

(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 to¹ 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 subchapter 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 subchapter;

(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 January 12, 2015; and

(2) the date of incorporation of the Association.

(Pub. L. 106-102, title III, §323, as added Pub. L. 114-1, title II, §202(a), Jan. 12, 2015, 129 Stat. 13.)

REFERENCES IN TEXT

The Violent Crime Control and Law Enforcement Act of 1994, referred to in subsec. (e)(2), is Pub. L. 103-322, Sept. 13, 1994, 108 Stat. 1796. For complete classification of this Act to the Code, see Short Title note set out under section 13701 of Title 42, The Public Health and Welfare, and Tables.

PRIOR PROVISIONS

Provisions similar to this section were contained in section 6755 of this title, prior to the general amendment of this subchapter by Pub. L. 114-1.

A prior section 6753, Pub. L. 106-102, title III, §323, Nov. 12, 1999, 113 Stat. 1424, related to purpose of the Association, prior to the general amendment of this subchapter by Pub. L. 114-1. See section 6752 of this title.

§ 6754. 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.¹

(c) Composition

(1) In general

The Board shall consist of 13 members who shall be appointed by the President, by and

¹ So in original. Probably should be followed by "in".

¹ So in original. Probably should be "such powers and authority as may be specified in the bylaws of the Association."

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 insurance commissioner Board member to serve as the chairperson of the Board;

(B) 3 shall have demonstrated expertise and experience with property and casualty insurance producer licensing; and

(C) 2 shall have demonstrated expertise and experience with life or health insurance producer licensing.

(2) State insurance regulator representatives

(A) Recommendations

Before making any appointments pursuant to paragraph (1)(A), the President shall request a list of recommended 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 considering the views of the NAIC.

(B) Political affiliation

Not more than 4 Board members appointed under paragraph (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),² 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);³ and

(iii) 1 of the Board members initially appointed under paragraph (1)(C).⁴

(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 January 12, 2015.

(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.

²So in original. Probably should be “paragraph (1)(A) of subsection (c).”

³So in original. Probably should be “paragraph (1)(B) of subsection (c).”

⁴So in original. Probably should be “paragraph (1)(C) of subsection (c).”

(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 connection with complaints, investigations, or disciplinary proceedings 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 consultants. The code shall, at a minimum, include provisions that prohibit any Board member or Association officer, employee, 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 entity other than the Association that is given because of the position held by the person in the Association;
- (4) making political contributions to any person 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, while away from home or regular places of business in performance of services for the Association.

(Pub. L. 106-102, title III, §324, as added Pub. L. 114-1, title II, §202(a), Jan. 12, 2015, 129 Stat. 20.)

REFERENCES IN TEXT

Senate Resolution 116 of the 112th Congress, referred to in subsec. (c)(1), 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 6756 of this title, prior to the general amendment of this subchapter by Pub. L. 114-1.

A prior section 6754, Pub. L. 106-102, title III, §324, Nov. 12, 1999, 113 Stat. 1424, related to relationship to the Federal Government, prior to the general amendment of this subchapter by Pub. L. 114-1.

§ 6755. 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 (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 6759(c) of this title.

(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 (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 determine 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 specific 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 determination to take disciplinary action shall be supported by a statement setting forth—

- (A) any act or practice in which the member has been found to have been engaged;
- (B) the specific provision of this subchapter or standard of the Association that any such act or practice is deemed to violate; and