

113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1369

To provide additional flexibility to the Board of Governors of the Federal Reserve System to establish capital standards that are properly tailored to the unique characteristics of the business of insurance, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 25, 2013

Mr. BROWN (for himself, Mr. JOHANNIS, Mr. KIRK, Mr. TESTER, and Mr. TOOMEY) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To provide additional flexibility to the Board of Governors of the Federal Reserve System to establish capital standards that are properly tailored to the unique characteristics of the business of insurance, and for other purposes.

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. FINDINGS AND PURPOSE.**

4       (a) FINDINGS.—Congress finds that—

5               (1) insurance companies are regulated by the  
6       State insurance authorities of the States in which

1 the insurance companies are domiciled or licensed to  
2 sell insurance;

3 (2) as exemplified by section 5 of the Bank  
4 Holding Company Act of 1956 (12 U.S.C. 1844),  
5 Congress has long recognized and sought to preserve  
6 the State-based insurance regime;

7 (3) Senate Report 111–176, relating to the Re-  
8 storing American Financial Stability Act of 2010 (S.  
9 3217), directed Federal banking agencies to consider  
10 the existing regulatory requirements, accounting  
11 treatment, and unique capital structures of insur-  
12 ance companies in developing capital requirements  
13 for insurance entities; and

14 (4) while section 171 of the Dodd-Frank Wall  
15 Street Reform and Consumer Protection Act (12  
16 U.S.C. 5371) directs Federal banking agencies to es-  
17 tablish minimum risk-based capital and leverage  
18 standards on a consolidated basis, Congress did not  
19 intend for Federal banking regulators to discard the  
20 State risk-based capital system in favor of a banking  
21 capital regime.

22 (b) PURPOSE.—The purpose of this Act is to provide  
23 additional flexibility for the Board of Governors of the  
24 Federal Reserve System to establish capital standards

1 that are properly tailored to the unique characteristics of  
2 the business of insurance.

3 **SEC. 2. EXCLUSION OF INSURERS FROM BANK CAPITAL**  
4 **RULES.**

5 Section 171 of the Dodd-Frank Wall Street Reform  
6 and Consumer Protection Act (12 U.S.C. 5371) is amend-  
7 ed—

8 (1) in subsection (a), by adding at the end the  
9 following:

10 “(4) BUSINESS OF INSURANCE.—The term  
11 ‘business of insurance’ has the same meaning as in  
12 section 1002.

13 “(5) PRIMARILY ENGAGED IN THE BUSINESS  
14 OF INSURANCE.—A company is ‘primarily engaged  
15 in the business of insurance’ if—

16 “(A) the annual gross revenues derived by  
17 the company and all subsidiaries of the com-  
18 pany from the business of insurance represent  
19 not less than  $\frac{2}{3}$  of the consolidated annual  
20 gross revenues of the company; or

21 “(B) the consolidated assets of the com-  
22 pany and all subsidiaries of the company that  
23 relate to the business of insurance represent not  
24 less than  $\frac{2}{3}$  of the consolidated assets of the  
25 company.”; and

1 (2) in subsection (b)(5)—

2 (A) in subparagraph (B), by striking “or”;

3 (B) in subparagraph (C), by striking the  
4 period at the end and inserting a semicolon;

5 and

6 (C) by adding at the end the following:

7 “(D) any depository institution holding  
8 company that—

9 “(i) is primarily engaged in the busi-  
10 ness of insurance; or

11 “(ii) is an insurance underwriting  
12 company at the holding company level and  
13 was in existence on July 21, 2010; or

14 “(E) any nonbank financial company su-  
15 pervised by the Board of Governors that, to-  
16 gether with its subsidiaries, is primarily en-  
17 gaged in the business of insurance.”.

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