

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2813.
OFFERED BY MR. GOOD OF VIRGINIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Self-Insurance Protec-
3 tion Act”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) Small and large employers offer health ben-
7 efit plan coverage to employees in self-funded ar-
8 rangements using company assets or a fund, or by
9 paying premiums to purchase fully-insured coverage
10 from a health insurance company.

11 (2) Employers that self-fund health benefit
12 plans will often purchase stop-loss insurance as a fi-
13 nancial risk management tool to protect against ex-
14 cess or unexpected catastrophic health plan claims
15 losses that arise above projected costs paid out of
16 company assets.

17 (3) Stop-loss coverage insures the employer
18 sponsoring the health benefit plan against unfore-

1 seen health plan claims, does not insure the em-
2 ployee health benefit plan itself, and does not pay
3 health care providers for medical services provided to
4 the employees.

5 (4) Employer-sponsored health benefit plans are
6 regulated under the Employee Retirement Income
7 Security Act of 1974, however, States regulate the
8 availability and the coverage terms of stop-loss in-
9 surance coverage that employers purchase to protect
10 company assets and to protect a fund against excess
11 or unexpected claims losses.

12 (5) Both large and small employers that choose
13 to self-fund must also be able to protect company as-
14 sets or a fund against excess or unexpected claims
15 losses and States must reasonably regulate stop-loss
16 insurance to assure its availability to both large and
17 small employers.

18 **SEC. 3. CERTAIN MEDICAL STOP-LOSS INSURANCE OB-**
19 **TAINED BY CERTAIN PLAN SPONSORS OF**
20 **GROUP HEALTH PLANS NOT INCLUDED**
21 **UNDER THE DEFINITION OF HEALTH INSUR-**
22 **ANCE COVERAGE.**

23 Section 733(b)(1) of the Employee Retirement In-
24 come Security Act of 1974 (29 U.S.C. 1191b(b)(1)) is
25 amended by adding at the end the following sentence:

1 “Such term shall not include a stop-loss policy obtained
2 by a self-insured group health plan or a plan sponsor of
3 a group health plan that self-insures the health risks of
4 its plan participants to reimburse the plan or sponsor for
5 losses that the plan or sponsor incurs in providing health
6 or medical benefits to such plan participants in excess of
7 a predetermined level set forth in the stop-loss policy ob-
8 tained by such plan or sponsor.”.

9 **SEC. 4. EFFECT ON OTHER LAWS.**

10 Section 514(b) of the Employee Retirement Income
11 Security Act of 1974 (29 U.S.C. 1144(b)) is amended by
12 adding at the end the following:

13 “(10) The provisions of this title (including part 7
14 relating to group health plans) shall preempt State laws
15 insofar as they may now or hereafter prevent an employee
16 benefit plan that is a group health plan from insuring
17 against the risk of excess or unexpected health plan claims
18 losses.”.

Amend the title to read as follows: “A bill to amend
the Employee Retirement Income Security Act of 1974 to
exclude from the definition of health insurance coverage
certain medical stop-loss insurance obtained by certain
plan sponsors of group health plans, and for other pur-
poses.”

