

1 **SEC. ____ 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting Proper Life
3 Insurance from Abuse Act” or the “PPLI Abuse Act”.

4 **SEC. ____ 2. TAX TREATMENT OF PRIVATE PLACEMENT CON-**
5 **TRACTS.**

6 (a) IN GENERAL.—Chapter 79 of the Internal Rev-
7 enue Code of 1986 is amended by inserting after section
8 7702B the following new section:

9 **“SEC. 7702C. TREATMENT OF APPLICABLE PRIVATE PLACE-**
10 **MENT CONTRACTS.**

11 “(a) GENERAL RULE.—Notwithstanding any other
12 provision of this title, an applicable private placement con-
13 tract shall not be treated as an insurance or annuity con-
14 tract for purposes of this title.

15 “(b) APPLICABLE PRIVATE PLACEMENT CON-
16 TRACT.—For purposes of this section—

17 “(1) IN GENERAL.—The term ‘applicable pri-
18 vate placement contract’ means any private place-
19 ment contract if the requirements of subsection (c)
20 are not met with respect to any segregated asset ac-
21 count described in section 817(d) to which amounts
22 received under such contract are allocated.

1 “(2) PRIVATE PLACEMENT CONTRACT.—The
2 term ‘private placement contract’ means any con-
3 tract—

4 “(A) which, without regard to this section,
5 would be treated for purposes of this title as—

6 “(i) a life insurance contract under
7 section 7702 or an annuity contract under
8 section 72, and

9 “(ii) a variable contract (within the
10 meaning of section 817(d)), and

11 “(B) with respect to which the holder of
12 the contract is required, for purposes of obtain-
13 ing a registration exemption under securities
14 laws as in effect on the date of enactment of
15 this section (including the Securities Exchange
16 Act of 1934 and the Investment Advisors Act of
17 1940), to make a representation that such hold-
18 er—

19 “(i) has a specified minimum amount
20 of income or assets,

21 “(ii) has completed a specified min-
22 imum level of education, or

23 “(iii) holds a specific license or cre-
24 dential.

1 “(3) SPECIAL RULES FOR FOREIGN ISSUED
2 CONTRACTS.—In the case of a contract issued out-
3 side of the United States which is directly or indi-
4 rectly held by a United States person, if, without re-
5 gard to this section—

6 “(A) such contract is a life insurance or
7 annuity contract under the laws under which it
8 is issued (or, unless otherwise provided under
9 regulations, would be such a contract if issued
10 in the United States), and

11 “(B)(i) in the case of an annuity contract,
12 or a contract providing insurance on retired
13 lives (as described in section 807(c)(6)), the
14 amounts paid into or out of such contract re-
15 flect the investment return and the market
16 value of 1 or more assets (other than assets in
17 the general accounts of the issuer or reinsurer),
18 or

19 “(ii) in the case of a life insurance con-
20 tract, the amount of the death benefit (or the
21 period of coverage) is adjusted on the basis of
22 the investment return and the market value of
23 1 or more assets described in clause (i),
24 such contract shall (without regard to whether or
25 not the requirements of subsection (c) are met with

1 respect to such contract) be treated as an applicable
2 private placement contract for purposes of this sec-
3 tion (and, for such purposes, the assets described in
4 subparagraph (B) with respect to such contract shall
5 be treated as a segregated asset account with re-
6 spect to such contract).

7 “(4) PERMANENT TREATMENT.—A contract,
8 once treated as an applicable private placement con-
9 tract under this section, shall be so treated for all
10 subsequent periods without regard to whether it con-
11 tinues to meet the requirements to be so treated.

12 “(c) LIMITATIONS FOR ASSETS IN SEGREGATED
13 ASSET ACCOUNT.—

14 “(1) IN GENERAL.—The requirements of this
15 subsection are met with respect to a segregated
16 asset account only if—

17 “(A) the assets in such account support at
18 least 25 private placement contracts, and

19 “(B) in the case of each of the contracts
20 supported by such account—

21 “(i) the value of such contract is sup-
22 ported by each of the assets in such ac-
23 count (and not by any asset not in such
24 account), and

1 “(ii) the proportion of each such asset
2 supporting such contract is the same as
3 the proportion of each other such asset
4 supporting such contract.

5 “(2) AGGREGATION OF CONTRACTS HELD BY
6 PERSONS.—For purposes of paragraph (1)—

7 “(A) IN GENERAL.—All private placement
8 contracts held directly or indirectly by the same
9 person, or a related person to such person, shall
10 be treated as 1 private placement contract.

11 “(B) RELATED PERSON.—

12 “(i) IN GENERAL.—A person shall be
13 treated as related to another person if they
14 bear a relationship to such other person
15 described in section 267(b) or 707(b)(1).

16 “(ii) MEMBERS OF FAMILY.—For pur-
17 poses of clause (i), sections 267(b) and
18 707(b)(1) shall be applied as if section
19 267(c)(4) provided that the family of an
20 individual consists of a husband and wife
21 and members of a family described in sec-
22 tion 1361(c)(1)(B), except that the appli-
23 cable date for purposes of clause (ii) there-
24 of shall be the date the segregated asset
25 account is established.

1 “(iii) MEMBERS UNDER COMMON CON-
2 TROL.—For purposes of clause (i), a rule
3 similar to section 108(e)(4)(C) shall apply.

4 “(d) TAX TREATMENT OF HOLDERS OF CON-
5 TRACTS.—

6 “(1) OWNERSHIP OF ASSETS AND INCOME.—

7 “(A) IN GENERAL.—In the case of an ap-
8 plicable private placement contract, the holder
9 of such contract shall be treated as if the hold-
10 er—

11 “(i) held its share of the assets in the
12 segregated asset account supporting such
13 contract, and

14 “(ii) received or accrued directly its
15 share of any amount of net income, net
16 loss, or credit earned or accrued with re-
17 spect to such assets (without regard to
18 whether any amount is actually distrib-
19 uted).

20 “(B) NET INCOME OR LOSS.—For pur-
21 poses of subparagraph (A)(ii)—

22 “(i) NET INCOME.—The term ‘net in-
23 come’ means, with respect to any assets
24 supporting a contract—

1 “(C) TAXABLE YEAR OF CESSATION.—If a
2 life insurance contract or annuity contract
3 ceases to be such a contract by reason of this
4 section in a taxable year after the taxable year
5 in which issued, amounts described in subpara-
6 graph (A)(ii) for all preceding taxable years
7 shall be treated as received or accrued during
8 the taxable year in which such cessation occurs.

9 “(2) DISTRIBUTIONS.—

10 “(A) IN GENERAL.—Any excess distribu-
11 tion received by a taxpayer from an applicable
12 private placement contract shall be included by
13 the taxpayer in gross income as ordinary in-
14 come.

15 “(B) EXCESS DISTRIBUTION.—For pur-
16 poses of this paragraph, the term ‘excess dis-
17 tribution’ means, with respect to any applicable
18 private placement contract, any applicable dis-
19 tribution to a taxpayer to the extent that—

20 “(i) the amount of such applicable
21 distribution, when added to the aggregate
22 amount of applicable distributions made
23 with respect to such contract (whether or
24 not made to such taxpayer) for all periods

1 preceding such applicable distribution , ex-
2 ceeds

3 “(ii) the applicable adjusted basis in
4 such contract immediately before such ap-
5 plicable distribution.

6 “(C) APPLICABLE ADJUSTED BASIS.—For
7 purposes of this paragraph, the term ‘applicable
8 adjusted basis’ means, with respect to any ap-
9 plicable private placement contract as of the
10 date of any applicable distribution, the sum of
11 the premiums and other amounts paid by any
12 person with respect to such contract as of such
13 date—

14 “(i) increased by the aggregate
15 amount of net income includible in gross
16 income under paragraph (1) with respect
17 to such contract (whether or not includible
18 by the taxpayer) for all periods preceding
19 such date, and

20 “(ii) decreased by the aggregate
21 amount of deductions for net losses allow-
22 able to any person under paragraph (1)
23 with respect to such contract for all peri-
24 ods preceding such date.

1 “(D) APPLICABLE DISTRIBUTION.—For
2 purposes of this paragraph, the term ‘applicable
3 distribution’ means, with respect to any applica-
4 ble private placement contract, any payment by
5 reason of the death of the insured, any payment
6 in the nature of an annuity payment, any with-
7 drawal, the distribution of any loan proceeds,
8 and any other similar distribution or payment.

9 “(E) ASSIGNMENTS, ETC.—In the case of
10 the transferee of a transfer for valuable consid-
11 eration by assignment or otherwise of an appli-
12 cable private placement contract (or an interest
13 therein)—

14 “(i) the premiums and other amounts
15 paid by the transferee with respect to such
16 contract shall be the sum of the actual
17 value of such consideration plus any pre-
18 miums and other amounts subsequently
19 paid by the transferee, and

20 “(ii) the amounts determined under
21 subparagraph (C) with respect to such con-
22 tract shall only include amounts included
23 in gross income, and deductions of, the
24 transferee.

1 “(e) TAX TREATMENT OF ISSUERS AND REIN-
2 SURERS.—

3 “(1) IN GENERAL.—In the case of an issuer or
4 reinsurer of an applicable private placement contract
5 (including a reinsurer with respect to mortality risk
6 for such contract)—

7 “(A) premiums and reserves with respect
8 to such contract shall not be treated as life in-
9 surance premiums or reserves, and

10 “(B) notwithstanding section 446(a) or
11 part I of subchapter L of chapter 1—

12 “(i) premiums, expenses, and fees
13 with respect to such contract which, with-
14 out regard to this section, would be taken
15 into account in determining life insurance
16 taxable income shall be so taken into ac-
17 count, but

18 “(ii) the amounts so taken into ac-
19 count shall be determined under the ac-
20 crual method of accounting described in
21 section 446(c)(2).

22 “(2) CONTRACTS ISSUED BY FOREIGN
23 ISSUERS.—Notwithstanding subsection (a), an appli-
24 cable private placement contract issued by a foreign
25 insurer or reinsurer and to which section 4371 ap-

1 plies (without regard to this section) shall continue
2 to be treated as a contract to which such section ap-
3 plies.

4 “(f) REGULATIONS.—The Secretary shall issue such
5 regulations and other guidance as are necessary to carry
6 out this section and section 6050AA, including regulations
7 or other guidance—

8 “(1) preventing the avoidance of the application
9 of this section through related parties, accommoda-
10 tion parties, passthrough entities, trusts, or the allo-
11 cation of assets other than through segregated asset
12 accounts,

13 “(2) providing that an asset account or set of
14 assets not meeting the requirements of section
15 817(d) shall be treated as a segregated asset ac-
16 count meeting such requirements if such account or
17 set of assets achieves substantially the same results
18 as such a segregated asset account or if such treat-
19 ment is otherwise necessary to prevent the avoidance
20 of the purposes of this section,

21 “(3) preventing the taking into account of items
22 more than once,

23 “(4) providing rules for determining whether 1
24 or more persons are indirect holders of applicable
25 private placement contracts, and

1 “(5) providing rules for the application of this
2 section in cases where there is more than 1 holder
3 of an applicable private placement contract or where
4 applicable distributions are made at the same time
5 to 2 or more persons with respect to such a con-
6 tract.”.

7 (b) CONFORMING AMENDMENT.—The table of sec-
8 tions for chapter 79 of the Internal Revenue Code of 1986
9 is amended by inserting after the item relating to section
10 7702B the following new item:

 “Section 7702C. Treatment of applicable private placement contracts.”.

11 (c) EFFECTIVE DATE.—

12 (1) IN GENERAL.—The amendments made by
13 this section shall take effect on the date of the en-
14 actment of this Act and shall apply to contracts
15 whether issued before, on, or after such date.

16 (2) TRANSITION RULE.—The amendments
17 made by this section shall not apply to a contract
18 issued on or before the date of the enactment of this
19 Act which (without regard to this paragraph) is an
20 applicable private placement contract under section
21 7702C of the Internal Revenue Code of 1986 (as
22 added by this section) if, before the end of the 180-
23 day period beginning on such date of enactment,
24 such contract—

1 (A) is exchanged for, or converted to, a life
2 insurance or annuity contract that is not such
3 an applicable private placement contract, or

4 (B) is cancelled or otherwise liquidated.

5 **SEC. ____ 3. REPORTING REQUIREMENTS.**

6 (a) IN GENERAL.—

7 (1) RETURN REQUIREMENT.—

8 (A) IN GENERAL.—Subpart B of part III
9 of subchapter A of chapter 61 of the Internal
10 Revenue Code of 1986 is amended by adding at
11 the end the following new section:

12 **“SEC. 6050AA. RETURNS RELATING TO APPLICABLE PRI-**
13 **VATE PLACEMENT CONTRACTS.**

14 “(a) INITIAL REPORT.—

15 “(1) IN GENERAL.—Every reporting issuer,
16 shall, not later than the applicable date, make a re-
17 turn (in such form as the Secretary may prescribe)
18 with respect to each applicable private placement
19 contract issued or reinsured by the issuer.

20 “(2) INFORMATION INCLUDED.—Such return
21 shall set forth—

22 “(A) the name, address, and TIN of the
23 reporting issuer,

24 “(B) the name, address, and TIN of the
25 holder of the contract,

1 “(C) the applicable adjusted basis (as de-
2 fined in section 7702C(d)(2)) in the contract of
3 such holder (determined as if an applicable dis-
4 tribution were to be made as of the applicable
5 date),

6 “(D) any other contracts which are sup-
7 ported by the segregated asset account sup-
8 porting such contract,

9 “(E) the name, address, and TIN of the
10 holder of any contract described in subpara-
11 graph (D) who is related (within the meaning
12 of section 7702C(c)(2)(B)) to the holder of
13 such contract, and

14 “(F) such other information as the Sec-
15 retary may require.

16 “(3) APPLICABLE DATE.—For purposes of this
17 section, the applicable date means, with respect to
18 any applicable private placement contract, 30 days
19 after the later of—

20 “(A) the date that is 180 days after the
21 date of the enactment of this section, or

22 “(B) the date the contract first became an
23 applicable private placement contract.

24 “(b) ANNUAL REPORTS.—

1 “(1) IN GENERAL.—Every reporting issuer shall
2 file an annual return with respect to each applicable
3 private placement contract issued or reinsured by
4 the issuer.

5 “(2) TIME FOR FILING RETURN.—The return
6 under paragraph (1) shall be filed at such time and
7 in such manner as the Secretary shall prescribe.

8 “(3) INFORMATION INCLUDED.—A return filed
9 under paragraph (1) shall set forth—

10 “(A) the name, address, and TIN of the
11 reporting issuer,

12 “(B) the name address, and TIN of the
13 holder of the applicable private placement con-
14 tract,

15 “(C) the name, address, and TIN of each
16 person receiving an applicable distribution (as
17 defined in section 7792C(d)(2)) under the con-
18 tract if such person is not the holder of the con-
19 tract,

20 “(D) the amounts for the taxable year of—

21 “(i) items of income, loss, deduction,
22 and credit for the year with respect to the
23 assets of which the holder is treated as the
24 owner by reason of section 7702C(d)(1),

1 “(ii) the amount of any applicable dis-
2 tribution (as so defined) under the applica-
3 ble private placement contract and the por-
4 tion of such distribution which is treated
5 as an excess distribution (as defined in sec-
6 tion 7702C(d)(2)),

7 “(iii) the holder’s applicable adjusted
8 basis (as defined in section 7702C(d)(2))
9 in the contract as of the date of each ap-
10 plicable distribution made during the re-
11 porting period and as of the last day of the
12 reporting period (determined as if an ap-
13 plicable distribution were to be made on
14 such day), and

15 “(iv) in the case of a reporting issuer
16 described in subsection (d)(1)(B), pre-
17 miums or other amounts paid or received
18 by any person pursuant to any reinsurance
19 or risk-shifting arrangement described in
20 such subsection, and

21 “(E) such other information as the Sec-
22 retary may require.

23 “(c) STATEMENT TO BE FURNISHED TO TAXPAYERS
24 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—

1 “(1) IN GENERAL.—Every person that is re-
2 quired to make a return under subsection (a) or (b)
3 shall furnish to each person whose identity is re-
4 quired to be set forth under subsection (a)(2)(B) or
5 subparagraph (B) or (C) of subsection (b)(3) a writ-
6 ten statement showing—

7 “(A) the name, address, and phone num-
8 ber of the information contact of the person re-
9 quired to make such return, and

10 “(B) the information required to be shown
11 on such return with respect to the person to
12 whom such statement is required to be fur-
13 nished.

14 “(2) FURNISHING OF INFORMATION.—The
15 written statement required under paragraph (1) with
16 respect to any return shall be furnished to the per-
17 son on or before January 31 of the year following
18 the calendar year for which the return is required to
19 be made.

20 “(d) DEFINITIONS.—For purposes of this section—

21 “(1) REPORTING ISSUER.—The term ‘reporting
22 issuer’ means any person who—

23 “(A) issues a life insurance contract or an-
24 nuity contract which is treated as an applicable
25 private placement contract, or

1 “(B) reinsures, or shifts risks with respect
2 to any portion of, an applicable private place-
3 ment contract.

4 “(2) APPLICABLE PRIVATE PLACEMENT CON-
5 TRACT.—The term ‘applicable private placement
6 contract’ has the meaning given such term under
7 section 7702C.”.

8 (2) PENALTIES.—

9 (A) FAILURE TO PROVIDE INITIAL RE-
10 TURN.—Part I of subchapter B of chapter 68
11 of the Internal Revenue Code of 1986 is
12 amended by adding at the end the following
13 new section:

14 **“SEC. 6720D. PENALTY FOR FAILURE TO REPORT APPLICA-**
15 **BLE PRIVATE PLACEMENT CONTRACTS.**

16 “(a) IMPOSITION OF PENALTY.—

17 “(1) IN GENERAL.—Any person required to
18 make a return under section 6050AA(a) who fails to
19 file such return with the Secretary before the appli-
20 cable date shall pay a penalty equal to the amount
21 determined under paragraph (2).

22 “(2) AMOUNT OF PENALTY.—

23 “(A) IN GENERAL.—The amount of the
24 penalty determined under this paragraph is the
25 sum of—

1 “(i) \$1,000,000, plus

2 “(ii) an additional \$1,000,000 for
3 each penalty period ending before the date
4 on which the failure described in sub-
5 section (a) has been corrected.

6 “(B) PENALTY PERIOD.—For purposes of
7 this subsection, the term ‘penalty period’ means
8 each period of 30 days beginning after the first
9 30-day period beginning with the applicable
10 date.

11 “(3) APPLICABLE DATE.—For purposes of this
12 subsection, the term ‘applicable date’ has the mean-
13 ing given such term under section 6050AA(a)(3).

14 “(b) SPECIAL RULES.—

15 “(1) PERSONS SUBJECT TO INSURANCE REGU-
16 LATION.—In the case of a person—

17 “(A) which is regulated by an agency or
18 entity under foreign, State, or local law, and

19 “(B) which is required to pay a penalty
20 under this section,

21 the requirement to pay such penalty shall be
22 disclosed to such agency or entity. Failure to
23 make a disclosure in accordance with the pre-
24 ceding sentence shall be treated as a failure to
25 which this section applies.

1 “(2) PERSONS SUBJECT TO SECURITIES EX-
2 CHANGE ACT OF 1932.—In the case of a person—

3 “(A) which is required to file periodic re-
4 ports under section 13 or 15(d) of the Securi-
5 ties Exchange Act of 1934 or is required to be
6 consolidated with another person for purposes
7 of such reports, and

8 “(B) which is required to pay a penalty
9 under this section,
10 the requirement to pay such penalty shall be
11 disclosed in such reports filed by such person
12 for such periods as the Secretary shall specify.
13 Failure to make a disclosure in accordance with
14 the preceding sentence shall be treated as a
15 failure to which this section applies.”.

16 (B) FAILURE TO MAKE ANNUAL RETURNS
17 OR PAYEE STATEMENTS.—

18 (i) RETURNS.—Section 6724(d)(1)(B)
19 of the Internal Revenue Code of 1986 is
20 amended by striking “or” at the end of
21 clause (xxvii), by striking “and” at the end
22 of clause (xxviii) and inserting “or”, and
23 by inserting after clause (xxviii) the fol-
24 lowing new clause:

25 “(xxix) section 6050AA(b),”.

1 (ii) STATEMENTS.—Section
2 6724(d)(2) of such Code is amended—

3 (I) by striking “or” at the end of
4 subparagraph (KK),

5 (II) by striking the period at the
6 end of subparagraph (LL) and insert-
7 ing “, or”, and

8 (III) by inserting after subpara-
9 graph (LL) the following new sub-
10 paragraph:

11 “(MM) section
12 6050AA(c).”.

13 (3) CLERICAL AMENDMENTS.—

14 (A) The table of sections for subpart B of
15 part III of subchapter A of chapter 61 of the
16 Internal Revenue Code of 1986 is amended by
17 inserting after the item relating to section
18 6050Z the following new item:

“Sec. 6050AA. Returns relating to applicable private placement contracts.”.

19 (B) The table of sections for part I of sub-
20 chapter B of chapter 68 of the Internal Rev-
21 enue Code of 1986 is amended by adding at the
22 end the following new item:

“Sec. 6720D. Penalty for failure to report applicable private placement con-
tracts.”.

1 (b) RULES RELATING TO FOREIGN ACCOUNT TAX
2 COMPLIANCE.—

3 (1) INSURANCE COMPANIES TREATED AS FI-
4 NANCIAL INSTITUTIONS.—

5 (A) IN GENERAL.—Section 1471(d)(5) of
6 the Internal Revenue Code of 1986 is amended
7 by striking “or” at the end of subparagraph
8 (B), by striking the period at the end of sub-
9 paragraph (C) and inserting “, or”, and by
10 adding at the end the following new subpara-
11 graph:

12 “(D) except as otherwise provided by the
13 Secretary, holds itself out as a life insurance
14 company.”.

15 (B) TREATMENT OF CERTAIN CORPORA-
16 TIONS AS FOREIGN FINANCIAL INSTITUTIONS.—
17 Section 1471(d)(4) of such Code is amended by
18 inserting “(determined without regard to any
19 election made under section 953(d))” after
20 “foreign entity”.

21 (C) LIMITATION ON AUTHORITY TO EX-
22 CLUDE.—Section 1471(f)(4) of such Code is
23 amended by inserting “(other than an entity de-
24 scribed in subsection (d)(5)(D))” before the pe-
25 riod at the end.

1 (2) PRIVATE PLACEMENT CONTRACTS TREATED
2 AS FINANCIAL ACCOUNTS.—Section 1471(d)(2) of
3 the Internal Revenue Code of 1986 is amended by
4 striking “and” at the end of subparagraph (B), by
5 striking the period at the end of subparagraph (C)
6 and inserting “, and”, and by inserting after sub-
7 paragraph (C) the following new subparagraph:

8 “(D) any contract which is described in
9 section 7702C(b)(3) and any separate seg-
10 regated asset account that holds assets sup-
11 porting such a contract.”.

12 (3) ADDITIONAL LIMITATION ON EXCEP-
13 TIONS.—Section 1472(e)(2) of the of the Internal
14 Revenue Code of 1986 is amended by inserting
15 “(other than payments to an entity described in sec-
16 tion 1471(d)(5)(D))” before the period at the end.

17 (4) EFFECTIVE DATE.—The amendments made
18 by this subsection shall apply to payments made
19 after the date that is 1 year after the date of the
20 enactment of this Act.