

SECURITIES AND EXCHANGE COMMISSION

FORM S-8

Initial registration statement for securities to be offered to employees pursuant to employee benefit plans

Filing Date: **1994-12-27**
SEC Accession No. **0000719241-94-000058**

([HTML Version](#) on secdatabase.com)

FILER

CONSECO INC

CIK: **719241** | IRS No.: **351468632** | State of Incorporation: **IN** | Fiscal Year End: **1231**
Type: **S-8** | Act: **33** | File No.: **033-57079** | Film No.: **94566377**
SIC: **6311** Life insurance

Business Address
11825 N PENNSYLVANIA ST
CARMEL IN 46032
3175736100

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM S-8
Registration Statement
Under
The Securities Act of 1933

CONSECO, INC.

(Exact name of registrant as specified in its charter)

Indiana
(State of Incorporation)

35-1468632
(I.R.S. Employer
Identification No.)

11825 N. Pennsylvania Street
Carmel, Indiana
(Address of Principal Executive Offices)

46032
(Zip Code)

1994 Stock and Incentive Plan
(Full title of the plan)

Stephen C. Hilbert
11825 N. Pennsylvania Street
Carmel, Indiana 46032
(Name and address of agent for service)

(317) 573-6100
(Telephone number, including area code, of agent for service)

With a copy to:
Lawrence W. Inlow, Esq.
Conseco, Inc.
11825 N. Pennsylvania Street
Carmel, Indiana 46032

CALCULATION OF REGISTRATION FEE

Title of Securities to be Registered	Amount to be Registered	Proposed Maximum Offering Price Per Share	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
-----	-----	-----	-----	-----
<S>	<C>	<C>	<C>	<C>
Common Stock, no par value	6,000,000 shares (1)	(2)	\$298,518,475 (2)	\$102,938
Interests in the 1994 Stock and Incentive Plan	(3)	(4)	(4)	(4)

<FN>

- (1) Subject to increase (or decrease) in accordance with Rule 416 of Regulation C to reflect a merger, consolidation, reorganization, recapitalization, stock dividend, stock split or other change in the corporate structure of the Registrant which results in a change in the number of shares issuable pursuant to outstanding awards under the Plan.
- (2) Estimated solely for the purpose of calculating the registration fee pursuant to Rules 457(c) and 457(h) of Regulation C, on the basis of (i) 2,698,000 shares at an option exercise price of \$59.25 per share, (ii) 176,200 shares at an option exercise price of \$41.875 and (iii) 3,125,800 shares at \$42.00 per share, the average of the high and low prices of the shares of common stock of the Registrant on December 19, 1994.
- (3) Pursuant to Rule 416(c) of Regulation C, there are hereby registered on this Registration Statement an indeterminate amount of interests in the Plan.
- (4) Pursuant to Rule 457(h)(2) of Regulation C, no separate fee is required with respect to interests in the Plan.

</TABLE>

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The documents listed below are hereby incorporated by reference into this Registration Statement:

1. Annual Report on Form 10-K of Conseco, Inc. (the "Company" or the "Registrant") for the year ended December 31, 1993.
2. All other reports filed by the Company pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), since the end of its fiscal year ended December 31, 1993.
3. The description of the Company's Common Stock contained in its Registration Statement on Form 8-A filed with the Commission on August 27, 1986.

All documents filed subsequent to the foregoing by the Company pursuant to Sections 13(a), 13(c), 14 and 15(d) of the Exchange Act, prior to the filing of a post-effective amendment which indicates that all securities registered have been sold or which deregisters all securities then remaining unsold, shall be deemed to be incorporated by reference into this Registration Statement and to be a part hereof from the date of filing of such documents.

Item 4. Description of Securities.

(See Item 3)

Item 5. Interests of Named Experts and Counsel.

Certain legal matters in connection with the securities offered hereby will be passed upon for the Company by Lawrence W. Inlow, Esq., Executive Vice President and General Counsel of the Company. Mr. Inlow holds options to purchase 662,000 shares of Common Stock and owns 247,076 shares directly.

Item 6. Indemnification of Directors and Officers.

The Indiana Business Corporation Law grants authorization to Indiana corporations to indemnify officers and directors from liability for their conduct if such conduct was in good faith and was in the corporation's best interests or, in the case of directors, was not opposed to such best interests, and permits the purchase of insurance in this regard. In addition, the shareholders of a corporation may approve the inclusion of other or additional indemnification provisions in the articles of incorporation and by-laws.

3

The Code of By-Laws of the Registrant provides for the indemnification of any person made a party to any action, suit or proceeding by reason of the fact that he is a director, officer or employee of the Registrant, unless it is adjudged in such action, suit or proceeding that such person is liable for negligence or misconduct in the performance of his duties. Such indemnification shall be against the reasonable expenses, including attorneys' fees, incurred by such person in connection with the defense of such action, suit or proceeding. In some circumstances, the Registrant may reimburse any such person for the reasonable costs of settlement of any such action, suit or proceeding, if a majority of the members of the Board of Directors not involved in the controversy shall determine that it was in the interests of the Registrant that such settlement be made and that such person was not guilty of negligence or misconduct.

Item 7. Exemption from Registration Claimed.

Not Applicable

Item 8. Exhibits.

See the Exhibit Index immediately following the signature pages to this Registration Statement.

Item 9. Undertakings.

The undersigned Registrant hereby undertakes:

- (1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

- (i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933 (the "Act");

- (ii) To reflect in the prospectus any facts or events arising after the effective date of this Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in this

(iii) To include any material information with respect to the plan of distribution not previously disclosed in this Registration Statement or any material change to such information in this Registration Statement;

Provided, however, that paragraphs (1)(i) and (ii) do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed by the Registrant pursuant to Section 13 or Section 15(d) of the Exchange Act that are incorporated by reference into this Registration Statement.

4

(2) That, for the purpose of determining any liability under the Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) That, for purposes of determining any liability under the Act, each filing of the Registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in this Registration Statement shall be deemed to be a new registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(5) Insofar as indemnification for liabilities arising under the Act may be permitted to directors, officers and controlling persons of the Registrant pursuant to the foregoing provisions, or otherwise, the Registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the Registrant of expenses incurred or paid by a director, officer or controlling person of the Registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the Registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

5

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Carmel, State of Indiana, on the 27th day of December, 1994.

CONSECO, INC.

By: /S/ Stephen C. Hilbert

Stephen C. Hilbert,
Chairman of the Board

Pursuant to the requirements of the Securities Act of 1933, this Registration Statement has been signed by the following persons in the capacities and on the date indicated.

<TABLE> <CAPTION> Signatures -----	Title (Capacity) -----	Date ----
<S> /S/ Stephen C. Hilbert ----- Stephen C. Hilbert	<C> Chairman of the Board, President and Chief Executive Officer (Principal Executive Officer)	<C> December 27, 1994
/S/ Rollin M. Dick -----	Executive Vice President, Chief Financial Officer and	December 27, 1994

Rollin M. Dick	Director (Principal Financial Officer and Principal Accounting Officer)	
/S/ Michael G. Browning ----- Michael G. Browning	Director	December 27, 1994
/S/ Ngaire E. Cuneo ----- Ngaire E. Cuneo	Executive Vice President, Corporate Development and Director	December 27, 1994
----- Louis P. Ferrero	Director	December , 1994
/S/ Donald F. Gongaware ----- Donald F. Gongaware	Executive Vice President, Chief Operations Officer and Director	December 27, 1994
----- M. Phil Hathaway	Director	December , 1994
----- James D. Massey	Director	December , 1994
----- Dennis E. Murray, Sr.	Director	December , 1994

</TABLE>

6

The Plan

Pursuant to the requirements of the Securities Act of 1933, the Plan has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Carmel, State of Indiana, on December 27, 1994.

1994 Stock and Incentive Plan
By: Conseco, Inc.

By: /S/ Stephen C. Hilbert

Stephen C. Hilbert,
Chairman of the Board,
President and Chief Executive
Officer

7

EXHIBITS

Exhibit No.

- 4(a) The 1994 Stock and Incentive Plan of the Registrant is incorporated herein by reference to Exhibit A to the Registrant's definitive proxy statement dated April 29, 1994 which was filed with the Commission on May 2, 1994.
- 5(a) Opinion of Counsel re: legality
- 23(a) Consent of Counsel [See Exhibit 5(a)]
- 23(b) Consent of Independent Accountants

December 27, 1994

Board of Directors
Conseco, Inc.
11825 N. Pennsylvania Street
Carmel, Indiana 46032

Re: Conseco, Inc.
Registration Statement on Form S-8
1994 Stock and Incentive Plan

Gentlemen and Madam:

I am Executive Vice President and General Counsel for Conseco, Inc., an Indiana corporation (the "Company"), and in such capacity, I exercise general supervision over the Company's legal affairs. I and lawyers over whom I exercise general supervision have acted as counsel to the Company in connection with the Registration Statement on Form S-8 concerning shares of common stock, no par value, of the Company to be issued in connection with the Conseco, Inc. 1994 Stock and Incentive Plan (the "Plan"). In connection with our representation, we have examined the corporate records of the Company, including its Amended and Restated Articles of Incorporation, as amended, By-Laws and other corporate records and documents and have made such other examinations as we consider necessary to render this opinion. Based upon the foregoing, I am of the opinion that:

1. The Company is a corporation duly organized and validly existing under the laws of the State of Indiana.
2. The Plan and the shares of common stock covered by the Plan have been duly authorized by all requisite corporate action.
3. With respect to the authorized but unissued shares of common stock covered by the Plan, such shares, when issued in accordance with the terms and provisions for their issuance, will be legally issued, fully paid and non-assessable.

I consent to the filing of this opinion as an exhibit to the registration statement referred to above and to all references to me in such registration statement.

Very truly yours,

/s/ Lawrence W. Inlow

LAWRENCE W. INLOW

CONSENT OF INDEPENDENT ACCOUNTANTS

We consent to the incorporation by reference in this registration statement on Form S-8 of the shares of common stock of Conseco, Inc., covered by the Conseco, Inc. 1994 Stock and Incentive Plan, of our reports dated March 24, 1994, on our audits of the consolidated financial statements and financial statement schedules of Conseco, Inc. and Subsidiaries, which reports are included in the Annual Report on Form 10-K of Conseco, Inc. for the year ended December 31, 1993.

COOPERS & LYBRAND

Indianapolis, Indiana
December 27, 1994