

Insurance Exemption

The McCarran – Ferguson Act was enacted in 1945 to permit the states to continue regulating the insurance business after the Supreme Court, in *U.S. v. South-Eastern Underwriters Association*, overruled the decision in *Pal v. Virginia* declaring insurance to be interstate commerce and therefore within Congress constitutional authority to regulate.

The Act does several things:

- It allows insurers to share related information that lowers costs of doing business. This includes joint development of insurance forms and the sharing of loss data to help with policy pricing.
- It provides insurers with a narrow and limited exemption from federal antitrust laws as long as the activity is state regulated.
- It explicitly empowers states to regulate and tax insurance.

The purpose of this Act is to address what should happen in the event of an overlap between a state insurance regulatory scheme and a federal law. The point of McCarran-Ferguson was to provide that in the event of such an overlap, state insurance law, not federal law, would be the statutory scheme that remained unaffected. The Supreme Court has McCarran-Ferguson's purpose was to reserve regulation and taxation of insurance companies to the states. Interpreting McCarran-Ferguson to require a focused conflict between, or impairment of, a single state statute defeats the purpose of McCarran-Ferguson.