

§ 6759. Presidential oversight**(a) Removal of Board**

If the President determines that the Association is acting in a manner contrary to the interests of the public or the purposes of this subchapter or has failed to perform its duties under this subchapter, the President may remove the entire existing Board for the remainder of the term to which the Board members were appointed and appoint, in accordance with section 6754 of this title 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 subchapter.

(Pub. L. 106-102, title III, §329, as added Pub. L. 114-1, title II, §202(a), Jan. 12, 2015, 129 Stat. 25.)

REFERENCES IN TEXT

Senate Resolution 116 of the 112th Congress, referred to in subsec. (a), which was agreed to June 29, 2011, provided for expedited Senate consideration of certain nominations subject to advice and consent.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 6762(b)(2)(C) of this title, prior to the general amendment of this subchapter by Pub. L. 114-1.

A prior section 6759, Pub. L. 106-102, title III, §329, Nov. 12, 1999, 113 Stat. 1430, related to assessments, prior to the general amendment of this subchapter by Pub. L. 114-1. See section 6756(1) of this title.

§ 6760. 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 business in the State pursuant to Association membership.

(Pub. L. 106-102, title III, §330, as added Pub. L. 114-1, title II, §202(a), Jan. 12, 2015, 129 Stat. 25.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 6763 of this title, prior to the general amendment of this subchapter by Pub. L. 114-1.

A prior section 6760, Pub. L. 106-102, title III, §330, Nov. 12, 1999, 113 Stat. 1430, related to functions of the NAIC, prior to the general amendment of this subchapter by Pub. L. 114-1.

§ 6761. Coordination with Financial Industry Regulatory Authority

The Association shall coordinate with the Financial Industry Regulatory Authority in order to ease any administrative burdens that fall on members of the Association that are subject to regulation by the Financial Industry Regulatory

Authority, consistent with the requirements of this subchapter and the Federal securities laws. (Pub. L. 106–102, title III, §331, as added Pub. L. 114–1, title II, §202(a), Jan. 12, 2015, 129 Stat. 26.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 6764(b) of this title, prior to the general amendment of this subchapter by Pub. L. 114–1.

A prior section 6761, Pub. L. 106–102, title III, §331, Nov. 12, 1999, 113 Stat. 1430, related to liability of the Association and the directors, officers, and employees of the Association, prior to the general amendment of this subchapter by Pub. L. 114–1. See section 6758 of this title.

§ 6762. Right of action

(a) Right of action

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

(b) Association interpretations

In any action under subsection (a), the court shall give appropriate weight to the interpretation of the Association of its bylaws and standards and this subchapter.

(Pub. L. 106–102, title III, §332, as added Pub. L. 114–1, title II, §202(a), Jan. 12, 2015, 129 Stat. 26.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 6765 of this title, prior to the general amendment of this subchapter by Pub. L. 114–1.

A prior section 6762, Pub. L. 106–102, title III, §332, Nov. 12, 1999, 113 Stat. 1431, related to elimination of NAIC oversight, prior to the general amendment of this subchapter by Pub. L. 114–1. See sections 6757 and 6759 of this title.

§ 6763. Federal funding prohibited

The Association may not receive, accept, or borrow any amounts from the Federal Government to pay for, or reimburse,¹ the Association for, the costs of establishing or operating the Association.

(Pub. L. 106–102, title III, §333, as added Pub. L. 114–1, title II, §202(a), Jan. 12, 2015, 129 Stat. 27.)

PRIOR PROVISIONS

A prior section 6763, Pub. L. 106–102, title III, §333, Nov. 12, 1999, 113 Stat. 1432, related to relationship to State law, prior to the general amendment of this subchapter by Pub. L. 114–1. See section 6760 of this title.

§ 6764. Definitions

For purposes of this subchapter, 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 1813 of title 12.

¹ So in original. The comma probably should not appear.

(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.

(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.

(Pub. L. 106–102, title III, §334, as added Pub. L. 114–1, title II, §202(a), Jan. 12, 2015, 129 Stat. 27.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 6766 of this title, prior to the general amendment of this subchapter by Pub. L. 114–1.

A prior section 6764, Pub. L. 106–102, title III, §334, Nov. 12, 1999, 113 Stat. 1433, related to coordination with other regulators, prior to the general amendment of this subchapter by Pub. L. 114–1. See section 6761 of this title.