

A motion to reconsider was laid on the table.

Stated for:

Mr. KELLER. Mr. Speaker, on rollcall No. 491, I voted "aye" and I was here. Apparently, there was a card malfunction and it did not record my vote. Had I been present, I would have voted "aye".

**AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN EN-GROSSMENT OF H.R. 6166, MILITARY COMMISSIONS ACT OF 2006**

Mr. CONAWAY. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 6166, the Clerk be authorized to correct section numbers, punctuation, cross-references, and the table of contents, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, and that the Clerk be authorized to make additional technical corrections.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

**ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE**

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

RECORD votes on postponed questions will be taken later today.

**NONADMITTED AND REINSURANCE REFORM ACT OF 2006**

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5637) to streamline the regulation of nonadmitted insurance and reinsurance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5637

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Nonadmitted and Reinsurance Reform Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title and table of contents.  
Sec. 2. Effective date.

**TITLE I—NONADMITTED INSURANCE**

- Sec. 101. Reporting, payment, and allocation of premium taxes.  
Sec. 102. Regulation of nonadmitted insurance by insured's home State.  
Sec. 103. Participation in national producer database.  
Sec. 104. Uniform standards for surplus lines eligibility.  
Sec. 105. Streamlined application for commercial purchasers.

Sec. 106. GAO study of nonadmitted insurance market.

Sec. 107. Definitions.

**TITLE II—REINSURANCE**

Sec. 201. Regulation of credit for reinsurance and reinsurance agreements.

Sec. 202. Regulation of reinsurer solvency.

Sec. 203. Definitions.

**TITLE III—RULE OF CONSTRUCTION**

Sec. 301. Rule of Construction.

**SEC. 2. EFFECTIVE DATE.**

Except as otherwise specifically provided in this Act, this Act shall take effect upon the expiration of the 12-month period beginning on the date of the enactment of this Act.

**TITLE I—NONADMITTED INSURANCE**

**SEC. 101. REPORTING, PAYMENT, AND ALLOCATION OF PREMIUM TAXES.**

(a) HOME STATE'S EXCLUSIVE AUTHORITY.—No State other than the home State of an insured may require any premium tax payment for nonadmitted insurance.

(b) ALLOCATION OF NONADMITTED PREMIUM TAXES.—

(1) IN GENERAL.—The States may enter into a compact or otherwise establish procedures to allocate among the States the premium taxes paid to an insured's home State described in subsection (a).

(2) EFFECTIVE DATE.—Except as expressly otherwise provided in such compact or other procedures, any such compact or other procedures—

(A) if adopted on or before the expiration of the 330-day period that begins on the date of the enactment of this Act, shall apply to any premium taxes that, on or after such date of enactment, are required to be paid to any State that is subject to such compact or procedures; and

(B) if adopted after the expiration of such 330-day period, shall apply to any premium taxes that, on or after January 1 of the first calendar year that begins after the expiration of such 330-day period, are required to be paid to any State that is subject to such compact or procedures.

(3) REPORT.—Upon the expiration of the 330-day period referred to in paragraph (2), the NAIC may submit a report to the Committee on Financial Services and Committee on the Judiciary of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate identifying and describing any compact or other procedures for allocation among the States of premium taxes that have been adopted during such period by any States.

(4) NATIONWIDE SYSTEM.—The Congress intends that each State adopt a nationwide or uniform procedure, such as an interstate compact, that provides for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance consistent with this section.

(c) ALLOCATION BASED ON TAX ALLOCATION REPORT.—To facilitate the payment of premium taxes among the States, an insured's home State may require surplus lines brokers and insureds who have independently procured insurance to annually file tax allocation reports with the insured's home State detailing the portion of the nonadmitted insurance policy premium or premiums attributable to properties, risks or exposures located in each State. The filing of a nonadmitted insurance tax allocation report and the payment of tax may be made by a person authorized by the insured to act as its agent.

**SEC. 102. REGULATION OF NONADMITTED INSURANCE BY INSURED'S HOME STATE.**

(a) HOME STATE AUTHORITY.—Except as otherwise provided in this section, the placement of nonadmitted insurance shall be sub-

ject to the statutory and regulatory requirements solely of the insured's home State.

(b) BROKER LICENSING.—No State other than an insured's home State may require a surplus lines broker to be licensed in order to sell, solicit, or negotiate nonadmitted insurance with respect to such insured.

(c) ENFORCEMENT PROVISION.—Any law, regulation, provision, or action of any State that applies or purports to apply to nonadmitted insurance sold to, solicited by, or negotiated with an insured whose home State is another State shall be preempted with respect to such application.

(d) WORKERS' COMPENSATION EXCEPTION.—This section may not be construed to preempt any State law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a nonadmitted insurer.

**SEC. 103. PARTICIPATION IN NATIONAL PRODUCER DATABASE.**

After the expiration of the 2-year period beginning on the date of the enactment of this Act, a State may not collect any fees relating to licensing of an individual or entity as a surplus lines broker in the State unless the State has in effect at such time laws or regulations that provide for participation by the State in the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses.

**SEC. 104. UNIFORM STANDARDS FOR SURPLUS LINES ELIGIBILITY.**

A State may not—

(1) impose eligibility requirements on, or otherwise establish eligibility criteria for, nonadmitted insurers domiciled in a United States jurisdiction, except in conformance with section 5A(2) and 5C(2)(a) of the Non-Admitted Insurance Model Act; and

(2) prohibit a surplus lines broker from placing nonadmitted insurance with, or procuring nonadmitted insurance from, a nonadmitted insurer domiciled outside the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC.

**SEC. 105. STREAMLINED APPLICATION FOR COMMERCIAL PURCHASERS.**

A surplus lines broker seeking to procure or place nonadmitted insurance in a State for an exempt commercial purchaser shall not be required to satisfy any State requirement to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from admitted insurers if—

(1) the broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and

(2) the exempt commercial purchaser has subsequently requested in writing the broker to procure or place such insurance from a nonadmitted insurer.

**SEC. 106. GAO STUDY OF NONADMITTED INSURANCE MARKET.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the nonadmitted insurance market to determine the effect of the enactment of this title on the size and market share of the nonadmitted insurance market for providing coverage typically provided by the admitted insurance market.

(b) CONTENTS.—The study shall determine and analyze—

(1) the change in the size and market share of the nonadmitted insurance market and in

the number of insurance companies and insurance holding companies providing such business in the 18-month period that begins upon the effective date of this Act;

(2) the extent to which insurance coverage typically provided by the admitted insurance market has shifted to the nonadmitted insurance market;

(3) the consequences of any change in the size and market share of the nonadmitted insurance market, including differences in the price and availability of coverage available in both the admitted and nonadmitted insurance markets;

(4) the extent to which insurance companies and insurance holding companies that provide both admitted and nonadmitted insurance have experienced shifts in the volume of business between admitted and nonadmitted insurance; and

(5) the extent to which there has been a change in the number of individuals who have nonadmitted insurance policies, the type of coverage provided under such policies, and whether such coverage is available in the admitted insurance market.

(c) CONSULTATION WITH NAIC.—In conducting the study under this section, the Comptroller General shall consult with the NAIC.

(d) REPORT.—The Comptroller General shall complete the study under this section and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate regarding the findings of the study not later than 30 months after the effective date of this Act.

#### SEC. 107. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) ADMITTED INSURER.—The term “admitted insurer” means, with respect to a State, an insurer licensed to engage in the business of insurance in such State.

(2) EXEMPT COMMERCIAL PURCHASER.—The term “exempt commercial purchaser” means any person purchasing commercial insurance that meets the following requirements:

(A) The person employs or retains a qualified risk manager to negotiate insurance coverage.

(B) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of \$100,000 in the immediately preceding 12 months.

(C) The person meets at least one of the following criteria:

(i) The person possesses a net worth in excess of \$20,000,000.

(ii) The person generates annual revenues in excess of \$50,000,000.

(iii) The person employs more than 500 full time or full time equivalent employees per individual insured or is a member of affiliated group employing more than 1,000 employees in the aggregate.

(iv) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$30,000,000.

(v) The person is a municipality with a population in excess of 50,000 persons.

(3) HOME STATE.—The term “home State” means the State in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence.

(4) INDEPENDENTLY PROCURED INSURANCE.—The term “independently procured insurance” means insurance procured directly by an insured from a nonadmitted insurer.

(5) NAIC.—The term “NAIC” means the National Association of Insurance Commissioners or any successor entity.

(6) NONADMITTED INSURANCE.—The term “nonadmitted insurance” means any prop-

erty and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept such insurance.

(7) NON-ADMITTED INSURANCE MODEL ACT.—The term “Non-Admitted Insurance Model Act” means the provisions of the Non-Admitted Insurance Model Act, as adopted by the NAIC on August 3, 1994, and amended on September 30, 1996, December 6, 1997, October 2, 1999, and June 8, 2002.

(8) NONADMITTED INSURER.—The term “non-admitted insurer” means, with respect to a State, an insurer not licensed to engage in the business of insurance in such State.

(9) QUALIFIED RISK MANAGER.—The term “qualified risk manager” means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:

(A) The person is an employee of, or third party consultant retained by, the commercial policyholder.

(B) The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance.

(C) The person possesses at least two of the following credentials:

(i) An advanced degree in risk management issued by an accredited college or university.

(ii) At least 5 years of experience in one or more of the following areas of commercial property insurance or commercial casualty insurance:

(I) Risk financing.

(II) Claims administration.

(III) Loss prevention.

(IV) Risk and insurance coverage analysis.

(iii) At least one of the following designations:

(I) A designation as a Chartered Property and Casualty Underwriter (in this clause referred to as “CPCU”) issued by the American Institute for CPCU/Insurance Institute of America.

(II) A designation as an Associate in Risk Management (ARM) issued by American Institute for CPCU/Insurance Institute of America.

(III) A designation as a Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education & Research.

(IV) A designation as a RIMS Fellow (RF) issued by the Global Risk Management Institute.

(V) Any other designation, certification, or license determined by a State insurance commissioner or other State insurance regulatory official or entity to demonstrate minimum competency in risk management.

(10) PREMIUM TAX.—The term “premium tax” means, with respect to surplus lines or independently procured insurance coverage, any tax, fee, assessment, or other charge imposed by a State on an insured based on any payment made as consideration for an insurance contract for such insurance, including premium deposits, assessments, registration fees, and any other compensation given in consideration for a contract of insurance.

(11) SURPLUS LINES BROKER.—The term “surplus lines broker” means an individual, firm, or corporation which is licensed in a State to sell, solicit, or negotiate insurance on properties, risks, or exposures located or to be performed in a State with nonadmitted insurers.

(12) STATE.—The term “State” includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

## TITLE II—REINSURANCE

### SEC. 201. REGULATION OF CREDIT FOR REINSURANCE AND REINSURANCE AGREEMENTS.

(a) CREDIT FOR REINSURANCE.—If the State of domicile of a ceding insurer is an NAIC-accredited State, or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, and recognizes credit for reinsurance for the insurer’s ceded risk, then no other State may deny such credit for reinsurance.

(b) ADDITIONAL PREEMPTION OF EXTRATERRITORIAL APPLICATION OF STATE LAW.—In addition to the application of subsection (a), all laws, regulations, provisions, or other actions of a State other than those of the State of domicile of the ceding insurer are preempted to the extent that they—

(1) restrict or eliminate the rights of the ceding insurer or the assuming insurer to resolve disputes pursuant to contractual arbitration to the extent such contractual provision is not inconsistent with the provisions of title 9, United States Code;

(2) require that a certain State’s law shall govern the reinsurance contract, disputes arising from the reinsurance contract, or requirements of the reinsurance contract;

(3) attempt to enforce a reinsurance contract on terms different than those set forth in the reinsurance contract, to the extent that the terms are not inconsistent with this title; or

(4) otherwise apply the laws of the State to reinsurance agreements of ceding insurers not domiciled in that State.

### SEC. 202. REGULATION OF REINSURER SOLVENCY.

(a) DOMICILIARY STATE REGULATION.—If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, such State shall be solely responsible for regulating the financial solvency of the reinsurer.

(b) NONDOMICILIARY STATES.—

(1) LIMITATION ON FINANCIAL INFORMATION REQUIREMENTS.—If the State of domicile of a reinsurer is an NAIC-accredited State or has financial solvency requirements substantially similar to the requirements necessary for NAIC accreditation, no other State may require the reinsurer to provide any additional financial information other than the information the reinsurer is required to file with its domiciliary State.

(2) RECEIPT OF INFORMATION.—No provision of this section shall be construed as preventing or prohibiting a State that is not the State of domicile of a reinsurer from receiving a copy of any financial statement filed with its domiciliary State.

### SEC. 203. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) CEDING INSURER.—The term “ceding insurer” means an insurer that purchases reinsurance.

(2) DOMICILIARY STATE.—The terms “State of domicile” and “domiciliary State” means, with respect to an insurer or reinsurer, the State in which the insurer or reinsurer is incorporated or entered through, and licensed.

(3) REINSURANCE.—The term “reinsurance” means the assumption by an insurer of all or part of a risk undertaken originally by another insurer.

(4) REINSURER.—

(A) IN GENERAL.—The term “reinsurer” means an insurer to the extent that the insurer—

(i) is principally engaged in the business of reinsurance;

(ii) does not conduct significant amounts of direct insurance as a percentage of its net premiums; and

(iii) is not engaged in an ongoing basis in the business of soliciting direct insurance.

(B) DETERMINATION.—A determination of whether an insurer is a reinsurer shall be made under the laws of the State of domicile in accordance with this paragraph.

(5) STATE.—The term "State" includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa.

**TITLE III—RULE OF CONSTRUCTION**  
**SEC. 301. RULE OF CONSTRUCTION.**

Nothing in this Act or amendments to this Act shall be construed to modify, impair, or supersede the application of the antitrust laws. Any implied or actual conflict between this Act and any amendments to this Act and the antitrust laws shall be resolved in favor of the operation of the antitrust laws.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. OXLEY) and the gentleman from Kansas (Mr. MOORE) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio.

**GENERAL LEAVE**

Mr. OXLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. OXLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today is a historic moment in the evolution of our insurance marketplace. The Nonadmitted and Reinsurance Reform Act is an important reform for consumers, helping American homeowners and businesses to obtain more available and more affordable insurance coverage. It will especially help consumers in high-cost areas, such as coastal regions and urban cities vulnerable to terrorist risk. But equally important, this bill is the next critical step in a long journey towards comprehensive reform of how insurance is regulated at the State and Federal levels.

In 1995, I chaired some of the first hearings in the new Republican Congress on insurance reform and helped shape the largest financial services modernization bill of the last decade, the Gramm-Leach-Bliley Act. We finally got GLBA enacted in the waning days of 1999, but it wasn't easy. The Congress had been working on regulatory reform for some 66 years, enough time for three generations of lobbyists to put their children through college.

The debate on GLBA underscored the importance of the financial services industry to our country and the critical need for additional reform. To facilitate further legislative reforms and continue building on our hard-fought success, the House leadership created the Committee on Financial Services, which I have had the privilege of chairing for nearly its 6 years in existence.

Since then, we have had dozens of hearings with hundreds of witnesses on insurance regulation. We have heard that, starting back in 1871, the State insurance regulators committed to modernizing their regulations to provide for more uniformity and coordination and that they continue to hope to some day reach that goal. We have sorted through numerous State and Federal proposals to address the problems of a sluggish insurance marketplace beset by inefficient regulation and the threats of terrorism and other catastrophic disasters. And we have completed numerous investigations of how insurance providers and regulators have lived up to their promises to consumers and the marketplace.

After Gramm-Leach-Bliley, the heads of the State insurance regulators approached our committee to work together in forging several formal policy papers making a commitment towards uniformity and reform, culminating in an agreement to pursue Federal legislation to help the States achieve their own modernization goals.

These policy discussions culminated in the State Modernization and Regulatory Transparency Act, or SMART, as a template for further reform. Two of the SMART titles that appeared to have the greatest bipartisan consensus now form the basis of the legislation before us being moved forward by the leadership of Representative GINNY BROWN-WAITE, Representative MOORE, Capital Market Subcommittee Chairman BAKER, Representative WASSERMAN SCHULTZ, and several others.

Insurance reform is never easy and never quick. Believe me, it is never quick. Each success that we have had has been the result of strong bipartisan cooperation in working together to overcome the turf and vested interests that will always cling to the status quo.

I am proud though to have had the opportunity to work with my colleagues to finish one stage of modernization and help launch the next, and I wish my colleagues well as they continue down this long journey towards modernization of insurance regulation.

I again compliment the bill cosponsors, subcommittee Chairman BAKER and Ranking Members FRANK and KANJORSKI for their help and leadership. I look forward to passing this measure to improve the availability and affordability of insurance and taking another giant leap forward in this historical step towards insurance reform.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORE of Kansas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank Congresswoman GINNY BROWN-WAITE for introducing H.R. 5637, the Nonadmitted and Reinsurance Reform Act, and for working with me on it as it has moved through the legislative process.

I would also like to thank Chairman MIKE OXLEY and RICHARD BAKER and Ranking Members BARNEY FRANK and PAUL KANJORSKI for their support of this measure. The bipartisan support for this bill is a good example of how both sides can come together to introduce and pass legislation that is not and should not be about Democrats and Republicans.

Congresswoman GINNY BROWN-WAITE and I introduced H.R. 5637 three months ago on June 19 with strong bipartisan support and strong support on the Financial Services Committee. Since the bill's introduction, the Capital Market Subcommittee has held a useful and informative hearing on the issue, followed by a markup in which the bill received unanimous support. The full Financial Services Committee followed the successful subcommittee markup with a voice vote just one week later, and I look forward to strong support on the House floor today.

In short, H.R. 5637 would improve the regulation of two specific areas in the commercial insurance marketplace, namely, surplus lines and reinsurance transactions. This legislation would prohibit the extraterritorial application of State laws and allow ceding insurers and reinsurers to resolve disputes pursuant to contractual arbitration clauses. This reform, Mr. Speaker, is long overdue and necessary to restore regulatory certainty to the reinsurance market.

Finally, I would like to note that while many legislative attempts to reform the insurance industry encounter at least some industry opposition, H.R. 5637 is supported by the insurers, the reinsurers, the agents and brokers, as well as by many State regulators.

Mr. Speaker, I look forward to passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OXLEY. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from Florida (Ms. GINNY BROWN-WAITE), one of the leaders and the lead sponsor of this legislation.

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I thank the chairman.

Mr. Speaker, today the regulation of the surplus lines market is fragmented and very cumbersome. Insurers and brokers who want to provide insurance across State lines are subject to a myriad of different State tax and licensing requirements. Oftentimes these regulations will conflict, making it virtually impossible for one company to comply with all of them. This situation leaves policyholders underinsured and with little choice in providers.

Moreover, most of the policyholders who have purchased insurance in the nonadmitted market do so every day. These very sophisticated commercial entities have educated risk advisers on staff with a thorough understanding of the market and their risk exposure.

Yet most States require that these experts be denied coverage from multiple providers before they are allowed to purchase insurance in the nonadmitted market.

The reinsurance market faces additional obstacles because some State regulators are taking it upon themselves to throw out arbitration agreements between reinsurance providers and primary carriers. These are contractual agreements decided upon by sophisticated parties on both sides of the transaction to settle disputes without tying up the courts.

Accordingly, the bill that we have before us today, H.R. 5637, specifies that only the tax policies and licensing regulations of the State in which the policy holder is domiciled will govern the transaction. It also requires States within 2 years of the bill's passage to participate in the National Association of Insurance Commissioners National Insurance Producer Database and to adopt regulations under NAIC's Non-admitted Insurance Model Act.

The bill allows sophisticated commercial entities direct access to the surplus lines market without going through the multiple denial process. It also prohibits States from voiding established contractual arbitration agreements between reinsurers and primary companies.

Policyholders in a number of States are facing skyrocketing rates. With these obstacles already impeding affordability, adding a quagmire of inefficient State rules certainly does not help. Additionally, with reinsurance rates rising at an alarming rate, companies should be encouraged to stay out of the courts and to follow their own voluntarily entered into arbitration agreements. This bill provides commonsense solutions to the non-admitted and reinsurance market.

I want to thank certainly Chairman OXLEY, who will be very much missed, not only by the committee, but by this entire body, certainly Representative MOORE and the other Members who signed onto this very bipartisan bill, as well as Mr. BAKER, for their leadership on this very important issue.

I urge members to vote in favor of H.R. 5637.

Mr. MOORE of Kansas. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, as an original cosponsor of this bill, I commend the Financial Services and Judiciary Committees for working together in a bipartisan spirit to move it forward. I especially want to thank Ranking Member CONYERS and Ranking Member FRANK and you, Chairman OXLEY, for your support and leadership.

This bill provides much needed relief to Florida's commercial firms, which are experiencing severe increases, and I mean thousands of percent increases in insurance premiums.

This is not endemic to Florida. It is really happening across the Nation.

Surplus lines are a safety valve on traditional insurance markets. In some cases, they are the only way firms can get insurance when regulated lines fail.

Market perception of unsustainable increases in catastrophic risk has resulted in the precipitous decline of insurance coverage availability at astronomical cost to consumers.

This bill expands market capacity to provide surplus lines coverage. It eliminates hundreds of billions of dollars in administrative costs and duplicative filing fees, which are passed on to consumers. Maintaining the status quo means higher costs for commercial firms, consumers, and ultimately our economy.

I encourage my colleagues to support this bill because it ensures that companies are able to obtain insurance, meaning they can stay in our communities, provide much needed jobs and keep our economies strong. Companies in my home State are literally closing their doors or leaving Florida altogether because they cannot get insurance.

I urge my colleagues to support this bill.

Mr. OXLEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Bucks County, Pennsylvania (Mr. FITZPATRICK).

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, the surplus lines and reinsurance marketplace is subject to regulatory problems that hamper efficiency and pass on higher costs to policyholders.

I find it extremely troubling that surplus lines policyholders in a number of States are facing skyrocketing rates due to an unnecessary, inefficient and burdensome regulatory maze for compliance. In addition, I find it problematic that reinsurance rates are rising because some State regulators are taking it upon themselves to throw out arbitration agreements between reinsurance providers and primary carriers. For this reason, I am an original cosponsor of this bipartisan and broadly endorsed legislation.

This commonsense bill fixes the problems created by the multitude of conflicting State laws and regulations and by some state-by-state regulators that are taking it upon themselves to throw out the agreements between the reinsurance providers and primary carriers to settle disputes without tying up the courts.

Congress must correct flaws in the current regulatory regime of commercial insurance. These policyholders cannot continue to be picking up the tab because of the basic problems in the current insurance regulatory system.

I commend Congresswoman GINNY BROWN-WAITE and Congressman DENNIS MOORE for introducing this legislation. I strongly urge the Members to vote for H.R. 5637.

Mr. MOORE of Kansas. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, just as the ranking member, I want to say that the leadership shown both by the gentleman from Kansas and the gentlewoman from Florida on this has been very important. Particularly I would say the gentleman from Kansas has been a very steady contributor to our deliberations regarding the importance of balance; and given the physical conditions that have occurred in Florida and the reaction thereto, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) has been a real leader in trying to get an appropriate Federal response to the insurance crisis, and I am glad we were able to take this step today.

□ 1700

Mr. OXLEY. Mr. Speaker, I am pleased now to recognize the chairman of the Capital Markets Subcommittee, Mr. BAKER, for 2 minutes.

Mr. BAKER. Mr. Speaker, I certainly want to start by acknowledging the focused work of our chairman who has worked diligently on many aspects of reform, and the bill now pending is one small piece of a larger puzzle which has been constructed by the committee in an effort to facilitate provision of insurance of all sorts, but particularly focusing on the needs of homeowners. And a word of special appreciation from those of us in Louisiana as a result of the debacles of Katrina and Rita. We are experiencing a similar circumstance to that of our colleagues in the State of Florida.

The remedy posed under the pending bill is an important one. In one small area, it enables someone to have direct access to surplus lines policies which currently is not facilitated. Current rules require you to apply to at least three separate companies and be denied coverage before you can approach a surplus lines company to acquire the needed insurance. The proposed reform would enable certain qualifying purchasers of product, whether it be business owners or individuals, to have direct access. And in the case of the Katrina-Rita impact areas, this is of extreme importance in facilitating access to insurance which otherwise would not be made available.

I also want to speak to those members of the committee who worked diligently on this subject matter. As the ranking member indicated, this has been a bipartisan effort, and certainly Mr. MOORE and Ms. WASSERMAN SCHULTZ on their side are to be commended for their contributions. Ms. BROWN-WAITE and Mr. FITZPATRICK and others on our side have worked diligently as well.

I think the product we now have pending before the House is a very important step, but should be viewed only as that, a first step. There is much work yet to be done to facilitate regulatory commonsense oversight of the insurance industry, and hopefully provide for enhanced product development and competitiveness in markets where

we find in many States people are better served where markets are open, products are available, and prices are competitive.

I believe this surplus lines reform proposal will demonstrate that as an effective remedy to the problems we now face in a very expensive insurance market, and, in some cases, a market where a product is not available at all.

Mr. MOORE of Kansas. Mr. Speaker, I thank Mr. BAKER and the other speakers and the ranking member all for their comments. I hope we pass this.

I yield back the balance of my time.

Mr. OXLEY. Mr. Speaker, this was, again, in the great tradition of our committee, a good bipartisan effort by a lot of members that have been mentioned heretofore, and it is really what makes our committee very special. I am very proud of the work product that was put out. It is a somewhat controversial subject, the overall issue; but to be able to take a chunk of this, a very important chunk, and move it separately I think was a wise decision that our staff participated in as well as the members.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BRADLEY of New Hampshire). The question is on the motion offered by the gentleman from Ohio (Mr. OXLEY) that the House suspend the rules and pass the bill, H.R. 5637, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

#### CREDIT RATING AGENCY REFORM ACT OF 2006

Mr. OXLEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 3850) to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

The Clerk read as follows:

S. 3850

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Credit Rating Agency Reform Act of 2006".

#### SEC. 2. FINDINGS.

Upon the basis of facts disclosed by the record and report of the Securities and Exchange Commission made pursuant to section 702 of the Sarbanes-Oxley Act of 2002 (116 Stat. 797), hearings before the Committee on Banking, Housing, and Urban Af-

fairs of the Senate and the Committee on Financial Services of the House of Representatives during the 108th and 109th Congresses, comment letters to the concept releases and proposed rules of the Commission, and facts otherwise disclosed and ascertained, Congress finds that credit rating agencies are of national importance, in that, among other things—

(1) their ratings, publications, writings, analyses, and reports are furnished and distributed, and their contracts, subscription agreements, and other arrangements with clients are negotiated and performed, by the use of the mails and other means and instrumentalities of interstate commerce;

(2) their ratings, publications, writings, analyses, and reports customarily relate to the purchase and sale of securities traded on securities exchanges and in interstate over-the-counter markets, securities issued by companies engaged in business in interstate commerce, and securities issued by national banks and member banks of the Federal Reserve System;

(3) the foregoing transactions occur in such volume as substantially to affect interstate commerce, the securities markets, the national banking system, and the national economy;

(4) the oversight of such credit rating agencies serves the compelling interest of investor protection;

(5) the 2 largest credit rating agencies serve the vast majority of the market, and additional competition is in the public interest; and

(6) the Commission has indicated that it needs statutory authority to oversee the credit rating industry.

#### SEC. 3. DEFINITIONS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following new paragraphs:

“(60) CREDIT RATING.—The term ‘credit rating’ means an assessment of the creditworthiness of an obligor as an entity or with respect to specific securities or money market instruments.

“(61) CREDIT RATING AGENCY.—The term ‘credit rating agency’ means any person—

“(A) engaged in the business of issuing credit ratings on the Internet or through another readily accessible means, for free or for a reasonable fee, but does not include a commercial credit reporting company;

“(B) employing either a quantitative or qualitative model, or both, to determine credit ratings; and

“(C) receiving fees from either issuers, investors, or other market participants, or a combination thereof.

“(62) NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term ‘nationally recognized statistical rating organization’ means a credit rating agency that—

“(A) has been in business as a credit rating agency for at least the 3 consecutive years immediately preceding the date of its application for registration under section 15E;

“(B) issues credit ratings certified by qualified institutional buyers, in accordance with section 15E(a)(1)(B)(ix), with respect to—

“(i) financial institutions, brokers, or dealers;

“(ii) insurance companies;

“(iii) corporate issuers;

“(iv) issuers of asset-backed securities (as that term is defined in section 1101(c) of part 229 of title 17, Code of Federal Regulations, as in effect on the date of enactment of this paragraph);

“(v) issuers of government securities, municipal securities, or securities issued by a foreign government; or

“(vi) a combination of one or more categories of obligors described in any of clauses (i) through (v); and

“(C) is registered under section 15E.

“(63) PERSON ASSOCIATED WITH A NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—The term ‘person associated with’ a nationally recognized statistical rating organization means any partner, officer, director, or branch manager of a nationally recognized statistical rating organization (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with a nationally recognized statistical rating organization, or any employee of a nationally recognized statistical rating organization.

“(64) QUALIFIED INSTITUTIONAL BUYER.—The term ‘qualified institutional buyer’ has the meaning given such term in section 230.144A(a) of title 17, Code of Federal Regulations, or any successor thereto.”

(b) APPLICABLE DEFINITIONS.—As used in this Act—

(1) the term “Commission” means the Securities and Exchange Commission; and

(2) the term “nationally recognized statistical rating organization” has the same meaning as in section 3(a)(62) of the Securities Exchange Act of 1934, as added by this Act.

#### SEC. 4. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

(a) AMENDMENT.—The Securities Exchange Act of 1934 is amended by inserting after section 15D (15 U.S.C. 78o-6) the following new section:

#### “SEC. 15E. REGISTRATION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATIONS.

“(a) REGISTRATION PROCEDURES.—

“(1) APPLICATION FOR REGISTRATION.—

“(A) IN GENERAL.—A credit rating agency that elects to be treated as a nationally recognized statistical rating organization for purposes of this title (in this section referred to as the ‘applicant’), shall furnish to the Commission an application for registration, in such form as the Commission shall require, by rule or regulation issued in accordance with subsection (n), and containing the information described in subparagraph (B).

“(B) REQUIRED INFORMATION.—An application for registration under this section shall contain information regarding—

“(i) credit ratings performance measurement statistics over short-term, mid-term, and long-term periods (as applicable) of the applicant;

“(ii) the procedures and methodologies that the applicant uses in determining credit ratings;

“(iii) policies or procedures adopted and implemented by the applicant to prevent the misuse, in violation of this title (or the rules and regulations hereunder), of material, non-public information;

“(iv) the organizational structure of the applicant;

“(v) whether or not the applicant has in effect a code of ethics, and if not, the reasons therefor;

“(vi) any conflict of interest relating to the issuance of credit ratings by the applicant;

“(vii) the categories described in any of clauses (i) through (v) of section 3(a)(62)(B) with respect to which the applicant intends to apply for registration under this section;

“(viii) on a confidential basis, a list of the 20 largest issuers and subscribers that use the credit rating services of the applicant, by amount of net revenues received therefrom in the fiscal year immediately preceding the date of submission of the application;