

118TH CONGRESS  
1ST SESSION

# S. 3349

To prohibit the Federal Insurance Office of the Department of the Treasury and other financial regulators from collecting data directly from an insurance company.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 28, 2023

Mrs. BRITT (for herself, Mr. HAGERTY, Mr. SCOTT of South Carolina, Mr. ROUNDS, Mr. TILLIS, Ms. LUMMIS, Mr. VANCE, Mr. DAINES, Mr. CRAMER, Mr. BUDD, Mr. THUNE, Mr. BOOZMAN, Mr. COTTON, Mr. RICKETTS, Mrs. BLACKBURN, Mr. CRAPO, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To prohibit the Federal Insurance Office of the Department of the Treasury and other financial regulators from collecting data directly from an insurance company.

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 Data Pro-  
5 tection Act”.

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

3 Section 313(e) of title 31, United States Code, is  
4 amended by striking paragraph (6).

5 **SEC. 3. CONFIDENTIALITY BY FEDERAL INSURANCE OF-**  
6 **FICE.**

7 Section 313(e)(5) of title 31, United States Code, is  
8 amended—

9 (1) in subparagraph (A), by inserting after “Of-  
10 fice” the following: “, or the sharing of any nonpub-  
11 licly available data and information with or by the  
12 Office among any other Federal agency, any State  
13 insurance regulator (or any agent of such a regu-  
14 lator), or any other entity,”;

15 (2) in subparagraph (C)(ii), by inserting “any  
16 privilege described in subparagraph (A) or” after  
17 “including”; and

18 (3) in subparagraph (D), by inserting “includ-  
19 ing the exceptions under that section,” after “United  
20 States Code,”.

21 **SEC. 4. LIMITATION ON SUBPOENAS BY THE OFFICE OF FI-**  
22 **NANCIAL RESEARCH.**

23 Section 153(f)(1) of the Financial Stability Act of  
24 2010 (12 U.S.C. 5343(f)(1)) is amended, in the matter  
25 preceding subparagraph (A), by inserting after “financial

1 company” the following: “(other than an insurance com-  
 2 pany, as defined in section 201(a))”.

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

4 (a) IN GENERAL.—The Financial Stability Act of  
 5 2010 (12 U.S.C. 5311 et seq.) is amended by adding at  
 6 the end the following:

7 **“Subtitle D—Treatment of Data**  
 8 **Collected From Insurance Com-**  
 9 **panies**

10 **“SEC. 181. TREATMENT OF DATA COLLECTED FROM INSUR-**  
 11 **ANCE COMPANIES BY FINANCIAL REGU-**  
 12 **LATORS.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) COVERED ENTITY.—The term ‘covered en-  
 15 tity’ means a nonbank financial company that is an  
 16 insurance company.

17 “(2) FINANCIAL REGULATOR.—The term ‘fi-  
 18 nancial regulator’ means the Commission, the Com-  
 19 modity Futures Trading Commission, the Council,  
 20 the Federal banking agencies, and the Office of Fi-  
 21 nancial Research.

22 “(3) INSURANCE COMPANY.—The term ‘insur-  
 23 ance company’ has the meaning given the term in  
 24 section 201(a).

25 “(b) ADVANCE COORDINATION.—

1 “(1) IN GENERAL.—

2 “(A) PRE-COLLECTION.—Before collecting  
3 any data or information pursuant to this title  
4 or title II from a covered entity, a financial reg-  
5 ulator shall coordinate with each relevant Fed-  
6 eral agency, State insurance regulator, and  
7 other Federal or State regulatory agency, and  
8 with any publicly available source, to determine  
9 if the data or information to be collected is  
10 available from, and may be obtained in a timely  
11 manner by, that agency, regulator, or regu-  
12 latory agency, individually or collectively, or  
13 that publicly available source.

14 “(B) DETERMINATIONS.—

15 “(i) INFORMATION AVAILABLE.—If a  
16 financial regulator, under subparagraph  
17 (A), determines that the data or informa-  
18 tion described in that subparagraph is  
19 available, and may be obtained in a timely  
20 manner, from an agency, regulator, regu-  
21 latory agency, or source described in that  
22 subparagraph, the financial regulator shall  
23 obtain the data or information from that  
24 agency, regulator, regulatory agency, or  
25 source.

1                   “(ii) INFORMATION UNAVAILABLE.—If  
2                   a financial regulator, under subparagraph  
3                   (A) determines that the data or informa-  
4                   tion described in that subparagraph is not  
5                   available, the financial regulatory may col-  
6                   lect that data or information from the ap-  
7                   plicable covered entity only if the financial  
8                   regulator complies with the requirements  
9                   of subchapter I of chapter 35 of title 44,  
10                  United States Code (commonly referred to  
11                  as the ‘Paperwork Reduction Act’), in col-  
12                  lecting that data or information.

13                  “(2) AUTHORITY TO PROVIDE INFORMATION.—  
14                  Notwithstanding any other provision of law, for the  
15                  purposes of paragraph (1), each relevant Federal  
16                  agency and State insurance regulator or other Fed-  
17                  eral or State regulatory agency may provide to a fi-  
18                  nancial regulator data or information described in  
19                  that paragraph.

20                  “(c) CONFIDENTIALITY.—

21                  “(1) RETENTION OF PRIVILEGE.—The sharing  
22                  by a covered entity of any nonpublicly available data  
23                  or information with a financial regulator under this  
24                  title or title II shall not constitute a waiver of, or  
25                  otherwise affect, any privilege arising under Federal

1 or State law (including the rules of any Federal or  
2 State court) to which the data or information is oth-  
3 erwise subject.

4 “(2) CONTINUED APPLICATION OF PRIOR CON-  
5 FIDENTIALITY AGREEMENTS.—Any requirement  
6 under Federal or State law to the extent otherwise  
7 applicable, or any requirement pursuant to a written  
8 agreement in effect between the original source of  
9 any nonpublicly available data or information and  
10 the source of that data or information to a financial  
11 regulator, regarding the privacy or confidentiality of  
12 any data or information in the possession of the  
13 source to a financial regulator, shall continue to  
14 apply to that data or information after the data or  
15 information has been provided under this section to  
16 the financial regulator.

17 “(3) INFORMATION-SHARING AGREEMENT.—  
18 Any data or information obtained by a financial reg-  
19 ulator may be made available to State insurance reg-  
20 ulators, individually or collectively, through an infor-  
21 mation-sharing agreement that—

22 “(A) shall comply with applicable Federal  
23 law; and

24 “(B) shall not constitute a waiver of, or  
25 otherwise affect, any privilege under Federal or

1 State law (including any privilege described in  
2 paragraph (1) and the rules of any Federal or  
3 State court) to which the data or information is  
4 otherwise subject.

5 “(4) AGENCY DISCLOSURE REQUIREMENTS.—  
6 Section 552 of title 5, United States Code, including  
7 the exceptions under that section, shall apply to any  
8 data or information submitted to a financial regu-  
9 lator by a covered entity under this section.”.

10 (b) TECHNICAL AMENDMENT.—The table of contents  
11 in section 1(b) of the Dodd-Frank Wall Street Reform and  
12 Consumer Protection Act (Public Law 111–203) is  
13 amended by inserting after the item relating to section  
14 176 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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