

108TH CONGRESS  
1ST SESSION

# H. R. 2228

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 HOUSE OF REPRESENTATIVES

MAY 22, 2003

Mr. CRANE (for himself, Mr. MATSUI, Mr. SHAW, Mr. RANGEL, Mrs. JOHNSON of Connecticut, Mr. HOUGHTON, Mr. HERGER, Mr. RAMSTAD, Mr. SAM JOHNSON of Texas, Mr. COLLINS, Mr. PORTMAN, Mr. ENGLISH, Mr. HULSHOF, Mr. MCINNIS, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. BRADY of Texas, Mr. McNULTY, Mr. BECERRA, and Mr. POMEROY) introduced the following bill; which was referred to the Committee on Ways and Means

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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

1 paragraphs (3) through (8) as paragraphs (2) through  
2 (7), respectively.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Section 1503 of such Code is amended by  
5 striking subsection (e) (relating to special rule for  
6 application of certain losses against income of insur-  
7 ance companies taxed under section 801) and by re-  
8 designating subsections (d), (e), and (f) as sub-  
9 sections (b), (c), and (d), respectively.

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

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

17 (d) PHASE IN OF APPLICATION OF CERTAIN LOSSES  
18 AGAINST INCOME OF INSURANCE COMPANIES.—For tax-  
19 able years beginning after December 31, 2003, and before  
20 January 1, 2010—

21 (1) IN GENERAL.—If—

22 (A) an affiliated group includes 1 or more  
23 domestic insurance companies each of which is  
24 subject to tax under section 801 of the Internal  
25 Revenue Code of 1986,

1 (B) the common parent of such group has  
2 not elected under subsection (e) to treat all  
3 such insurance companies as corporations which  
4 are not includible corporations, and

5 (C) the consolidated taxable income of the  
6 members of the group not taxed under such  
7 section 801 results in a consolidated net oper-  
8 ating loss for such taxable year,

9 then, under regulations prescribed by the Secretary  
10 of the Treasury or his delegate, the amount of such  
11 loss which cannot be absorbed in the applicable  
12 carryback periods against the taxable income of such  
13 members not taxed under such section 801 shall be  
14 taken into account in determining the consolidated  
15 taxable income of the affiliated group for such tax-  
16 able year to the extent of the applicable percentage  
17 of such loss or the applicable percentage of the tax-  
18 able income of the members taxed under such sec-  
19 tion 801, whichever is less. The unused portion of  
20 such loss shall be available as a carryover, subject to  
21 the same limitations (applicable to the sum of the  
22 loss for the carryover year and the loss (or losses)  
23 carried over to such year), in applicable carryover  
24 years.

1           (2) APPLICABLE PERCENTAGE.—For purposes  
 2           of paragraph (1), the applicable percentage shall be  
 3           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.

4           (e) ELECTION FOR PRE-2010 YEARS OF GROUPS  
 5 WITH INSURANCE COMPANIES.—For taxable years begin-  
 6 ning after December 31, 2003, and before January 1,  
 7 2010, the common parent of an affiliated group (deter-  
 8 mined without regard to section 1504(b)(2) of such Code  
 9 as in effect on the day before the date of enactment of  
 10 this Act) which includes 1 or more domestic insurance  
 11 companies subject to tax under section 801 of such Code  
 12 may elect to treat all such insurance companies as cor-  
 13 porations which are not includible corporations within the  
 14 meaning of subsection (b) of section 1504 of such Code,  
 15 if, as of the date of enactment of this section—

16           (1) such affiliated group included 1 or more in-  
 17           surance companies subject to tax under section 801  
 18           of such Code, and

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

1           (f) NO CARRYBACK BEFORE JANUARY 1, 2004.—To  
2 the extent that a consolidated net operating loss is allowed  
3 or increased by reason of the amendments made by this  
4 section, such loss may not be carried back to a taxable  
5 year beginning before January 1, 2004.

6           (g) NONTERMINATION OF GROUP.—No affiliated  
7 group shall terminate solely as a result of the amendments  
8 made by this section.

9           (h) SUBSIDIARY STOCK BASIS ADJUSTMENTS.—A  
10 member corporation's basis in the stock of a subsidiary  
11 corporation shall be adjusted upon consolidation to reflect  
12 the preconsolidation income, gain, deduction, loss distribu-  
13 tions and other relevant amounts during a period when  
14 such corporations were members of an affiliated group  
15 (determined without regard to section 1504(b)(2) of such  
16 Code as in effect on the day before the date of enactment  
17 of this Act) but were not included in a consolidated return  
18 of such group by operation of section 1504(c)(2)(A) of  
19 such Code (as in effect on the day before the date of the  
20 enactment of this Act) or by reason of the election allowed  
21 under subsection (e) of this Act.

22           (i) WAIVER OF 5-YEAR WAITING PERIOD.—An auto-  
23 matic waiver from the 5-year waiting period for reconsoli-  
24 dation provided in section 1504(a)(3) of such Code shall  
25 be granted to any corporation which was previously an in-

1 cludible corporation but was subsequently deemed a non-  
2 includible corporation as a result of becoming a subsidiary  
3 of a corporation which was not an includible corporation  
4 solely by operation of section 1504(c)(2) of such Code (as  
5 in effect on the day before the date of enactment of this  
6 Act), subject to such conditions as the Secretary may pre-  
7 scribe.

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