

**AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE TO H.R. 2609
OFFERED BY MR. KANJORSKI OF PENNSYLVANIA,
MRS. BIGGERT OF ILLINOIS, AND MS. SPEIER
OF CALIFORNIA**

Page 2, strike lines 10 through 14, and insert the following new subparagraphs (and redesignate succeeding subparagraphs and any references to such subparagraphs, accordingly):

1 “(A) To monitor the insurance industry to
2 gain expertise.

3 “(B) To identify issues or gaps in the reg-
4 ulation of insurers that could contribute to a
5 systemic crisis in the insurance industry or the
6 United States financial system.”

Page 3, strike lines 3 through 5 and insert the following: “international insurance matters, including representing the United States as appropriate in the International Association of Insurance Supervisors or any successor organization and assist-”.

Page 4, line 3, insert “request,” after “may.”

Page 4, line 3, insert a comma after “receive”.

Page 6, line 25, after “preempted” insert “pursuant to this section or section 314”.

Page 7, line 3, strike “directly or indirectly treats” and insert “directly results in less favorable treatment of”.

Page 7, lines 6 and 7, strike “less favorably than it treats” and insert “than”.

Page 7, after line 17, insert the following new clauses (and redesignate succeeding clauses and any references to such clauses, accordingly):

- 1 “(i) notify and consult with the appro-
- 2 priate State regarding any potential incon-
- 3 sistency or preemption;
- 4 “(ii) notify and consult with the
- 5 United States Trade Representative re-
- 6 garding any potential inconsistency or pre-
- 7 emption;”

Page 8, line 15, after the semicolon insert “and”.

Page 8, strike lines 16 through 20 (and redesignate succeeding subclause accordingly).

Page 9, after line 1, insert the following:

1 “The Director shall provide the notifications re-
2 quired under clauses (i), (ii), and (iii) contem-
3 poraneously.”

Page 10, line 1, strike “(2)(B)(ii)” and insert
“(2)(C)(ii)”.

Page 10, line 16, before the period insert the fol-
lowing: “, except that in any action for judicial review of
a determination of inconsistency, the court shall deter-
mine the matter de novo”.

Page 11, after line 5, insert the following new para-
graph (and redesignate succeeding paragraph accord-
ingly):

4 “(2) preempt any State insurance measure gov-
5 erning the capital or solvency of an insurer, except
6 to the extent that such State insurance measure di-
7 rectly results in less favorable treatment of a non-
8 United States insurer than a United States insurer;”

Page 11, line 11, strike “or” the last place such
term appears.

Page 11, after line 11, insert the following new
paragraph (and redesignate succeeding paragraph accord-
ingly):

1 “(4) preempt any State insurance measure be-
2 cause of inconsistency with any agreement that is
3 not a covered agreement (as such term is defined in
4 subsection (n)); or”

Page 11, line 16, after “this section” insert “or section 314”.

Page 11, after line 19, insert the following new subsection (and redesignate succeeding subsections and any references to such subsections, accordingly):

5 “(l) RETENTION OF AUTHORITY OF FEDERAL FI-
6 NANCIAL REGULATORY AGENCIES.—Nothing in this sec-
7 tion or section 314 shall be construed to limit the author-
8 ity of any Federal financial regulatory agency, including
9 the authority to develop and coordinate policy, negotiate,
10 and enter into agreements with foreign governments, au-
11 thorities, regulators, and multi-national regulatory com-
12 mittees and to preempt State measures to affect uni-
13 formity with international regulatory agreements.

14 “(m) RETENTION OF AUTHORITY OF UNITED
15 STATES TRADE REPRESENTATIVE.—Nothing in this sec-
16 tion or section 314 shall be construed to affect the author-
17 ity of the Office of the United States Trade Representative
18 pursuant to section 141 of the Trade Act of 1974 (19
19 U.S.C. 2171) or any other provision of law, including au-

1 thority over the development and coordination of United
2 States international trade policy and the administration
3 of the United States trade agreements program.”

Page 11, strike line 20 and insert the following:

4 “(n) REPORTS TO CONGRESS.—

5 “(1) ANNUAL REPORT.—Beginning”

Page 11, line 23, strike “Committee on Financial Services” and insert “Committees on Financial Services and Ways and Means”.

Page 11, lines 24 and 25, strike “Committee on Banking, Housing and Urban Affairs” and insert “Committees on Banking, Housing, and Urban Affairs and Finance”.

Page 12, strike “, and” in line 3 and all that follows through line 5, and insert the following:

6 “(2) OTHER REPORTS.—The Director shall submit
7 to the President and the Committees referred to
8 in paragraph (1) any other information or reports as
9 deemed relevant by the Director or as requested by
10 the Chairman or Ranking Member of any of such
11 Committees.”

Page 12, line 9, before the period insert the following: “and the Secretary shall dedicate specific personnel to the Office”.

Page 12, after line 15, insert the following new paragraph (and redesignate succeeding paragraphs and any references to such paragraphs, accordingly):

1 “(2) COVERED AGREEMENT.—The term ‘cov-
2 ered agreement’ means a written bilateral or multi-
3 lateral recognition agreement that—

4 “(A) is entered into between the United
5 States and one or more foreign governments,
6 authorities, or regulatory entities; and

7 “(B) provides for recognition of prudential
8 measures with respect to the business of insur-
9 ance or reinsurance that achieves a level of pro-
10 tection for insurance or reinsurance consumers
11 that is substantially equivalent to the level of
12 protection achieved under State insurance or re-
13 insurance regulation.”

Page 12, after line 19, insert the following new paragraph (and redesignate succeeding paragraphs and any references to such paragraphs, accordingly):

14 “(4) FEDERAL FINANCIAL REGULATORY AGEN-
15 CY.—The term ‘Federal financial regulatory agency’

1 means the Department of the Treasury, the Board
2 of Governors of the Federal Reserve System, the Of-
3 fice of the Comptroller of the Currency, the Office
4 of Thrift Supervision, the Securities and Exchange
5 Commission, the Commodity Futures Trading Com-
6 mission, the Federal Deposit Insurance Corporation,
7 the Federal Housing Finance Agency, or the Na-
8 tional Credit Union Administration.”

Strike line 23 on page 12 and all that follows
through page 13, line 5.

Page 14, strike lines 14 through 18 and insert the
following:

9 **“SEC. 314. COVERED AGREEMENTS.**

10 “(a) **AUTHORITY.**—The Secretary and the United
11 States Trade Representative are authorized, jointly, to ne-
12 gotiate and enter into covered agreements on behalf of the
13 United States.

14 “(b) **REQUIREMENTS FOR CONSULTATION WITH**
15 **CONGRESS.**—

16 “(1) **IN GENERAL.**—Before initiating negotia-
17 tions to enter into a covered agreement under sub-
18 section (a), during such negotiations, and before en-
19 tering into any such agreement, the Secretary and
20 the United States Trade Representative shall jointly

1 consult with the Committee on Financial Services
2 and the Committee on Ways and Means of the
3 House of Representatives and the Committee on
4 Banking, Housing, and Urban Affairs and the Com-
5 mittee on Finance of the Senate.

6 “(2) SCOPE.—The consultation described in
7 paragraph (1) shall include consultation with respect
8 to—

9 “(A) the nature of the agreement;

10 “(B) how and to what extent the agree-
11 ment will achieve the applicable purposes, poli-
12 cies, priorities, and objectives of section 313
13 and this section; and

14 “(C) the implementation of the agreement,
15 including the general effect of the agreement on
16 existing State laws.

17 “(c) SUBMISSION AND LAYOVER PROVISIONS.—A
18 covered agreement under subsection (a) may enter into
19 force with respect to the United States only if—

20 “(1) the Secretary and the United States Trade
21 Representative jointly submit to the congressional
22 committees specified in subsection (b)(1), on a day
23 on which both Houses of Congress are in session, a
24 copy of the final legal text of the agreement; and

1 “(2) a period of 90 calendar days beginning on
2 the date on which the copy of the final legal text of
3 the agreement is submitted to the congressional
4 committees under paragraph (1) has expired.”.

Page 15, after line 10, strike the item relating to section 314 and insert the following new item:

“Sec. 314. Covered agreements.”.

Strike “international insurance agreement on prudential measures” and insert “covered agreement” in each of the following places: Page 7, lines 23 and 24. Page 9, lines 7 and 8.

Strike “international insurance agreements on prudential measures” and insert “covered agreements” in each of the following places: Page 3, lines 6 and 7. Page 3, lines 10 and 11.

Strike “an international insurance agreement on prudential measures” and insert “a covered agreement” in each of the following places: Page 7, lines 5 and 6. Page 7, lines 10 and 11.

