

finds necessary to cover the costs of its operations, including fees made reimbursable to the NAIC under subsection (b) of this section, except that, in setting such fees, the Association may not discriminate against smaller insurance producers.

**(b) NAIC assessments**

The NAIC may assess the Association for any costs that the NAIC incurs under this subchapter.

(Pub. L. 106–102, title III, § 329, Nov. 12, 1999, 113 Stat. 1430.)

**§ 6760. Functions of the NAIC**

**(a) Administrative procedure**

Determinations of the NAIC, for purposes of making rules pursuant to section 6758 of this title, shall be made after appropriate notice and opportunity for a hearing and for submission of views of interested persons.

**(b) Examinations and reports**

**(1) Examinations**

The NAIC may make such examinations and inspections of the Association and require the Association to furnish to the NAIC such reports and records or copies thereof as the NAIC may consider necessary or appropriate in the public interest or to effectuate the purposes of this subchapter.

**(2) Report by Association**

As soon as practicable after the close of each fiscal year, the Association shall submit to the NAIC a written report regarding the conduct of its business, and the exercise of the other rights and powers granted by this subchapter, during such fiscal year. Such report shall include 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. The NAIC shall transmit such report to the President and the Congress with such comment thereon as the NAIC determines to be appropriate.

(Pub. L. 106–102, title III, § 330, Nov. 12, 1999, 113 Stat. 1430.)

**§ 6761. Liability of the Association and the directors, officers, and employees of the Association**

**(a) In general**

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

**(b) Liability of the Association, its directors, officers, and employees**

Neither the Association nor any of its directors, officers, or employees shall have any liability

to any person for any action taken or omitted in good faith under or in connection with any matter subject to this subchapter.

(Pub. L. 106–102, title III, § 331, Nov. 12, 1999, 113 Stat. 1430.)

**§ 6762. Elimination of NAIC oversight**

**(a) In general**

The Association shall be established without NAIC oversight and the provisions set forth in section 6754 of this title, subsections (a), (b), (c), and (e) of section 6758 of this title, and sections 6759(b) and 6760 of this title shall cease to be effective if, at the end of the 2-year period beginning on the date on which the provisions of this subchapter take effect pursuant to section 6751 of this title—

(1) at least a majority of the States representing at least 50 percent of the total United States commercial-lines insurance premiums have not satisfied the uniformity or reciprocity requirements of subsections (a), (b), and (c) of section 6751 of this title; and

(2) the NAIC has not approved the Association's bylaws as required by section 6758 of this title or is unable to operate or supervise the Association, or the Association is not conducting its activities as required under this Act.

**(b) Board appointments**

If the repeals required by subsection (a) of this section are implemented, the following shall apply:

**(1) General appointment power**

The President, with the advice and consent of the Senate, shall appoint the members of the Association's Board established under section 6756 of this title from lists of candidates recommended to the President by the NAIC.

**(2) Procedures for obtaining NAIC appointment recommendations**

**(A) Initial determination and recommendations**

After the date on which the provisions of subsection (a) of this section take effect, the NAIC shall, not later than 60 days thereafter, provide a list of recommended candidates to the President. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least 14 recommended candidates or comply with the requirements of section 6756(c) of this title, the President shall, with the advice and consent of the Senate, make the requisite appointments without considering the views of the NAIC.

**(B) Subsequent appointments**

After the initial appointments, the NAIC shall provide a list of at least six recommended candidates for the Board to the President by January 15 of each subsequent year. If the NAIC fails to provide a list by that date, or if any list that is provided does not include at least six recommended candidates or comply with the requirements of section 6756(c) of this title, the President, with the advice and consent of the Senate,