H. R. 4871

[Report No. 113–523]

To reauthorize the Terrorism Risk Insurance Act of 2002, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2014

Mr. NEUGEBAUER (for himself and Mr. WESTMORELAND) introduced the following bill; which was referred to the Committee on Financial Services

JULY 16, 2014

Additional sponsors: Mr. ROYCE, Mr. BACHUS, Mr. MULVANEY, Mr. MCHENRY, Mr. GARRETT, Mr. STIVERS, Mr. FINCHER, Mr. HUIZENGA of Michigan, Mr. ROSS, Ms. GRANGER, Mr. OLSON, Mr. CARTER, Mr. SMITH of Texas, Mr. SAM JOHNSON of Texas, Mr. THORNBERY, Mr. CULBERSON, Mr. SESSIONS, Mr. CONAWAY, Mr. WEBER of Texas, Mr. STOCKMAN, Mr. HALL, Mr. MARCHANT, Mr. DUFFY, Mr. LUETKEMEYER, Mr. HURT, Mr. ROGERS of Alabama, and Mr. JOLLY

JULY 16, 2014

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 17, 2014]
A BILL

To reauthorize the Terrorism Risk Insurance Act of 2002,
and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the
“TRIA Reform Act of 2014”.

(b) Table of Contents.—The table of contents for
this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—TRIA REFORM

Sec. 101. References.
Sec. 102. Extension of program.
Sec. 103. Certification of acts of terrorism.
Sec. 104. Separate treatment of conventional terrorism from NBCR terrorism.
Sec. 105. Availability of coverage.
Sec. 106. Terrorism loss risk-spreading premiums amount.
Sec. 107. Increase of aggregate retention amount; mandatory recoupment.
Sec. 108. Terrorism loss risk-spreading premium.
Sec. 109. Risk-sharing mechanisms.
Sec. 110. Reporting of terrorism insurance data.
Sec. 111. Delivery of notices to policyholders.
Sec. 112. Definition of control.
Sec. 113. Annual study of small insurer market competitiveness.
Sec. 114. CBO and OMB studies regarding budgeting for costs of Federal insurance programs.
Sec. 115. GAO study on upfront premiums and capital reserve fund.

TITLE II—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS REFORM

Sec. 201. Short title.
Sec. 202. Reestablishment of the National Association of Registered Agents and Brokers.

TITLE I—TRIA REFORM

SEC. 101. REFERENCES.

Except as otherwise expressly provided, wherever in
this title an amendment or repeal is expressed in terms of
an amendment to, or repeal of, a section or other provision,
the reference shall be considered to be made to a section or
other provision of the Terrorism Risk Insurance Act of 2002

SEC. 102. EXTENSION OF PROGRAM.

(a) In general.—Subsection (a) of section 108 (15 U.S.C. 6701 note) is amended by striking “December 31, 2014” and inserting “December 31, 2019”.

(b) Program years.—Subparagraph (G) of section 102(11) (15 U.S.C. 6701 note) is amended by striking “2014” and inserting “2019”.

SEC. 103. CERTIFICATION OF ACTS OF TERRORISM.

(a) In general.—Paragraph (1) of section 102 (15 U.S.C. 6701 note) is amended—

(1) in subparagraph (A), in the matter preceding clause (i), by striking “concurrence with the Secretary of State” and inserting “consultation with the Secretary of Homeland Security”;

(2) in subparagraph (B)—

(A) in clause (i), by striking “; or” and inserting a period;

(B) by striking clause (ii); and

(C) by striking “terrorism if—” and all that follows through “(i) the act” and inserting “terrorism if the act”;

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (G), respectively;
(4) by inserting after subparagraph (B) the following new subparagraph:

“(C) TIMING OF CERTIFICATION.—

“(i) PRELIMINARY CERTIFICATION NOTICE.—The Secretary shall issue a preliminary certification notice indicating whether an act is expected to be a certified act of terrorism not later than 15 days after—

“(I) the date of the occurrence of a potential act of terrorism; or

“(II) the receipt of a petition seeking a preliminary certification decision submitted by an insurer having an in-force policy or policies that could be affected by a certification decision.

“(ii) FINAL CERTIFICATION NOTICE.—Not later than 90 days after the date of the occurrence of a potential act of terrorism or the receipt of a petition submitted to the Secretary pursuant to clause (i)(II), the Secretary shall issue a final certification notice indicating whether an act is a certified act of terrorism for purposes of this Act.
“(iii) Rule of construction.—Failure to issue a preliminary certification notice under clause (i) shall not prevent the Secretary from issuing a final certification notice under clause (ii).”; and

(5) by inserting before subparagraph (G), as so redesignated by paragraph (3) of this subsection, the following new subparagraph:

“(F) Failure to make determination.—If the Secretary does not certify, or make a determination not to certify, an act as an act of terrorism before the expiration of the 90-day period beginning on the occurrence of such act, such act shall be treated for purposes of this Act as having been determined by the Secretary not to be an act of terrorism and such determination shall be final and shall not be subject to judicial review.”.

(b) Applicability.—The amendments made by subsection (a) shall apply to the Program Year for the Terrorism Insurance Program established by title I of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) that begins on January 1, 2015, and Program Years thereafter.
SEC. 104. SEPARATE TREATMENT OF CONVENTIONAL TERRORISM FROM NBCR TERRORISM.

(a) Definition.—

(1) In general.—Section 102 (15 U.S.C. 6701 note) is amended—

(A) in paragraph (1), by inserting after subparagraph (C), as added by section 103(a)(4) of this Act, the following new subparagraph:

“(D) Act of NBCR terrorism.—Each certification of an act of terrorism under subparagraph (A) shall include a determination of whether such act involves NBCR terrorism.”;

(B) by redesignating paragraphs (9) through (16) as paragraphs (10) through (17), respectively; and

(C) by inserting after paragraph (8) the following new paragraph:

“(9) NBCR terrorism.—Notwithstanding paragraph (1), the term ‘NBCR terrorism’ means an act of terrorism to the extent that the insured losses involve, regardless of any other cause or event that contributes concurrently or in any sequence to such insurance loss—

“(A) an act of terrorism that is carried out by means of the dispersal or application of radioactive material, or through the use of a nu-
clear weapon or device that involves or produces
a nuclear reaction, nuclear radiation, or radio-
active contamination;

“(B) the release of radioactive material, and
it appears that one purpose of the act of ter-
rorism was to release such material;

“(C) an act of terrorism that is carried out
by means of the dispersal or application of path-
ogenic or poisonous biological or chemical mate-
rial; or

“(D) the release of pathogenic or poisonous
biological or chemical material, and it appears
that one purpose of the act of terrorism was to
release such material.”.

(2) APPLICABILITY.—The amendments made by
paragraph (1) shall apply to the Program Year for
the Terrorism Insurance Program established by title
I of the Terrorism Risk Insurance Act of 2002 (15
U.S.C. 6701 note) that begins on January 1, 2016,
and Program Years thereafter.

(b) FEDERAL SHARE OF INSURED LOSS COMPENSA-
TION.—Subparagraph (A) of section 103(e)(1) (15 U.S.C.
6701 note) is amended—
(1) by striking “The Federal share” and inserting “Subject to subparagraphs (B) and (C), the Federal share”;

(2) by striking “an insurer during the Transition period” and inserting the following: “an insurer—

“(i) during the Transition period,”;

(3) by inserting “through the Program Year ending on December 31, 2015,” after “each Program Year thereafter”;

(4) by striking the period at the end and inserting “; and”; and

(5) by adding at the end the following new clause:

“(ii) shall be equal to—

“(I) except as provided in subclause (II)—

“(aa) during the Program Year beginning on January 1, 2016, 84 percent of that portion of the amount of such insured losses that exceeds the applicable insurer deductible required to be paid during such Program Year;
“(bb) during the Program Year beginning on January 1, 2017, 83 percent of that portion of the amount of such insured losses that exceeds the applicable insurer deductible required to be paid during such Program Year;

“(cc) during the Program Year beginning on January 1, 2018, 82 percent of that portion of the amount of such insured losses that exceeds the applicable insurer deductible required to be paid during such Program Year; and

“(dd) during the Program Year beginning on January 1, 2019, 80 percent of that portion of the amount of such insured losses that exceeds the applicable insurer deductible required to be paid during such Program Year; and

“(II) in the case of insured losses resulting from acts of NBCR terrorism, during the Program Year beginning on January 1, 2016, and each Program
Year thereafter, 85 percent of that portion of the amount of such insured losses that exceeds the applicable insurer deductible required to be paid during such Program Year.”.

(c) PROGRAM TRIGGER.—Subparagraph (B) of section 103(e)(1) (15 U.S.C. 6701 note) is amended—

(1) in the matter preceding clause (i)—

(A) by striking “a certified act” and inserting “certified acts”; and

(B) by striking “such certified act” and inserting “such certified acts”;

(2) in clause (i) by striking “or” at the end;

(3) in clause (ii), by striking the period at the end and inserting the following “through the Program Year ending on December 31, 2015; or”;

(4) by adding at the end the following:

“(iii)(I) except as provided in subclause (II)—

“(aa) $200,000,000, with respect to such insured losses occurring in the Program Year beginning on January 1, 2016;

“(bb) $300,000,000, with respect to such insured losses occurring in the
Program Year beginning on January 1, 2017;

“(cc) $400,000,000, with respect to such insured losses occurring in the Program Year beginning on January 1, 2018; and

“(dd) $500,000,000, with respect to such insured losses occurring in the Program Year beginning on January 1, 2019; and

“(II) in the case of an act of NBCR terrorism, $100,000,000, with respect to such insured losses occurring in the Program Year beginning on January 1, 2016, or any Program Year thereafter.”; and

(5) by adding after and below clause (iii), as added by paragraph (4) of this subsection, the following:

“In determining the aggregate industry insured losses resulting from certified acts of terrorism for purposes of this subparagraph, the Secretary shall not consider any act of terrorism resulting, in the aggregate, in less than $50,000,000 in insured losses.”.
SEC. 105. AVAILABILITY OF COVERAGE.

Subsection (c) of section 103 (15 U.S.C. 6701 note) is amended to read as follows:

“(c) MANDATORY AVAILABILITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), during each Program Year, each entity that meets the definition of an insurer under section 102 shall make available—

“(A) in all of its property and casualty insurance policies, coverage for insured losses; and

“(B) property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

“(2) NO MANDATORY AVAILABILITY FOR SMALL INSURERS.—The Secretary shall provide, by regulation and in consultation with State insurance regulatory authorities, that paragraph (1) shall not apply for a Program Year with respect to any small insurer (as such term is defined in such regulations by the Secretary) that, at the option of the insurer, makes a request for such inapplicability for such Program Year to the appropriate State insurance regulatory authority for the State in which such insurer is domiciled and is determined by such State insurance regu-
latory authority to meet such requirements for finan-
cial hardship or financial infeasibility of providing
coverage for insured losses as the Secretary shall es-
tablish in such regulations. The insurer shall provide
notice, in a manner satisfactory to the State insur-
ance regulatory authority, informing affected prospec-
tive and current policyholders whether such coverage
is not provided by the insurer. This paragraph may
not be construed to require any State insurance regu-
latory authority to undertake making determinations
under this paragraph.”.

SEC. 106. TERRORISM LOSS RISK-SPREADING PREMIUMS
AMOUNT.

(a) In General.—Subparagraph (C) of section
103(e)(7) (15 U.S.C. 6701 note) is amended—

(1) by striking “subparagraphs (A) through (E)”
and inserting “subparagraphs (A) through (F)”; and

(2) by striking “133 percent” and inserting “150
percent”.

(b) Applicability.—The amendment made by sub-
section (a) shall apply to the Program Year for the Ter-
rorism Insurance Program established by title I of the Ter-
that begins on January 1, 2016, and Program Years there-
after.
SEC. 107. INCREASE OF AGGREGATE RETENTION AMOUNT; MANDATORY RECOUPMENT.

(a) In General.—Paragraph (6) of section 103(e) (15 U.S.C. 6701 note) is amended—

(1) in subparagraph (D)(ii), by striking “and” at the end;

(2) in subparagraph (E)—

(A) in the matter preceding clause (i), by inserting “through the Program Year ending on December 31, 2015” before the comma; and

(B) in clause (ii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(F) for the Program Year beginning January 1, 2016, and each Program Year thereafter, the lesser of—

“(i) the amount that is equal to the sum of the insurer deductibles for the Program Year for all insurers participating in the Program; and

“(ii) the aggregate amount, for all insurers, of insured losses during such Program Year.”.

(b) MANDATORY RECOUPMENT.—
(1) AMOUNT; TIMING.—Paragraph (7) of section 103(e) (15 U.S.C. 6701 note) is amended—

(A) by striking subparagraphs (A) and (B) and inserting the following new subparagraph:

“(A) MANDATORY RECOUPMENT AMOUNT.—For purposes of this paragraph, the mandatory recoupment amount for each of the periods referred to in subparagraphs (A) through (F) of paragraph (6) shall be equal to the lesser of—

“(i) the aggregate amount, for all insurers, of insured losses during such period that are compensated by the Federal Government pursuant to paragraph (1); or

“(ii) the insurance marketplace aggregate retention amount under paragraph (6) for such period.”;

(B) in subparagraph (E)(i)(III), by striking “after January 1, 2012” and inserting “before December 31, 2014”; and

(C) by redesignating subparagraphs (C), (D), (E) (as so amended), and (F) as subparagraphs (B), (C), (D), and (E), respectively.

(2) CONFORMING AMENDMENTS.—Section 103(e) (15 U.S.C. 6701 note) is amended in paragraph (7)(D)(i), as so redesignated by paragraph (1)(C) of
this subsection, by striking “subparagraph (C)” and
inserting “subparagraph (B)”.

SEC. 108. TERRORISM LOSS RISK-SPREADING PREMIUM.

(a) IN GENERAL.—Section 103(e) (15 U.S.C. 6701
note) is amended by striking paragraph (8) and inserting
the following new paragraph:

“(8) TERRORISM LOSS RISK-SPREADING PRE-
MIUMS.—

“(A) ESTABLISHMENT.—After an act of ter-
rorism, the Secretary shall, to the extent pro-
vided in paragraph (7)(B), and may, to the ex-
tent provided in paragraph (7)(C), establish ter-
rorism loss risk-spreading premiums, which shall
be imposed as a policyholder premium surcharge
on property and casualty insurance policies for
all participating insurers in force after the date
of such establishment.

“(B) COLLECTION.—The Secretary shall
provide for insurers to collect terrorism loss risk-
spreading premiums and remit such amounts
collected to the Secretary.

“(C) DETERMINATION OF PREMIUMS.—In
determining the method and manner of imposing
terrorism loss risk-spreading premiums, includ-
ing the amount of such premiums, the Secretary shall—

“(i) impose such terrorism loss risk-spreading premiums beginning with such period of coverage during the year as the Secretary determines appropriate, but shall commence imposition of such premiums not later than 18 months after the occurrence of the act of terrorism for which such premiums are imposed;

“(ii) base any terrorism loss risk-spreading premium on a percentage of the premium amount charged for property and casualty insurance coverage under the policy; and

“(iii) take into consideration—

“(I) the economic impact on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;
“(II) the risk factors related to rural areas and smaller commercial
centers, including the potential exposure to loss and the likely magnitude of
such loss, as well as any resulting cross-subsidization that might result;
and
“(III) the various exposures to terrorism risk for different lines of in-
surance.

“(D) PERCENTAGE LIMITATION.—A terrorism loss risk-spreading premium collected on
a discretionary basis pursuant to paragraph (7)(C) shall not be less than, on an annual basis,
the amount equal to 3 percent of the premium charged for property and casualty insurance cov-
erage under the policy.

“(E) TIMING OF PREMIUMS.—The Secretary may adjust the timing of terrorism loss risk-
spreading premiums to provide for equivalent application of the provisions of this title to poli-
cies that are not based on a calendar year, or to apply such provisions on a daily, monthly, or
quarterly basis, as appropriate.”.
(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to the Program Year for the Terrorism Insurance Program established by title I of the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) that begins on January 1, 2016, and Program Years thereafter.

SEC. 109. RISK-SHARING MECHANISMS.

(a) IN GENERAL.—Section 103(e) (15 U.S.C. 6701 note) is amended by adding at the end the following new paragraph:

“(9) RISK-SHARING MECHANISMS.—

“(A) FINDING; RULE OF CONSTRUCTION.—

The Congress finds that it is desirable to encourage the growth of nongovernmental, private market reinsurance capacity for protection against losses arising from acts of terrorism. Therefore, nothing in this title shall prohibit insurers from developing risk-sharing mechanisms (including mutual reinsurance facilities and agreements, use of the capital markets, and insurance-linked securities) to voluntarily reinsure terrorism losses between and among themselves that are not subject to reimbursement under this section.
“(B) Establishment of Advisory Committee.—The Secretary shall appoint an Advisory Committee to—

“(i) encourage the creation and development of such risk-sharing mechanisms;

“(ii) assist the Secretary and be available to administer such risk-sharing mechanisms; and

“(iii) develop articles of incorporation, bylaws, and a plan of operation for any long-term reinsurance facility authorized or created in the future.

“(C) Membership.—The Advisory Committee shall be composed of nine members who are directors, officers, or other employees of insurers, reinsurers, or capital market participants that are participating or that desire to participate in such mechanisms, and who are representative of the affected sectors of the insurance industry, including commercial property insurance, commercial casualty insurance, reinsurance, and alternative risk transfer industries.”.

(b) Applicability.—The amendment made by subsection (a) shall apply to the Program Year for the Terrorism Insurance Program established by title I of the Ter-

SEC. 110. REPORTING OF TERRORISM INSURANCE DATA.

Section 104 (15 U.S.C. 6701 note) is amended by adding at the end the following new subsection:

“(h) REPORTING OF TERRORISM INSURANCE DATA.—

“(1) AUTHORITY.—During the Program Year beginning on January 1, 2016, and in each Program Year thereafter, the Secretary shall require insurers participating in the Program to submit to the Secretary such information regarding insurance coverage for terrorism losses of such insurers as the Secretary considers appropriate to analyze the effectiveness of the Program, which shall include information regarding—

“(A) lines of insurance with exposure to such losses;

“(B) premiums earned on such coverage;

“(C) geographical location of exposures;

“(D) pricing of such coverage;

“(E) the take-up rate for such coverage;

“(F) the amount of private reinsurance for acts of terrorism purchased; and
“(G) such other matters as the Secretary considers appropriate.

“(2) REPORTS.—Not later than 6 months after the termination of the Program Year beginning on January 1, 2016, and not later than 6 months after the termination of each Program Year thereafter, the Secretary shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that includes—

“(A) an analysis of the overall effectiveness of the Program;

“(B) an evaluation of any changes or trends in the data collected under paragraph (1);

“(C) an evaluation of whether any aspects of the Program have the effect of discouraging or impeding insurers from providing commercial property casualty insurance coverage or coverage for acts of terrorism;

“(D) an evaluation of the impact of the Program on workers’ compensation insurers;

“(E) an evaluation of the impact on availability and affordability of terrorism insurance coverage and fiscal protection of the taxpayers of separate Federal treatment under the Program
for nuclear, biological, chemical, and radiological terrorism; and

“(F) in the case of the data reported in paragraph (1)(B), an updated estimate of the total amount earned since the commencement of Program Year 1.

“(3) PROTECTION OF DATA.—To the extent possible, the Secretary shall contract with an insurance statistical aggregator to collect the information described in paragraph (1), which shall keep any non-public information confidential and provide it to the Secretary in an aggregate form or in such other form or manner that does not permit identification of the insurer submitting such information.

“(4) ADVANCE COORDINATION.—Before collecting any data or information under paragraph (1) from an insurer, or affiliate of an insurer, the Secretary shall coordinate with the appropriate State insurance regulatory authorities or their representatives and any relevant government agency or publicly available sources to determine if the information to be collected is available from, and may be obtained in a timely manner by, individually or collectively, such entities. If the Secretary determines that such data or information is available, and may be obtained in a timely
matter, from such entities, the Secretary shall obtain
the data or information from such entities. If the Sec-
retary determines that such data or information is
not so available, the Secretary may collect such data
or information from an insurer and affiliates.

“(5) CONFIDENTIALITY.—

“(A) RETENTION OF PRIVILEGE.—The sub-
mission of any non-publicly available data and
information to the Secretary and the sharing of
any non-publicly available data with or by the
Secretary among other Federal agencies, the
State insurance regulatory authorities and their
collective agents, or any other entities under this
subsection shall not constitute a waiver of, or
otherwise affect, any privilege arising under
Federal or State law (including the rules of any
Federal or State court) to which the data or in-
formation is otherwise subject.

“(B) CONTINUED APPLICATION OF PRIOR
CONFIDENTIALITY AGREEMENTS.—Any require-
ment under Federal or State law to the extent
otherwise applicable, or any requirement pursu-
ant to a written agreement in effect between the
original source of any non-publicly available
data or information and the source of such data
or information to the Secretary, regarding the privacy or confidentiality of any data or information in the possession of the source to the Secretary, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection.

“(C) INFORMATION-SHARING AGREEMENT.— Any data or information obtained by the Secretary under this subsection may be made available to State insurance regulatory authorities, individually or collectively through an information-sharing agreement that—

“(i) shall comply with applicable Federal law; and

“(ii) shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including any privilege referred to in subparagraph (A) and the rules of any Federal or State court) to which the data or information is otherwise subject.

“(D) AGENCY DISCLOSURE REQUIREMENTS.—Section 552 of title 5, United States Code, including any exceptions thereunder, shall apply to any data or information submitted
under this subsection to the Secretary by an insurer or affiliate of an insurer.”.

SEC. 111. DELIVERY OF NOTICES TO POLICYHOLDERS.

Section 103(b)(2) (15 U.S.C. 6701 note) is amended—

(1) in subparagraph (B), by striking “, purchase,”; and

(2) in subparagraph (C), by striking “, purchase,”.

SEC. 112. DEFINITION OF CONTROL.

Paragraph (3) of section 102 (15 U.S.C. 6701 note) is amended—

(1) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively and realigning such clauses, as so redesignated, so as to be indented six ems from the left margin;

(2) in the matter preceding clause (i) (as so redesignated), by striking “An entity has” and inserting the following:

“(A) IN GENERAL.—An entity has”; and

(3) by adding at the end the following new subparagraph:

“(B) RULE OF CONSTRUCTION.—An entity, including any affiliate thereof, does not have control over another entity if, as of the date of the enactment of the TRIA Reform Act of 2014,
the entity is acting as an attorney-in-fact, as defined by the Secretary, for the other entity and such other entity is a reciprocal insurer, provided that the entity is not, for reasons other than the attorney-in-fact relationship, defined as having control under subparagraph (A).”.

SEC. 113. ANNUAL STUDY OF SMALL INSURER MARKET COMPETITIVENESS.

Section 108 (15 U.S.C. 6701 note) is amended by adding at the end the following new subsection:

“(h) Study of Small Insurer Market Competitiveness.—

“(1) In general.—The Secretary shall conduct an annual study of small insurers participating in the Program, and identify any competitive challenges small insurers face in the terrorism risk insurance marketplace, including—

“(A) changes to the market share, premium volume, and policyholder surplus of small insurers relative to large insurers;

“(B) how the property and casualty insurance market for terrorism risk differs between small and large insurers, and whether such a difference exists within other perils;
“(C) the impact of the Program’s mandatory availability requirement under section 103(c) and the voluntary opt-out for small insurers;

“(D) the effect of increasing the trigger amount for the Program under section 103(e)(1)(B)(iii)(I) on small insurers;

“(E) the availability and cost of private reinsurance for small insurers; and

“(F) the impact that State workers compensation laws have on small insurers, particularly the impact of mandatory, non-excludable participation and unlimited financial liability.

“(2) **Timing and Report.**—The Secretary shall complete the first study under paragraph (1) and submit a report to the Congress setting forth the findings and conclusions of the study not later than June 30, 2016, and shall complete an annual study under paragraph (1) and submit a report regarding such study to the Congress by June 1 annually thereafter.”.

**SEC. 114. CBO AND OMB STUDIES REGARDING BUDGETING FOR COSTS OF FEDERAL INSURANCE PROGRAMS.**

Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Di-
rector of the Congressional Budget Office and the Director of the Office of Management and Budget shall each—

(1) conduct a study to determine the feasibility of applying accrual accounting concepts to budgeting for the costs of the Terrorism Risk Insurance Program and for the costs of the other Federal insurance programs; and

(2) submit a report regarding such study to the Committees on the Budget of the House of Representatives and the Senate, which shall include a recommendation specifically addressing the feasibility of applying fair value concepts to budgeting for the costs of Federal insurance programs, including the Terrorism Risk Insurance Program.

SEC. 115. GAO STUDY ON UPFRONT PREMIUMS AND CAPITAL RESERVE FUND.

(a) Study.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall complete a study on the viability of the Federal Government—

(1) assessing and collecting upfront premiums on insurers that participate in the Terrorism Risk Insurance Program established under the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note) (in this section referred to as the “Program”), which shall
include a comparison of practices in international markets to assess and collect premiums either before or after terrorism losses are incurred; and

(2) creating a capital reserve fund under the Program and requiring insurers participating in the Program to dedicate capital specifically for terrorism losses before such losses are incurred, which shall include a comparison of practices in international markets to establish reserve funds.

(b) REQUIRED CONTENT.—The study required under subsection (a) shall examine, but shall not be limited to, the following issues:

(1) UPFRONT PREMIUMS.—With respect to upfront premiums described in subsection (a)(1)—

(A) how the Federal Government could determine the price of such upfront premiums on insurers that participate in the Program;

(B) how the Federal Government could collect such upfront premiums;

(C) how the Federal Government could ensure that such upfront premiums are not spent for purposes other than satisfying claims through the Program;

(D) how the assessment and collection of such upfront premiums could affect take-up rates
for terrorism risk coverage in different regions and industries;

(E) the effect of collecting such upfront premiums on the private market for terrorism risk reinsurance; and

(F) the size of the Federal Government subsidy insurers currently receive through their participation in the Program.

(2) CAPITAL RESERVE FUND.—With respect to the capital reserve fund described in subsection (a)(2)—

(A) how the creation of a capital reserve fund would affect the Federal Government’s fiscal exposure under the Terrorism Risk Insurance Program and the ability of the Program to meet its statutory purposes;

(B) how a capital reserve fund would impact insurers and reinsurers, including liquidity, insurance pricing, and capacity to provide terrorism risk coverage;

(C) the feasibility of segregating funds attributable to terrorism risk from funds attributable to other insurance lines;

(D) how a capital reserve fund would be viewed and treated under current Financial Ac-
counting Standards Board accounting rules and the tax laws; and

(E) how a capital reserve fund would affect the States’ ability to regulate insurers participating in the Program.

(3) INTERNATIONAL PRACTICES.—With respect to international markets referred to in paragraphs (1) and (2) of subsection (A), how other countries, if any—

(A) have established terrorism insurance structures;

(B) charge premiums or otherwise collect funds to pay for the costs of terrorism insurance structures, including risk and administrative costs; and

(C) have established capital reserve funds to pay for the costs of terrorism insurance structures.

(4) DURATION.—With respect to the capital reserve fund described in subsection (a)(2), how the duration of the Program would affect the viability of such capital reserve fund.

(c) REPORT.—Upon completion of the study required under subsection (a), the Comptroller General shall submit a report on the results of such study to the Committee on
Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

(d) Public Availability.—The study and report required under this section shall be made available to the public in electronic form and shall be published on the website of the Government Accountability Office.

TITLE II—NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS REFORM

SEC. 201. SHORT TITLE.

This title may be cited as the “National Association of Registered Agents and Brokers Reform Act of 2014”.

SEC. 202. REESTABLISHMENT OF THE NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

(a) In General.—Subtitle C of title III of the Gramm-Leach-Bliley Act (15 U.S.C. 6751 et seq.) is amended to read as follows:
“Subtitle C—National Association of Registered Agents and Brokers

“SEC. 321. NATIONAL ASSOCIATION OF REGISTERED AGENTS AND BROKERS.

“(a) ESTABLISHMENT.—There is established the National Association of Registered Agents and Brokers (referred to in this subtitle as the ‘Association’).

“(b) STATUS.—The Association shall—

“(1) be a nonprofit corporation;

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

“(3) be an independent organization that may not be merged with or into any other private or public entity; and

“(4) except as otherwise provided in this subtitle, be subject to, and have all the powers conferred upon, a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (D.C. Code, sec. 29–301.01 et seq.) or any successor thereto.

“SEC. 322. PURPOSE.

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

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

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

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

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

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

“SEC. 323. MEMBERSHIP.

“(a) ELIGIBILITY.—

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

“(2) INELIGIBILITY FOR SUSPENSION OR REVOCATION OF LICENSE.—Subject to paragraph (3), an insurance producer is not eligible to become a member
of the Association if a State insurance regulator has suspended or revoked the insurance license of the insurance producer in that State.

“(3) Resumption of Eligibility.—Paragraph (2) shall cease to apply to any insurance producer if—

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

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

“(4) Criminal History Record Check Required.—

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

“(B) Criminal History Record Check Requested by Home State.—An insurance
producer who is licensed in a State and who has undergone a criminal history record check during the 2-year period preceding the date of submission of an application to become a member of the Association, in compliance with a requirement to undergo such criminal history record check as a condition for such licensure in the State, shall be deemed to have undergone a criminal history record check for purposes of subparagraph (A).

“(C) Criminal history record check requested by Association.—

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

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

“(D) FORM OF REQUEST.—A submission under subparagraph (C)(i) shall include such fingerprints or other identification information as is required by the Attorney General concerning the person about whom the criminal history record check is requested, and a statement signed by the person authorizing the Attorney General to provide the information to the Association and for the Association to receive the information.

“(E) PROVISION OF INFORMATION BY ATTORNEY GENERAL.—Upon receiving a submission under subparagraph (C)(i) from the Association, the Attorney General shall search all
criminal history records of the Federal Bureau of
Investigation, including records of the Criminal
Justice Information Services Division of the Fed-
eral Bureau of Investigation, that the Attorney
General determines appropriate for criminal his-
tory records corresponding to the fingerprints or
other identification information provided under
subparagraph (D) and provide all criminal his-
tory record information included in the request
to the Association.

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

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

“(ii) be disclosed to State insurance
regulators, or Federal or State law enforce-
ment agencies, in conformance with appli-
cable law; or

“(iii) be disclosed, upon request, to the
insurance producer to whom the criminal
history record information relates.

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

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

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

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

“(i) requiring a State insurance regulator to perform criminal history record checks under this section; or
“(ii) limiting any other authority that allows access to criminal history records.

“(K) REGULATIONS.—The Attorney General shall prescribe regulations to carry out this paragraph, which shall include—

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

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

“(L) INELIGIBILITY FOR MEMBERSHIP.—

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

“(ii) RIGHTS OF APPLICANTS DENIED MEMBERSHIP.—The Association shall notify any insurance producer who is denied mem-
bership on the basis of criminal history record information provided under subparagraph (E) of the right of the insurance producer to—

“(I) obtain a copy of all criminal history record information provided to the Association under subparagraph (E) with respect to the insurance producer; and

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

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

“(b) AUTHORITY TO ESTABLISH MEMBERSHIP CRITERIA.—The Association may establish membership criteria that bear a reasonable relationship to the purposes for which the Association was established.

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

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

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

“(3) CATEGORIES.—

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

“(B) SEPARATE TREATMENT FOR DEPOSI-
TORY INSTITUTIONS PROHIBITED.—No special
categories of membership, and no distinct mem-
bership criteria, shall be established for members
that are depository institutions or for employees, agents, or affiliates of depository institutions.

“(d) Membership Criteria.—

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

“(2) Qualifications.—In establishing criteria under paragraph (1), the Association shall not adopt any qualification less protective to the public than that contained in the National Association of Insurance Commissioners (referred to in this subtitle as the ‘NAIC’) Producer Licensing Model Act in effect as of the date of enactment of the National Association of Registered Agents and Brokers Reform Act of 2013, and shall consider the highest levels of insurance producer qualifications established under the licensing laws of the States.

“(3) Assistance from States.—

“(A) In general.—The Association may request a State to provide assistance in inves-
tigating and evaluating the eligibility of a prospective member for membership in the Association.

“(B) Authorization of Information Sharing.—A submission under subsection (a)(4)(C)(i) made by an insurance producer licensed in a State shall include a statement signed by the person about whom the assistance is requested authorizing—

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

“(ii) the Association to receive the information.

“(C) Rule of Construction.—Subparagraph (A) shall not be construed as requiring or authorizing any State to adopt new or additional requirements concerning the licensing or evaluation of insurance producers.

“(4) Denial of Membership.—The Association may, based on reasonably consistently applied standards, deny membership to any State-licensed insurance producer for failure to meet the membership criteria established by the Association.

“(e) Effect of Membership.—
“(1) Authority of Association members.—

Membership in the Association shall—

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

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

“(C) be the equivalent of a nonresident insurance producer license for the purpose of subjecting an insurance producer to all laws, regulations, provisions or other action of any State concerning revocation, suspension, or other en-
forcement action related to the ability of a mem-
ber to engage in any activity within the scope of
authority granted under this subsection and to
all State laws, regulations, provisions, and ac-
tions preserved under paragraph (5).

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

“(3) AGENT FOR REMITTING FEES.—The Asso-
ciation shall act as an agent for any member for pur-
poses of remitting licensing fees to any State pursu-
ant to paragraph (1).

“(4) NOTIFICATION OF ACTION.—

“(A) IN GENERAL.—The Association shall
notify the States (including State insurance reg-
ulators) and the NAIC when an insurance pro-
ducer has satisfied the membership criteria of
this section. The States (including State insur-
ance regulators) shall have 10 business days after
the date of the notification in order to provide
the Association with evidence that the insurance
producer does not satisfy the criteria for mem-
bership in the Association.
“(B) ONGOING DISCLOSURES REQUIRED.—

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

“(5) PRESERVATION OF CONSUMER PROTECTION AND MARKET CONDUCT REGULATION.—

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

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

“(ii) establish consumer protections; or

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

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

“(g) CONTINUING EDUCATION.—

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

“(2) STATE CONTINUING EDUCATION REQUIREMENTS.—A member may not be required to satisfy continuing education requirements imposed under the laws, regulations, provisions, or actions of any State other than the home State of the member.
“(3) RECIPROCITY.—The Association shall not require a member to satisfy continuing education requirements that are equivalent to any continuing education requirements of the home State of the member that have been satisfied by the member during the applicable licensing period.

“(4) LIMITATION ON THE ASSOCIATION.—The Association shall not directly or indirectly offer any continuing education courses for insurance producers.

“(h) PROBATION, SUSPENSION AND REVOCATION.—

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

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

“(B) the insurance producer has been subject to disciplinary action pursuant to a final adjudicatory proceeding under the jurisdiction of a State insurance regulator;
“(C) an insurance license held by the insurance producer has been suspended or revoked by a State insurance regulator; or

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

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

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

“(i) CONSUMER COMPLAINTS.—

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

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

“(B) make any related records and information available to each State insurance regulator to whom the complaint is forwarded.

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

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

“(j) Information Sharing.—The Association may—

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

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

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

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

“(1) the expiration of the 2-year period beginning on the date of enactment of the National Association of Registered Agents and Brokers Reform Act of 2013; and

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

“SEC. 324. BOARD OF DIRECTORS.

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

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

“(c) COMPOSITION.—

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

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

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

“(C) 2 shall have demonstrated expertise
and experience with life or health insurance pro-
ducer licensing.

“(2) STATE INSURANCE REGULATOR REPRESENT-
ATIVES.—

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

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

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

“(ii) LIMITATION.—A former State insurance commissioner appointed as described in clause (i) may not be employed by or have any present direct or indirect financial interest in any insurer, insurance producer, or other entity in the insurance industry, other than direct or indirect ownership of, or beneficial interest in, an insurance policy or annuity contract written or sold by an insurer.
“(D) Service through term.—If a Board member appointed under paragraph (1)(A) ceases to be a State insurance commissioner during the term of the Board member, the Board member shall cease to be a Board member.

“(3) Private sector representatives.—In making any appointment pursuant to subparagraph (B) or (C) of paragraph (1), the President may seek recommendations for candidates from groups representing the category of individuals described, which shall not be binding on the President.

“(4) State insurance commissioner defined.—For purposes of this subsection, the term ‘State insurance commissioner’ means a person who serves in the position in State government, or on the board, commission, or other body that is the primary insurance regulatory authority for the State.

“(d) Terms.—

“(1) In general.—Except as provided under paragraph (2), the term of service for each Board member shall be 2 years.

“(2) Exceptions.—

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

“(i) 4 of the State insurance commissioner Board members initially appointed under paragraph (1)(A), of whom not more than 2 shall belong to the same political party;

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

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

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

“(C) MID-TERM APPOINTMENTS.—A Board member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the Board member was appointed shall be appointed only for the remainder of that term.

“(3) SUCCESSIVE TERMS.—Board members may be reappointed to successive terms.
“(e) Initial Appointments.—The appointment of initial Board members shall be made no later than 90 days after the date of enactment of the National Association of Registered Agents and Brokers Reform Act of 2014.

“(f) Meetings.—

“(1) In General.—The Board shall meet—

“(A) at the call of the chairperson;

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

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

“(2) Quorum Required.—A majority of all Board members shall constitute a quorum.

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

“(4) Initial Meeting.—The Board shall hold its first meeting not later than 45 days after the date on which all initial Board members have been appointed.

“(g) Restriction on Confidential Information.—Board members appointed pursuant to subparagraphs (B) and (C) of subsection (c)(1) shall not have access to confidential information received by the Association in connec-
tion with complaints, investigations, or disciplinary pro-
ceedings involving insurance producers.

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

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

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

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

“(4) making political contributions to any per-
son or entity on behalf of the Association; and
“(5) lobbying or paying a person to lobby on behalf of the Association.

“(i) COMPENSATION.—

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

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

“SEC. 325. BYLAWS, STANDARDS, AND DISCIPLINARY ACTIONS.

“(a) Adoption and amendment of bylaws and standards.—

“(1) Procedures.—The Association shall adopt procedures for the adoption of bylaws and standards that are similar to procedures under subchapter II of chapter 5 of title 5, United States Code (commonly known as the ‘Administrative Procedure Act’).
“(2) Copy required to be filed.—The Board shall submit to the President, through the Department of the Treasury, and the States (including State insurance regulators), and shall publish on the website of the Association, all proposed bylaws and standards of the Association, or any proposed amendment to the bylaws or standards of the Association, accompanied by a concise general statement of the basis and purpose of such proposal.

“(3) Effective date.—Any proposed bylaw or standard of the Association, and any proposed amendment to the bylaws or standards of the Association, shall take effect, after notice under paragraph (2) and opportunity for public comment, on such date as the Association may designate, unless suspended under section 329(c).

“(4) Rule of construction.—Nothing in this section shall be construed to subject the Board or the Association to the requirements of subchapter II of chapter 5 of title 5, United States Code (commonly known as the ‘Administrative Procedure Act’).

“(b) Disciplinary action by the Association.—

“(1) Specification of charges.—In any proceeding to determine whether membership shall be denied, suspended, revoked, or not renewed, or to deter-
mine whether a member of the Association should be
placed on probation (referred to in this section as a
‘disciplinary action’) or whether to assess fines or
monetary penalties, the Association shall bring spe-
cific charges, notify the member of the charges, give
the member an opportunity to defend against the
charges, and keep a record.

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

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

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

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

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

“(A) participate in any disciplinary action
or be counted toward establishing a quorum dur-
ing a disciplinary action; and

“(B) have access to confidential information
concerning any disciplinary action.
“SEC. 326. POWERS.

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

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

“(2) adopt, amend, and repeal bylaws, procedures, or standards governing the conduct of Association business and performance of its duties;

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

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

“(5) hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of this subtitle, and determine their qualification;

“(6) establish personnel policies of the Association and programs relating to, among other things, conflicts of interest, rates of compensation, where applicable, and qualifications of personnel;

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

“SEC. 327. REPORT BY THE ASSOCIATION.

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

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


“(a) IN GENERAL.—The Association shall not be deemed to be an insurer or insurance producer within the
meaning of any State law, rule, regulation, or order regul-
ating or taxing insurers, insurance producers, or other en-
tities engaged in the business of insurance, including provi-
sions imposing premium taxes, regulating insurer solvency
or financial condition, establishing guaranty funds and lev-
ying assessments, or requiring claims settlement practices.

“(b) LIABILITY OF BOARD MEMBERS, OFFICERS, AND
EMPLOYEES.—No Board member, officer, or employee of the
Association shall be personally liable to any person for any
action taken or omitted in good faith in any matter within
the scope of their responsibilities in connection with the As-
sociation.

“SEC. 329. PRESIDENTIAL OVERSIGHT.

“(a) REMOVAL OF BOARD.—If the President deter-
mines that the Association is acting in a manner contrary
to the interests of the public or the purposes of this subtitle
or has failed to perform its duties under this subtitle, the
President may remove the entire existing Board for the re-
mainder of the term to which the Board members were ap-
pointed and appoint, in accordance with section 324 and
with the advice and consent of the Senate, in accordance
with the procedures established under Senate Resolution
116 of the 112th Congress, new Board members to fill the
vacancies on the Board for the remainder of the terms.
“(b) Removal of Board Member.—The President may remove a Board member only for neglect of duty or malfeasance in office.

“(c) Suspension of Bylaws and Standards and Prohibition of Actions.—Following notice to the Board, the President, or a person designated by the President for such purpose, may suspend the effectiveness of any bylaw or standard, or prohibit any action, of the Association that the President or the designee determines is contrary to the purposes of this subtitle.

“SEC. 330. Relationship to State Law.

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

“(b) Prohibited Actions.—

“(1) In general.—No State shall—

“(A) impede the activities of, take any action against, or apply any provision of law or regulation arbitrarily or discriminatorily to, any insurance producer because that insurance producer or any affiliate plans to become, has applied to become, or is a member of the Association;
“(B) impose any requirement upon a member of the Association that it pay fees different from those required to be paid to that State were it not a member of the Association; or

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

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

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

“(B) impose any requirement upon a member of the Association that it be licensed, registered, or otherwise qualified to do business or remain in good standing in the State, including any requirement that the insurance producer register as a foreign company with the secretary of state or equivalent State official;
“(C) require that a member of the Association submit to a criminal history record check as a condition of doing business in the State; or

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

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

“SEC. 331. COORDINATION WITH FINANCIAL INDUSTRY
REGULATORY AUTHORITY.

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

“SEC. 332. RIGHT OF ACTION.

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

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

“SEC. 333. FEDERAL FUNDING PROHIBITED.

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

“SEC. 334. DEFINITIONS.

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

“(1) BUSINESS ENTITY.—The term ‘business entity’ means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

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

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

“(4) INSURANCE.—The term ‘insurance’ means any product, other than title insurance or bail bonds, defined or regulated as insurance by the appropriate State insurance regulatory authority.

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

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

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

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

“(9) **STATE.**—The term ‘State’ includes any State, the District of Columbia, any territory of the United States, and Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

“(10) **STATE LAW.**—

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

“(B) LAWS APPLICABLE IN THE DISTRICT OF COLUMBIA.—A law of the United States applicable only to or within the District of Columbia shall be treated as a State law rather than a law of the United States.”.

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

“Subtitle C—National Association of Registered Agents and Brokers

“Sec. 322. Purpose.
“Sec. 323. Membership.
“Sec. 324. Board of directors.
“Sec. 325. Bylaws, standards, and disciplinary actions.
“Sec. 326. Powers.
“Sec. 327. Report by the Association.
“Sec. 328. Liability of the Association and the Board members, officers, and employees of the Association.
“Sec. 329. Presidential oversight.
“Sec. 330. Relationship to State law.
“Sec. 331. Coordination with financial industry regulatory authority.
“Sec. 332. Right of action.
“Sec. 333. Federal funding prohibited.
“Sec. 334. Definitions.”.
A BILL

To reauthorize the Terrorism Risk Insurance Act of 2002, and for other purposes.

H. R. 4871