.S.C. 1841(p)).

16 (h) NO DELEGATION PERMITTED.—The Commis-  
17 sioner may not delegate to any insurance self-regulatory  
18 organization any authority conferred under this section  
19 with respect to any merger or other acquisition of control  
20 of a National Insurer.

21 **SEC. 232. MERGERS, CONSOLIDATIONS, AND ACQUISITIONS**  
22 **OF NATIONAL INSURERS.**

23 (a) NATIONAL INSURER AS RESULTING INSURER.—

24 (1) IN GENERAL.—Except as provided under  
25 subsection (e), a National Insurer may, with the ap-

1       proval of the Commissioner, merge, consolidate with,  
2       acquire all or substantially all the assets of, or as-  
3       sume all or substantially all the liabilities of, another  
4       National Insurer or a State insurer in a transaction  
5       in which a National Insurer is the resulting insurer,  
6       the acquiring insurer, or the assuming insurer, re-  
7       gardless of whether the insurers involved in the  
8       transaction are in stock form, mutual form, or fra-  
9       ternal form.

10           (2) MERGER, CONSOLIDATION, AND ACQUI-  
11       TION PROCEDURES.—The Commissioner shall estab-  
12       lish, by regulation, procedures for—

13           (A) the merger or consolidation of a Na-  
14       tional Insurer with another National Insurer or  
15       a State insurer in a transaction in which a Na-  
16       tional Insurer is the resulting insurer; and

17           (B) the acquisition or assumption by a Na-  
18       tional Insurer of all or substantially all the as-  
19       sets or liabilities of another National Insurer or  
20       a State insurer in a transaction in which the  
21       National Insurer is the acquiring insurer or as-  
22       suming insurer.

23           (3) EFFECT OF MERGER OR CONSOLIDATION.—  
24       Upon the merger or consolidation of a National In-

1 surer with another National Insurer or a State in-  
2 surer under this section—

3 (A) the corporate existence of each of the  
4 merging or consolidating insurers shall be  
5 merged or consolidated into the resulting in-  
6 surer, and the resulting insurer shall be deemed  
7 to be the same corporation as each insurer par-  
8 ticipating in the merger or consolidation;

9 (B) except as provided under subpara-  
10 graph (D), the resulting insurer shall hold and  
11 be subject to all rights, privileges, liabilities,  
12 property interests, and other interests and obli-  
13 gations that each insurer participating in the  
14 merger or consolidation held or was subject to  
15 immediately prior to the merger or consolida-  
16 tion;

17 (C) the resulting insurer shall obtain, in  
18 accordance with section 203, a Federal license  
19 for all lines of insurance that it sells, solicits,  
20 negotiates, or underwrites, except for those  
21 lines of insurance for which a National Insurer  
22 participating in the merger or consolidation  
23 held a Federal license immediately before the  
24 merger or consolidation; and

1 (D) the resulting insurer shall not hold any  
2 State license to sell, solicit, negotiate, or under-  
3 write insurance that was held by a State in-  
4 surer participating in the merger or consolida-  
5 tion.

6 (4) SPECIAL AUTHORITY.—The Commissioner  
7 may, subject to such conditions as the Commissioner  
8 may prescribe, permit a National Insurer resulting  
9 from a merger or consolidation under this section to  
10 retain, hold, or exercise such assets, liabilities, pow-  
11 ers, and authorities that do not conform to the legal  
12 requirements applicable to National Insurers as the  
13 Commissioner determines appropriate.

14 (b) STATE INSURER AS RESULTING INSURER.—

15 (1) IN GENERAL.—Subject to applicable State  
16 law and such notification procedures as the Commis-  
17 sioner may prescribe by regulation, a State insurer  
18 may merge with, consolidate with, acquire assets of,  
19 or assume liabilities of, a National Insurer in a  
20 transaction in which a State insurer is the resulting  
21 insurer.

22 (2) SAVINGS PROVISION.—Nothing in this sub-  
23 section or in a transaction under this subsection  
24 shall abrogate any rights, privileges, liabilities, prop-  
25 erty interests, or other interests or obligations that

1 the National Insurer held or was subject to imme-  
2 diately before the transaction.

3 (c) EFFECT OF ASSUMPTION OF LIABILITIES.—If the  
4 liabilities of a National Insurer are assumed by another  
5 National Insurer or a State insurer in accordance with  
6 this Act, the National Insurer shall be released from all  
7 such liabilities upon their assumption by the other Na-  
8 tional Insurer or a State insurer.

9 (d) NO DELEGATION PERMITTED.—The Commis-  
10 sioner may not delegate to any insurance self-regulatory  
11 organization any authority conferred under this section  
12 with respect to any merger, consolidation, acquisition of  
13 assets, or assumption of liabilities involving a National In-  
14 surer.

15 (e) COORDINATION.—This section shall not apply to  
16 any bulk transfer (as defined in section 233(a)(2)) that  
17 is subject to approval of the Commissioner in accordance  
18 with section 233(b).

19 **SEC. 233. BULK TRANSFERS.**

20 (a) DEFINITIONS.—In this section:

21 (1) BLOCK OF BUSINESS.—The term “block of  
22 business” means all those insurance policies of an  
23 insurer under a particular policy form.

24 (2) BULK TRANSFER.—The term “bulk trans-  
25 fer”—

1 (A) means the transfer by an insurer to  
2 another insurer of existing insurance policies  
3 constituting all or substantially all of 1 or more  
4 of its lines of business or blocks of business;  
5 and

6 (B) does not include—

7 (i) any sale in which the transferring  
8 insurer retains direct or indirect control of  
9 the assets supporting the transferred in-  
10 surance policies;

11 (ii) any transaction effected by an  
12 agreement under which the transferring in-  
13 surer continues to remain directly liable to  
14 the policyholders under the insurance poli-  
15 cies;

16 (iii) the substitution of 1 insurer for  
17 another upon the expiration of insurance  
18 coverage pursuant to statutory or contrac-  
19 tual requirements and the issuance of a  
20 new policy of insurance by that insurer;

21 (iv) the transfer of policies of insur-  
22 ance pursuant to merger or consolidation  
23 of 2 or more insurers to the extent that  
24 those transactions are regulated by statute;

1 (v) any transaction effected by an in-  
2 surer subject to a judicial order of receiver-  
3 ship, liquidation, or rehabilitation; or

4 (vi) any transfer of liabilities from 1  
5 insurer to another under a single group in-  
6 surance policy upon the request of the  
7 group policyholder.

8 (3) PERMITTED NATIONAL INSURER.—The  
9 term “permitted National Insurer” means—

10 (A) a State insurer that is converting to a  
11 National Insurer under section 205; or

12 (B) a National Insurer that is being newly  
13 chartered under section 201 and licensed under  
14 section 203.

15 (4) TRANSFERRED INSURANCE POLICIES.—The  
16 term “transferred insurance policies” means the in-  
17 surance policies that are subject to the bulk transfer.

18 (5) TRANSFERRING INSURER.—The term  
19 “transferring insurer” means the insurer in privity  
20 of contract with the policyholders under the existing  
21 insurance policies that are subject to the bulk trans-  
22 fer.

23 (b) BULK TRANSFERS AUTHORIZED.—The following  
24 bulk transfers are authorized:

1           (1) A State insurer as the transferring insurer  
2           and a permitted National Insurer as the assuming  
3           insurer.

4           (2) A permitted National Insurer as the trans-  
5           ferring insurer and a State insurer as the assuming  
6           insurer.

7           (3) A National Insurer as the transferring in-  
8           surer and a National Insurer as the assuming in-  
9           surer.

10          (4) A State insurer as the transferring insurer  
11          and a National Insurer that is not a permitted Na-  
12          tional Insurer as the assuming insurer.

13          (5) A National Insurer that is not a permitted  
14          National Insurer as the transferring insurer and a  
15          State insurer as the assuming insurer.

16          (c) COMMISSIONER APPROVAL.—

17           (1) IN GENERAL.—A National Insurer shall not  
18           effect a bulk transfer as either the transferring in-  
19           surer or the assuming insurer as authorized under  
20           paragraph (1), (2), (3), or (5) of subsection (b)  
21           without the prior approval of the Commissioner in  
22           accordance with such regulations as the Commis-  
23           sioner may prescribe.

24           (2) STANDARD OF APPROVAL.—The Commis-  
25           sioner shall approve a bulk transfer under paragraph

1 (1), after notice and a hearing, unless the Commis-  
2 sioner determines that the bulk transfer is likely to  
3 be hazardous to policyholders of transferred insur-  
4 ance policies, policyholders of the transferring in-  
5 surer, or policyholders of the assuming insurer.

6 (d) POLICYHOLDER CONSENT.—

7 (1) NO CONSENT REQUIRED.—Notwithstanding  
8 any other provision of law, a National Insurer may,  
9 upon the approval of the Commissioner, effect a bulk  
10 transfer under paragraph (1) or (2) of subsection  
11 (b) as either the transferring insurer or the assum-  
12 ing insurer without obtaining policyholder consent.

13 (2) BETWEEN NATIONAL INSURERS.—Notwith-  
14 standing any other provision of law, a National In-  
15 surer may, upon the approval of the Commissioner,  
16 effect a bulk transfer under subsection (b)(3) as ei-  
17 ther the transferring insurer or the assuming in-  
18 surer in accordance with the requirements prescribed  
19 by the Commissioner. Such requirements shall speci-  
20 fy whether policyholder consent to such a bulk trans-  
21 fer is required and, if policyholder consent is re-  
22 quired, the form in which such consent is required  
23 to be given.

24 (3) ADDITIONAL PROVISIONS.—In addition to  
25 any policyholder consent required by any other appli-

1 cable provision of law, the Commissioner may by  
2 regulation prescribe whether policyholder consent is  
3 required for a bulk transfer authorized under sub-  
4 section (b)(5) and, if policyholder consent is re-  
5 quired, the form in which such consent is required  
6 to be given.

7 (e) RELEASE FROM LIABILITY.—Upon the comple-  
8 tion of a bulk transfer under this section, the transferring  
9 insurer shall be released from its obligations under the  
10 transferred insurance policies.

11 (f) STATE LAW.—

12 (1) PROHIBITION.—Except as provided in para-  
13 graph (2), a State may not—

14 (A) require a National Insurer, a per-  
15 mitted National Insurer, or a State insurer  
16 to—

17 (i) obtain policyholder consent to a  
18 bulk transfer; or

19 (ii) submit the bulk transfer to State  
20 review or action (including approval and  
21 disapproval); or

22 (B) prevent or significantly interfere with  
23 a bulk transfer effected pursuant to this sec-  
24 tion.

1           (2) CONSTRUCTION.—Paragraph (1) shall not  
2           be construed to prohibit any State from—

3                   (A) collecting, reviewing, and taking action  
4                   (including approval or disapproval) on applica-  
5                   tions and other documents or reports con-  
6                   cerning a proposed bulk transfer permitted  
7                   under—

8                           (i) paragraph (2), (4), or (5) of sub-  
9                           section (b) to which a State insurer (other  
10                           than a permitted National Insurer) domi-  
11                           ciled in that State is a party; or

12                           (ii) paragraph (4) or (5) of subsection  
13                           (b) to which a State insurer (other than a  
14                           permitted National Insurer), other than a  
15                           State insurer domiciled in that State, is a  
16                           party, if the review or action meets the  
17                           standards set forth in paragraph (3); or

18                   (B) requiring policyholder consent of a  
19                   proposed bulk transfer permitted under para-  
20                   graph (4) or (5) of subsection (b).

21           (3) STANDARDS.—A review or action meets the  
22           standards under this paragraph if it—

23                   (A) is based on standards that are not  
24                   more onerous than those imposed by the Com-  
25                   missioner;

1 (B) occurs within a reasonable timeframe  
2 that advances the purposes of this section;

3 (C) is made in close consultation and co-  
4 operation with the Commissioner;

5 (D) is without bias or discrimination to-  
6 ward either the transferring insurer or the as-  
7 suming insurer;

8 (E) serves a legitimate State interest; and

9 (F) does not frustrate the proposed bulk  
10 transfer.

11 (4) NOTICE OF FAILURE.—If the Commissioner  
12 finds that any State review or action under para-  
13 graph (2)(A) fails to meet any of the standards set  
14 forth in paragraph (3), the Commissioner may pro-  
15 vide the applicable State with notice of such failure  
16 and the reasons for such failure.

17 (g) DIFFERENTIAL TREATMENT PROHIBITED.—A  
18 State may not treat a National Insurer, a permitted Na-  
19 tional Insurer, or a State insurer entering into a bulk  
20 transfer agreement with a National Insurer, a permitted  
21 National Insurer, a State insurer, or any affiliate or sub-  
22 sidiary of such insurer, differently than any other insurer  
23 operating in that State.

24 (h) NO DELEGATION PERMITTED.—The Commis-  
25 sioner may not delegate to any insurance self-regulatory

1 organization any authority conferred under this section  
2 with respect to any bulk transfer involving a National In-  
3 surer.

4 **SEC. 234. DOMESTICATION OF UNITED STATES BRANCH OF**  
5 **A NON-UNITED STATES INSURER.**

6 (a) DOMESTICATION PERMITTED.—Any non-United  
7 States insurer having its United States branch entered  
8 through a State or established pursuant to section 202  
9 and owning beneficially, directly or indirectly, all out-  
10 standing shares of a National Insurer may, upon the writ-  
11 ten approval by the Commissioner, domesticate its United  
12 States branch by agreeing in writing with such National  
13 Insurer to the acquisition of the business and assets, and  
14 the assumption of all liabilities, of the United States  
15 branch, by the National Insurer for no consideration ex-  
16 cept such assumption.

17 (b) APPROVAL BY COMMISSIONER.—If the Commis-  
18 sioner determines that the domestication of a United  
19 States branch of a non-United States insurer complies  
20 with the provisions of this section and that the interests  
21 of policyholders and creditors of the United States branch  
22 are not materially affected in an adverse manner by such  
23 domestication, the Commissioner may approve the domes-  
24 tication in accordance with this section.

25 (c) EFFECTIVE DATE OF DOMESTICATION.—

1           (1) IN GENERAL.—The domestication of the  
2 United States branch shall be effective on the date  
3 on which a certified copy of the instrument of trans-  
4 fer and assumption is filed with the Commissioner.

5           (2) EFFECT OF DOMESTICATION.—On the date  
6 described in paragraph (1)—

7           (A) all rights, franchises, and interests of  
8 such United States branch in and to every spe-  
9 cies of property, real, personal, and mixed, and  
10 things in action belonging to such branch, shall  
11 be deemed transferred to and vested in the ac-  
12 quiring National Insurer;

13           (B) the acquiring National Insurer shall be  
14 deemed to have assumed all liabilities of the  
15 United States branch;

16           (C) all deposits of the United States  
17 branch held by State officers or other State  
18 regulatory agencies under State law shall be re-  
19 leased; and

20           (D) the non-United States insurer and the  
21 United States branch shall be released from all  
22 liabilities so assumed.

23           (d) RELEASE OF DEPOSITS.—At the time of the do-  
24 mestication of a United States branch under this section,  
25 the Commissioner shall—

1           (1) transfer to the account of the acquiring Na-  
2           tional Insurer the securities deposited by such  
3           United States branch in compliance with the provi-  
4           sions of this Act; and

5           (2) consent that the trustee of the trustee assets  
6           deposited by such United States branch in com-  
7           pliance with the provisions of this Act shall with-  
8           draw from the trust and transfer and deliver to the  
9           acquiring National Insurer all assets held by such  
10          trustee.

11          (e) WITHDRAWAL AND TRANSFER OF TRUSTEED AS-  
12          SETS.—

13           (1) IN GENERAL.—At the time of the domes-  
14           tication of a United States branch established under  
15           State law, the trustee of any trustee assets depos-  
16           ited by such United States branch in compliance  
17           with applicable State law shall, with the consent of  
18           the Commissioner—

19                   (A) withdraw the trustee assets from the  
20                   trust; and

21                   (B) transfer and deliver to the acquiring  
22                   National Insurer all assets held by such trustee.

23           (2) LIMITATION.—No State may prevent, sig-  
24           nificantly interfere with, review, approve, or dis-  
25           approve the withdrawal of trustee assets or other

1 deposits of a United States branch established under  
2 State law that is domesticating pursuant to this sec-  
3 tion, if such withdrawal is made contemporaneously  
4 with or subsequent to the consummation of a domes-  
5 tication of the United States branch under this sec-  
6 tion.

7 (f) NO DELEGATION PERMITTED.—The Commis-  
8 sioner may not delegate to any insurance self-regulatory  
9 organization any authority under this section with respect  
10 to the domestication of a United States branch of a non-  
11 United States insurer.

12 **SEC. 235. MERGERS, CONSOLIDATIONS, AND ACQUISITIONS**  
13 **OF NATIONAL AGENCIES.**

14 (a) NATIONAL AGENCY RESULTING.—

15 (1) IN GENERAL.—Notwithstanding any other  
16 provision of law, a National Agency may, with the  
17 approval of the Commissioner, merge, consolidate  
18 with, acquire all or substantially all the assets of, or  
19 assume all or substantially all the liabilities of, an-  
20 other National Agency or a State insurance agency  
21 in a transaction in which a National Agency is the  
22 resulting agency, the acquiring agency, or the as-  
23 suming agency.

24 (2) MERGER, CONSOLIDATION, AND ACQUI-  
25 SITION PROCEDURES.—The Commissioner is author-

1        ized, under such regulations as the Commissioner  
2        may prescribe, to provide for—

3                (A) the merger or consolidation of a Na-  
4                tional Agency with another National Agency or  
5                a State insurance agency in a transaction in  
6                which a National Agency is the resulting agen-  
7                cy; and

8                (B) the acquisition or assumption by a Na-  
9                tional Agency of all or substantially all the as-  
10                sets or all or substantially all the liabilities of  
11                another National Agency or a State insurance  
12                agency in a transaction in which the National  
13                Agency is the acquiring or assuming agency.

14                (3) EFFECT OF MERGER OR CONSOLIDATION.—  
15        Upon the merger or consolidation of a National  
16        Agency with another National Agency or a State in-  
17        surance agency under this section—

18                (A) the corporate existence of each of the  
19                merging or consolidating agencies shall be  
20                merged or consolidated into the resulting agen-  
21                cy, and the resulting agency shall be deemed to  
22                be the same corporation as each agency partici-  
23                pating in the merger or consolidation; and

24                (B) except as provided under paragraph  
25                (4), the resulting agency shall have all the

1 rights, privileges, liabilities, property interests,  
2 and other interests and obligations that each  
3 agency participating in the merger or consolida-  
4 tion had immediately before the merger or con-  
5 solidation.

6 (4) LIMITATION.—Upon a merger or consolida-  
7 tion under this subsection, the resulting agency—

8 (A) shall not hold any State license to sell,  
9 solicit, or negotiate insurance that was held by  
10 a State agency participating in the merger or  
11 consolidation; and

12 (B) shall obtain, in accordance with section  
13 301, appropriate licenses for all lines of insur-  
14 ance that it sells, solicits, or negotiates except  
15 for those lines of insurance for which a Na-  
16 tional Agency participating in the merger or  
17 consolidation held a Federal producer's license  
18 immediately before the merger or consolidation.

19 (5) SPECIAL AUTHORITY.—The Commissioner  
20 may, subject to such regulations as the Commis-  
21 sioner may prescribe, permit a National Agency re-  
22 sulting from a merger or consolidation under this  
23 subsection to retain, hold, or exercise such assets, li-  
24 abilities, powers, and authorities that do not con-  
25 form to the legal requirements applicable to National

1 Agencies as the Commissioner determines to be ap-  
2 propriate.

3 (b) STATE INSURANCE AGENCY RESULTING.—

4 (1) IN GENERAL.—Subject to such notification  
5 procedures as the Commissioner may prescribe by  
6 regulation, a State insurance agency may merge,  
7 consolidate with, acquire assets of, or assume liabil-  
8 ities of, a National Agency in a transaction in which  
9 a State insurance agency is the resulting agency, in  
10 accordance with applicable State law.

11 (2) SAVINGS PROVISION.—Nothing in this sub-  
12 section or in a transaction pursuant to this sub-  
13 section shall abrogate any rights, privileges, liabil-  
14 ities, property interests, other interests, or obliga-  
15 tions that the National Agency had immediately be-  
16 fore the transaction.

17 (c) EFFECT OF ASSUMPTION OF LIABILITIES.—If the  
18 liabilities of a National Agency are assumed by another  
19 National Agency or a State insurance agency in accord-  
20 ance with the provisions of this Act, such National Agency  
21 from whom the liabilities are assumed shall be released  
22 from all liabilities so assumed upon their assumption by  
23 the other National Agency or a State insurance agency.

24 (d) NO DELEGATION PERMITTED.—The Commis-  
25 sioner may not delegate to any insurance self-regulatory

1 organization any authority conferred under this section  
2 with respect to any merger, consolidation, or acquisition  
3 of assets or assumption of liabilities involving a National  
4 Agency.

## 5 **Subtitle E—Conversions**

### 6 **SEC. 241. DEFINITIONS.**

7 In this subtitle:

8 (1) **ADOPTION DATE.**—The term “adoption  
9 date” means the date on which the board of direc-  
10 tors of the converting mutual insurer or converting  
11 stock insurer adopts the plan of conversion.

12 (2) **CONVERTED MUTUAL INSURER.**—The term  
13 “converted mutual insurer” means the National Life  
14 Insurer in mutual form into which a stock life in-  
15 surer has been converted in accordance with the pro-  
16 visions of section 242.

17 (3) **CONVERTED STOCK INSURER.**—The term  
18 “converted stock insurer” means the National In-  
19 surer in stock form into which a mutual insurer has  
20 been converted in accordance with the provisions of  
21 section 243.

22 (4) **CONVERTING MUTUAL INSURER.**—The term  
23 “converting mutual insurer” means the mutual in-  
24 surer that is converting under a plan of conversion  
25 under section 243.

1           (5) CONVERTING STOCK INSURER.—The term  
2           “converting stock insurer” means the stock life in-  
3           surer that is converting under a plan of conversion  
4           under section 242.

5           (6) MEMBERSHIP INTERESTS.—The term  
6           “membership interests”—

7           (A) means the interests of members and  
8           policyholders of the mutual insurer arising  
9           under the charter and bylaws of the mutual in-  
10          surer or otherwise by applicable law;

11          (B) includes the right to vote for directors  
12          of the mutual insurer and the right to vote on  
13          any plan of merger or consolidation of the mu-  
14          tual insurer; and

15          (C) does not include rights in surplus, if  
16          any.

17          (7) MUTUAL INSURER.—The term “mutual in-  
18          surer” means the State insurer in mutual form or  
19          National Insurer in mutual form that is converting  
20          to a National Insurer in stock form pursuant to a  
21          plan of conversion adopted in accordance with sec-  
22          tion 243.

23          (8) PLAN OF CONVERSION OR PLAN.—The  
24          terms “plan of conversion” and “plan” mean a plan

1 of conversion adopted by a stock life insurer or a  
2 mutual insurer in accordance with this subtitle.

3 (9) RIGHTS IN SURPLUS.—The term “rights in  
4 surplus”—

5 (A) means rights, if any, of members or  
6 policyholders of the mutual insurer to a return  
7 of that portion of the surplus that has not been  
8 apportioned or declared by the board of direc-  
9 tors for policyholder dividends;

10 (B) includes rights of members or policy-  
11 holders of the mutual insurer to a distribution  
12 of surplus in liquidation or conservation of the  
13 insurer under applicable law, or in a dissolution  
14 or winding up; and

15 (C) does not include any right expressly  
16 conferred solely by the terms of an insurance  
17 policy.

18 (10) STOCK LIFE INSURER.—The term “stock  
19 life insurer” means the State life insurer in stock  
20 form or National Life Insurer in stock form that is  
21 converting to a National Life Insurer in mutual  
22 form pursuant to a plan of conversion adopted in ac-  
23 cordance with section 242.

1 **SEC. 242. CONVERSION OF STOCK LIFE INSURER TO NA-**  
2 **TIONAL LIFE INSURER IN MUTUAL FORM.**

3 (a) **AUTHORITY TO CONVERT.**—Notwithstanding any  
4 other provision of law, a stock life insurer may convert  
5 to a National Insurer in mutual form by complying with  
6 the requirements of this section and such regulations as  
7 the Commissioner may promulgate pursuant to this Act.

8 (b) **PLAN OF CONVERSION.**—

9 (1) **IN GENERAL.**—The plan of conversion—

10 (A) shall be adopted by the board of direc-  
11 tors of the converting stock insurer; and

12 (B) shall provide for the conversion of the  
13 converting stock insurer into a National Life  
14 Insurer in mutual form.

15 (2) **ISSUANCE OF STOCK AFTER ADOPTION**  
16 **DATE.**—No additional shares of capital stock shall  
17 be issued after the adoption date, except that—

18 (A) stock options to purchase capital stock  
19 may continue to be issued under existing con-  
20 tracts; and

21 (B) outstanding options may continue to  
22 be exercised until the effective date of the plan  
23 of conversion.

24 (3) **CONTENTS.**—The plan of conversion shall  
25 provide for—

1 (A) the purchase by the converting stock  
2 insurer of all of its outstanding capital stock, at  
3 a price either specified in the plan or to be de-  
4 termined under a formula specified in the plan,  
5 for cash or other consideration as set forth in  
6 the plan; and

7 (B) the termination, upon terms specified  
8 in the plan, of any contractual obligation incon-  
9 sistent with the nature of a mutual insurer, in-  
10 cluding any obligation to issue stock options or  
11 issue capital stock upon exercise of options.

12 (c) APPROVAL OF PLAN BY COMMISSIONER.—The  
13 Commissioner shall approve the plan of conversion if the  
14 Commissioner finds, after a hearing, that—

15 (1) the plan is fair and equitable to the policy-  
16 holders, shareholders, and holders of options to ac-  
17 quire capital stock of the converting stock insurer;

18 (2) the plan does not violate the law; and

19 (3) the converted mutual insurer will, after the  
20 conversion, satisfy the requirements for the issuance  
21 of a license to write the lines of insurance for which  
22 it is licensed.

23 (d) VOTE ON APPROVAL OF PLAN.—

24 (1) STOCKHOLDERS.—The plan of conversion  
25 shall be submitted to the holders of record on the

1 adoption date of the converting stock insurer's  
2 shares entitled to vote thereon and shall be subject  
3 to approval of the holders of a majority of such  
4 shares.

5 (2) POLICYHOLDERS.—

6 (A) SUBMISSION.—The plan shall be sub-  
7 mitted to policyholders of the converting stock  
8 insurer—

9 (i) who are insured for at least  
10 \$1,000; and

11 (ii) whose policy of insurance is in  
12 force—

13 (I) for a period of at least 1 year  
14 before the adoption date;

15 (II) on the adoption date; and

16 (III) on the date of the meeting  
17 of policyholders called for the purpose  
18 of approving the plan.

19 (B) APPROVAL.—The plan shall be subject  
20 to the approval of a majority of the votes cast  
21 by the policyholders described in subparagraph  
22 (A).

23 (e) EFFECT OF CONVERSION ON CONVERTED MU-  
24 TUAL INSURERS.—

1           (1) IN GENERAL.—On the effective date of the  
2           plan of conversion, the stock insurer shall become a  
3           National Life Insurer in mutual form and share-  
4           holders eligible to receive consideration under the  
5           plan of conversion are entitled to receive the consid-  
6           eration specified in the plan in exchange for their  
7           shares of capital stock of the converting stock in-  
8           surer.

9           (2) NO EFFECT ON EXISTING RIGHTS AND LI-  
10          ABILITIES.—The converted mutual insurer is a con-  
11          tinuation of the original stock life insurer, and the  
12          conversion shall not annul, modify, or change any of  
13          the original stock life insurer's existing suits, rights,  
14          contracts, or liabilities, except as provided in the  
15          plan of conversion.

16          (3) RIGHTS AFTER CONVERSION.—After con-  
17          version, the converted mutual insurer shall—

18                 (A) exercise all the rights and powers and  
19                 perform all the duties conferred or imposed by  
20                 law upon insurers writing the classes of insur-  
21                 ance written by the converted mutual insurer;  
22                 and

23                 (B) retain the rights and contracts existing  
24                 prior to conversion, subject to the effect of the  
25                 plan.

1 (f) TIME LIMITS FOR PLAN ACTIONS.—

2 (1) IN GENERAL.—Notwithstanding any other  
3 provision of law, actions concerning any plan of con-  
4 version or proposed plan of conversion under this  
5 section or any acts taken or proposed to be taken  
6 under this section shall be commenced not later than  
7 30 days after the date on which the plan of conver-  
8 sion is approved by the Commissioner under sub-  
9 section (c).

10 (2) PLAN WITHDRAWN.—If the plan of conver-  
11 sion is withdrawn, the actions described in para-  
12 graph (1) shall be commenced not later than 30  
13 days after the date on which the board of directors  
14 approves a resolution to withdraw the plan.

15 (g) EFFECT ON STATE LAW.—No State may prevent  
16 or interfere with a conversion under this section or impede  
17 the activities of, take any action against, or apply any pro-  
18 vision of law or regulation to, any such stock life insurer  
19 because the stock life insurer plans to convert, or has con-  
20 verted, to a National Life Insurer in mutual form under  
21 this section.

22 (h) NO DELEGATION PERMITTED.—The Commis-  
23 sioner may not delegate to any insurance self-regulatory  
24 organization any authority under this section with respect  
25 to the conversion of a stock life insurer.

1 **SEC. 243. CONVERSION OF MUTUAL INSURER TO NATIONAL**  
2 **INSURER IN STOCK FORM.**

3 (a) **AUTHORITY TO CONVERT.**—Notwithstanding any  
4 other provision of law, a mutual insurer may convert to  
5 a National Insurer in stock form by complying with the  
6 requirements of this section and such regulations as the  
7 Commissioner may promulgate pursuant to this Act.

8 (b) **PLAN OF CONVERSION.**—

9 (1) **IN GENERAL.**—The plan of conversion—

10 (A) shall be adopted by the board of direc-  
11 tors of the converting mutual insurer;

12 (B) shall provide for the conversion of the  
13 converting mutual insurer into a National In-  
14 surer in stock form; and

15 (C) may provide for effecting the conver-  
16 sion by merger of the mutual insurer with an-  
17 other company.

18 (2) **CONTENTS.**—The plan of conversion shall  
19 provide that—

20 (A) all membership interests and rights in  
21 surplus are extinguished;

22 (B) each eligible person will receive, with-  
23 out payment by the person, consideration that  
24 is allocated among the eligible persons using a  
25 fair and equitable formula; and

1 (C) eligible persons may receive 1 or more  
2 kinds of consideration, including—

3 (i) cash;

4 (ii) shares of capital stock of the con-  
5 verting mutual insurer;

6 (iii) shares of capital stock (or inter-  
7 ests in shares of capital stock) of a cor-  
8 poration that, after the conversion, directly  
9 or indirectly, controls the converted stock  
10 insurer;

11 (iv) premium credits;

12 (v) enhanced insurance benefits; or

13 (vi) in the case of a converting mutual  
14 insurer that is a life insurer, credits to in-  
15 surance policy account values, as set forth  
16 in the plan.

17 (c) APPROVAL OF PLAN BY COMMISSIONER.—The  
18 Commissioner shall approve the plan of conversion if the  
19 Commissioner finds, after a hearing, that—

20 (1) the plan is fair and equitable to the insurer  
21 and its policyholders;

22 (2) the plan does not violate the law; and

23 (3) the converted stock insurer will, after the  
24 conversion, satisfy the requirements for the issuance

1 of a license to write the line or lines of insurance for  
2 which it is licensed.

3 (d) VOTE ON APPROVAL OF PLAN.—The plan of con-  
4 version shall be submitted to those persons who are eligible  
5 to vote on the plan and shall be subject to approval of  
6 a majority of the votes cast by such persons.

7 (e) EMPLOYEE STOCK PURCHASES; STOCK OP-  
8 TIONS.—Subject to regulations prescribed by the Commis-  
9 sioner, the converted insurer or a corporation that, after  
10 the conversion, directly or indirectly, controls the con-  
11 verted insurer, may establish stock option, incentive, and  
12 share ownership plans customary for publicly traded com-  
13 panies in the same and similar industries.

14 (f) EFFECT OF CONVERSION ON CONVERTED STOCK  
15 INSURERS.—

16 (1) IN GENERAL.—On the effective date of the  
17 plan of conversion—

18 (A) the mutual insurer shall become a Na-  
19 tional Insurer in stock form;

20 (B) all membership interests and rights in  
21 surplus shall be extinguished; and

22 (C) persons eligible to receive consideration  
23 under the plan of conversion shall be entitled to  
24 receive the consideration specified in the plan in

1 exchange for membership interests and liquida-  
2 tion of rights in surplus.

3 (2) NO EFFECT ON EXISTING RIGHTS AND LI-  
4 ABILITIES.—The converted stock insurer is a con-  
5 tinuation of the original mutual insurer, and the  
6 conversion shall not annul, modify, or change any of  
7 the original mutual insurer's existing suits, rights,  
8 contracts, or liabilities, except as provided in the  
9 plan of conversion.

10 (3) RIGHTS AFTER CONVERSION.—After con-  
11 version, the converted stock insurer shall—

12 (A) exercise all the rights and powers and  
13 perform all the duties conferred or imposed by  
14 law upon insurers writing the classes of insur-  
15 ance written by the converted stock insurer;  
16 and

17 (B) retain the rights and contracts existing  
18 prior to conversion, subject to the effect of the  
19 plan.

20 (g) LIMITATIONS ON ACQUIRING CONVERTED STOCK  
21 INSURER.—

22 (1) IN GENERAL.—Beginning on the date of en-  
23 actment of this Act and continuing for a period of  
24 5 years following the effective date of the plan of  
25 conversion, no person or group of persons acting in

1 concert shall directly or indirectly offer to acquire,  
2 or acquire in any manner the beneficial ownership  
3 of, 5 percent or more of any class of voting securi-  
4 ties of a converted insurer or of a person that con-  
5 trols the converted insurer, without the prior consent  
6 of the Commissioner.

7 (2) EFFECT OF VIOLATION.—Upon the viola-  
8 tion of paragraph (1), or any action that, if con-  
9 summated, would constitute such a violation, all vot-  
10 ing securities of the converted insurer or of the per-  
11 son acquired by any person in excess of the max-  
12 imum amount permitted to be acquired by the per-  
13 son under paragraph (1) shall be deemed to be non-  
14 voting securities of the converted stock insurer or of  
15 that person.

16 (3) ENFORCEMENT.—

17 (A) COMMENCEMENT.—A violation or ac-  
18 tion described in paragraph (1) may be en-  
19 forced or enjoined by appropriate proceeding  
20 commenced by the converted stock insurer or  
21 the Commissioner in—

22 (i) the United States district court for  
23 the judicial district in which the main of-  
24 fice of the converted stock insurer is lo-  
25 cated;

1 (ii) the United States District Court  
2 for the District of Columbia; or

3 (iii) any other court having jurisdic-  
4 tion.

5 (B) ORDER.—The court may issue any  
6 order it finds necessary to cure the violation or  
7 to prevent the proposed action.

8 (h) TIME LIMITS FOR PLAN ACTIONS.—

9 (1) IN GENERAL.—Notwithstanding any other  
10 provision of law, actions concerning any plan of con-  
11 version or proposed plan of conversion under this  
12 section or any acts taken or proposed to be taken  
13 under this section shall be commenced not later than  
14 30 days after the date on which the plan of conver-  
15 sion is approved by the Commissioner under sub-  
16 section (c).

17 (2) PLAN WITHDRAWN.—If the plan of conver-  
18 sion is withdrawn, the actions shall be commenced  
19 not later than 30 days after the date on which the  
20 board of directors approves a resolution to withdraw  
21 the plan.

22 (i) EFFECT ON STATE LAW.—No State may prevent  
23 or interfere with a conversion under this section or impede  
24 the activities of, take any action against, or apply any pro-  
25 vision of law or regulation to, any such mutual insurer

1 because that mutual insurer plans to convert, or has con-  
2 verted, to a National Insurer in stock form under this sec-  
3 tion.

4 (j) NO DELEGATION PERMITTED.—The Commis-  
5 sioner may not delegate to any insurance self-regulatory  
6 organization any authority under this section with respect  
7 to the conversion of a mutual insurer.

## 8 **Subtitle F—State Taxation**

### 9 **SEC. 251. STATE TAXATION OF NATIONAL INSURERS.**

10 (a) STATE TAXATION RULE.—Except as provided in  
11 subsection (b), a National Insurer doing business in any  
12 State shall be subject to all State and local taxes, includ-  
13 ing insurance retaliatory taxes or other similar taxes, and  
14 shall be entitled to all tax credits, deductions, and offsets  
15 provided under State law to the same extent and in the  
16 same manner as an insurer licensed to do business in such  
17 State and chartered in the State where the National In-  
18 surer is considered domiciled under subsection (c) or (d),  
19 but shall not be subject to any additional taxes imposed  
20 by such State by reason of the National Insurer's failure  
21 to be licensed or otherwise authorized to conduct business  
22 or write or sell insurance policies, by such State.

23 (b) EXCEPTION.—No State shall have power to im-  
24 pose an insurance retaliatory tax on any National Insurer  
25 unless—

1           (1) for any tax purpose for which State of  
2           domicile is relevant, every National Insurer is treat-  
3           ed by such State as domiciled in the State des-  
4           ignated by each National Insurer under subsection  
5           (c); and

6           (2) the insurance retaliatory tax is imposed by  
7           such State on every National Insurer to the same  
8           extent and in the same manner as it is imposed on  
9           every insurer chartered in the State where the Na-  
10          tional Insurer is considered domiciled under sub-  
11          section (c).

12          (c) DESIGNATION OF DOMICILE.—

13           (1) IN GENERAL.—A National Insurer may des-  
14          ignate, as its State of domicile, by filing such des-  
15          ignation in writing with the Commissioner—

16           (A) the State in which the National Insur-  
17          er's principal place of business in the United  
18          States is located; or

19           (B) in the case of an insurer that has con-  
20          verted from a State insurer to a National In-  
21          surer under this Act, the State in which such  
22          insurer was domiciled immediately before such  
23          conversion.

24          (2) NO DESIGNATION BY NATIONAL INSURER.—

25          If a National Insurer does not make a designation

1 of a State of domicile under this subsection, the Na-  
2 tional Insurer shall be deemed to have designated as  
3 its State of domicile the State in which its principal  
4 place of business in the United States is located.

5 (d) CHANGE IN DOMICILE.—A National Insurer may  
6 change its State of domicile, with the approval of the Com-  
7 missioner, to any other State meeting the requirements  
8 under subsection (c).

9 (e) STATUS OF NATIONAL INSURER.—For purposes  
10 of State taxation, a National Insurer—

11 (1) shall not be considered a department, agen-  
12 cy, or instrumentality of the Federal Government;  
13 and

14 (2) except as provided in this section, a Na-  
15 tional Insurer shall not be exempt from any State  
16 tax or subject to a lesser burden of any State tax,  
17 solely by reason of its status as a National Insurer  
18 under this Act.

19 **SEC. 252. STATE TAXATION OF NATIONAL AGENCIES.**

20 (a) STATE TAXATION RULE.—A National Agency  
21 shall be subject to all taxes imposed under the authority  
22 of any State legislation to the same extent and in the same  
23 manner as an agency chartered in the State where the  
24 National Agency is considered domiciled pursuant to sub-  
25 section (b).

1 (b) STATE OF DOMICILE.—For purposes of this sec-  
2 tion, the State of domicile of a National Agency shall be  
3 deemed to be the State in which the Agency’s principal  
4 place of business in the United States is located.

5 (c) STATUS OF NATIONAL AGENCY.—For purposes  
6 of State taxation, a National Agency shall not—

7 (1) be considered to be a department, agency,  
8 or instrumentality of the Federal Government; and

9 (2) except as provided in this section, be ex-  
10 empt from any State tax or subject to a lesser bur-  
11 den of any State tax, solely by reason of its status  
12 as a National Agency under this Act.

13 **TITLE III—INSURANCE PRO-**  
14 **DUCERS AND OTHER INSUR-**  
15 **ANCE SERVICING PERSONS**

16 **SEC. 301. FEDERAL LICENSING OF INSURANCE PRO-**  
17 **DUCERS.**

18 (a) COMMISSIONER’S AUTHORITY.—The Commis-  
19 sioner—

20 (1) shall have authority to issue Federal pro-  
21 ducer licenses; and

22 (2) shall, by regulation—

23 (A) define the line or lines of insurance for  
24 which a person may obtain a Federal producer  
25 license; and

1 (B) specify educational and examination  
2 requirements for persons seeking a Federal pro-  
3 ducer license, other than National Agencies that  
4 are subject to chartering criteria under section  
5 201.

6 (b) NATIONAL AGENCIES.—The Commissioner shall  
7 issue a Federal producer license to a National Agency  
8 upon the issuance of a charter certificate to such Agency  
9 pursuant to section 201.

10 (c) AUTHORITY OF PERSON HOLDING A FEDERAL  
11 PRODUCER LICENSE.—A Federal producer license author-  
12 izes the person to sell, solicit, or negotiate insurance in  
13 any State for any line or lines of insurance specified in  
14 such license.

15 (d) EXAMINATIONS AND REPORTS.—In addition to  
16 the examination and reporting requirements applicable to  
17 National Agencies pursuant to sections 124 and 125, the  
18 Commissioner may—

19 (1) provide for the examination of federally li-  
20 censed insurance producers that are not National  
21 Agencies only in response to a complaint or any  
22 other evidence that the federally licensed insurance  
23 producer has violated or is about to violate—

24 (A) a law, rule, or regulation;

1 (B) any condition imposed in writing by  
2 the Commissioner in connection with issuing a  
3 Federal producer's license; or

4 (C) any written agreement entered into  
5 with the Commissioner; and

6 (2) require federally licensed insurance pro-  
7 ducers that are not National Agencies to make such  
8 reports, containing such information and in such  
9 form, as the Commissioner may prescribe by regula-  
10 tion to the extent necessary to require compliance  
11 with this Act.

12 (e) INFORMATION PRACTICES.—The Commissioner  
13 may, by regulation, provide that there shall be no civil li-  
14 ability imposed on and no cause of action shall arise from  
15 a National Insurer or National Agency, an insurer-affili-  
16 ated party, or a federally licensed insurance producer sub-  
17 mitting any statement or information required under this  
18 Act or any regulation thereunder or requested in writing  
19 by the Commissioner relating to the conduct of a federally  
20 licensed insurance producer, provided that—

21 (1) this protection may not apply to false state-  
22 ments made with actual malice; and

23 (2) such regulation shall not abrogate or modify  
24 any existing common law or statutory privileges or  
25 immunities.

1 **SEC. 302. PRODUCER DATABASE.**

2 (a) IN GENERAL.—The Commissioner shall adopt  
3 regulations for the development of an electronic database  
4 consisting of information relating to federally licensed in-  
5 surance producers and an electronic communication net-  
6 work that links the Commissioner with State insurance  
7 regulators and insurers for an electronic exchange of such  
8 information.

9 (b) MAINTENANCE.—The Commissioner, by rule or  
10 order, may delegate authority over the maintenance of  
11 each database described in subsection (a) to an insurance  
12 self-regulatory organization. In making any such rule or  
13 entering any such order, the Commissioner shall take into  
14 consideration the regulatory capabilities and procedures of  
15 the insurance self-regulatory organization, availability of  
16 staff, convenience of location, avoidance of unnecessary  
17 regulatory duplication, and any other factors the Commis-  
18 sioner may consider appropriate to the protection of pol-  
19 icyholders, the efficiency of the producer licensing system,  
20 and the cooperation and coordination among regulatory  
21 organizations.

22 **SEC. 303. SUPERVISION AND OVERSIGHT OF FEDERALLY LI-**  
23 **CENSED INSURANCE PRODUCERS.**

24 (a) PURPOSE.—The purpose of this section is to es-  
25 tablish when a National Insurer, National Agency, or fed-  
26 erally licensed insurance producer has a duty to supervise

1 a federally licensed insurance producer. The duty to super-  
2 vise as required in this section shall be in addition to the  
3 authority of the Commissioner to supervise federally li-  
4 censed insurance producers under section 102(b).

5 (b) DUTY TO SUPERVISE.—

6 (1) NATIONAL INSURERS.—A National Insurer  
7 shall have a duty to supervise the sales and mar-  
8 keting practices of a federally licensed insurance  
9 producer with respect to the sale, solicitation, or ne-  
10 gotiation of insurance policies of such National In-  
11 surer, if such producer—

12 (A) is an employee of the National Insurer;

13 or

14 (B) is an agent of the National Insurer—

15 (i) who is an individual; and

16 (ii) whose entire or principal business  
17 activity is devoted to the sale, solicitation,  
18 or negotiation of insurance policies for  
19 such Insurer, the recruitment, training, or  
20 supervision of the agents, or both.

21 (2) NATIONAL AGENCIES.—A National Agency  
22 or other federally licensed insurance producer that is  
23 an entity has a duty to supervise the sales and mar-  
24 keting practices of its employees and agents with re-

1       spect to the sale, solicitation, or negotiation of insur-  
2       ance policies if—

3               (A) in the case of an employee, the insur-  
4               ance policy sold, solicited, or negotiated is with-  
5               in the scope of such person's employment; and

6               (B) in the case of an agent, the insurance  
7               policy is sold, solicited, or negotiated pursuant  
8               to the terms of the agreement between the  
9               agent and such National Agency or other entity  
10              that is a federally licensed insurance producer.

11             (3) STANDARDS FOR SUPERVISION.—The Com-  
12             missioner shall, by regulation, establish standards  
13             for the supervision of the sales and marketing prac-  
14             tices of federally licensed insurance producers re-  
15             quired in paragraphs (1) and (2).

16             (4) NO DUTY.—A National Insurer, National  
17             Agency, or other federally licensed insurance pro-  
18             ducer that is an entity shall not have a duty to su-  
19             pervise the sales and marketing practices of persons  
20             not listed in paragraphs (1) and (2).

21             (5) OVERSIGHT OF INDIVIDUAL INDEPENDENT  
22             FEDERALLY LICENSED INSURANCE PRODUCERS.—

23               (A) IN GENERAL.—The sales and mar-  
24               keting practices of a federally licensed insur-  
25               ance producer with respect to the sale, sollicita-

1           tion, or negotiation of insurance policies shall  
2           be subject to the direct oversight of the Com-  
3           missioner if such producer is not—

4                   (i) an individual who is an employee  
5                   or agent of a National Insurer, National  
6                   Agency, or other federally licensed insur-  
7                   ance producer that is an entity; or

8                   (ii) an individual whose entire or prin-  
9                   cipal business activity is devoted to the  
10                  sale, solicitation, or negotiation of insur-  
11                  ance policies for a National Insurer or re-  
12                  cumbent, training, or supervision of the  
13                  agents.

14                  (B) STANDARDS AND PROCEDURES.—The  
15                  Commissioner shall, by regulation, establish  
16                  standards and procedures for the direct over-  
17                  sight of the sales and marketing practices of  
18                  federally licensed insurance producers provided  
19                  in subparagraph (A).

20   **SEC. 304. RELATIONSHIP TO STATE LAW.**

21           (a) NO STATE RESTRICTIONS.—No State may, by  
22           statute, regulation, order, interpretation, or otherwise,  
23           prevent or restrict a National Insurer from engaging in  
24           the acts described in subsection (b) for any person, or  
25           from engaging the services of a person who engages in

1 such acts for the National Insurer, nor shall any State  
2 require that a person be licensed by reason of engaging  
3 in such acts for a National Insurer.

4 (b) ACTS PROTECTED FROM STATE RESTRIC-  
5 TIONS.—The acts referred to in subsection (a) are the fol-  
6 lowing:

7 (1) Investigating, evaluating, ascertaining, or  
8 determining the amount of or negotiating, settling,  
9 or adjusting or otherwise participating in the dis-  
10 posal of claims, losses, or damages arising under in-  
11 surance policies written by a National Insurer,  
12 whether the person performing the act is called an  
13 adjuster, independent adjuster, or another name.

14 (2) Soliciting, negotiating, or placing reinsur-  
15 ance cessions or retrocessions on behalf of a ceding  
16 National Insurer without the authority or power to  
17 bind reinsurance on behalf of such National Insurer,  
18 whether the person performing the act is called a re-  
19 insurance intermediary or another name.

20 (3) Having authority to bind or manage all or  
21 part of the assumed reinsurance business of a Na-  
22 tional Insurer that is a reinsurer (including the  
23 management of a separate division, department, or  
24 underwriting office) and acting as an agent for such  
25 reinsurer whether the person performing the act is

1 called a reinsurance intermediary-manager, man-  
2 ager, or another name.

3 (4) Directly or indirectly underwriting, col-  
4 lecting charges or premiums, or adjusting or settling  
5 claims, in connection with policies of insurance writ-  
6 ten by a National Insurer.

7 (c) ACTIVITIES OF FEDERALLY LICENSED INSUR-  
8 ANCE PRODUCERS.—No State may—

9 (1) by statute, regulation, order, interpretation,  
10 or otherwise, prevent or restrict a federally licensed  
11 insurance producer from selling, soliciting, or negoti-  
12 ating insurance in such State on behalf of a Na-  
13 tional Insurer, State insurer, or United States  
14 branch of a non-United States Insurer; or

15 (2) require such producer to be licensed by rea-  
16 son of engaging in such acts on behalf of a National  
17 Insurer, State insurer, or a United States branch of  
18 a non-United States Insurer.

19 (d) ACTIVITIES OF STATE PRODUCERS.—No State  
20 may, by statute, regulation, order, interpretation, or other-  
21 wise, prevent or restrict an insurance producer licensed  
22 by such State from selling, soliciting, or negotiating insur-  
23 ance in such State on behalf of a National Insurer.

1 **SEC. 305. LICENSING COMMENCEMENT DATE.**

2 (a) **FEDERALLY LICENSED INSURANCE PRO-**  
3 **DUCERS.**—The Commissioner shall not license a Federal  
4 insurance producer until after the following regulations  
5 have been published in final form:

6 (1) The fee and assessment regulations author-  
7 ized by section 122.

8 (2) The reporting regulations authorized by sec-  
9 tion 124.

10 (3) The market conduct regulations authorized  
11 by section 215.

12 (4) The producer licensing regulations author-  
13 ized by section 301.

14 (5) Such other regulations that the Commis-  
15 sioner determines, at the Commissioner's discretion,  
16 to be necessary prior to the initial licensing of Fed-  
17 eral insurance producers.

18 (b) **TIMING AND NOTICE.**—

19 (1) **TIMING.**—The regulations described in sub-  
20 section (a) shall be published in final form not later  
21 than 2 years after the initial appointment and con-  
22 firmation of the Commissioner.

23 (2) **NOTICE.**—At such time as the regulations  
24 described in subsection (a) have been issued in final  
25 form, the Commissioner shall publish a notice in the

1 Federal Register announcing that the Office is pre-  
2 pared to act on licensing applications.

### 3 **TITLE IV—HOLDING COMPANIES**

#### 4 **SEC. 401. DEFINITIONS.**

5 In this title:

6 (1) EXTRAORDINARY DIVIDEND OR DISTRIBUTION.—Except as may otherwise be specified by the  
7 Commissioner by regulation, the term “extraor-  
8 dinary dividend or distribution” means a dividend or  
9 distribution of cash or other property on its out-  
10 standing shares (excluding pro rata distributions of  
11 any class of the National Insurer’s own shares),  
12 whose fair market value together with that of other  
13 dividends or distributions made within the prior 12  
14 months exceeds the greater of—

16 (A) 10 percent of the National Insurer’s  
17 policyholder surplus as of the prior December  
18 31; or

19 (B) the net income of the National Insurer  
20 for the 12-month period ending the prior De-  
21 cember 31.

22 (2) INSURANCE HOLDING COMPANY SYSTEM.—  
23 The term “insurance holding company system”  
24 means 2 or more affiliated persons, 1 or more of  
25 which is a National Insurer.

1 **SEC. 402. REGISTRATION.**

2 (a) REGISTRATION.—Each National Insurer that is  
3 a member of an insurance holding company system shall  
4 register with the Commissioner.

5 (b) REGISTRATION STATEMENT.—The Commissioner  
6 shall, by regulation, prescribe—

7 (1) the form and content of the registration  
8 statement to be filed pursuant to subsection (a); and

9 (2) the time and place where the registration  
10 statement is required to be filed with the Commis-  
11 sioner.

12 (c) TERMINATION OF REGISTRATION.—The Commis-  
13 sioner shall terminate the registration of any National In-  
14 surer which demonstrates that it no longer is a member  
15 of an insurance holding company system.

16 (d) CONSOLIDATED REGISTRATION STATEMENT.—  
17 The Commissioner may require or allow 2 or more affili-  
18 ated National Insurers to file a consolidated registration  
19 statement.

20 (e) EXEMPTIONS.—The provisions of this section  
21 shall not apply to any National Insurer, information, or  
22 transaction if, and to the extent that, the Commissioner  
23 by regulation or order, exempts such Insurer, information,  
24 or transaction from the provisions of this section.

25 (f) DISCLAIMER.—Any person may file with the Com-  
26 missioner a disclaimer of affiliation with any National In-

1 surer or a disclaimer may be filed by the National Insurer  
2 or any member of an insurance holding company system.  
3 The disclaimer shall fully disclose all material relation-  
4 ships and bases for affiliation between the person and the  
5 National Insurer as well as the basis for disclaiming the  
6 affiliation. After a disclaimer has been filed, the National  
7 Insurer shall be relieved of any duty to register or report  
8 under this section which may arise out of the National  
9 Insurer's relationship with the person unless and until the  
10 Commissioner disallows the disclaimer. The Commissioner  
11 shall disallow a disclaimer only after furnishing all parties  
12 in interest with notice and opportunity to be heard and  
13 after making specific findings of fact to support the dis-  
14 allowance.

15 **SEC. 403. STANDARDS AND MANAGEMENT OF A NATIONAL**  
16 **INSURER WITHIN AN INSURANCE HOLDING**  
17 **COMPANY SYSTEM.**

18 (a) **TRANSACTIONS WITHIN AN INSURANCE HOLDING**  
19 **COMPANY SYSTEM.—**

20 (1) **STANDARDS.—**Transactions within an in-  
21 surance holding company system to which a Na-  
22 tional Insurer subject to registration under section  
23 402 is a party shall be subject to the following  
24 standards:

1 (A) The terms shall be fair, reasonable,  
2 and at least as favorable to the National In-  
3 surer as those that would be offered to, or  
4 would apply to, a nonaffiliate.

5 (B) Charges or fees for services performed  
6 shall be reasonable and at least as favorable to  
7 the National Insurer as those that would be of-  
8 fered to, or would apply to, a nonaffiliate.

9 (C) Expenses incurred and payment re-  
10 ceived shall be allocated to the National Insurer  
11 in conformity with customary insurance ac-  
12 counting practices consistently applied.

13 (D) The books, accounts, and records of  
14 each party to all such transactions shall be so  
15 maintained as to clearly and accurately disclose  
16 the nature and details of the transactions in-  
17 cluding such accounting information as is nec-  
18 essary to support the reasonableness of the  
19 charges or fees to the respective parties.

20 (E) The National Insurer's surplus as re-  
21 gards policyholders following any dividends or  
22 distributions to shareholders shall be reasonable  
23 in relation to the National Insurer's out-  
24 standing liabilities and adequate to meet its fi-  
25 nancial needs.

1           (2) APPROVAL OF CERTAIN TRANSACTIONS.—

2           The Commissioner may, by regulation, specify cer-  
3           tain transactions involving a National Insurer and  
4           any person in its insurance holding company system  
5           that are not permissible for a National Insurer un-  
6           less the National Insurer has notified the Commis-  
7           sioner in writing of its intention to enter into the  
8           transaction and the Commissioner either has ap-  
9           proved or not disapproved the transaction within a  
10          specified time period.

11          (3) COMPLIANCE WITH STANDARDS.—The

12          Commissioner, in reviewing any transaction for  
13          which notice is required pursuant to paragraph (2),  
14          shall consider whether the transaction complies with  
15          the standards set forth in paragraph (1) and wheth-  
16          er the transaction may adversely affect the interests  
17          of policyholders.

18          (b) EXTRAORDINARY DIVIDENDS.—

19               (1) IN GENERAL.—No National Insurer that is  
20               a member of an insurance holding company system  
21               shall pay any extraordinary dividend or distribution  
22               to its shareholders until 30 days after the Commis-  
23               sioner has received notice of the declaration in a  
24               form prescribed by the Commissioner.

1           (2) **CONDITIONAL DIVIDEND OR DISTRIBUTION.**—A National Insurer that is a member of an  
2           **TION.**—A National Insurer that is a member of an  
3           insurance holding company system may declare an  
4           extraordinary dividend or distribution which is con-  
5           ditional upon the Commissioner’s approval, and the  
6           declaration shall confer no rights upon shareholders  
7           unless—

8                   (A) the Commissioner has approved the  
9                   payment of the dividend or distribution; or

10                   (B) the Commissioner has not disapproved  
11                   payment within the 30-day period referred to in  
12                   paragraph (1).

13 **SEC. 404. RELATIONSHIP TO STATE LAW.**

14           (a) **PERMITTED AFFILIATION.**—A National Insurer  
15           that is part of an insurance holding company system may  
16           be affiliated with an insurer or agency that is not char-  
17           tered or licensed under this Act.

18           (b) **REINSURANCE POOLING AGREEMENTS.**—The  
19           Commissioner shall have exclusive jurisdiction over rein-  
20           surance pooling agreements to which 1 or more National  
21           Property/Casualty Insurers and affiliated State property/  
22           casualty insurers, or agency are parties under which poli-  
23           cies of insurance sold, solicited, negotiated, and under-  
24           written by and reinsurance assumed by affiliated National

1 Property/Casualty Insurers and State property/casualty  
2 insurers are pooled.

3 **SEC. 405. CONFLICT WITH OTHER FEDERAL LAWS.**

4 This title shall be interpreted and applied so as not  
5 to conflict with or supersede the provisions of any other  
6 Federal law or regulation governing the regulation of hold-  
7 ing companies, including financial holding companies as  
8 defined in section 2 of the Bank Holding Company Act  
9 of 1956 (12 U.S.C. 1841).

10 **SEC. 406. NO DELEGATION PERMITTED.**

11 The Commissioner may not delegate to any insurance  
12 self-regulatory organization any authority conferred under  
13 this title with respect to regulation of a National Insurer  
14 that is a member of an insurance holding company system.

15 **TITLE V—PROMPT CORRECTIVE**  
16 **ACTION AND RECEIVERSHIP**  
17 **Subtitle A—Prompt Corrective**  
18 **Action**

19 **SEC. 501. PROMPT CORRECTIVE ACTION.**

20 (a) RULEMAKING.—Not later than the expiration of  
21 the 6-month period beginning upon the submission of the  
22 report under subsection (b)(3) to the Commissioner, the  
23 Commissioner shall promulgate such regulations, applica-  
24 ble to National Insurers, as the Commissioner determines  
25 appropriate and consistent with the recommendation in the

1 report required under subsection (b)(3)(B) to ensure that  
2 prompt corrective action is taken to resolve any hazardous  
3 financial condition of a National Insurer. Such rules may  
4 include such capital measures and categories, capital  
5 standards, supervisory criteria, restrictions on permissible  
6 actions of such Insurers, requirements for such Insurers,  
7 procedures, provisions regarding conservatorship and re-  
8 ceivership of such Insurers, and other provisions as the  
9 Commissioner considers are appropriate to carry out such  
10 purpose and are consistent with the recommendation in  
11 the report submitted pursuant to subsection (b)(3).

12 (b) GAO STUDY AND REPORT.—

13 (1) IN GENERAL.—The Comptroller General of  
14 the United States shall conduct a study to identify  
15 an appropriate structure of procedures and require-  
16 ments for taking prompt corrective actions with re-  
17 spect to National Insurers, to ensure that any haz-  
18 ardous financial condition of such a National In-  
19 surer is resolved effectively and efficiently with the  
20 fewest possible losses.

21 (2) REQUIREMENTS.—In conducting such  
22 study, the Comptroller General shall analyze and  
23 evaluate various proposals, structures, methods, and  
24 systems for taking prompt corrective actions with re-

1       spect to various financial entities and institutions,  
2       including the following:

3               (A) The prompt corrective action require-  
4               ments under section 38 of the Federal Deposit  
5               Insurance Act (12 U.S.C. 1831o) with respect  
6               to insured depository insitutions.

7               (B) The NAIC’s “Model Regulation to De-  
8               fine Standards and Commisioner’s Authority  
9               for Companies Deemed to be in Hazardous Fi-  
10              nancial Condition”, as updated in 2006.

11       (3) REPORT.—

12               (A) IN GENERAL.—Not later than the ex-  
13               piration of the 6-month period beginning on the  
14               date of the enactment of this Act, the Comp-  
15               troller General shall submit a report to the  
16               Commissioner, the Committee on Financial  
17               Services of the House of Representatives, and  
18               the Committee on Banking, Housing, and  
19               Urban Affairs of the Senate, regarding the  
20               study under this subsection.

21               (B) CONTENTS.— The report shall de-  
22               scribe the study and the results of the evalua-  
23               tions conducted under the study, and shall in-  
24               clude a specific recommendation to the Commis-  
25               sioner for establishment of an appropriate

1 structure of procedures and requirements for  
2 taking prompt corrective actions with respect to  
3 National Insurers, to ensure that any haz-  
4 ardous financial condition of a National Insurer  
5 is resolved effectively and efficiently with the  
6 fewest possible losses.

## 7 **Subtitle B—Receivership**

### 8 **SEC. 551. APPOINTMENT OF OFFICE AS RECEIVER.**

9 (a) IN GENERAL.—Notwithstanding any other provi-  
10 sion of Federal or State law, if any of the grounds under  
11 subsection (c) exist, at the discretion of the Commissioner,  
12 the Commissioner may establish a receivership for a Na-  
13 tional Insurer for the purpose of rehabilitation or liquida-  
14 tion, as appropriate.

15 (b) APPOINTMENT.—In any receivership established  
16 under this title, the Commissioner shall appoint the Office  
17 as receiver.

18 (c) GROUNDS FOR APPOINTMENT.—The grounds for  
19 appointing receivership for the purpose of rehabilitating  
20 or liquidating a National Insurer are as follows:

21 (1) INSOLVENCY.—The National Insurer is in-  
22 solvent.

23 (2) SUBSTANTIAL DISSIPATION.—The National  
24 Insurer has substantial dissipation of assets or earn-  
25 ings due to—

1 (A) any violation of any provision of Fed-  
2 eral or State law; or

3 (B) any hazardous practice.

4 (3) HAZARDOUS CONDITION.—The National In-  
5 surer is in such condition that the further trans-  
6 action of business would be hazardous, financially or  
7 otherwise, to policyholders, creditors, or the public.

8 (4) CEASE-AND-DESIST ORDERS.—The National  
9 Insurer has willfully violated a cease-and-desist  
10 order that has become final.

11 (5) CONCEALMENT.—The National Insurer has  
12 concealed the books, papers, records, or assets of the  
13 National Insurer, or has refused to submit the  
14 books, papers, records, or affairs of the National In-  
15 surer, for inspection to any examiner or to any law-  
16 ful agent of the Commissioner.

17 (6) INABILITY TO MEET OBLIGATIONS.—The  
18 National Insurer is likely to be unable to pay its ob-  
19 ligations or meet the demands of its creditors in the  
20 normal course of business.

21 (7) LOSSES.—The National Insurer has in-  
22 curred or is likely to incur losses that will deplete all  
23 or substantially all of its capital, and there is no rea-  
24 sonable prospect for the National Insurer to replen-  
25 ish its capital.

1           (8) VIOLATIONS OF LAW.—The National In-  
2           surer has violated any law or regulation, or com-  
3           mitted any hazardous practice or condition, that is  
4           likely to—

5                   (A) cause insolvency or substantial dissipa-  
6                   tion of assets or earnings; or

7                   (B) weaken the condition of the National  
8           Insurer.

9           (9) CONSENT.—The National Insurer, by reso-  
10          lution of its board of directors or its shareholders or  
11          members, consents to the appointment.

12          (10) MONEY LAUNDERING.—The Attorney  
13          General notifies the Commissioner in writing that  
14          the National Insurer has been found guilty of a  
15          criminal offense under section 1956 or 1957 of title  
16          18, United States Code, or section 5322 or 5324 of  
17          title 31, United States Code.

18          (d) DIRECTORS NOT LIABLE.—The members of the  
19          board of directors of a National Insurer shall not be liable  
20          to the shareholders, members, policyholders, or creditors  
21          of the insurer for acquiescing in, or consenting in good  
22          faith to, the appointment of the Office as a receiver.

23          (e) OFFICE NOT SUBJECT TO ANY OTHER FEDERAL  
24          AGENCY.—When acting as receiver, the Office shall not  
25          be subject to the direction or supervision of any other

1 agency of the United States or any State in the exercise  
2 of the rights, powers, and privileges of the Office.

3 **SEC. 552. AUTOMATIC STAY.**

4 (a) AUTOMATIC STAY.—Except as provided in sub-  
5 section (c) or as otherwise provided in this title, the com-  
6 mencement of a receivership proceeding under this title  
7 operates as a stay, applicable to all entities, of—

8 (1) the commencement or continuation, includ-  
9 ing the issuance or employment of process, of a judi-  
10 cial, administrative, or other action or proceeding  
11 against the National Insurer, including an arbitra-  
12 tion proceeding, that was or could have been com-  
13 menced before the commencement of the receivership  
14 proceeding under this title, or to recover a claim  
15 against the National Insurer that arose before the  
16 commencement of the receivership proceeding under  
17 this title;

18 (2) the enforcement, against the National In-  
19 surer or against property of the National Insurer, of  
20 a judgment obtained before the commencement of  
21 the receivership proceeding under this title;

22 (3) any act to obtain possession of property of  
23 the National Insurer or of property from the Na-  
24 tional Insurer or to exercise control over property or  
25 records of the National Insurer;

1           (4) any act to create, perfect, or enforce any  
2           lien against property of the National Insurer;

3           (5) any act to collect, assess, or recover a claim  
4           against the National Insurer that arose before the  
5           commencement of a receivership proceeding under  
6           this title; and

7           (6) the commencement or continuation of an  
8           action or proceeding against a reinsurer of the Na-  
9           tional Insurer, by the holder of a claim against the  
10          National Insurer, seeking reinsurance recoveries that  
11          are contractually due to the National Insurer.

12          (b) OTHER STAY.—Except as provided in subsections  
13 (c) and (d) or as otherwise provided in this title, the com-  
14 mencement of a receivership proceeding under this title  
15 operates as a stay, applicable to all entities, of the com-  
16 mencement or continuation, including the issuance or em-  
17 ployment of process, of a judicial, administrative, or other  
18 action or proceeding, including the enforcement of any  
19 judgment against any insured that was or could have been  
20 commenced before the commencement of the receivership  
21 proceeding under this title or to recover a claim against  
22 any insured that arose before or after the commencement  
23 of the receivership proceedings under this title and for  
24 which the insurer is or may be liable under an insurance  
25 policy or is obligated to defend a party. The stay provided

1 by this subsection shall terminate 90 days after appoint-  
2 ment of the receiver unless extended by order of the Com-  
3 missioner, for good cause shown, after notice to any af-  
4 fected parties and such hearing as the Commissioner de-  
5 termines is appropriate, provided that any applicable stat-  
6 ute of limitation with respect to any claim against an in-  
7 sured shall be tolled during the period of the stay provided  
8 by this subsection and any extensions.

9 (c) EXCEPTIONS.—The commencement of a receiver-  
10 ship proceeding under this title does not operate as a stay  
11 of—

12 (1) criminal actions;

13 (2) any act to perfect, or to maintain or con-  
14 tinue the perfection of, an interest in property to the  
15 extent such act is accomplished within any relation  
16 back period under applicable law;

17 (3) setoff as permitted by regulations issued by  
18 the Commissioner;

19 (4) termination of reinsurance contracts cov-  
20 ering insurance policies;

21 (5) pursuit and enforcement of nonmonetary  
22 governmental claims, judgments, and proceedings;

23 (6) enforcement of a lessor's rights under a  
24 lease that expired prior to the filing of the receiver-  
25 ship proceeding;

1           (7) presentment of a negotiable instrument and  
2           the giving of notice of and protesting dishonor of  
3           such an instrument;

4           (8) enforcement of rights against single bene-  
5           ficiary trusts;

6           (9) termination, liquidation, and netting of obli-  
7           gations under qualified financial contracts as such  
8           contracts are defined by regulations issued by the  
9           Commissioner;

10          (10) discharge by a guaranty association of  
11          statutory responsibilities or the pursuit of claims  
12          against a guaranty association to the extent per-  
13          mitted by law other than this title; or

14          (11) an action that is—

15                (A) an audit by a governmental unit to de-  
16                termine tax liability;

17                (B) the issuance to the insurer by a gov-  
18                ernmental unit of a notice of tax deficiency;

19                (C) a demand for tax returns; or

20                (D) the making of an assessment for any  
21                tax and issuance of a notice and demand for  
22                payment of such an assessment.

23          (d) LENGTH OF STAY.—Except as provided in sub-  
24          section (f)—

1           (1) the stay of an act against property of the  
2 insurer under subsection (a) continues until such  
3 property is no longer property of the receivership;  
4 and

5           (2) the stay of any other act under subsection  
6 (a) continues until the receivership is terminated.

7       (e) OTHER EXCEPTIONS.—Notwithstanding the pro-  
8 visions of subsection (a)—

9           (1) claims against the National Insurer that  
10 arose before the commencement of the receivership  
11 proceeding under this title may be asserted as a  
12 counterclaim in any judicial, administrative, or other  
13 action or proceeding initiated by or on behalf of the  
14 receiver against the holder of such claims; and

15           (2) a party against whom a judicial, adminis-  
16 trative, or other action or proceeding is initiated by  
17 or on behalf of the receiver may assert and enforce  
18 any contractual right the party may have to require  
19 arbitration of any dispute under any law.

20       (f) RELIEF FROM STAY.—On request of a party in  
21 interest and after notice and such hearing as the Commis-  
22 sioner determines appropriate, the Commissioner may  
23 grant relief from the stay in effect pursuant to subsection  
24 (a), such as by terminating, annulling, modifying, or con-  
25 ditioning such stay—

1 (1) for cause; or

2 (2) with respect to a stay of an action against  
3 property under subsection (a) if—

4 (A) the National Insurer does not have an  
5 equity in such property; and

6 (B) such property is not necessary to an  
7 effective plan.

8 (g) BURDEN OF PROOF.—In any hearing under sub-  
9 section (a), the party seeking relief from the stay shall  
10 have the burden of proof on each issue that must be estab-  
11 lished by clear and convincing evidence.

12 (h) DAMAGES FOR WILLFUL VIOLATION OF STAY.—  
13 The estate of a National Insurer that is injured by any  
14 willful violation of a stay provided by this section shall  
15 be entitled to actual damages, including costs and attor-  
16 neys' fees, and, in appropriate circumstances, the Court  
17 may impose additional sanctions.

18 **SEC. 553. POWERS AND DUTIES.**

19 (a) IN GENERAL.—The receiver shall have all the  
20 powers of the directors, officers, and managers of the in-  
21 surer, whose authority shall be suspended, except as they  
22 are redelegated by the receiver or liquidator.

23 (b) SPECIFIC POWERS.—In addition to those powers  
24 otherwise provided by this title, the receiver or liquidator  
25 shall have the power to—

1 (1) use, sell, or lease property of the insurer;

2 (2) after notice and a hearing, borrow money  
3 on the security of the National Insurer's assets, bor-  
4 row money without security, and execute and deliver  
5 all documents necessary to such transaction for the  
6 purpose of facilitating the receiver;

7 (3) collect all debts and money due and claims  
8 belonging to the National Insurer, wherever located;

9 (4) institute and pursue legal actions and to  
10 continue any pending action, in any jurisdiction;

11 (5) suspend, limit, or permit insurance policy  
12 withdrawals in connection with insurance policies;

13 (6) do other acts as are necessary or expedient  
14 to collect, marshal, or protect the assets or property,  
15 including the power to sell, compound, compromise,  
16 or assign debts for purposes of collection upon such  
17 terms and conditions as the receiver considers best  
18 and that are consistent with this title;

19 (7) enter into contracts necessary to carry out  
20 the order of rehabilitation or liquidation;

21 (8) hold hearings, subpoena witnesses to compel  
22 their attendance, administer oaths, examine a person  
23 under oath, and compel a person to subscribe to the  
24 person's testimony after it has been correctly re-  
25 duced to writing and, in connection with these pow-

1       ers, require the production of books, papers, records,  
2       or other documents that the receiver considers rel-  
3       evant to the inquiry; and

4             (9) exercise all powers held or conferred upon  
5       receivers by the laws of the United States that are  
6       not inconsistent with the provisions of this title.

7       **SEC. 554. RULEMAKING.**

8             (a) IN GENERAL.—The Commissioner shall establish,  
9       by regulation, standards and procedures for receivership  
10       proceedings commenced under this title, including proce-  
11       dures and priorities for the allowance or disallowance of  
12       claims, standards for the treatment of reinsurance, and  
13       such other matters as the Commissioner determines ap-  
14       propriate.

15            (b) MODEL.—The regulations issued by the Commis-  
16       sioner under subsection (a) shall be based upon the Uni-  
17       form Receivership Law adopted by the Interstate Insur-  
18       ance Receivership Compact Commission in September  
19       1998.

20       **SEC. 555. JUDICIAL REVIEW.**

21             (a) NATIONAL INSURERS.—

22               (1) IN GENERAL.—Whenever the Office is ap-  
23       pointed as a receiver for a National Insurer, the Na-  
24       tional Insurer may, within 30 days of such appoint-  
25       ment, bring an action in the United States District

1 Court for the judicial district in which the principal  
2 place of business of such insurer is located, or in the  
3 United States District Court for the District of Co-  
4 lumbia, for an order requiring the Office to remove  
5 itself as receiver.

6 (2) REVIEW.—Upon the filing of an action  
7 under paragraph (1), the court shall, upon the mer-  
8 its dismiss such action or direct the Office to remove  
9 itself as such receiver.

10 (b) CLAIMANTS.—If the Office, acting as a receiver,  
11 disallows a claim against the receivership, a claimant may,  
12 within 60 days of the notice of disallowance, bring an ac-  
13 tion in the United States District Court for the judicial  
14 district in which the principal place of business of the Na-  
15 tional Insurer is located, or in the United States District  
16 Court for the District of Columbia, to challenge the dis-  
17 allowance.

## 18 **TITLE VI—INSOLVENCY**

### 19 **PROTECTION**

#### 20 **SEC. 601. PARTICIPATION IN GUARANTY ASSOCIATIONS.**

21 (a) PARTICIPATION IN STATE GUARANTY ASSOCIA-  
22 TIONS.—

23 (1) NATIONAL LIFE INSURERS.—A National  
24 Life Insurer shall become and continue as a member  
25 of the life and health guaranty association in each

1 qualified State in which the National Insurer is  
2 doing business.

3 (2) NATIONAL PROPERTY/CASUALTY INSUR-  
4 ERS.—A National Property/Casualty Insurer shall  
5 become and continue as a member of the property/  
6 casualty guaranty association in each qualified State  
7 in which the National Insurer is doing business.

8 (3) ASSESSMENTS.—Associations in qualified  
9 States shall be authorized to levy assessments on  
10 National Insurers doing business in such States. Na-  
11 tional Insurers shall be obligated to pay such assess-  
12 ments to the extent that they are levied on the same  
13 terms that State insurers are obligated to pay as-  
14 sessments to the association under applicable State  
15 law.

16 (b) PARTICIPATION IN NATIONAL INSURANCE GUAR-  
17 ANTY ASSOCIATION.—A National Insurer that does busi-  
18 ness in 1 or more nonqualified States shall become and  
19 continue to be a member of the National Insurance Guar-  
20 anty Corporation.

21 **SEC. 602. QUALIFIED AND NONQUALIFIED STATE.**

22 (a) QUALIFIED STATE DEFINED.—In this title, the  
23 term “qualified State” means a State in which the Com-  
24 missioner has determined that, pursuant to State law—

25 (1) the State has established—

1 (A) an association that admits as members  
2 both State life insurers and National Life In-  
3 surers, and that, in the event a member is  
4 placed into receivership for purposes of rehabili-  
5 tation or liquidation, may provide benefits to  
6 the policyholders of such National Life Insurers  
7 that are not less than the benefits provided to  
8 policyholders of State life insurers; and

9 (B) an association that admits as members  
10 both State property/casualty insurers and Na-  
11 tional Property/Casualty Insurers, and that, in  
12 the event a member is placed into receivership  
13 for purposes of liquidation, may provide cov-  
14 erage to policyholders of such National Prop-  
15 erty/Casualty Insurers that is not less than the  
16 coverage provided to policyholders of State  
17 property/casualty insurers;

18 (2) the boards of directors of the associations  
19 described in paragraph (1) are required to—

20 (A) be representative of insurers on a basis  
21 that does not unfairly discriminate against Na-  
22 tional Insurers; and

23 (B) be fairly representative of insurers of  
24 different sizes and lines of insurance written;  
25 and

1           (3) the bylaws of the associations described in  
2 paragraph (1) provide that if either such association  
3 fails to act within a reasonable period of time with  
4 respect to a National Insurer, the Commissioner  
5 shall have the powers and the duties of the associa-  
6 tion under the laws of the State that established the  
7 association with respect to the National Insurer.

8 (b) DETERMINATION.—

9           (1) IN GENERAL.—The Commissioner shall es-  
10 tablish, by regulation, a procedure for determining  
11 whether a State is a qualified State.

12           (2) CERTIFICATION.—The Commissioner shall  
13 determine that a State is a qualified State upon re-  
14 ceipt of a—

15           (A) written request that is jointly filed by  
16 the life and health guaranty association and the  
17 property/casualty guaranty association estab-  
18 lished by a State; and

19           (B) certification by the State's insurance  
20 regulator that such State and such associations  
21 satisfy the terms of the definition of a qualified  
22 State, as set forth in subsection (a).

23 (c) REVOCATION.—The Commissioner shall revoke a  
24 determination that a State is a qualified State if the Com-  
25 missioner determines that a State is a nonqualified State.

1 In such event, the Commissioner shall provide a written  
2 notice of the revocation to the affected associations and  
3 the relevant State insurance regulator, and the associa-  
4 tions or the State insurance regulator may seek a review  
5 of the revocation under terms of section 706.

6 (d) LIST OF QUALIFIED AND NONQUALIFIED  
7 STATES.—Not later than 6 months after the initial ap-  
8 pointment and confirmation of the Commissioner, the  
9 Commissioner shall publish, in the Federal Register, a list  
10 of qualified and nonqualified States.

11 (e) TEMPORARY STATUS.—In the event that a State  
12 ceases to satisfy the conditions set forth in subparagraph  
13 (A) or (B) of subsection (a)(1) because the Commissioner  
14 increases the benefits or coverage provided by the Cor-  
15 poration pursuant to section 604 or 605, such State shall  
16 continue to be classified as a qualified State for a period  
17 of 24 months following the date of the Commissioner’s ac-  
18 tion to increase the benefits or coverage.

19 (f) NONQUALIFIED STATE.—For purposes of this  
20 title, any State that is not a qualified State is a “non-  
21 qualified State.”

22 **SEC. 603. ESTABLISHMENT OF THE NATIONAL INSURANCE**  
23 **GUARANTY CORPORATION.**

24 (a) ESTABLISHMENT OF THE CORPORATION.—

1           (1) IN GENERAL.—There is established the Na-  
2           tional Insurance Guaranty Corporation.

3           (2) NONPROFIT AND SUCCESSION.—The Cor-  
4           poration shall be a nonprofit corporation and shall  
5           have succession until dissolved by an Act of Con-  
6           gress.

7           (3) APPLICATION OF DISTRICT OF COLUMBIA  
8           NONPROFIT CORPORATION ACT.—The Corporation  
9           shall, except as otherwise provided in this title, be  
10          subject to, and have all the powers conferred upon  
11          a nonprofit corporation by the District of Columbia  
12          Nonprofit Corporation Act (D.C. Code, section 29–  
13          301.01 et seq.).

14          (b) MEMBERSHIP IN THE CORPORATION.—The mem-  
15          bership of the Corporation shall consist of all National In-  
16          surers and State insurers doing business in 1 or more non-  
17          qualified State.

18          (c) CORPORATE GOVERNANCE.—

19               (1) GOVERNING BODY.—The board of directors  
20               of the Corporation shall be the governing body of the  
21               Corporation and shall be vested with all powers nec-  
22               essary for the management and administration of  
23               the affairs of the Corporation and the promotion of  
24               the Corporation's purposes as authorized by this

1 Act. The board of directors' authority shall be speci-  
2 fied in the bylaws of the Corporation.

3 (2) ELECTION OR APPOINTMENT.—The initial  
4 board of directors of the Corporation shall be elected  
5 by the membership of the Corporation, provided that  
6 if the membership fails to elect the initial board of  
7 the Corporation on or before the chartering and li-  
8 censing commencement date for National Insurers  
9 that is described in section 210, then the initial  
10 board shall be appointed by the Commissioner.  
11 Membership on the board of directors shall be fairly  
12 representative of members of differing size and lines  
13 of business written.

14 (3) INITIAL BYLAWS AND RULES.—The Com-  
15 missioner shall prescribe the initial bylaws and rules  
16 governing the Corporation, which shall set forth the  
17 composition of the board of directors, the term of  
18 board members, filling of board vacancies, board  
19 compensation, election of officers and procedures to  
20 call board meetings, and all matters necessary for  
21 the governance of the Corporation not addressed by  
22 the District of Columbia Nonprofit Corporation Act  
23 (D.C. Code, section 29–301.01 et seq.).

24 (4) AMENDMENTS TO BYLAWS AND RULES.—  
25 An amendment to the bylaws and rules of the Cor-

1       poration following the establishment of the initial by-  
2       laws and rules as provided in paragraph (3) shall be  
3       adopted by the board of directors of the Corporation  
4       following the approval of the amendment by the  
5       Commissioner.

6       (d) RELATIONSHIP OF CORPORATION TO THE FED-  
7       ERAL GOVERNMENT.—

8               (1) SUPERVISION AND OVERSIGHT.—The Cor-  
9       poration shall be subject to supervision and over-  
10      sight by the Commissioner.

11              (2) NOT AN AGENCY OR INSTRUMENTALITY OF  
12      THE FEDERAL GOVERNMENT.—The Corporation  
13      shall not be an agency or instrumentality of the  
14      United States Government.

15              (3) FULL FAITH AND CREDIT.—The obligations  
16      of the Corporation shall not be backed, directly or  
17      indirectly, by the full faith and credit of the United  
18      States. The Corporation shall receive no financial as-  
19      sistance from or have any authority to borrow from  
20      the United States.

21              (4) FUNDS NOT INCLUDED IN THE FEDERAL  
22      BUDGET.—Funds held by or due to the Corporation  
23      shall not be included in the budget of the United  
24      States, nor may the United States borrow or pledge  
25      such funds.

1 (e) CONTRACTING WITH PERSON TO ADMINISTER  
2 BENEFITS.—The Corporation may contract, with the ap-  
3 proval of the Commissioner, with another person to ad-  
4 minister the benefits to be provided by the Corporation  
5 under this title.

6 (f) ACCOUNTS FOR ADMINISTRATION AND ASSESS-  
7 MENTS.—For purposes of administration and assess-  
8 ments, the Corporation shall establish and separately  
9 maintain 5 accounts as follows:

- 10 (1) A life insurance account.
- 11 (2) An annuity account.
- 12 (3) A workers' compensation account.
- 13 (4) An automobile insurance account.
- 14 (5) An account for all other lines of property/  
15 casualty insurance to which this title applies.

16 **SEC. 604. BENEFITS FOR POLICY HOLDERS OF NATIONAL**  
17 **LIFE INSURERS.**

18 (a) IN GENERAL.—Subject to the provisions of this  
19 title, the Corporation shall provide benefits to the policy-  
20 holders of a National Life Insurer that is doing business  
21 in a nonqualified State and is placed into receivership by  
22 the Commissioner for purposes of rehabilitation or liquida-  
23 tion.

24 (b) COVERED PERSONS.—Benefits shall be made  
25 available as follows:

1           (1) To persons who, regardless of where the  
2 persons reside, are the beneficiaries, assignees, or  
3 payees of the persons covered under paragraph (2).

4           (2) To persons who are owners of or certificate  
5 holders under the insurance policies (other than  
6 unallocated annuity contracts, and structured settle-  
7 ment annuities) and in each case who are residents  
8 of a nonqualified State.

9           (3) This title shall not provide coverage to a  
10 person who is a payee (or beneficiary) of a  
11 policyowner resident of a nonqualified State, if the  
12 payee (or beneficiary) is afforded any coverage by a  
13 qualified State's association.

14           (4) This title is intended to provide coverage to  
15 persons who are residents of a nonqualified State  
16 and, in special circumstances, to persons who are  
17 not a resident in a nonqualified State. In order to  
18 avoid duplicate coverage, if a person who would oth-  
19 erwise receive coverage under this title is provided  
20 coverage under the laws of any State other than the  
21 non-qualified State, the person shall not be provided  
22 coverage under this title. In determining the applica-  
23 tion of the provisions of this paragraph in situations  
24 where a person could be covered by the association  
25 of more than 1 qualifying or nonqualifying State,

1       whether as a policyowner, payee, beneficiary, or as-  
2       signee, this title shall be construed in conjunction  
3       with the laws of such States to result in coverage by  
4       only 1 association.

5       (c) INSURANCE POLICIES COVERED AND COVERAGE  
6       LIMITS.—

7           (1) REGULATION.—The Commissioner shall es-  
8       tablish, by regulation, the lines of insurance covered,  
9       the scope of coverage, defenses, exclusions, and the  
10      coverage limits on benefits for policyholders.

11          (2) NAIC MODEL.—The regulations described  
12      in paragraph (1) shall be based on the NAIC’s “Life  
13      and Health Insurance Guaranty Association Model  
14      Act” in effect on the date of enactment of this Act.

15          (3) NAIC AMENDMENTS.—The Commissioner  
16      may, by regulation, specify that any amendment  
17      made by the NAIC to the lines of insurance covered  
18      in its “Life and Health Insurance Guaranty Associa-  
19      tion Model Act” or the limits on the coverage for  
20      such policies shall apply, in whole or in part, to the  
21      Corporation.

22          (4) ADJUSTMENTS BY THE COMMISSIONER.—  
23      The Commissioner may, by regulation, modify the  
24      lines of insurance covered by this section or increase

1 the coverage limits for such insurance, as the Com-  
2 missioner determines appropriate.

3 (5) PAYMENT OF BENEFITS.—Payments for  
4 benefits under this section shall be made from the  
5 life insurance account or the annuity account, as ap-  
6 propriate.

7 **SEC. 605. CLAIMS COVERED FOR POLICYHOLDERS OF NA-**  
8 **TIONAL PROPERTY/CASUALTY INSURERS.**

9 (a) IN GENERAL.—Subject to the provisions of this  
10 title, the Corporation shall provide coverage for claims by  
11 policyholders of a National Property/Casualty Insurer that  
12 is doing business in a non-qualified State and is placed  
13 into receivership by the Commissioner for purposes of liq-  
14 uidation.

15 (b) INSURANCE POLICIES COVERED AND COVERAGE  
16 LIMITS.—

17 (1) IN GENERAL.—The Commissioner shall  
18 specify, by regulation, the lines of property/casualty  
19 insurance covered, the scope of coverage, defenses,  
20 exclusions, and the limits on covered claims.

21 (2) NAIC MODEL.—The regulation described in  
22 paragraph (1) shall be based upon the NAIC's  
23 "Property/Casualty Guaranty Association Model  
24 Act" in effect on the date of enactment of this Act.

1           (3) NAIC AMENDMENTS.—The Commissioner  
2           may, by regulation, specify that any amendment  
3           made by the NAIC to the lines of insurance covered  
4           or the coverage limits in the NAIC’s “Property/Cas-  
5           ualty Guaranty Association Model Act” shall apply,  
6           in whole or in part, to coverage provided by the Cor-  
7           poration.

8           (4) ADJUSTMENTS BY THE COMMISSIONER.—  
9           The Commissioner may, by regulation, modify the  
10          lines of insurance covered or increase the coverage  
11          levels described in this subsection, as the Commis-  
12          sioner determines appropriate.

13          (c) PAYMENT OF BENEFITS.—Payments for claims  
14          under this section shall be made from the property and  
15          casualty account established pursuant to section 603.

16 **SEC. 606. POWERS AND DUTIES OF THE CORPORATION.**

17          (a) POWERS AND DUTIES RELATED TO NATIONAL  
18          LIFE INSURERS.—

19               (1) NATIONAL INSURERS SUBJECT TO REHA-  
20               BILITATION.—Subject to the provisions of this title,  
21               if a National Life Insurer is placed into receivership  
22               for purposes of rehabilitation, the Corporation may,  
23               in its discretion, and subject to any conditions im-  
24               posed by the Corporation that do not impair the  
25               contractual obligations of the National Life Insurer,

1 and that are approved by the Commissioner, do one  
2 of the following:

3 (A) Guarantee, assume, or reinsure, or  
4 cause to be guaranteed, assumed or reinsured,  
5 any or all of the insurance policies of the Na-  
6 tional Life Insurer.

7 (B) Provide such monies, pledges, loans,  
8 notes, guarantees or other means as are proper  
9 to effectuate subparagraph (A) and assure pay-  
10 ment of the contractual obligations of the Na-  
11 tional Life Insurer pending action under sub-  
12 paragraph (A).

13 (2) NATIONAL LIFE INSURERS SUBJECT TO  
14 LIQUIDATION.—Subject to the provisions of this  
15 title, if a National Life Insurer is placed into receiv-  
16 ership for purposes of liquidation, the Corporation  
17 shall, in its discretion, take either the actions speci-  
18 fied in subparagraph (A) or the actions specified in  
19 subparagraph (B).

20 (A) ASSUMPTION OF THE OBLIGATIONS OF  
21 THE NATIONAL LIFE INSURER.—The Corpora-  
22 tion shall—

23 (i)(I) guarantee, assume or reinsure,  
24 or cause to be guaranteed, assumed or re-

1 insured, the insurance policies of the Na-  
2 tional Life Insurer; or

3 (II) assure payment of the contractual  
4 obligations of the National Life Insurer;  
5 and

6 (ii) provide monies, pledges, loans,  
7 notes, guarantees, or other means reason-  
8 ably necessary to discharge the duties im-  
9 posed by this section.

10 (B) PROVISION OF BENEFITS TO POLICY-  
11 HOLDERS.—The Corporation shall provide ben-  
12 efits in accordance with the following provi-  
13 sions:

14 (i) ASSURE PAYMENT OF BENEFITS.—  
15 With respect to life insurance policies and  
16 annuities, the Corporation shall assure  
17 payment of benefits for premiums identical  
18 to the premiums and benefits (except for  
19 terms of conversion and renewability) that  
20 would have been payable under the insur-  
21 ance policies of the National Life Insurer,  
22 for claims incurred—

23 (I) with respect to group insur-  
24 ance policies, not later than the ear-  
25 lier of the next renewal date under

1           those insurance policies or 45 days,  
2           but in no event less than 30 days,  
3           after the date on which the Corpora-  
4           tion becomes obligated under this sec-  
5           tion with respect to such policies; and

6                       (II) with respect to nongroup in-  
7           surance policies, not later than the  
8           earlier of the next renewal date (if  
9           any) under the insurance policies or 1  
10          year, but in no event less than 30  
11          days, from the date on which the Cor-  
12          poration becomes obligated under this  
13          section with respect to such policies.

14                   (ii) NOTICE.—The Corporation shall  
15          make diligent efforts to provide all known  
16          insured or annuitants (for non-group in-  
17          surance policies), or group policyholders  
18          with respect to group insurance policies, 30  
19          days notice of the termination (pursuant to  
20          clause (i)) of the benefits provided.

21                   (iii) SUBSTITUTE COVERAGE.—With  
22          respect to nongroup insurance policies cov-  
23          ered by this title, the Corporation shall  
24          make available to each known insured or  
25          annuitant and to each individual formerly

1 insured or formerly an annuitant under a  
2 group policy who is not eligible for replace-  
3 ment group coverage, substitute coverage  
4 on an individual basis in accordance with  
5 the provisions of clause (iv), if the insured  
6 or annuitants had a right under law or the  
7 terminated policy or annuity to convert  
8 coverage to individual coverage or to con-  
9 tinue an individual policy or annuity in  
10 force until a specified age or for a specified  
11 time, during which the National Life In-  
12 surer had no right unilaterally to make  
13 changes in any provision of the policy or  
14 had a right only to make changes in pre-  
15 mium by class.

16 (iv) ALTERNATIVE OR REISSUED  
17 POLICIES.—In providing the substitute  
18 coverage required under clause (iii), the  
19 Corporation may offer either to reissue the  
20 terminated coverage or to issue an alter-  
21 native policy. Alternative or reissued insur-  
22 ance policies shall be offered without re-  
23 quiring evidence of insurability, and shall  
24 not provide for any waiting period or ex-  
25 clusion that would not have applied under

1 the terminated policy. The Corporation  
2 may reinsure any alternative or reissued  
3 policy.

4 (v) ALTERNATIVE INSURANCE POLI-  
5 CIES.—Alternative policies adopted or  
6 issued by the Corporation shall be subject  
7 to approval by the Commissioner.

8 (vi) TERMINATION OF BENEFITS.—  
9 Benefits under this title with respect to  
10 coverage under any policy of an insolvent  
11 National Life Insurer or under any re-  
12 issued or alternative policy shall cease on  
13 the date the coverage or policy is replaced  
14 by another similar policy by the policy-  
15 holder, the insured, or the Corporation.

16 (3) TREATMENT OF PREMIUMS.—

17 (A) NONPAYMENT OF PREMIUMS.—The  
18 nonpayment of premiums within 31 days after  
19 the date required under the terms of any guar-  
20 anteed, assumed, alternative, or reissued policy  
21 or substitute coverage provided pursuant to  
22 paragraphs (1) or (2) shall terminate benefits  
23 under this title with respect to the policy, ex-  
24 cept with respect to any claims incurred or any

1 net cash surrender value that may be due in ac-  
2 cordance with the provisions of this title.

3 (B) PREMIUMS DUE AFTER LIQUIDATION  
4 INITIATED.—Premiums due for coverage under  
5 covered policies after the Commissioner has ini-  
6 tiated the liquidation of a National Life Insurer  
7 shall belong to and be payable at the direction  
8 of the Corporation, and the Corporation shall  
9 be liable for unearned premiums due to the pol-  
10 icyholders under the covered policies.

11 (4) PERMANENT AND TEMPORARY LIENS.—In  
12 carrying out the duties under paragraph (2), the  
13 Corporation may, subject to the approval of the  
14 Commissioner—

15 (A) impose permanent policy liens in con-  
16 nection with a guarantee, assumption or rein-  
17 surance contract, if the Corporation finds that  
18 the amounts which can be assessed under this  
19 title are less than the amounts needed to assure  
20 full and prompt performance of the protections  
21 provided under this title, or that the economic  
22 or financial conditions as they affect the insur-  
23 ance industry are sufficiently adverse to render  
24 the imposition of such permanent policy liens to  
25 be in the public interest; or

1           (B) impose temporary moratoriums or  
2           liens on payments of cash values and policy  
3           loans, or any other right to withdraw funds on  
4           payments of cash values and policy loans, or  
5           any other right to withdraw funds held in con-  
6           junction with insurance policies, in addition to  
7           any contractual provisions for deferral of cash  
8           or policy loan value.

9           (5) INDEXED INSURANCE POLICIES.—In car-  
10          rying out its duties in connection with paragraphs  
11          (1) or (2), the Corporation may, subject to the ap-  
12          proval of the Commissioner, issue substitute cov-  
13          erage for an insurance policy that provides an inter-  
14          est rate, crediting rate, or similar factor determined  
15          by use of an index or other external reference stated  
16          in the insurance policy employed in calculating re-  
17          turns or changes in value by issuing an alternative  
18          insurance policy in accordance with the following  
19          provisions:

20                 (A) In lieu of the index or other external  
21                 reference provided for in the original insurance  
22                 policy, the alternative insurance policy provides  
23                 for—

24                         (i) a fixed interest rate;

1 (ii) payment of dividends with min-  
2 imum guarantees; or

3 (iii) a different method for calculating  
4 interest or changes in value.

5 (B) There shall be no requirement for evi-  
6 dence of insurability, waiting period, or other  
7 exclusion that would not have applied under the  
8 replaced insurance policy.

9 (C) The alternative insurance policy is sub-  
10 stantially similar to the replaced insurance pol-  
11 icy in all other material terms.

12 (b) POWERS AND DUTIES RELATED TO NATIONAL  
13 PROPERTY/CASUALTY INSURERS.—Subject to the terms  
14 of this title, when a National Property/Casualty Insurer  
15 is placed into receivership for purposes of liquidation, the  
16 Corporation shall exercise the powers and duties specified  
17 in this subsection.

18 (1) ASSUME OBLIGATIONS.—The Corporation  
19 shall be deemed the insurer to the extent of its obli-  
20 gation on covered claims and to that extent shall  
21 have all rights, duties, and obligations of the insol-  
22 vent National Property/Casualty Insurer as if such  
23 Insurer had not become insolvent, including but not  
24 limited to the right to pursue and retain salvage and

1 subrogation recoverable on covered claims obliga-  
2 tions to the extent paid by the Corporation.

3 (2) INVESTIGATE AND PAY CLAIMS.—The Cor-  
4 poration shall investigate claims brought against the  
5 Corporation and adjust, compromise, settle and pay  
6 covered claims to the extent of the Corporation's ob-  
7 ligations. The Corporation shall pay claims in any  
8 order that it determines reasonable, including the  
9 payment of claims as they are received from the  
10 claimants or in groups or categories of claims. The  
11 Corporation may review settlements, releases and  
12 adjustments to which the insolvent National Prop-  
13 erty/Casualty Insurer or its insured were parties to  
14 determine the extent to which the settlements, re-  
15 leases and judgments may be properly contested.  
16 The Corporation shall have the right to appoint or  
17 substitute and to direct legal counsel retained under  
18 liability insurance policies for the defense of covered  
19 claims.

20 (c) OTHER CORPORATION POWERS.—In addition to  
21 the rights and powers provided elsewhere in this title, the  
22 Corporation may—

23 (1) enter into such contracts as are necessary  
24 or proper to carry out the provisions and purposes  
25 of this title;

1           (2) sue or be sued, including taking any legal  
2 actions necessary or proper to recover any unpaid  
3 assessments under section 607 and to settle claims  
4 or potential claims against the Corporation;

5           (3) borrow money to effect the purposes of this  
6 title and any notes or other evidence of indebtedness  
7 of the Corporation not in default shall be legal in-  
8 vestments for National Insurers and may be carried  
9 as assets;

10          (4) employ or retain such persons as are nec-  
11 essary or appropriate to handle the financial trans-  
12 actions of the Corporation and to perform such  
13 other functions as become necessary or proper under  
14 this title;

15          (5) take such legal action as may be necessary  
16 or appropriate to avoid or recover payment of im-  
17 proper claims;

18          (6) exercise, for the purposes of this title and  
19 to the extent approved by the Commissioner, the  
20 powers of a National Insurer, except that the Cor-  
21 poration may not issue insurance policies or annuity  
22 contracts other than those issued to provide the pro-  
23 tections under this title;

24          (7) request information from a person seeking  
25 protection under this title in order to aid the Cor-

1       poration in determining its obligations under this  
2       title with respect to the person, and the person shall  
3       promptly comply with the request; and

4             (8) take other necessary or appropriate action  
5       to discharge the Corporation's duties and obligations  
6       under this title or to exercise the Corporation's pow-  
7       ers under this title.

8       **SEC. 607. SUBROGATION.**

9       (a) IN GENERAL.—Persons receiving benefits or pay-  
10      ments for claims under this title shall be deemed to have  
11      assigned their rights under, and any causes of action  
12      against any person for losses arising under, resulting  
13      from, or otherwise relating to, their covered policies to the  
14      Corporation, and the Corporation shall have a claim by  
15      way of subrogation to the rights of such persons against  
16      the assets of the National Insurer, to the extent of the  
17      benefits received or claims paid because of this title. The  
18      Corporation shall also have the right to require an assign-  
19      ment to the Corporation of such rights and cause of action  
20      by any payee, policyowner, beneficiary, insured, or annu-  
21      itant as a condition precedent to the receipt of any right  
22      or benefits conferred by this title upon the person.

23      (b) COMMON LAW RIGHTS.—In addition to sub-  
24      section (a), the Corporation shall have all common law  
25      rights of subrogation and any other equitable or legal rem-

1 edy that would have been available to the National Insurer  
2 or policyowner, beneficiary, or payee of an insurance policy  
3 with respect to the policy.

4 (c) PRIORITY.—The priority of the subrogation rights  
5 of the Corporation against the assets of a National Insurer  
6 shall be governed by the regulations issued by the Com-  
7 missioner pursuant to section 554.

8 (d) RESULT IF FOUND INVALID OR INEFFECTIVE.—  
9 If the preceding provisions of this section are invalid or  
10 ineffective with respect to any person or claim for any rea-  
11 son, the amount payable under this title with respect to  
12 the related benefits or payments under this title shall be  
13 reduced by the amount realized by any other person with  
14 respect to the person or claim that is attributable to the  
15 insurance policies (or portion of the insurance policies)  
16 covered by this title.

17 (e) PAYMENT OF PORTION.—If benefits or payments  
18 have been provided under this title with respect to a cov-  
19 ered obligation and a person recovers amounts as to which  
20 the Corporation has rights as described in the preceding  
21 subsections, the person shall pay to the Corporation the  
22 portion of the recovery attributable to the insurance poli-  
23 cies (or portion of the insurance policies) covered by this  
24 title.

1 **SEC. 608. ASSESSMENTS.**

2 (a) **ASSESSMENTS BY CORPORATION AUTHORIZED.—**

3 For the purpose of providing the funds necessary to pro-  
4 vide the benefits or payments under this title, the Corpora-  
5 tion shall be authorized to assess National Insurers doing  
6 business in nonqualified States separately for each ac-  
7 count, at such time and for such amounts as the board  
8 of directors of the Corporation finds necessary, in accord-  
9 ance with the provisions of this section.

10 (b) **CLASSES OF ASSESSMENTS.—**The Corporation  
11 shall impose 3 classes of assessments as follows:

12 (1) **GENERAL ADMINISTRATIVE ASSESS-**  
13 **MENTS.—**

14 (A) **IN GENERAL.—**Each National Insurer  
15 that is a member of the Corporation shall be  
16 assessed an amount necessary to cover the gen-  
17 eral administrative and legal costs of the Cor-  
18 poration, other than the costs specified in para-  
19 graphs (2) and (3).

20 (B) **AMOUNT.—**In setting the amount of  
21 the assessment under subparagraph (A), the  
22 Corporation shall divide such administrative  
23 and legal expenses equally among all members  
24 of the Corporation.

25 (C) **DEPOSIT.—**The amount collected pur-  
26 suant to this paragraph shall be deposited, in

1 equal amounts, in the 5 accounts established  
2 pursuant to section 603(f).

3 (2) PROPERTY/CASUALTY ASSESSMENTS.—

4 (A) IN GENERAL.—The Corporation  
5 shall—

6 (i) allocate claims paid and expenses  
7 incurred among the workers' compensation  
8 account, the automobile insurance account,  
9 or the other property/casualty account; and

10 (ii) assess National Property/Casualty  
11 Insurers that are members of the Corpora-  
12 tion separately for each account described  
13 in clause (i) the amounts necessary to pay  
14 the obligations of the Corporation under  
15 section 605 and the expenses of handling  
16 such claims.

17 (B) AMOUNT.—The assessment established  
18 under subparagraph (A)(ii) for a National  
19 Property/Casualty Insurer shall equal an  
20 amount that bears the same ratio to the total  
21 amount of claims and expenses allocated to an  
22 account pursuant to subparagraph (A)(i) as the  
23 premiums received by such National Property/  
24 Casualty Insurer on the kind of insurance in  
25 the account in nonqualified States during the

1           calendar year preceding the assessment bears to  
2           the premiums received by all assessed National  
3           Property/Casualty Insurers on the kind of in-  
4           surance in the account in nonqualified States  
5           during the year preceding the assessment.

6           (C) DEPOSIT.—The assessments received  
7           pursuant to this paragraph shall be deposited in  
8           the workers' compensation account, the auto-  
9           mobile insurance account, or the other property/  
10          casualty account, as appropriate.

11          (3) LIFE AND ANNUITY ASSESSMENTS.—

12          (A) IN GENERAL.—The Corporation  
13          shall—

14                  (i) allocate benefits paid and expenses  
15                  incurred among the life insurance account  
16                  and the annuity account; and

17                  (ii) assess National Life Insurers that  
18                  are members of the Corporation separately  
19                  for each account described in clause (i) the  
20                  amounts necessary to pay the obligations  
21                  of the Corporation under section 604 and  
22                  the expenses of handling such benefits.

23          (B) AMOUNT.—The assessment established  
24          under subparagraph (A)(ii) for a National Life  
25          Insurer shall equal an amount that bears the

1 same ratio to the total of benefits and expenses  
2 allocated to an account pursuant to subpara-  
3 graph (A)(i) as the premiums received by such  
4 National Life Insurer on the kind of insurance  
5 in the account in nonqualified States during the  
6 calendar year preceding the assessment bears to  
7 the premiums received by all assessed National  
8 Life Insurers on the kind of insurance in the  
9 account in nonqualified States during the year  
10 preceding the assessment.

11 (C) DEPOSIT.—The assessments received  
12 pursuant to this paragraph shall be deposited in  
13 the life insurance account or the annuity ac-  
14 count, as appropriate.

15 (c) NOTICE AND IMPOSITION OF ASSESSMENTS.—

16 (1) WRITTEN NOTICE REQUIRED.—The Cor-  
17 poration shall provide each National Insurer a writ-  
18 ten notice of an assessment, and assessments shall  
19 be payable not less than 30 days after such notice.

20 (2) LATE PAYMENT.—National Insurers that  
21 fail to pay an assessment when due shall be subject  
22 to an interest charge on the assessment, as set by  
23 the Corporation.

24 (3) ASSESSMENTS NOT MADE UNTIL NEED-  
25 ED.—The Corporation shall not impose an assess-

1           ment described in paragraph (2) or (3) of subsection  
2           (b) until such funds are needed.

3           (4) MAXIMUM ASSESSMENT.—

4           (A) IN GENERAL.—The Corporation may  
5           not assess a National Insurer in any year on  
6           any account an amount greater than 2 percent  
7           of the Insurer's net direct written premiums for  
8           the calendar year preceding the assessment on  
9           the kind of insurance in the account.

10          (B) INSUFFICIENT AMOUNT IN LIFE IN-  
11          SURANCE ACCOUNT OR ANNUITY ACCOUNT.—

12           (i) INSUFFICIENT AMOUNT IN LIFE  
13           INSURANCE ACCOUNT.—If the maximum  
14           assessment in any year does not provide an  
15           amount sufficient to make all necessary  
16           payments from the life insurance account,  
17           the Corporation may assess the annuity ac-  
18           count for the necessary additional amount.

19           (ii) INSUFFICIENT AMOUNT IN ANNU-  
20           ITY ACCOUNT.—If the maximum assess-  
21           ment in any year does not provide an  
22           amount sufficient to make all necessary  
23           payments from the annuity account, the  
24           Corporation may assess the life insurance

1 account for the necessary additional  
2 amount.

3 (C) INSUFFICIENT AMOUNT IN WORKERS'  
4 COMPENSATION ACCOUNT, AUTOMOBILE INSUR-  
5 ANCE ACCOUNT, OR OTHER PROPERTY/CAS-  
6 UALTY INSURANCE ACCOUNT.—

7 (i) INSUFFICIENT AMOUNT IN WORK-  
8 ERS' COMPENSATION ACCOUNT.—If the  
9 maximum assessment in any year does not  
10 provide an amount sufficient to make all  
11 necessary payments from the workers'  
12 compensation account, the Corporation  
13 may assess the automobile insurance ac-  
14 count or the other property/casualty insur-  
15 ance account, or both, for the necessary  
16 additional amount.

17 (ii) INSUFFICIENT AMOUNT IN AUTO-  
18 MOBILE INSURANCE ACCOUNT.—If the  
19 maximum assessment in any year does not  
20 provide an amount sufficient to make all  
21 necessary payments from the automobile  
22 insurance account, the Corporation may  
23 assess the workers' compensation account  
24 or the other property/casualty insurance

1 account, or both, for the necessary addi-  
2 tional amount.

3 (iii) INSUFFICIENT AMOUNT IN OTHER  
4 PROPERTY/CASUALTY INSURANCE AC-  
5 COUNT.—If the maximum assessment in  
6 any year does not provide an amount suffi-  
7 cient to make all necessary payments from  
8 the other property/casualty insurance ac-  
9 count, the Corporation may assess the  
10 workers' compensation account or the  
11 automobile insurance account, or both, for  
12 the necessary additional amount.

13 (d) ABATED OR DEFERRED ASSESSMENTS.—The  
14 board of directors of the Corporation may abate or defer,  
15 in whole or in part, the assessment of a National Insurer  
16 if, in the opinion of the board, payment of the assessment  
17 would endanger the ability of the National Insurer to ful-  
18 fill the Insurer's contractual obligations. In the event an  
19 assessment against a National Insurer is abated or de-  
20 ferred, in whole or in part, the amount by which the as-  
21 sessment is abated or deferred may be assessed against  
22 the other National Insurers doing business in non-quali-  
23 fied States, in a manner consistent with the basis for as-  
24 sessments set forth in this section. Once the conditions  
25 that caused a deferral have been removed or rectified, the

1 National Insurer shall pay all assessments that were de-  
2 ferred pursuant to a repayment plan approved by the  
3 board of directors of the Corporation.

4 (e) REFUNDS.—The board of directors of the Cor-  
5 poration may, by an equitable method as established by  
6 operating rules, refund to National Insurers, in proportion  
7 to the contribution of each Insurer to that account, the  
8 amount by which the assets of the account exceed the  
9 amount the board finds is necessary to carry out during  
10 the coming year the obligations of this title with regard  
11 to that account, including assets accruing from assign-  
12 ment, subrogation, net realized gains, and income from in-  
13 vestments. A reasonable amount may be retained in any  
14 account to provide funds for the continuing expenses of  
15 the Corporation, and for future claims.

16 (f) ASSESSMENT PROTESTS.—

17 (1) IN GENERAL.—A National Insurer that  
18 wishes to protest all or part of an assessment shall  
19 pay when due the full amount of the assessment as  
20 set forth in the notice provided by the Corporation.  
21 The payment shall be available to meet obligations  
22 under this title during the pendency of the protest  
23 or any subsequent appeal. Payment shall be accom-  
24 panied by a statement in writing that the payment

1 is made under protest and setting forth a brief  
2 statement of the grounds for the protest.

3 (2) NOTIFICATION OF DETERMINATION.—With-  
4 in 60 days following the payment of an assessment  
5 under protest by a National Insurer, the Corporation  
6 shall notify the National Insurer in writing of the  
7 Corporation's determination with respect to the pro-  
8 test unless the Corporation notifies the Insurer that  
9 additional time is required to resolve the issues  
10 raised by the protest.

11 (3) FINAL DECISION.—Within 30 days after a  
12 final decision has been made, the Corporation shall  
13 notify the protesting National Insurer in writing of  
14 the final decision. Within 60 days of receipt of notice  
15 of the final decision, the protesting National Insurer  
16 may appeal that final action to the Commissioner.

17 (4) REFERRAL.—In the alternative to rendering  
18 a final decision with respect to a protest based on  
19 a question regarding the assessment base, the Cor-  
20 poration may refer protests to the Commissioner for  
21 a final decision, with or without a recommendation  
22 from the Corporation.

23 (5) PROTEST OR APPEAL UPHELD.—If the pro-  
24 test or appeal on the assessment is upheld, the  
25 amount paid in error or excess shall be returned to

1 the National Insurer. Interest on a refund due a  
2 protesting National Insurer shall be paid at the rate  
3 actually earned by the Corporation.

4 (g) INFORMATION REQUESTS.—The Corporation may  
5 request information of National Insurers doing business  
6 in nonqualified States in order to aid in carrying out the  
7 Corporation's duties under this section and such Insurers  
8 shall promptly comply with such a request.

9 **SEC. 609. REGULATION.**

10 In addition to the duties and powers enumerated else-  
11 where in this title, the Commissioner shall issue such regu-  
12 lations as the Commissioner determines necessary to fa-  
13 cilitate the operations of the Corporation and implement  
14 the terms of this title.

15 **SEC. 610. STATE TAXATION.**

16 No State shall have the power to impose its premium,  
17 franchise, or income tax on any National Insurer unless  
18 deductions or offsets of the Corporation and association  
19 assessments against such premium, franchise, or income  
20 tax are allowed National Insurers to the same extent and  
21 in the same manner as allowed State insurers.

22 **SEC. 611. EXAMINATION OF THE CORPORATION; ANNUAL**  
23 **REPORT.**

24 The Corporation shall be subject to examination and  
25 regulation by the Commissioner. The Corporation shall

1 submit to the Commissioner and each State insurance  
2 commissioner in each non-qualified State, a financial re-  
3 port in a form approved by the Commissioner and a report  
4 of the Corporation's activities during the preceding fiscal  
5 year, as the activities relate to the duties and functions  
6 carried out under this title.

7 **TITLE VII—CONFORMING**  
8 **AMENDMENTS AND MIS-**  
9 **CELLANEOUS PROVISIONS**

10 **SEC. 701. NONDISCRIMINATION.**

11 No State may discriminate, in any manner, against—

12 (1) any State insurer because such insurer or  
13 any affiliate has applied to become, or has declared  
14 its intention to become, a National Insurer chartered  
15 under this Act;

16 (2) any State-licensed insurance producer be-  
17 cause such insurance producer or an affiliate has ap-  
18 plied to become, or has declared its intention to be-  
19 come, a National Agency chartered under this Act or  
20 a federally licensed insurance producer licensed  
21 under this Act;

22 (3) any affiliate of a National Insurer, National  
23 Agency, or a federally licensed insurance producer  
24 because the affiliate is so affiliated;

1           (4) any policyholder, insured, claimant, State-li-  
2           censed insurance producer, or any person engaged in  
3           the acts described in section 404(b) because of any  
4           dealing with a National Insurer, National Agency, a  
5           federally licensed insurance producer, or an affiliate  
6           of a National Insurer, National Agency, or a feder-  
7           ally licensed insurance producer; or

8           (5) any State-licensed insurance producer (in-  
9           cluding with respect to such producer's sales, solici-  
10          tation, or negotiation of any insurance policy written  
11          or sold by a State insurer) because it sells, solicits,  
12          or negotiates an insurance policy written or sold by  
13          a National Insurer.

14 **SEC. 702. APPLICATION OF THE FEDERAL ANTITRUST LAWS**  
15                                   **TO NATIONAL INSURERS, NATIONAL AGEN-**  
16                                   **CIES, AND FEDERALLY LICENSED INSURANCE**  
17                                   **PRODUCERS.**

18          (a) APPLICATION.—Except as provided in subsection  
19          (b), the Sherman Act (15 U.S.C. 1 et seq.), the Clayton  
20          Act (15 U.S.C. 12 et seq.), the Federal Trade Commission  
21          Act (15 U.S.C. 41 et seq.), and the Act of June 19, 1936  
22          (49 Stat. 1526) (commonly known as the Robinson-Pat-  
23          man Antidiscrimination Act), shall be applicable to Na-  
24          tional Insurers, National Agencies, and federally licensed

1 insurance producers to the same extent as other busi-  
2 nesses are subject to such laws, except as follows:

3 (1) Such laws shall not apply to the develop-  
4 ment, dissemination, or use of standard insurance  
5 policy forms (including, standard endorsements,  
6 addendums, and policy language), or to activities in-  
7 cidental thereto, by National Insurers, National  
8 Agencies, and federally licensed insurance producers.

9 (2) Section 3 of the Act of March 9, 1945 (59  
10 Stat. 33; 15 U.S.C. 1013), shall apply to National  
11 Insurers, National Agencies, and federally licensed  
12 insurance producers to the extent that such insurers  
13 and producers are subject to State law.

14 (b) EXCEPTION.—Section 5 of the Federal Trade  
15 Commission Act (15 U.S.C. 45) shall not apply to Na-  
16 tional Insurers, National Agencies, and federally licensed  
17 insurance producers.

18 **SEC. 703. APPLICATION OF STATE LAW AND REGULATION**  
19 **TO NATIONAL INSURERS, NATIONAL AGEN-**  
20 **CIES, AND FEDERALLY LICENSED INSURANCE**  
21 **PRODUCERS.**

22 Except to the extent expressly provided in this Act,  
23 National Insurers, National Agencies and federally li-  
24 censed insurance producers shall not be subject under  
25 State law to any form of licensing, examination, reporting,

1 regulation, or other supervision relating to the sale, solici-  
2 tation, or negotiation of insurance, to the underwriting of  
3 insurance, or to any other insurance operations.

4 **SEC. 704. FEDERAL COURT JURISDICTION.**

5 Chapter 87 of part IV of title 28, United States Code,  
6 is amended by adding at the end the following:

7 **“§ 1414. National Insurer as party**

8 “The district courts shall have original jurisdiction  
9 of any civil action—

10 “(1) commenced by the United States, or by di-  
11 rection of any officers thereof, against any National  
12 Insurer, National Agency or any federally licensed  
13 insurance producer;

14 “(2) to enjoin the Commissioner of National In-  
15 surance in the Commissioner’s capacity as head of  
16 the Office of National Insurance or as the receiver  
17 of a National Insurer.”.

18 **SEC. 705. FEDERAL COURT VENUE.**

19 Chapter 87 of part IV of title 28, United States Code,  
20 as amended by section 704, is further amended by adding  
21 at the end the following:

1 **“§ 1415. National Insurer or National Agency action**  
2 **against Commissioner of National Insur-**  
3 **ance**

4 “Any civil action by a National Insurer or a National  
5 Agency to enjoin the Commissioner of National Insurance,  
6 under the provisions of any Act of Congress relating to  
7 such insurers or agencies, may be prosecuted in the judi-  
8 cial district where such insurer or agency is located.”.

9 **SEC. 706. JUDICIAL REVIEW.**

10 Except as otherwise expressly provided in this Act,  
11 any party aggrieved by an order of the Commissioner  
12 under this Act may obtain a review of such order in the  
13 United States Court of Appeals within any circuit wherein  
14 such party has its main office, or in the Court of Appeals  
15 for the District of Columbia, by filing in the court, within  
16 30 days after the entry of the Commissioner’s order, a  
17 petition praying that the order of the Commissioner be  
18 set aside, modified, or terminated. A copy of such petition  
19 shall be forthwith transmitted to the Commissioner by the  
20 clerk of the court, and thereupon the Commissioner shall  
21 file in the court the record made before the Commissioner,  
22 as provided in section 2112 of title 28, United States  
23 Code. Upon the filing of such petition, the court shall have  
24 jurisdiction to affirm, set aside, modify, or terminate the  
25 order of the Commissioner and to require the Commis-  
26 sioner to take such action with regard to the matter under

1 review as the court determines proper. Review of an order  
2 under this section shall be had as provided in chapter 7  
3 of part I of title 5, United States Code. The judgment  
4 and decree of the court shall be final, except that the same  
5 shall be subject to review by the Supreme Court upon cer-  
6 tiorari, as provided in section 1254 of title 28, United  
7 States Code.

8 **SEC. 707. AMENDMENT TO FREEDOM OF INFORMATION**  
9 **ACT.**

10 Section 552(b)(8) of title 5, United States Code, is  
11 amended by inserting “(including National Insurers and  
12 National Agencies)” after “financial institutions”.

13 **SEC. 708. AMENDMENTS TO THE FEDERAL SECURITIES**  
14 **LAWS.**

15 (a) SECURITIES ACT OF 1933.—The Securities Act  
16 of 1933 (15 U.S.C. 77a et seq.) is amended—

17 (1) in section 2(a)(13), by inserting “the Com-  
18 missioner of National Insurance or” after “subject  
19 to supervision by”;

20 (2) in section 2(a)(14), by inserting “the  
21 United States or” after “the laws of”;

22 (3) in section 3(a)(8), by inserting “the Com-  
23 missioner of National Insurance or” after “subject  
24 to the supervision of”; and

1           (4) in section 4(5)(A)(ii), by inserting “the  
2           Commissioner of National Insurance or” after “sub-  
3           ject to the supervision of”.

4           (b) SECURITIES EXCHANGE ACT OF 1934.—The Se-  
5           curities Exchange Act of 1934 (15 U.S.C. 78a) is amend-  
6           ed—

7           (1) in section 17(i)(3)(C)(iii), by inserting “or  
8           by the Commissioner of National Insurance” after  
9           “appropriate State insurance regulator”; and

10          (2) in section 17(i)(4)—

11           (A) in subparagraph (A), by striking  
12           “and” after the semicolon;

13           (B) in subparagraph (B), by striking the  
14           period at the end and inserting “; and”; and

15           (C) by adding at the end the following:

16           “(D) the Commissioner of National Insur-  
17           ance with regard to all interpretations of, and  
18           the enforcement of, the National Insurance Act  
19           of 2006 relating to the activities, conduct, and  
20           operations of National Insurers, National Agen-  
21           cies, and federally licensed insurance pro-  
22           ducers.”.

23           (c) AMENDMENTS TO INVESTMENT COMPANY ACT OF  
24           1940.—The Investment Company Act of 1940 (15 U.S.C.  
25           80a–1 et seq.) is amended—

1           (1) in section 2(a)(17), by inserting “the Com-  
2           missioner of National Insurance or” after “subject  
3           to supervision by”;

4           (2) in section 2(a)(37), by inserting “the  
5           United States or” after “the laws of”;

6           (3) in section 12(g)—

7                 (A) by inserting “the Commissioner of Na-  
8                 tional Insurance or” after “affect or derogate  
9                 from the powers of”; and

10                (B) by inserting “Federal or” after “affect  
11                the right under”;

12           (4) in section 26(f)(2)(B)(ii), by inserting “or,  
13           in the case of a National Insurer chartered under  
14           the National Insurance Act of 2006, files with the  
15           Commissioner of National Insurance,” after “files  
16           with the insurance regulatory authority of the State  
17           which is the domiciliary State of the insurance com-  
18           pany,”; and

19           (5) in section 26(f)(2)(B)(iii), by inserting “or,  
20           in the case of a National Insurer chartered under  
21           the National Insurance Act of 2006, the Commis-  
22           sioner of National Insurance” after “insurance au-  
23           thority of such State”.

1 **SEC. 709. AMENDMENTS TO THE EMPLOYEE RETIREMENT**  
2 **INCOME SECURITY ACT OF 1974.**

3 The Employee Retirement Income Security Act of  
4 1974 (29 U.S.C. 1001 et seq.) is amended—

5 (1) in section 401(b)(2)(A), by inserting “or li-  
6 censed as a National Insurer” after “qualified to do  
7 business in a State”; and

8 (2) in section 733(b)(2), by inserting “or which  
9 is licensed as a National Insurer and which is sub-  
10 ject to the authority of the Commissioner of Na-  
11 tional Insurance” after “(within the meaning of sec-  
12 tion 514(b)(2))”.

13 **SEC. 710. AMENDMENTS TO THE GRAMM-LEACH-BLILEY**  
14 **ACT.**

15 (a) INTERAGENCY CONSULTATION.—

16 (1) AMENDMENTS.—Section 307 of the  
17 Gramm-Leach-Bliley Act (15 U.S.C. 6716) is  
18 amended by adding at the end the following:

19 “(g) OFFICE OF NATIONAL INSURANCE.—In this sec-  
20 tion, the terms ‘State insurance regulator’, ‘State insur-  
21 ance regulators’, and ‘insurance regulator of any State’  
22 shall include the Office of National Insurance.”.

23 (2) NO WAIVER.—The provision of information  
24 or material by the Office of National Insurance to  
25 a Federal banking agency (as defined in section 3 of  
26 the Federal Deposit Insurance Act (12 U.S.C.

1 1813)) shall not constitute a waiver of, or otherwise  
2 affect, any privilege or other form of legal protection  
3 or exemption from public disclosure to which such  
4 information or material is otherwise subject.

5 (b) PRIVACY.—The Gramm-Leach-Bliley Act (Public  
6 Law 106–102; 113 Stat. 1338) is amended—

7 (1) in section 504(a)(1), by inserting “the Com-  
8 missioner of National Insurance,” after “Federal  
9 banking agencies,”;

10 (2) in section 504(a)(3), by inserting “, except  
11 that, in the case of the Commissioner of National  
12 Insurance, such regulations shall be issued in final  
13 form not later than 12 months after the date of en-  
14 actment of the National Insurance Act of 2006”  
15 after “enactment of this Act”;

16 (3) in section 505(a)(6), by inserting “(other  
17 than a person subject to the jurisdiction of the Of-  
18 fice of National Insurance under paragraph (8))”  
19 after “providing insurance”;

20 (4) in section 505(a)—

21 (A) by redesignating paragraph (7) as  
22 paragraph (8); and

23 (B) by inserting after paragraph (6) the  
24 following:

1           “(7) Under subtitle C of title I of the National  
2 Insurance Act of 2006, by the Commissioner of Na-  
3 tional Insurance with respect to any National In-  
4 surer or National Agency, any subsidiaries of such  
5 an entity (except any financial institution or other  
6 person subject to the jurisdiction of any agency or  
7 authority under paragraphs (1) through (6)), and  
8 any federally licensed insurance producer.”;

9           (5) in section 505(a)(8), as redesignated by  
10 paragraph (4) of this section, by striking “through  
11 (6)” and inserting “through (7)”;

12           (6) in section 505(b)(2), by striking “and (7)”  
13 and inserting “(7), and (8)”;

14           (7) in section 509(2)—

15           (A) by redesignating subparagraphs (E)  
16 and (F) as subparagraphs (F) and (G), respec-  
17 tively; and

18           (B) by inserting after subparagraph (D)  
19 the following:

20           “(E) the Commissioner of National Insur-  
21 ance;”;

22           (8) in section 521(e), by inserting “or Federal”  
23 after “such institution under State”;

24           (9) in section 522(b)(1)—

1 (A) in subparagraph (A)(iv), by striking  
2 “and” after the semicolon;

3 (B) in subparagraph (B), by striking the  
4 period at the end and inserting “; and”; and

5 (C) by inserting after subparagraph (B)  
6 the following:

7 “(C) subtitle C of title I of the National  
8 Insurance Act of 2006, by the Commissioner of  
9 National Insurance with respect to any Na-  
10 tional Insurer or National Agency and any fed-  
11 erally licensed insurance producer.”; and

12 (10) in section 525, by inserting “the Commis-  
13 sioner of National Insurance,” after “National Cred-  
14 it Union Administration,”.

15 (c) OTHER CONFORMING AMENDMENTS.—The  
16 Gramm-Leach-Bliley Act (Public Law 106–102; 113 Stat.  
17 1338) is amended—

18 (1) in section 104(b), by inserting “, or as re-  
19 quired by the Commissioner of National Insurance  
20 in accordance with the National Insurance Act of  
21 2006” after “subject to subsections (c), (d), and  
22 (e)”;

23 (2) in section 104(f)—

24 (A) by striking “Subsections (c) and (d)”  
25 and inserting the following:

- 1           “(1) IN GENERAL.—Subsections (c) and (d)”;
- 2                   (B) by striking “(1) the jurisdiction” and
- 3           inserting the following: “(A) the jurisdiction”;
- 4                   (C) by striking “(A) to investigate” and in-
- 5           serting the following: “(i) to investigate”;
- 6                   (D) by striking “(B) to require” and in-
- 7           serting the following: “(ii) to require”;
- 8                   (E) by striking “(2) State laws” and in-
- 9           serting the following: “(B) State laws”; and
- 10                  (F) by adding at the end the following:
- 11           “(2) OTHER.—Notwithstanding any provision
- 12           of subsection (d), paragraphs (2) and (3) of sub-
- 13           section (d) and subsection (e) shall not apply to any
- 14           person to the extent that such person is engaged in
- 15           the business of insurance or other insurance oper-
- 16           ations pursuant to authority provided under the Na-
- 17           tional Insurance Act of 2006.”;
- 18                  (3) in section 104(g)(4), by striking “business
- 19           of insurance.” and inserting “business of insurance,
- 20           but only to the extent that such person is doing so
- 21           pursuant to a license issued under the authority of
- 22           State law.”;
- 23                  (4) in section 112, by inserting in the heading
- 24           **“COMMISSIONER OF NATIONAL INSURANCE”**

1 after “**AUTHORITY OF STATE INSURANCE REGU-**  
2 **LATOR**”;

3 (5) in section 301, by inserting “, except that  
4 the insurance activities of a National Insurer, Na-  
5 tional Agency, and a federally licensed insurance  
6 producer shall be functionally regulated by the Of-  
7 fice of National Insurance” after “subject to section  
8 104”; and

9 (6) in section 311, by inserting at the end the  
10 following: “This subtitle shall not apply to a Na-  
11 tional Insurer in mutual form that is reorganizing  
12 into a mutual holding company.”.

13 **SEC. 711. AMENDMENTS TO THE FEDERAL DEPOSIT INSUR-**  
14 **ANCE ACT.**

15 The Federal Deposit Insurance Act (12 U.S.C. 1811  
16 et seq.) is amended—

17 (1) in section 45, by inserting in the heading “,  
18 **COMMISSIONER OF OFFICE OF NATIONAL IN-**  
19 **SURANCE,**” after “**STATE INSURANCE REGU-**  
20 **LATOR**”; and

21 (2) in section 47(g)(1)—

22 (A) in subparagraph (A), by striking “or”  
23 after the semicolon;

24 (B) in subparagraph (B), by striking the  
25 period at the end and inserting “; or”; and

1 (C) by adding at the end the following:

2 “(C) any authority of the Commissioner of  
3 National Insurance under the National Insur-  
4 ance Act of 2006.”.

5 **SEC. 712. AMENDMENTS TO THE BANK HOLDING COMPANY**  
6 **ACT OF 1956.**

7 The Bank Holding Company Act of 1956 (12 U.S.C.  
8 1841 et seq.) is amended—

9 (1) in section 4(k)(4)(I)(iii), by inserting “or  
10 Federal” after “relevant State”;

11 (2) in section 5(c)(2)(E)(iii), by inserting “or  
12 by or on behalf of the Commissioner of National In-  
13 surance” after “for the supervision of insurance  
14 companies”;

15 (3) in section 5(c)(3)(A)(ii)(I), by inserting “or  
16 the Office of National Insurance” after “Securities  
17 and Exchange Commission”;

18 (4) in section 5(c)(4)(B), by inserting “or the  
19 Commissioner of National Insurance” after “a State  
20 insurance authority”;

21 (5) in section 5(c)(5)(B)(iv), by inserting “or by  
22 the Commissioner of National Insurance” after  
23 “State insurance regulator”;

1 (6) in section 5(g), by inserting in the heading  
2 “, COMMISSIONER OF NATIONAL INSURANCE” after  
3 “STATE INSURANCE REGULATOR”;

4 (7) in section 5(g)(1)(B), by inserting “or the  
5 Commissioner of National Insurance” after “State  
6 insurance authority”;

7 (8) in section 5(g)(2)—

8 (A) in the heading, by inserting “, COM-  
9 MISSIONER OF NATIONAL INSURANCE,” after  
10 “STATE INSURANCE AUTHORITY”; and

11 (B) by inserting “or the Commissioner of  
12 National Insurance” after “the Board shall  
13 promptly notify the State insurance authority”;  
14 and

15 (9) in section 5(g)(3), by inserting “, the Com-  
16 missioner of National Insurance,” after “If the  
17 Board receives a notice described in paragraph  
18 (1)(B) from a State insurance authority”.

19 **SEC. 713. AMENDMENTS TO TITLE 18 (CRIMES AND CRIMI-**  
20 **NAL PROCEDURE).**

21 (a) AMENDMENTS TO 18 U.S.C. 1033.—Section  
22 1033(b) of title 18, United States Code, is amended—

23 (1) in paragraph (1)—

1 (A) by inserting “removes, conceals, alters,  
2 destroys,” after “willfully embezzles, abstracts,  
3 purloins,”; and

4 (B) by inserting “assets,” after “moneys,  
5 funds, premiums, credits,”; and

6 (2) in paragraph (2)—

7 (A) in the first sentence, by inserting “re-  
8 moval, concealment, alteration, destruction,”  
9 after “embezzlement, abstraction, purloining,”;  
10 and

11 (B) in the second sentence, by inserting  
12 “removed, concealed, altered, destroyed,” after  
13 “embezzled, abstracted, purloined,”.

14 (b) ADDITION OF A NEW SECTION 1037A.—Title 18,  
15 United States Code, is amended by inserting after section  
16 1037 the following:

17 **“§ 1037A. Insurance fraud**

18 “(a) Whoever commits a fraudulent insurance act or  
19 whoever knowingly and intentionally interferes with the  
20 enforcement of the provisions of subtitle D of title I of  
21 the National Insurance Act of 2006 or investigations of  
22 suspected or actual violations of this section shall be pun-  
23 ished as provided in subsection (b).

24 “(b)(1) Except as provided in paragraph (2), the  
25 punishment for an offense under subsection (a) is a fine

1 as provided under this title or imprisonment for not more  
2 than 10 years, or both.

3 “(2) Where the person committing an offense under  
4 subsection (a) is a National Insurer, National Agency, in-  
5 surer-affiliated party, or a federally licensed insurance  
6 producer, punishment for an offense under subsection (a)  
7 shall be a fine, the maximum of which is the greater of—

8 “(A) \$1,000,000 per violation; or

9 “(B) a fine as provided under this title; or im-  
10 prisonment for not more than 10 years, or both.

11 “(3) If the fraudulent insurance act involved an  
12 amount or value not exceeding \$5,000, whoever violates  
13 subsection (a) shall be fined as provided in this title or  
14 imprisoned not more than 1 year, or both.

15 “(4) The punishment in this subsection shall be in  
16 addition to any other penalties under the National Insur-  
17 ance Act of 2006.

18 “(c)(1) Any individual who has been convicted of any  
19 criminal felony involving dishonesty or breach of trust,  
20 and who participates in the business of insurance, shall  
21 be fined as provided in this title or imprisoned not more  
22 than 5 years, or both.

23 “(2) Any insurance person who is engaged in the  
24 business of insurance who knowingly and intentionally  
25 permits the participation described in paragraph (1) shall

1 be fined as provided in this title or imprisoned not more  
2 than 5 years, or both.

3 “(3) A person described in paragraph (1) or (2) may  
4 participate in the business of insurance or permit such  
5 participation, as the case may be, if such person has the  
6 written consent of the Commissioner of National Insur-  
7 ance.

8 “(d) In this section—

9 “(1) the terms ‘Commissioner,’ ‘insurance pol-  
10 icy,’ ‘insurance producer,’ ‘insurer-affiliated party,’  
11 ‘National Agency,’ ‘National Insurer,’ ‘person,’ and  
12 ‘policy of insurance’ have the meanings given to the  
13 terms in section 3 of the National Insurance Act of  
14 2006;

15 “(2) the term ‘business of insurance’ has the  
16 meaning given to the term in section 1033(f)(1);

17 “(3) the term ‘fraudulent insurance act’ means  
18 an act or omission committed by a person who,  
19 knowingly and with intent to defraud, commits or  
20 conceals any material information concerning, 1 or  
21 more of the following—

22 “(A) presenting, causing to be presented or  
23 preparing with knowledge or belief that it will  
24 be presented to or by a National Insurer, Na-  
25 tional Agency, or an insurance producer acting

1 with respect to a policy of insurance written by  
2 a National Insurer, false information as part of,  
3 in support of or concerning a fact material to  
4 1 or more of the following—

5 “(i) an application for a new or re-  
6 newal of an insurance policy or reinsurance  
7 contract;

8 “(ii) the rating of a National Insurer  
9 that writes an insurance policy or enters  
10 into a reinsurance contract;

11 “(iii) a claim for payment or benefit  
12 pursuant to an insurance policy or reinsur-  
13 ance contract;

14 “(iv) premiums paid on an insurance  
15 policy or reinsurance contract;

16 “(v) payments made in accordance  
17 with the terms of an insurance policy or  
18 reinsurance contract;

19 “(vi) a document filed with the Com-  
20 missioner;

21 “(vii) the financial condition of a Na-  
22 tional Insurer;

23 “(viii) the formation, acquisition,  
24 merger, consolidation, dissolution, or with-

1 drawal from 1 or more lines of insurance  
2 or reinsurance by a National Insurer;

3 “(ix) the issuance of evidence of in-  
4 surance, whether in writing, electronic  
5 form or otherwise; or

6 “(x) the reinstatement of an insurance  
7 policy;

8 “(B) solicitation or acceptance of new or  
9 renewal insurance risks on behalf of a National  
10 Insurer, National Agency, or other persons en-  
11 gaged in the business of insurance by a person  
12 who knows or should know that the National  
13 Insurer or other person responsible for the risk  
14 is insolvent at the time of the transaction;

15 “(C) removal, concealment, alteration, or  
16 destruction of the records of a National In-  
17 surer, National Agency, or other person en-  
18 gaged in the business of insurance;

19 “(D) transaction of the business of insur-  
20 ance in violation of laws requiring a license  
21 therefore under the National Insurance Act of  
22 2006; or

23 “(E) attempting to commit, aiding or abet-  
24 ting in the commission of, or conspiracy to com-

1 mit the acts or omissions specified in, this para-  
2 graph; and

3 “(4) the term ‘insurance person’ means officers,  
4 directors, agents, or employees of National Insurers  
5 or National Agencies, or other persons authorized to  
6 act on behalf of National Insurers or National Agen-  
7 cies.”.

8 **SEC. 714. AMENDMENTS TO AMERICANS WITH DISABIL-**  
9 **ITIES ACT OF 1990.**

10 Section 501(c) of the Americans with Disabilities Act  
11 of 1990 (42 U.S.C. 12201(c)) is amended—

12 (1) in paragraph (1), by inserting “or Federal”  
13 after “based on or not inconsistent with State”;

14 (2) in paragraph (2), by inserting “or Federal”  
15 after “based on or not inconsistent with State”; and

16 (3) in paragraph (3), by inserting “or Federal”  
17 after “subject to State”.

18 **SEC. 715. AMENDMENT TO AGE DISCRIMINATION IN EM-**  
19 **PLOYMENT ACT.**

20 Section 12(c)(2) of the Age Discrimination in Em-  
21 ployment Act of 1967 (29 U.S.C. 631(c)(2)) is amended  
22 by inserting “and the Commissioner of National Insur-  
23 ance” after “after consultation with the Secretary of the  
24 Treasury”.

1 **SEC. 716. AMENDMENTS TO THE FAIR CREDIT REPORTING**  
2 **ACT.**

3 Section 621 of the Fair Credit Reporting Act (15  
4 U.S.C. 1681s) is amended—

5 (1) in subsection (b)—

6 (A) in paragraph (5), by striking “and”  
7 after the semicolon;

8 (B) in paragraph (6), by striking the pe-  
9 riod at the end and inserting “; and”; and

10 (C) by inserting after paragraph (6) the  
11 following:

12 “(7) subtitle C of title I of the National Insur-  
13 ance Act of 2006, by the Commissioner of National  
14 Insurance with respect to any National Insurer, Na-  
15 tional Agency, and any federally licensed insurance  
16 producer.”; and

17 (D) by adding after the flush matter at the  
18 end the following: “The terms used in para-  
19 graph (7) that are not defined in this Act shall  
20 have the meaning given to them in section 3 of  
21 the National Insurance Act of 2006.”; and

22 (2) in subsection (e), by adding at the end the  
23 following:

24 “(3) The Commissioner of National Insurance  
25 shall prescribe such regulations as necessary to carry

1 out the purpose of this Act with respect to any per-  
2 sons identified under subsection (b)(7).”.