



1212 New York Ave. Street N.W.
Suite 900
Washington, DC 20005
202.525.5717

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House Financial Services Committee
2129 Rayburn House Office Building
Washington, DC 20515

Chairman Hensarling, Ranking Member Waters and Members of the Committee,

I write to express support for H.R. 3746, the "Business of Insurance Regulatory Reform Act of 2017," on the committee's agenda for the Jan. 17 markup session. Cosponsored by Reps. Sean P. Duffy and Gwen Moore, this bipartisan legislation would clarify that state insurance regulators hold primary jurisdiction to enforce consumer protection standards related to the business of insurance.

Title X of the Dodd–Frank Act already makes clear that the bureau's statutory power to regulate "financial products or services" does not include the business of insurance, and that the bureau generally lacks the power to enforce its dictates with respect "to a person regulated by a State insurance regulator." However, the statutory text carves out a limited exception that allows the bureau to take actions against state-regulated insurance entities where such a person "is engaged in the offering or provision of any consumer financial product or service or is otherwise subject to any enumerated consumer law."

Acknowledging that this statutory construction may provide a loophole to enable future CFPB overreach, H.R. 3746 clarifies that the bureau's enforcement authority is to be constrained "to the extent such person is engaged in the business of insurance...".

As the R Street Institute has highlighted in our annual Insurance Regulation Report Card, states have been effective in discharging the duties granted to them under the McCarran-Ferguson Act to regulate the business of insurance. In the area of consumer protection, in particular, state insurance regulators are closest to the people and best-positioned to respond to their concerns. H.R. 3746 makes clear that state insurance regulators must be granted the broadest possible deference to protect insurance consumers.

Sincerely,

R.J. Lehmann
Director of Finance, Insurance and Trade Policy
R Street Institute