

MARCH 10, 2017

**RULES COMMITTEE PRINT 115-8**  
**TEXT OF H. R. 372, COMPETITIVE HEALTH**  
**INSURANCE REFORM ACT OF 2017**

[Showing the text of H. R. 372 as ordered reported by the  
Committee on the Judiciary.]

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Competitive Health  
3 Insurance Reform Act of 2017”.

4 **SEC. 2. RESTORING THE APPLICATION OF ANTITRUST**  
5               **LAWS TO THE BUSINESS OF HEALTH INSUR-**  
6               **ANCE.**

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

11       “(c)(1) Nothing contained in this Act shall modify,  
12 impair, or supersede the operation of any of the antitrust  
13 laws with respect to the business of health insurance (in-  
14 cluding the business of dental insurance and limited-scope  
15 dental benefits).

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

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

3           “(B) to determine a loss development factor ap-  
4           plicable to historical loss data;

5           “(C) to perform actuarial services if such con-  
6           tract, combination, or conspiracy does not involve a  
7           restraint of trade; or

8           “(D) to develop or disseminate a standard in-  
9           surance policy form (including a standard addendum  
10          to an insurance policy form and standard termi-  
11          nology in an insurance policy form) if such contract,  
12          combination, or conspiracy is not to adhere to such  
13          standard form or require adherence to such standard  
14          form.

15          “(3) For purposes of this subsection—

16               “(A) the term ‘antitrust laws’ has the meaning  
17               given it in subsection (a) of the first section of the  
18               Clayton Act (15 U.S.C. 12), except that such term  
19               includes section 5 of the Federal Trade Commission  
20               Act (15 U.S.C. 45) to the extent that such section  
21               5 applies to unfair methods of competition;

22               “(B) the term ‘business of health insurance (in-  
23               cluding the business of dental insurance and limited-  
24               scope dental benefits)’ does not include—

1           “(i) the business of life insurance (includ-  
2           ing annuities); or

3           “(ii) the business of property or casualty  
4           insurance, including but not limited to—

5                   “(I) any insurance or benefits defined  
6                   as ‘excepted benefits’ under paragraph (1),  
7                   subparagraph (B) or (C) of paragraph (2),  
8                   or paragraph (3) of section 9832(c) of the  
9                   Internal Revenue Code of 1986 (26 U.S.C.  
10                  9832(c)) whether offered separately or in  
11                  combination with insurance or benefits de-  
12                  scribed in paragraph (2)(A) of such sec-  
13                  tion; and

14                   “(II) any other line of insurance that  
15                   is classified as property or casualty insur-  
16                   ance under State law;

17                  “(C) the term ‘historical loss data’ means infor-  
18                  mation respecting claims paid, or reserves held for  
19                  claims reported, by any person engaged in the busi-  
20                  ness of insurance; and

21                   “(D) the term ‘loss development factor’ means  
22                   an adjustment to be made to reserves held for losses  
23                   incurred for claims reported by any person engaged  
24                   in the business of insurance, for the purpose of  
25                   bringing such reserves to an ultimate paid basis.”.

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.

