

(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

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

(3) Ineligibility of private sector representatives

Board members appointed pursuant to section 6754(c)(3) of this title may not—

(A) participate in any disciplinary action or be counted toward establishing a quorum during a disciplinary action; and

(B) have access to confidential information concerning any disciplinary action.

(Pub. L. 106–102, title III, §325, as added Pub. L. 114–1, title II, §202(a), Jan. 12, 2015, 129 Stat. 23.)

PRIOR PROVISIONS

Provisions similar to this section were contained in section 6758 of this title, prior to the general amendment of this subchapter by Pub. L. 114–1.

A prior section 6755, Pub. L. 106–102, title III, §325, Nov. 12, 1999, 113 Stat. 1424, related to membership in the Association, prior to the general amendment of this subchapter by Pub. L. 114–1. See section 6753 of this title.

§ 6756. Powers

In addition to all the powers conferred upon a nonprofit 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 6755(a) of this title;

(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 subchapter, 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.

(Pub. L. 106–102, title III, §326, as added Pub. L. 114–1, title II, §202(a), Jan. 12, 2015, 129 Stat. 24.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in text, is Pub. L. 87–569, Aug. 6, 1962, 76 Stat. 265, which is not classified to the Code.

PRIOR PROVISIONS

A prior section 6756, Pub. L. 106–102, title III, §326, Nov. 12, 1999, 113 Stat. 1426, related to board of direc-

tors, prior to the general amendment of this subchapter by Pub. L. 114–1. See section 6754 of this title.

§ 6757. 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 subchapter, 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.

(Pub. L. 106–102, title III, §327, as added Pub. L. 114–1, title II, §202(a), Jan. 12, 2015, 129 Stat. 24.)

PRIOR PROVISIONS

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

A prior section 6757, Pub. L. 106–102, title III, §327, Nov. 12, 1999, 113 Stat. 1427, related to officers of the Association, prior to the general amendment of this subchapter by Pub. L. 114–1.

§ 6758. Liability of the Association and the Board members, 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 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 Association.

(Pub. L. 106–102, title III, §328, 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 6761 of this title, prior to the general amendment of this subchapter by Pub. L. 114–1.

A prior section 6758, Pub. L. 106–102, title III, §328, Nov. 12, 1999, 113 Stat. 1427, related to bylaws, rules, and disciplinary action, prior to the general amendment of this subchapter by Pub. L. 114–1. See section 6755 of this title.