

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 5011
OFFERED BY MR. OXLEY OF OHIO AND MR.
EMANUEL OF ILLINOIS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Military Personnel Fi-
3 nancial Services Protection Act”.

4 SEC. 2. CONGRESSIONAL FINDINGS.

5 The Congress finds the following:

6 (1) Our military personnel perform great sac-
7 rifices in protecting our Nation in the War on Ter-
8 ror and promoting democracy abroad.

9 (2) Our brave men and women in uniform de-
10 serve to be offered first-rate financial products in
11 order to provide for their families and to save and
12 invest for retirement.

13 (3) Our military personnel are being offered
14 high-cost securities and life insurance products by
15 some financial services companies engaging in abu-
16 sive and misleading sales practices.

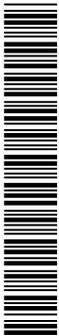


1 (4) One securities product being offered to our
2 service members, the contractual plan, has largely
3 disappeared from the civilian market since the
4 1980's due to its excessive sales charges. A 50 per-
5 cent sales commission is assessed against the first
6 year of contributions, even though the average com-
7 mission on other securities products such as mutual
8 funds is less than 6 percent on each sale.

9 (5) The excessive sales charges of the contrac-
10 tual plan makes it susceptible to abusive and mis-
11 leading sales practices.

12 (6) Certain life insurance products being of-
13 fered to our service members are being improperly
14 marketed as investment products. These products
15 provide very low death benefits for very high pre-
16 miums that are front-loaded in the first few years,
17 making them completely inappropriate for most mili-
18 tary personnel.

19 (7) Regulation of these securities and life insur-
20 ance products and their sale on military bases has
21 been clearly inadequate and requires Congressional
22 legislation to address.



1 **SEC. 3. PROHIBITION ON FUTURE SALES OF PERIODIC PAY-**
2 **MENT PLANS.**

3 (a) AMENDMENT.—Section 27 of the Investment
4 Company Act of 1940 (15 U.S.C. 80a-27) is amended by
5 adding at the end the following new subsection:

6 “(j) TERMINATION OF SALES.—

7 “(1) TERMINATION.—Effective 30 days after
8 the date of enactment of the Military Personnel Fi-
9 nancial Services Protection Act, it shall be unlawful,
10 subject to subsection (i)—

11 “(A) for any registered investment com-
12 pany to issue any periodic payment plan certifi-
13 cate; or

14 “(B) for such company, or any depositor of
15 or underwriter for any such company, or any
16 other person, to sell such a certificate.

17 “(2) NO INVALIDATION OF EXISTING CERTIFI-
18 CATES.—Paragraph (1) shall not be construed to
19 alter, invalidate, or otherwise affect any rights or ob-
20 ligations, including rights of redemption, under any
21 periodic payment plan certificate issued and sold be-
22 fore 30 days after such date of enactment.”.

23 (b) TECHNICAL AMENDMENT.—Section 27(i)(2)(B)
24 of such Act is amended by striking “section 26(e)” each
25 place it appears and inserting “section 26(f)”.



1 **SEC. 4. METHOD OF MAINTAINING BROKER/DEALER REG-**
2 **ISTRATION, DISCIPLINARY, AND OTHER**
3 **DATA.**

4 Subsection (i) of section 15A of the Securities Ex-
5 change Act of 1934 (15 U.S.C. 78o-3(i)) is amended to
6 read as follows:

7 “(i) OBLIGATION TO MAINTAIN REGISTRATION, DIS-
8 CIPLINARY AND OTHER DATA.—

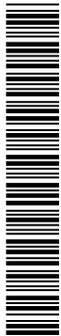
9 “(1) MAINTENANCE OF SYSTEM TO RESPOND
10 TO INQUIRIES.—A registered securities association
11 shall—

12 “(A) establish and maintain a system for
13 collecting and retaining registration informa-
14 tion;

15 “(B) establish and maintain a toll-free
16 telephone listing, and a readily accessible elec-
17 tronic or other process, to receive and promptly
18 respond to inquiries regarding—

19 “(i) registration information on its
20 members and their associated persons; and

21 “(ii) registration information on the
22 members and their associated persons of
23 any registered national securities exchange
24 that uses the system described in subpara-
25 graph (A) for the registration of its mem-
26 bers and their associated persons; and



1 “(C) adopt rules governing the process for
2 making inquiries and the type, scope, and pres-
3 entation of information to be provided in re-
4 sponse to such inquiries in consultation with
5 any registered national securities exchange pro-
6 viding information pursuant to subparagraph
7 (B)(ii).

8 “(2) RECOVERY OF COSTS.—Such an associa-
9 tion may charge persons making inquiries, other
10 than individual investors, reasonable fees for re-
11 sponses to such inquiries.

12 “(3) PROCESS FOR DISPUTED INFORMATION.—
13 Such an association shall adopt rules establishing an
14 administrative process for disputing the accuracy of
15 information provided in response to inquiries under
16 this subsection in consultation with any registered
17 national securities exchange providing information
18 pursuant to paragraph (1)(B)(ii).

19 “(4) LIMITATION OF LIABILITY.—Such an asso-
20 ciation, or an exchange reporting information to
21 such an association, shall not have any liability to
22 any person for any actions taken or omitted in good
23 faith under this subsection.

24 “(5) DEFINITION.—For purposes of this sub-
25 section, the term ‘registration information’ means



1 the information reported in connection with the reg-
2 istration or licensing of brokers and dealers and
3 their associated persons, including disciplinary ac-
4 tions, regulatory, judicial, and arbitration pro-
5 ceedings, and other information required by law, or
6 exchange or association rule, and the source and sta-
7 tus of such information.”.

8 **SEC. 5. FILING DEPOSITORIES FOR INVESTMENT ADVIS-**
9 **ERS.**

10 (a) AMENDMENT.—Section 204 of the Investment
11 Advisers Act of 1940 (15 U.S.C. 80b-4) is amended—

12 (1) by striking “Every investment” and insert-
13 ing the following:

14 “(a) IN GENERAL.—Every investment”; and

15 (2) by adding at the end the following:

16 “(b) FILING DEPOSITORIES.—The Commission may,
17 by rule, require an investment adviser—

18 “(1) to file with the Commission any fee, appli-
19 cation, report, or notice required to be filed by this
20 title or the rules issued under this title through any
21 entity designated by the Commission for that pur-
22 pose; and

23 “(2) to pay the reasonable costs associated with
24 such filing and the establishment and maintenance
25 of the systems required by subsection (c).



1 “(c) ACCESS TO DISCIPLINARY AND OTHER INFOR-
2 MATION.—

3 “(1) MAINTENANCE OF SYSTEM TO RESPOND
4 TO INQUIRIES.—The Commission shall require the
5 entity designated by the Commission under sub-
6 section (b)(1) to establish and maintain a toll-free
7 telephone listing, or a readily accessible electronic or
8 other process, to receive and promptly respond to in-
9 quires regarding registration information (including
10 disciplinary actions, regulatory, judicial, and arbitra-
11 tion proceedings, and other information required by
12 law or rule to be reported) involving investment ad-
13 visers and persons associated with investment advis-
14 ers.

15 “(2) RECOVERY OF COSTS.—An entity des-
16 ignated by the Commission under subsection (b)(1)
17 may charge persons making inquiries, other than in-
18 dividual investors, reasonable fees for responses to
19 inquiries made under paragraph (1).

20 “(3) LIMITATION ON LIABILITY.—An entity
21 designated by the Commission under subsection
22 (b)(1) shall not have any liability to any person for
23 any actions taken or omitted in good faith under
24 this subsection.”.

25 (b) CONFORMING AMENDMENTS.—



1 (1) Section 203A of the Investment Advisers
2 Act of 1940 (15 U.S.C. 80b-3a) is amended—

3 (A) by striking subsection (d); and

4 (B) by redesignating subsection (e) as sub-
5 section (d).

6 (2) Section 306 of the National Securities Mar-
7 kets Improvement Act of 1996 (15 U.S.C. 80b-10,
8 note; P.L. 104-290; 110 Stat. 3439) is repealed.

9 **SEC. 6. STATE INSURANCE JURISDICTION ON MILITARY IN-**
10 **STALLATIONS.**

11 (a) CLARIFICATION OF JURISDICTION.—Any law,
12 regulation, or order of a State with respect to regulating
13 the business of insurance shall apply to insurance activi-
14 ties conducted on Federal land or facilities in the United
15 States and abroad, including military installations, except
16 to the extent that such law, regulation, or order—

17 (1) directly conflicts with any applicable Fed-
18 eral law, regulation, or authorized directive; or

19 (2) would not apply if such activity were con-
20 ducted on State land.

21 (b) PRIMARY STATE JURISDICTION.—To the extent
22 that multiple State laws would otherwise apply pursuant
23 to subsection (a) to an insurance activity of an individual
24 or entity on Federal land or facilities, the State having
25 the primary duty to regulate such activity and whose laws



1 shall apply to such activity in the case of a conflict shall
2 be—

3 (1) the State within which the Federal land or
4 facility is located; or

5 (2) if the Federal land or facility is located out-
6 side of the United States, the State in which—

7 (A) in the case of an individual engaged in
8 the business of insurance, such individual has
9 been issued a resident license; or

10 (B) in the case of an entity engaged in the
11 business of insurance, such entity is domiciled.

12 **SEC. 7. REQUIRED DEVELOPMENT OF MILITARY PER-**
13 **SONNEL PROTECTION STANDARDS REGARD-**
14 **ING INSURANCE SALES.**

15 (a) STATE STANDARDS.—The Congress intends
16 that—

17 (1) the States collectively work with the Sec-
18 retary of Defense to ensure implementation of ap-
19 propriate standards to protect members of the
20 Armed Forces from dishonest and predatory insur-
21 ance sales practices while on a military installation
22 of the United States (including installations located
23 outside of the United States); and

24 (2) each State identify its role in promoting the
25 standards described in paragraph (1) in a uniform



1 manner within 12 months after the date of the en-
2 actment of this Act.

3 (b) STATE REPORT.—It is the sense of the Congress
4 that the NAIC should, after consultation with the Sec-
5 retary of Defense and within 12 months after the date
6 of the enactment of this Act, conduct a study to determine
7 the extent to which the States have met the requirement
8 of subsection (a) and report such study to the Committee
9 on Financial Services of the House of Representatives and
10 the Committee on Banking, Housing, and Urban Affairs
11 of the Senate.

12 **SEC. 8. REQUIRED DISCLOSURES REGARDING LIFE INSUR-**
13 **ANCE.**

14 (a) REQUIREMENT.—Except as provided in sub-
15 section (d), no insurer or producer may sell or solicit, in
16 person, any life insurance product to any member of the
17 Armed Forces on a military installation of the United
18 States unless a disclosure in accordance with this section
19 is provided to such member before the sale of such insur-
20 ance.

21 (b) DISCLOSURE.—A disclosure in accordance with
22 this section is a written disclosure that—

23 (1) states that subsidized life insurance may be
24 available to the member of the Armed Forces from
25 the Federal Government;



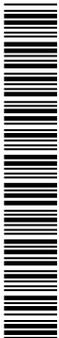
1 (2) states that the United States Government
2 has in no way sanctioned, recommended, or encour-
3 aged the sale of the product being offered;

4 (3) is made in plain and readily understandable
5 language and in a type font at least as large as the
6 font used for the majority of the policy; and

7 (4) with respect to a sale or solicitation on Fed-
8 eral land or facilities located outside of the United
9 States by an individual or entity engaged in the
10 business of insurance, except to the extent otherwise
11 specifically provided by the laws of such State in ref-
12 erence to this Act, lists the address and phone num-
13 ber where consumer complaints are received by the
14 State insurance commissioner for the State in which
15 the individual has been issued a resident license or
16 the entity is domiciled, as applicable.

17 (c) ENFORCEMENT.—If it is determined by a State
18 or Federal agency, or in a final court proceeding, that any
19 individual or entity has intentionally failed to provide a
20 disclosure required by this section, such individual or enti-
21 ty shall be prohibited from further engaging in the busi-
22 ness of insurance with respect to employees of the Federal
23 Government on Federal land, except—

24 (1) with respect to existing policies; and



1 (2) to the extent required by the Federal Gov-
2 ernment pursuant to previous commitments.

3 (d) EXCEPTIONS.—

4 (1) FEDERAL AND STATE INSURANCE ACTIV-
5 ITY.—This section shall not apply to insurance
6 activities—

7 (A) specifically contracted by or through
8 the Federal Government or any State govern-
9 ment; or

10 (B) specifically exempted from the applica-
11 bility of this Act by a Federal or State law, reg-
12 ulation, or order that specifically refers to this
13 paragraph.

14 (2) UNIFORM STATE STANDARDS.—If a major-
15 ity of the States have adopted, in materially iden-
16 tical form, a standard setting forth the disclosures
17 required under this section that apply to insurance
18 solicitations and sales to military personnel on mili-
19 tary installations of the United States, after the ex-
20 piration of the 2-year period beginning on such ma-
21 jority adoption, such standard shall apply in lieu of
22 the requirements of this section to all insurance so-
23 licitations and sales to military personnel on military
24 installations, with respect to such States, to the ex-
25 tent that such standards do not directly conflict with

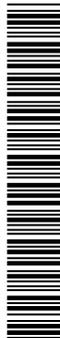


1 any applicable authorized Federal regulation or di-
2 rective.

3 (3) MATERIALLY IDENTICAL FORM.—For pur-
4 poses of this subsection, standards adopted by more
5 than one State shall be considered to have materially
6 identical form to the extent that such standards re-
7 quire or prohibit identical conduct with respect to
8 the same activity, notwithstanding that the stand-
9 ards may differ with respect to conduct required or
10 prohibited with respect to other activities.

11 **SEC. 9. IMPROVING LIFE INSURANCE PRODUCT STAND-**
12 **ARDS.**

13 (a) IN GENERAL.—It is the sense of the Congress
14 that the NAIC should, after consultation with the Sec-
15 retary of Defense and within 12 months after the date
16 of the enactment of this Act, conduct a study and submit
17 a report to the Committee on Financial Services of the
18 House of Representatives and the Committee on Banking,
19 Housing, and Urban Affairs of the Senate on ways of im-
20 proving the quality of and sale of life insurance products
21 sold by insurers and producers on military installations
22 of the United States, which may include limiting sales au-
23 thority to companies and producers that are certified as
24 meeting appropriate best practices procedures or creating



1 standards for products specifically designed for members
2 of the Armed Forces regardless of the sales location.

3 (b) **CONDITIONAL GAO REPORT.**—If the NAIC does
4 not submit the report to the committees as described in
5 subsection (a), the Comptroller General of the United
6 States shall study any proposals that have been made to
7 improve the quality and sale of life insurance products sold
8 by insurers and producers on military installations of the
9 United States and report to the Committee on Financial
10 Services of the House of Representatives and the Com-
11 mittee on Banking, Housing, and Urban Affairs of the
12 Senate on such proposals within 6 months after the expi-
13 ration of the period referred to in subsection (a).

14 **SEC. 10. REQUIRED REPORTING OF DISCIPLINED INSUR-**
15 **ANCE AGENTS.**

16 (a) **REPORTING BY INSURERS.**—After the expiration
17 of the 2-year period beginning on the date of the enact-
18 ment of this Act, no insurer may enter into or renew a
19 contractual relationship with a producer that solicits or
20 sells life insurance on military installations of the United
21 States unless the insurer has implemented a system to re-
22 port, to the State insurance commissioner of the State of
23 the domicile of the insurer and the State of residence of
24 the insurance producer, disciplinary actions taken against
25 the producer with respect to the producer's sales or solici-



1 tation of insurance on a military installation of the United
2 States, as follows:

3 (1) Any disciplinary action taken by any gov-
4 ernment entity that the insurer knows has been
5 taken.

6 (2) Any significant disciplinary action taken by
7 the insurer.

8 (b) REPORTING BY STATES.—It is the sense of the
9 Congress that within 2 years after the date of the enact-
10 ment of this Act, the States should collectively implement
11 a system to—

12 (1) receive reports of disciplinary actions taken
13 against insurance producers by insurers or govern-
14 ment entities with respect to the producers' sale or
15 solicitation of insurance on a military installation;
16 and

17 (2) disseminate such information to all other
18 States and to the Secretary of Defense.

19 **SEC. 11. SENSE OF CONGRESS.**

20 It is the sense of the Congress that the Federal and
21 State agencies responsible for insurance and securities
22 regulation should provide advice to the appropriate Fed-
23 eral entities to consider—



1 (1) significantly increasing the life insurance
2 coverage made available through the Federal Gov-
3 ernment to members of the Armed Forces;

4 (2) implementing appropriate procedures to en-
5 courage members of the Armed Forces to improve
6 their financial literacy and obtain objective financial
7 counseling before purchasing additional life insur-
8 ance coverage or investments beyond those provided
9 by the Federal Government; and

10 (3) improving the benefits and matching con-
11 tributions provided under the Thrift Savings Plan to
12 members of the Armed Forces.

13 **SEC. 12. DEFINITIONS.**

14 For purposes of this Act, the following definitions
15 shall apply:

16 (1) ENTITY.—The term “entity” includes insur-
17 ers.

18 (2) INDIVIDUAL.—The term “individual” in-
19 cludes insurance agents and producers.

20 (3) NAIC.—The term “NAIC” means the Na-
21 tional Association of Insurance Commissioners.

22 (4) STATE INSURANCE COMMISSIONER.—The
23 term “State insurance commissioner” means, with
24 respect to a State, the officer, agency, or other enti-
25 ty of the State that has primary regulatory authority



1 over the business of insurance and over any person
2 engaged in the business of insurance, to the extent
3 of such business activities, in such State.

