

112TH CONGRESS  
2D SESSION

# H. R. 5838

To prohibit anti-competitive activities and to provide that health insurance issuers and medical malpractice insurance issuers are subject to the antitrust laws of the United States, and for other purposes.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 18, 2012

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

---

## A BILL

To prohibit anti-competitive activities and to provide that health insurance issuers and medical malpractice insurance issuers are subject to the antitrust laws of the United States, and for other purposes.

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 “Health Insurance In-

5       dustry Antitrust Enforcement Act of 2012”.

6       **SEC. 2. PROHIBITION OF ANTI-COMPETITIVE ACTIVITIES.**

7       Notwithstanding any other provision of law, nothing

8       in the Act of March 9, 1945 (15 U.S.C. 1011 et seq., com-

1 monly known as the “McCarran-Ferguson Act”), shall be  
2 construed to permit health insurance issuers (as defined  
3 in section 2791 of the Public Health Service Act (42  
4 U.S.C. 300gg–91)) or issuers of medical malpractice in-  
5 surance to engage in any form of price fixing, bid rigging,  
6 or market allocations in connection with the conduct of  
7 the business of providing health insurance coverage (as de-  
8 fined in such section) or coverage for medical malpractice  
9 claims or actions.

10 **SEC. 3. RESTORING THE APPLICATION OF ANTITRUST**  
11 **LAWS TO HEALTH SECTOR INSURERS.**

12 (a) AMENDMENT TO McCARRAN-FERGUSON ACT.—  
13 Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013),  
14 commonly known as the McCarran-Ferguson Act, is  
15 amended by adding at the end the following:

16 “(c) Nothing contained in this Act shall modify, im-  
17 pair, or supersede the operation of any of the antitrust  
18 laws with respect to the business of health insurance. For  
19 purposes of the preceding sentence, the term ‘antitrust  
20 laws’ has the meaning given it in subsection (a) of the  
21 first section of the Clayton Act, except that such term in-  
22 cludes section 5 of the Federal Trade Commission Act to  
23 the extent that such section 5 applies to unfair methods  
24 of competition.”.

1           (b) RELATED PROVISION.—For purposes of section  
2 5 of the Federal Trade Commission Act (15 U.S.C. 45)  
3 to the extent such section applies to unfair methods of  
4 competition, section 3(c) of the McCarran-Ferguson Act  
5 shall apply with respect to the business of health insurance  
6 without regard to whether such business is carried on for  
7 profit, notwithstanding the definition of “Corporation”  
8 contained in section 4 of the Federal Trade Commission  
9 Act.

○