

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5075

To ensure that sellers and underwriters of insurance are qualified and subject to consumer protection requirements.

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1994

Mr. DINGELL (for himself and Mrs. COLLINS of Illinois) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To ensure that sellers and underwriters of insurance are qualified and subject to consumer protection requirements.

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.**

4 This Act may be cited as the “Insurance Sales and  
5 Underwriting Consumer Protection Act of 1994”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to protect consumers and  
8 potential consumers of insurance by ensuring that sellers  
9 and underwriters of insurance in interstate commerce are  
10 professionally qualified to sell and solicit insurance and

1 underwrite insurance and are subject to the consumer pro-  
2 tection requirements applicable in the State in which the  
3 insurance is sold, solicited, or underwritten.

4 **SEC. 3. PROTECTION OF INSURANCE PURCHASERS.**

5 (a) IN GENERAL.—A person may not sell or solicit  
6 the purchase of insurance in a State unless that person  
7 qualifies under and complies with all insurance regulatory  
8 requirements applicable in the State in which the sale or  
9 solicitation of insurance takes place.

10 (b) APPLICABLE REQUIREMENTS.—The require-  
11 ments covered under subsection (a) include—

12 (1) qualifying for and maintaining a license to  
13 sell or solicit the purchase of insurance if such li-  
14 cense is required by the insurance regulatory author-  
15 ity of the State in which the insurance is sold or its  
16 purchase solicited, and

17 (2) complying with all consumer protection re-  
18 quirements, such as those applicable to disclosure,  
19 unfair trade practices, and product advertising, that  
20 apply to the marketing of insurance in the State in  
21 which the insurance is sold or its purchase solicited.

22 (c) COVERED TRANSACTIONS.—The insurance sales  
23 and solicitations covered by this section include the sales  
24 and solicitations of any insurance sold, solicited, under-  
25 written, or reinsured by an entity that operates in inter-

1 state commerce or is part of an entity any part of which  
2 operates in interstate commerce.

3 **SEC. 4. PROTECTION OF INSURANCE POLICYHOLDERS.**

4 (a) IN GENERAL.—A person may not underwrite in-  
5 surance in a State unless that person complies with all  
6 insurance regulatory requirements applicable in the State  
7 in which the insurance is underwritten.

8 (b) APPLICABLE REQUIREMENTS.—The require-  
9 ments covered under subsection (a) include—

10 (1) qualifying for and maintaining a license to  
11 underwrite insurance if such license is required by  
12 the insurance regulatory authority of the State in  
13 which the insurance is underwritten;

14 (2) if a license is not required by the insurance  
15 regulatory authority of the State in which the insur-  
16 ance is underwritten, otherwise meeting any applica-  
17 ble financial or other requirements imposed by the  
18 State in which the insurance is underwritten; and

19 (3) complying with all consumer protection re-  
20 quirements, such as those applicable to disclosure,  
21 unfair trade practices, and product advertising, that  
22 apply to underwriting insurance in the State in  
23 which the insurance is underwritten.

24 (c) COVERED TRANSACTIONS.—The insurance under-  
25 writing covered by this section includes any insurance un-

1 derwritten or reinsured by an entity that operates in inter-  
2 state commerce or is part of an entity any part of which  
3 operates in interstate commerce.

4 **SEC. 5. SAVINGS CLAUSE.**

5 The provisions of this Act do not alter or affect the  
6 provisions of the Liability Risk Retention Act of 1986 (15  
7 U.S.C. 3901 et seq.).

8 **SEC. 6. ENFORCEMENT.**

9 (a) **IN GENERAL.**—If the appropriate State does not  
10 take action against a violation of the sales, solicitation,  
11 and underwriting requirements covered by this Act, the  
12 Department of Justice may file a civil action as to such  
13 violation.

14 (b) **STANDARD FOR A VIOLATION.**—The determina-  
15 tion of whether an act constitutes a violation under this  
16 Act shall be made pursuant to the insurance laws and reg-  
17 ulations of the applicable State.

18 (c) **REMEDIES.**—In an action under subsection (a),  
19 the Department of Justice may ask for either or both of  
20 the following:

21 (1) An order prohibiting that person from en-  
22 gaging in the prohibited conduct.

23 (2) A civil fine of up to \$1,000 for each viola-  
24 tion.

1 **SEC. 7. DEFINITION OF INSURANCE.**

2 For purposes of this Act, the term “insurance”  
3 means any product defined or regulated as insurance by  
4 the insurance regulatory authority of the State in which  
5 the insurance is sold, solicited, or underwritten.

6 **SEC. 8. EFFECTIVE DATE.**

7 The requirements of this Act shall take effect 180  
8 days after the date of enactment.

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