

110TH CONGRESS  
1ST SESSION

# S. 1366

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

MAY 10, 2007

Mr. BUNNING (for himself, Mr. CONRAD, Mr. KERRY, and Mr. SMITH) 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.

1 (b) CONFORMING AMENDMENTS.—

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

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

13 (3) Section 243(b)(2)(A) of such Code is  
14 amended by striking “sections 1504(b)(2),  
15 1504(b)(4), and 1504(c)” and inserting “section  
16 1504(b)(3)”.

17 (4) Section 805(a)(4)(E) of such Code is  
18 amended by striking “1504(b)(3)” and inserting  
19 “1504(b)(2)”.

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

22 “(1) ITEMS OF COMPANIES OTHER THAN IN-  
23 SURANCE COMPANIES.—If an affiliated group in-  
24 cludes members which are and which are not taxed  
25 under section 801, all items of the members of such

1 group which are not taxed under section 801 shall  
2 not be taken into account in determining the amount  
3 of the tentative LICTI of members of such group  
4 which are taxed under section 801.”.

5 (6) Section 832(b)(5)(D)(ii)(II) of such Code is  
6 amended by striking “1504(b)(3)” and inserting  
7 “1504(b)(2)”.

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

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

14 (9) Section 952(c)(1)(B)(vii)(II) of such Code  
15 is amended by striking “1504(b)(3)” and inserting  
16 “1504(b)(2)”.

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

19 (11) Section 954(h)(4)(F)(ii) of such Code is  
20 amended by striking “1504(b)(3)” and inserting  
21 “1504(b)(2)”.

22 (12) Section 6166(b)(10)(B)(ii)(V) of such  
23 Code is amended by striking “1504(b)(3)” and in-  
24 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, 2006.

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, 2006, and before January 1,  
 10 2013, 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, and

15 (B) the consolidated taxable income of the  
 16 members of the group not taxed under such  
 17 section 801 results in a consolidated net oper-  
 18 ating loss for such taxable year,

19 then, under regulations prescribed by the Secretary  
 20 of the Treasury or his delegate, the amount of such  
 21 loss which cannot be absorbed in the applicable  
 22 carryback periods against the taxable income of such  
 23 members not taxed under such section 801 shall be  
 24 taken into account in determining the consolidated  
 25 taxable income of the affiliated group for such tax-

1       able year to the extent of the applicable percentage  
 2       of such loss or the applicable percentage of the tax-  
 3       able income of the members taxed under such sec-  
 4       tion 801, whichever is less. The unused portion of  
 5       such loss shall be available as a carryover, subject to  
 6       the same limitations (but determined based on the  
 7       applicable percentage with respect to the year to  
 8       which carried and applicable to the sum of the loss  
 9       for the carryover year and the loss (or losses) car-  
 10      ried over to such year), in applicable carryover  
 11      years.

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

<b>For taxable years beginning in:</b>	<b>The applicable percentage is:</b>
2007 .....	40
2008 .....	50
2009 .....	60
2010 .....	70
2011 .....	80
2012 .....	90.

15       (b) NO CARRYBACK BEFORE JANUARY 1, 2007.—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 (or increase in such loss, as  
 19      the case may be) may not be carried back to a taxable  
 20      year beginning before January 1, 2007.

1       (c) NONTERMINATION OF GROUP.—No affiliated  
2 group shall terminate solely as a result of this section or  
3 the amendments made by this Act.

4       (d) SUBSIDIARY STOCK BASIS ADJUSTMENTS.—A  
5 member corporation's basis in the stock of a subsidiary  
6 corporation shall be adjusted upon consolidation to reflect  
7 the preconsolidation income, gain, deduction, loss, dis-  
8 tributions, and other relevant amounts during a period  
9 when such corporations were members of an affiliated  
10 group (determined without regard to section 1504(b)(2)  
11 of the Internal Revenue Code of 1986 as in effect on the  
12 day before the date of enactment of this Act) but were  
13 not included in a consolidated return of such group by op-  
14 eration of section 1504(c)(2)(A) of such Code (as in effect  
15 on the day before the date of the enactment of this Act).

16       (e) WAIVER OF 5-YEAR WAITING PERIOD.—An auto-  
17 matic waiver from the 5-year waiting period for reconsoli-  
18 dation provided in section 1504(a)(3) of the Internal Rev-  
19 enue Code of 1986 shall be granted to any corporation  
20 which was previously an includible corporation but was  
21 subsequently deemed a nonincludible corporation as a re-  
22 sult of becoming a subsidiary of a corporation which was  
23 not an includible corporation solely by operation of section  
24 1504(c)(2) of such Code (as in effect on the day before

- 1 the date of enactment of this Act), subject to such condi-
- 2 tions as the Secretary may prescribe.

