

[DISCUSSION DRAFT NUMBER 1]

112TH CONGRESS
1ST SESSION

H. R. _____

To prohibit the Federal Insurance Office of the Department of the Treasury and other financial regulators from collecting data directly from insurers.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To prohibit the Federal Insurance Office of the Department of the Treasury and other financial regulators from collecting data directly from insurers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “_____ Act
5 of 2011”.

1 **SEC. 2. REPEAL OF SUBPOENA AND ENFORCEMENT AU-**
2 **THORITY.**

3 Subsection (e) of section 313 of title 31, United
4 States Code, is amended by striking paragraph (6).

5 **SEC. 3. CONFIDENTIALITY BY FEDERAL INSURANCE OF-**
6 **FICE.**

7 Paragraph (5) of section 313(e) of title 31, United
8 States Code, is amended—

9 (1) in subparagraph (A), by inserting after “Of-
10 fice” the following: “and the sharing of any nonpub-
11 licly available data with or by the Office among
12 other Federal agencies, the State insurance regu-
13 lators and their collective agents, or any other enti-
14 ties”;

15 (2) in subparagraph (C)(ii), by inserting “any
16 privilege referred to in subparagraph (A) and” after
17 “including”; and

18 (3) in subparagraph (D), by inserting “includ-
19 ing the exceptions thereunder,” after “United States
20 Code,”.

21 **SEC. 4. LIMITATION ON SUBPOENAS BY THE OFFICE OF FI-**
22 **NANCIAL RESEARCH.**

23 Section 153(f)(1) of the Dodd-Frank Wall Street Re-
24 form and Consumer Protection Act is amended by insert-
25 ing after “financial company,” the following: “other than
26 an insurance company,”.

1 **SEC. 5. CONFIDENTIALITY BY FINANCIAL REGULATORS.**

2 (a) IN GENERAL.—Title I of the Dodd-Frank Wall
3 Street Reform and Consumer Protection Act is amended
4 by inserting at the end the following:

5 **“Subtitle D—Treatment of Data**
6 **Collected From Insurers**

7 **“SEC. 181. TREATMENT OF DATA COLLECTED FROM INSUR-**
8 **ERS BY FINANCIAL REGULATORS.**

9 “(a) ADVANCE COORDINATION.—Before collecting
10 any data or information from a nonbank financial com-
11 pany that is an insurer, or affiliate of an insurer, pursuant
12 to this title or title II, a financial regulator shall coordi-
13 nate with each relevant Federal agency and State insur-
14 ance regulator (or other relevant Federal or State regu-
15 latory agency, if any, in the case of an affiliate of an in-
16 surer) and any publicly available sources to determine if
17 the information to be collected is available from, and may
18 be obtained in a timely manner by, such Federal agency
19 or State insurance regulator, individually or collectively,
20 other regulatory agency, or publicly available sources. If
21 the financial regulator determines that such data or infor-
22 mation is available, and may be obtained in a timely man-
23 ner, from such an agency, regulator, regulatory agency,
24 or source, the financial regulator shall obtain the data or
25 information from such agency, regulator, regulatory agen-
26 cy, or source. If the financial regulator determines that

1 such data or information is not so available, the financial
2 regulator may collect such data or information from an
3 insurer (or affiliate) only if the financial regulator com-
4 plies with the requirements of subchapter I of chapter 35
5 of title 44, United States Code (relating to Federal infor-
6 mation policy; commonly known as the Paperwork Reduc-
7 tion Act), in collecting such data or information. Notwith-
8 standing any other provision of law, each such relevant
9 Federal agency and State insurance regulator or other
10 Federal or State regulatory agency is authorized to pro-
11 vide to the financial regulator such data or information.

12 “(b) CONFIDENTIALITY.—

13 “(1) RETENTION OF PRIVILEGE.—The sharing
14 by a nonbank financial company that is an insurer,
15 or affiliate of an insurer, of any nonpublicly avail-
16 able data and information with a financial regulator
17 under this title or title II shall not constitute a waiv-
18 er of, or otherwise affect, any privilege arising under
19 Federal or State law (including the rules of any
20 Federal or State court) to which the data or infor-
21 mation is otherwise subject.

22 “(2) CONTINUED APPLICATION OF PRIOR CON-
23 FIDENTIALITY AGREEMENTS.—Any requirement
24 under Federal or State law to the extent otherwise
25 applicable, or any requirement pursuant to a written

1 agreement in effect between the original source of
2 any nonpublicly available data or information and
3 the source of such data or information to the finan-
4 cial regulator, regarding the privacy or confiden-
5 tiality of any data or information in the possession
6 of the source to a financial regulator, shall continue
7 to apply to such data or information after the data
8 or information has been provided pursuant to this
9 subsection to the financial regulator.

10 “(3) INFORMATION-SHARING AGREEMENT.—
11 Any data or information obtained by a financial reg-
12 ulator may be made available to State insurance reg-
13 ulators, individually or collectively, through an infor-
14 mation-sharing agreement that—

15 “(A) shall comply with applicable Federal
16 law; and

17 “(B) shall not constitute a waiver of, or
18 otherwise affect, any privilege under Federal or
19 State law (including any privilege referred to in
20 paragraph (1) and the rules of any Federal or
21 State court) to which the data or information is
22 otherwise subject.

23 “(4) AGENCY DISCLOSURE REQUIREMENTS.—
24 Section 552 of title 5, United States Code, including
25 the exceptions thereunder, shall apply to any data or

1 information submitted to a financial regulator by a
2 nonbank financial company that is an insurer or an
3 affiliate of an insurer.

4 “(c) FINANCIAL REGULATOR DEFINED.—For pur-
5 poses of this section, the term ‘financial regulator’ means
6 the Commission, the Commodity Futures Trading Com-
7 mission, the Council, the Federal banking agencies, and
8 the Office of Financial Research.”.

9 (b) TECHNICAL AMENDMENT.—The table of contents
10 for such Act is amended by inserting after the item relat-
11 ing to section 176 the following:

“Subtitle D—Treatment of data collected from insurers

“Sec. 181. Treatment of Data Collected From Insurers by Financial
Regulators.”.