H. R. 1418

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

February 28, 2019

Mr. DeFazio (for himself, Mr. Gosar, Mr. Meeks, Mr. Lynch, Mr. Grijalva, Mr. Garamendi, Mr. Norman, Mr. DesJarlais, Mr. Davidson of Ohio, and Mr. Yoho) 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Competitive Health Insurance Reform Act of 2019”.
SEC. 2. RESTORING THE APPLICATION OF ANTITRUST
LAWS TO THE BUSINESS OF HEALTH INSUR-
ANCE.

(a) Amendment to McCarran-Ferguson Act.—
Section 3 of the Act of March 9, 1945 (15 U.S.C. 1013),
commonly known as the McCarran-Ferguson Act, is
amended by adding at the end the following:

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

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

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

“(B) to determine a loss development factor ap-
licable to historical loss data;

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

“(D) to develop or disseminate a standard in-
surance policy form (including a standard addendum
to an insurance policy form and standard termin-
ology in an insurance policy form) if such contract,
combination, or conspiracy is not to adhere to such
standard form or require adherence to such standard
form.

“(3) For purposes of this subsection—

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

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

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

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

“(I) any insurance or benefits defined
as ‘excepted benefits’ under paragraph (1),
subparagraph (B) or (C) of paragraph (2),
or paragraph (3) of section 9832(e) of the
Internal Revenue Code of 1986 (26 U.S.C.
9832(e)) whether offered separately or in
combination with insurance or benefits de-
scribed in paragraph (2)(A) of such section; and

“(II) any other line of insurance that is classified as property or casualty insurance under State law;

“(C) the term ‘historical loss data’ means information respecting claims paid, or reserves held for claims reported, by any person engaged in the business of insurance; and

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

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