

**United States Senate Committee on Banking, Housing and Urban Affairs
Legislative Proposal to Foster Economic Growth and Capital Formation
“The CLAIM Act”**

The Association of Claims Professionals (ACP) thanks the Committee for its leadership in advancing legislation to increase economic growth in our country. ACP is pleased to propose that the United States Senate Committee on Banking, Housing and Urban Affairs consider the CLAIM Act for the uniform and reciprocal licensure of claims adjusters across the United States, leveraging both state laws and the “NARAB process” advanced and enacted by this Committee in 2015. Enacting the CLAIM Act will promote economic growth and enable both consumers and market participants (including financial companies) to better participate in the economy.

Brief description of the proposal and how it will encourage companies to be publicly traded, improve the market for private capital, and/or enhance retail investor access to investment opportunities: Claims adjusters deliver on the promise of insurance by facilitating payment to consumers for harm and damages covered by their insurance policies. Unfortunately, and not unlike insurance agents and brokers years ago, independent claims adjusters currently face a patchwork of inconsistent state laws and regulations that frustrate prompt and efficient payments to disaster victims and other claimants. Approximately 34 states have different, and often duplicative, licensing requirements, which unnecessarily complicate the adjusting process, and needlessly delay adjusters’ ability to address consumer claims. Most of these laws are not uniform or reciprocal to each other.

The CLAIM Act is designed to address that inefficiency, redundancy and lack of uniformity by calling upon states to adopt uniform and reciprocal licensure in those states that license adjusters, and allowing independent adjusters to secure an adjusting license from the NARAB to work in those states who decline to do so. The CLAIM Act preserves the states’ ability to set licensing requirements (or not to license, as is the practice in 16 states), as well as state oversight and substantive adjusting laws to ensure consumers have timely, efficient, and cost-effective claims service. More specifically, through the CLAIM Act:

- The Congress urges the states to adopt uniform and reciprocal adjuster licensing requirements, using language already adopted by the Congress in the 1999 Gramm-Leach-Bliley law (referred to as NARAB I) when Congress addressed this issue for agents and brokers;
- States that license adjusters have four years within which to enact laws and regulations and become uniform and reciprocal to other states. States that do not license adjusters are not required to do so. Adjusters in a state without licensing can designate another state as their “home state” for licensing purposes.
- If a state that regulates adjusters does not establish the required laws and regulations within four years, independent adjusters can apply to the National Association of Registered Agents and Brokers (NARAB), established by Congress in 2015 as national clearinghouse for nonresident state licensing, for a license to adjust claims across state lines. Any such adjuster will need to be properly licensed in their home state.

The CLAIM Act would also significantly improve the ability of consumers, market participants and financial companies (including insurers, retailers, employers and the independent claims adjusting companies that serve them) to participate in the economy. More specifically, enactment of the CLAIM Act would enable independent claims adjusters to handle claims more efficiently and effectively across state lines in an increasingly nationwide marketplace by spurring state licensing reciprocity, allowing them to better serve (and continue to protect) consumers by encouraging those states that license adjusters to adopt reciprocal licensing criteria. Consumers and small (and all other) businesses would have their claims payments processed sooner, allowing them to recover from loss and get back to work more quickly. Independent adjusters and the companies they serve would be able to more efficiently and effectively navigate the claims process across state lines, bringing down costs, and improving service to consumers and all involved.

Impact on Economic Growth and Investor Protection: Independent adjusters handle 3.5 million insurance claims annually, paying out \$45 billion in claims to consumers.¹ As such, adoption of the CLAIM Act will improve economic growth and the operation of today's economy in multiple ways. First and most obvious, in times of need such as natural disasters, claims adjusters will be able to serve consumers faster and more efficiently by not being held up at state borders due to local licensing requirements. Superstorm Sandy and the 2013 Oklahoma tornadoes are only two well-known examples when adjusters could not get to consumers because of the state licensing laws.² But in reality, this is a hidden problem for consumers across the country every day.

Second, it will substantially improve conditions for the 30,000 independent adjusters themselves, who on average hold 9-10 duplicative state licenses, resulting in millions of dollars of wasted cost, effort, and delays.³ All Americans pay for these unnecessary and duplicative costs in the form of higher insurance premiums. Eliminating this pointless inefficiency by incentivizing the states to be reciprocal with each other (as is the case with many other professions, and with insurance agents and brokers) will have a positive impact on economic growth.

Third, it will benefit American industry generally. Large national companies (retailers, airlines, manufacturing operations) who often self-insure the first several million dollars of risk want to be able to hire a centralized team of adjusters with dedicated in-depth knowledge of their business and understand the risks to operate seamlessly across the country. The dedicated units can provide an industry specific quality service to the employees and consumers served by these large national companies. The consumer ultimately benefits. While the independent adjusting industry is eager to do so, the state licensing requirements present a logistical nightmare to serving industry. Adoption of the CLAIM Act would solve this problem.

¹ See <http://www.propertycasualty360.com/2017/02/15/independent-adjusters-handle-billions-in-claims-an> ; see also http://claimsprofession.org/wp-content/uploads/AAICP_ClaimsProfessionalsSurvey.pdf ("Bickmore study") at 10.

² The impacts of state licensing laws were so severe in the case of the Oklahoma tornado disaster that the National Association of Insurance Commissioners had to intercede to help process license applications at the time. http://www.naic.org/Releases/2013_docs/naic_assisting_following_ok_tornadoes.htm This is neither an appropriate role for the NAIC, and could have been avoided if reciprocal licensing had been in place.

³ Bickmore Study at 6.

Legislative Language: The legislative text is attached (H.R. 4037). We note that the text was introduced last Congress in the House of Representatives and has broad bi-partisan support. We expect the legislation will be re-introduced in the 117th Congress in both the House and the Senate.

Other Background Material as Appropriate: We attach additional background material, including a series of fact sheets describing the CLAIM Act, some of the problems experienced by claims adjusters across state lines, and how reciprocity exists for other professions but not for claims adjusters.

For further information about this proposal, please contact J.C. Boggs or David Farber, counsel to ACP, at jboggs@kslaw.com and dfarber@kslaw.com or 202.626.2383.



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THE CLAIM ACT IS NEEDED

The Claims Licensing Advancement for Interstate Matters (CLAIM) Act

Independent claims adjusters currently face a patchwork of inconsistent state laws and regulations that frustrate prompt and efficient payments to disaster victims and other claimants. Approximately 34 states have different, and often duplicative, licensing requirements, which unnecessarily complicate the adjusting process, and needlessly delay adjusters' ability to address consumer claims. Most of these laws are not uniform or reciprocal to each other.

The CLAIM Act is designed to address that inefficiency, redundancy and lack of uniformity by calling on the states to adopt uniform and reciprocal licensure in those states that license adjusters. The Act preserves the States' oversight and regulation to ensure consumers have timely, efficient, and cost-effective claims service.

In December 2013, the Treasury Department noted that “[t]o address the inefficiencies and lack of uniformity in the state regulatory system, federal involvement will be necessary. The status quo, or a state-only solution, will not resolve the problems of inefficiency, redundancy, or lack of uniformity, or adequately address issues of national interest.”^[1] The CLAIM Act responds to Treasury's call, and advances uniformity, reciprocity, and consumer protections for claims adjusting across state lines. States that do not currently license adjusters will not need to do so. Fully recognizing and respecting state oversight of insurance matters, the CLAIM Act:

- (1) Enables independent claims adjusters to handle claims more efficiently and effectively across state lines in an increasingly nationwide marketplace by spurring state licensing reciprocity; and
- (2) Protects consumers by encouraging those states that license adjusters to adopt uniform licensing criteria.

HOW THE CLAIM ACT WORKS:

- The Congress urges the states to adopt uniform and reciprocal adjuster licensing requirements, using language already adopted by the Congress in the 1999 Gramm-Leach-Bliley law (referred to as NARAB I) when Congress addressed this issue for agents and brokers;
- States that license adjusters have four years within which to enact laws and regulations and become uniform and reciprocal to other states. States that do not license adjusters are not required to do so. Adjusters in a state without licensing can designate another state as their “home state” for licensing purposes.
- If a state that regulates adjusters does not establish the required laws and regulations within four years, independent adjusters can apply to the National Association of Registered Agents and Brokers (NARAB), established by Congress in 2015 as national clearinghouse for nonresident state licensing, for a license to adjust claims across state lines. Any such adjuster will need to be properly licensed in their home state.

For further information, please contact David Farber at dfarber@kslaw.com, 202.626.2941.

^[1] U.S. Department of the Treasury, *How to Modernize and Improve the System of Insurance Regulation in the United States* at 65 (Dec. 2013).





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STORIES FROM THE FRONT LINES

The Claims Licensing Advancement for Interstate Matters (CLAIM) Act

Independent claims adjusters currently face a patchwork system of inconsistent state regulations that can delay the prompt and professional adjustment of disaster victim and other consumer and employee insurance claims.

The CLAIM Act is designed to facilitate prompt adjusting in the case of natural and other disasters and provide independent claims adjusters with the regulatory clarity needed to provide timely, efficient, and cost-effective service to claimants.

WITH THE CLAIM ACT, CLAIMS ADJUSTERS WOULD NOT FACE THESE LICENSING OBSTACLES:

- Connecticut will not provide reciprocity to a licensed adjuster whose “designated home state” is New York or, if the licensed adjuster is a resident of New York licensed in New York, until that adjuster has a valid license from a state other than New York.
- Oklahoma will not offer reciprocity for claims adjusters licensed in Arizona, California, Hawaii, or New York; nor will Oklahoma allow an adjuster to rely on these states as his designated home state.
- Minnesota will not offer reciprocity with North Carolina-licensed adjusters. North Carolina residents must travel to Minnesota to take the Minnesota licensing examination.
- Rhode Island requires its applicants to be licensed in one of 11 other states to receive a license. If an applicant is licensed in any other state, reciprocity will be denied and the applicant must take the Rhode Island licensing examination.
- Vermont requires workers’ compensation adjusters to attend the state’s workers’ compensation conference—which is held once every two years in Vermont.
- Wyoming requires applicants that reside in Arizona to take the Wyoming licensing examination.
- California requires a bond for resident applicants but will not license non-resident applicants. California also requires two years’ adjusting experience before allowing an independent adjuster to take the licensing examination.

THE FOLLOWING (TRUE) STORY EXEMPLIFIES THE OBSTACLES THAT CLAIM ADJUSTERS CURRENTLY ENCOUNTER:

A New York resident has held a non-resident adjuster license in Arkansas for five years. He contacted the Arkansas Department of Insurance (DOI) to inquire about continuing education requirements.

During the course of the conversation with the Arkansas DOI employee, the adjuster mentioned his residence in New York. The Arkansas DOI employee responded that Arkansas does not have reciprocity with New York. As a result, the Arkansas DOI revoked the adjuster’s non-resident license and required him to take the Arkansas licensing examination, which is only offered in Arkansas and Tennessee.

When the adjuster challenged the decision due to the lack of information about reciprocity requirements on the Arkansas DOI website, the employee stated that the Arkansas DOI planned to revise the website and was bound by a statutory requirement to revoke the improperly-issued non-resident license from five years prior without any other consideration.

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FREQUENTLY ASKED QUESTIONS

The Claims Licensing Advancement for Interstate Matters (CLAIM) Act

WHY IS THE CLAIM ACT NEEDED?

Independent claims adjusters today face a patchwork of inconsistent state regulations that can delay the prompt adjustment of disaster victim and other consumers' claims. The CLAIM Act is designed to provide independent claims adjusters with the regulatory consistency needed to provide timely, efficient, and cost-effective service to claimants, and to facilitate prompt adjusting in the case of natural and other disasters.

The CLAIM Act will ensure that claims adjusters are treated consistently with other specialized state-licensed professionals who enjoy uniformity and reciprocity among the states, including insurance producers, physicians, nurses, attorneys, and emergency responders.

HOW WILL THE CLAIM ACT ACHIEVE THESE POLICY GOALS?

The CLAIM Act advances uniformity, reciprocity, and consumer protections for claims adjusting across state lines. While respecting state oversight of insurance, the CLAIM Act:

- Encourages states to adopt uniform and reciprocal independent adjuster licensing laws;
- Enables independent claims adjusters to handle claims more efficiently and effectively across state lines in a national marketplace by spurring reciprocal state licensing;
- Protects consumers by incentivizing states to adopt uniform licensing criteria; and
- Facilitates accelerated adjusting of claims arising from natural or other disasters.

WHAT WILL THE CLAIM ACT ACTUALLY DO?

The CLAIM Act requires states that license adjusters to adopt uniform and reciprocal requirements, consistent with federal law previously enacted for agents and brokers. If a state does not establish the required laws and regulations within four years, independent adjusters who are properly licensed in their home state may apply to the National Association of Registered Agents and Brokers for a license to adjust claims in such state.

HOW WILL THE CLAIM ACT PROTECT STATES' RIGHTS TO REGULATE THE INSURANCE INDUSTRY?

The CLAIM Act respects states' rights to regulate insurance. Yet, building on legislative precedent, the CLAIM Act urges the states timely to complete adoption of uniform and reciprocal adjuster licensing laws. In doing so, the CLAIM Act recognizes that state regulators are uniquely positioned and qualified to address licensing standards issues.

Each state retains its independence to adopt licensing rules, as it deems appropriate, within a four-year period, as well as to determine if it does not wish to license adjusters at all. State discretion is explicitly retained in the legislation, and states are permitted to charge appropriate licensing fees and adopt other requirements provided they do not discriminate against out-of-state adjusters.

For further information, please contact David Farber at dfarber@kslaw.com, 202.626.2941.



116TH CONGRESS
1ST SESSION

H. R. 4037

To promote uniformity and reciprocity among States that license insurance claims adjusters and to facilitate prompt and efficient adjusting of insurance claims, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2019

Mr. KUSTOFF of Tennessee (for himself and Mr. FOSTER) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To promote uniformity and reciprocity among States that license insurance claims adjusters and to facilitate prompt and efficient adjusting of insurance claims, and for other purposes.

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 “Claims Licensing Ad-
5 vancement for Interstate Matters Act” or the “CLAIM
6 Act”.

1 **SEC. 2. STATE FLEXIBILITY IN MULTISTATE ADJUSTER LI-**
2 **CENSING REFORMS.**

3 (a) IN GENERAL.—Section 4, or in the case of crop
4 adjusting section 6, shall take effect upon the expiration
5 of the 4-year period beginning on the date of the enact-
6 ment of this Act unless, before the expiration of such pe-
7 riod, those States that license independent claims adjust-
8 ers have enacted—

9 (1) uniform laws and regulations governing the
10 licensure of individuals and entities authorized to
11 adjust insurance claims within the State; and

12 (2) reciprocity laws and regulations governing
13 the licensure of nonresident individuals and entities
14 authorized to adjust insurance claims within those
15 States.

16 (b) UNIFORMITY REQUIRED.—States shall be deemed
17 to have established the uniformity necessary to comply
18 with subsection (a)(1) if the States—

19 (1) establish uniform criteria regarding the in-
20 tegrity, personal qualifications, education, training,
21 and experience of licensed independent claims ad-
22 justers for—

23 (A) property and casualty insurance;

24 (B) workers compensation insurance;

25 (C) crop insurance (to the extent that a
26 State licenses crop insurance adjusters; and

1 (D) such other lines as a State may choose
2 to regulate;

3 (2) establish uniform continuing education re-
4 quirements for licensed independent claims adjusters
5 for each line of insurance under paragraph (1) that
6 a State chooses to regulate;

7 (3) establish uniform ethics course require-
8 ments for licensed independent claims adjusters in
9 conjunction with the continuing education require-
10 ments under paragraph (2);

11 (4) do not impose any requirement upon any
12 independent claims adjuster to be licensed or other-
13 wise qualified to do business as a nonresident that
14 has the effect of limiting or conditioning that inde-
15 pendent claims adjuster's activities because of its
16 residence or place of operations; and

17 (5) utilize a uniform license application.

18 (c) RECIPROCITY REQUIRED.—States shall be
19 deemed to have established the reciprocity required to
20 comply with subsection (a)(2) if the following conditions
21 are met:

22 (1) ADMINISTRATIVE LICENSING PROCE-
23 DURES.—Each State that licenses independent
24 claims adjusters permits an independent claims ad-
25 juster that has a license for adjusting insurance

1 claims in their home State to receive a license to ad-
2 just insurance claims in those other States as a non-
3 resident to the same extent that such independent
4 claims adjuster is permitted to adjust insurance
5 claims in their home State without satisfying any
6 additional requirements other than submitting—

7 (A) a request for licensure utilizing the
8 uniform license application;

9 (B) a copy of, or evidence of, a valid li-
10 cense held by the adjuster in their home State
11 (unless such information is available in the Na-
12 tional Insurance Producer Registry Producer
13 Database); and

14 (C) the payment of any requisite fee to the
15 appropriate authority.

16 (2) CONTINUING EDUCATION REQUIRE-
17 MENTS.—Each State that licenses an independent
18 claims adjuster accepts an insurance claims adjust-
19 er’s satisfaction of their home State’s continuing
20 education requirements for licensed insurance claims
21 adjusters to satisfy the State’s own continuing edu-
22 cation requirements.

23 (3) NO LIMITING NONRESIDENT REQUIRE-
24 MENTS.—A State does not impose any requirement
25 upon any independent claims adjuster to be licensed

1 or otherwise qualified to do business as a non-
2 resident that has the effect of limiting or condi-
3 tioning that independent claims adjuster's activities
4 because of its residence or place of operations.

5 (4) RECIPROCAL RECIPROCITY.—Each of the
6 States that satisfies paragraphs (1), (2), and (3)
7 grants reciprocity to residents of all of the other
8 States that satisfy such paragraphs.

9 (d) COMPLIANCE.—

10 (1) DETERMINATION.—A State shall be consid-
11 ered to be in compliance with subsection (a) for pur-
12 poses of this Act if the State, before the expiration
13 of the 4-year period beginning on the date of the en-
14 actment of this Act, publishes a finding that it is in
15 compliance with the provision. Any such publication
16 shall be made following notice by the State of its in-
17 tention to publish the finding, and the State's ac-
18 ceptance of comments on the proposed finding. After
19 notice required by this paragraph, a State agency
20 shall give interested persons an opportunity to par-
21 ticipate through submission of written data, views,
22 or arguments. After consideration of the relevant
23 matter presented, the agency shall incorporate in the
24 finding adopted a concise general statement of the

1 basis and purpose and shall respond to the com-
2 ments it received in detail.

3 (2) JUDICIAL REVIEW.—The appropriate
4 United States District Court shall have exclusive ju-
5 risdiction over any challenge arising under this sec-
6 tion. The court shall apply the standards set forth
7 in section 706 of title 5, United States Code, in re-
8 viewing any such challenge.

9 **SEC. 3. STATE AUTHORITIES.**

10 Nothing in this Act shall be construed to—

11 (1) require a State that does not have licensing
12 requirements for independent claims adjusters to
13 adopt any such requirements;

14 (2) subject to section 2, limit the right of a
15 State to establish licensing fees or enforce its laws
16 regarding the adjusting of insurance claims, pro-
17 vided that such State fee is uniform regardless of
18 the State of residence of the licensee in that State;
19 or

20 (3) affect the jurisdiction and authority of a
21 State insurance regulator to prescribe and enforce
22 its insurance laws, rules, and regulations regulating
23 independent claims adjuster activity in its jurisdic-
24 tion.

1 **SEC. 4. AUTHORITY FOR INTERSTATE CLAIMS ADJUSTING.**

2 In the case of any State that requires and issues li-
3 censes for independent claims adjusters (other than crop
4 adjusters) but is not in compliance with section 2, after
5 the expiration of the 4-year period beginning on the date
6 of the enactment of this Act, an independent claims ad-
7 juster may apply to the National Association of Registered
8 Agents and Brokers for Membership for the purpose of
9 licensure in each such State not in compliance with section
10 2, provided that such independent claims adjuster pays the
11 requisite fees, including licensing fees. For purposes of
12 this provision, upon such date an independent claims ad-
13 juster shall be determined to be a person that negotiates
14 policies of insurance and offers advice, counsel, opinions
15 or services related to insurance, as such terms are used
16 in section 334(5) of Public Law 106–102, as amended by
17 section 202(a) of Public Law 114–1 (15 U.S.C. 6764(5);
18 129 Stat. 27).

19 **SEC. 5. WAIVER OF LICENSE RENEWAL IN CERTAIN CIR-**
20 **CUMSTANCES.**

21 If a natural person, while licensed or applying to be
22 licensed to adjust claims pursuant to any State statute
23 enters the military service of the United States and is in
24 that service at a time prescribed for the filing of a renewal
25 application or payment of a licensing fee, the filing of that
26 application and the payment of the fee shall be waived,

1 and the license held by that licensee at the time of his
2 or her entry into military service shall remain in force dur-
3 ing the period of that military service and until the end
4 of the license year in which he or she is released from
5 that service, but not for less than six months after that
6 release. During that period, that person may secure a li-
7 cense of the type held by him or her on his or her entry
8 into military service upon the filing of an application and
9 paying the fee therefor without the necessity of taking an
10 examination or paying a penalty.

11 **SEC. 6. CROP ADJUSTING.**

12 In the case of any State that requires and issues li-
13 censes for independent crop insurance adjusters but is not
14 in compliance with section 2, after the expiration of the
15 4-year period beginning on the date of the enactment of
16 this Act, an independent claims adjuster may adjust
17 claims in such State for crop insurance provided that the
18 crop adjuster has met the certification requirements of the
19 Federal Crop Insurance Corporation in his or her home
20 State or designated home State, as established by the Fed-
21 eral Crop Insurance Act (7 U.S.C. 1501 et seq.) and pro-
22 vided that such crop adjuster pays the requisite fees, in-
23 cluding State licensing fee.

1 **SEC. 7. DEFINITIONS.**

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

4 (1) HOME STATE.—

5 (A) ACTUAL.—The term “home State”
6 means, with respect to an independent claims
7 adjuster, the State in which the adjuster main-
8 tains his, her, or its principal place of residence
9 or business and is licensed upon having passed
10 an exam as an independent claims adjuster.

11 (B) DESIGNATED.—If the State in which
12 an independent claims adjuster maintains his or
13 her principal place of residence or business does
14 not issue an independent claims adjuster license
15 or require an examination as a condition for
16 such licensure for the line or lines of authority
17 sought, such term means any other State in
18 which the independent claims adjuster is so li-
19 censed upon having passed an exam and that is
20 designated by such adjuster as his or her home
21 State.

22 (2) INDEPENDENT CLAIMS ADJUSTER.—The
23 term “independent claims adjuster” means an indi-
24 vidual, other than a public adjuster, who undertakes
25 on behalf of insurers or self-insurers to investigate,
26 evaluate, and negotiate the resolution of the amount

1 of a property, casualty, liability, disability, or work-
2 ers' compensation claim, loss, or damage on behalf
3 of an insurance policy or insurer or as a third party
4 on behalf of a self-insurer. Such term includes com-
5 pany or staff adjusters, who are individuals, other
6 than a public adjuster, employed by property cas-
7 ualty insurers and undertake to investigate, evalu-
8 ate, and negotiate the resolution of a property, cas-
9 ualty, liability, disability, crop loss, or workers' com-
10 pensation claim, loss, or damage on behalf of an in-
11 surance policy or insurer or as a third party on be-
12 half of a self-insurer.

13 (3) PUBLIC ADJUSTER.—The term “public ad-
14 juster” means any person who, for compensation or
15 any other thing of value, on behalf of the insured
16 acts, aids, advertises, or solicits business to ascer-
17 tain, determine, negotiate, or settle the amount of a
18 claim, loss, or damage, solely in relation to first
19 party claims arising under contracts that insure the
20 real or personal property of the insured.

21 (4) STATE.—The term “State” means the
22 States of the United States, the District of Colum-
23 bia, the Commonwealth of Puerto Rico, the Com-
24 monwealth of the Northern Mariana Islands, Guam,

1 the Virgin Islands, American Samoa, and any other
2 territory or possession of the United States.

3 (5) STATE LAW.—The term “State law” in-
4 cludes all laws, decisions, rules, regulations, or other
5 State action of any State having the effect of law;
6 and a law of the United States applicable only to the
7 District of Columbia shall be treated as a State law
8 rather than as a law of the United States.

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