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For more than 60 years, the business of insurance has been regulated by the states under the McCarran-Ferguson Act. Critics of the insurance industry, led by Sen. Trent Lott, R-MS., and Rep. Gene Taylor, D-MS., want to change the system, saying it would be better for consumers. In fact, repealing or modifying McCarran-Ferguson is likely to have the opposite effect — stifling competition and driving up insurance prices.

Congress enacted the McCarran-Ferguson Act in 1945 in response to a Supreme Court decision that threatened to put insurance under federal jurisdiction. Congress had carefully considered the issues and determined that consumers would be better served by having states continue to regulate the insurance industry. State officials carefully supervise and regulate insurance industry practices. As a result, consumers enjoy a more competitive marketplace, greater availability and a variety of coverage, more accurate pricing and financial soundness.

Included in the McCarran-Ferguson Act is an exemption to federal antitrust laws. This very limited exclusion has helped to promote and maintain a healthy, vibrant and competitive insurance marketplace.

The insurance industry is different from most businesses in that insurers do not know their true cost of goods sold when they price their products. When you buy an insurance policy you are betting you will have a loss, while the insurance company is betting you won't. Insurance companies base their pricing decisions on the losses that are most likely to occur. Accurately pricing their products is vital for insurance companies to have the money needed when it's time to pay claims.

To correctly price their products, insurance companies require historic data of losses, something many smaller companies lack. The antitrust exemption in the McCarran-Ferguson Act allows insurance companies to share information about past losses, in order to properly price their products.

The exemption also allows standard language in insurance policies, making it easier to compare them.

Finally, the exemption allows insurers to pool their resources to provide high-risk coverage and/or to allow small companies to participate in writing risks that would be unavailable on an individual basis.

These activities taken together make the insurance industry more competitive for consumers, not less. There is no credible evidence that the cost, availability or quality of insurance products would be enhanced if the McCarran-Ferguson Act were repealed or modified. However, it is highly likely that repeal or limitation would decrease market stability, stifle innovation and expansion, diminish industry efficiency, increase insurance costs, reduce availability for some high-risk coverages and perversely inhibit rather than increase competition in the insurance marketplace.

Is the current, state-based regulatory system for insurance perfect? No. Can it be improved? Absolutely. Would eliminating the antitrust exemption allowed by insurance companies improve the insurance marketplace for consumers? Definitely NOT!