

115TH CONGRESS
1ST SESSION

H. R. 617

To restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 2017

Mr. DEFAZIO (for himself, Ms. SLAUGHTER, Mr. GARAMENDI, Mr. MEEKS, Mr. CONYERS, Mr. GRIJALVA, and Ms. SHEA-PORTER) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To restore the application of the Federal antitrust laws to the business of health insurance to protect competition and consumers.

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 Fair Competition Act”.

6 **SEC. 2. RESTORING THE APPLICATION OF ANTITRUST**
7 **LAWS TO HEALTH SECTOR INSURERS.**

8 (a) AMENDMENT TO McCARRAN-FERGUSON ACT.—
9 Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013),

1 commonly known as the McCarran-Ferguson Act, is
2 amended by adding at the end the following:

3 “(c)(1) Nothing contained in this Act shall modify,
4 impair, or supersede the operation of any of the antitrust
5 laws with respect to the business of health insurance.

6 “(2) Paragraph (1) shall not apply with respect to
7 making a contract, or engaging in a combination or con-
8 spiracy—

9 “(A) to collect, compile, or disseminate histor-
10 ical loss data;

11 “(B) to determine a loss development factor ap-
12 plicable to historical loss data; or

13 “(C) to perform actuarial services if such con-
14 tract, combination, or conspiracy does not involve a
15 restraint of trade.

16 “(3) For purposes of this subsection—

17 “(A) the term ‘antitrust laws’ has the meaning
18 given it in subsection (a) of the 1st section of the
19 Clayton Act, except that such term includes section
20 5 of the Federal Trade Commission Act to the ex-
21 tent that such section 5 applies to unfair methods of
22 competition;

23 “(B) the term ‘historical loss data’ means infor-
24 mation respecting claims paid, or reserves held for

1 claims reported, by any person engaged in the busi-
2 ness of insurance; and

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

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

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