

103^D CONGRESS
2^D SESSION

H. R. 9

To modify the antitrust exemption applicable to the business of insurance.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. BROOKS introduced the following bill; which was referred to the
Committee on the Judiciary

JUNE 2, 1994

Additional sponsors: Mr. EDWARDS of California, Miss COLLINS of Michigan,
Mr. KOPETSKI, and Mr. JOHNSTON of Florida

A BILL

To modify the antitrust exemption applicable to the business
of insurance.

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 “Insurance Competitive
5 Pricing Act of 1993”.

6 **SEC. 2. AMENDMENTS.**

7 Section 2 of the Act of March 9, 1945 (59 Stat. 34;
8 15 U.S.C. 1012), commonly known as the McCarran-Fer-
9 guson Act, is amended—

1 (1) in subsection (b)—

2 (A) by striking “: *Provided*, That after
3 June 30, 1948,” and inserting “, except that”,

4 (B) by inserting “section 5 of” after
5 “Clayton Act, and”,

6 (C) by inserting “as such section 5 relates
7 to monopolies, attempts to monopolize, and un-
8 lawful restraints of trade,” after “Commission
9 Act, as amended,”, and

10 (D) by striking “that such business” and
11 all that follows through “law.” and inserting
12 the following:

13 “that—

14 “(1) such business is not regulated by State
15 law; or

16 “(2) the conduct of a person engaged in such
17 business involves—

18 “(A) price fixing;

19 “(B) allocating with a competitor a geo-
20 graphical area in which, or persons to whom,
21 insurance will be offered for sale;

22 “(C) unlawfully tying the sale or purchase
23 of—

1 “(i) one type of insurance to the sale
2 or purchase of another type of insurance;
3 or

4 “(ii) any type of insurance to the sale
5 or purchase of any other service or prod-
6 uct; or

7 “(D) monopolizing, or attempting to mo-
8 nopolize, any part of the business of insur-
9 ance.”, and

10 (2) by adding at the end the following:

11 “(c) The conduct referred to in subsection (b)(2)
12 shall not include making a contract, or engaging in a com-
13 bination or conspiracy—

14 “(1) to collect, compile, or disseminate histori-
15 cal loss data;

16 “(2) to determine a loss development factor ap-
17 plicable to historical loss data; or

18 “(3) to perform actuarial services if such con-
19 tract, combination, or conspiracy does not involve a
20 restraint of trade.

21 “(d) During the transition period, the conduct re-
22 ferred to in subsection (b)(2) shall not include making a
23 contract, or engaging in a combination or conspiracy, to
24 determine a trend factor.

25 “(e) For purposes of this section—

1 “(1) the term ‘historical loss data’ means infor-
2 mation respecting claims paid, or reserves held for
3 claims reported, by any person engaged in the busi-
4 ness of insurance;

5 “(2) the term ‘loss development factor’ means
6 an adjustment to be made to reserves held for losses
7 incurred for claims reported by any person engaged
8 in the business of insurance, for the purpose of
9 bringing such reserves to an ultimate paid basis;

10 “(3) the term ‘transition period’ means—

11 “(A) the 4-year period beginning on the ef-
12 fective date of the Insurance Competitive Pric-
13 ing Act of 1993, in the case of a person—

14 “(i) that wrote insurance having an
15 aggregate amount of annual premiums less
16 than \$20,000,000; and

17 “(ii) not more than 50 percent of
18 which was owned or controlled by another
19 person engaged in the business of insur-
20 ance;

21 in the then most recently ended 1-year period;

22 or

23 “(B) the 2-year period beginning on such
24 effective date, in the case of any person to
25 which subparagraph (A) does not apply; and

1 “(4) the term ‘trend factor’ means an adjust-
2 ment to be made to losses incurred for claims re-
3 ported by any person engaged in the business of in-
4 surance, to reflect a change in inflation or any other
5 change in the estimated loss costs incurred by per-
6 sons engaged in the business of insurance.”.

7 **SEC. 3. EFFECTIVE DATE.**

8 This Act shall take effect 1 year after the date of
9 the enactment of this Act.

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