

ciation, 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.)

Editorial Notes

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 Colum-

bia 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.)

Editorial Notes

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 directors, 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.)

Editorial Notes**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.)

Editorial Notes**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.

§ 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.)

Editorial Notes**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