

[109H2682]

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(Original Signature of Member)

110TH CONGRESS
1ST SESSION

H. R.

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

IN THE HOUSE OF REPRESENTATIVES

Mr. PUTNAM introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

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. SHORT TITLE.**

4 This Act may be cited as the “Long-Term Care and
5 Retirement Security Act of 2007”.

1 **SEC. 2. TREATMENT OF PREMIUMS ON QUALIFIED LONG-**
 2 **TERM CARE INSURANCE CONTRACTS.**

3 (a) IN GENERAL.—Part VII of subchapter B of chap-
 4 ter 1 of the Internal Revenue Code of 1986 (relating to
 5 additional itemized deductions) is amended by redesi-
 6 gnating section 224 as section 225 and by inserting after
 7 section 223 the following new section:

8 **“SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**
 9 **SURANCE CONTRACTS.**

10 “(a) IN GENERAL.—In the case of an individual,
 11 there shall be allowed as a deduction an amount equal to
 12 the applicable percentage of eligible long-term care pre-
 13 miums (as defined in section 213(d)(10)) paid during the
 14 taxable year for coverage for the taxpayer and the tax-
 15 payer’s spouse and dependents under a qualified long-term
 16 care insurance contract (as defined in section 7702B(b)).

17 “(b) APPLICABLE PERCENTAGE.—For purposes of
 18 subsection (a), the applicable percentage shall be deter-
 19 mined in accordance with the following table:

“For taxable years beginning in calendar year—	The ap- plicable percent- age is—
2007, 2008, or 2009	25
2010	35
2011	65
2012 or thereafter	100.

20 “(c) COORDINATION WITH OTHER DEDUCTIONS.—
 21 Any amount paid by a taxpayer for any qualified long-

1 term care insurance contract to which subsection (a) ap-
2 plies shall not be taken into account in computing the
3 amount allowable to the taxpayer as a deduction under
4 section 162(l) or 213(a).”.

5 (b) LONG-TERM CARE INSURANCE PERMITTED TO
6 BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE
7 SPENDING ARRANGEMENTS.—

8 (1) CAFETERIA PLANS.—The last sentence of
9 section 125(f) of such Code (defining qualified bene-
10 fits) is amended by inserting before the period at the
11 end “; except that such term shall include the pay-
12 ment of premiums for any qualified long-term care
13 insurance contract (as defined in section 7702B) to
14 the extent the amount of such payment does not ex-
15 ceed the eligible long-term care premiums (as de-
16 fined in section 213(d)(10)) for such contract”.

17 (2) FLEXIBLE SPENDING ARRANGEMENTS.—
18 Section 106 of such Code (relating to contributions
19 by an employer to accident and health plans) is
20 amended by striking subsection (c) and redesignig-
21 nating subsections (d) and (e) as subsections (c) and
22 (d), respectively.

23 (c) CONFORMING AMENDMENTS.—

1 (1) Section 62(a) of such Code is amended by
2 inserting before the last sentence at the end the fol-
3 lowing new paragraph:

4 “(22) PREMIUMS ON QUALIFIED LONG-TERM
5 CARE INSURANCE CONTRACTS.—The deduction al-
6 lowed by section 224.”.

7 (2) Sections 223(b)(4)(B), 223(d)(4)(C),
8 223(f)(3)(B), 3231(e)(11), 3306(b)(18),
9 3401(a)(22), 4973(g)(1), and 4973(g)(2)(B)(i) of
10 such Code are each amended by striking “section
11 106(d)” and inserting “section 106(c)”.

12 (3) Section 223(e)(1)(B)(iii)(II) of such Code is
13 amended by striking “106(e)” and inserting
14 “106(d)”.

15 (4) Section 6041 of such Code is amended—

16 (A) in subsection (f)(1) by striking “(as
17 defined in section 106(e)(2))”, and

18 (B) by adding at the end the following new
19 subsection:

20 “(h) FLEXIBLE SPENDING ARRANGEMENT DE-
21 FINED.—For purposes of this section, a flexible spending
22 arrangement is a benefit program which provides employ-
23 ees with coverage under which—

1 “(1) specified incurred expenses may be reim-
2 bursed (subject to reimbursement maximums and
3 other reasonable conditions), and

4 “(2) the maximum amount of reimbursement
5 which is reasonably available to a participant for
6 such coverage is less than 500 percent of the value
7 of such coverage.

8 In the case of an insured plan, the maximum amount rea-
9 sonably available shall be determined on the basis of the
10 underlying coverage.”.

11 (5) The table of sections for part VII of sub-
12 chapter B of chapter 1 of such Code is amended by
13 striking the last item and inserting the following
14 new items:

 “Sec. 224. Premiums on qualified long-term care insurance contracts

 “Sec. 225. Cross reference”.

15 (d) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendments made by this section
18 shall apply to taxable years beginning after Decem-
19 ber 31, 2006.

20 (2) CAFETERIA PLANS AND FLEXIBLE SPEND-
21 ING ARRANGEMENTS.—The amendments made by
22 subsection (b) shall apply to taxable years beginning
23 after December 31, 2007.

1 **SEC. 3. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE**
 2 **NEEDS.**

3 (a) IN GENERAL.—Subpart A of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to nonrefundable personal credits) is
 6 amended by inserting after section 25D the following new
 7 section:

8 **“SEC. 25E. CREDIT FOR TAXPAYERS WITH LONG-TERM**
 9 **CARE NEEDS.**

10 “(a) ALLOWANCE OF CREDIT.—

11 “(1) IN GENERAL.—There shall be allowed as a
 12 credit against the tax imposed by this chapter for
 13 the taxable year an amount equal to the applicable
 14 credit amount multiplied by the number of applica-
 15 ble individuals with respect to whom the taxpayer is
 16 an eligible caregiver for the taxable year.

17 “(2) APPLICABLE CREDIT AMOUNT.—For pur-
 18 poses of paragraph (1), the applicable credit amount
 19 shall be determined in accordance with the following
 20 table:

“For taxable years beginning in calender year—	The ap- plicable credit amount is—
2007	\$1,000
2008	1,500
2009	2,000
2010	2,500
2011 or thereafter	3,000.

1 “(b) LIMITATION BASED ON ADJUSTED GROSS IN-
2 COME.—

3 “(1) IN GENERAL.—The amount of the credit
4 allowable under subsection (a) shall be reduced (but
5 not below zero) by \$100 for each \$1,000 (or fraction
6 thereof) by which the taxpayer’s modified adjusted
7 gross income exceeds the threshold amount. For
8 purposes of the preceding sentence, the term ‘modi-
9 fied adjusted gross income’ means adjusted gross in-
10 come increased by any amount excluded from gross
11 income under section 911, 931, or 933.

12 “(2) THRESHOLD AMOUNT.—For purposes of
13 paragraph (1), the term ‘threshold amount’ means—

14 “(A) \$150,000 in the case of a joint re-
15 turn, and

16 “(B) \$75,000 in any other case.

17 “(3) INDEXING.—In the case of any taxable
18 year beginning in a calendar year after 2007, each
19 dollar amount contained in paragraph (2) shall be
20 increased by an amount equal to the product of—

21 “(A) such dollar amount, and

22 “(B) the medical care cost adjustment de-
23 termined under section 213(d)(10)(B)(ii) for
24 the calendar year in which the taxable year be-

1 gins, determined by substituting ‘August 2006’
2 for ‘August 1996’ in subclause (II) thereof.

3 If any increase determined under the preceding sen-
4 tence is not a multiple of \$50, such increase shall
5 be rounded to the next lowest multiple of \$50.

6 “(c) DEFINITIONS.—For purposes of this section—

7 “(1) APPLICABLE INDIVIDUAL.—

8 “(A) IN GENERAL.—The term ‘applicable
9 individual’ means, with respect to any taxable
10 year, any individual who has been certified, be-
11 fore the due date for filing the return of tax for
12 the taxable year (without extensions), by a phy-
13 sician (as defined in section 1861(r)(1) of the
14 Social Security Act) as being an individual with
15 long-term care needs described in subparagraph
16 (B) for a period—

17 “(i) which is at least 180 consecutive
18 days, and

19 “(ii) a portion of which occurs within
20 the taxable year.

21 Notwithstanding the preceding sentence, a cer-
22 tification shall not be treated as valid unless it
23 is made within the 39½ month period ending
24 on such due date (or such other period as the
25 Secretary prescribes).

1 “(B) INDIVIDUALS WITH LONG-TERM CARE
2 NEEDS.—An individual is described in this sub-
3 paragraph if the individual meets any of the fol-
4 lowing requirements:

5 “(i) The individual is at least 6 years
6 of age and—

7 “(I) is unable to perform (with-
8 out substantial assistance from an-
9 other individual) at least 3 activities
10 of daily living (as defined in section
11 7702B(c)(2)(B)) due to a loss of
12 functional capacity, or

13 “(II) requires substantial super-
14 vision to protect such individual from
15 threats to health and safety due to se-
16 vere cognitive impairment and is un-
17 able to perform, without reminding or
18 cuing assistance, at least 1 activity of
19 daily living (as so defined) or to the
20 extent provided in regulations pre-
21 scribed by the Secretary (in consulta-
22 tion with the Secretary of Health and
23 Human Services), is unable to engage
24 in age appropriate activities.

1 “(ii) The individual is at least 2 but
2 not 6 years of age and is unable due to a
3 loss of functional capacity to perform
4 (without substantial assistance from an-
5 other individual) at least 2 of the following
6 activities: eating, transferring, or mobility.

7 “(iii) The individual is under 2 years
8 of age and requires specific durable med-
9 ical equipment by reason of a severe health
10 condition or requires a skilled practitioner
11 trained to address the individual’s condi-
12 tion to be available if the individual’s par-
13 ents or guardians are absent.

14 “(2) ELIGIBLE CAREGIVER.—

15 “(A) IN GENERAL.—A taxpayer shall be
16 treated as an eligible caregiver for any taxable
17 year with respect to the following individuals:

18 “(i) The taxpayer.

19 “(ii) The taxpayer’s spouse.

20 “(iii) An individual with respect to
21 whom the taxpayer is allowed a deduction
22 under section 151(c) for the taxable year.

23 “(iv) An individual who would be de-
24 scribed in clause (iii) for the taxable year
25 if section 151(c) were applied by sub-

1 stituting for the exemption amount an
2 amount equal to the sum of the exemption
3 amount, the standard deduction under sec-
4 tion 63(c)(2)(C), and any additional stand-
5 ard deduction under section 63(c)(3) which
6 would be applicable to the individual if
7 clause (iii) applied.

8 “(v) An individual who would be de-
9 scribed in clause (iii) for the taxable year
10 if—

11 “(I) the requirements of clause
12 (iv) are met with respect to the indi-
13 vidual, and

14 “(II) the requirements of sub-
15 paragraph (B) are met with respect to
16 the individual in lieu of the support
17 test under subsection (c)(1)(D) or
18 (d)(1)(C) of section 152.

19 “(B) RESIDENCY TEST.—The require-
20 ments of this subparagraph are met if an indi-
21 vidual has as his principal place of abode the
22 home of the taxpayer and—

23 “(i) in the case of an individual who
24 is an ancestor or descendant of the tax-
25 payer or the taxpayer’s spouse, is a mem-

1 ber of the taxpayer's household for over
2 half the taxable year, or

3 “(ii) in the case of any other indi-
4 vidual, is a member of the taxpayer's
5 household for the entire taxable year.

6 “(C) SPECIAL RULES WHERE MORE THAN
7 1 ELIGIBLE CAREGIVER.—

8 “(i) IN GENERAL.—If more than 1 in-
9 dividual is an eligible caregiver with re-
10 spect to the same applicable individual for
11 taxable years ending with or within the
12 same calendar year, a taxpayer shall be
13 treated as the eligible caregiver if each
14 such individual (other than the taxpayer)
15 files a written declaration (in such form
16 and manner as the Secretary may pre-
17 scribe) that such individual will not claim
18 such applicable individual for the credit
19 under this section.

20 “(ii) NO AGREEMENT.—If each indi-
21 vidual required under clause (i) to file a
22 written declaration under clause (i) does
23 not do so, the individual with the highest
24 adjusted gross income shall be treated as
25 the eligible caregiver.

1 “(iii) MARRIED INDIVIDUALS FILING
2 SEPARATELY.—In the case of married indi-
3 viduals filing separately, the determination
4 under this subparagraph as to whether the
5 husband or wife is the eligible caregiver
6 shall be made under the rules of clause (ii)
7 (whether or not one of them has filed a
8 written declaration under clause (i)).

9 “(d) IDENTIFICATION REQUIREMENT.—No credit
10 shall be allowed under this section to a taxpayer with re-
11 spect to any applicable individual unless the taxpayer in-
12 cludes the name and taxpayer identification number of
13 such individual, and the identification number of the phy-
14 sician certifying such individual, on the return of tax for
15 the taxable year.

16 “(e) TAXABLE YEAR MUST BE FULL TAXABLE
17 YEAR.—Except in the case of a taxable year closed by rea-
18 son of the death of the taxpayer, no credit shall be allow-
19 able under this section in the case of a taxable year cov-
20 ering a period of less than 12 months.”.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Section 6213(g)(2) of such Code is amend-
23 ed by striking “and” at the end of subparagraph
24 (L), by striking the period at the end of subpara-
25 graph (M) and inserting “, and”, and by inserting

1 after subparagraph (M) the following new subpara-
2 graph:

3 “(N) an omission of a correct TIN or phy-
4 sician identification required under section
5 25E(d) (relating to credit for taxpayers with
6 long-term care needs) to be included on a re-
7 turn.”.

8 (2) The table of sections for subpart A of part
9 IV of subchapter A of chapter 1 of such Code is
10 amended by inserting after the item relating to sec-
11 tion 25D the following new item:

“Sec. 25E. Credit for taxpayers with long-term care needs”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2006.

15 **SEC. 4. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-**
16 **TERM CARE INSURANCE.**

17 (a) ADDITIONAL PROTECTIONS APPLICABLE TO
18 LONG-TERM CARE INSURANCE.—Subparagraphs (A) and
19 (B) of section 7702B(g)(2) of the Internal Revenue Code
20 of 1986 (relating to requirements of model regulation and
21 Act) are amended to read as follows:

22 “(A) IN GENERAL.—The requirements of
23 this paragraph are met with respect to any con-
24 tract if such contract meets—

1 “(i) MODEL REGULATION.—The fol-
2 lowing requirements of the model regula-
3 tion:

4 “(I) Section 6A (relating to guar-
5 anteed renewal or noncancellability),
6 other than paragraph (5) thereof, and
7 the requirements of section 6B of the
8 model Act relating to such section 6A.

9 “(II) Section 6B (relating to pro-
10 hibitions on limitations and exclu-
11 sions) other than paragraph (7) there-
12 of.

13 “(III) Section 6C (relating to ex-
14 tension of benefits).

15 “(IV) Section 6D (relating to
16 continuation or conversion of cov-
17 erage).

18 “(V) Section 6E (relating to dis-
19 continuance and replacement of poli-
20 cies).

21 “(VI) Section 7 (relating to unin-
22 tentional lapse).

23 “(VII) Section 8 (relating to dis-
24 closure), other than sections 8F, 8G,
25 8H, and 8I thereof.

1 “(VIII) Section 11 (relating to
2 prohibitions against post-claims un-
3 derwriting).

4 “(IX) Section 12 (relating to
5 minimum standards).

6 “(X) Section 13 (relating to re-
7 quirement to offer inflation protec-
8 tion).

9 “(XI) Section 25 (relating to pro-
10 hibition against preexisting conditions
11 and probationary periods in replace-
12 ment policies or certificates).

13 “(XII) The provisions of section
14 26 relating to contingent nonforfeiture
15 benefits, if the policyholder declines
16 the offer of a nonforfeiture provision
17 described in paragraph (4).

18 “(ii) MODEL ACT.—The following re-
19 quirements of the model Act:

20 “(I) Section 6C (relating to pre-
21 existing conditions).

22 “(II) Section 6D (relating to
23 prior hospitalization).

24 “(III) The provisions of section 8
25 relating to contingent nonforfeiture

1 benefits, if the policyholder declines
2 the offer of a nonforfeiture provision
3 described in paragraph (4).

4 “(B) DEFINITIONS.—For purposes of this
5 paragraph—

6 “(i) MODEL PROVISIONS.—The terms
7 ‘model regulation’ and ‘model Act’ mean
8 the long-term care insurance model regula-
9 tion, and the long-term care insurance
10 model Act, respectively, promulgated by
11 the National Association of Insurance
12 Commissioners (as adopted as of October
13 2000).

14 “(ii) COORDINATION.—Any provision
15 of the model regulation or model Act listed
16 under clause (i) or (ii) of subparagraph
17 (A) shall be treated as including any other
18 provision of such regulation or Act nec-
19 essary to implement the provision.

20 “(iii) DETERMINATION.—For pur-
21 poses of this section and section 4980C,
22 the determination of whether any require-
23 ment of a model regulation or the model
24 Act has been met shall be made by the
25 Secretary.”.

1 (b) EXCISE TAX.—Paragraph (1) of section
2 4980C(e) of the Internal Revenue Code of 1986 (relating
3 to requirements of model provisions) is amended to read
4 as follows:

5 “(1) REQUIREMENTS OF MODEL PROVISIONS.—

6 “(A) MODEL REGULATION.—The following
7 requirements of the model regulation must be
8 met:

9 “(i) Section 9 (relating to required
10 disclosure of rating practices to consumer).

11 “(ii) Section 14 (relating to applica-
12 tion forms and replacement coverage).

13 “(iii) Section 15 (relating to reporting
14 requirements).

15 “(iv) Section 22 (relating to filing re-
16 quirements for marketing).

17 “(v) Section 23 (relating to standards
18 for marketing), including inaccurate com-
19 pletion of medical histories, other than
20 paragraphs (1), (6), and (9) of section
21 23C.

22 “(vi) Section 24 (relating to suit-
23 ability).

24 “(vii) Section 29 (relating to standard
25 format outline of coverage).

1 “(viii) Section 30 (relating to require-
2 ment to deliver shopper’s guide).

3 The requirements referred to in clause (vi) shall
4 not include those portions of the personal work-
5 sheet described in Appendix B relating to con-
6 sumer protection requirements not imposed by
7 section 4980C or 7702B.

8 “(B) MODEL ACT.—The following require-
9 ments of the model Act must be met:

10 “(i) Section 6F (relating to right to
11 return).

12 “(ii) Section 6G (relating to outline of
13 coverage).

14 “(iii) Section 6H (relating to require-
15 ments for certificates under group plans).

16 “(iv) Section 6J (relating to policy
17 summary).

18 “(v) Section 6K (relating to monthly
19 reports on accelerated death benefits).

20 “(vi) Section 7 (relating to incontest-
21 ability period).

22 “(C) DEFINITIONS.—For purposes of this
23 paragraph, the terms ‘model regulation’ and
24 ‘model Act’ have the meanings given such terms
25 by section 7702B(g)(2)(B).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to policies issued more than 1 year
3 after the date of the enactment of this Act.