AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5535
OFFERED BY MR. FITZGERALD OF WISCONSIN

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Insurance Data Pro-
3 tection Act".

4 **SEC. 2. REPEAL OF SUBPOENA AND ENFORCEMENT AU-**
5 **THORITY.**

6 Subsection (e) of section 313 of title 31, United
7 States Code, is amended by striking paragraph (6).

8 **SEC. 3. CONFIDENTIALITY BY FEDERAL INSURANCE OF-**
9 **FICE.**

10 Section 313(e) of title 31, United States Code, is
11 amended in paragraph (5)—

12 (1) in subparagraph (A), by inserting after "Of-
13 fice" the following: "and the sharing of any nonpub-
14 licly available data with or by the Office among
15 other Federal agencies, the State insurance regu-
16 lators and their collective agents, or any other enti-
17 ties";

1   (2) in subparagraph (C)(ii), by inserting "any

2 privilege referred to in subparagraph (A) and" after

3 "including"; and

4   (3) in subparagraph (D), by inserting "includ-

5 ing the exceptions thereunder," after "United States

6 Code,".

7 **SEC. 4. LIMITATION ON SUBPOENAS BY THE OFFICE OF FI-**

8   **NANCIAL RESEARCH.**

9   Section 153(f)(1) of the Dodd-Frank Wall Street Re-

10 form and Consumer Protection Act is amended by insert-

11 ing after "financial company," the following: "other than

12 an insurance company (as defined under section

13 201(a)(13)),".

14 **SEC. 5. CONFIDENTIALITY BY FINANCIAL REGULATORS.**

15   (a) IN GENERAL.—Title I of the Financial Stability

16 Act of 2010 (12 U.S.C. 5343(f)(1)) is amended by insert-

17 ing at the end the following:

18 **"Subtitle D—Treatment of Data**

19   **Collected From Insurance Com-**

20   **panies**

21 **"SEC. 181. TREATMENT OF DATA COLLECTED FROM INSUR-**

22   **ANCE COMPANIES BY FINANCIAL REGU-**

23   **LATORS.**

24   "(a) ADVANCE COORDINATION.—Before collecting

25 any data or information from a nonbank financial com-

1 pany that is an insurance company pursuant to this title
2 or title II, a financial regulator shall coordinate with each
3 relevant Federal agency and State insurance regulator and
4 any publicly available sources to determine if the informa-
5 tion to be collected is available from, and may be obtained
6 in a timely manner by, such Federal agency or State in-
7 surance regulator, individually or collectively, other regu-
8 latory agency, or publicly available sources. If the financial
9 regulator determines that such data or information is
10 available, and may be obtained in a timely manner, from
11 such an agency, regulator, regulatory agency, or source,
12 the financial regulator shall obtain the data or information
13 from such agency, regulator, regulatory agency, or source.
14 If the financial regulator determines that such data or in-
15 formation is not so available, the financial regulator may
16 collect such data or information from an insurance com-
17 pany only if the financial regulator complies with the re-
18 quirements of subchapter I of chapter 35 of title 44,
19 United States Code (relating to Federal information pol-
20 icy; commonly known as the Paperwork Reduction Act),
21 in collecting such data or information. Notwithstanding
22 any other provision of law, each such relevant Federal
23 agency and State insurance regulator or other Federal or
24 State regulatory agency is authorized to provide to the fi-
25 nancial regulator such data or information.

4

1   ''(b) CONFIDENTIALITY.—

2   ''(1) RETENTION OF PRIVILEGE.—The sharing

3   by a nonbank financial company that is an insurance

4   company of any nonpublicly available data and infor-

5   mation with a financial regulator under this title or

6   title II shall not constitute a waiver of, or otherwise

7   affect, any privilege arising under Federal or State

8   law (including the rules of any Federal or State

9   court) to which the data or information is otherwise

10   subject.

11   ''(2) CONTINUED APPLICATION OF PRIOR CON-

12   FIDENTIALITY   AGREEMENTS.—Any   requirement

13   under Federal or State law to the extent otherwise

14   applicable, or any requirement pursuant to a written

15   agreement in effect between the original source of

16   any nonpublicly available data or information and

17   the source of such data or information to the finan-

18   cial regulator, regarding the privacy or confiden-

19   tiality of any data or information in the possession

20   of the source to a financial regulator, shall continue

21   to apply to such data or information after the data

22   or information has been provided pursuant to this

23   section to the financial regulator.

24   ''(3) INFORMATION-SHARING   AGREEMENT.—

25   Any data or information obtained by a financial reg-

1 ulator may be made available to State insurance reg-

2 ulators, individually or collectively, through an infor-

3 mation-sharing agreement that—

4 "(A) shall comply with applicable Federal

5 law; and

6 "(B) shall not constitute a waiver of, or

7 otherwise affect, any privilege under Federal or

8 State law (including any privilege described in

9 paragraph (1) and the rules of any Federal or

10 State court) to which the data or information is

11 otherwise subject.

12 "(4) AGENCY DISCLOSURE REQUIREMENTS.—

13 Section 552 of title 5, United States Code, including

14 the exceptions thereunder, shall apply to any data or

15 information submitted to a financial regulator, by a

16 nonbank financial company that is an insurance

17 company pursuant to this title or title II, as required

18 under this section

19 "(c) DEFINITIONS.—For purposes of this section:

20 "(1) FINANCIAL REGULATOR.—The term 'fi-

21 nancial regulator' means the Commission, the Com-

22 modity Futures Trading Commission, the Council,

23 the Federal banking agencies, and the Office of Fi-

24 nancial Research.

6

1   ''(2) INSURANCE COMPANY.—The term 'insur-

2   ance company' has the meaning given such term

3   under section 201(a)(13).''.

4   (b) TECHNICAL AMENDMENT.—The table of contents

5 for the Dodd-Frank Wall Street Reform and Consumer

6 Protection Act is amended by inserting after the item re-

7 lating to section 176 the following:

''Subtitle D—Treatment of data collected from insurance companies

''Sec. 181. Treatment of Data Collected From Insurance Companies by Financial Regulators.''.

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