

This subchapter, referred to in subsecs. (b) and (c), was in the original “this title”, meaning title III of Pub. L. 110-403, Oct. 13, 2008, 122 Stat. 4264, which is classified principally to this subchapter. For complete classification of title III to the Code, see Tables.

CODIFICATION

Section is comprised of section 305 of Pub. L. 110-403. Subsec. (a)(1) of section 305 of Pub. L. 110-403 repealed section 1128 of this title.

§ 8116. Authorization of appropriations

(a)¹ In general

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this subchapter.

(Pub. L. 110-403, title III, §306, Oct. 13, 2008, 122 Stat. 4270.)

Editorial Notes

REFERENCES IN TEXT

This subchapter, referred to in subsec. (a), was in the original “this title”, meaning title III of Pub. L. 110-403, Oct. 13, 2008, 122 Stat. 4264, which is classified principally to this subchapter. For complete classification of title III to the Code, see Tables.

SUBCHAPTER II—CYBERSQUATTING PROTECTION

§ 8131. Cyberpiracy protections for individuals

(1) In general

(A) Civil liability

Any person who registers a domain name that consists of the name of another living person, or a name substantially and confusingly similar thereto, without that person’s consent, with the specific intent to profit from such name by selling the domain name for financial gain to that person or any third party, shall be liable in a civil action by such person.

(B) Exception

A person who in good faith registers a domain name consisting of the name of another living person, or a name substantially and confusingly similar thereto, shall not be liable under this paragraph if such name is used in, affiliated with, or related to a work of authorship protected under title 17, including a work made for hire as defined in section 101 of title 17, and if the person registering the domain name is the copyright owner or licensee of the work, the person intends to sell the domain name in conjunction with the lawful exploitation of the work, and such registration is not prohibited by a contract between the registrant and the named person. The exception under this subparagraph shall apply only to a civil action brought under paragraph (1) and shall in no manner limit the protections afforded under the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) or other provision of Federal or State law.

(2) Remedies

In any civil action brought under paragraph (1), a court may award injunctive relief, includ-

ing the forfeiture or cancellation of the domain name or the transfer of the domain name to the plaintiff. The court may also, in its discretion, award costs and attorneys fees to the prevailing party.

(3) Definition

In this section, the term “domain name” has the meaning given that term in section 45 of the Trademark Act of 1946 (15 U.S.C. 1127).

(4) Effective date

This section shall apply to domain names registered on or after November 29, 1999.

(Pub. L. 106-113, div. B, §1000(a)(9) [title III, §3002(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-548.)

Editorial Notes

REFERENCES IN TEXT

The Trademark Act of 1946, referred to in par. (1)(B), is act July 5, 1946, ch. 540, 60 Stat. 427, also popularly known as the Lanham Act, which is classified generally to chapter 22 (§1051 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1051 of this title and Tables.

CODIFICATION

Section was formerly classified to section 1129 of this title.

Section was enacted as part of the Anticybersquatting Consumer Protection Act, and not as part of the Prioritizing Resources and Organization for Intellectual Property Act of 2008, which comprises this chapter.

CHAPTER 108—STATE-BASED INSURANCE REFORM

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SUBCHAPTER I—NONADMITTED INSURANCE

§ 8201. Reporting, payment, and allocation of premium taxes

(a) Home State’s exclusive authority

No State other than the home State of an insured may require any premium tax payment for nonadmitted insurance.

(b) Allocation of nonadmitted premium taxes

(1) In general

The States may enter into a compact or otherwise establish procedures to allocate among

¹ So in original. No subsec. (b) has been enacted.

the States the premium taxes paid to an insured's home State described in subsection (a).

(2) Effective date

Except as expressly otherwise provided in such compact or other procedures, any such compact or other procedures—

(A) if adopted on or before the expiration of the 330-day period that begins on July 21, 2010, shall apply to any premium taxes that, on or after July 21, 2010, are required to be paid to any State that is subject to such compact or procedures; and

(B) if adopted after the expiration of such 330-day period, shall apply to any premium taxes that, on or after January 1 of the first calendar year that begins after the expiration of such 330-day period, are required to be paid to any State that is subject to such compact or procedures.

(3) Report

Upon the expiration of the 330-day period referred to in paragraph (2), the NAIC may submit a report to the Committee on Financial Services and the Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate identifying and describing any compact or other procedures for allocation among the States of premium taxes that have been adopted during such period by any States.

(4) Nationwide system

The Congress intends that each State adopt nationwide uniform requirements, forms, and procedures, such as an interstate compact, that provide for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance consistent with this section.

(c) Allocation based on tax allocation report

To facilitate the payment of premium taxes among the States, an insured's home State may require surplus lines brokers and insureds who have independently procured insurance to annually file tax allocation reports with the insured's home State detailing the portion of the nonadmitted insurance policy premium or premiums attributable to properties, risks, or exposures located in each State. The filing of a nonadmitted insurance tax allocation report and the payment of tax may be made by a person authorized by the insured to act as its agent.

(Pub. L. 111-203, title V, §521, July 21, 2010, 124 Stat. 1589.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 111-203, title V, §512, July 21, 2010, 124 Stat. 1589, provided that: "Except as otherwise specifically provided in this subtitle [see Short Title note below], this subtitle shall take effect upon the expiration of the 12-month period beginning on the date of the enactment of this subtitle [July 21, 2010]."

SHORT TITLE

Pub. L. 111-203, title V, §511, July 21, 2010, 124 Stat. 1589, provided that: "This subtitle [subtitle B (§§511-542) of title V of Pub. L. 111-203, enacting this

chapter and provisions set out as a note under this section] may be cited as the 'Nonadmitted and Reinsurance Reform Act of 2010'."

§ 8202. Regulation of nonadmitted insurance by insured's home State

(a) Home State authority

Except as otherwise provided in this section, the placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements solely of the insured's home State.

(b) Broker licensing

No State other than an insured's home State may require a surplus lines broker to be licensed in order to sell, solicit, or negotiate nonadmitted insurance with respect to such insured.

(c) Enforcement provision

With respect to section 8201 of this title and subsections (a) and (b) of this section, any law, regulation, provision, or action of any State that applies or purports to apply to nonadmitted insurance sold to, solicited by, or negotiated with an insured whose home State is another State shall be preempted with respect to such application.

(d) Workers' compensation exception

This section may not be construed to preempt any State law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a nonadmitted insurer.

(Pub. L. 111-203, title V, §522, July 21, 2010, 124 Stat. 1590.)

§ 8203. Participation in national producer database

After the expiration of the 2-year period beginning on July 21, 2010, a State may not collect any fees relating to licensing of an individual or entity as a surplus lines broker in the State unless the State has in effect at such time laws or regulations that provide for participation by the State in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses.

(Pub. L. 111-203, title V, §523, July 21, 2010, 124 Stat. 1590.)

§ 8204. Uniform standards for surplus lines eligibility

A State may not—

(1) impose eligibility requirements on, or otherwise establish eligibility criteria for, nonadmitted insurers domiciled in a United States jurisdiction, except in conformance with such requirements and criteria in sections 5A(2) and 5C(2)(a) of the Non-Admitted Insurance Model Act, unless the State has adopted nationwide uniform requirements, forms, and procedures developed in accordance with section 8201(b) of this title that include alternative nationwide uniform eligibility requirements; or

(2) prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring