

**AMENDMENT TO H. R. 10, AS REPORTED
OFFERED BY MR. BLILEY OF VIRGINIA**

[Domestic violence/redomestication]

**(Page & line nos. refer to the Committee Print of June 24,
1999)**

Page 327, after line 16, insert the following subsection (and redesignate subsequent subsections accordingly):

1 “(e) DOMESTIC VIOLENCE DISCRIMINATION PROHI-
2 BITION.—

3 “(1) IN GENERAL.—In the case of an applicant
4 for, or an insured under, any insurance product de-
5 scribed in paragraph (2), the status of the applicant
6 or insured as a victim of domestic violence, or as a
7 provider of services to victims of domestic violence,
8 shall not be considered as a criterion in any decision
9 with regard to insurance underwriting, pricing, re-
10 newal, or scope of coverage of insurance policies, or
11 payment of insurance claims, except as required or
12 expressly permitted under State law.

13 “(2) SCOPE OF APPLICATION.—The prohibition
14 contained in paragraph (1) shall apply to any insur-

1 ance product which is sold or offered for sale, as
2 principal, agent, or broker, by any insured deposi-
3 tory institution or wholesale financial institution or
4 any person who is engaged in such activities at an
5 office of the institution or on behalf of the institu-
6 tion.

7 “(3) SENSE OF THE CONGRESS.—It is the sense
8 of the Congress that, by the end of the 30-month pe-
9 riod beginning on the date of the enactment of this
10 Act, the States should enact prohibitions against dis-
11 crimination with respect to insurance products that
12 are at least as strict as the prohibitions contained in
13 paragraph (1).

14 “(4) DOMESTIC VIOLENCE DEFINED.—For pur-
15 poses of this subsection, the term ‘domestic violence’
16 means the occurrence of 1 or more of the following
17 acts by a current or former family member, house-
18 hold member, intimate partner, or caretaker:

19 “(A) Attempting to cause or causing or
20 threatening another person physical harm, se-
21 vere emotional distress, psychological trauma,
22 rape, or sexual assault.

23 “(B) Engaging in a course of conduct or
24 repeatedly committing acts toward another per-
25 son, including following the person without

1 proper authority, under circumstances that
2 place the person in reasonable fear of bodily in-
3 jury or physical harm.

4 “(C) Subjecting another person to false
5 imprisonment.

6 “(D) Attempting to cause or cause damage
7 to property so as to intimidate or attempt to
8 control the behavior of another person.

Page 336, after line 13, insert the following new subtitle (and redesignate subsequent subtitles and amend the table of contents accordingly):

9 **Subtitle B—Redomestication of**
10 **Mutual Insurers**

11 **SEC. 311. GENERAL APPLICATION.**

12 This subtitle shall only apply to a mutual insurance
13 company in a State which has not enacted a law which
14 expressly establishes reasonable terms and conditions for
15 a mutual insurance company domiciled in such State to
16 reorganize into a mutual holding company.

17 **SEC. 312. REDOMESTICATION OF MUTUAL INSURERS.**

18 (a) REDOMESTICATION.—A mutual insurer organized
19 under the laws of any State may transfer its domicile to
20 a transferee domicile as a step in a reorganization in
21 which, pursuant to the laws of the transferee domicile and

1 consistent with the standards in subsection (f), the mutual
2 insurer becomes a stock insurer that is a direct or indirect
3 subsidiary of a mutual holding company.

4 (b) RESULTING DOMICILE.—Upon complying with
5 the applicable law of the transferee domicile governing
6 transfers of domicile and completion of a transfer pursu-
7 ant to this section, the mutual insurer shall cease to be
8 a domestic insurer in the transferor domicile and, as a
9 continuation of its corporate existence, shall be a domestic
10 insurer of the transferee domicile.

11 (c) LICENSES PRESERVED.—The certificate of au-
12 thority, agents' appointments and licenses, rates, approv-
13 als and other items that a licensed State allows and that
14 are in existence immediately prior to the date that a re-
15 domesticating insurer transfers its domicile pursuant to
16 this subtitle shall continue in full force and effect upon
17 transfer, if the insurer remains duly qualified to transact
18 the business of insurance in such licensed State.

19 (d) EFFECTIVENESS OF OUTSTANDING POLICIES
20 AND CONTRACTS.—

21 (1) IN GENERAL.—All outstanding insurance
22 policies and annuities contracts of a redomesticating
23 insurer shall remain in full force and effect and need
24 not be endorsed as to the new domicile of the in-
25 surer, unless so ordered by the State insurance regu-

1 lator of a licensed State, and then only in the case
2 of outstanding policies and contracts whose owners
3 reside in such licensed State.

4 (2) FORMS.—

5 (A) Applicable State law may require a re-
6 domesticating insurer to file new policy forms
7 with the State insurance regulator of a licensed
8 State on or before the effective date of the
9 transfer.

10 (B) Notwithstanding subparagraph (A), a
11 redomesticating insurer may use existing policy
12 forms with appropriate endorsements to reflect
13 the new domicile of the redomesticating insurer
14 until the new policy forms are approved for use
15 by the State insurance regulator of such li-
16 censed State.

17 (e) NOTICE.—A redomesticating insurer shall give
18 notice of the proposed transfer to the State insurance reg-
19 ulator of each licensed State and shall file promptly any
20 resulting amendments to corporate documents required to
21 be filed by a foreign licensed mutual insurer with the in-
22 surance regulator of each such licensed State.

23 (f) PROCEDURAL REQUIREMENTS.—No mutual in-
24 surer may redomesticate to another State and reorganize
25 into a mutual holding company pursuant to this section

1 unless the State insurance regulator of the transferee
2 domicile determines that the plan of reorganization of the
3 insurer includes the following requirements:

4 (1) APPROVAL BY BOARD OF DIRECTORS AND
5 POLICYHOLDERS.—The reorganization is approved
6 by at least a majority of the board of directors of
7 the mutual insurer and at least a majority of the
8 policyholders who vote after notice, disclosure of the
9 reorganization and the effects of the transaction on
10 policyholder contractual rights, and reasonable op-
11 portunity to vote, in accordance with such notice,
12 disclosure, and voting procedures as are approved by
13 the State insurance regulator of the transferee domi-
14 cile.

15 (2) CONTINUED VOTING CONTROL BY POLICY-
16 HOLDERS; REVIEW OF PUBLIC STOCK OFFERING.—
17 After the consummation of a reorganization, the pol-
18 icyholders of the reorganized insurer shall have the
19 same voting rights with respect to the mutual hold-
20 ing company as they had before the reorganization
21 with respect to the mutual insurer. With respect to
22 an initial public offering of stock, the offering shall
23 be conducted in compliance with applicable securities
24 laws and in a manner approved by the State insur-
25 ance regulator of the transferee domicile.

1 (3) AWARD OF STOCK OR GRANT OF OPTIONS
2 TO OFFICERS AND DIRECTORS.—For a period of 6
3 months after completion of an initial public offering,
4 neither a stock holding company nor the converted
5 insurer shall award any stock options or stock
6 grants to persons who are elected officers or direc-
7 tors of the mutual holding company, the stock hold-
8 ing company, or the converted insurer, except with
9 respect to any such awards or options to which a
10 person is entitled as a policyholder and as approved
11 by the State insurance regulator of the transferee
12 domicile.

13 (4) CONTRACTUAL RIGHTS.—Upon reorganiza-
14 tion into a mutual holding company, the contractual
15 rights of the policyholders are preserved.

16 (5) FAIR AND EQUITABLE TREATMENT OF POL-
17 ICYHOLDERS.—The reorganization is approved as
18 fair and equitable to the policyholders by the insur-
19 ance regulator of the transferee domicile.

20 **SEC. 313. EFFECT ON STATE LAWS RESTRICTING REDOMES-**
21 **TICATION.**

22 (a) IN GENERAL.—Unless otherwise permitted by
23 this subtitle, State laws of any transferor domicile that
24 conflict with the purposes and intent of this subtitle are
25 preempted, including but not limited to—

1 (1) any law that has the purpose or effect of
2 impeding the activities of, taking any action against,
3 or applying any provision of law or regulation to,
4 any insurer or an affiliate of such insurer because
5 that insurer or any affiliate plans to redomesticate,
6 or has redomesticated, pursuant to this subtitle;

7 (2) any law that has the purpose or effect of
8 impeding the activities of, taking action against, or
9 applying any provision of law or regulation to, any
10 insured or any insurance licensee or other inter-
11 mediary because such person has procured insurance
12 from or placed insurance with any insurer or affil-
13 iate of such insurer that plans to redomesticate, or
14 has redomesticated, pursuant to this subtitle, but
15 only to the extent that such law would treat such in-
16 sured licensee or other intermediary differently than
17 if the person procured insurance from, or placed in-
18 surance with, an insured licensee or other inter-
19 mediary which had not redomesticated;

20 (3) any law that has the purpose or effect of
21 terminating, because of the redomestication of a mu-
22 tual insurer pursuant to this subtitle, any certificate
23 of authority, agent appointment or license, rate ap-
24 proval, or other approval, of any State insurance
25 regulator or other State authority in existence imme-

1 diately prior to the redomestication in any State
2 other than the transferee domicile.

3 (b) DIFFERENTIAL TREATMENT PROHIBITED.—No
4 State law, regulation, interpretation, or functional equiva-
5 lent thereof, of a State other than a transferee domicile
6 may treat a redomesticating or redomesticated insurer or
7 any affiliate thereof any differently than an insurer oper-
8 ating in that State that is not a redomesticating or re-
9 domesticated insurer.

10 (c) LAWS PROHIBITING OPERATIONS.—If any li-
11 censed State fails to issue, delays the issuance of, or seeks
12 to revoke an original or renewal certificate of authority
13 of a redomesticated insurer immediately following re-
14 domestication, except on grounds and in a manner con-
15 sistent with its past practices regarding the issuance of
16 certificates of authority to foreign insurers that are not
17 redomesticating, then the redomesticating insurer shall be
18 exempt from any State law of the licensed State to the
19 extent that such State law or the operation of such State
20 law would make unlawful, or regulate, directly or indi-
21 rectly, the operation of the redomesticated insurer, except
22 that such licensed State may require the redomesticated
23 insurer to—

24 (1) comply with the unfair claim settlement
25 practices law of the licensed State;

1 (2) pay, on a nondiscriminatory basis, applica-
2 ble premium and other taxes which are levied on li-
3 censed insurers or policyholders under the laws of
4 the licensed State;

5 (3) register with and designate the State insur-
6 ance regulator as its agent solely for the purpose of
7 receiving service of legal documents or process;

8 (4) submit to an examination by the State in-
9 surance regulator in any licensed state in which the
10 redomesticated insurer is doing business to deter-
11 mine the insurer's financial condition, if—

12 (A) the State insurance regulator of the
13 transferee domicile has not begun an examina-
14 tion of the redomesticated insurer and has not
15 scheduled such an examination to begin before
16 the end of the 1-year period beginning on the
17 date of the redomestication; and

18 (B) any such examination is coordinated to
19 avoid unjustified duplication and repetition;

20 (5) comply with a lawful order issued in—

21 (A) a delinquency proceeding commenced
22 by the State insurance regulator of any licensed
23 State if there has been a judicial finding of fi-
24 nancial impairment under paragraph (7); or

25 (B) a voluntary dissolution proceeding;

1 (6) comply with any State law regarding decep-
2 tive, false, or fraudulent acts or practices, except
3 that if the licensed State seeks an injunction regard-
4 ing the conduct described in this paragraph, such in-
5 junction must be obtained from a court of competent
6 jurisdiction as provided in section 314(a);

7 (7) comply with an injunction issued by a court
8 of competent jurisdiction, upon a petition by the
9 State insurance regulator alleging that the redomes-
10 ticating insurer is in hazardous financial condition
11 or is financially impaired;

12 (8) participate in any insurance insolvency
13 guaranty association on the same basis as any other
14 insurer licensed in the licensed State; and

15 (9) require a person acting, or offering to act,
16 as an insurance licensee for a redomesticated insurer
17 in the licensed State to obtain a license from that
18 State, except that such State may not impose any
19 qualification or requirement that discriminates
20 against a nonresident insurance licensee.

21 **SEC. 314. OTHER PROVISIONS.**

22 (a) **JUDICIAL REVIEW.**—The appropriate United
23 States district court shall have exclusive jurisdiction over
24 litigation arising under this section involving any redomes-
25 ticating or redomesticated insurer.

1 (b) SEVERABILITY.—If any provision of this section,
2 or the application thereof to any person or circumstances,
3 is held invalid, the remainder of the section, and the appli-
4 cation of such provision to other persons or circumstances,
5 shall not be affected thereby.

6 **SEC. 315. DEFINITIONS.**

7 For purposes of this subtitle, the following definitions
8 shall apply:

9 (1) COURT OF COMPETENT JURISDICTION.—

10 The term “court of competent jurisdiction” means a
11 court authorized pursuant to section 314(a) to adju-
12 dicate litigation arising under this subtitle.

13 (2) DOMICILE.—The term “domicile” means
14 the State in which an insurer is incorporated, char-
15 tered, or organized.

16 (3) INSURANCE LICENSEE.—The term “insur-
17 ance licensee” means any person holding a license
18 under State law to act as insurance agent, subagent,
19 broker, or consultant.

20 (4) INSTITUTION.—The term “institution”
21 means a corporation, joint stock company, limited li-
22 ability company, limited liability partnership, asso-
23 ciation, trust, partnership, or any similar entity.

24 (5) LICENSED STATE.—The term “licensed
25 State” means any State, the District of Columbia,

1 American Samoa, Guam, Puerto Rico, or the United
2 States Virgin Islands in which the redomesticating
3 insurer has a certificate of authority in effect imme-
4 diately prior to the redomestication.

5 (6) MUTUAL INSURER.—The term “mutual in-
6 surer” means a mutual insurer organized under the
7 laws of any State.

8 (7) PERSON.—The term “person” means an in-
9 dividual, institution, government or governmental
10 agency, State or political subdivision of a State, pub-
11 lic corporation, board, association, estate, trustee, or
12 fiduciary, or other similar entity.

13 (8) POLICYHOLDER.—The term “policyholder”
14 means the owner of a policy issued by a mutual in-
15 surer, except that, with respect to voting rights, the
16 term means a member of a mutual insurer or mu-
17 tual holding company granted the right to vote, as
18 determined under applicable State law.

19 (9) REDOMESTICATED INSURER.—The term
20 “redomesticated insurer” means a mutual insurer
21 that has redomesticated pursuant to this subtitle.

22 (10) REDOMESTICATING INSURER.—The term
23 “redomesticating insurer” means a mutual insurer
24 that is redomesticating pursuant to this subtitle.

1 (11) REDOMESTICATION OR TRANSFER.—The
2 terms “redomestication” and “transfer” mean the
3 transfer of the domicile of a mutual insurer from
4 one State to another State pursuant to this subtitle.

5 (12) STATE INSURANCE REGULATOR.—The
6 term “State insurance regulator” means the prin-
7 cipal insurance regulatory authority of a State, the
8 District of Columbia, American Samoa, Guam,
9 Puerto Rico, or the United States Virgin Islands.

10 (13) STATE LAW.—The term “State law”
11 means the statutes of any State, the District of Co-
12 lumbia, American Samoa, Guam, Puerto Rico, or the
13 United States Virgin Islands and any regulation,
14 order, or requirement prescribed pursuant to any
15 such statute.

16 (14) TRANSFEREE DOMICILE.—The term
17 “transferee domicile” means the State to which a
18 mutual insurer is redomesticating pursuant to this
19 subtitle.

20 (15) TRANSFEROR DOMICILE.—The term
21 “transferor domicile” means the State from which a
22 mutual insurer is redomesticating pursuant to this
23 subtitle.

1 SEC. 316. EFFECTIVE DATE.

2 This subtitle shall take effect on the date of the en-
3 actment of this Act.