

108TH CONGRESS  
1ST SESSION

# S. 1495

To amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies.

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## IN THE SENATE OF THE UNITED STATES

JULY 30 (legislative day, JULY 21), 2003

Mr. BUNNING (for himself and Mr. CONRAD) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to permit the consolidation of life insurance companies with other companies.

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. CONSOLIDATION OF LIFE INSURANCE COMPA-**  
4 **NIES WITH OTHER COMPANIES PERMITTED.**

5 (a) IN GENERAL.—Section 1504(b) of the Internal  
6 Revenue Code of 1986 (defining includible corporation) is  
7 amended by striking paragraph (2) and by redesignating  
8 paragraphs (3) through (8) as paragraphs (2) through  
9 (7), respectively.

10 (b) CONFORMING AMENDMENTS.—

1           (1) Section 1503 of the Internal Revenue Code  
 2           of 1986 is amended by striking subsection (c) (relat-  
 3           ing to special rule for application of certain losses  
 4           against income of insurance companies taxed under  
 5           section 801) and by redesignating subsections (d),  
 6           (e), and (f) as subsections (b), (c), and (d), respec-  
 7           tively.

8           (2) Section 1504 of such Code is amended by  
 9           striking subsection (c) and by redesignating sub-  
 10          sections (d), (e), and (f) as subsections (c), (d), and  
 11          (e), respectively.

12          (3) Section 243(b)(2)(A) of such Code is  
 13          amended by striking “sections 1504(b)(2),  
 14          1504(b)(4), and 1504(c)” and inserting “section  
 15          1504(b)(3)”.

16          (4) Section 805(a)(4)(E) of such Code is  
 17          amended by striking “1504(b)(3)” and inserting  
 18          “1504(b)(2)”.

19          (5) Section 818(e)(1) of such Code is amended  
 20          to read as follows:

21               “(1) ITEMS OF COMPANIES OTHER THAN IN-  
 22          SURANCE COMPANIES.—If an affiliated group in-  
 23          cludes members which are and which are not life in-  
 24          surance companies, all items of the members of such  
 25          group which are not life insurance companies shall

1 not be taken into account in determining the amount  
2 of the tentative LICIT of members of such group  
3 which are life insurance companies.”.

4 (6) Section 832(b)(5)(D)(ii)(II) of such Code is  
5 amended by striking “1504(b)(3)” and inserting  
6 “1504(b)(2)”.

7 (7) Section 864(e)(5)(A) of such Code is  
8 amended by striking “paragraph (4)” and inserting  
9 “paragraph (3)”.

10 (8) Section 936(i)(5)(A) of such Code is  
11 amended by striking “section 1504(b)(3) or (4)”  
12 and inserting “section 1504(b)(2) or (3)”.

13 (9) Section 952(c)(1)(B)(vii)(II) of such Code  
14 is amended by striking “1504(b)(3)” and inserting  
15 “1504(b)(2)”.

16 (10) Section 953(d)(3) of such Code is amend-  
17 ed by striking “1503(d)” and inserting “1503(c)”.

18 (11) Section 954(h)(4)(F)(ii) of such Code is  
19 amended by striking “1504(b)(3)” and inserting  
20 “1504(b)(2)”.

21 (12) Section 6166(b)(10)(B)(ii)(V) of such  
22 Code is amended by striking “1504(b)(3)” and in-  
23 serting “1504(b)(2)”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to taxable years beginning after  
 3 December 31, 2003.

4 **SEC. 2. PHASE-IN OF APPLICATION OF CERTAIN LOSSES**  
 5 **AGAINST INCOME OF INSURANCE COMPA-**  
 6 **NIES.**

7 (a) PHASE-IN.—

8 (1) IN GENERAL.—For taxable years beginning  
 9 after December 31, 2003, and before January 1,  
 10 2010, if—

11 (A) an affiliated group includes 1 or more  
 12 domestic insurance companies subject to tax  
 13 under section 801 of the Internal Revenue Code  
 14 of 1986,

15 (B) the common parent of such group has  
 16 not elected under subsection (b) to treat all  
 17 such insurance companies as corporations which  
 18 are not includible corporations, and

19 (C) the consolidated taxable income of the  
 20 members of the group not taxed under such  
 21 section 801 results in a consolidated net oper-  
 22 ating loss for such taxable year,

23 then, under regulations prescribed by the Secretary  
 24 of the Treasury or his delegate, the amount of such  
 25 loss which cannot be absorbed in the applicable

1 carryback periods against the taxable income of such  
 2 members not taxed under such section 801 shall be  
 3 taken into account in determining the consolidated  
 4 taxable income of the affiliated group for such tax-  
 5 able year to the extent of the applicable percentage  
 6 of such loss or the applicable percentage of the tax-  
 7 able income of the members taxed under such sec-  
 8 tion 801, whichever is less. The unused portion of  
 9 such loss shall be available as a carryover, subject to  
 10 the same limitations (applicable to the sum of the  
 11 loss for the carryover year and the loss (or losses)  
 12 carried over to such year), in applicable carryover  
 13 years.

14 (2) APPLICABLE PERCENTAGE.—For purposes  
 15 of paragraph (1), the applicable percentage shall be  
 16 determined in accordance with the following table:

<b>For taxable years beginning in:</b>	<b>The applicable percentage is:</b>
2004 .....	40
2005 .....	50
2006 .....	60
2007 .....	70
2008 .....	80
2009 .....	90.

17 (b) ELECTION FOR PRE-2010 YEARS OF GROUPS  
 18 WITH INSURANCE COMPANIES.—For taxable years begin-  
 19 ning after December 31, 2003, and before January 1,  
 20 2010, the common parent of an affiliated group (deter-  
 21 mined without regard to section 1504(b)(2) of the Internal

1 Revenue Code of 1986 as in effect on the day before the  
 2 date of enactment of this Act) which includes 1 or more  
 3 domestic insurance companies subject to tax under section  
 4 801 of such Code may elect to treat all such insurance  
 5 companies as corporations which are not includible cor-  
 6 porations within the meaning of subsection (b) of section  
 7 1504 of such Code, if, as of the date of enactment of this  
 8 section—

9           (1) such affiliated group included 1 or more in-  
 10       insurance companies subject to tax under section 801  
 11       of such Code, and

12           (2) no additional election was in effect under  
 13       section 1504(c)(2) of such Code (as in effect on the  
 14       day before the date of the enactment of this Act).

15       (c) NO CARRYBACK BEFORE JANUARY 1, 2004.—To  
 16       the extent that a consolidated net operating loss is allowed  
 17       or increased by reason of this section or the amendments  
 18       made by this Act, such loss may not be carried back to  
 19       a taxable year beginning before January 1, 2004.

20       (d) NONTERMINATION OF GROUP.—No affiliated  
 21       group shall terminate solely as a result of this section or  
 22       the amendments made by this Act.

23       (e) SUBSIDIARY STOCK BASIS ADJUSTMENTS.—A  
 24       member corporation's basis in the stock of a subsidiary  
 25       corporation shall be adjusted upon consolidation to reflect

1 the preconsolidation income, gain, deduction, loss, dis-  
2 tributions, and other relevant amounts during a period  
3 when such corporations were members of an affiliated  
4 group (determined without regard to section 1504(b)(2)  
5 of the Internal Revenue Code of 1986 as in effect on the  
6 day before the date of enactment of this Act) but were  
7 not included in a consolidated return of such group by op-  
8 eration of section 1504(c)(2)(A) of such Code (as in effect  
9 on the day before the date of the enactment of this Act)  
10 or by reason of the election allowed under subsection (b).

11 (f) WAIVER OF 5-YEAR WAITING PERIOD.—An auto-  
12 matic waiver from the 5-year waiting period for reconsoli-  
13 dation provided in section 1504(a)(3) of the Internal Rev-  
14 enue Code of 1986 shall be granted to any corporation  
15 which was previously an includible corporation but was  
16 subsequently deemed a nonincludible corporation as a re-  
17 sult of becoming a subsidiary of a corporation which was  
18 not an includible corporation solely by operation of section  
19 1504(c)(2) of such Code (as in effect on the day before  
20 the date of enactment of this Act), subject to such condi-  
21 tions as the Secretary may prescribe.

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