

**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

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.)

**Editorial Notes**

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.)

**Editorial Notes**

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 ex-

hausting 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.)

**Editorial Notes**

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,<sup>1</sup> 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.)

**Editorial Notes**

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.

**(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

<sup>1</sup> So in original. The comma probably should not appear.