

107th CONGRESS
2d Session
S. 3143

To provide for the establishment of the Consumer and Shareholder Protection Association, and for other purposes.

IN THE SENATE OF THE UNITED STATES

October 17, 2002

Mr. WELLSTONE introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To provide for the establishment of the Consumer and Shareholder Protection Association, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the `Consumer and Shareholder Protection Association Act of 2002'.

(b) TABLE OF CONTENTS- The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Policy.
- Sec. 4. Definitions.
- Sec. 5. Establishment of the Association.
- Sec. 6. Authorization of appropriations and allotments of grants.
- Sec. 7. Mission, duties, and powers of the Association.
- Sec. 8. Interim board.
- Sec. 9. Insert and notice provisions.
- Sec. 10. Board of directors.
- Sec. 11. Election of directors.
- Sec. 12. Qualifications.
- Sec. 13. Ballot issues.
- Sec. 14. Access to member mailings.
- Sec. 15. Prohibited acts.
- Sec. 16. Penalties.

- Sec. 17. Administrative enforcement.
- Sec. 18. Dissolution.
- Sec. 19. Relationship to existing law.
- Sec. 20. Construction.
- Sec. 21. Severability.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS- The Congress finds that--

- (1) scandals involving deceptive and fraudulent business practices have brought public confidence in the integrity and fairness of many of the Nation's largest corporations to an all-time low and threaten the basic strengths of the United States economic system;
- (2) contributing to the loss of public confidence are perceptions of inadequate oversight and insufficient independence between corporations and their regulators;
- (3) the collapse of major corporations resulting from fraudulent practices has caused the loss of hundreds of billions of dollars of lifetime savings in 401(k) plans, pensions, and investor portfolios;
- (4) resources available for representation of consumers and shareholders need to be expanded so that citizens can better monitor the performance of Federal agencies that regulate corporations and participate in the public debate concerning the oversight of these corporations;
- (5) the Federal Government has a substantial interest in the creation of a public-purpose, democratically controlled, self-funded, nationwide membership association of consumers and shareholders to enhance their representation and to effectively combat corporate fraud; and
- (6) the requirement that informational and statutory inserts be included in the mailings of entities subject to this Act is essential to the creation, maintenance, and funding of such an association.

(b) PURPOSES- The purposes of this Act are--

- (1) to establish a public-purpose, nonprofit, democratically controlled, membership Association of consumers and shareholders;
- (2) to give the Association a mandate to inform and represent consumers, shareholders, and the public interest, and to further the effective and vigorous oversight of corporate entities;
- (3) to establish democratic rules of governance for the Association;
- (4) to require any entity subject to this Act to periodically include inserts concerning the Association within their statements and billings to consumers; and
- (5) to prescribe the text and format of such insert.

SEC. 3. POLICY.

The policy of Congress is that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this Act, of an orderly procedure for

developing and financing (through the use of statutory inserts) the creation of the Consumer and Shareholder Protection Association.

SEC. 4. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

- (1) ASSOCIATION- The term `Association' means the Consumer and Shareholder Protection Association established in accordance with this Act.
- (2) ASSOCIATION DIRECTOR- The terms `Association director' and `director' mean any person duly elected or appointed to the Association board of directors pursuant to this Act, except where the context otherwise requires.
- (3) COMMISSION- The term `Commission' means the Federal Trade Commission.
- (4) CONSUMER- The term `consumer' means any person who uses, purchases, leases, or acquires any real or personal property, tangible or intangible goods, services, or credit.
- (5) ENTITY SUBJECT TO THIS ACT- The term `entity subject to this Act' means--
 - (A) any company that--
 - (i) is required to file periodic reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)); and
 - (ii) has revenues during its last fiscal year of greater than \$1,200,000,000; and
 - (B) any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).
- (6) INSERT CARRIER- The term `insert carrier' includes--
 - (A) any deposit account statement which--
 - (i) indicates the balance on a deposit account; or
 - (ii) involves an outstanding deposit account contract or agreement between an

insured depository institution and a customer of such institution; and

- (B) any proxy statement required to be provided to a shareholder in accordance with the securities laws (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).

- (7) MEMBER- The term `member' means any person who meets the requirements for membership in the Association, as set forth in section 4.
- (8) REGULATORY AGENCY- The term `regulatory agency' means any governmental office, agency, department, or commission of the Federal Government, which regulates, monitors, directs, or governs publicly traded corporations, financial services, or consumer transactions.
- (9) REGULATORY PROCEEDING- The term `regulatory proceeding' means any rulemaking, adjudication, or ancillary proceeding conducted by any

governmental office, agency, department, or commission at the Federal, State, or local level, which affects any entity subject to this Act.

(10) STATUTORY INSERT- The term `statutory insert' means any digital or printed statement, card, or envelope and statement combination, or a statement, application, and preaddressed business reply envelope used by the Association to solicit information and contributions or membership fees from consumers and shareholders and explain the purpose, history, nature, activities, achievements, and membership criteria of the Association.

SEC. 5. ESTABLISHMENT OF THE ASSOCIATION.

(a) CHARTER- There is authorized to be established a nonprofit corporation by the interim board of directors to be known as the `Consumer and Shareholder Protection Association'. The Association shall be subject to the provisions of this Act, and, to the extent consistent with this Act, to the District of Columbia Nonprofit Corporations Act. The main office of the Association shall be located in Washington, D.C.

(b) NONGOVERNMENTAL STATUS- The Association shall be a private corporation and shall not, for any purpose, be considered to be a department, agency, or instrumentality of the United States Government. An officer or employee of the corporation shall not, for any purpose, be considered to be an officer or employee of the Federal Government.

(c) REGIONAL AND LOCAL OFFICES- The Association may establish regional offices as needed, in any of the several States.

(d) BYLAWS- Except as provided in this Act and in the District of Columbia Nonprofit Corporations Act, the affairs of the Association shall be regulated as determined in the bylaws of the Association.

(e) NONPROFIT, NONSTOCK STATUS- The Association chartered under this section--

(1) shall be a nonprofit corporation; and

(2) may not issue any shares of stock or other securities or pay any dividends.

(f) MEMBERSHIP- The membership of the Association shall consist solely of individuals who--

(1) are 16 years of age or older; and

(2) have contributed the required annual membership fee to the Association.

(g) MEMBERSHIP FEE-

(1) INITIAL FEE- Until the end of the 180-day period beginning on the date of the first election of directors, the annual membership fee of the Association shall be \$10.

(2) PERMANENT MEMBERSHIP FEES DETERMINED BY BOARD OF DIRECTORS- After the end of the 180-day period referred to in subsection (e), the Association may, by vote of the board of directors, alter the annual membership fee. The board of directors shall adopt a reduced fee structure, offering reduced-cost membership fees for low-income populations and senior citizens.

(h) POLITICAL CONTRIBUTIONS PROHIBITED- The Association shall not make any contributions to any political candidate or party, or to any national or State political committee, as defined in section 301 of the Federal Election Campaign Act of 1971 (2

U.S.C. 431), or participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS AND ALLOTMENTS OF GRANTS.

There is authorized to be appropriated to the Federal Trade Commission, for the purpose of establishing the Association, \$5,000,000 for the fiscal year ending 1 year after the date of enactment of this Act.

SEC. 7. MISSION, DUTIES, AND POWERS OF THE ASSOCIATION.

(a) **MISSION-** The Association shall advance the rights and remedies available to consumers and shareholders with respect to financial services, securities investments, insurance, and consumer credit, by developing initiatives to--

(1) improve the flow of accurate information from entities subject to this Act to consumers and shareholders;

(2) increase the independence of the management of entities subject to this Act; and

(3) empower and represent the shareholders of entities subject to this Act, by educating shareholders about options for more democratic voting procedures and broader review authority.

(b) **DUTIES-** The duties of the Association shall be--

(1) to inform, educate, and advise consumers and shareholders about the actions of entities subject to this Act;

(2) to represent and promote the interests of consumers collectively, and, when necessary, to negotiate on behalf of consumers and shareholders with entities subject to this Act;

(3) to take affirmative measures to encourage membership by low- and moderate-income and minority consumers, and to disseminate information and advice to consumers;

(4) to inform, insofar as possible, consumers about the mission of the Association, including the procedures for obtaining membership in the Association;

(5) to provide consumers and shareholders with information about how corporate initiatives will affect them;

(6) to monitor the availability and quality of financial or shareholder services to low- and moderate-income constituencies and the elderly; and

(7) to develop data to assist shareholders and consumers in making informed decisions in the marketplace.

(c) **POWERS-** In addition to the rights and powers provided by other provisions of this Act, the Association shall--

(1) represent the interests of consumers in general before Federal regulatory agencies, legislative bodies, the courts, and in other public forums;

(2) initiate, to intervene as a party, or otherwise participate on behalf of consumers or shareholders in any regulatory proceeding which the Association reasonably determines may affect their interests;

- (3) sue on behalf of any member, group of members, or all members of the Association for judicial relief, including damages, in any court of competent jurisdiction in regard to any consumer or shareholder matter; and
- (4) conduct, support, and assist research, surveys, and investigations in consumer matters.

(d) **STANDING-** The Association shall be deemed to have an interest sufficient to obtain judicial review or enforcement in any court of competent jurisdiction of any regulatory decision or other regulatory action which the Association reasonably determines may affect the interest of consumers and shareholders, pursuant to this Act.

SEC. 8. INTERIM BOARD.

(a) **ESTABLISHMENT OF INTERIM BOARD-** Members of the interim board of directors of the Association shall be appointed not later than 6 months after the date of enactment of this Act, as follows:

- (1) 3 members shall be appointed by the President of the United States.
- (2) 3 members shall be appointed by the Speaker of the House of Representatives.
- (3) 3 members shall be appointed by the President Pro Tempore of the Senate.
- (4) 1 member shall be appointed by the Minority Leader of the House of Representatives.
- (5) 1 member shall be appointed by the Minority Leader of the Senate.

(b) **MEMBER CRITERIA-** Individuals considered for appointment to the interim board shall, to the extent possible, represent different regions of the United States, and represent categories of citizens' organizations including--

- (1) consumer groups;
- (2) institutional shareholder groups;
- (3) labor unions;
- (4) civil rights groups;
- (5) neighborhood groups;
- (6) elderly groups; and
- (7) organizations representing low-income persons.

(c) **ELIGIBILITY-** To qualify for nomination or appointment as an interim director of the Association representing a designated category of citizens' organizations, an individual shall be an active officer, employee, or member of a citizens' organization within such category or previously have been an officer or employee of 1 or more such citizens' organizations within such category for a cumulative period of at least 2 years.

(d) **DUTIES OF INTERIM BOARD-** The interim board of directors of the Association shall--

- (1) not later than 60 days after the date of appointment of all members, incorporate the Association under the laws of the District of Columbia, subject to the provisions and limitations of this Act;
- (2) manage the affairs of the Association until the first elected board of directors takes office;
- (3) inform the public of the existence, nature, and purpose of the Association, and encourage such persons to join the Association, participate in its activities, and contribute to the Association;

- (4) adopt procedures and standards, consistent with the requirements of this Act, for the nomination and election of the first elected board of directors of the Association;
 - (5) make all necessary preparations for the first election of the board of directors of the Association, oversee the election campaign, and tally the votes; and
 - (6) employ such interim staff as the interim board of directors deem necessary to carry out their responsibilities under this Act.
- (e) **APPLICABILITY OF CERTAIN OTHER PROVISIONS OF THIS ACT-** Members of the interim board of directors shall be subject to the requirements of the applicable provisions of this Act.
- (f) **LIMITATION ON AUTHORITY TO APPEAR BEFORE OTHER BODIES-** The interim board of directors shall not engage in representation or intervention on behalf of consumers, except to the extent necessary to maintain or exercise the powers granted and the duties imposed upon interim directors by this Act.
- (g) **CONDUCT FIRST GENERAL ELECTION-**
- (1) **IN GENERAL-** Once the membership of the Association reaches 50,000, or within 18 months of the date of the appointment of the last interim director, whichever occurs first, the interim board of directors shall set a date for the first general election of the board of directors, and shall promptly notify each member of the Association.
 - (2) **TIMELY ELECTION REQUIREMENT-** The date set for the election shall be not more than 90 days after notification under paragraph (1).

SEC. 9. STATUTORY INSERTS.

- (a) **INCLUSION IN STATEMENTS OF ENTITIES SUBJECT TO THIS ACT-**
- (1) **IN GENERAL-** Entities subject to this Act shall include, or cause its agent to include, a statutory insert or an Association insert in 4 mailings to its shareholders and customers each year, and in any proxy statement sent to shareholders.
 - (2) **STATUTORY INSERT-** The Association shall have the right to have statutory inserts included in the mailings to the customers and shareholders of each entity subject to this Act once each calendar

quarter. The Association may also require entities subject to this Act to send the information contained in the statutory insert to consumers and shareholders once each year via electronic e-mail or other electronic means. The Association shall only pay the reasonable incremental costs of the electronic distribution of such information.

- (3) **ASSOCIATION INSERTS-**
 - (A) **IN GENERAL-** In addition, the Association shall have the right to have included in the mailings referred to in paragraph (2) once each calendar quarter, an insert that it prepares and furnishes to any institution required to carry a statutory insert.
 - (B) **LIMITATION-** An insert furnished by the Association shall be limited to--

(i) soliciting information and contributions or membership fees from consumers; and

(ii) explaining--

(I) the purpose, history, nature, activities, and achievements of the Association;

(II) that the Association membership is open to any resident of the United States who is 16 years of age;

(III) that the Association is not connected to any entity subject to this Act;

(IV) that the Association is a nonprofit association directed by its consumer members;

(V) the procedure for contributing to or becoming a member of the Association; and

(VI) the yearly membership fee.

(b) FTC OVERSIGHT- Any entity subject to this Act may, if it believes that the contents of an insert are false or misleading, submit the insert to the Commission for review. The Commission shall review the insert and make a determination promptly, but in no event later than 21 calendar days after receipt of the insert. The Commission may disapprove the insert for mailing if it finds that the insert is false or misleading, or contains information not permitted by this section.

(c) CONTENT OF STATUTORY INSERTS- Each statutory insert required by this Act shall contain--

(1) a statement of the following information:

`The Consumer and Shareholder Protection Association is a consumer and shareholder membership organization established under Federal law to inform and represent consumers.

`The Association will work on behalf of consumers and shareholders to prevent corporate fraud and deceptive business practices, and to ensure the protection of retirement funds and investments.

`The Association provides consumers with information and advice on a range of consumer issues.

`The Association also represents consumers before regulatory agencies and legislative bodies.

`The Association is a democratically controlled consumer membership organization.

`Although the Association has been established under Federal law, as a consumer membership organization, the Association is primarily supported by membership fees, not public funds. Thus the Consumer and Shareholder Protection Association depends on its membership base for funding to undertake its information and representation activities.

`Anyone who is 16 years of age or older may become a member of the Association by paying the annual membership fee. The amount of the annual membership fee is \$XX.

`You may become a member simply by filling out the attached application and mailing it and the membership fee to the Consumer and Shareholder Protection Association in the attached preaddressed envelope.';

(2) an application for Association membership, which requests the applicant's name and address, and indicates the annual membership fee; and

- (3) a preaddressed business reply envelope for mailing the application and membership fee to the Association.
- (d) OTHER REQUIREMENTS APPLICABLE TO STATUTORY INSERTS- With respect to a statutory insert required by this Act--
 - (1) the statement, application, and preaddressed business reply envelope specified in subsection (c) shall be presented to the customer as a single document (except that the document may be separable into different parts by tearing along perforated lines);
 - (2) the statement and application shall be printed in at least 10-point type; and
 - (3) the Association shall pay the cost of printing and placement of the statutory insert in all appropriate mailings, but shall not pay any postage costs if the insert weighs less than 0.35 ounces.

SEC. 10. BOARD OF DIRECTORS.

- (a) MANAGEMENT OF ASSOCIATION- The affairs of the Association shall be managed by a board of directors, which shall be elected by the members of the Association in accordance with the provisions of section 7. The board of directors shall consist of 17 members. Twelve directors shall constitute a quorum.
- (b) ONE-PERSON ONE-VOTE- Each director shall have one vote on the board of directors.
- (c) TERMS OF OFFICE- The term of office for a director shall be 3 years, except as provided otherwise in this Act, and no director shall serve more than 2 consecutive terms.
- (d) POWERS AND DUTIES OF BOARD- The board of directors, shall, in addition to its other responsibilities under this Act--
 - (1) conduct meetings of the board of directors at least once every 6 months, which shall be open to the public, unless the board of directors by a 2/3 majority votes to adjourn into executive session;
 - (2) limit matters discussed in executive session only to personnel actions, potential or pending civil or criminal proceedings involving the Association, and material which would result in an unwarranted invasion of personal privacy if discussed in open sessions;
 - (3) keep minutes, financial records, and other records which shall reflect the acts and transactions of the board of directors;
 - (4) cause the financial books of the Association to be audited by a qualified certified public accountant at least once each fiscal year;
 - (5) prepare quarterly statements and an annual report indicating the substantive activities and financial operations of the Association;
 - (6) approve the bylaws of the Association, consistent with the requirements of this Act;
 - (7) make available to the public and include on the Association's web page, documents prepared by or filed with the Association within the preceding 5 years, including--
 - (A) minutes of the board of directors meeting;
 - (B) directors' or executive directors' financial statements;
 - (C) candidates' financial statements; and

(D) candidates' statements; and

(8) conduct 3 mailings each year to the membership of the Association, to inform the membership about the work of the Association and to conduct the business of the Association.

(e) ELECTION OF OFFICERS- At the first regular meeting of the board of directors at which a majority of its members are present, subsequent to the installation of new directors following each annual election, the board shall elect by majority vote of directors present and voting, and from among the directors, a president, a vice president, a secretary, and a treasurer. The board may also elect a comptroller and such other officers as it deems necessary.

(f) EXECUTIVE DIRECTOR OF ASSOCIATION-

(1) IN GENERAL- The board of directors shall hire and supervise an executive director for the Association.

(2) DUTIES OF EXECUTIVE DIRECTOR- The executive director shall implement the policies established by the board of directors, employ and discharge Association employees, and manage the offices, facilities, and employees of the Association.

(3) ELIGIBILITY STANDARDS- Any applicant for the position of executive director, and each executive director, shall satisfy the requirements for director eligibility established by this Act.

(4) TERM LIMIT- The executive director shall only be eligible to serve as an employee of the Association for 6 consecutive years. After such 6-year term, the executive director shall be prohibited from serving as an agent, consultant, attorney, accountant, or subcontractor for the Association, and shall be ineligible to receive any monetary compensation from the Association.

(g) NO COMPENSATION FOR ASSOCIATION DIRECTORS- A member of the board of directors of the Association may not receive any compensation for his or her services as a director, but shall be reimbursed for wages actually lost in an amount not to exceed \$160 per day, and for necessary expenses including travel expenses incurred in the discharge of Association duties.

(h) BONDING REQUIREMENT FOR STAFF- Any director or staff of the Association eligible to receive, handle, or disburse funds on behalf of the Association shall be bonded. The cost of such bonds shall be paid for by the Association.

(i) ANNUAL FINANCIAL STATEMENTS OF DIRECTORS- Each director and the executive director of the Association shall file annually with the board of directors a director's financial statement, which shall include the same information required in section 102 of title 5, United States Code.

(j) ANNUAL MEETINGS-

(1) IN GENERAL- An annual meeting of members of the Association shall be held in the month of January, on a date and at a place within the United States to be determined by the board of directors at least 6 months in advance of the meeting.

(2) AGENDA- Items may be placed on the annual meeting agenda--

(A) by request of any director, not less than 10 days and not more than 4 months in advance of the date of such meeting; and

(B) by petition containing the valid signatures of at least 1 percent of the total membership of the Association, which petition shall be filed with the board of directors not less than 10 days and not more than 4 months in advance of the date of such meeting.

(3) NOTICE OF AGENDA- The executive director shall present proposed agenda items to the membership through its regular mailings.

(4) PUBLIC MEETINGS- The annual meeting of Association members shall be open to the public, except that seating preference shall be given to Association members. Association members shall be given a reasonable opportunity at such meetings to present comments, criticisms, and suggestions concerning the Association.

(5) MINUTES- Complete minutes of the annual meetings shall be kept and distributed to all depository libraries in the United States and placed on the Association's webpage.

(k) VACANCY- In the event that a board member position becomes vacant, the board of directors shall install the person having the highest vote total in the last election who was not elected to the board. If this is impossible, the board of directors, by vote of not less than 2/3 of all directors, shall appoint a successor within 60 days for the remainder of the current term. The person appointed by the board of directors shall meet all qualifications for board members.

(l) RECALL-

(1) IN GENERAL- Upon receipt by the president of the board of directors of a petition to recall any director with the valid signatures of at least 5 percent of the members, the president shall call an election, to be held not less than 4 months and not more than 6 months after receipt of the petition, for the purpose of selecting a director.

(2) LIMITATIONS- No petition to recall a director under paragraph (1) may be filed within 6

months of his or her election. An election pursuant to the filing of a recall petition shall be conducted in accordance with the provisions of this Act. A director recalled may become a candidate in the election triggered by the filing of the recall petition. The director recalled shall continue to serve until the installment in office of his or her successor, or until his or her reelection. The election triggered by the filing of a recall petition shall be conducted via one of the Association's quarterly mailings.

SEC. 11. PROCEDURES FOR ELECTION OF DIRECTORS.

(a) ELECTION OF THE BOARD OF DIRECTORS- Each Association member shall cast not more than 17 votes, and may distribute them among candidates in any manner that the member chooses, including casting more than 1 vote for a candidate. The 17 candidates receiving the most votes shall be elected. There shall be no runoff. Ties shall be broken by lot.

(b) ELIGIBILITY STANDARDS FOR THE BOARD OF DIRECTORS- To qualify for nomination as a candidate for election to the board of directors of the Association, a person must--

- (1) be a member of the Association;
- (2) be nominated by 100 or more other members; and
- (3) to the extent possible, represent the categories of citizens' organizations, including--

- (A) consumer groups;
- (B) institutional shareholder groups;
- (C) labor unions;
- (D) civil rights groups;
- (E) neighborhood groups;
- (F) elderly groups; and
- (G) organizations representing low-income persons.

(c) **APPLICABILITY TO ALL BOARD ELECTIONS-** The requirements of this section shall apply to the first election of directors conducted by the interim board of directors pursuant to section 7, as well as to all subsequent elections.

SEC. 12. QUALIFICATIONS.

(a) **CANDIDATE'S STATEMENT-** Any person seeking nomination as a candidate for election to the board of directors of the Association shall file a candidate statement with the Association, not less than 60 days and not more than 120 days prior to the election. The contents of a candidate statement may not contain false statements, and the Association may, by bylaw or interim board of directors' procedure, impose a uniform limitation on the length of all candidate statements.

(b) **FINANCIAL STATEMENT-** Any person seeking nomination as a candidate for election to the board of directors shall file with the Association, not less than 60 days and not more than 120 days prior to the election, a report containing the information required by section 102 of title 5, United States Code.

(c) **INELIGIBILITY OF INTERIM DIRECTORS AND STAFF DURING FIRST ELECTION-** No interim director shall be eligible for election to the board of directors during the first election following the appointment of the interim directors. The executive director and other Association staff persons, including interim staff persons, shall not be eligible for election to the board of directors while serving in the capacity of executive director or staff person, or for 1 year after such service is concluded.

(d) **INELIGIBILITY OF DIRECTORS TO HOLD OTHER PUBLIC OFFICE-** No director shall hold any elective Federal, State, or local office, or be a candidate for such office, or be appointed to hold such office, unless such appointee receives no compensation other than reimbursement of expenses.

(e) **INELIGIBILITY OF OFFICERS, DIRECTORS OF AN ENTITY SUBJECT TO THIS ACT-** No present director, officer, agent, consultant, attorney, or accountant for any entity subject to this Act, or member of the immediate family of such persons, shall be eligible to be a director of the Association.

(f) **INELIGIBILITY OF OFFICERS AND EMPLOYEES OF AGENCIES-** No officer or employee of any Federal, State, or local agency that regulates any entity subject to this Act shall be eligible to be a director of the Association.

SEC. 13. BALLOT ISSUES.

Issues may be placed on a ballot for vote by the general membership, provided a majority of the board votes to place an issue before the membership for vote. The rules and procedures for placing an issue before the membership for a vote shall be developed by the Commission.

SEC. 14. LIMITS ON ACCESS TO MEMBER MAILINGS.

No person may use any list of members of the Association, or any part of such list, for purposes other than the conduct of the business of the Association, as prescribed in this Act. The board of directors shall, however, develop criteria for providing Association member access through Association mailings to the Association's membership for Association purposes only. No person shall disclose any such list or part thereof to another person, unless there is substantial reason to believe that such list or part thereof is intended to be used for the lawful purposes described in this Act.

SEC. 15. PROHIBITED ACTS.

(a) ENTITIES SUBJECT TO THIS ACT- No entity subject to this Act or officer, employee, or agent of any entity subject to this Act may interfere or threaten to interfere with or cause any interference with the utility service of, or penalize or threaten to penalize or cause to be penalized, any person who contributes to the Association or participates in any of its activities, in retribution for such contribution or participation.

(b) GENERAL PROHIBITION- No person may act with intent to prevent, interfere with, or hinder the activities permitted under this Act.

SEC. 16. PENALTIES.

A violation of any provision of this Act by an entity subject to this Act or officer, employee, or agent thereof or of the Association shall be subject to a civil penalty of not more than \$10,000 for each violation, to be levied by the Commission.

SEC. 17. ADMINISTRATIVE ENFORCEMENT.

Compliance with the provisions of this Act shall be enforced by the Commission in the same manner and with the same power and authority as the Commission has under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

SEC. 18. DISSOLUTION OF THE ASSOCIATION.

If, at the end of the 3-year period beginning on the date on which the Association is incorporated, the Association's membership remains below 25,000 members during any 1-year period, the board of directors of the Association shall dissolve the Association. Upon the termination, dissolution, or winding up of the Association in any manner or for any reason, voluntary or involuntary, its assets, if any, remaining after the payment or provision for payment of all liabilities of the Association shall be distributed to, and only to, 1 or more charitable organizations. No part of the income or assets of the Association

shall inure to any of its members, directors, or officers, or be distributed to any such person during the life of the Association or upon its dissolution , except in payment of a legal obligation owed to such person. At the time of dissolution, any unexpended funds appropriated by Congress for the establishment of the Association shall be returned to the United States Treasury.

SEC. 19. RELATIONSHIP TO EXISTING LAW.

Nothing in this Act shall be construed to limit the right of any individual or group of individuals to initiate, intervene in, or otherwise participate in any proceeding before a regulatory agency or court, nor to relieve any regulatory agency, court, or other public body of any obligation, or affect its discretion to permit intervention or participation by a consumer or group or class of consumers or citizens in any proceeding or activity.

SEC. 20. CONSTRUCTION.

The provisions of this Act shall be construed in such a manner as best to enable the Association to effectively represent and protect the interests of consumers and shareholders.

SEC. 21. SEVERABILITY.

If any provision of this Act shall be declared invalid, the other provisions of this Act shall remain in effect.

END