

that it might have on State-chartered banks interested in branching outside their home States. However, in the 2½ years since that legislation passed it has become clear that State-chartered banks wanting to branch outside their home States are at a significant disadvantage relative to national banks branching outside their home State.

Why so? Well, it is due to the fact that the national bank regulator has the authority to permit national banks to conduct operations in all the States with some level of consistency. In contrast, under the existing interstate legislation State banks branching outside their home State must comply with a multitude of different State banking laws in each and every State in which they operate.

So the complications of complying with so many different State laws in order to branch interstate has led many State banks to conclude, and might lead even more to conclude, that it would be much easier to switch to a national Federal charter. It could get so bad that it could bring about the demise of the dual banking system. The legislation we are considering today attempts to prevent this from occurring.

Despite comprehensive agreements reached last year between all 50 State bank regulators, which attempted to equalize the situation between State and national banks, many State banks continue to find that there are simply too many legal complications and uncertainties to deal with in trying to determine applicable law.

The Interstate Clarification Act of 1997, today's bill, makes it clear that generally State-chartered banks branching outside their home State will operate under the laws of the host State except in narrow instances where host State law is inapplicable for the branches of an out-of-State national bank. Now this should contribute significantly to providing State banks with some degree of certainty and consistency as they conduct business in various States and should not artificially disadvantage either State or nationally chartered institutions.

It should be emphasized though that the new legislation does nothing to change the original law which requires both national banks and State banks to comply with the laws of the host State in four important areas of law, community reinvestment, consumer protection, fairer lending, and intrastate branching. Those host State laws must still apply.

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

Mrs. ROUKEMA. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Delaware [Mr. CASTLE], a valuable member of the committee.

Mr. CASTLE. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I rise in strong support of H.R. 1306, which will clarify the Riegle-Neal Interstate Banking Act to protect the viability of the State banking charter.

Our Nation has always had a dual banking system. A bank can choose a State charter or a national charter. As a former Governor, I can tell you how important maintaining a State charter is. An attractive State bank charter helps attract banking and business to a State. It helps produce jobs and revenue that help all citizens. This has been important to the success of Delaware and many other States.

As we enter the age of interstate banking and branching it is necessary to ensure that State banks can compete fairly with national banks as more banking is done between States and across the Nation. This legislation will ensure that there is a level playing field between State banks and national banks. At the same time, it will protect consumers and maintain all necessary safety and soundness standards for all banks.

This is an excellent bill that enjoys bipartisan support. I congratulate the gentlewoman from New Jersey [Mrs. ROUKEMA], the chairman, the gentleman from Minnesota [Mr. VENTO], ranking member, and the members of the committee and urge its passage.

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

Mrs. ROUKEMA. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa [Mr. LEACH], the distinguished chairman of the full Committee on Banking and Financial Services.

Mr. LEACH. Mr. Speaker, I thank the gentlewoman for yielding this time to me, and I will be very brief, and I just would like to thank her very much for her fine work in shepherding this bill through her subcommittee and would stress that, A, it has the strong support of the committee, it is procompetitive, it enhances competition between State and national banks and therefore is very proconsumer because it will give consumers more options and more places to do business. It makes prudential sense; it makes competitive sense. It is a modest bill, but nonetheless a significant bill, and because the timing in which certain other laws go into place, it is brought in a very timely basis to this floor, and I urge its adoption.

Mr. VENTO. Mr. Speaker, I have no further requests for time. I reserve the balance of my time.

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

Mr. Speaker, I would just like to conclude by again thanking my ranking member and all the members on the committee. We worked in a very positive bipartisan way to clarify any ambiguities that existed, we have refined those applications of the law with respect to consumers, and above all, we have, I think with this action, protected the dual banking system while at the same time gaining the advantages of interstate banking.

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

Mr. Speaker, I just want to thank the gentlewoman from New Jersey [Mrs.

ROUKEMA] again for her work in terms of her managing this bill within the subcommittee, and the hearings that were requested, I think, were very helpful in terms of shaping and finally resolving some of the questions that I and other Members have and the leadership of our colleague from New York, one of the principle sponsors of this bill, a bill so important to his State he obviously gave great detail on that.

Mr. Speaker, again I would ask Members to support the bill.

Mr. BACHUS. Mr. Speaker. I rise today in support of H.R. 1306, the Riegle-Neal Clarification Act of 1997. I commend Chairwoman ROUKEMA for taking the lead on this issue and acting forcefully to make sure that interstate branching does not result in artificial impediments to the continued growth of State chartered banks. This bill will simply clarify the original intent of the Riegle-Neal Interstate Branching and Efficiency Act of 1994 which I cosponsored. This law, which goes into effect June 1, needs this clarification to fully address the issue of various State banking regulations and how this would affect a bank headquartered in one State operating a branch in another.

Mr. Speaker, we have heard almost unanimous testimony that the unfortunate and unintended consequences of our failure to make these clarifications will be the devaluation of State bank charters in favor of national charters and the gradual decline of the State banking system. I am a firm believer in the dual banking system of State and federally chartered institutions and I am certain that the innovation and tremendous strength enjoyed by the American financial marketplace is due in part to the dynamic created by these separate charters. It will be indeed unfortunate if a vibrant State bank is unwilling or unable to take advantage of interstate branching. Many State banks will simply not expand rather than compete with national banks in another State or convert to a national charter in order to grow. Therefore, Mr. Speaker, I urge my colleagues to vote for H.R. 1306.

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

The SPEAKER pro tempore [Mr. BARRETT of Nebraska]. All time has expired.

The question is on the motion offered by the gentlewoman from New Jersey [Mrs. ROUKEMA] that the House suspend the rules and pass the bill, H.R. 1306, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mrs. ROUKEMA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1306, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

# VOLUNTEER PROTECTION ACT OF 1997

Mr. INGLIS of South Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 911) to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities, as amended.

The Clerk read as follows:

H.R. 911

*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 "Volunteer Protection Act of 1997".

## SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) clarifying and limiting the liability risk assumed by volunteers is an appropriate subject for Federal legislation because—

(A) of the national scope of the problems created by the legitimate fears of volunteers about frivolous, arbitrary, or capricious lawsuits;

(B) the citizens of the United States depend on, and the Federal Government expends funds on, and provides tax exemptions and other consideration to, numerous social programs that depend on the services of volunteers;

(C) it is in the interest of the Federal Government to encourage the continued operation of volunteer service organizations and contributions of volunteers because the Federal Government lacks the capacity to carry out all of the services provided by such organizations and volunteers; and

(D) (i) liability reform for volunteers, will promote the free flow of goods and services, lessen burdens on interstate commerce and uphold constitutionally protected due process rights; and

(ii) therefore, liability reform is an appropriate use of the powers contained in article 1, section 8, clause 3 of the United States Constitution, and the fourteenth amendment to the United States Constitution.

(b) PURPOSE.—The purpose of this Act is to promote the interests of social service program beneficiaries and taxpayers and to sustain the

availability of programs, nonprofit organizations, and governmental entities that depend on volunteer contributions by reforming the laws to provide certain protections from liability abuses related to volunteers serving nonprofit organizations and governmental entities.

## SEC. 3. PREEMPTION AND ELECTION OF STATE NONAPPLICABILITY.

(a) PREEMPTION.—This Act preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this Act shall not preempt any State law that provides additional protection from liability relating to volunteers or to any category of volunteers in the performance of services for a nonprofit organization or governmental entity.

(b) ELECTION OF STATE REGARDING NON-APPLICABILITY.—This Act shall not apply to any civil action in a State court against a volunteer in which all parties are citizens of the State if such State enacts a statute in accordance with State requirements for enacting legislation—

(1) citing the authority of this subsection;

(2) declaring the election of such State that this Act shall not apply, as of a date certain, to such civil action in the State; and

(3) containing no other provisions.

## SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—Except as provided in subsections (b) and (d), no volunteer of a nonprofit organization or governmental entity shall be liable for harm caused by an act or omission of the volunteer on behalf of the organization or entity if—

(1) the volunteer was acting within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity at the time of the act or omission;

(2) if appropriate or required, the volunteer was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS TO ORGANIZATIONS AND ENTITIES.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION OR ENTITY.—Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF VOLUNTEERS.—

(1) GENERAL RULE.—Punitive damages may not be awarded against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(2) CONSTRUCTION.—Paragraph (1) does not create a cause of action for punitive damages and does not preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages.

(f) EXCEPTIONS TO LIMITATIONS ON LIABILITY.—

(1) IN GENERAL.—The limitations on the liability of a volunteer under this Act shall not apply to any misconduct that—

(A) constitutes a crime of violence (as that term is defined in section 16 of title 18, United States Code) or act of international terrorism (as that term is defined in section 2331 of title 18) for which the defendant has been convicted in any court;

(B) constitutes a hate crime (as that term is used in the Hate Crime Statistics Act (28 U.S.C. 534 note));

(C) involves a sexual offense, as defined by applicable State law, for which the defendant has been convicted in any court;

(D) involves misconduct for which the defendant has been found to have violated a Federal or State civil rights law; or

(E) where the defendant was under the influence (as determined pursuant to applicable State law) of intoxicating alcohol or any drug at the time of the misconduct.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to effect subsection (a)(3) or (e).

## SEC. 5. LIABILITY FOR NONECONOMIC LOSS.

(a) GENERAL RULE.—In any civil action against a volunteer, based on an action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity, the liability of the volunteer for noneconomic loss shall be determined in accordance with subsection (b).

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant who is a volunteer, shall be liable only for the amount of noneconomic loss allocated to that defendant in direct proportion to the percentage of responsibility of that defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which that defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant who is a volunteer under this section, the trier of fact shall determine the percentage of responsibility of that defendant for the claimant's harm.

## SEC. 6. DEFINITIONS.

For purposes of this Act: