

118TH CONGRESS  
1ST SESSION

# H. R. 2813

[Report No. 118-]

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 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 purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2023

Mr. GOOD of Virginia (for himself and Mr. WALBERG) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Energy and Commerce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JUNE --, 2023

Reported from the Committee on Education and the Workforce with amendments

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 25, 2023]

# **A BILL**

To amend the Employee Retirement Income Security Act of 1974, the Public Health Service Act, and the Internal Revenue Code of 1986 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 purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Self-Insurance Protec-*  
5 *tion Act”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

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

13 *(2) Employers that self-fund health benefit plans*  
14 *will often purchase stop-loss insurance as a financial*  
15 *risk management tool to protect against excess or un-*  
16 *expected catastrophic health plan claims losses that*  
17 *arise above projected costs paid out of company as-*  
18 *sets.*

19 *(3) Stop-loss coverage insures the employer spon-*  
20 *soring the health benefit plan against unforeseen*  
21 *health plan claims, does not insure the employee*  
22 *health benefit plan itself, and does not pay health*  
23 *care providers for medical services provided to the*  
24 *employees.*

1           (4) *Employer-sponsored health benefit plans are*  
2           *regulated under the Employee Retirement Income Se-*  
3           *curity Act of 1974, however, States regulate the avail-*  
4           *ability and the coverage terms of stop-loss insurance*  
5           *coverage that employers purchase to protect company*  
6           *assets and to protect a fund against excess or unex-*  
7           *pected claims losses.*

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

14 **SEC. 3. CERTAIN MEDICAL STOP-LOSS INSURANCE OB-**  
15                   **TAINED BY CERTAIN PLAN SPONSORS OF**  
16                   **GROUP HEALTH PLANS NOT INCLUDED**  
17                   **UNDER THE DEFINITION OF HEALTH INSUR-**  
18                   **ANCE COVERAGE.**

19          *Section 733(b)(1) of the Employee Retirement Income*  
20          *Security Act of 1974 (29 U.S.C. 1191b(b)(1)) is amended*  
21          *by adding at the end the following sentence: “Such term*  
22          *shall not include a stop-loss policy obtained by a self-in-*  
23          *sured group health plan or a plan sponsor of a group health*  
24          *plan that self-insures the health risks of its plan partici-*  
25          *pants to reimburse the plan or sponsor for losses that the*

1 *plan or sponsor incurs in providing health or medical bene-*  
2 *fits to such plan participants in excess of a predetermined*  
3 *level set forth in the stop-loss policy obtained by such plan*  
4 *or sponsor.”.*

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

6 *Section 514(b) of the Employee Retirement Income Se-*  
7 *curity Act of 1974 (29 U.S.C. 1144(b)) is amended by add-*  
8 *ing at the end the following:*

9 *“(10) The provisions of this title (including part 7 re-*  
10 *lating to group health plans) shall preempt State laws inso-*  
11 *far as they may now or hereafter prevent an employee ben-*  
12 *efit plan that is a group health plan from insuring against*  
13 *the risk of excess or unexpected health plan claims losses.”.*

Amend the title so as to read: “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 purposes.”.