

103D CONGRESS  
1ST SESSION

# S. 84

To modify the antitrust exemption applicable to the business of insurance.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. BIDEN, and Mr. Simon) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To modify the antitrust exemption applicable to the business of insurance.

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 "Insurance Competitive  
5 Pricing Act of 1993".

6 **SEC. 2. AMENDMENTS.**

7 Section 2 of the Act of March 9, 1945 (59 Stat. 34;  
8 15 U.S.C. 1012), commonly known as the McCarran Fer-  
9 guson Act, is amended—

10 (1) in subsection (b)—

1 (A) by striking “: *Provided*, That after  
2 June 30, 1948,: and inserting “except that”,

3 (B) by inserting “section 5 of” after  
4 “Clayton Act, and”,

5 (C) by inserting “as such section 5 relates  
6 to monopolies, attempts or conspiracies to mo-  
7 nopolize, and unlawful restraints of trade,”  
8 after “Commission Act, as amended,” and

9 (D) by striking “that such Business” and  
10 all that follows through “law.” and inserting  
11 the following:

12 “that—

13 “(1) such business is not regulated by State  
14 law; or

15 “(2) the conduct of a person engaged in such  
16 business involves—

17 “(A) price fixing;

18 “(B) allocation with a competitor a geo-  
19 graphical area in which, or persons to whom,  
20 insurance will be offered for sale;

21 “(C) unlawful tying the sale or purchase  
22 of—

23 “(i) one type of insurance to the sale  
24 or purchase of another type of insurance;  
25 or

1                   “(ii) any type of insurance to the sale  
2                   or purchase of any other service or prod-  
3                   uct; or

4                   “(D) monopolizing, or attempting to mo-  
5                   nopolize, any part of the business of insur-  
6                   ance.”, and

7                   (2) by adding at the end the following:

8                   “(c) The conduct referred to in subsection (b)(2)  
9 shall not include making a contract, or engaging in a com-  
10 bination or conspiracy—

11                   “(1) to collect, compile, or disseminate histori-  
12                   cal loss data;

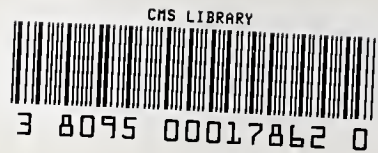
13                   “(2) to determine a loss development factor ap-  
14                   plicable to historical loss data; or

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

18                   “(d) For purposes of this section—

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

23                   “(2) the term ‘loss development factor’ means  
24                   an adjustment to be made to reserves held for losses  
25                   incurred for claims reported by any person engaged



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1 in the business of insurance, for the purpose of  
2 bringing such reserves to an ultimate paid basis.”

3 **SEC. 3. EFFECTIVE DATE.**

4 This Act shall take effect 1 year after the date of  
5 the enactment of this Act.

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