

103<sup>RD</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 3474**

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**AMENDMENT**

***In the Senate of the United States,***

*March 17 (legislative day, February 22), 1994.*

*Resolved*, That the bill from the House of Representatives (H.R. 3474) entitled “An Act to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes”, do pass with the following

**AMENDMENT:**

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

2       (a) *SHORT TITLE.*—*This Act may be cited as the*  
3 *“Community Development, Credit Enhancement, and Reg-*  
4 *ulatory Improvement Act of 1994”.*

5       (b) *TABLE OF CONTENTS.*—*The table of contents for*  
6 *this Act is as follows:*

*Sec. 1. Short title; table of contents.*

## TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

*Subtitle A—Community Development Banking and Financial Institutions Act*

- Sec. 101. Short title.*
- Sec. 102. Findings and purposes.*
- Sec. 103. Definitions.*
- Sec. 104. Establishment of national fund for community development banking.*
- Sec. 105. Applications for assistance.*
- Sec. 106. Community partnerships.*
- Sec. 107. Selection of institutions.*
- Sec. 108. Assistance provided by the Fund.*
- Sec. 109. Community development training.*
- Sec. 110. Encouragement of private entities.*
- Sec. 111. Clearinghouse function.*
- Sec. 112. Recordkeeping, reports, and audits.*
- Sec. 113. Investment of receipts and proceeds.*
- Sec. 114. Inspector General.*
- Sec. 115. Capitalization assistance to enhance liquidity.*
- Sec. 116. Community development revolving loan fund for credit unions.*
- Sec. 117. Regulations.*
- Sec. 118. Authorization of appropriations.*

*Subtitle B—Home Ownership and Equity Protection*

- Sec. 151. Consumer protections for high cost mortgages.*
- Sec. 152. Civil liability.*
- Sec. 153. Reverse mortgage disclosure.*
- Sec. 154. Regulations; effective date.*

## TITLE II—SMALL BUSINESS CAPITAL FORMATION

*Subtitle A—Small Business Loan Securitization*

- Sec. 201. Short title.*
- Sec. 202. Small business related security.*
- Sec. 203. Applicability of margin requirements.*
- Sec. 204. Borrowing in the course of business.*
- Sec. 205. Small business related securities as collateral.*
- Sec. 206. Investment by depository institutions.*
- Sec. 207. Preemption of State law.*
- Sec. 208. Insured depository institution capital requirements for transfers of small business obligations.*
- Sec. 209. Transactions in small business related securities by employee benefit plans.*
- Sec. 210. Sense of the Senate on taxation of small business loan investment conduits.*

*Subtitle B—Small Business Capital Enhancement*

- Sec. 251. Findings and purposes.*
- Sec. 252. Definitions.*
- Sec. 253. Approving States for participation.*
- Sec. 254. Participation agreements.*
- Sec. 255. Terms of participation agreements.*
- Sec. 256. Reports.*
- Sec. 257. Reimbursement by the Secretary.*

- Sec. 258. Reimbursement to the Secretary.*
- Sec. 259. Regulations.*
- Sec. 260. Authorization of appropriations.*

*TITLE III—PAPERWORK REDUCTION AND REGULATORY  
IMPROVEMENT*

- Sec. 301. Incorporated definitions.*
- Sec. 302. Administrative consideration of burden with new regulations.*
- Sec. 303. Streamlining of regulatory requirements.*
- Sec. 304. Elimination of duplicative filings.*
- Sec. 305. Coordinated and unified examinations.*
- Sec. 306. Eighteen-month examination rule for certain small institutions.*
- Sec. 307. Call report simplification.*
- Sec. 308. Repeal of publication requirements.*
- Sec. 309. Regulatory appeals process.*
- Sec. 310. Electronic filing of currency transaction reports.*
- Sec. 311. Bank Secrecy Act publication requirements.*
- Sec. 312. Exemption of business loans from Real Estate Settlement Procedures Act requirements.*
- Sec. 313. Flexibility in choosing boards of directors.*
- Sec. 314. Holding company audit requirements.*
- Sec. 315. State regulation of real estate appraisals.*
- Sec. 316. Acceleration of effective date for interaffiliate transactions.*
- Sec. 317. Collateralization of public deposits.*
- Sec. 318. Elimination of stock valuation provision.*
- Sec. 319. Expedited procedures for forming a bank holding company.*
- Sec. 320. Exemption of certain holding company formations from registration under the Securities Act of 1933.*
- Sec. 321. Reduction of post-approval waiting period for bank holding company acquisitions.*
- Sec. 322. Reduction of post-approval waiting period for bank mergers.*
- Sec. 323. Bankers' banks.*
- Sec. 324. Bank Service Corporation Act amendment.*
- Sec. 325. Merger transaction reports.*
- Sec. 326. Credit card accounts receivable sales.*
- Sec. 327. Limiting potential liability on foreign accounts.*
- Sec. 328. Amendments to outdated dividend provisions.*
- Sec. 329. Elimination of duplicative disclosures for home equity loans.*
- Sec. 330. Report on capital standards and their impact on the economy.*
- Sec. 331. Studies on the impact of the payment of interest on reserves.*
- Sec. 332. Study and report on streamlined lending process for consumer benefit.*
- Sec. 333. Repeal of outdated charter requirement for national banks.*
- Sec. 334. Inclusion of Comptroller of the Currency; clarification of revised statutes.*
- Sec. 335. Commemoration of 1995 Special Olympic World Games.*
- Sec. 336. Exemption for business accounts.*
- Sec. 337. Board discretion regarding check-related fraud.*
- Sec. 338. Civil liability under truth in savings.*
- Sec. 339. Insider lending.*
- Sec. 340. Revisions of standards.*
- Sec. 341. Alternative rules for radio advertising of consumer leases.*
- Sec. 342. Deposit broker registration.*
- Sec. 343. Extension of management interlocks grandfather clause.*
- Sec. 344. Clarification of provision relating to administrative autonomy.*

- Sec. 345. Consumer surveys and report.*
- Sec. 346. Simplified disclosure for existing depositors.*
- Sec. 347. Commercial mortgage related securities.*
- Sec. 348. Offset of costs of certain programs.*

*TITLE IV—MONEY LAUNDERING*

- Sec. 401. Short title.*
- Sec. 402. Reform of CTR exemption requirements to reduce number and size of reports consistent with effective law enforcement.*
- Sec. 403. Single designee for reporting of suspicious transactions.*
- Sec. 404. Improvement of identification of money laundering schemes.*
- Sec. 405. Negotiable instruments drawn on foreign banks subject to recordkeeping and reporting requirements.*
- Sec. 406. Imposition of civil money penalties by appropriate Federal banking agencies.*
- Sec. 407. Uniform State licensing and regulation of check cashing, currency exchange, and money transmitting businesses.*
- Sec. 408. Registration of money transmitting businesses to promote effective law enforcement.*
- Sec. 409. Criminal and civil penalty for structuring domestic and international transactions.*
- Sec. 410. GAO study of chasers' checks.*

*TITLE V—FAIR TRADE IN FINANCIAL SERVICES*

- Sec. 501. Short title.*
- Sec. 502. Effectuating the principle of national treatment for banking organizations.*
- Sec. 503. Effectuating the principle of national treatment for securities organizations.*
- Sec. 504. Effectuating the principle of national treatment for insurers and reinsurers.*
- Sec. 505. Financial interdependence study.*
- Sec. 506. Federal Reserve report on the Foreign Bank Supervision Enhancement Act of 1991.*
- Sec. 507. Conforming amendments.*

*TITLE VI—NATIONAL FLOOD INSURANCE REFORM*

- Sec. 601. Short title.*
- Sec. 602. Congressional findings.*
- Sec. 603. Definition.*

*SUBTITLE A—DEFINITIONS*

- Sec. 611. Flood Disaster Protection Act of 1973.*
- Sec. 612. National Flood Insurance Act of 1968.*

*SUBTITLE B—COMPLIANCE AND INCREASED PARTICIPATION*

- Sec. 621. Expanded flood insurance purchase requirements.*
- Sec. 622. Excrow of flood insurance payments.*
- Sec. 623. Notice requirements.*
- Sec. 624. Placement of flood insurance by regulated lending institution, Federal agency lender, or servicer.*
- Sec. 625. Standard flood hazard determination forms.*

- Sec. 626. Examination regarding compliance by regulated lending institutions.*
- Sec. 627. Penalties and corrective actions for failure to require flood insurance, escrow, or notify.*
- Sec. 628. Financial institutions examination council.*
- Sec. 629. Conforming amendment.*

*SUBTITLE C—RATINGS AND INCENTIVES FOR COMMUNITY FLOODPLAIN  
MANAGEMENT PROGRAMS*

- Sec. 631. Community rating system and incentives for community floodplain management.*
- Sec. 632. Funding.*
- Sec. 633. Reasonable fees.*

*SUBTITLE D—MITIGATION OF FLOOD AND EROSION RISKS*

- Sec. 641. Mitigation assistance in Federal insurance administration.*
- Sec. 642. Authorization of national flood and erosion mitigation funds under section 1362.*
- Sec. 643. State and community mitigation assistance program.*
- Sec. 644. Repeal of program for purchase of certain insured properties.*
- Sec. 645. Termination of erosion threatened structures program.*
- Sec. 646. Congressional findings and declaration of purchase under the National Flood Insurance Act of 1968.*

*SUBTITLE E—FLOOD INSURANCE TASK FORCE*

- Sec. 651. Flood insurance interagency task force.*

*SUBTITLE F—MISCELLANEOUS PROVISIONS*

- Sec. 661. Maximum flood insurance coverage amounts.*
- Sec. 662. Additional coverage for compliance with land use and control measures.*
- Sec. 663. Flood insurance program arrangements with private insurance entities.*
- Sec. 664. Updating of flood insurance rate maps.*
- Sec. 665. Evaluation of erosion hazards.*
- Sec. 666. Coordination of flood insurance rate map revisions and updates with coastal zone management programs.*
- Sec. 667. Technical Mapping Advisory Council.*
- Sec. 668. Funding for increased administrative and operational responsibilities.*
- Sec. 669. Separate account for National Flood Insurance Fund.*
- Sec. 670. Nonwaiver of flood purchase requirement for recipients of Federal disaster assistance.*
- Sec. 671. Insurance waiting period.*
- Sec. 672. Agricultural structures.*
- Sec. 673. Implementation review by the director.*
- Sec. 674. Regulations.*
- Sec. 675. Prohibited flood disaster assistance.*

*TITLE VII—GENERAL PROVISIONS*

- Sec. 701. Study of effect of the Northern spotted owl on small business concerns.*
- Sec. 702. Negative information about consumer.*
- Sec. 703. United Nations resolutions concerning Jerusalem.*
- Sec. 704. Amendment to the Federal Reserve Act.*
- Sec. 705. Oversight hearings.*
- Sec. 706. Insurance transfer agreement.*

1 **TITLE I—COMMUNITY DEVELOP-**  
2 **MENT AND CONSUMER PRO-**  
3 **TECTION**

4 **Subtitle A—Community Develop-**  
5 **ment Banking and Financial In-**  
6 **stitutions Act**

7 **SEC. 101. SHORT TITLE.**

8 *This subtitle may be cited as the “Community Devel-*  
9 *opment Banking and Financial Institutions Act of 1994”.*

10 **SEC. 102. FINDINGS AND PURPOSES.**

11 *(a) FINDINGS.—The Congress finds that—*

12 *(1) many of the Nation’s urban, rural, and Na-*  
13 *tive American communities face critical social and*  
14 *economic problems arising in part from the lack of*  
15 *economic growth, people living in poverty, and the*  
16 *lack of employment and other opportunities;*

17 *(2) the restoration and maintenance of the econo-*  
18 *mies of these communities will require coordinated de-*  
19 *velopment strategies, intensive supportive services,*  
20 *and increased access to equity investments and loans*  
21 *for development activities, including investment in*  
22 *businesses, housing, commercial real estate, human*  
23 *development, and other activities that promote the*  
24 *long-term economic and social viability of the com-*  
25 *munity; and*

1           (3) *community development financial institu-*  
2           *tions have proven their ability to identify and re-*  
3           *respond to community needs for equity investments,*  
4           *loans, and development services.*

5           (b) *PURPOSE.*—*The purpose of this subtitle is to create*  
6           *a Community Development Financial Institutions Fund*  
7           *that will promote economic revitalization and community*  
8           *development through a program of investment in and as-*  
9           *sistance to community development financial institutions,*  
10          *including enhancing the liquidity of community develop-*  
11          *ment financial institutions.*

12          **SEC. 103. DEFINITIONS.**

13          *For purposes of this subtitle, the following definitions*  
14          *shall apply:*

15               (1) *APPROPRIATE FEDERAL BANKING AGENCY.*—  
16               *The term “appropriate Federal banking agency” has*  
17               *the same meaning as in section 3 of the Federal De-*  
18               *posit Insurance Act, and also includes the National*  
19               *Credit Union Administration Board with respect to*  
20               *insured credit unions.*

21               (2) *AFFILIATE.*—*The term “affiliate” has the*  
22               *same meaning as in section 2(k) of the Bank Holding*  
23               *Company Act of 1956.*



1           (3) *COMMUNITY DEVELOPMENT FINANCIAL INSTI-*  
2           *TUTION.—*

3           (A) *IN GENERAL.—The term “community*  
4           *development financial institution” means a per-*  
5           *son (other than an individual) that—*

6                     (i) *has a primary mission of promot-*  
7                     *ing community development;*

8                     (ii) *serves an investment area or tar-*  
9                     *geted population;*

10                    (iii) *directly, through an affiliate, or*  
11                    *through a community partnership, provides*  
12                    *development services and equity investments*  
13                    *or loans;*

14                    (iv) *maintains, through representation*  
15                    *on its governing board or otherwise, ac-*  
16                    *countability to residents of its investment*  
17                    *area or targeted population; and*

18                    (v) *is not an agency or instrumentality*  
19                    *of the United States, or of any State or po-*  
20                    *litical subdivision of a State.*

21           (B) *QUALIFICATION OF AFFILIATES.—A*  
22           *subsidiary may only qualify as a community de-*  
23           *velopment financial institution if its parent*  
24           *company and the subsidiaries thereof (on a con-*

1           *solidated basis) also qualify as community devel-*  
2           *opment financial institutions.*

3           (4) *COMMUNITY PARTNER.*—*The term “commu-*  
4           *nity partner” means a person (other than an individ-*  
5           *ual) that provides loans, equity investments, or devel-*  
6           *opment services, including a depository institution*  
7           *holding company, an insured depository institution,*  
8           *an insured credit union, a nonprofit organization, a*  
9           *State or local government agency, a quasi-govern-*  
10          *mental entity, and an investment company author-*  
11          *ized to operate pursuant to the Small Business In-*  
12          *vestment Act of 1958.*

13          (5) *COMMUNITY PARTNERSHIP.*—*The term “com-*  
14          *munity partnership” means an agreement between a*  
15          *community development financial institution and a*  
16          *community partner to provide development services*  
17          *and loans or equity investments to an investment*  
18          *area or targeted population.*

19          (6) *DEPOSITORY INSTITUTION HOLDING COM-*  
20          *PANY.*—*The term “depository institution holding com-*  
21          *pany” has the same meaning as in section 3 of the*  
22          *Federal Deposit Insurance Act.*

23          (7) *DEVELOPMENT SERVICES.*—*The term “devel-*  
24          *opment services” means activities that promote com-*

1 *munity development and are integral to lending or*  
2 *investment activities, including—*

3 *(A) business planning;*

4 *(B) financial and credit counseling; and*

5 *(C) marketing and management assistance.*

6 *(8) INSURED COMMUNITY DEVELOPMENT FINAN-*  
7 *CIAL INSTITUTION.—The term “insured community*  
8 *development financial institution” means any com-*  
9 *munity development financial institution that is an*  
10 *insured depository institution or an insured credit*  
11 *union.*

12 *(9) INSURED CREDIT UNION.—The term “insured*  
13 *credit union” has the same meaning as in section*  
14 *101(7) of the Federal Credit Union Act.*

15 *(10) INSURED DEPOSITORY INSTITUTION.—The*  
16 *term “insured depository institution” has the same*  
17 *meaning as in section 3 of the Federal Deposit Insur-*  
18 *ance Act.*

19 *(11) INVESTMENT AREA.—The term “investment*  
20 *area” means a geographic area that—*

21 *(A)(i) meets objective criteria of economic*  
22 *distress developed by the Community Develop-*  
23 *ment Financial Institutions Fund, which may*  
24 *include the percentage of low-income families or*  
25 *the extent of poverty, the rate of unemployment*

1           or underemployment, lag in population growth,  
2           and extent of blight and disinvestment; and

3                 (ii) has significant unmet needs for loans or  
4           equity investments;

5                 (B) is located in an empowerment zone or  
6           enterprise community designated under section  
7           1391 of the Internal Revenue Code of 1986;

8                 (C) is located on an Indian reservation, as  
9           defined in section 3(d) of the Indian Financing  
10          Act of 1974 or section 4(10) of the Indian Child  
11          Welfare Act of 1978; or

12                 (D) is located in an area which is not a  
13          metropolitan statistical area and which has ex-  
14          perienced a decrease in population of not less  
15          than 10 percent (as determined in the most re-  
16          cent decennial census) between 1980 and 1990.

17          (12) *LOW-INCOME*.—The term “low-income”  
18          means having an income, adjusted for family size, of  
19          not more than—

20                 (A) for metropolitan areas, 80 percent of the  
21          area median income; and

22                 (B) for nonmetropolitan areas, the greater  
23          of—

24                         (i) 80 percent of the area median in-  
25          come; or

1                   (ii) 80 percent of the statewide  
2                   nonmetropolitan area median income.

3                   (13) *PARENT COMPANY.*—The term “parent com-  
4                   pany” means any company that directly or indirectly  
5                   controls another company.

6                   (14) *SUBSIDIARY.*—The term “subsidiary” has  
7                   the same meaning as in section 3 of the Federal De-  
8                   posit Insurance Act, except that a community devel-  
9                   opment financial institution that is a corporation  
10                  shall not be considered to be a subsidiary of any in-  
11                  sured depository institution or depository institution  
12                  holding company that controls less than 25 percent of  
13                  any class of the voting shares of such corporation, and  
14                  does not otherwise control in any manner the election  
15                  of a majority of the directors of the corporation.

16                  (15) *TARGETED POPULATION.*—The term “tar-  
17                  geted population” means low-income persons or per-  
18                  sons who otherwise lack adequate access to loans or  
19                  equity investments.

20 **SEC. 104. ESTABLISHMENT OF NATIONAL FUND FOR COM-**  
21 **MUNITY DEVELOPMENT BANKING.**

22                  (a) *ESTABLISHMENT.*—

23                         (1) *IN GENERAL.*—There is established a cor-  
24                         poration to be known as the Community Development  
25                         Financial Institutions Fund (hereafter in this subtitle

1 referred to as the “Fund”) that shall have the duties  
2 and responsibilities specified by this subtitle. The  
3 Fund shall have succession until dissolved. The offices  
4 of the Fund shall be in Washington, D.C. The Fund  
5 shall not be affiliated with or be within any other  
6 agency or department of the Federal Government.

7 (2) WHOLLY OWNED GOVERNMENT CORPORA-  
8 TION.—The Fund shall be a wholly owned Govern-  
9 ment corporation in the executive branch and shall be  
10 treated in all respects as an agency of the United  
11 States, except as otherwise provided in this subtitle.

12 (b) MANAGEMENT OF FUND.—

13 (1) APPOINTMENT OF ADMINISTRATOR AND DEP-  
14 UTY ADMINISTRATOR.—The management of the Fund  
15 shall be vested in an Administrator, who shall be ap-  
16 pointed by the President, by and with the advice and  
17 consent of the Senate. The Administrator shall not en-  
18 gage in any other business or employment during  
19 service as the Administrator. The President may ap-  
20 point a Deputy Administrator by and with the advice  
21 and consent of the Senate. The Deputy Administrator  
22 shall serve as the acting Administrator of the Fund  
23 during the absence or disability of the Administrator  
24 or in the event of a vacancy in the office of the Ad-  
25 ministrator.

1           (2) *CHIEF FINANCIAL OFFICER.*—*The Adminis-*  
2           *trator shall appoint a chief financial officer who shall*  
3           *oversee the financial management activities of the*  
4           *Fund.*

5           (3) *OTHER OFFICERS.*—*The Administrator may*  
6           *appoint such other officers and employees of the Fund*  
7           *as the Administrator determines to be necessary or*  
8           *appropriate.*

9           (c) *GENERAL POWERS.*—*In carrying out the functions*  
10          *of the Fund, the Administrator—*

11           (1) *shall have all necessary and proper authority*  
12          *to carry out this subtitle;*

13           (2) *shall have the power to adopt, alter, and use*  
14          *a corporate seal for the Fund, which shall be judi-*  
15          *cially noticed;*

16           (3) *may adopt, amend, and repeal bylaws, rules,*  
17          *and regulations governing the manner in which busi-*  
18          *ness of the Fund may be conducted and such rules*  
19          *and regulations as may be necessary or appropriate*  
20          *to implement this subtitle;*

21           (4) *may enter into, perform, and enforce such*  
22          *agreements, contracts, and transactions as may be*  
23          *deemed necessary or appropriate to the conduct of ac-*  
24          *tivities authorized under this subtitle;*

1           (5) may determine the character of and necessity  
2 for expenditures of the Fund and the manner in  
3 which they shall be incurred, allowed, and paid;

4           (6) may utilize or employ the services of person-  
5 nel of any agency or instrumentality of the United  
6 States with the consent of the agency or instrumentality  
7 concerned on a reimbursable or nonreimbursable  
8 basis; and

9           (7) may execute all instruments necessary or ap-  
10 propriate in the exercise of any of the functions of the  
11 Fund under this subtitle and may delegate to the offi-  
12 cers of the Fund such of the powers and responsibil-  
13 ities of the Administrator as the Administrator deems  
14 necessary or appropriate for the administration of the  
15 Fund.

16 (d) *ADVISORY BOARD.*—

17           (1) *ESTABLISHMENT.*—The Administrator shall  
18 establish an advisory board to be known as the Com-  
19 munity Development Advisory Board (hereafter in  
20 this subtitle referred to as the “Board”) in accordance  
21 with the provisions of the Federal Advisory Commit-  
22 tee Act.

23           (2) *MEMBERSHIP.*—

24           (A) *IN GENERAL.*—The Board shall consist  
25 of 5 private citizens who, collectively—



1           (i) represent community groups whose  
2           constituencies include targeted populations  
3           or residents of investment areas;

4           (ii) represent local or regional govern-  
5           ment interests;

6           (iii) have expertise in the operations  
7           and activities of insured depository institu-  
8           tions; and

9           (iv) have expertise in community de-  
10          velopment and lending.

11          (B) REPRESENTATION.—Each of the cat-  
12          egories described in clauses (i) through (iv) of  
13          subparagraph (A) shall be represented by not less  
14          than 1 member of the Board.

15          (3) BOARD FUNCTION.—It shall be the function  
16          of the Board to advise the Administrator on the poli-  
17          cies of the Fund. The Board shall not advise the Ad-  
18          ministrator on the granting or denial of any particu-  
19          lar application.

20          (4) TERMS OF MEMBERS.—

21               (A) IN GENERAL.—Each member of the  
22               Board shall serve for a term of 4 years.

23               (B) VACANCIES.—Any member appointed to  
24               fill a vacancy occurring prior to the expiration  
25               of the term for which the previous member was

1           *appointed shall be appointed for the remainder*  
2           *of such term. Members may continue to serve fol-*  
3           *lowing the expiration of their terms until a suc-*  
4           *cessor is appointed and qualified.*

5           (5) *CHAIRPERSON.*—*The Administrator shall ap-*  
6           *point a chairperson from among the members of the*  
7           *Board.*

8           (6) *MEETINGS.*—*The Board shall meet at least*  
9           *annually and at such other times as requested by the*  
10          *Administrator or the chairperson. A majority of the*  
11          *members of the Board shall constitute a quorum.*

12          (7) *REIMBURSEMENT FOR EXPENSES.*—*The*  
13          *members of the Board may receive reimbursement for*  
14          *travel, per diem, and other necessary expenses in-*  
15          *curring in the performance of their duties, in accord-*  
16          *ance with the Federal Advisory Committee Act.*

17          (8) *COSTS AND EXPENSES.*—*The Fund shall pro-*  
18          *vide to the Board all necessary staff and facilities.*

19          (e) *CONFORMING AMENDMENTS.*—*Section 9101(3) of*  
20          *title 31, United States Code, is amended—*

21                 (1) *by redesignating subparagraphs (B) through*  
22                 *(M) as subparagraphs (C) through (N), respectively;*  
23                 *and*

24                 (2) *by inserting after subparagraph (A) the fol-*  
25                 *lowing new subparagraph:*

1                   “(B) *the Community Development Finan-*  
2                   *cial Institutions Fund;*”.

3           (f) *GOVERNMENT CORPORATION CONTROL ACT EX-*  
4 *EMPTION.*—*Section 9107(b) of title 31, United States Code,*  
5 *shall not apply to deposits of the Fund made pursuant to*  
6 *section 108.*

7           (g) *LIMITATION OF FUND AND FEDERAL LIABILITY.*—  
8 *The liability of the Fund and the United States Government*  
9 *arising out of any investment in a community development*  
10 *financial institution in accordance with this subtitle shall*  
11 *be limited to the amount of the investment. The Fund shall*  
12 *be exempt from any assessments and other liabilities that*  
13 *may be imposed on controlling or principal shareholders*  
14 *by any Federal law or the law of any State, Territory, or*  
15 *the District of Columbia.*

16           (h) *PROHIBITION ON ISSUANCE OF SECURITIES.*—*The*  
17 *Fund may not issue stock, bonds, debentures, notes, or other*  
18 *securities.*

19           (i) *COMPENSATION.*—*Title 5, United States Code, is*  
20 *amended—*

21                   (1) *in section 5314, by adding at the end the fol-*  
22 *lowing:*

23                   “*Administrator of the Community Development*  
24                   *Financial Institutions Fund.*”; and

1           (2) in section 5315, by adding at the end the fol-  
2       lowing:

3           “Deputy Administrator of the Community Devel-  
4       opment Financial Institutions Fund.”.

5       (j) ASSISTED INSTITUTIONS NOT UNITED STATES IN-  
6       STRUMENTALITIES.—A community development financial  
7       institution or other organization that receives assistance  
8       pursuant to this subtitle shall not be deemed to be an agen-  
9       cy, department, or instrumentality of the United States.

10   **SEC. 105. APPLICATIONS FOR ASSISTANCE.**

11       (a) FORM AND PROCEDURES.—An application for as-  
12       sistance under this subtitle shall be submitted in such form  
13       and in accordance with such procedures as the Fund shall  
14       establish.

15       (b) MINIMUM REQUIREMENTS.—Except as provided in  
16       sections 106 and 115, the Fund shall require an applica-  
17       tion—

18           (1) to establish that the applicant is, or will be,  
19       a community development financial institution;

20           (2) to include a comprehensive strategic plan for  
21       the organization that contains—

22           (A) a business plan of not less than 5 years  
23       in duration that demonstrates that the applicant  
24       will be properly managed and will have the ca-  
25       pacity to operate a community development fi-

1            *financial institution that will not be dependent*  
2            *upon assistance from the Fund for continued vi-*  
3            *ability;*

4            *(B) an analysis of the needs of the invest-*  
5            *ment area or targeted population and a strategy*  
6            *for how the applicant will attempt to meet those*  
7            *needs;*

8            *(C) a plan to coordinate use of assistance*  
9            *from the Fund with existing Federal, State,*  
10           *local, and tribal government assistance pro-*  
11           *grams, and private sector financial services;*

12           *(D) an explanation of how the proposed ac-*  
13           *tivities of the applicant are consistent with exist-*  
14           *ing economic, community, and housing develop-*  
15           *ment plans adopted by or applicable to an in-*  
16           *vestment area; and*

17           *(E) a description of how the applicant will*  
18           *coordinate with community organizations and*  
19           *financial institutions which will provide equity*  
20           *investments, loans, secondary markets, or other*  
21           *services to investment areas or targeted popu-*  
22           *lations;*

23           *(3) to include a detailed description of the appli-*  
24           *cant's plans and likely sources of funds to match the*  
25           *amount of assistance requested from the Fund;*

1           (4) *in the case of an applicant that has pre-*  
2 *viously received assistance under this subtitle, to dem-*  
3 *onstrate that the applicant—*

4                 (A) *has substantially met its performance*  
5 *goals and otherwise carried out its responsibil-*  
6 *ities under this subtitle and the assistance agree-*  
7 *ment; and*

8                 (B) *will expand its operations into a new*  
9 *investment area or to serve a new targeted popu-*  
10 *lation, offer more services, or increase the volume*  
11 *of its business;*

12           (5) *in the case of an applicant with a prior his-*  
13 *tory of serving investment areas or targeted popu-*  
14 *lations, to demonstrate that the applicant—*

15                 (A) *has a record of success in serving in-*  
16 *vestment areas or targeted populations;*

17                 (B) *will expand its operations into a new*  
18 *investment area or to serve a new targeted popu-*  
19 *lation, offer more services, or increase the volume*  
20 *of its current business; and*

21           (6) *to include such other information as the*  
22 *Fund deems appropriate.*

23           (c) *EXCEPTION.—*

24                 (1) *IN GENERAL.—Notwithstanding subsection*  
25 *(b)(1), in the case of a State in which there is no ex-*

1 *isting community development financial institution*  
2 *in operation on the date of enactment of this Act, an*  
3 *applicant may be an agency or instrumentality of a*  
4 *State government if—*

5 *(A) such an entity has a primary mission*  
6 *of promoting community development;*

7 *(B) any assistance received is used to estab-*  
8 *lish a community development financial institu-*  
9 *tion;*

10 *(C) there is no nongovernment entity within*  
11 *the State that possesses the capacity to become a*  
12 *community development financial institution;*

13 *(D) no other agency or instrumentality of*  
14 *the same State has received assistance; and*

15 *(E) assistance received will not reduce the*  
16 *amount of State funds that otherwise would be*  
17 *appropriated to such an entity.*

18 *(2) MAJORITY OWNERSHIP.—An agency or in-*  
19 *strumentality eligible to apply pursuant to para-*  
20 *graph (1) may own a majority of the voting stock of*  
21 *a community development financial institution if it*  
22 *demonstrates that there is a lack of nonpublic sources*  
23 *of capital available to establish a community develop-*  
24 *ment financial institution.*

1           (3) *AMOUNT OF ASSISTANCE.*—No State agency  
2           or instrumentality and a community development fi-  
3           nancial institution, a majority of the shares of which  
4           are owned by such an agency or instrumentality pur-  
5           suant to this subsection, may cumulatively receive as-  
6           sistance exceeding the amount set forth under section  
7           108(d)(1).

8           (d) *PREAPPLICATION OUTREACH PROGRAM.*—The  
9           Fund may operate an outreach program to identify and  
10          provide information to potential applicants.

11          **SEC. 106. COMMUNITY PARTNERSHIPS.**

12          (a) *APPLICATION.*—An application for assistance may  
13          be filed jointly by a community development financial in-  
14          stitution and a community partner to carry out a commu-  
15          nity partnership.

16          (b) *APPLICATION REQUIREMENTS.*—The Fund shall  
17          require a community partnership application—

18                  (1) to meet the minimum requirements estab-  
19                  lished for community development financial institu-  
20                  tions under section 105(b), except that the criteria  
21                  specified in paragraphs (1) and (2)(A) of section  
22                  105(b) shall not apply to the community partner;

23                  (2) to describe how each coapplicant will partici-  
24                  pate in carrying out the community partnership and



1        *how the partnership will enhance activities serving*  
2        *the investment area or targeted population; and*

3            *(3) to demonstrate that the community partner-*  
4        *ship activities are consistent with the strategic plan*  
5        *submitted by the community development financial*  
6        *institution coapplicant.*

7        *(c) SELECTION CRITERIA.—The Fund shall consider a*  
8        *community partnership application based on the selection*  
9        *criteria set out in section 107.*

10        *(d) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—*  
11        *Assistance provided upon approval of an application under*  
12        *this section shall be distributed only to the community de-*  
13        *velopment financial institution coapplicant, and shall not*  
14        *be used to fund any activities carried out directly by the*  
15        *community partner or an affiliate thereof.*

16        *(e) OTHER REQUIREMENTS AND LIMITATIONS.—All*  
17        *other requirements and limitations imposed by this subtitle*  
18        *on a community development financial institution assisted*  
19        *under this subtitle shall apply (in the manner that the*  
20        *Fund determines to be appropriate) to assistance provided*  
21        *to carry out community partnerships. The Fund may estab-*  
22        *lish additional guidelines and restrictions on the use of Fed-*  
23        *eral funds to carry out community partnerships.*

1 **SEC. 107. SELECTION OF INSTITUTIONS.**

2 (a) *SELECTION CRITERIA.*—*Except as provided in sec-*  
3 *tion 115, the Fund shall, in its sole discretion, select appli-*  
4 *cants for assistance based on—*

5 (1) *the likelihood of success of the applicant in*  
6 *meeting the goals of its comprehensive strategic plan;*

7 (2) *the experience and background of the pro-*  
8 *posed management team;*

9 (3) *the extent of need for equity investments,*  
10 *loans, and development services within the investment*  
11 *areas or targeted populations;*

12 (4) *the extent of economic distress within the in-*  
13 *vestment areas or the extent of need within the tar-*  
14 *geted populations, as those factors are measured by*  
15 *objective criteria;*

16 (5) *the extent to which the applicant will con-*  
17 *centrate its activities on serving its investment areas*  
18 *or targeted populations;*

19 (6) *the amount of firm commitments to meet or*  
20 *exceed the matching requirements and the likely suc-*  
21 *cess of the plan for raising the balance of the match;*

22 (7) *the extent to which the proposed activities*  
23 *will expand economic opportunities within the invest-*  
24 *ment areas or the targeted populations;*

1           (8) *whether the applicant is, or will become, an*  
2 *insured depository institution or an insured credit*  
3 *union;*

4           (9) *whether the applicant is, or will be, lo-*  
5 *cated—*

6                 (A) *in an empowerment zone or enterprise*  
7 *community designated under section 1391 of the*  
8 *Internal Revenue Code of 1986;*

9                 (B) *on an Indian reservation, as defined in*  
10 *section 3(d) of the Indian Financing Act of 1974*  
11 *or section 4(10) of the Indian Child Welfare Act*  
12 *of 1978; or*

13                (C) *in a community that has experienced a*  
14 *sudden and significant loss in total employment*  
15 *since the 1990 census or a major dislocation in*  
16 *its primary employment base.*

17           (10) *the extent to which the applicant will in-*  
18 *crease its resources through coordination with other*  
19 *institutions or participation in a secondary market;*

20           (11) *in the case of an applicant with a prior his-*  
21 *tory of serving investment areas or targeted popu-*  
22 *lations, the extent of success in serving them; and*

23           (12) *other factors (such as the extent to which the*  
24 *applicant has strong ties to the community that it*  
25 *will serve) deemed to be appropriate by the Fund.*

1       (b) *GEOGRAPHIC DIVERSITY.*—The Fund shall assist  
2 a geographically diverse group of applicants, including an  
3 appropriate mix of applicants from urban, rural, and Na-  
4 tive American communities.

5 **SEC. 108. ASSISTANCE PROVIDED BY THE FUND.**

6       (a) *FORMS OF ASSISTANCE.*—

7           (1) *IN GENERAL.*—The Fund may provide—

8                   (A) financial assistance through equity in-  
9 vestments, deposits, credit union shares, loans,  
10 and grants; and

11                   (B) technical assistance—

12                           (i) directly;

13                           (ii) through grants; or

14                           (iii) by contracting with organizations  
15 that possess expertise in community devel-  
16 opment, without regard to whether the orga-  
17 nizations receive or are eligible to receive  
18 assistance under this subtitle.

19           (2) *EQUITY INVESTMENTS.*—The Fund shall not  
20 own more than 50 percent of the equity of a commu-  
21 nity development financial institution and may not  
22 control the operations of such institution. The Fund  
23 may hold only transferable, nonvoting equity invest-  
24 ments. Such equity investments may provide for con-  
25 vertibility to voting stock upon transfer by the Fund.

1           (3) *DEPOSITS.*—*Deposits made pursuant to this*  
2 *section in an insured community development finan-*  
3 *cial institution shall not be subject to any require-*  
4 *ment for collateral or security.*

5           (4) *LIMITATIONS ON OBLIGATIONS.*—*Direct loan*  
6 *obligations may be incurred by the Fund only to the*  
7 *extent that appropriations of budget authority to*  
8 *cover their costs, as defined in section 502 of the Con-*  
9 *gressional Budget Act of 1974, are made in advance.*

10          **(b) USES OF FINANCIAL ASSISTANCE.**—

11           (1) *IN GENERAL.*—*Financial assistance made*  
12 *available under this subtitle may be used by assisted*  
13 *institutions to serve investment areas or targeted pop-*  
14 *ulations by developing or supporting—*

15                   (A) *commercial facilities that promote revi-*  
16 *talization, community stability, or job creation*  
17 *or retention;*

18                   (B) *businesses that—*

19                           (i) *provide jobs for low-income people*  
20 *or are owned by low-income people; or*

21                           (ii) *enhance the availability of prod-*  
22 *ucts and services to low-income people;*

23                   (C) *community facilities;*

24                   (D) *the provision of basic financial services;*

1           (E) housing that is principally affordable to  
2           low-income people, except that assistance used to  
3           facilitate homeownership opportunities shall only  
4           be used for activities and lending products that  
5           serve low-income people and are not provided by  
6           other lenders in the area; and

7           (F) other businesses and activities deemed  
8           appropriate by the Fund.

9           (2) LIMITATIONS.—No assistance made available  
10          under this subtitle may be expended by a community  
11          development financial institution (or an organization  
12          receiving assistance under section 115) to pay any  
13          person to influence or attempt to influence any agen-  
14          cy, elected official, officer, or employee of a State or  
15          local government in connection with the making,  
16          award, extension, continuation, renewal, amendment,  
17          or modification of any State or local government con-  
18          tract, grant, loan, or cooperative agreement (as such  
19          terms are defined in section 1352 of title 31, United  
20          States Code).

21          (c) USES OF TECHNICAL ASSISTANCE.—Technical as-  
22          sistance may be used for activities that enhance the capac-  
23          ity of a community development financial institution, such  
24          as training of management and other personnel and devel-  
25          opment of programs and investment or loan products.

1       (d) *AMOUNT OF ASSISTANCE.*—

2           (1) *IN GENERAL.*—*The Fund may provide not*  
3 *more than \$5,000,000 of assistance, in the aggregate,*  
4 *during any 3-year period to any 1 community devel-*  
5 *opment financial institution and its affiliates.*

6           (2) *EXCEPTION.*—*Notwithstanding the limita-*  
7 *tions in paragraph (1), in the case of an existing*  
8 *community development financial institution that*  
9 *proposes to serve an investment area or targeted pop-*  
10 *ulation outside of any State and outside of any met-*  
11 *ropolitan area presently served by the institution, the*  
12 *Fund may provide not more than \$7,500,000 of as-*  
13 *sistance to a community development financial insti-*  
14 *tution and its affiliates, in the aggregate, during any*  
15 *3-year period, of which not less than \$2,500,000 shall*  
16 *be used to establish affiliates to serve the new invest-*  
17 *ment area or targeted population.*

18           (3) *TIMING OF ASSISTANCE.*—*Assistance may be*  
19 *provided as described in paragraphs (1) and (2) in*  
20 *a lump sum or over a period of time, as determined*  
21 *by the Fund.*

22       (e) *MATCHING REQUIREMENTS.*—

23           (1) *IN GENERAL.*—*Assistance other than tech-*  
24 *nical assistance shall be matched with funds from*  
25 *sources other than the Federal Government on the*

1 *basis of not less than one dollar for each dollar pro-*  
2 *vided by the Fund. Such matching funds shall be at*  
3 *least comparable in form and value to assistance pro-*  
4 *vided by the Fund. The Fund shall provide no assist-*  
5 *ance (other than technical assistance) until a commu-*  
6 *nity development financial institution has secured*  
7 *firm commitments for the matching funds required.*

8 (2) *EXCEPTION.—In the case of an applicant*  
9 *with severe constraints on available sources of match-*  
10 *ing funds, the Fund may permit an applicant to*  
11 *comply with the matching requirements of paragraph*  
12 *(1) by—*

13 (A) *reducing such matching requirement by*  
14 *50 percent;*

15 (B) *permitting such applicant to satisfy not*  
16 *more than 60 percent of the matching require-*  
17 *ment through use of assistance made available*  
18 *pursuant to—*

19 (i) *section 106 of the Housing and*  
20 *Community Development Act of 1974;*

21 (ii) *section 623(c)(1) of the Commu-*  
22 *nity Economic Development Act of 1981; or*

23 (iii) *section 310B(c) of the Consoli-*  
24 *dated Farm and Rural Development Act; or*



1           (C) *permitting an applicant to provide*  
2           *matching funds in a form to be determined at*  
3           *the discretion of the Fund if such applicant—*

4                   (i) *has total assets of less than*  
5                   *\$100,000;*

6                   (ii) *serves nonmetropolitan areas; and*

7                   (iii) *is not requesting more than*  
8                   *\$25,000 in assistance.*

9           (3) *LIMITATION.—Not more than 25 percent of*  
10           *the total funds disbursed in any fiscal year by the*  
11           *Fund may be matched as authorized under paragraph*  
12           *(2).*

13           (4) *CONSTRUCTION OF “FEDERAL FUNDS”.—For*  
14           *purposes of this subsection, notwithstanding section*  
15           *105(a)(9) of the Housing and Community Develop-*  
16           *ment Act of 1974, funds provided pursuant to such*  
17           *Act shall be considered to be Federal funds, except as*  
18           *provided in paragraph (2)(B).*

19           (f) *TERMS AND CONDITIONS.—*

20                   (1) *SOUNDNESS OF UNREGULATED INSTITU-*  
21                   *TIONS.—The Fund shall—*

22                           (A) *ensure, to the maximum extent prac-*  
23                           *ticable, that each community development finan-*  
24                           *cial institution (other than an insured commu-*  
25                           *nity development financial institution or deposi-*

1            *tory institution holding company) assisted under*  
2            *this subtitle is financially and managerially*  
3            *sound and maintains appropriate internal con-*  
4            *trols; and*

5            *(B) require such institution to submit, not*  
6            *less than once during each 18-month period, a*  
7            *statement of financial condition audited by an*  
8            *independent certified public accountant as part*  
9            *of the report required by section 112(a)(4).*

10           *(2) CONSULTATION WITH THE APPROPRIATE*  
11           *BANKING REGULATOR.—Prior to providing assistance*  
12           *to an insured community development financial insti-*  
13           *tution, the Fund shall consult with the appropriate*  
14           *Federal banking agency.*

15           *(3) ASSISTANCE AGREEMENT.—*

16           *(A) IN GENERAL.—Before providing any as-*  
17           *sistance under this subtitle, the Fund and each*  
18           *community development financial institution to*  
19           *be assisted shall enter into an agreement that re-*  
20           *quires the institution to comply with perform-*  
21           *ance goals and abide by other terms and condi-*  
22           *tions pertinent to assistance received under this*  
23           *subtitle.*

24           *(B) PERFORMANCE GOALS.—Performance*  
25           *goals shall be negotiated between the Fund and*

1           *each community development financial institu-*  
2           *tion receiving assistance based upon the strategic*  
3           *plan submitted pursuant to section 105(b)(2).*  
4           *Such goals may be modified with the consent of*  
5           *the parties, or as provided in subparagraph (C).*  
6           *Performance goals for insured community devel-*  
7           *opment financial institutions shall be determined*  
8           *in consultation with the appropriate Federal*  
9           *banking agency.*

10           *(C) SANCTIONS.—The agreement shall pro-*  
11           *vide that, in the event of fraud, mismanagement,*  
12           *noncompliance with this subtitle, or noncompli-*  
13           *ance with the terms of the agreement, the Fund,*  
14           *in its discretion, may—*

15                     *(i) revoke approval of the application;*

16                     *(ii) terminate or reduce future assist-*  
17                     *ance;*

18                     *(iii) require repayment of assistance;*

19                     *(iv) require changes to the performance*  
20                     *goals imposed pursuant to subparagraph*  
21                     *(B);*

22                     *(v) bar an applicant from reapplying*  
23                     *for assistance from the Fund;*

1                   (vi) require changes to the strategic  
2                   plan submitted pursuant to section  
3                   105(b)(2); and

4                   (vii) take such other actions as the  
5                   Fund deems appropriate.

6                   (D) *INSURED COMMUNITY DEVELOPMENT*  
7                   *FINANCIAL INSTITUTIONS.*—In the case of an in-  
8                   sured community development financial institu-  
9                   tion, the Fund shall notify the appropriate Fed-  
10                  eral banking agency not less than 15 days before  
11                  imposing sanctions pursuant to this paragraph  
12                  and shall not impose such sanctions if the agen-  
13                  cy disapproves, with an explanation in writing,  
14                  during that 15-day period.

15                  (E) *NATIVE AMERICAN INSTITUTIONS.*—In  
16                  the case of a community development financial  
17                  institution which serves an investment area de-  
18                  scribed in paragraph (11)(C) of section 103, or  
19                  an Indian tribe, as defined in section 4 of the  
20                  Indian Self-Determination and Education As-  
21                  sistance Act, the Fund shall consult with the ap-  
22                  plicable tribal government in evaluating the in-  
23                  stitution's compliance with the performance  
24                  goals established pursuant to subparagraph (B).

1       (g) *AUTHORITY TO SELL EQUITY INVESTMENTS AND*  
2 *LOANS.*—*The Fund may, at any time, sell its equity invest-*  
3 *ments and loans, but the Fund shall retain the power to*  
4 *enforce limitations on assistance entered into in accordance*  
5 *with the requirements of this subtitle until the performance*  
6 *goals related to the investment or loan have been met.*

7       (h) *NO AUTHORITY TO LIMIT SUPERVISION AND REG-*  
8 *ULATION.*—*Nothing in this subtitle shall affect any author-*  
9 *ity of the appropriate Federal banking agency to supervise*  
10 *and regulate any institution or company.*

11 **SEC. 109. COMMUNITY DEVELOPMENT TRAINING.**

12       (a) *IN GENERAL.*—*The Fund may operate a training*  
13 *program to increase the capacity and expertise of commu-*  
14 *nity development financial institutions and other members*  
15 *of the financial services industry to undertake community*  
16 *development activities (hereafter in this subtitle referred to*  
17 *as the “training program”).*

18       (b) *PROGRAM ACTIVITIES.*—*The training program*  
19 *shall provide educational programs to assist community de-*  
20 *velopment financial institutions and other members of the*  
21 *financial services industry in developing lending and in-*  
22 *vestment products, underwriting and servicing loans, man-*  
23 *aging equity investments, and implementing development*  
24 *services targeted to areas of economic distress, low-income*

1 *persons, and persons who lack adequate access to loans and*  
2 *equity investments.*

3 *(c) PARTICIPATION.—The training program shall be*  
4 *made available to community development financial insti-*  
5 *tutions and other members of the financial services industry*  
6 *that serve or seek to serve areas of economic distress, low-*  
7 *income persons, and persons who lack adequate access to*  
8 *loans and equity investments.*

9 *(d) CONTRACTING.—The Fund may offer the training*  
10 *described in this section directly or through a contract with*  
11 *other organizations. The Fund may contract to provide the*  
12 *training with organizations that possess special expertise*  
13 *in community development, without regard to whether the*  
14 *organizations receive or are eligible to receive assistance*  
15 *under this subtitle.*

16 *(e) FEES.—The Fund, as it deems appropriate, may*  
17 *charge fees for participation in training services to offset*  
18 *the cost of providing the services.*

19 **SEC. 110. ENCOURAGEMENT OF PRIVATE ENTITIES.**

20 *The Fund may facilitate the organization of corpora-*  
21 *tions in which the Federal Government has no ownership*  
22 *interest that will complement the activities of the Fund in*  
23 *carrying out the purpose of this subtitle. The purpose of*  
24 *any such entity shall be to assist community development*  
25 *financial institutions in a manner that is complementary*

1 *to the activities of the Fund under this subtitle. Any such*  
2 *entity shall be managed exclusively by persons not employed*  
3 *by the Federal Government or any agency or instrumental-*  
4 *ity thereof.*

5 **SEC. 111. CLEARINGHOUSE FUNCTION.**

6 (a) *ESTABLISHMENT.*—*The Fund may establish and*  
7 *maintain an information clearinghouse in coordination*  
8 *with other Federal departments or agencies and community*  
9 *development financial institutions to—*

10 (1) *collect, compile, and analyze information*  
11 *pertinent to community development financial insti-*  
12 *tutions that will assist in creating, developing, ex-*  
13 *anding, and preserving these institutions; and*

14 (2) *provide information on financial, technical,*  
15 *and management assistance, data on the activities of*  
16 *community development financial institutions, regu-*  
17 *lations, and other information that may promote the*  
18 *purposes of this subtitle.*

19 (b) *COSTS.*—*The cost of maintaining the clearinghouse*  
20 *shall be shared equally by the Fund and each department*  
21 *or agency involved in maintaining the clearinghouse.*

22 **SEC. 112. RECORDKEEPING, REPORTS, AND AUDITS.**

23 (a) *RECORDKEEPING.*—

24 (1) *IN GENERAL.*—*A community development fi-*  
25 *nancial institution receiving assistance from the*

1     *Fund shall keep such records, for such periods as may*  
2     *be prescribed, as may be necessary to disclose the*  
3     *manner in which any assistance under this subtitle is*  
4     *used and to demonstrate compliance with the require-*  
5     *ments of this subtitle.*

6             (2) *USER PROFILE INFORMATION.*—*The Fund*  
7     *shall require each community development financial*  
8     *institution receiving assistance under this subtitle to*  
9     *compile and maintain data on the gender, race, eth-*  
10    *nicity, national origin, and other pertinent informa-*  
11    *tion concerning individuals that utilize the services of*  
12    *the assisted institution to ensure that targeted popu-*  
13    *lations and low-income residents of investment areas*  
14    *are adequately served.*

15            (3) *ACCESS TO RECORDS.*—*The Fund shall have*  
16    *access on demand, for the purpose of determining*  
17    *compliance with this subtitle, to any records of a*  
18    *community development financial institution that re-*  
19    *ceives assistance from the Fund.*

20            (4) *REVIEW.*—*Not less than annually, the Fund*  
21    *shall review the progress of each assisted community*  
22    *development financial institution in carrying out its*  
23    *strategic plan, meeting its performance goals, and*  
24    *satisfying the terms and conditions of its assistance*  
25    *agreement.*



1           (5) *REPORTING.*—

2                   (A) *ANNUAL REPORTS.*—*The Fund shall re-*  
3                   *quire each community development financial in-*  
4                   *stitution receiving assistance under this subtitle*  
5                   *to submit an annual report to the Fund on its*  
6                   *activities, its financial condition, and its success*  
7                   *in meeting performance goals, in satisfying the*  
8                   *terms and conditions of its assistance agreement,*  
9                   *and in complying with other requirements of this*  
10                   *subtitle in such form and manner as the Fund*  
11                   *shall specify.*

12                   (B) *AVAILABILITY OF REPORTS.*—*The*  
13                   *Fund, after deleting or redacting any material,*  
14                   *as appropriate to protect privacy or proprietary*  
15                   *interests, shall make such reports available for*  
16                   *public inspection.*

17           (b) *ANNUAL REPORT BY THE FUND.*—*The Fund shall*  
18           *conduct an annual evaluation of the activities carried out*  
19           *by the Fund and the community development financial in-*  
20           *stitutions assisted pursuant to this subtitle, and shall sub-*  
21           *mit a report of its findings to the President and the Con-*  
22           *gress not later than 120 days after the end of each fiscal*  
23           *year of the Fund. The report shall include financial state-*  
24           *ments audited in accordance with subsection (d).*

25           (c) *STUDIES.*—

1           (1) *OPTIONAL STUDIES.*—*The Fund may con-*  
2 *duct such studies as the Fund determines necessary to*  
3 *further the purpose of this subtitle and to facilitate*  
4 *investment in distressed communities. The findings of*  
5 *any studies conducted pursuant to this paragraph*  
6 *shall be included in the report required by subsection*  
7 *(b).*

8           (2) *NATIVE AMERICAN LENDING STUDY.*—

9           (A) *STUDY.*—*The Fund shall conduct a*  
10 *study on lending and investment practices on*  
11 *Indian reservations and other land held in trust*  
12 *by the United States Government. Such study*  
13 *shall—*

14                   (i) *identify barriers to private financ-*  
15 *ing on such lands; and*

16                   (ii) *identify the impact of such bar-*  
17 *riers on access to capital and credit for Na-*  
18 *tive American populations.*

19           (B) *CONSULTATION WITH PRIVATE SEC-*  
20 *TOR.*—*In conducting the study under subpara-*  
21 *graph (A), the Fund shall consult with tribal*  
22 *governments, private citizens, and organizations*  
23 *that possess expertise in lending and community*  
24 *development issues confronted by Native Amer-*  
25 *ican populations.*

1           (C) *REPORT.*—Not later than 18 months  
2 after the date of enactment of this Act, the Fund  
3 shall submit a report to the President and the  
4 Congress that—

5                   (i) contains the findings of the study  
6 conducted under subparagraph (A);

7                   (ii) recommends any necessary statu-  
8 tory and regulatory changes to existing Fed-  
9 eral programs; and

10                   (iii) makes policy recommendations for  
11 community development financial institu-  
12 tions, insured depository institutions, sec-  
13 ondary market institutions, and other pri-  
14 vate sector capital institutions to better  
15 serve such populations.

16           (3) *INVESTMENT, GOVERNANCE, AND ROLE OF*  
17 *FUND.*—Thirty months after the appointment and  
18 qualification of the Administrator, the Comptroller  
19 General shall submit to the President and the Con-  
20 gress a study evaluating the structure, governance,  
21 and performance of the Fund.

22           (d) *EXAMINATION AND AUDIT.*—The financial state-  
23 ments of the Fund shall be audited in accordance with sec-  
24 tion 9105 of title 31, United States Code, except that audits

1 *required by section 9105(a) of such title shall be performed*  
2 *annually.*

3 **SEC. 113. INVESTMENT OF RECEIPTS AND PROCEEDS.**

4 *(a) ESTABLISHMENT OF ACCOUNT.—Any dividends on*  
5 *equity investments and proceeds from the disposition of in-*  
6 *vestments, deposits, or credit union shares that are received*  
7 *by the Fund as a result of assistance provided pursuant*  
8 *to section 108, and any fees received pursuant to section*  
9 *109(e) shall be deposited and accredited to an account of*  
10 *the Fund in the United States Treasury (hereafter in this*  
11 *section referred to as “the account”) established to carry*  
12 *out the purpose of this subtitle.*

13 *(b) INVESTMENTS.—Upon request of the Adminis-*  
14 *trator, the Secretary of the Treasury shall invest amounts*  
15 *deposited in the account in public debt securities with ma-*  
16 *turities suitable to the needs of the Fund, as determined*  
17 *by the Administrator, and bearing interest at rates deter-*  
18 *mined by the Secretary of the Treasury, comparable to cur-*  
19 *rent market yields on outstanding marketable obligations*  
20 *of the United States of similar maturities.*

21 *(c) AVAILABILITY.—Amounts deposited into the ac-*  
22 *count and interest earned on such amounts pursuant to this*  
23 *section shall be available to the Fund until expended.*

1 **SEC. 114. INSPECTOR GENERAL.**

2 (a) *ESTABLISHMENT.*—Section 11 of the Inspector  
3 General Act of 1978 (5 U.S.C. App. 11) is amended—

4 (1) in paragraph (1), by inserting “; the Admin-  
5 istrator of the Community Development Financial In-  
6 stitutions Fund;” before “and the chief”; and

7 (2) in paragraph (2), by inserting “the Commu-  
8 nity Development Financial Institutions Fund,” after  
9 “the Agency for International Development,”.

10 (b) *AUTHORIZATION OF APPROPRIATIONS.*—There are  
11 authorized to be appropriated such sums as may be nec-  
12 essary for the operation of the Office of Inspector General  
13 established by the amendments made by subsection (a).

14 **SEC. 115. CAPITALIZATION ASSISTANCE TO ENHANCE LI-**  
15 **QUIDITY.**

16 (a) *ASSISTANCE.*—

17 (1) *IN GENERAL.*—The Fund may provide assist-  
18 ance for the purpose of providing capital to organiza-  
19 tions that will purchase loans or otherwise enhance  
20 the liquidity of community development financial in-  
21 stitutions if—

22 (A) the primary purpose of such organiza-  
23 tions is to promote community development; and

24 (B) any assistance received is matched with  
25 funds—

1                   (i) from sources other than the Federal  
2                   Government;

3                   (ii) on the basis of not less than \$1 for  
4                   each dollar provided by the Fund; and

5                   (iii) that are comparable in form and  
6                   value to the assistance provided by the  
7                   Fund.

8                   (2) *LIMITATION ON OTHER ASSISTANCE.*—An or-  
9                   ganization that receives assistance under this section  
10                  may not receive other financial or technical assistance  
11                  under this subtitle.

12                  (b) *SELECTION.*—The selection of organizations to re-  
13                  ceive assistance under this section shall be at the discretion  
14                  of the Fund and in accordance with criteria established by  
15                  the Fund. In establishing such criteria, the Fund shall take  
16                  into account the criteria contained in sections 105(b) and  
17                  107, as appropriate.

18                  (c) *AMOUNT OF ASSISTANCE.*—The Fund may provide  
19                  a total of not more than \$5,000,000 of assistance to an orga-  
20                  nization under this section during any 3-year period. As-  
21                  sistance may be provided in a lump sum or over a period  
22                  of time, as determined by the Fund.

23                  (d) *AUDIT AND REPORT REQUIREMENTS.*—

1           (1) *IN GENERAL.*—*Organizations that receive as-*  
2 *stance from the Fund in accordance with this sec-*  
3 *tion shall—*

4           (A) *submit to the Fund not less than once*  
5 *in every 18-month period, financial statements*  
6 *audited by an independent certified public ac-*  
7 *countant;*

8           (B) *submit an annual report on its activi-*  
9 *ties; and*

10          (C) *keep such records as may be necessary*  
11 *to disclose the manner in which any assistance*  
12 *under this section is used.*

13          (2) *ACCESS.*—*The Fund shall have access on de-*  
14 *mand, for the purposes of determining compliance*  
15 *with this section, to any records of such organiza-*  
16 *tions.*

17          (e) *LIMITATIONS ON LIABILITY.*—

18           (1) *LIABILITY OF FUND.*—*The liability of the*  
19 *Fund and the United States Government arising out*  
20 *of the provision of assistance to any organization in*  
21 *accordance with this section shall be limited to the*  
22 *amount of such assistance. The Fund shall be exempt*  
23 *from any assessments and any other liabilities that*  
24 *may be imposed on controlling or principal share-*

1       *holders by any Federal law or the law of any State,*  
2       *territory, or the District of Columbia.*

3           (2) *LIABILITY OF GOVERNMENT.*—*This section*  
4       *does not oblige the Federal Government, either di-*  
5       *rectly or indirectly, to provide any funds to any orga-*  
6       *nization assisted pursuant to this section, or to honor,*  
7       *reimburse, or otherwise guarantee any obligation or*  
8       *liability of such an organization. This section shall*  
9       *not be construed to imply that any such organization*  
10       *or any obligations or securities of any such organiza-*  
11       *tion are backed by the full faith and credit of the*  
12       *United States.*

13          (f) *USE OF PROCEEDS.*—*Any proceeds from the sale*  
14       *of loans to an organization assisted under this section shall*  
15       *be used by the seller for community development purposes.*

16       ***SEC. 116. COMMUNITY DEVELOPMENT REVOLVING LOAN***  
17                               ***FUND FOR CREDIT UNIONS.***

18          (a) *REPEAL.*—*Section 120 of the Federal Credit Union*  
19       *Act (12 U.S.C. 1766) is amended by striking subsection (k).*

20          (b) *REVOLVING LOAN FUND.*—*The Federal Credit*  
21       *Union Act (12 U.S.C. 1751 et seq.) is amended by inserting*  
22       *after section 129 the following new section:*



1 **“SEC. 130. COMMUNITY DEVELOPMENT REVOLVING LOAN**  
2 **FUND FOR CREDIT UNIONS.**

3 “(a) *IN GENERAL.*—The Board may exercise the au-  
4 thority granted to it by the Community Development Credit  
5 Union Revolving Loan Fund Transfer Act, including any  
6 additional appropriation made or earnings accrued, subject  
7 only to this section and to regulations prescribed by the  
8 Board.

9 “(b) *INVESTMENT.*—The Board may invest any idle  
10 Fund moneys in United States Treasury securities. Any in-  
11 terest accrued on such securities shall become a part of the  
12 Fund.

13 “(c) *LOANS.*—The Board may require that any loans  
14 made from the Fund be matched by increased shares in the  
15 borrower credit union.

16 “(d) *INTEREST.*—Interest earned by the Fund may be  
17 allocated by the Board for technical assistance to commu-  
18 nity development credit unions, subject to an appropria-  
19 tions Act.

20 “(e) *DEFINITION.*—As used in this section, the term  
21 ‘Fund’ means the Community Development Credit Union  
22 Revolving Loan Fund.”

23 **SEC. 117. REGULATIONS.**

24 Not later than 180 days after the appointment and  
25 qualification of the Administrator, the Fund shall issue

1 *such regulations as may be necessary to carry out this sub-*  
2 *title.*

3 **SEC. 118. AUTHORIZATION OF APPROPRIATIONS.**

4 (a) *IN GENERAL.*—*To carry out this subtitle, there are*  
5 *authorized to be appropriated to the Fund, to remain avail-*  
6 *able until expended—*

7 (1) *\$60,000,000 for fiscal year 1994;*

8 (2) *\$104,000,000 for fiscal year 1995;*

9 (3) *\$107,000,000 for fiscal year 1996; and*

10 (4) *\$111,000,000 for fiscal year 1997.*

11 (b) *ADMINISTRATIVE EXPENSES.*—*Of amounts author-*  
12 *ized to be appropriated to the Fund—*

13 (1) *not more than \$5,500,000 may be used by the*  
14 *Fund in each fiscal year to pay the administrative*  
15 *costs and expenses of the Fund; and*

16 (2) *not more than \$50,000 may be used by the*  
17 *Fund in each fiscal year to provide for administra-*  
18 *tive costs and expenses described in section 104(d)(8).*

19 (c) *COMMUNITY DEVELOPMENT CREDIT UNION RE-*  
20 *VOLVING LOAN FUND.*—*There are authorized to be appro-*  
21 *priated for the purposes of the Community Development*  
22 *Credit Union Revolving Loan Fund—*

23 (1) *\$2,000,000 for fiscal year 1994;*

24 (2) *\$1,000,000 for fiscal year 1995;*

25 (3) *\$1,000,000 for fiscal year 1996; and*

1           (4) \$1,000,000 for fiscal year 1997.

2           (d) CAPITALIZATION ASSISTANCE.—Not more than 5  
3 percent of the amounts authorized to be appropriated under  
4 subsection (a) may be used as provided in section 115.

5           (e) BUDGETARY TREATMENT.—Amounts authorized to  
6 be appropriated under this section shall be subject to discre-  
7 tionary spending caps, as provided in section 601 of the  
8 Congressional Budget Act of 1974, and therefore shall re-  
9 duce by an equal amount funds made available for other  
10 discretionary spending programs.

11       **Subtitle B—Home Ownership and**  
12               **Equity Protection**

13       **SEC. 151. CONSUMER PROTECTIONS FOR HIGH COST MORT-**  
14               **GAGES.**

15           (a) DEFINITION.—Section 103 of the Truth in Lending  
16 Act (15 U.S.C. 1602) is amended by adding at the end the  
17 following new subsection:

18           “(aa)(1) A mortgage referred to in this subsection  
19 means a consumer credit transaction that is secured by the  
20 consumer’s principal dwelling, other than a residential  
21 mortgage transaction, a reverse mortgage transaction, or a  
22 transaction under an open end credit plan, if—

23           “(A) the annual percentage rate at consumma-  
24 tion of the transaction will exceed by more than 10  
25 percentage points the rate of interest on Treasury se-

1        *curities having comparable periods of maturity on the*  
2        *fifteenth day of the month immediately preceding the*  
3        *month in which the loan is consummated; or*

4                *“(B) the total points and fees payable by the*  
5        *consumer at or before closing will exceed the greater*  
6        *of—*

7                        *“(i) 8 percent of the total loan amount; or*

8                        *“(ii) \$400.*

9        *“(2) The amount specified in paragraph (1)(B)(ii)*  
10        *shall be adjusted annually on January 1 by the annual per-*  
11        *centage change in the Consumer Price Index, as reported*  
12        *on June 1 of the year preceding such adjustment.*

13        *“(3) For purposes of paragraph (1)(B), points and fees*  
14        *shall include—*

15                *“(A) all items included in the finance charge ex-*  
16        *cept interest and the time-price differential;*

17                *“(B) all compensation paid to mortgage brokers;*

18                *“(C) each of the charges listed in section 106(e)*  
19        *(except an escrow for future payment of taxes), un-*  
20        *less—*

21                        *“(i) the charge is reasonable;*

22                        *“(ii) the creditor receives no direct or indi-*  
23        *rect compensation; and*

24                        *“(iii) the charge is paid to a third party*  
25        *unaffiliated with the creditor; and*

1           “(D) such other charges as the Board determines  
2           to be appropriate.”.

3           (b) *MATERIAL DISCLOSURES*.—Section 103(u) of the  
4 *Truth in Lending Act (15 U.S.C. 1602(u))* is amended—

5           (1) by striking “and the due dates” and insert-  
6           ing “the due dates”; and

7           (2) by inserting before the period “, and the dis-  
8           closures required by section 129(a)”.

9           (c) *DEFINITION OF CREDITOR CLARIFIED*.—Section  
10 *103(f) of the Truth in Lending Act (15 U.S.C. 1602(f))* is  
11 amended by adding at the end the following: “Any person  
12 who originates 2 or more mortgages referred to in subsection  
13 (aa) in any 12-month period or any person who originates  
14 1 or more such mortgages through a mortgage broker shall  
15 be considered to be a creditor for purposes of this title.”.

16           (d) *DISCLOSURES REQUIRED AND CERTAIN TERMS*  
17 *PROHIBITED*.—The *Truth in Lending Act (15 U.S.C. 1601*  
18 *et seq.)* is amended by inserting after section 128 the follow-  
19 ing new section:

20 **“SEC. 129. REQUIREMENTS FOR CERTAIN MORTGAGES.**

21           “(a) *DISCLOSURES*.—

22           “(1) *SPECIFIC DISCLOSURES*.—In addition to  
23 other disclosures required under this title, for each  
24 mortgage referred to in section 103(aa), the creditor

1     *shall provide the following disclosures in conspicuous*  
2     *type size:*

3             “(A) ‘You are not required to complete this  
4             agreement merely because you have received these  
5             disclosures or have signed a loan application.’

6             “(B) ‘If you obtain this loan, the lender will  
7             have a mortgage on your home. You could lose  
8             your home, and any money you have put into it,  
9             if you do not meet your obligations under the  
10            loan.’

11            “(2) ANNUAL PERCENTAGE RATE.—In addition  
12            to the disclosures required under paragraph (1), the  
13            creditor shall disclose—

14                 “(A) the annual percentage rate of the loan  
15                 and the amount of the regular monthly payment;  
16                 or

17                 “(B) in the case of a variable rate loan, the  
18                 annual percentage rate of the loan, a statement  
19                 that the interest rate and monthly payment may  
20                 increase, and the amount of the maximum pos-  
21                 sible monthly payment.

22            “(b) TIME OF DISCLOSURES.—

23                 “(1) IN GENERAL.—The disclosures required by  
24                 this section shall be given not less than 3 business  
25                 days prior to consummation of the transaction.

1           “(2) *NEW DISCLOSURES REQUIRED.*—After pro-  
2           viding the disclosures required by this section, a cred-  
3           itor may not change the terms of the loan if such  
4           changes make the disclosures inaccurate, unless new  
5           disclosures are provided that meet the requirements of  
6           this section.

7           “(3) *MODIFICATIONS.*—The Board may, if it  
8           finds that such action is necessary to permit home-  
9           owners to meet bona fide personal financial emer-  
10          gencies, prescribe regulations authorizing the modi-  
11          fication or waiver of rights created under this sub-  
12          section, to the extent and under the circumstances set  
13          forth in those regulations.

14          “(c) *NO PREPAYMENT PENALTY.*—

15          “(1) *IN GENERAL.*—Except as provided in para-  
16          graph (4), a mortgage referred to in section 103(aa)  
17          may not contain terms under which a consumer must  
18          pay a prepayment penalty for paying all or part of  
19          the principal of the loan prior to the date on which  
20          such principal is due. If the date of maturity of a  
21          mortgage referred to in section 103(aa) is accelerated  
22          for any reason, and the consumer is entitled to a re-  
23          bate of interest, computation of the rebate amount  
24          shall comply with paragraph (2). No such mortgage  
25          shall provide for a default interest rate that is higher

1        *than the interest rate provided by the note for the*  
2        *loan prior to default.*

3            *“(2) REBATE COMPUTATION.—For purposes of*  
4        *this subsection, any method of computing rebates of*  
5        *interest that is less favorable to the consumer than the*  
6        *actuarial method (as defined in section 933 of the*  
7        *Housing and Community Development Act of 1992)*  
8        *using simple interest is a prepayment penalty.*

9            *“(3) EXCEPTION.—A mortgage referred to in sec-*  
10       *tion 103(aa) may include terms under which a*  
11       *consumer is required to pay not more than 1 month’s*  
12       *interest as a penalty if the consumer prepays the*  
13       *principal of the loan within 1 year of origination.*

14          *“(d) NO BALLOON PAYMENTS.—A mortgage referred to*  
15       *in section 103(aa) having a term of less than 5 years may*  
16       *not include terms under which the aggregate amount of the*  
17       *regular periodic payments would not fully amortize the out-*  
18       *standing principal balance.*

19          *“(e) NO NEGATIVE AMORTIZATION.—A mortgage re-*  
20       *ferred to in section 103(aa) may not include terms under*  
21       *which the outstanding principal balance will increase at*  
22       *any time over the course of the loan because the regular*  
23       *periodic payments do not cover the full amount of interest*  
24       *due.*



1       “(f) *NO PREPAID PAYMENTS.*—A mortgage referred to  
2 in section 103(aa) may not include terms under which more  
3 than 2 periodic payments required under the loan are con-  
4 solidated and paid in advance from the loan proceeds pro-  
5 vided to the consumer.

6       “(g) *CONSEQUENCE OF FAILURE TO COMPLY.*—Any  
7 mortgage that contains a provision prohibited by this sec-  
8 tion shall be deemed a failure to deliver the material disclo-  
9 sures required under this title, for the purpose of section  
10 125.

11       “(h) *DEFINITION.*—For purposes of this section, the  
12 term ‘affiliate’ has the same meaning as in section 2(k) of  
13 the Bank Holding Company Act of 1956.

14       “(i) *DISCRETIONARY REGULATORY AUTHORITY OF*  
15 *BOARD.*—

16               “(1) *EXEMPTIONS.*—The Board may, by regula-  
17 tion or order, exempt specific mortgage products or  
18 categories of mortgages from any or all of the prohibi-  
19 tions specified in subsections (c) through (f), if the  
20 Board finds that the exemption—

21                       “(A) is in the interest of the borrowing pub-  
22 lic; and

23                       “(B) will apply only to products that main-  
24 tain and strengthen home ownership and equity  
25 protection.

1           “(2) *PROHIBITIONS.*—The Board, by regulation  
2           or order, shall prohibit acts or practices in connection  
3           with—

4                   “(A) mortgage loans that the Board finds to  
5                   be unfair, deceptive, or designed to evade the  
6                   provisions of this section; and

7                   “(B) refinancing of mortgage loans that the  
8                   Board finds to be associated with abusive lend-  
9                   ing practices, or that are otherwise not in the in-  
10                  terest of the borrower.”.

11          (e) *CONFORMING AMENDMENTS.*—

12                  (1) *TABLE OF SECTIONS.*—The table of sections  
13                  at the beginning of chapter 2 of the Truth in Lending  
14                  Act is amended by striking the item relating to sec-  
15                  tion 129 and inserting the following:

                “129. *Requirements for certain mortgages.*”.

16                  (2) *TRUTH IN LENDING ACT.*—Section 105(a) of  
17                  the Truth in Lending Act (15 U.S.C. 1604(a)) is  
18                  amended in the second sentence, by striking “These”  
19                  and inserting “Except in the case of a mortgage re-  
20                  ferred to in section 103(aa), these”.

21          **SEC. 152. CIVIL LIABILITY.**

22                  (a) *DAMAGES.*—Section 130(a) of the Truth in Lend-  
23                  ing Act (15 U.S.C. 1640(a)) is amended—

24                          (1) by striking “and” at the end of paragraph

25                          (2)(B);

1           (2) by striking the period at the end of para-  
2           graph (3) and inserting “; and”; and

3           (3) by inserting after paragraph (3) the follow-  
4           ing new paragraph:

5           “(4) in the case of a failure to comply with any  
6           requirement under section 129, an amount equal to  
7           the sum of all finance charges and fees paid by the  
8           consumer, unless the creditor demonstrates that the  
9           failure to comply is not material.”.

10          (b) *STATE ATTORNEY GENERAL ENFORCEMENT.*—Sec-  
11          tion 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e))  
12          is amended by adding at the end the following: “An action  
13          to enforce a violation of section 129 may also be brought  
14          by the appropriate State attorney general in any appro-  
15          priate United States district court, or any other court of  
16          competent jurisdiction, not later than 3 years after the date  
17          on which the violation occurs. The State attorney general  
18          shall provide prior written notice of any such civil action  
19          to the Federal agency responsible for enforcement under sec-  
20          tion 108 and shall provide the agency with a copy of the  
21          complaint. If prior notice is not feasible, the State attorney  
22          general shall provide notice to such agency immediately  
23          upon instituting the action. The Federal agency may—

24                  “(1) intervene in the action;

25                  “(2) upon intervening—

1           “(A) remove the action to the appropriate  
2           United States district court, if it was not origi-  
3           nally brought there; and

4           “(B) be heard on all matters arising in the  
5           action; and

6           “(3) file a petition for appeal.”.

7           (c) ASSIGNEE LIABILITY.—Section 131 of the Truth in  
8           Lending Act (15 U.S.C. 1641) is amended by adding at  
9           the end the following new subsection:

10          “(d) RIGHTS UPON ASSIGNMENT OF CERTAIN MORT-  
11          GAGES.—

12                 “(1) IN GENERAL.—Any person who purchases  
13                 or is otherwise assigned a mortgage referred to in sec-  
14                 tion 103(aa) shall be subject to all claims and de-  
15                 fenses with respect to that mortgage that the consumer  
16                 could assert against the creditor of the mortgage, un-  
17                 less the purchaser or assignee demonstrates, by a pre-  
18                 ponderance of the evidence, that a reasonable person  
19                 exercising ordinary due diligence, could not deter-  
20                 mine, based on the loan documentation required by  
21                 this title, that the mortgage was in fact a mortgage  
22                 referred to in section 103(aa). The preceding sentence  
23                 does not affect a consumer’s rights under sections 125,  
24                 130, or any other provision of this title.

1           “(2) *LIMITATION ON DAMAGES.*—Notwithstand-  
2           *ing any other provision of law, relief provided as a*  
3           *result of any action made permissible by paragraph*  
4           *(1) may not exceed—*

5                     “(A) *with respect to actions based upon a*  
6                     *violation of this title, the amount specified in*  
7                     *section 130; and*

8                     “(B) *with respect to all other causes of ac-*  
9                     *tion, the sum of—*

10                    “(i) *the amount of all remaining in-*  
11                    *debtedness; and*

12                    “(ii) *the total amount paid by the*  
13                    *consumer in connection with the trans-*  
14                    *action.*

15           “(3) *OFFSET.*—*The amount of damages that*  
16           *may be awarded under paragraph (2)(B) shall be re-*  
17           *duced by the amount of any damages awarded under*  
18           *paragraph (2)(A).*

19           “(4) *NOTICE.*—*Any person who sells or otherwise*  
20           *assigns a mortgage referred to in section 103(aa) shall*  
21           *include a prominent notice of the potential liability*  
22           *under this subsection as determined by the Board.”.*

1 **SEC. 153. REVERSE MORTGAGE DISCLOSURE.**

2 (a) *DEFINITION OF REVERSE MORTGAGE.*—Section  
3 103 of the Truth in Lending Act (15 U.S.C. 1602) is  
4 amended by adding at the end the following new subsection:

5 “(bb) The term ‘reverse mortgage transaction’ means  
6 a nonrecourse transaction in which a mortgage, deed of  
7 trust, or equivalent consensual security interest is created  
8 against the consumer’s principal dwelling—

9 “(1) securing one or more advances; and

10 “(2) with respect to which the payment of any  
11 principal, interest, and shared appreciation is due  
12 and payable (other than in the case of default) only  
13 after—

14 “(A) the transfer of the dwelling;

15 “(B) the consumer ceases to occupy the  
16 dwelling as a principal dwelling; or

17 “(C) the death of the consumer.”.

18 (b) *DISCLOSURE.*—Chapter 2 of title I of the Truth  
19 in Lending Act (15 U.S.C. 1631 et seq.) is amended by add-  
20 ing at the end the following new section:

21 **“SEC. 138. REVERSE MORTGAGES.**

22 “(a) *IN GENERAL.*—In addition to the disclosures re-  
23 quired under this title, for each reverse mortgage, the credi-  
24 tor shall, not less than 3 days prior to consummation of  
25 the transaction, disclose to the consumer in conspicuous  
26 type a good faith estimate of the projected total cost of the

1 mortgage to the consumer expressed as a table of annual  
2 interest rates. Each annual interest rate shall be based on  
3 a projected total future loan balance under a projected ap-  
4 preciation rate for the dwelling and a term for the mort-  
5 gage. The disclosure shall include—

6           “(1) statements of the annual interest rates for  
7           not less than 3 projected appreciation rates and not  
8           less than 3 loan periods, as determined by the Board,  
9           including—

10                   “(A) a short-term reverse mortgage;

11                   “(B) a term equaling the actuarial life ex-  
12                   pectancy of the consumer; and

13                   “(C) such longer term as the Board deems  
14                   appropriate; and

15           “(2) a statement that the consumer is not obli-  
16           gated to complete the reverse mortgage transaction  
17           merely because the consumer has received the disclo-  
18           sure required under this section or has signed a loan  
19           application.

20           “(b) *PROJECTED TOTAL COST.*—In determining the  
21           projected total cost of the mortgage to be disclosed to the  
22           consumer under subsection (a), the creditor shall take into  
23           account—

24                   “(1) any shared appreciation that the lender  
25                   will, by contract, be entitled to receive;

1           “(2) all costs and charges to the consumer, in-  
2           cluding the costs of any associated annuity that the  
3           consumer elects or is required to purchase as part of  
4           the reverse mortgage transaction;

5           “(3) all payments to and for the benefit of the  
6           consumer, including, in the case in which an associ-  
7           ated annuity is purchased (whether or not required  
8           by the lender as a condition of making the reverse  
9           mortgage), the annuity payments received by the  
10          consumer and financed from the proceeds of the loan,  
11          instead of the proceeds used to finance the annuity;  
12          and

13          “(4) any limitation on the liability of the  
14          consumer under reverse mortgage transactions (such  
15          as nonrecourse limits and equity conservation agree-  
16          ments).”.

17          (c) *TABLE OF SECTIONS.*—The table of sections at the  
18          beginning of chapter 2 of the Truth in Lending Act is  
19          amended by inserting after the item relating to section 137  
20          the following:

          “138. Reverse mortgages.”.

21          **SEC. 154. REGULATIONS; EFFECTIVE DATE.**

22          (a) *REGULATIONS.*—Not later than 180 days after the  
23          date of enactment of this Act, the Board of Governors of  
24          the Federal Reserve System shall issue such regulations as  
25          may be necessary to carry out this subtitle.



1       (b) *EFFECTIVE DATE.*—*This subtitle, and the amend-*  
2 *ments made by this subtitle, shall apply to every mortgage*  
3 *referred to in section 103(aa) of the Truth in Lending Act*  
4 *(as added by section 151(a) of this Act) consummated on*  
5 *or after the date which is 60 days after the promulgation*  
6 *of final regulations under subsection (a).*

## 7           **TITLE II—SMALL BUSINESS**

### 8                   **CAPITAL FORMATION**

#### 9                   **Subtitle A—Small Business Loan**

#### 10                   **Securitization**

##### 11   **SEC. 201. SHORT TITLE.**

12       *This subtitle may be cited as the “Small Business*  
13 *Loan Securitization and Secondary Market Enhancement*  
14 *Act of 1994”.*

##### 15   **SEC. 202. SMALL BUSINESS RELATED SECURITY.**

16       *Section 3(a) of the Securities Exchange Act of 1934*  
17 *(15 U.S.C. 78c(a)) is amended by adding at the end the*  
18 *following new paragraph:*

19           “(53)(A) *The term ‘small business related secu-*  
20 *rity’ means a security that is rated in 1 of the 4 high-*  
21 *est rating categories by at least 1 nationally recog-*  
22 *nized statistical rating organization, and either—*

23                   “(i) *represents an interest in 1 or more*  
24 *promissory notes or leases of personal property*  
25 *evidencing the obligation of a small business con-*

1            *cern and originated by an insured depository in-*  
2            *stitution, insured credit union, insurance com-*  
3            *pany, or similar institution which is supervised*  
4            *and examined by a Federal or State authority,*  
5            *or a finance company or leasing company; or*

6            *“(ii) is secured by an interest in 1 or more*  
7            *promissory notes or leases of personal property*  
8            *(with or without recourse to the issuer or lessee)*  
9            *and provides for payments of principal in rela-*  
10           *tion to payments, or reasonable projections of*  
11           *payments, on notes or leases described in clause*  
12           *(i).*

13           *“(B) For purposes of this paragraph—*

14           *“(i) an ‘interest in a promissory note or a*  
15           *lease of personal property’ includes ownership*  
16           *rights, certificates of interest or participation in*  
17           *such notes or leases, and rights designed to as-*  
18           *sure servicing of such notes or leases, or the re-*  
19           *ceipt or timely receipt of amounts payable under*  
20           *such notes or leases;*

21           *“(ii) the term ‘small business concern’ has*  
22           *the same meaning as in section 3 of the Small*  
23           *Business Act;*

1           “(iii) the term ‘insured depository institu-  
2           tion’ has the same meaning as in section 3 of the  
3           Federal Deposit Insurance Act; and

4           “(iv) the term ‘insured credit union’ has the  
5           same meaning as in section 101 of the Federal  
6           Credit Union Act.”.

7   **SEC. 203. APPLICABILITY OF MARGIN REQUIREMENTS.**

8           Section 7(g) of the Securities Exchange Act of 1934  
9           (15 U.S.C. 78g(g)) is amended by inserting “or a small  
10          business related security” after “mortgage related security”.

11   **SEC. 204. BORROWING IN THE COURSE OF BUSINESS.**

12          Section 8(a) of the Securities Exchange Act of 1934  
13          (15 U.S.C. 78h(a)) is amended in the last sentence by in-  
14          serting “or a small business related security” after “mort-  
15          gage related security”.

16   **SEC. 205. SMALL BUSINESS RELATED SECURITIES AS COL-**  
17                                   **LATERAL.**

18          Clause (ii) of section 11(d)(1) of the Securities Ex-  
19          change Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by  
20          inserting “or any small business related security” after  
21          “mortgage related security”.

22   **SEC. 206. INVESTMENT BY DEPOSITORY INSTITUTIONS.**

23          (a) HOME OWNERS’ LOAN ACT AMENDMENT.—Section  
24          5(c)(1) of the Home Owners’ Loan Act (12 U.S.C.

1 1464(c)(1)) is amended by adding at the end the following  
2 new subparagraph:

3           “(S) *SMALL BUSINESS RELATED SECURI-*  
4           *TIES.—Investments in small business related se-*  
5           *curities (as defined in section 3(a)(53) of the Se-*  
6           *curities Exchange Act of 1934), subject to such*  
7           *regulations as the Director may prescribe, in-*  
8           *cluding regulations concerning the minimum*  
9           *size of the issue (at the time of the initial dis-*  
10           *tribution), the minimum aggregate sales price,*  
11           *or both.”.*

12           (b) *CREDIT UNIONS.—Section 107(15) of the Federal*  
13 *Credit Union Act (12 U.S.C. 1757(15)) is amended—*

14           (1) *in subparagraph (A), by striking “or” at the*  
15           *end;*

16           (2) *in subparagraph (B), by inserting “or” at*  
17           *the end; and*

18           (3) *by adding at the end the following new sub-*  
19           *paragraph:*

20           “(C) *are small business related securities*  
21           *(as defined in section 3(a)(53) of the Securities*  
22           *Exchange Act of 1934), subject to such regula-*  
23           *tions as the Board may prescribe, including reg-*  
24           *ulations prescribing the minimum size of the*

1           *issue (at the time of the initial distribution), the*  
2           *minimum aggregate sales price, or both;”.*

3           (c) *NATIONAL BANKING ASSOCIATIONS.*—Section 5136  
4 *of the Revised Statutes (12 U.S.C. 24) is amended in the*  
5 *last sentence in the first full paragraph of paragraph Sev-*  
6 *enth, by striking “or (B) are mortgage related securities”*  
7 *and inserting the following: “(B) are small business related*  
8 *securities (as defined in section 3(a)(53) of the Securities*  
9 *Exchange Act of 1934); or (C) are mortgage related securi-*  
10 *ties”.*

11 **SEC. 207. PREEMPTION OF STATE LAW.**

12           (a) *IN GENERAL.*—Section 106(a)(1) of the Secondary  
13 *Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-*  
14 *1(a)(1)) is amended—*

15           (1) *by striking “or” at the end of subparagraph*  
16           *(B);*

17           (2) *by redesignating subparagraph (C) as sub-*  
18           *paragraph (D); and*

19           (3) *by inserting after subparagraph (B) the fol-*  
20           *lowing new subparagraph:*

21                   *“(C) small business related securities (as de-*  
22                   *fin ed in section 3(a)(53) of the Securities Ex-*  
23                   *change Act of 1934), or”.*

1       (b) *OBLIGATIONS OF THE UNITED STATES.*—Section  
2 106(a)(2) of the Secondary Mortgage Market Enhancement  
3 Act of 1984 (15 U.S.C. 77r-1(a)(2)) is amended—

4           (1) by striking “or” at the end of subparagraph  
5 (B);

6           (2) by redesignating subparagraph (C) as sub-  
7 paragraph (D); and

8           (3) by inserting after subparagraph (B) the fol-  
9 lowing new subparagraph:

10                   “(C) small business related securities (as de-  
11 fined in section 3(a)(53) of the Securities Ex-  
12 change Act of 1934), or”.

13       (c) *PREEMPTION OF STATE LAWS.*—Section 106(c) of  
14 the Secondary Mortgage Market Enhancement Act of 1984  
15 (15 U.S.C. 77r-1(c)) is amended—

16           (1) in the first sentence, by striking “or that”  
17 and inserting “, that”; and

18           (2) by inserting “, or that are small business re-  
19 lated securities (as defined in section 3(a)(53) of the  
20 Securities Exchange Act of 1934)” before “shall be ex-  
21 empt”.

22       (d) *IMPLEMENTATION.*—Section 106 of the Secondary  
23 Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-  
24 1) is amended by adding at the end the following new sub-  
25 section:

1       “(d) *IMPLEMENTATION.*—

2               “(1) *LIMITATION.*—*The provisions of subsections*  
3       *(a) and (b) concerning small business related securi-*  
4       *ties shall not apply with respect to a particular per-*  
5       *son, trust, corporation, partnership, association, busi-*  
6       *ness trust, or business entity or class thereof in any*  
7       *State that, prior to the expiration of 7 years after the*  
8       *date of enactment of this subsection, enacts a statute*  
9       *that specifically refers to this section and either pro-*  
10       *hibits or provides for a more limited authority to*  
11       *purchase, hold, or invest in such small business relat-*  
12       *ed securities by any person, trust, corporation, part-*  
13       *nership, association, business trust, or business entity*  
14       *or class thereof than is provided in this section. The*  
15       *enactment by any State of any statute of the type de-*  
16       *scribed in the preceding sentence shall not affect the*  
17       *validity of any contractual commitment to purchase,*  
18       *hold, or invest that was made prior to such enact-*  
19       *ment, and shall not require the sale or other disposi-*  
20       *tion of any small business related securities acquired*  
21       *prior to the date of such enactment.*

22               “(2) *STATE REGISTRATION OR QUALIFICATION*  
23       *REQUIREMENTS.*—*Any State may, not later than 7*  
24       *years after the date of enactment of this subsection,*  
25       *enact a statute that specifically refers to this section*

1        *and requires registration or qualification of any*  
2        *small business related securities on terms that differ*  
3        *from those applicable to any obligation issued by the*  
4        *United States.”.*

5        **SEC. 208. INSURED DEPOSITORY INSTITUTION CAPITAL RE-**  
6                                    **QUIREMENTS FOR TRANSFERS OF SMALL**  
7                                    **BUSINESS OBLIGATIONS.**

8            (a) *ACCOUNTING PRINCIPLES.*—*The accounting prin-*  
9        *ciples applicable to the transfer of a small business loan*  
10       *or a lease of personal property with recourse contained in*  
11       *reports or statements required to be filed with Federal bank-*  
12       *ing agencies by a qualified insured depository institution*  
13       *shall be consistent with generally accepted accounting prin-*  
14       *ciples.*

15           (b) *CAPITAL AND RESERVE REQUIREMENTS.*—*With*  
16       *respect to the transfer of a small business loan or lease of*  
17       *personal property with recourse that is a sale under gen-*  
18       *erally accepted accounting principles, each qualified in-*  
19       *sured depository institution shall—*

20                (1) *establish and maintain a reserve equal to an*  
21                *amount sufficient to meet the reasonable estimated li-*  
22                *ability of the institution under the recourse arrange-*  
23                *ment; and*

24                (2) *include, for purposes of applicable capital*  
25                *standards and other capital measures, only the*



1        *amount of the retained recourse in the risk-weighted*  
2        *assets of the institution.*

3        *(c) QUALIFIED INSTITUTIONS CRITERIA.—An insured*  
4        *depository institution is a qualified insured depository in-*  
5        *stitution for purposes of this section if, without regard to*  
6        *the accounting principles or capital requirements referred*  
7        *to in subsections (a) and (b), the institution is—*

8                *(1) well capitalized; or*

9                *(2) with the approval, by regulation or order, of*  
10        *the appropriate Federal banking agency, adequately*  
11        *capitalized.*

12        *(d) AGGREGATE AMOUNT OF RECOURSE.—The total*  
13        *outstanding amount of recourse retained by a qualified in-*  
14        *sured depository institution with respect to transfers of*  
15        *small business loans and leases of personal property under*  
16        *subsections (a) and (b) shall not exceed—*

17                *(1) 15 percent of the risk-based capital of the in-*  
18        *stitution; or*

19                *(2) such greater amount, as established by the*  
20        *appropriate Federal banking agency by regulation or*  
21        *order.*

22        *(e) INSTITUTIONS THAT CEASE TO BE QUALIFIED OR*  
23        *EXCEED AGGREGATE LIMITS.—If an insured depository in-*  
24        *stitution ceases to be a qualified insured depository institu-*  
25        *tion or exceeds the limits under subsection (d), this section*

1 *shall remain applicable to any transfers of small business*  
2 *loans or leases of personal property that occurred during*  
3 *the time that the institution was qualified and did not ex-*  
4 *ceed such limit.*

5 (f) *PROMPT CORRECTIVE ACTION NOT AFFECTED.—*  
6 *The capital of an insured depository institution shall be*  
7 *computed without regard to this section in determining*  
8 *whether the institution is adequately capitalized,*  
9 *undercapitalized, significantly undercapitalized, or criti-*  
10 *cally undercapitalized under section 38 of the Federal De-*  
11 *posit Insurance Act.*

12 (g) *REGULATIONS REQUIRED.—Not later than 180*  
13 *days after the date of the enactment of this Act each appro-*  
14 *priate Federal banking agency shall promulgate final regu-*  
15 *lations implementing this section.*

16 (h) *ALTERNATIVE SYSTEM PERMITTED.—*

17 (1) *IN GENERAL.—At the discretion of the appro-*  
18 *priate Federal banking agency, this section shall not*  
19 *apply if the regulations of the agency provide that the*  
20 *aggregate amount of capital and reserves required*  
21 *with respect to the transfer of small business loans*  
22 *and leases of personal property with recourse does not*  
23 *exceed the aggregate amount of capital and reserves*  
24 *that would be required under subsection (b).*

1           (2) *EXISTING TRANSACTIONS NOT AFFECTED.*—  
2           *Notwithstanding paragraph (1), this section shall re-*  
3           *main in effect with respect to transfers of small busi-*  
4           *ness loans and leases of personal property with re-*  
5           *course by qualified insured depository institutions oc-*  
6           *curring before the effective date of regulations referred*  
7           *to in paragraph (1).*

8           (i) *DEFINITIONS.*—*For purposes of this section—*

9           (1) *the term “adequately capitalized” has the*  
10          *same meaning as in section 38(b) of the Federal De-*  
11          *posit Insurance Act;*

12          (2) *the term “appropriate Federal banking agen-*  
13          *cy” has the same meaning as in section 3 of the Fed-*  
14          *eral Deposit Insurance Act;*

15          (3) *the term “capital standards” has the same*  
16          *meaning as in section 38(c) of the Federal Deposit*  
17          *Insurance Act;*

18          (4) *the term “Federal banking agencies” has the*  
19          *same meaning as in section 3 of the Federal Deposit*  
20          *Insurance Act;*

21          (5) *the term “insured depository institution” has*  
22          *the same meaning as in section 3 of the Federal De-*  
23          *posit Insurance Act;*

1           (6) the term “other capital measures” has the  
2 meaning as in section 38(c) of the Federal Deposit  
3 Insurance Act;

4           (7) the term “recourse” has the meaning given to  
5 such term under generally accepted accounting prin-  
6 ciples;

7           (8) the term “small business” means a business  
8 that meets the criteria for a small business concern es-  
9 tablished by the Small Business Administration  
10 under section 3(a) of the Small Business Act; and

11           (9) the term “well capitalized” has the same  
12 meaning as in section 38(b) of the Federal Deposit  
13 Insurance Act.

14 **SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED**

15 **SECURITIES BY EMPLOYEE BENEFIT PLANS.**

16           (a) *PROHIBITED TRANSACTION EXEMPTION.*—The  
17 Secretary of Labor, in consultation with the Secretary of  
18 the Treasury, may exempt transactions involving small  
19 business related securities (as defined in section 3(a)(53)  
20 of the Securities Exchange Act of 1934, as added by section  
21 202 of this Act) pursuant to section 408(a) of the Employee  
22 Retirement Income Security Act of 1974 (29 U.S.C.  
23 1108(a)) and section 4975(c)(2) of the Internal Revenue  
24 Code of 1986.

1           (b) *CONSIDERATION OF EXEMPTION REQUESTS.*—The  
2 Secretary of Labor shall consider any request for exemption  
3 under subsection (a) within a reasonable period of time  
4 after receipt of such request.

5   **SEC. 210. SENSE OF THE SENATE ON TAXATION OF SMALL**  
6                           **BUSINESS LOAN INVESTMENT CONDUITS.**

7           (a) *SENSE OF THE SENATE.*—It is the sense of the Sen-  
8 ate that the taxation of a small business loan investment  
9 conduit and the holder of an interest therein should be simi-  
10 lar to the taxation of a real estate mortgage investment con-  
11 duit and the holder of an interest therein under the Internal  
12 Revenue Code of 1986, taking into account, as appro-  
13 priate—

14                   (1) *the purpose of facilitating the securitization*  
15                   *of small business loans and leases or personal prop-*  
16                   *erty through the use of small business loan investment*  
17                   *conduits and the development of a secondary market*  
18                   *in small business loans and leases of personal prop-*  
19                   *erty;*

20                   (2) *differences in the nature of qualifying mort-*  
21                   *gages in a real estate mortgage investment conduit*  
22                   *and small business loans and leases of personal prop-*  
23                   *erty;*

24                   (3) *differences in the practices of participants in*  
25                   *the securitization of real estate mortgages in a real es-*

1     *tate mortgage investment conduit and the*  
2     *securitization of other assets; and*

3             *(4) such other tax policies as may be warranted.*

4     *(b) SMALL BUSINESS LOAN INVESTMENT CONDUIT*  
5     *DEFINED.—For purposes of this section, the term “small*  
6     *business loan investment conduit” means an entity substan-*  
7     *tially all of the assets of which consist of an interest in*  
8     *one or more promissory notes as leases of personal property*  
9     *evidencing obligations—*

10            *(1) of a business that meets the criteria of a*  
11            *small business concern established under section 3(a)*  
12            *of the Small Business Act; and*

13            *(2) that were originated by an insured deposi-*  
14            *tory institution (as defined in section 3 of the Federal*  
15            *Deposit Insurance Act), credit union, insurance com-*  
16            *pany, or similar institution which is supervised and*  
17            *examined by a Federal or State authority, or a fi-*  
18            *nance company or leasing company.*

19     ***Subtitle B—Small Business Capital***  
20            ***Enhancement***

21     ***SEC. 251. FINDINGS AND PURPOSES.***

22            *(a) FINDINGS.—The Congress finds that—*

23            *(1) small business concerns are a vital part of*  
24            *the economy, accounting for the majority of new jobs,*

1     *new products, and new services created in the United*  
2     *States;*

3             *(2) adequate access to debt capital is a critical*  
4     *component for small business development, productiv-*  
5     *ity, expansion, and success in the United States;*

6             *(3) commercial banks are the most important*  
7     *suppliers of debt capital to small business concerns in*  
8     *the United States;*

9             *(4) commercial banks and other depository insti-*  
10    *tutions have various incentives to minimize their risk*  
11    *in financing small business concerns;*

12            *(5) as a result of such incentives, many small*  
13    *business concerns with economically sound financing*  
14    *needs are unable to obtain access to needed debt cap-*  
15    *ital;*

16            *(6) the small business capital access programs*  
17    *implemented by certain States are a flexible and effi-*  
18    *cient tool to assist financial institutions in providing*  
19    *access to needed debt capital for many small business*  
20    *concerns in a manner consistent with safety and*  
21    *soundness regulations;*

22            *(7) a small business capital access program*  
23    *would complement other programs which assist small*  
24    *business concerns in obtaining access to capital; and*

1           (8) *Federal policy can stimulate and accelerate*  
2           *efforts by States to implement small business capital*  
3           *access programs by providing an incentive to States,*  
4           *while leaving the administration of such programs to*  
5           *each participating State.*

6           (b) *PURPOSES.*—*By encouraging States to implement*  
7           *administratively efficient capital access programs that en-*  
8           *courage commercial banks and other depository institutions*  
9           *to provide access to debt capital for a broad portfolio of*  
10          *small business concerns, and thereby promote a more effi-*  
11          *cient and effective debt market, the purposes of this subtitle*  
12          *are—*

13                 (1) *to promote economic opportunity and*  
14                 *growth;*

15                 (2) *to create jobs;*

16                 (3) *to promote economic efficiency;*

17                 (4) *to enhance productivity; and*

18                 (5) *to spur innovation.*

19          **SEC. 252. DEFINITIONS.**

20          *For purposes of this subtitle—*

21                 (1) *the term “Secretary” means the Secretary of*  
22                 *Housing and Urban Development;*

23                 (2) *the term “appropriate Federal banking agen-*  
24                 *cy”—*



1           (A) has the same meaning as in section 3  
2 of the Federal Deposit Insurance Act; and

3           (B) includes the National Credit Union Ad-  
4 ministration Board in the case of any credit  
5 union the deposits of which are insured in ac-  
6 cordance with the Federal Credit Union Act;

7           (3) the term “early loan” means a loan enrolled  
8 at a time when the aggregate covered amount of loans  
9 previously enrolled under the Program by a particu-  
10 lar participating financial institution is less than  
11 \$5,000,000;

12           (4) the term “enrolled loan” means a loan made  
13 by a participating financial institution that is en-  
14 rolled by a participating State in accordance with  
15 this subtitle;

16           (5) the term “financial institution” means any  
17 federally chartered or State-chartered commercial  
18 bank, savings association, savings bank, or credit  
19 union;

20           (6) the term “participating financial institu-  
21 tion” means any financial institution that has en-  
22 tered into a participation agreement with a partici-  
23 pating State in accordance with section 254;

1           (7) the term “participating State” means any  
2 State that has been approved for participation in the  
3 Program in accordance with section 253;

4           (8) the term “passive real estate ownership”  
5 means ownership of real estate for the purpose of de-  
6 riving income from speculation, trade, or rental, ex-  
7 cept that such term shall not include—

8           (A) the ownership of that portion of real es-  
9 tate being used or intended to be used for the op-  
10 eration of the business of the owner of the real  
11 estate (other than the business of passive owner-  
12 ship of real estate); or

13           (B) the ownership of real estate for the pur-  
14 pose of construction or renovation, until the com-  
15 pletion of the construction or renovation phase;

16           (9) the term “Program” means the Small Busi-  
17 ness Capital Enhancement Program established under  
18 this subtitle;

19           (10) the term “reserve fund” means a fund, es-  
20 tablished by a participating State, earmarked for a  
21 particular participating financial institution, for the  
22 purposes of—

23           (A) depositing all required premium  
24 charges paid by the participating financial in-  
25 stitution and by each borrower receiving a loan

1           under the Program from a participating finan-  
2           cial institution;

3                   (B) depositing contributions made by the  
4           participating State; and

5                   (C) covering losses on enrolled loans by dis-  
6           bursing accumulated funds; and

7           (11) the term “State” means—

8                   (A) a State of the United States;

9                   (B) the District of Columbia;

10                   (C) any political subdivision of a State of  
11           the United States, which subdivision has a popu-  
12           lation in excess of the population of the least  
13           populated State of the United States; and

14                   (D) any other political subdivision of a  
15           State of the United States that the Secretary de-  
16           termines has the capacity to participate in the  
17           program.

18   **SEC. 253. APPROVING STATES FOR PARTICIPATION.**

19           (a) *APPLICATION.*—Any State may apply to the Sec-  
20           retary for approval to be a participating State under the  
21           Program and to be eligible for reimbursement by the  
22           Secretary pursuant to section 257.

23           (b) *APPROVAL CRITERIA.*—The Secretary shall ap-  
24           prove a State to be a participating State, if—

1           (1) a specific department or agency of the State  
2           has been designated to implement the Program;

3           (2) all legal actions necessary to enable such des-  
4           ignated department or agency to implement the Pro-  
5           gram have been accomplished;

6           (3) funds in the amount of at least \$1 for every  
7           2 people residing in the State (as of the last decennial  
8           census for which data have been released) are avail-  
9           able and have been legally committed to contributions  
10          by the State to reserve funds, with such funds being  
11          available without time limit and without requiring  
12          additional legal action, except that such requirements  
13          shall not be construed to limit the authority of the  
14          State to take action at a later time that results in the  
15          termination of its obligation to enroll loans and make  
16          contributions to reserve funds;

17          (4) the State has prescribed a form of participa-  
18          tion agreement to be entered into between it and each  
19          participating financial institution that is consistent  
20          with the requirements and purposes of this subtitle;  
21          and

22          (5) the State and the Secretary have executed a  
23          reimbursement agreement that conforms to the  
24          requirements of this subtitle.

25          (c) *EXISTING STATE PROGRAMS.*—

1           (1) *IN GENERAL.*—A State that is not a partici-  
2           pating State, but that has its own capital access pro-  
3           gram providing portfolio insurance for business loans  
4           (based on a separate loss reserve fund for each finan-  
5           cial institution), may apply at any time to the Sec-  
6           retary to be approved to be a participating State. The  
7           Secretary shall approve such State to be a participat-  
8           ing State, and to be eligible for reimbursements by the  
9           Secretary pursuant to section 257, if the State—

10                   (A) satisfies the requirements of subsections  
11                   (a) and (b); and

12                   (B) certifies that each affected financial in-  
13                   stitution has satisfied the requirements of section  
14                   254.

15           (2) *APPLICABLE TERMS OF PARTICIPATION.*—

16                   (A) *STATUS OF INSTITUTIONS.*—If a State  
17                   is approved for participation under paragraph  
18                   (1), each financial institution with a participa-  
19                   tion agreement in effect with the participating  
20                   State shall immediately be considered a partici-  
21                   pating financial institution. Reimbursements  
22                   may be made under section 237 in connection  
23                   with all contributions made to the reserve fund  
24                   by the State in connection with lending that oc-

1           *curs on or after the date on which the Secretary*  
2           *approves the State for participation.*

3           *(B) EFFECTIVE DATE OF PARTICIPATION.—*  
4           *If an amended participation agreement that con-*  
5           *forms with section 255 is required in order to se-*  
6           *cure participation approval by the Secretary,*  
7           *contributions subject to reimbursement under*  
8           *section 257 shall include only those contributions*  
9           *made to a reserve fund with respect to loans en-*  
10          *rolled on or after the date that an amended par-*  
11          *ticipation agreement between the participating*  
12          *State and the participating financial institution*  
13          *becomes effective.*

14          *(C) USE OF ACCUMULATED RESERVE*  
15          *FUNDS.—A State that is approved for participa-*  
16          *tion in accordance with this subsection may con-*  
17          *tinue to implement the program utilizing the re-*  
18          *serve funds accumulated under the State pro-*  
19          *gram.*

20          *(d) PRIOR APPROPRIATIONS REQUIREMENT.—The*  
21          *Secretary shall not approve a State for participation in*  
22          *the Program until at least \$50,000,000 has been appro-*  
23          *priated to the Secretary (subject to an appropriations Act),*  
24          *without fiscal year limitation, for the purpose of making*  
25          *reimbursements pursuant to section 257.*

1       (e) *AMENDMENTS TO AGREEMENTS.*—If a State that  
2 has been approved to be a participating State wishes to  
3 amend its form of participation agreement and continue  
4 to be a participating State, such State shall submit such  
5 amendment for review by the Secretary in accordance with  
6 subsection (b)(4). Any such amendment shall become effec-  
7 tive only after it has been approved by the Secretary.

8       **SEC. 254. PARTICIPATION AGREEMENTS.**

9       (a) *IN GENERAL.*—A participating State may enter  
10 into a participation agreement with any financial institu-  
11 tion determined by the participating State, after consulta-  
12 tion with the appropriate Federal banking agency, to have  
13 sufficient commercial lending experience and financial and  
14 managerial capacity to participate in the Program. The de-  
15 termination by the State shall not be reviewable by the Sec-  
16 retary.

17       (b) *PARTICIPATING FINANCIAL INSTITUTIONS.*—Upon  
18 entering into the participation agreement with the partici-  
19 pating State, the financial institution shall become a par-  
20 ticipating financial institution eligible to enroll loans  
21 under the Program.

22       **SEC. 255. TERMS OF PARTICIPATION AGREEMENTS.**

23       (a) *IN GENERAL.*—The participation agreement to be  
24 entered into by a participating State and a participating  
25 financial institution shall include all provisions required

1 *by this section, and shall not include any provisions incon-*  
2 *sistent with the provisions of this section.*

3 (b) *ESTABLISHMENT OF SEPARATE RESERVE*  
4 *FUNDS.—A separate reserve fund shall be established by the*  
5 *participating State for each participating financial insti-*  
6 *tution. All funds credited to a reserve fund shall be the ex-*  
7 *clusive property of the participating State. Each reserve*  
8 *fund shall be an administrative account for the purposes*  
9 *of—*

10 (1) *receiving all required premium charges to be*  
11 *paid by the borrower and participating financial in-*  
12 *stitution and contributions by the participating*  
13 *State; and*

14 (2) *disbursing funds, either to cover losses sus-*  
15 *tained by the participating financial institution in*  
16 *connection with loans made under the Program, or as*  
17 *contemplated by subsections (d) and (r).*

18 (c) *INVESTMENT AUTHORITY.—Subject to applicable*  
19 *State law, the participating State may invest, or cause to*  
20 *be invested, funds held in a reserve fund by establishing*  
21 *a deposit account at the participating financial institution*  
22 *in the name of the participating State. In the event that*  
23 *funds in the reserve fund are not deposited in such an ac-*  
24 *count, such funds shall be invested in a form that the par-*  
25 *ticipating State determines is safe and liquid.*



1       (d) *EARNED INCOME AND INTEREST.*—Interest or in-  
2 come earned on the funds credited to a reserve fund shall  
3 be deemed to be part of the reserve fund, except that a par-  
4 ticipating State may, as further specified in the participa-  
5 tion agreement, provide authority for the participating  
6 State to withdraw some or all of such interest or income  
7 earned.

8       (e) *LOAN TERMS AND CONDITIONS.*—

9           (1) *IN GENERAL.*—A loan to be filed for enroll-  
10 ment under the Program may be made with such in-  
11 terest rate, fees, and other terms and conditions as  
12 agreed upon by the participating financial institu-  
13 tion and the borrower, consistent with applicable law.

14           (2) *LINES OF CREDIT.*—If a loan to be filed for  
15 enrollment is in the form of a line of credit, the  
16 amount of the loan shall be considered to be the maxi-  
17 mum amount that can be drawn by the borrower  
18 against the line of credit.

19       (f) *ENROLLMENT PROCESS.*—

20           (1) *FILING.*—

21           (A) *IN GENERAL.*—A participating finan-  
22 cial institution shall file each loan made under  
23 the Program for enrollment by completing and  
24 submitting to the participating State a form  
25 prescribed by the participating State.

1           (B) *FORM.*—The form referred to in sub-  
2           paragraph (A) shall include a representation by  
3           the participating financial institution that it  
4           has complied with the participation agreement  
5           in enrolling the loan with the State.

6           (C) *PREMIUM CHARGES.*—Accompanying  
7           the completed form shall be the nonrefundable  
8           premium charges paid by the borrower and the  
9           participating financial institution, or evidence  
10          that such premium charges have been deposited  
11          into the deposit account containing the reserve  
12          fund, if applicable.

13          (D) *SUBMISSION.*—The participation agree-  
14          ment shall require that the items required by this  
15          subsection shall be submitted to the participating  
16          State by the participating financial institutions  
17          not later than 10 calendar days after a loan is  
18          made.

19          (2) *ENROLLMENT BY STATE.*—Upon receipt by  
20          the participating State of the filing submitted in ac-  
21          cordance with paragraph (1), the participating State  
22          shall promptly enroll the loan and make a matching  
23          contribution to the reserve fund in accordance with  
24          subsection (j), unless the information submitted indi-  
25          cates that the participating financial institution has

1        *not complied with the participation agreement in en-*  
2        *rolling the loan.*

3        (g) *COVERAGE AMOUNT.*—*In filing a loan for enroll-*  
4        *ment under the Program, the participating financial insti-*  
5        *tution may specify an amount to be covered under the*  
6        *Program that is less than the full amount of the loan.*

7        (h) *PREMIUM CHARGES.*—

8            (1) *MINIMUM AND MAXIMUM AMOUNTS.*—*The*  
9        *premium charges payable to the reserve fund by the*  
10       *borrower and the participating financial institution*  
11       *shall be prescribed by the participating financial in-*  
12       *stitution, within minimum and maximum limits set*  
13       *forth in the participation agreement. The participa-*  
14       *tion agreement shall establish minimum and maxi-*  
15       *imum limits whereby the sum of the premium charges*  
16       *paid in connection with a loan by the borrower and*  
17       *the participating financial institution is not less than*  
18       *3 percent nor more than 7 percent of the amount of*  
19       *the loan covered under the Program.*

20           (2) *ALLOCATION OF PREMIUM CHARGES.*—*The*  
21       *participation agreement shall specify terms for allo-*  
22       *cating premium charges between the borrower and the*  
23       *participating financial institution. However, if the*  
24       *participating financial institution is required to pay*  
25       *any of the premium charges, the participation agree-*

1        *ment shall authorize the participating financial insti-*  
2        *tution to recover from the borrower the cost of the*  
3        *payment of the participating financial institution, in*  
4        *any manner on which the participating financial*  
5        *institution and the borrower agree.*

6        *(i) RESTRICTIONS.—*

7            *(1) ACTIONS PROHIBITED.—Except as provided*  
8        *in subsection (h) and paragraph (2) of this sub-*  
9        *section, the participating State may not—*

10            *(A) impose any restrictions or requirements,*  
11        *relating to the interest rate, fees, collateral, or*  
12        *other business terms and conditions of the loan;*  
13        *or*

14            *(B) condition enrollment of a loan in the*  
15        *Program on the review by the State of the risk*  
16        *or creditworthiness of a loan.*

17            *(2) EFFECT ON OTHER LAW.—Nothing in this*  
18        *subtitle shall affect the applicability of any other law*  
19        *to the conduct by a participating financial institu-*  
20        *tion of its business.*

21        *(j) STATE CONTRIBUTIONS.—In enrolling a loan*  
22        *under the Program, the participating State shall contribute*  
23        *to the reserve fund an amount, as provided for in the par-*  
24        *ticipation agreement, which shall not be less than the sum*

1 *of the amount of premium charges paid by the borrower*  
2 *and the participating financial institution.*

3 *(k) ELEMENTS OF CLAIMS.—*

4 *(1) FILING.—If a participating financial insti-*  
5 *tution charges off all or part of an enrolled loan, such*  
6 *participating financial institution may file a claim*  
7 *for reimbursement with the participating State by*  
8 *submitting a form that—*

9 *(A) includes the representation by the par-*  
10 *ticipating financial institution that it is filing*  
11 *the claim in accordance with the terms of the ap-*  
12 *plicable participation agreement; and*

13 *(B) contains such other information as may*  
14 *be required by the participating State.*

15 *(2) TIMING.—Any claim filed under paragraph*  
16 *(1) shall be filed contemporaneously with the action*  
17 *of the participating financial institution to charge off*  
18 *all or part of an enrolled loan. The participating fi-*  
19 *nancial institution shall determine when and how*  
20 *much to charge off on an enrolled loan, in a manner*  
21 *consistent with its usual method for making such de-*  
22 *terminations on business loans that are not enrolled*  
23 *loans under this subtitle.*

24 *(l) ELEMENTS OF CLAIMS.—A claim filed by a partici-*  
25 *pating financial institution may include the amount of*

1 *principal charged off, not to exceed the covered amount of*  
2 *the loan. Such claim may also include accrued interest and*  
3 *out-of-pocket expenses, if and to the extent provided for*  
4 *under the participation agreement.*

5 *(m) PAYMENT OF CLAIMS.—*

6 *(1) IN GENERAL.—Except as provided in sub-*  
7 *section (n) and paragraph (2) of this subsection, upon*  
8 *receipt of a claim filed in accordance with this section*  
9 *and the participation agreement, the participating*  
10 *State shall promptly pay to the participating finan-*  
11 *cial institution, from funds in the reserve fund, the*  
12 *full amount of the claim as submitted.*

13 *(2) INSUFFICIENT RESERVE FUNDS.—If there are*  
14 *insufficient funds in the reserve fund to cover the en-*  
15 *tire amount of a claim of a participating financial*  
16 *institution, the participating State shall pay to the*  
17 *participating financial institution an amount equal*  
18 *to the current balance in the reserve fund. If the en-*  
19 *rolled loan for which the claim has been filed—*

20 *(A) is not an early loan, such payment*  
21 *shall be deemed fully to satisfy the claim, and*  
22 *the participating financial institution shall have*  
23 *no other or further right to receive any amount*  
24 *from the reserve fund with respect to such claim;*  
25 *or*

1           (B) is an early loan, such payment shall  
2           not be deemed fully to satisfy the claim of the  
3           participating financial institution, and at such  
4           time as the remaining balance of the claim does  
5           not exceed 75 percent of the balance in the re-  
6           serve fund, the participating State shall, upon  
7           the request of the participating financial institu-  
8           tion, pay any remaining amount of the claim.

9           (n) DENIAL OF CLAIMS.—A participating State may  
10          deny a claim if a representation or warranty made by the  
11          participating financial institution to the participating  
12          State at the time that the loan was filed for enrollment or  
13          at the time that the claim was submitted was known by  
14          the participating financial institution to be false.

15          (o) SUBSEQUENT RECOVERY OF CLAIM AMOUNT.—If,  
16          subsequent to payment of a claim by the participating  
17          State, a participating financial institution recovers from  
18          a borrower any amount for which payment of the claim  
19          was made, the participating financial institution shall  
20          promptly pay to the participating State for deposit into  
21          the reserve fund the amount recovered, less any expenses in-  
22          curred by the institution in collection of such amount.

23          (p) PARTICIPATION AGREEMENT TERMS.—

1           (1) *IN GENERAL.*—*In connection with the filing*  
2 *of a loan for enrollment in the Program, the partici-*  
3 *pation agreement—*

4                   (A) *shall require the participating financial*  
5 *institution to obtain an assurance from each bor-*  
6 *rower that—*

7                           (i) *the proceeds of the loan will be used*  
8 *for a business purpose;*

9                           (ii) *the loan will not be used to finance*  
10 *passive real estate ownership; and*

11                           (iii) *the borrower is not—*

12                                   (I) *an executive officer, director,*  
13 *or principal shareholder of the partici-*  
14 *pating financial institution;*

15                                   (II) *a member of the immediate*  
16 *family of an executive officer, director,*  
17 *or principal shareholder of the partici-*  
18 *pating financial institution; or*

19                                   (III) *a related interest of any*  
20 *such executive officer, director, prin-*  
21 *cipal shareholder, or member of the im-*  
22 *mediate family;*

23                   (B) *shall require the participating financial*  
24 *institution to provide assurances to the partici-*  
25 *pating State that the loan has not been made in*



1           *order to place under the protection of the Pro-*  
2           *gram prior debt that is not covered under the*  
3           *Program and that is or was owed by the bor-*  
4           *rower to the participating financial institution*  
5           *or to an affiliate of the participating financial*  
6           *institution;*

7           *(C) may provide that if—*

8                   *(i) a participating financial institu-*  
9                   *tion makes a loan to a borrower that is a*  
10                   *refinancing of a loan previously made to*  
11                   *the borrower by the participating financial*  
12                   *institution or an affiliate of the participat-*  
13                   *ing financial institution;*

14                   *(ii) such prior loan was not enrolled in*  
15                   *the Program; and*

16                   *(iii) additional or new financing is ex-*  
17                   *tended by the participating financial insti-*  
18                   *tution as part of the refinancing,*

19           *the participating financial institution may file*  
20           *the loan for enrollment, with the amount to be*  
21           *covered under the Program not to exceed the*  
22           *amount of any additional or new financing; and*

23           *(D) may include additional restrictions on*  
24           *the eligibility of loans or borrowers that are not*

1            *inconsistent with the provisions and purposes of*  
2            *this subtitle.*

3            (2) *DEFINITIONS.*—*For purposes of this sub-*  
4            *section, the terms “executive officer”, “director”,*  
5            *“principal shareholder”, “immediate family”, and*  
6            *“related interest” refer to the same relationship to a*  
7            *participating financial institution as the relationship*  
8            *described in part 215 of title 12 of the Code of Fed-*  
9            *eral Regulations, or any successor to such part.*

10          (q) *TERMINATION CLAUSE.*—*In each participation*  
11          *agreement, the participating State shall reserve for itself the*  
12          *ability to terminate its obligation to enroll loans under the*  
13          *Program. Any such termination shall be prospective only,*  
14          *and shall not apply to amounts of loans enrolled under the*  
15          *Program prior to such termination.*

16          (r) *ALLOWABLE WITHDRAWALS FROM FUND.*—

17                 *The participation agreement may provide that,*  
18                 *if, for any consecutive period of not less than 24*  
19                 *months, the aggregate outstanding balance of all en-*  
20                 *rolled loans for a participating financial institution*  
21                 *is continually less than the outstanding balance in*  
22                 *the reserve fund for that participating financial insti-*  
23                 *tution, the participating State, in its discretion, may*  
24                 *withdraw an amount from the reserve fund to bring*

1        *the balance in the reserve fund down to the outstand-*  
2        *ing balance of all such enrolled loans.*

3        *(s) GRANDFATHERED PROVISION.—*

4            *(1) SPECIAL TREATMENT OF PREMIUM*  
5        *CHARGES.—Notwithstanding subsection (b) or (d), the*  
6        *participation agreement, if explicitly authorized by a*  
7        *statute enacted by the State before the date of enact-*  
8        *ment of this Act, may allow a participating financial*  
9        *institution to treat the premium charges paid by the*  
10       *participating financial institution and the borrower*  
11       *into the reserve fund, and interest or income earned*  
12       *on funds in the reserve fund that are deemed to be at-*  
13       *tributable to such premium charges, as assets of the*  
14       *participating financial institution for accounting*  
15       *purposes, subject to withdrawal by the participating*  
16       *financial institution only—*

17            *(A) for the payment of claims approved by*  
18        *the participating State in accordance with this*  
19        *section; and*

20            *(B) upon the participating financial insti-*  
21        *tution's withdrawal from authority to make new*  
22        *loans under the Program.*

23        *(2) PAYMENT OF POST-WITHDRAWAL CLAIMS.—*

24        *After any withdrawal of assets from the reserve fund*  
25        *pursuant to paragraph (1)(B), any future claims*

1     *filed by the participating financial institution on*  
2     *loans remaining in its capital access program port-*  
3     *folio shall only be paid from funds remaining in the*  
4     *reserve fund to the extent that, in the aggregate, such*  
5     *claims exceed the sum of the amount of such with-*  
6     *drawn assets, and interest on that amount, imputed*  
7     *at the same rate as income would have accrued had*  
8     *the amount not been withdrawn.*

9             (3) *CONDITIONS FOR TERMINATING SPECIAL AU-*  
10     *THORITY.—If the Secretary determines that the inclu-*  
11     *sion in a participation agreement of the provisions*  
12     *authorized by this subsection is resulting in the en-*  
13     *rollment of loans under the Program that are likely*  
14     *to have been made without assistance provided under*  
15     *this subtitle, the Secretary may notify the participat-*  
16     *ing State that henceforth, the Secretary will only*  
17     *make reimbursements to the State under section 257*  
18     *with respect to a loan if the participation agreement*  
19     *between the participating State and each participat-*  
20     *ing financial institution has been amended to con-*  
21     *form with this section, without exercise of the special*  
22     *authority granted by this subsection.*

23     **SEC. 256. REPORTS.**

24             (a) *RESERVE FUNDS REPORT.—On or before the last*  
25     *day of each calendar quarter, a participating State shall*

1 *submit to the Secretary a report of contributions to reserve*  
2 *funds made by the participating State during the previous*  
3 *calendar quarter. If the participating State has made con-*  
4 *tributions to one or more reserve funds during the previous*  
5 *quarter, the report shall—*

6           (1) *indicate the total amount of such contribu-*  
7 *tions;*

8           (2) *indicate the amount of contributions which is*  
9 *subject to reimbursement, which shall be equal to the*  
10 *total amount of contributions, unless one of the limi-*  
11 *tations contained in section 257 is applicable;*

12           (3) *if one of the limitations in section 257 is ap-*  
13 *plicable, provide documentation of the applicability of*  
14 *such limitation for each loan for which the limitation*  
15 *applies; and*

16           (4) *include a certification by the participating*  
17 *State that—*

18                   (A) *the information provided in accordance*  
19 *with paragraphs (1), (2), and (3) is accurate;*

20                   (B) *funds in an amount meeting the mini-*  
21 *imum requirements of section 253(b)(3) continue*  
22 *to be available and legally committed to con-*  
23 *tributions by the State to reserve funds, less any*  
24 *amount that has been contributed by the State to*

1           *reserve funds subsequent to the State being ap-*  
2           *proved for participation in the Program;*

3           *(C) there has been no unapproved amend-*  
4           *ment to any participation agreement or the form*  
5           *of participation agreements; and*

6           *(D) the participating State is otherwise im-*  
7           *plementing the Program in accordance with this*  
8           *subtitle and regulations issued pursuant to*  
9           *section 259.*

10          *(b) ANNUAL DATA.—Not later than March 31 of each*  
11         *year, each participating State shall submit to the Secretary*  
12         *annual data indicating the number of borrowers financed*  
13         *under the Program, the total amount of covered loans, and*  
14         *breakdowns by industry type, loan size, annual sales, and*  
15         *number of employees of the borrowers financed.*

16          *(c) FORM.—The reports and data filed pursuant to*  
17         *subsections (a) and (b) shall be in such form as the Sec-*  
18         *retary may require.*

19         **SEC. 257. REIMBURSEMENT BY THE SECRETARY.**

20          *(a) REIMBURSEMENTS.—Not later than 30 calendar*  
21         *days after receiving a report filed in compliance with sec-*  
22         *tion 256, the Secretary shall reimburse the participating*  
23         *State in an amount equal to 50 percent of the amount of*  
24         *contributions by the participating State to the reserve funds*  
25         *that are subject to reimbursement by the Secretary pursuant*

1 *to section 256 and this section. The Secretary shall reim-*  
2 *burse participating States, as it receives reports pursuant*  
3 *to section 256(a), until available funds are expended.*

4 (b) *SIZE OF ASSISTED BORROWER.*—*The Secretary*  
5 *shall not provide any reimbursement to a participating*  
6 *State with respect to an enrolled loan made to a borrower*  
7 *that has 500 or more employees at the time that the loan*  
8 *is enrolled in the Program.*

9 (c) *THREE-YEAR MAXIMUM.*—*The amount of reim-*  
10 *bursement to be provided by the Secretary to a participat-*  
11 *ing State over any 3-year period in connection with loans*  
12 *made to any single borrower or any group of borrowers*  
13 *among which a common enterprise exists shall not exceed*  
14 *\$75,000. For purposes of this subsection, “common enter-*  
15 *prise” shall have the same meaning as in part 32 of title*  
16 *12 of the Code of Federal Regulations, or any successor to*  
17 *that part.*

18 (d) *LOANS TOTALING LESS THAN \$2,000,000.*—*In*  
19 *connection with a loan in which the covered amount of the*  
20 *loan plus the covered amount of all previous loans enrolled*  
21 *by a participating financial institution does not exceed*  
22 *\$2,000,000, the amount of reimbursement by the Secretary*  
23 *to the participating State shall not exceed the lesser of—*

1           (1) 75 percent of the sum of the premium charges  
2           paid to the reserve fund by the borrower and the par-  
3           ticipating financial institution; or

4           (2) 5.25 percent of the covered amount of the  
5           loan.

6           (e) *LOANS TOTALING MORE THAN \$2,000,000.*—In  
7           connection with a loan in which the sum of the covered  
8           amounts of all previous loans enrolled by the participating  
9           financial institution in the Program equals or exceeds  
10          \$2,000,000, the amount of reimbursement to be provided by  
11          the Secretary to the participating State shall not exceed the  
12          lesser of—

13           (1) 50 percent of the sum of the premium charges  
14           paid by the borrower and the participating financial  
15           institution; or

16           (2) 3.5 percent of the covered amount of the loan.

17          (f) *OTHER AMOUNTS.*—In connection with the enroll-  
18          ment of a loan that will cause the aggregate covered amount  
19          of all enrolled loans to exceed \$2,000,000, the amount of  
20          reimbursement by the Secretary to the participating State  
21          shall be determined—

22           (1) by applying subsection (d) to the portion of  
23           the loan, which when added to the aggregate covered  
24           amount of all previously enrolled loans equals  
25           \$2,000,000; and



1           (2) by applying subsection (e) to the balance of  
2           the loan.

3   **SEC. 258. REIMBURSEMENT TO THE SECRETARY.**

4           (a) *IN GENERAL.*—If a participating State withdraws  
5           funds from a reserve fund pursuant to terms of the partici-  
6           pation agreement permitted by subsection (d) or (r) of sec-  
7           tion 255, such participating State shall, not later than 15  
8           calendar days after such withdrawal, submit to the Sec-  
9           retary an amount computed by multiplying the amount  
10          withdrawn by the appropriate factor, as determined under  
11          subsection (b).

12          (b) *FACTOR.*—The appropriate factor shall be obtained  
13          by dividing the total amount of contributions that have been  
14          made by the participating State to all reserve funds which  
15          were subject to reimbursement—

16                 (1) by 2; and

17                 (2) by the total amount of contributions made by  
18                 the participating State to all reserve funds, including  
19                 if applicable, contributions that have been made by  
20                 the State prior to becoming a participating State if  
21                 the State continued its own capital access program in  
22                 accordance with section 253(b).

23          (c) *USE OF REIMBURSEMENTS.*—The Secretary may  
24          use funds reimbursed pursuant to this section to make reim-  
25          bursements under section 257.

1 **SEC. 259. REGULATIONS.**

2 *The Secretary shall promulgate appropriate regula-*  
3 *tions to implement this subtitle.*

4 **SEC. 260. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) *AMOUNT.*—*There are authorized to be appro-*  
6 *priated to the Secretary \$50,000,000 to carry out this sub-*  
7 *title.*

8 (b) *BUDGETARY TREATMENT.*—*The amount author-*  
9 *ized to be appropriated under subsection (a) shall be subject*  
10 *to discretionary spending caps, as provided in section 601*  
11 *of the Congressional Budget Act of 1974, and therefore shall*  
12 *reduce by an equal amount funds made available for other*  
13 *discretionary spending programs.*

14 **TITLE III—PAPERWORK REDUC-**  
15 **TION AND REGULATORY IM-**  
16 **PROVEMENT**

17 **SEC. 301. INCORPORATED DEFINITIONS.**

18 *Unless otherwise specifically provided in this title, for*  
19 *purposes of this title—*

20 (1) *the terms “appropriate Federal banking*  
21 *agency”, “Federal banking agencies”, and “insured*  
22 *depository institution” have the same meanings as in*  
23 *section 3 of the Federal Deposit Insurance Act; and*

24 (2) *the term “insured credit union” has the same*  
25 *meaning as in section 101 of the Federal Credit*  
26 *Union Act.*

1 **SEC. 302. ADMINISTRATIVE CONSIDERATION OF BURDEN**  
2 **WITH NEW REGULATIONS.**

3 *In determining the effective date and administrative*  
4 *compliance requirements for new regulations that impose*  
5 *additional reporting, disclosure, or other requirements on*  
6 *insured depository institutions, each Federal banking agen-*  
7 *cy shall consider, consistent with the principles of safety*  
8 *and soundness and the public interest—*

9 (1) *any administrative burdens that such regula-*  
10 *tions would place on depository institutions, includ-*  
11 *ing small depository institutions, and customers of*  
12 *depository institutions; and*

13 (2) *the benefits of such regulations.*

14 **SEC. 303. STREAMLINING OF REGULATORY REQUIREMENTS.**

15 (a) *REVIEW OF REGULATIONS; REGULATORY UNI-*  
16 *FORMITY.—During the 2-year period beginning on the date*  
17 *of enactment of this Act, each Federal banking agency shall,*  
18 *consistent with principles of safety and soundness and the*  
19 *public interest—*

20 (1) *conduct a review of the regulations and writ-*  
21 *ten policies of that agency—*

22 (A) *to streamline those regulations and*  
23 *policies in order to improve efficiency, reduce*  
24 *unnecessary costs, and eliminate unwarranted*  
25 *constraints on credit availability; and*

1           (B) to remove inconsistencies and outmoded  
2           and duplicative requirements; and

3           (2) work jointly with the other Federal banking  
4           agencies to make uniform all regulations and guide-  
5           lines implementing common statutory or supervisory  
6           policies.

7           (b) *REPORT TO CONGRESS.*—The Federal banking  
8           agencies shall submit a joint report to the Congress annu-  
9           ally for 2 years following the date of enactment of this Act  
10          detailing the progress of the agencies in carrying out the  
11          requirements of subsection (a).

12          **SEC. 304. ELIMINATION OF DUPLICATIVE FILINGS.**

13          *The Federal banking agencies shall work jointly—*

14               (1) to eliminate, to the extent practicable, dupli-  
15               cative or otherwise unnecessary requests for informa-  
16               tion in connection with applications or notices to the  
17               agencies; and

18               (2) to harmonize, to the extent practicable, any  
19               inconsistent publication and public notice require-  
20               ments.

21          **SEC. 305. COORDINATED AND UNIFIED EXAMINATIONS.**

22          Section 10(d) of the Federal Deposit Insurance Act (12  
23          U.S.C. 1820(d)) is amended by adding at the end the follow-  
24          ing new paragraph:

1           “(6) *COORDINATED EXAMINATIONS.*—*To mini-*  
2           *mize the disruptive effects of examinations on the op-*  
3           *erations of insured depository institutions—*

4                   “(A) *each appropriate Federal banking*  
5                   *agency shall, to the extent practicable and con-*  
6                   *sistent with safety and soundness principles and*  
7                   *the public interest—*

8                           “(i) *coordinate examinations to be con-*  
9                           *ducted by that agency at an insured depository*  
10                           *institution and its affiliates;*

11                           “(ii) *coordinate with the other appro-*  
12                           *priate Federal banking agencies in the con-*  
13                           *duct of such examinations; and*

14                           “(iii) *work to coordinate the conduct of*  
15                           *all examinations made pursuant to this*  
16                           *subsection with the appropriate State bank*  
17                           *supervisor; and*

18                   “(B) *not later than 2 years after the date*  
19                   *of enactment of the Community Development,*  
20                   *Credit Enhancement, and Regulatory Improve-*  
21                   *ment Act of 1993, the Federal banking agencies*  
22                   *shall jointly establish and implement a system*  
23                   *for determining which one of the Federal bank-*  
24                   *ing agencies shall conduct a unified examination*  
25                   *of each insured depository institution and its af-*

1           *filiates, as required by this subsection, on behalf*  
2           *of all Federal banking agencies.”.*

3   **SEC. 306. EIGHTEEN-MONTH EXAMINATION RULE FOR CER-**  
4           **TAIN SMALL INSTITUTIONS.**

5           *Section 10(d)(4) of the Federal Deposit Insurance Act*  
6   *(12 U.S.C. 1820(d)(4)) is amended—*

7           (1) *in subparagraph (A), by striking*  
8           *“\$100,000,000” and inserting “\$250,000,000”;*

9           (2) *in subparagraph (C), by striking “and its*  
10          *composite condition was found to be outstanding;”*  
11          *and inserting “and its composite condition—*

12                           *“(i) was found to be outstanding; or*

13                           *“(ii) in the case of an insured deposi-*  
14                           *tory institution that has total assets of less*  
15                           *than \$175,000,000, was found to be out-*  
16                           *standing or good;”.*

17           (3) *by redesignating subparagraph (D) as sub-*  
18          *paragraph (E); and*

19           (4) *by inserting after subparagraph (C) the fol-*  
20          *lowing new subparagraph:*

21                           *“(D) the insured institution is not currently*  
22                           *subject to a formal enforcement proceeding or*  
23                           *order by the Corporation or the appropriate Fed-*  
24                           *eral banking agency; and”.*

1 **SEC. 307. CALL REPORT SIMPLIFICATION.**

2 (a) *MODERNIZATION OF CALL REPORT FILING AND*  
3 *DISCLOSURE SYSTEM.*—*In order to reduce the administra-*  
4 *tive requirements pertaining to bank reports of condition,*  
5 *savings association financial reports, and bank holding*  
6 *company consolidated and parent-only financial state-*  
7 *ments, and to improve the timeliness of such reports and*  
8 *statements, the Federal banking agencies shall—*

9 (1) *work jointly to develop a system under*  
10 *which—*

11 (A) *insured depository institutions and*  
12 *their affiliates may file such reports and state-*  
13 *ments electronically; and*

14 (B) *the Federal banking agencies may make*  
15 *such reports and statements available to the pub-*  
16 *lic electronically; and*

17 (2) *not later than 1 year after the date of enact-*  
18 *ment of this Act, report to the Congress and make rec-*  
19 *ommendations for legislation that would enhance effi-*  
20 *ciency for filers and users of such reports and state-*  
21 *ments.*

22 (b) *UNIFORM REPORTS AND SIMPLIFICATION OF IN-*  
23 *STRUCTIONS.*—*The Federal banking agencies shall, consist-*  
24 *ent with the principles of safety and soundness, work joint-*  
25 *ly—*

1           (1) to adopt a single form for the filing of core  
2 information required to be submitted under Federal  
3 law to all such agencies in the reports and statements  
4 referred to in subsection (a); and

5           (2) to simplify instructions accompanying such  
6 reports and statements and to provide an index to the  
7 instructions that is adequate to meet the needs of both  
8 filers and users.

9           (c) *REVIEW OF CALL REPORT SCHEDULE*.—Each Fed-  
10 eral banking agency shall—

11           (1) review the information required by schedules  
12 supplementing the core information referred to in  
13 subsection (b); and

14           (2) eliminate requirements that are not war-  
15 ranted for reasons of safety and soundness or other  
16 public purposes.

17 **SEC. 308. REPEAL OF PUBLICATION REQUIREMENTS.**

18           (a) *REVISED STATUTES*.—Section 5211 of the Revised  
19 Statutes (12 U.S.C. 161) is amended—

20           (1) in the fifth sentence of subsection (a), by  
21 striking “; and the statement of resources” and all  
22 that follows through “as may be required by the  
23 Comptroller”; and

24           (2) in subsection (c), by striking the fourth sen-  
25 tence.



1           (b) *FDIA*.—Section 7(a)(1) of the Federal Deposit In-  
2   surance Act (12 U.S.C. 1817(a)(1)) is amended by striking  
3   the fourth sentence.

4           (c) *FEDERAL RESERVE ACT*.—Section 9 of the Federal  
5   Reserve Act (12 U.S.C. 324) is amended in the last sentence  
6   of the sixth undesignated paragraph, by striking “and shall  
7   be published” and all that follows through the end of the  
8   sentence and inserting a period.

9   **SEC. 309. REGULATORY APPEALS PROCESS.**

10          (a) *IN GENERAL*.—Not later than 180 days after the  
11   date of enactment of this Act, each appropriate Federal  
12   banking agency and the National Credit Union Adminis-  
13   tration Board shall establish an independent intra-agency  
14   appellate process. The process shall be available to review  
15   material supervisory determinations made at insured de-  
16   pository institutions or at insured credit unions that the  
17   agency supervises.

18          (b) *REVIEW PROCESS*.—In establishing the independ-  
19   ent appellate process under subsection (a), each agency shall  
20   ensure—

21                 (1) that any appeal of a material supervisory  
22                 determination by an insured depository institution or  
23                 credit union is heard and decided expeditiously; and

1           (2) that appropriate safeguards exist for protect-  
2           ing the appellant from retaliation by agency examin-  
3           ers.

4           (c) *COMMENT PERIOD.*—Not later than 90 days after  
5           the date of enactment of this Act, each appropriate Federal  
6           banking agency and the National Credit Union Adminis-  
7           tration shall provide public notice and opportunity for com-  
8           ment on proposed guidelines for the establishment of an ap-  
9           pellate process under this section.

10          (d) *DEFINITIONS.*—For purposes of this section—

11           (1) the term “material supervisory determina-  
12           tions” includes determinations relating to—

13                   (A) examination ratings;

14                   (B) the adequacy of loan loss reserve provi-  
15                   sions; and

16                   (C) loan classifications on loans that are  
17                   significant to the institution; and

18           (2) the term “independent appellate process”  
19           means a review by an agency official who does not di-  
20           rectly or indirectly report to the agency official who  
21           made the material supervisory determination under  
22           review.

23          (e) *EFFECT ON OTHER AUTHORITY.*—Nothing in this  
24          section shall affect the authority of an appropriate Federal  
25          banking agency or the National Credit Union Association

1 *Board to take enforcement or supervisory action against an*  
2 *institution.*

3 **SEC. 310. ELECTRONIC FILING OF CURRENCY TRANS-**  
4 **ACTION REPORTS.**

5 *Section 123 of the Bank Secrecy Act (12 U.S.C. 1953)*  
6 *is amended by adding at the end the following new sub-*  
7 *section:*

8 *“(c) ACCEPTANCE OF AUTOMATED RECORDS.—The*  
9 *Secretary shall permit an uninsured bank or financial in-*  
10 *stitution to retain or maintain records referred to in sub-*  
11 *section (a) in electronic or automated form, subject to terms*  
12 *and conditions established by the Secretary.”.*

13 **SEC. 311. BANK SECRECY ACT PUBLICATION REQUIRE-**  
14 **MENTS.**

15 *Chapter 53 of title 31, United States Code, is amended*  
16 *by adding at the end the following new section:*

17 **“SEC. 5329. STAFF COMMENTARIES.**

18 *“The Secretary shall—*

19 *“(1) publish all written rulings interpreting this*  
20 *chapter; and*

21 *“(2) annually issue a staff commentary on the*  
22 *regulations issued under this chapter.”.*

1 **SEC. 312. EXEMPTION OF BUSINESS LOANS FROM REAL ES-**  
2 **TATE SETTLEMENT PROCEDURES ACT RE-**  
3 **QUIREMENTS.**

4 *The Real Estate Settlement Procedures Act of 1974 (12*  
5 *U.S.C. 2601 et seq.) is amended by inserting after section*  
6 *6 the following new section:*

7 **“SEC. 7. EXEMPTED TRANSACTIONS.**

8 *“This Act does not apply to credit transactions involv-*  
9 *ing extensions of credit—*

10 *“(1) primarily for business, commercial, or agri-*  
11 *cultural purposes; or*

12 *“(2) to government or governmental agencies or*  
13 *instrumentalities.”.*

14 **SEC. 313. FLEXIBILITY IN CHOOSING BOARDS OF DIREC-**  
15 **TORS.**

16 *Section 5146 of the Revised Statutes (12 U.S.C. 72)*  
17 *is amended in the first sentence, by striking “two thirds”*  
18 *and inserting “a majority”.*

19 **SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.**

20 *Section 36(i) of the Federal Deposit Insurance Act (12*  
21 *U.S.C. 1831m(i)) is amended by striking paragraph (2)*  
22 *and inserting the following:*

23 *“(2) the institution—*

24 *“(A) has total assets, as of the beginning of*  
25 *such fiscal year, of less than \$5,000,000,000;*

26 *“(B) has—*

1           “(i) total assets, as of the beginning of  
2           such fiscal year, of more than  
3           \$5,000,000,000 and less than  
4           \$9,000,000,000; and

5           “(ii) a CAMEL composite rating of 1  
6           or 2 under the Uniform Financial Institu-  
7           tions Rating System (or an equivalent rat-  
8           ing by any such agency under a comparable  
9           rating system) as of the most recent exam-  
10          ination of such institution by the Corpora-  
11          tion or the appropriate Federal banking  
12          agency; or

13          “(C)(i) has total assets, as of the beginning  
14          of such fiscal year, of more than \$9,000,000,000;  
15          and

16          “(ii) has a CAMEL composite rating of 1  
17          or 2 under the Uniform Financial Institutions  
18          Rating System (or an equivalent rating by any  
19          such agency under a comparable rating system)  
20          as of the most recent examination of such insti-  
21          tution by the Corporation or the appropriate  
22          Federal banking agency.

23          Notwithstanding paragraph (2)(C), in the case of an in-  
24          sured depository institution that the Corporation deter-  
25          mines to be a large institution, the audit committee of the

1 *holding company of such an institution shall not include*  
2 *any large customers of the institution.*

3           “(3) *The appropriate Federal banking agency*  
4 *may require an institution with total assets in excess*  
5 *of \$9,000,000,000 to comply with this section, not-*  
6 *withstanding the exception provided by this sub-*  
7 *section, if it determines that such exemption will cre-*  
8 *ate a significant risk to the affected deposit insurance*  
9 *fund if applied to that institution.”.*

10 **SEC. 315. STATE REGULATION OF REAL ESTATE APPRAIS-**

11                           **ALS.**

12           *Section 1122 of the Financial Institutions Reform, Re-*  
13 *covery, and Enforcement Act of 1989 (12 U.S.C. 3351) is*  
14 *amended—*

15                   (1) *by redesignating subsections (b) through (e)*  
16 *as subsections (c) through (f), respectively;*

17                   (2) *by inserting after subsection (a) the following*  
18 *new subsection:*

19           “(b) *RECIPROCITY.—The Appraisal Subcommittee*  
20 *shall encourage the States to develop reciprocity agreements*  
21 *that readily authorize appraisers who are licensed or cer-*  
22 *tified in one State (and who are in good standing with their*  
23 *State appraiser certifying or licensing agency) to perform*  
24 *appraisals in other States.”; and*

25                   (3) *in subsection (a)—*

1           (A) by redesignating paragraphs (1)  
2 through (3) as subparagraphs (A) through (C);

3           (B) by striking “A State” and inserting the  
4 following:

5           “(1) *IN GENERAL.*—A State”; and

6           (C) by adding at the end the following new  
7 paragraph:

8           “(2) *FEEES FOR TEMPORARY PRACTICE.*—A State  
9 appraiser certifying or licensing agency shall not im-  
10 pose excessive fees or burdensome requirements, as de-  
11 termined by the Appraisal Subcommittee, for tem-  
12 porary practice under this subsection.”.

13 **SEC. 316. ACCELERATION OF EFFECTIVE DATE FOR**  
14 **INTERAFFILIATE TRANSACTIONS.**

15           (a) *HOME OWNERS’ LOAN ACT AMENDMENT.*—Section  
16 11(a)(2) of the Home Owners’ Loan Act (12 U.S.C.  
17 1468(a)(2)) is amended by adding at the end the following  
18 new subparagraph:

19                           “(C) *TRANSITION RULE FOR WELL CAPITAL-*  
20 *IZED SAVINGS ASSOCIATIONS.*—

21   “(i) *IN GENERAL.*—A savings associa-  
22 tion that is well capitalized (as defined in  
23 section 38 of the Federal Deposit Insurance  
24 Act), as determined without including good-  
25 will in calculating core capital, shall be

1           *treated as a bank for purposes of section*  
2           *23A(d)(1) and section 23B of the Federal*  
3           *Reserve Act.*

4           “(ii) *LIABILITY OF COMMONLY CON-*  
5           *TROLLED DEPOSITORY INSTITUTIONS.*—*Any*  
6           *savings association that engages under*  
7           *clause (i) in a transaction that would not*  
8           *otherwise be permissible under this sub-*  
9           *section, and any affiliated insured bank*  
10           *that is commonly controlled (as defined in*  
11           *section 5(e)(9) of the Federal Deposit Insur-*  
12           *ance Act), shall be subject to subsection (e)*  
13           *of section 5 of the Federal Deposit Insur-*  
14           *ance Act as if paragraph (6) of that sub-*  
15           *section did not apply.”.*

16           (b) *REPEAL PROVISION.*—*Effective on January 1,*  
17           *1995, subparagraph (C) of section 11(a)(2) of the Home*  
18           *Owners’ Loan Act (12 U.S.C. 1468(a)(2)) (as added by sub-*  
19           *section (a) of this section) is repealed.*

20           ***SEC. 317. COLLATERALIZATION OF PUBLIC DEPOSITS.***

21           *Section 13(e) of the Federal Deposit Insurance Act (12*  
22           *U.S.C. 1823(e)) is amended—*

23                   (1) *by redesignating paragraphs (1) through (4)*  
24                   *as subparagraphs (A) through (D), respectively;*



1           (2) by striking “No agreement” and inserting the  
2 following:

3           “(1) *IN GENERAL.*—No agreement”; and

4           (3) by adding at the end the following new para-  
5 graph:

6           “(2) *PUBLIC DEPOSITS.*—An agreement to pro-  
7 vide for the lawful collateralization of deposits of a  
8 Federal, State, or local governmental entity or of any  
9 depositor referred to in section 11(a)(2) shall not be  
10 deemed to be invalid pursuant to paragraph (1)(B)  
11 solely because such agreement was not executed con-  
12 temporaneously with the acquisition of the collateral  
13 or with any changes in the collateral made in accord-  
14 ance with such agreement.”.

15 **SEC. 318. ELIMINATION OF STOCK VALUATION PROVISION.**

16           (a) *IN GENERAL.*—Section 39(b) of the Federal De-  
17 posit Insurance Act (12 U.S.C. 1831p–1(b)), as added by  
18 section 132(a) of the Federal Deposit Insurance Corpora-  
19 tion Improvements Act of 1991) is amended to read as fol-  
20 lows:

21           “(b) *ASSET QUALITY, EARNINGS, AND STOCK VALU-*  
22 *ATION STANDARDS.*—Each appropriate Federal banking  
23 agency shall, for all insured depository institutions and de-  
24 pository institution holding companies, prescribe standards

1 *relating to asset quality, earnings, and stock valuation that*  
2 *the agency determines to be appropriate.”.*

3 (b) *ESTABLISHING STANDARDS IN GUIDELINES.*—Sec-  
4 *tion 39(d) of the Federal Deposit Insurance Act (12 U.S.C.*  
5 *1831p-1(d)) is amended—*

6 (1) *in the subsection heading, by striking “BY*  
7 *REGULATION”;* and

8 (2) *in paragraph (1)—*

9 (A) *in the first sentence, by inserting “or*  
10 *guideline” before the period; and*

11 (B) *in the second sentence, by inserting “or*  
12 *guidelines” after “Such regulations”.*

13 (c) *EFFECTIVE DATE.*—*The amendments made by sub-*  
14 *sections (a) and (b) shall be construed to have the same ef-*  
15 *fective date as section 39 of the Federal Deposit Insurance*  
16 *Act, as provided in section 132(c) of the Federal Deposit*  
17 *Insurance Corporation Improvements Act of 1991.*

18 **SEC. 319. EXPEDITED PROCEDURES FOR FORMING A BANK**

19 **HOLDING COMPANY.**

20 *Section 3(a) of the Bank Holding Company Act of*  
21 *1956 (12 U.S.C. 1842(a)) is amended—*

22 (1) *in the second sentence, by striking “or (B)”*  
23 *and inserting “(B)”;* and

24 (2) *in the second sentence, by inserting before the*  
25 *period the following: “; or (C) with 30 days prior no-*



1           “(7) transactions involving offers or sales of eq-  
2           uity securities, in connection with the acquisition of  
3           a bank by a company under section 3(a) of the Bank  
4           Holding Company Act of 1956, if—

5                   “(A) the acquisition occurs solely as part of  
6                   a reorganization in which a person or group of  
7                   persons exchanges its shares of a bank for shares  
8                   of a newly formed bank holding company with  
9                   no significant assets other than securities of the  
10                  bank and the existing subsidiaries of the bank;

11                   “(B) the shareholders receive, after that re-  
12                   organization, substantially the same propor-  
13                   tional share interests in the bank holding com-  
14                   pany as they held in the bank, except for changes  
15                   in shareholders’ interests resulting from lawful  
16                   elimination of fractional interests and the exer-  
17                   cise of dissenting shareholders’ rights under State  
18                   or Federal law;

19                   “(C) the rights and interests of security  
20                   holders in the bank holding company are sub-  
21                   stantially the same as those in the bank prior to  
22                   the transaction, other than as may be required  
23                   by law; and

1           “(D) the bank holding company has sub-  
2           stantially the same assets and liabilities as the  
3           bank had prior to the transaction.”.

4   **SEC. 321. REDUCTION OF POST-APPROVAL WAITING PERIOD**  
5                   **FOR BANK HOLDING COMPANY ACQISI-**  
6                   **TIONS.**

7           Section 11(b)(1) of the Bank Holding Company Act  
8   of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting be-  
9   fore the period at the end of the fourth sentence the follow-  
10   ing: “or, if the Board has not received any adverse comment  
11   from the Attorney General of the United States relating to  
12   competitive factors, such shorter period of time as may be  
13   prescribed by the Board with the concurrence of the Attor-  
14   ney General, but in no event less than 15 calendar days  
15   after the date of approval”.

16   **SEC. 322. REDUCTION OF POST-APPROVAL WAITING PERIOD**  
17                   **FOR BANK MERGERS.**

18           Section 18(c)(6) of the Federal Deposit Insurance Act  
19   (12 U.S.C. 1828(c)(6)) is amended by inserting before the  
20   period at the end of the last sentence the following: “or, if  
21   the agency has not received any adverse comment from the  
22   Attorney General of the United States relating to competi-  
23   tive factors, such shorter period of time as may be pre-  
24   scribed by the agency with the concurrence of the Attorney

1 *General, but in no event less than 15 calendar days after*  
2 *the date of approval”.*

3 **SEC. 323. BANKERS’ BANKS.**

4 (a) *OWNERSHIP BY BANKERS’ BANKS.—*

5 (1) *Paragraph Seventh of section 5136 of the Re-*  
6 *vised Statutes (12 U.S.C. 24) is amended in the elev-*  
7 *enth sentence—*

8 (A) *by inserting “or depository institution*  
9 *holding companies (as defined in section 3 of the*  
10 *Federal Deposit Insurance Act)” after “(except to*  
11 *the extent directors’ qualifying shares are re-*  
12 *quired by law) by depository institutions”;* and

13 (B) *by striking “services for other deposi-*  
14 *tory institutions and their officers, directors and*  
15 *employees” and inserting the following: “services*  
16 *to or for other depository institutions and the of-*  
17 *ficers, directors, and employees of such institu-*  
18 *tions, and in providing correspondent banking*  
19 *services at the request of other depository institu-*  
20 *tions (also referred to as a ‘banker’s bank’)”.*

21 (2) *Section 5169(b)(1) of the Revised Statutes*  
22 *(12 U.S.C. 27(b)(1)) is amended—*

23 (A) *by inserting “or depository institution*  
24 *holding companies” after “(except to the extent*

1           *directors' qualifying shares are required by law)*  
2           *by other depository institutions"; and*

3                   *(B) by striking "services for other deposi-*  
4                   *tory institutions and their officers, directors and*  
5                   *employees" and inserting the following: "services*  
6                   *to or for other depository institutions and the of-*  
7                   *ficers, directors, and employees of such institu-*  
8                   *tions, and in providing correspondent banking*  
9                   *services at the request of other depository institu-*  
10                   *tions (also referred to as a 'banker's bank').".*

11           *(b) OWNERSHIP BY SAVINGS ASSOCIATIONS.—Section*  
12           *5(c)(4) of the Home Owners' Loan Act (12 U.S.C.*  
13           *1464(c)(4)) is amended by adding at the end the following*  
14           *new subparagraph:*

15                   *"(E) BANKERS' BANKS.—A Federal savings*  
16                   *association may purchase for its own account*  
17                   *shares of stock of a bankers' bank, described in*  
18                   *Paragraph Seventh of section 5136 of the Revised*  
19                   *Statutes or in section 5169(b) of the Revised*  
20                   *Statutes, on the same terms and conditions as a*  
21                   *national bank may purchase such shares.".*

22           *(c) TECHNICAL AND CONFORMING AMENDMENTS.—*

23                   *(1) BANK HOLDING COMPANY ACT.—Section 3(e)*  
24                   *of the Bank Holding Company Act of 1956 (12*

1       *U.S.C. 1842(e)* is amended by striking the second  
2       sentence.

3               (2) *MANAGEMENT INTERLOCKS ACT.*—Section  
4       202(3)(D) of the Depository Institution Management  
5       Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by  
6       striking “the voting securities” and all that follows  
7       through the end of the subparagraph and inserting  
8       “and is a bankers’ bank, described in Paragraph Sev-  
9       enth of section 5136 of the Revised Statutes; or”.

10              (d) *LENDING LIMIT FOR LOANS SECURED BY SECURI-*  
11       *TIES.*—Section 11(m) of the Federal Reserve Act (12 U.S.C.  
12       248(m)) is amended by striking “10 percentum” each place  
13       such term appears and inserting “15 percent”.

14       **SEC. 324. BANK SERVICE CORPORATION ACT AMENDMENT.**

15       Section 5 of the Bank Service Corporation Act (12  
16       U.S.C. 1865) is amended—

17              (1) in subsection (a), by striking “the prior ap-  
18       proval of” and inserting “prior notice, as determined  
19       by”; and

20              (2) in subsection (c), by inserting “or whether to  
21       approve or disapprove any notice” after “approval”.

22       **SEC. 325. MERGER TRANSACTION REPORTS.**

23       Section 18(c) of the Federal Deposit Insurance Act (12  
24       U.S.C. 1828(c)) is amended—

25              (1) in paragraph (4)—



1 (A) *in the first sentence—*

2 (i) *by striking “General and the other*  
3 *two” and inserting “General, who shall*  
4 *promptly notify the other”; and*

5 (ii) *by inserting before the period “of*  
6 *any such proposed transaction that raises a*  
7 *significant competitiveness issue”; and*

8 (B) *in the second sentence, by striking “and*  
9 *the other two banking agencies”; and*

10 (2) *in paragraph (6), by striking “and the other*  
11 *two banking agencies”.*

12 **SEC. 326. CREDIT CARD ACCOUNTS RECEIVABLE SALES.**

13 *Section 11(e) of the Federal Deposit Insurance Act (12*  
14 *U.S.C. 1821(e)) is amended by adding at the end the follow-*  
15 *ing new paragraphs:*

16 “(14) *SELLING CREDIT CARD ACCOUNTS RECEIV-*  
17 *ABLE.—*

18 “(A) *NOTIFICATION REQUIRED.—An*  
19 *undercapitalized insured depository institution*  
20 *(as defined in section 38) shall notify the Cor-*  
21 *poration in writing before entering into an*  
22 *agreement to sell credit card accounts receivable.*

23 “(B) *WAIVER BY CORPORATION.—The Cor-*  
24 *poration may at any time, in its sole discretion*  
25 *and upon such terms as it may prescribe, waive*

1            *its right to repudiate an agreement to sell credit*  
2            *card accounts receivable if the Corporation—*

3                    *“(i) determines that the waiver is in*  
4                    *the best interests of the deposit insurance*  
5                    *fund; and*

6                    *“(ii) provides a written waiver to the*  
7                    *selling institution.*

8                    *“(C) EFFECT OF WAIVER ON SUCCES-*  
9                    *SORS.—*

10                    *“(i) IN GENERAL.—If, under subpara-*  
11                    *graph (B), the Corporation has waived its*  
12                    *right to repudiate an agreement to sell cred-*  
13                    *it card accounts receivable—*

14                    *“(I) any provision of the agree-*  
15                    *ment that restricts solicitation of a*  
16                    *credit card customer of the selling in-*  
17                    *stitution, or the use of a credit card*  
18                    *customer list of the institution, shall*  
19                    *bind any receiver or conservator of the*  
20                    *institution; and*

21                    *“(II) the Corporation shall re-*  
22                    *quire any acquirer of the selling insti-*  
23                    *tution, or of substantially all of the*  
24                    *selling institution’s assets or liabilities,*  
25                    *to agree to be bound by a provision de-*

1           *scribed in subclause (I) as if the*  
2           *acquirer were the selling institution.*

3           “(ii) *EXCEPTION.—Clause (i)(II) does*  
4           *not—*

5                     “(I) *restrict the acquirer’s author-*  
6                     *ity to offer any product or service to*  
7                     *any person identified without using a*  
8                     *list of the selling institution’s cus-*  
9                     *tomers in violation of the agreement;*

10                    “(II) *require the acquirer to re-*  
11                    *strict any preexisting relationship be-*  
12                    *tween the acquirer and a customer; or*

13                    “(III) *apply to any transaction*  
14                    *in which the acquirer acquires only in-*  
15                    *sured deposits.*

16                    “(D) *WAIVER NOT ACTIONABLE.—The Cor-*  
17                    *poration shall not, in any capacity, be liable to*  
18                    *any person for damages resulting from the waiv-*  
19                    *er of or failure to waive the Corporation’s right*  
20                    *under this section to repudiate any contract or*  
21                    *lease, including an agreement to sell credit card*  
22                    *accounts receivable. No court shall issue any*  
23                    *order affecting any such waiver or failure to*  
24                    *waive.*

1           “(E) *OTHER AUTHORITY NOT AFFECTED.*—  
2           *This paragraph does not limit any other author-*  
3           *ity of the Corporation to waive the Corporation’s*  
4           *right to repudiate an agreement or lease under*  
5           *this section.*

6           “(15) *CERTAIN CREDIT CARD CUSTOMER LISTS*  
7           *PROTECTED.*—

8           “(A) *IN GENERAL.*—*If any insured deposi-*  
9           *tory institution sells credit card accounts receiv-*  
10           *able under an agreement negotiated at arm’s*  
11           *length that provides for the sale of the institu-*  
12           *tion’s credit card customer list, the Corporation*  
13           *shall prohibit any party to a transaction with*  
14           *respect to the institution under this section or*  
15           *section 13 from using the list except as permitted*  
16           *under the agreement.*

17           “(B) *FRAUDULENT TRANSACTIONS EX-*  
18           *CLUDED.*—*Subparagraph (A) does not limit the*  
19           *Corporation’s authority to repudiate any agree-*  
20           *ment entered into with the intent to hinder,*  
21           *delay, or defraud the institution, the institution’s*  
22           *creditors, or the Corporation.”.*

1 **SEC. 327. LIMITING POTENTIAL LIABILITY ON FOREIGN AC-**  
2 **COUNTS.**

3 (a) *AMENDMENT TO THE FEDERAL RESERVE ACT.*—  
4 *The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended*  
5 *by inserting after section 25B the following new section:*

6 **“SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.**

7 “*A member bank shall not be required to repay any*  
8 *deposit made at a foreign branch of the bank if the branch*  
9 *cannot repay the deposit due to—*

10 “(1) *an act of war, insurrection or civil strife;*

11 *or*

12 “(2) *an action by a foreign government or in-*  
13 *strumentality (whether de jure or de facto) in the*  
14 *country in which the branch is located,*

15 *unless the member bank has expressly agreed in writing to*  
16 *repay the deposit under those circumstances. The Board and*  
17 *the Comptroller of the Currency may jointly prescribe such*  
18 *regulations as they deem necessary to implement this sec-*  
19 *tion.”.*

20 (b) *CONFORMING AMENDMENTS TO THE FEDERAL DE-*  
21 *POSIT INSURANCE ACT.*—

22 (1) *IN GENERAL.*—*Section 18 of the Federal De-*  
23 *posit Insurance Act (12 U.S.C. 1828) is amended by*  
24 *adding at the end the following new subsection:*

25 “(q) *SOVEREIGN RISK.*—*Section 25C of the Federal*  
26 *Reserve Act shall apply to every nonmember insured bank*

1 *in the same manner and to the same extent as if the*  
2 *nonmember insured bank were a member bank.”.*

3 (2) *CONFORMING AMENDMENT.—Subparagraph*  
4 *(A) of section 3(l)(5) of the Federal Deposit Insurance*  
5 *Act (12 U.S.C. 1813(l)(5)) is amended to read as fol-*  
6 *lows:*

7 “(A) *any obligation of a depository institu-*  
8 *tion which is carried on the books and records of*  
9 *an office of such bank or savings association lo-*  
10 *cated outside of any State, unless—*

11 “(i) *such obligation would be a deposit*  
12 *if it were carried on the books and records*  
13 *of the depository institution, and would be*  
14 *payable at, an office located in any State;*  
15 *and*

16 “(ii) *the contract evidencing the obliga-*  
17 *tion provides by express terms, and not by*  
18 *implication, for payment at an office of the*  
19 *depository institution located in any State;*  
20 *and”.*

21 (c) *EXISTING CLAIMS NOT AFFECTED—Section 25C of*  
22 *the Federal Reserve Act (as added by subsection (a)) shall*  
23 *not be applied retroactively and shall not be construed to*  
24 *affect or apply to any claim or cause of action addressed*

1 *by that section arising from events or circumstances that*  
2 *occurred before the date of enactment of this Act.*

3 **SEC. 328. AMENDMENTS TO OUTDATED DIVIDEND PROVI-**  
4 **SIONS.**

5 (a) *WITHDRAWAL OF CAPITAL.*—Section 5204 of the  
6 *Revised Statutes (12 U.S.C. 56) is amended—*

7 (1) *in the second sentence, by striking “net prof-*  
8 *its then on hand, deducting therefrom its losses and*  
9 *bad debts” and inserting “undivided profits, subject*  
10 *to other applicable provisions of law”; and*

11 (2) *by striking the third sentence.*

12 (b) *DECLARATION OF DIVIDENDS.*—Section 5199 of the  
13 *Revised Statutes (12 U.S.C. 60) is amended—*

14 (1) *in the first sentence, by striking “net profits*  
15 *of the association” and inserting “undivided profits*  
16 *of the association, subject to the limitations in sub-*  
17 *section (b),”;*

18 (2) *by striking “net profits” each subsequent*  
19 *place such term appears and inserting “net income”;*  
20 *and*

21 (3) *by striking subsection (c).*

22 **SEC. 329. ELIMINATION OF DUPLICATIVE DISCLOSURES**  
23 **FOR HOME EQUITY LOANS.**

24 Section 4(a) of the *Real Estate Settlement Procedures*  
25 *Act (12 U.S.C. 2603(a)) is amended by adding at the end*

1 *the following: “In the case of a federally related mortgage*  
2 *loan secured by a subordinate lien on residential property,*  
3 *disclosures made under section 127A(a) of the Truth in*  
4 *Lending Act may be used in lieu of the disclosures required*  
5 *under this section if—*

6           *“(1) the disclosures made pursuant to such sec-*  
7 *tion 127A(a) contain all of the information that is re-*  
8 *quired under this section; and*

9           *“(2) the information is disclosed in a manner*  
10 *that is no less conspicuous than is required under this*  
11 *section.”.*

12 **SEC. 330. REPORT ON CAPITAL STANDARDS AND THEIR IM-**  
13 **PACT ON THE ECONOMY.**

14           *(a) IN GENERAL.—Not later than 1 year after the date*  
15 *of enactment of this Act, the Secretary of the Treasury, after*  
16 *consultation with the Federal banking agencies, shall report*  
17 *to the Committee on Banking, Housing, and Urban Affairs*  
18 *of the Senate and the Committee on Banking, Finance and*  
19 *Urban Affairs of the House of Representatives on the effect*  
20 *of the implementation of risk-based capital standards on—*

21           *(1) the safety and soundness of insured deposi-*  
22 *tory institutions; and*

23           *(2) the availability of credit, particularly to con-*  
24 *sumers and small business concerns.*



1       (b) *RECOMMENDATIONS.*—The report required by sub-  
2 section (a) shall contain any recommendations that the Sec-  
3 retary of the Treasury considers relevant.

4 **SEC. 331. STUDIES ON THE IMPACT OF THE PAYMENT OF IN-**  
5 **TEREST ON RESERVES.**

6       (a) *FEDERAL RESERVE STUDY.*—Not later than 180  
7 days after the date of enactment of this Act, the Board of  
8 Governors of the Federal Reserve System, in consultation  
9 with the Federal Deposit Insurance Corporation, shall con-  
10 duct a study and report to Congress on—

11           (1) the necessity, for monetary policy purposes,  
12 of continuing to require insured depository institu-  
13 tions to maintain sterile reserves;

14           (2) the appropriateness of paying a market rate  
15 of interest to insured depository institutions on sterile  
16 reserves or, in the alternative, providing for payment  
17 of such interest into the appropriate deposit insur-  
18 ance fund;

19           (3) the monetary impact that the failure to pay  
20 interest on sterile reserves has had on insured deposi-  
21 tory institutions, including an estimate of the total  
22 dollar amount of interest and the potential income  
23 lost by insured depository institutions; and

24           (4) the impact that the failure to pay interest on  
25 sterile reserves has had on the ability of the banking

1        *industry to compete with nonbanking providers of fi-*  
2        *nancial services and with foreign banks.*

3        *(b) BUDGETARY IMPACT STUDY.—Not later than 180*  
4        *days after the date of enactment of this Act, the Director*  
5        *of the Office of Management and Budget and the Director*  
6        *of the Congressional Budget Office, in consultation with the*  
7        *Committees on the Budget of the Senate and the House of*  
8        *Representatives, shall jointly conduct a study and report*  
9        *to the Congress on the budgetary impact of—*

10            *(1) paying a market rate of interest to insured*  
11            *depository institutions on sterile reserves; and*

12            *(2) paying such interest into the respective*  
13            *deposit insurance funds.*

14        **SEC. 332. STUDY AND REPORT ON STREAMLINED LENDING**

15                    **PROCESS FOR CONSUMER BENEFIT.**

16        *(a) STUDY.—During the 12-month period beginning*  
17        *on the date of enactment of this Act, the Board of Governors*  
18        *of the Federal Reserve System, the Comptroller of the Cur-*  
19        *rency, and the Secretary of Housing and Urban Develop-*  
20        *ment shall conduct a study of ways to improve the home*  
21        *mortgage, small business, and consumer lending processes,*  
22        *consistent with the principles of safety and soundness, so*  
23        *as to—*

24            *(1) reduce consumer burdens, inconvenience, cost,*  
25            *and delay; and*

1           (2) *minimize cost and burdens on insured*  
2           *depository institutions, credit unions, and other*  
3           *lenders.*

4           (b) *COMMENTS.*—*In conducting the study under sub-*  
5           *section (a), comments shall be solicited from consumer*  
6           *groups, insured depository institutions, other lenders, and*  
7           *any other interested parties.*

8           (c) *REPORT.*—*Not later than 12 months after the date*  
9           *of enactment of this Act, the Board of Governors of the Fed-*  
10           *eral Reserve System, the Comptroller of the Currency, and*  
11           *the Secretary of Housing and Urban Development shall sub-*  
12           *mit a joint report to the Congress indicating any legislative*  
13           *changes necessary to improve the home mortgage, small*  
14           *business, and consumer lending processes and including a*  
15           *summary of comments received pursuant to subsection (b).*

16           **SEC. 333. REPEAL OF OUTDATED CHARTER REQUIREMENT**  
17   **FOR NATIONAL BANKS.**

18           *Section 5170 of the Revised Statutes (12 U.S.C. 28)*  
19           *is repealed.*

20           **SEC. 334. INCLUSION OF COMPTROLLER OF THE CUR-**  
21   **RENCY; CLARIFICATION OF REVISED STAT-**  
22   **UTES.**

23           (a) *PUBLIC LAW 93-425.*—*Section 111 of Public Law*  
24           *93-495 (12 U.S.C. 250) is amended by inserting “the*

1 *Comptroller of the Currency,*” after “*Federal Deposit Insur-*  
2 *ance Corporation,*”.

3 (b) *REVISED STATUTES.*—

4 (1) *SECTION 5240.*—*The third paragraph of sec-*  
5 *tion 5240 of the Revised Statutes (12 U.S.C. 482) is*  
6 *amended by inserting “or section 301(f)(1) of title 31,*  
7 *United States Code,” after “provisions of this sec-*  
8 *tion”.*

9 (2) *SECTION 324.*—*Section 324 of the Revised*  
10 *Statutes (12 U.S.C. 1) is amended by adding at the*  
11 *end the following: “The Comptroller of the Currency*  
12 *shall have the same authority over matters within the*  
13 *jurisdiction of the Comptroller as the Director of the*  
14 *Office of Thrift Supervision has over matters within*  
15 *the Director’s jurisdiction under section 3(b)(3) of the*  
16 *Home Owners’ Loan Act.”.*

17 (3) *SECTION 5239.*—*Section 5239 of the Revised*  
18 *Statutes (12 U.S.C. 93) is amended by inserting at*  
19 *the end the following new subsection:*

20 “(d) *AUTHORITY.*—*The Comptroller of the Currency*  
21 *may act in the Comptroller’s own name and through the*  
22 *Comptroller’s own attorneys in enforcing any provision of*  
23 *this title, regulations thereunder, or any other law or regu-*  
24 *lation, or in any action, suit, or proceeding to which the*  
25 *Comptroller of the Currency is a party.”.*

1 **SEC. 335. COMMEMORATION OF 1995 SPECIAL OLYMPIC**  
2 **WORLD GAMES.**

3 (a) *COIN SPECIFICATIONS.*—

4 (1) *ONE DOLLAR SILVER COINS.*—

5 (A) *ISSUANCE.*—*The Secretary of the Treas-*  
6 *ury (hereafter in this section referred to as the*  
7 *“Secretary”)* shall issue not more than 800,000  
8 *\$1 coins, which shall weigh 26.73 grams, have a*  
9 *diameter of 1.500 inches, and shall contain 90*  
10 *percent silver and 10 percent copper.*

11 (B) *DESIGN.*—*The design of the coins issued*  
12 *under this section shall be emblematic of the*  
13 *1995 Special Olympics World Games. On each*  
14 *such coin there shall be a designation of the*  
15 *value of the coin, an inscription of the year*  
16 *“1995”, and inscriptions of the words “Liberty”,*  
17 *“In God We Trust”, “United States of America”,*  
18 *and “E Pluribus Unum”.*

19 (2) *LEGAL TENDER.*—*The coins issued under*  
20 *this section shall be legal tender as provided in sec-*  
21 *tion 5103 of title 31, United States Code.*

22 (3) *NUMISMATIC ITEMS.*—*For purposes of section*  
23 *5132(a)(1) of title 31, United States Code, all coins*  
24 *minted under this section shall be considered to be*  
25 *numismatic items.*

1       (b) *SOURCES OF BULLION.*—The Secretary shall ob-  
2       tain silver for the coins minted under this section only from  
3       stockpiles established under the Strategic and Critical Mate-  
4       rials Stock Piling Act.

5       (c) *SELECTION OF DESIGN.*—The design for the coins  
6       authorized by this section shall be selected by the Secretary  
7       after consultation with the 1995 Special Olympics World  
8       Games Organizing Committee, Inc. and the Commission of  
9       Fine Arts. As required by section 5135 of title 31, United  
10      States Code, the design shall also be reviewed by the Citizens  
11      Commemorative Coin Advisory Committee.

12      (d) *ISSUANCE OF THE COINS.*—

13           (1) *QUALITY OF COINS.*—The coins authorized  
14           under this section may be issued in uncirculated and  
15           proof qualities.

16           (2) *MINT FACILITY.*—Not more than 1 facility of  
17           the United States Mint may be used to strike any  
18           particular quality of the coins minted under this sec-  
19           tion.

20           (3) *PERIOD FOR ISSUANCE.*—The Secretary shall  
21           issue coins minted under this Act during the period  
22           beginning on January 15, 1995, and ending on De-  
23           cember 31, 1995.

24      (e) *SALE OF THE COINS.*—

1           (1) *SALE PRICE.*—*The coins issued under this*  
2 *section shall be sold by the Secretary at a price equal*  
3 *to the sum of the face value of the coins, the surcharge*  
4 *provided in paragraph (4) with respect to such coins,*  
5 *and the cost of designing and issuing such coins (in-*  
6 *cluding labor, materials, dies, use of machinery, over-*  
7 *head expenses, marketing, and shipping).*

8           (2) *BULK SALES.*—*The Secretary shall make*  
9 *bulk sales at a reasonable discount.*

10           (3) *PREPAID ORDERS.*—*The Secretary shall ac-*  
11 *cept prepaid orders for the coins authorized under*  
12 *this section prior to the issuance of such coins. Sales*  
13 *under this subsection shall be at a reasonable dis-*  
14 *count.*

15           (4) *SURCHARGE REQUIRED.*—*All sales shall in-*  
16 *clude a surcharge of \$10 per coin.*

17           (f) *GENERAL WAIVER OF PROCUREMENT REGULA-*  
18 *TIONS.*—*No provision of law governing procurement or*  
19 *public contracts shall be applicable to the procurement of*  
20 *goods or services necessary for carrying out the provisions*  
21 *of this section. Nothing in this subsection shall relieve any*  
22 *person entering into a contract under the authority of this*  
23 *section from complying with any law relating to equal em-*  
24 *ployment opportunity.*

1       (g) *DISTRIBUTION OF SURCHARGES.*—The total sur-  
2 charges collected by the Secretary from the sale of the coins  
3 issued under this section shall be promptly paid by the Sec-  
4 retary to the 1995 Special Olympics World Games Organiz-  
5 ing Committee, Inc. Such amounts shall be used to—

6           (1) provide a world class sporting event for ath-  
7 letes with mental retardation;

8           (2) demonstrate to a global audience the extraor-  
9 dinary talents, dedication, and courage of persons  
10 with mental retardation; and

11          (3) underwrite the cost of staging and promoting  
12 the 1995 Special Olympics World Games.

13       (h) *AUDITS.*—The Comptroller General of the United  
14 States shall have the right to examine such books, records,  
15 documents, and other data of the 1995 Special Olympics  
16 World Games Organizing Committee, Inc. as may be related  
17 to the expenditure of amounts paid under subsection (g).

18       (i) *FINANCIAL ASSURANCES.*—

19           (1) *NO NET COST TO THE GOVERNMENT.*—The  
20 Secretary shall take all actions necessary to ensure  
21 that the issuance of the coins authorized by this sec-  
22 tion shall result in no net cost to the United States  
23 Government.



1           (2) *ADEQUATE SECURITY FOR PAYMENT RE-*  
2 *QUIRED.—No coin shall be issued under this section*  
3 *unless the Secretary has received—*

4                   (A) *full payment therefore;*

5                   (B) *security satisfactory to the Secretary to*  
6 *indemnify the United States for full payment; or*

7                   (C) *a guarantee of full payment satisfactory*  
8 *to the Secretary from a depository institution*  
9 *whose deposits are insured by the Federal De-*  
10 *posit Insurance Corporation or the National*  
11 *Credit Union Administration Board.*

12 **SEC. 336. EXEMPTION FOR BUSINESS ACCOUNTS.**

13           *Section 274(1) of the Truth in Savings Act (12 U.S.C.*  
14 *4313(1)) is amended to read as follows:*

15                   “(1) *ACCOUNT.—The term ‘account’ means any*  
16 *account intended for use by and generally used by*  
17 *consumers primarily for personal, family, or house-*  
18 *hold purposes that is offered by a depository institu-*  
19 *tion into which a consumer deposits funds, including*  
20 *demand accounts, time accounts, negotiable order of*  
21 *withdrawal accounts, and share draft accounts.’”.*

1 **SEC. 337. BOARD DISCRETION REGARDING CHECK-RELATED**  
2 **FRAUD.**

3 *Section 604(e) of the Expedited Funds Availability Act*  
4 *(12 U.S.C. 4003(e)) is amended by adding at the end the*  
5 *following new paragraph:*

6 “(4) PREVENTION OF CHECK-RELATED  
7 LOSSES.—

8 “(A) IN GENERAL.—The Board may, by  
9 regulation or order, extend the 1-business-day pe-  
10 riod specified in section 603(b)(1), regarding  
11 availability of funds deposited by local checks, to  
12 2 business days if the Board determines that—

13 “(i) there is a pattern of significant  
14 increases in check-related losses at deposi-  
15 tory institutions attributable to the provi-  
16 sions of this title; and

17 “(ii) such action is necessary to dimin-  
18 ish the volume of such check-related losses.

19 “(B) LIMITATION ON OTHER AUTHORITY.—  
20 The authority of the Board under paragraph (1)  
21 shall not apply to the applicability of section  
22 603(b)(1) or the time period specified therein.”.

23 **SEC. 338. CIVIL LIABILITY UNDER TRUTH IN SAVINGS.**

24 *Section 271(a)(2)(A) of the Truth in Savings Act (12*  
25 *U.S.C. 4310(a)(2)(A)) is amended by inserting “(other than*

1 *an action based on a violation of section 263)” after “indi-*  
2 *vidual action”.*

3 **SEC. 339. INSIDER LENDING.**

4 (a) *LOANS TO EXECUTIVE OFFICERS BY MEMBER*  
5 *BANKS.—Section 22(g)(2) of the Federal Reserve Act (12*  
6 *U.S.C. 375a(g)(2)) is amended by striking “With the spe-*  
7 *cific prior approval of its board of directors, a member”*  
8 *and inserting “A member”.*

9 (b) *EXTENSIONS OF CREDIT TO EXECUTIVE OFFI-*  
10 *CERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF*  
11 *MEMBER BANKS.—Section 22(h)(8) of the Federal Reserve*  
12 *Act (12 U.S.C. 375b(h)(8)) is amended—*

13 (1) *by striking “MEMBER BANK.—FOR” and in-*  
14 *serting the following: “MEMBER BANK.—*

15 *“(A) IN GENERAL.—Except as provided in*  
16 *subparagraph (B), for”; and*

17 (2) *by adding at the end the following:*

18 *“(B) EXCEPTION.—The Board shall have*  
19 *the authority by regulation to suspend the appli-*  
20 *cability of any or all of this subsection, except*  
21 *for the provisions of paragraph (2), with respect*  
22 *to any individual who is a director or an execu-*  
23 *tive officer of a subsidiary of the company that*  
24 *controls the member bank, if the Board finds*  
25 *that such individual does not actually partici-*

1           *pate in major policymaking functions of the*  
2           *member bank.”.*

3   **SEC. 340. REVISIONS OF STANDARDS.**

4           *Section 305(b)(1) of the Federal Deposit Insurance*  
5   *Corporation Improvement Act of 1991 (12 U.S.C. 1828*  
6   *note) is amended—*

7           (1) *in subparagraph (A), by striking “and” at*  
8   *the end;*

9           (2) *in subparagraph (B), by striking the period*  
10   *at the end and inserting “; and”; and*

11          (3) *by adding at the end the following new sub-*  
12   *paragraph:*

13                   *“(C) take into account the size and activi-*  
14                   *ties of the institutions and do not cause undue*  
15                   *reporting burdens.”.*

16   **SEC. 341. ALTERNATIVE RULES FOR RADIO ADVERTISING**  
17                   **OF CONSUMER LEASES.**

18           *Section 184 of the Truth in Lending Act (15 U.S.C.*  
19   *1667c) is amended—*

20          (1) *by redesignating subsection (b) as subsection*  
21   *(c); and*

22          (2) *by inserting after subsection (a) the following*  
23   *new subsection:*

24           “(b) *RADIO ADVERTISEMENTS.* —

1           “(1) *IN GENERAL.*—An advertisement by radio  
2 broadcast to aid, promote, or assist, directly or indi-  
3 rectly, any consumer lease shall be deemed to be in  
4 compliance with the requirements of subsection (a) if  
5 such advertisement clearly and conspicuously—

6                   “(A) states the information required by  
7 paragraphs (1) and (2) of subsection (a);

8                   “(B) states the number, amounts, due dates,  
9 or periods of scheduled payments, and the total  
10 of such payments under the lease; and

11                   “(C) includes—

12                           “(i) a referral to—

13                                   “(I) a toll-free telephone number  
14 established in accordance with para-  
15 graph (2) that may be used by consum-  
16 ers to obtain the information required  
17 under subsection (a); or

18                           “(II) a written advertisement  
19 that—

20                                   “(aa) appears in a publica-  
21 tion in general circulation in the  
22 community served by the radio  
23 station on which such advertise-  
24 ment is broadcast during the pe-  
25 riod beginning 3 days before any

1           *such broadcast and ending 10*  
2           *days after such broadcast; and*

3                   *“(bb) includes the informa-*  
4                   *tion required to be disclosed under*  
5                   *subsection (a); and*

6                   *“(ii) the name and dates of any publi-*  
7                   *cation referred to in clause (i)(II); and*

8                   *“(D) includes any other information which*  
9           *the Board determines necessary to carry out this*  
10           *chapter.*

11           *“(2) ESTABLISHMENT OF TOLL-FREE NUMBER.—*

12                   *“(A) IN GENERAL.—In the case of a radio*  
13           *broadcast advertisement described in paragraph*  
14           *(1) that includes a referral to a toll-free tele-*  
15           *phone number, the lessor who offers the consumer*  
16           *lease shall—*

17                   *“(i) establish such a toll-free telephone*  
18                   *number not later than the date on which the*  
19                   *advertisement including the referral is*  
20                   *broadcast;*

21                   *“(ii) maintain such telephone number*  
22                   *for not less than 10 days, beginning on the*  
23                   *date of any such broadcast; and*

1                   “(iii) provide the information required  
2                   under subsection (a) with respect to the  
3                   lease to any person who calls such number.

4                   “(B) FORM OF INFORMATION.—The infor-  
5                   mation required to be provided under subpara-  
6                   graph (A)(iii) shall be provided orally or, if re-  
7                   quested by the consumer, in written form.

8                   “(3) NO EFFECT ON OTHER LAW.—Nothing in  
9                   this subsection shall affect the requirements of Federal  
10                  law as such requirements apply to advertisement by  
11                  any other medium.”.

12   **SEC. 342. DEPOSIT BROKER REGISTRATION.**

13                  Section 29(g)(3) of the Federal Deposit Insurance Act  
14   (12 U.S.C. 1831f(g)(3)) is amended—

15                  (1) by inserting “that is not well capitalized”  
16                  after “includes any insured depository institution”;

17                  (2) by striking “of any insured depository” and  
18                  inserting “of such”;

19                  (3) by striking “(with respect to such deposits)”;  
20                  and

21                  (4) by striking “having the same type of char-  
22                  ter”.

1 **SEC. 343. EXTENSION OF MANAGEMENT INTERLOCKS**  
2 **GRANDFATHER CLAUSE.**

3 *Subsections (a) and (b) of section 206 of the Depository*  
4 *Institution Management Interlocks Act (12 U.S.C. 3205)*  
5 *are each amended by striking “15 years” and inserting “20*  
6 *years”.*

7 **SEC. 344. CLARIFICATION OF PROVISION RELATING TO AD-**  
8 **MINISTRATIVE AUTONOMY.**

9 *Section 3(b)(3) of the Home Owners’ Loan Act (12*  
10 *U.S.C. 1462a) is amended by striking everything after “Di-*  
11 *rector” and inserting in lieu thereof “(including agency*  
12 *rulemaking proceedings and enforcement actions) unless*  
13 *otherwise specifically provided by law.”.*

14 **SEC. 345. CONSUMER SURVEYS AND REPORT.**

15 *(a) SURVEYS.—Not later than 6 months after the date*  
16 *of enactment of this Act, the Federal banking agencies (as*  
17 *defined in section 3 of the Federal Deposit Insurance Act)*  
18 *and the Secretary of Housing and Urban Development shall*  
19 *jointly conduct an objective and statistically valid survey*  
20 *of financial services consumers to determine the general*  
21 *public awareness of, perceived benefits to consumers of, and*  
22 *effectiveness of the Federal banking laws under which the*  
23 *Federal banking agencies and the Department of Housing*  
24 *and Urban Development operate that are intended for the*  
25 *protection of such consumers, including—*

26 *(1) the Expedited Funds Availability Act;*



1           (2) *the Truth in Lending Act;*

2           (3) *the Truth in Savings Act;*

3           (4) *the Real Estate Settlement Procedures Act of*  
4           *1974;*

5           (5) *the Home Mortgage Disclosure Act of 1975;*

6           (6) *the Equal Credit Opportunity Act;*

7           (7) *the Community Reinvestment Act of 1977;*

8           (8) *the Home Equity Loan Consumer Protection*  
9           *Act;*

10          (9) *the Fair Credit and Charge Card Disclosure*  
11          *Act; and*

12          (10) *the rules and regulations promulgated*  
13          *under those banking laws.*

14          (b) *CONSULTATION.*—*In developing such a survey, the*  
15          *Federal banking agencies and the Secretary of Housing and*  
16          *Urban Development shall consult with consumer groups, in-*  
17          *sured depository institutions, other lenders, and any other*  
18          *interested parties.*

19          (c) *INFORMATION FOR SURVEYED CONSUMERS.*—*The*  
20          *survey shall provide for distribution to participating con-*  
21          *sumers a summary explanation of the Federal banking law*  
22          *being surveyed and how each is currently being imple-*  
23          *mented.*

24          (d) *REPORT.*—*Not later than 60 days after completion*  
25          *of its survey under subsection (a), the Federal banking*

1 agencies and the Secretary of Housing and Urban Develop-  
2 ment shall jointly submit a report of the results of their  
3 survey to the Committee on Banking, Housing, and Urban  
4 Affairs of the Senate and the Committee on Banking, Fi-  
5 nance and Urban Affairs of the House of Representatives.

6 **SEC. 346. SIMPLIFIED DISCLOSURE FOR EXISTING DEPOSI-**  
7 **TORS.**

8 (a) *IN GENERAL.*—Section 43(b)(3) of the Federal De-  
9 posit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to  
10 read as follows:

11 “(3) *ACKNOWLEDGEMENT OF DISCLOSURE.*—

12 “(A) *NEW DEPOSITORS.*—With respect to  
13 any depositor who was not a depositor at the de-  
14 pository institution before June 19, 1994, receive  
15 any deposit for the account of such depositor  
16 only if the depositor has signed a written ac-  
17 knowledgement that—

18 “(i) the institution is not federally in-  
19 sured; and

20 “(ii) if the institution fails, the Fed-  
21 eral Government does not guarantee that the  
22 depositor will get back the depositor’s  
23 money.

24 “(B) *CURRENT DEPOSITORS.*—Receive any  
25 deposit after the effective date of this paragraph

1           for the account of any depositor who was a de-  
2           positor before June 19, 1994, only if—

3                   “(i) the depositor has signed a written  
4                   acknowledgement described in subparagraph  
5                   (A); or

6                   “(ii) the institution has complied with  
7                   the provisions of subparagraph (C) which  
8                   are applicable as of the date of the deposit.

9                   “(C) ALTERNATIVE PROVISION OF NOTICE  
10                  TO CURRENT DEPOSITORS.—

11                   “(i) IN GENERAL.—Transmit to each  
12                   depositor who was a depositor before June  
13                   19, 1994, and has not signed a written ac-  
14                   knowledgement described in subparagraph  
15                   (A)—

16                           “(I) a card containing the infor-  
17                           mation described in clauses (i) and (ii)  
18                           of subparagraph (A), and a line for the  
19                           signature of the depositor; and

20                           “(II) accompanying materials re-  
21                           questing the depositor to sign the card,  
22                           and return the signed card to the insti-  
23                           tution.

24                   “(ii) MANNER AND TIMING OF NO-  
25                  TICE.—

1           “(I) *FIRST NOTICE.*—Make the  
2           transmission described in clause (i) via  
3           first class mail within 90 days after  
4           June 19, 1994.

5           “(II) *SECOND NOTICE.*—Make a  
6           2d transmission described in clause (i)  
7           via first class mail not less than 30  
8           days and not more than 45 days after  
9           a transmission to the depositor in ac-  
10          cordance with subclause (I), if the in-  
11          stitution has not, by the date of such  
12          mailing, received from the depositor a  
13          card referred to in clause (i)(I) which  
14          has been signed by the depositor.

15          “(III) *THIRD NOTICE.*—Make a  
16          3d transmission described in clause (i)  
17          via first class mail not less than 30  
18          days and not more than 45 days after  
19          a transmission to the depositor in ac-  
20          cordance with subclause (II), if the in-  
21          stitution has not, by the date of such  
22          mailing, received from the depositor a  
23          card referred to in clause (i)(I) which  
24          has been signed by the depositor.”.

1           (b) *EFFECTIVE DATE.*—Section 43(b)(3) of the Federal  
2 *Deposit Insurance Act*, as amended by subsection (a), shall  
3 *take effect in accordance with section 151(a)(2)(D) of the*  
4 *Federal Deposit Insurance Corporation Improvement Act*  
5 *of 1991.*

6 **SEC. 347. COMMERCIAL MORTGAGE RELATED SECURITIES.**

7           (a) *IN GENERAL.*—Section 3(a)(41)(A)(i) of the *Secu-*  
8 *rities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)(A)(i))*  
9 *is amended —*

10                 (1) *by striking “or on a residential” and insert-*  
11 *ing “on a residential”; and*

12                 (2) *by inserting before the semicolon “; or on one*  
13 *or more parcels of real estate upon which is located*  
14 *one or more commercial structures”.*

15           (b) *AMENDMENT TO THE REVISED STATUTES.*—Para-  
16 *graph Seventh of section 5136 of the Revised Statutes (12*  
17 *U.S.C. 24) is amended in the twelfth sentence, by striking*  
18 *“(15 U.S.C. 78c(a)(41))), subject to such regulations” and*  
19 *inserting “(15 U.S.C. 78c(a)(41)). The exception provided*  
20 *for the securities described in subparagraphs (A), (B), and*  
21 *(C) shall be subject to such regulations”.*

22           (c) *REGULATIONS.*—Not later than 1 year after the  
23 *date of enactment of this Act, the Comptroller of the Cur-*  
24 *rency shall promulgate final regulations, in accordance*  
25 *with the thirteenth sentence of Paragraph Seventh of section*

1 5136 of the Revised Statutes (as amended by subsection (b)),  
2 to carry out the amendments made by this section.

3 (d) *EFFECTIVE DATE.*—The amendments made by this  
4 section shall become effective upon the date of promulgation  
5 of final regulations under subsection (c).

6 (e) *STATE OPT OUT.*—Notwithstanding the amend-  
7 ments made by this section, a note that is directly secured  
8 by a first lien on one or more parcels of real estate upon  
9 which is located one or more commercial structures shall  
10 not be considered to be a mortgage related security under  
11 section 3(a)(41) of the Securities Exchange Act of 1934 in  
12 any State that, prior to the expiration of 7 years after the  
13 date of enactment of this Act, enacts a statute that specifi-  
14 cally refers to this section and either prohibits or provides  
15 for a more limited authority to purchase, hold, or invest  
16 in such securities by any person, trust, corporation, part-  
17 nership, association, business trust, or business entity or  
18 class thereof than is provided by the amendments made by  
19 this subsection. The enactment by any State of any statute  
20 of the type described in the preceding sentence shall not af-  
21 fect the validity of any contractual commitment to pur-  
22 chase, hold, or invest that was made prior thereto, and shall  
23 not require the sale or other disposition of any securities  
24 acquired prior thereto.

1 **SEC. 348. OFFSET OF COSTS OF CERTAIN PROGRAMS.**

2 (a) HUD MULTIFAMILY HOUSING DISPOSITION PROC-  
3 ESS.—

4 (1) FINDINGS.—The Congress finds that—

5 (A) the portfolio of multifamily housing  
6 project mortgages insured by the FHA is severely  
7 troubled and at risk of default, requiring the Sec-  
8 retary to increase loss reserves from  
9 \$5,500,000,000 in 1991 to \$11,900,000,000 in  
10 1992 to cover estimated future losses;

11 (B) the inventory of multifamily housing  
12 projects owned by the Secretary has more than  
13 tripled since 1989, and, by the end of 1993, may  
14 exceed 75,000 units;

15 (C) the cost to the Federal Government of  
16 owning and maintaining multifamily housing  
17 projects escalated to approximately \$250,000,000  
18 in fiscal year 1992;

19 (D) the inventory of multifamily housing  
20 projects subject to mortgages held by the Sec-  
21 retary has increased dramatically, to more than  
22 2,400 mortgages, and approximately half of these  
23 mortgages, with over 230,000 units, are delin-  
24 quent;

25 (E) the inventory of insured and formerly  
26 insured multifamily housing projects is rapidly

1           *deteriorating, endangering tenants and neighbor-*  
2           *hoods;*

3           *(F) over 5 million families today have a*  
4           *critical need for housing that is affordable and*  
5           *habitable; and*

6           *(G) the current statutory framework govern-*  
7           *ing the disposition of multifamily housing*  
8           *projects effectively impedes the Government's*  
9           *ability to dispose of properties, protect tenants,*  
10          *and ensure that projects are maintained over*  
11          *time.*

12          *(2) MANAGEMENT AND DISPOSITION OF MULTI-*  
13          *FAMILY HOUSING PROJECTS.—Section 203 of the*  
14          *Housing and Community Development Amendments*  
15          *of 1978 (12 U.S.C. 1701z–11) is amended to read as*  
16          *follows:*

17          ***“SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAM-***  
18          ***ILY HOUSING PROJECTS.***

19          ***“(a) GOALS.—The Secretary of Housing and Urban***  
20          ***Development (in this section referred to as the ‘Secretary’)***  
21          ***shall manage or dispose of multifamily housing projects***  
22          ***that are owned by the Secretary or that are subject to a***  
23          ***mortgage held by the Secretary in a manner that—***

24                  ***“(1) is consistent with the National Housing Act***  
25                  ***and this section;***



1           “(2) will protect the financial interests of the  
2       Federal Government; and

3           “(3) will, in the least costly fashion among rea-  
4       sonable available alternatives, further the goals of—

5                   “(A) preserving housing so that it can re-  
6       main available to and affordable by low-income  
7       persons;

8                   “(B) preserving and revitalizing residential  
9       neighborhoods;

10                  “(C) maintaining existing housing stock in  
11       a decent, safe, and sanitary condition;

12                  “(D) minimizing the involuntary displace-  
13       ment of tenants;

14                  “(E) maintaining housing for the purpose  
15       of providing rental housing, cooperative housing,  
16       and homeownership opportunities for low-income  
17       persons; and

18                  “(F) minimizing the need to demolish mul-  
19       tifamily housing projects.

20       The Secretary, in determining the manner in which a  
21       project is to be managed or disposed of, may balance com-  
22       peting goals relating to individual projects in a manner  
23       that will further the purposes of this section.

24           “(b) DEFINITIONS.—For purposes of this section, the  
25       following definitions shall apply:

1           “(1) *MULTIFAMILY HOUSING PROJECT*.—The  
2 term ‘multifamily housing project’ means any multi-  
3 family rental housing project which is, or prior to ac-  
4 quisition by the Secretary was, assisted or insured  
5 under the National Housing Act, or was subject to a  
6 loan under section 202 of the Housing Act of 1959.

7           “(2) *SUBSIDIZED PROJECT*.—The term ‘sub-  
8 sidized project’ means a multifamily housing project  
9 receiving any of the following types of assistance im-  
10 mediately prior to the assignment of the mortgage on  
11 such project to, or the acquisition of such mortgage  
12 by, the Secretary:

13                 “(A) *Below market interest rate mortgage*  
14 *insurance under the proviso of section 221(d)(5)*  
15 *of the National Housing Act.*

16                 “(B) *Interest reduction payments made in*  
17 *connection with mortgages insured under section*  
18 *236 of the National Housing Act.*

19                 “(C) *Direct loans made under section 202 of*  
20 *the Housing Act of 1959.*

21                 “(D) *Assistance in the form of—*

22                         “(i) *rent supplement payments under*  
23 *section 101 of the Housing and Urban De-*  
24 *velopment Act of 1965;*

1           “(ii) housing assistance payments  
2           made under section 23 of the United States  
3           Housing Act of 1937 (as in effect before  
4           January 1, 1975); or

5           “(iii) housing assistance payments  
6           made under section 8 of the United States  
7           Housing Act of 1937 (excluding payments  
8           made for tenant-based assistance under sec-  
9           tion 8),

10          if (except for purposes of section 183(c) of the  
11          Housing and Community Development Act of  
12          1987) such assistance payments are made to  
13          more than 50 percent of the units in the project.

14          “(3) FORMERLY SUBSIDIZED PROJECT.—The  
15          term ‘formerly subsidized project’ means a multifam-  
16          ily housing project owned by the Secretary that was  
17          a subsidized project immediately prior to its acqui-  
18          sition by the Secretary.

19          “(4) UNSUBSIDIZED PROJECT.—The term  
20          ‘unsubsidized project’ means a multifamily housing  
21          project owned by the Secretary that is not a sub-  
22          sidized project or a formerly subsidized project.

23          “(c) MANAGEMENT OR DISPOSITION OF PROPERTY.—

24          “(1) DISPOSITION TO PURCHASERS.—The Sec-  
25          retary is authorized, in carrying out this section, to

1 *dispose of a multifamily housing project owned by the*  
2 *Secretary on a negotiated, competitive bid, or other*  
3 *basis, on such terms as the Secretary deems appro-*  
4 *prate considering the low-income character of the*  
5 *project and the requirements of subsection (a), to a*  
6 *purchaser determined by the Secretary to be capable*  
7 *of—*

8 *“(A) satisfying the conditions of the dispo-*  
9 *sition;*

10 *“(B) implementing a sound financial and*  
11 *physical management program that is designed*  
12 *to enable the project to meet anticipated operat-*  
13 *ing and repair expenses to ensure that the*  
14 *project will remain in decent, safe, and sanitary*  
15 *condition;*

16 *“(C) responding to the needs of the tenants*  
17 *and working cooperatively with tenant organiza-*  
18 *tions;*

19 *“(D) providing adequate organizational*  
20 *staff and financial resources to the project; and*

21 *“(E) meeting such other requirements as the*  
22 *Secretary may determine.*

23 *“(2) CONTRACTING FOR MANAGEMENT SERV-*  
24 *ICES.—The Secretary is authorized, in carrying out*  
25 *this section—*

1           “(A) to contract for management services  
2 for a multifamily housing project that is owned  
3 by the Secretary (or for which the Secretary is  
4 mortgagee in possession), on a negotiated, com-  
5 petitive bid, or other basis at a price determined  
6 by the Secretary to be reasonable, with a man-  
7 ager the Secretary has determined is capable  
8 of—

9           “(i) implementing a sound financial  
10 and physical management program that is  
11 designed to enable the project to meet an-  
12 ticipated operating and maintenance ex-  
13 penses to ensure that the project will remain  
14 in decent, safe, and sanitary condition;

15           “(ii) responding to the needs of the ten-  
16 ants and working cooperatively with tenant  
17 organizations;

18           “(iii) providing adequate organiza-  
19 tional, staff, and other resources to imple-  
20 ment a management program determined  
21 by the Secretary; and

22           “(iv) meeting such other requirements  
23 as the Secretary may determine; and

24           “(B) to require the owner of a multifamily  
25 housing project that is subject to a mortgage held

1           *by the Secretary to contract for management*  
2           *services for the project in the manner described*  
3           *in subparagraph (A).*

4           “(d) *MAINTENANCE OF HOUSING PROJECTS.—*

5           “(1) *HOUSING PROJECTS OWNED BY THE SEC-*  
6           *RETARY.—In the case of multifamily housing projects*  
7           *that are owned by the Secretary (or for which the Sec-*  
8           *retary is mortgagee in possession), the Secretary*  
9           *shall—*

10           “(A) *to the greatest extent possible, main-*  
11           *tain all such occupied projects in a decent, safe,*  
12           *and sanitary condition;*

13           “(B) *to the greatest extent possible, main-*  
14           *tain full occupancy in all such projects; and*

15           “(C) *maintain all such projects for purposes*  
16           *of providing rental or cooperative housing.*

17           “(2) *HOUSING PROJECTS SUBJECT TO A MORT-*  
18           *GAGE HELD BY THE SECRETARY.—In the case of any*  
19           *multifamily housing project that is subject to a mort-*  
20           *gage held by the Secretary, the Secretary shall require*  
21           *the owner of the project to carry out the requirements*  
22           *of paragraph (1).*

23           “(e) *REQUIRED ASSISTANCE.—In carrying out the*  
24           *goal specified in subsection (a)(3)(A), the Secretary shall*  
25           *take not less than one of the following actions:*

1           “(1) *CONTRACT WITH OWNER.*—*Enter into con-*  
2           *tracts under section 8 of the United States Housing*  
3           *Act of 1937, to the extent budget authority is avail-*  
4           *able, with owners of multifamily housing projects that*  
5           *are acquired by a purchaser other than the Secretary*  
6           *at foreclosure or after sale by the Secretary.*

7           “(A) *SUBSIDIZED OR FORMERLY SUB-*  
8           *SIDIZED PROJECTS RECEIVING CERTAIN ASSIST-*  
9           *ANCE.*—*In the case of a subsidized or formerly*  
10           *subsidized project referred to in subparagraphs*  
11           *(A) through (C) of subsection (b)(2)—*

12                   “(i) *the contract shall be sufficient to*  
13                   *assist at least all units covered by an assist-*  
14                   *ance contract under any of the authorities*  
15                   *referred to in subsection (b)(2)(D) before ac-*  
16                   *quisition, unless the Secretary acts pursu-*  
17                   *ant to the provisions of subparagraph (C);*

18                   “(ii) *in the case of units requiring*  
19                   *project-based rental assistance pursuant to*  
20                   *this paragraph that are occupied by fami-*  
21                   *lies who are not eligible for assistance under*  
22                   *section 8, a contract under this subpara-*  
23                   *graph shall also provide that when a va-*  
24                   *cancy occurs, the owner shall lease the*

1           *available unit to a family eligible for assist-*  
2           *ance under section 8; and*

3           “(iii) *the Secretary shall take actions*  
4           *to ensure the availability and affordability,*  
5           *as defined in paragraph (3)(B), for the re-*  
6           *maining useful life of the project, as defined*  
7           *by the Secretary, of any unit located in any*  
8           *project referred to in subparagraphs (A)*  
9           *through (C) of subsection (b)(2) that does*  
10           *not otherwise receive project-based assist-*  
11           *ance under this subparagraph. To carry out*  
12           *this clause, the Secretary may require pur-*  
13           *chasers to establish use or rent restrictions*  
14           *maintaining affordability, as defined in*  
15           *paragraph (3)(B).*

16           “(B) *SUBSIDIZED OR FORMERLY SUB-*  
17           *SIDIZED PROJECTS RECEIVING OTHER ASSIST-*  
18           *ANCE.—In the case of a subsidized or formerly*  
19           *subsidized project referred to in subsection*  
20           *(b)(2)(D)—*

21           “(i) *the contract shall be sufficient to*  
22           *assist at least all units in the project that*  
23           *are covered, or were covered immediately be-*  
24           *fore foreclosure on or acquisition of the*  
25           *project by the Secretary, by an assistance*



1           *contract under any of the authorities re-*  
2           *ferred to in such subsection, unless the Sec-*  
3           *retary acts pursuant to provisions of sub-*  
4           *paragraph (C); and*

5           “(ii) *in the case of units requiring*  
6           *project-based rental assistance pursuant to*  
7           *this paragraph that are occupied by fami-*  
8           *lies who are not eligible for assistance under*  
9           *section 8, a contract under this paragraph*  
10          *shall also provide that when a vacancy oc-*  
11          *curs, the owner shall lease the available unit*  
12          *to a family eligible for assistance under sec-*  
13          *tion 8.*

14          “(C) *EXCEPTIONS TO SUBPARAGRAPHS (A)*  
15          *AND (B).—In lieu of providing project-based as-*  
16          *istance under subparagraph (A) or (B), the Sec-*  
17          *retary may require certain units in unsubsidized*  
18          *projects to contain use restrictions providing*  
19          *that such units will be available to and afford-*  
20          *able by very low-income families for the remain-*  
21          *ing useful life of the project, as defined by the*  
22          *Secretary, if—*

23                 “(i) *the Secretary matches any reduc-*  
24                 *tion in units otherwise required to be as-*  
25                 *sisted with project-based assistance under*

1            *subparagraph (A) or (B) with at least an*  
2            *equivalent increase in units made affordable*  
3            *to very low-income persons within*  
4            *unsubsidized projects;*

5            *“(ii) low-income tenants residing in*  
6            *units otherwise requiring project-based as-*  
7            *sistance under subparagraph (A) or (B)*  
8            *upon disposition receive section 8 tenant-*  
9            *based assistance; and*

10           *“(iii) the units described in clause (i)*  
11           *are located within the same market area.*

12           *“(D) CONTRACT REQUIREMENTS FOR*  
13           *UNSUBSIDIZED PROJECTS.—Notwithstanding ac-*  
14           *tions taken pursuant to subparagraph (C), in*  
15           *unsubsidized projects, the contract shall at least*  
16           *be sufficient to provide—*

17           *“(i) project-based rental assistance for*  
18           *all units that are covered or were covered*  
19           *immediately before foreclosure or acquisi-*  
20           *tion by an assistance contract under—*

21           *“(I) section 8(b)(2) of the United*  
22           *States Housing Act of 1937 (as such*  
23           *section existed before October 1, 1983)*  
24           *(new construction and substantial re-*  
25           *habilitation); section 8(b) of such Act*

1           *(property disposition); section 8(d)(2)*  
2           *of such Act (project-based certificates);*  
3           *section 8(e)(2) of such Act (moderate*  
4           *rehabilitation); section 23 of such Act*  
5           *(as in effect before January 1, 1975);*  
6           *or section 101 of the Housing and*  
7           *Urban Development Act of 1965 (rent*  
8           *supplements); or*

9           *“(II) section 8 of the United*  
10           *States Housing Act of 1937, following*  
11           *conversion from section 101 of the*  
12           *Housing and Urban Development Act*  
13           *of 1965; and*

14           *“(ii) tenant-based assistance under sec-*  
15           *tion 8 of the United States Housing Act of*  
16           *1937 for tenants currently residing in units*  
17           *that were covered by an assistance contract*  
18           *under the Loan Management Set-Aside pro-*  
19           *gram under section 8(b) of the United*  
20           *States Housing Act of 1937 immediately be-*  
21           *fore foreclosure or acquisition of the project*  
22           *by the Secretary.*

23           *“(2) ANNUAL CONTRIBUTION CONTRACTS.—In*  
24           *the case of multifamily housing projects that are ac-*  
25           *quired by a purchaser other than the Secretary at*

1       *foreclosure or after sale by the Secretary, enter into*  
2       *annual contribution contracts with public housing*  
3       *agencies to provide tenant-based assistance under sec-*  
4       *tion 8 of the United States Housing Act of 1937 to*  
5       *all low-income families who are eligible for such as-*  
6       *sistance on the date that the project is acquired by the*  
7       *purchaser. The Secretary shall take action under this*  
8       *paragraph only after making a determination that*  
9       *there is available in the area an adequate supply of*  
10       *habitable affordable housing for low-income families.*  
11       *Actions taken pursuant to this paragraph may be*  
12       *taken in connection with not more than 10 percent of*  
13       *the aggregate number of units in subsidized or for-*  
14       *merly subsidized projects disposed of by the Secretary*  
15       *annually.*

16               “(3) *OTHER ASSISTANCE.*—

17                       “(A) *IN GENERAL.*—*In accordance with the*  
18                       *authority provided under the National Housing*  
19                       *Act, reduce the selling price, apply use or rent*  
20                       *restrictions on certain units, or provide other fi-*  
21                       *nancial assistance to the owners of multifamily*  
22                       *housing projects that are acquired by a pur-*  
23                       *chaser other than the Secretary at foreclosure, or*  
24                       *after sale by the Secretary, on terms which will*  
25                       *ensure that—*

1           “(i) at least those units otherwise re-  
2           quired to receive project-based section 8 as-  
3           sistance pursuant to subparagraphs (A),  
4           (B), or (D) of paragraph (1) are available  
5           to and affordable by low-income persons;  
6           and

7           “(ii) for the remaining useful life of  
8           the project, as defined by the Secretary,  
9           there shall be in force such use or rent re-  
10          strictions as the Secretary may prescribe.

11          “(B) DEFINITION.—A unit shall be consid-  
12          ered affordable under this paragraph if—

13               “(i) for very low-income tenants, the  
14               rent for such unit does not exceed 30 per-  
15               cent of 50 percent of the area median in-  
16               come, as determined by the Secretary, with  
17               adjustments for family size; and

18               “(ii) for low-income tenants other than  
19               very low-income tenants, the rent for such  
20               unit does not exceed 30 percent of 80 per-  
21               cent of the area median income, as deter-  
22               mined by the Secretary, with adjustments  
23               for family size.

24          “(C) VERY LOW-INCOME TENANTS.—The  
25          Secretary shall provide assistance under section

1           8 of the United States Housing Act of 1937 to  
2           any very low-income tenant currently residing  
3           in a unit otherwise required to receive project-  
4           based assistance under section 8, pursuant to  
5           subparagraph (A), (B), or (D) of paragraph (1),  
6           if the rents charged such tenants as a result of  
7           actions taken pursuant to this paragraph exceed  
8           the amount payable as rent under section 3(a) of  
9           the United States Housing Act of 1937.

10           “(4) *TRANSFER FOR USE UNDER OTHER PRO-*  
11           *GRAMS OF THE SECRETARY.—*

12                   “(A) *IN GENERAL.—Enter into an agree-*  
13                   *ment providing for the transfer of a multifamily*  
14                   *housing project—*

15                           “(i) *to a public housing agency for use*  
16                           *of the project as public housing; or*

17                           “(ii) *to an owner or another appro-*  
18                           *priate entity for use of the project under*  
19                           *section 202 of the Housing Act of 1959 or*  
20                           *under section 811 of the Cranston-Gonzalez*  
21                           *National Affordable Housing Act.*

22                   “(B) *REQUIREMENTS FOR AGREEMENT.—*  
23                   *The agreement described in subparagraph (A)*  
24                   *shall—*

1           “(i) contain such terms, conditions,  
2           and limitations as the Secretary determines  
3           appropriate, including requirements to as-  
4           sure use of the project under the public  
5           housing, section 202, and section 811 pro-  
6           grams; and

7           “(ii) ensure that no current tenant will  
8           be displaced as a result of actions taken  
9           under this paragraph.

10          “(f) OTHER ASSISTANCE.—In addition to the actions  
11         authorized by subsection (e), the Secretary may take any  
12         of the following actions:

13                 “(1) SHORT-TERM LOANS.—Provide short-term  
14                 loans to facilitate the sale of multifamily housing  
15                 projects to nonprofit organizations or to public agen-  
16                 cies if—

17                         “(A) authority for such loans is provided in  
18                         advance in an appropriations Act;

19                         “(B) such loans are for a term of not more  
20                         than 5 years;

21                         “(C) the Secretary is presented with satis-  
22                         factory documentation, evidencing a commitment  
23                         of permanent financing to replace such short-  
24                         term loan, from a lender who meets standards set  
25                         forth by the Secretary; and

1           “(D) the terms of such loans are consistent  
2           with prevailing practices in the marketplace or  
3           the provision of such loans results in no cost to  
4           the Government, as defined in section 502 of the  
5           Congressional Budget Act.

6           “(2) *TENANT-BASED ASSISTANCE*.—In connec-  
7           tion with projects referred to in subsection (e), make  
8           available tenant-based assistance under section 8 of  
9           the United States Housing Act of 1937 to very low-  
10          income families (as defined in section 3(b)(2) of the  
11          United States Housing Act of 1937) that do not other-  
12          wise qualify for project-based assistance.

13          “(3) *ALTERNATIVE USES*.—

14                 “(A) *IN GENERAL*.—Notwithstanding any  
15                 other provision of law, and subject to notice to  
16                 and comment from existing tenants, allow not  
17                 more than—

18                         “(i) 5 percent of the total number of  
19                         units in multifamily housing projects that  
20                         are disposed of by the Secretary during any  
21                         1-year period to be made available for uses  
22                         other than rental or cooperative uses, in-  
23                         cluding low-income homeownership oppor-  
24                         tunities, or in any particular project, com-  
25                         munity space, office space for tenant or



1           *housing-related service providers or security*  
2           *programs, or small business uses, if such*  
3           *uses benefit the tenants of the project; and*

4                   “(ii) 5 percent of the total number of  
5           *units in multifamily housing projects that*  
6           *are disposed of by the Secretary during any*  
7           *1-year period to be used in any manner, if*  
8           *the Secretary and the unit of general local*  
9           *government or area-wide governing body de-*  
10           *termine that such use will further fair hous-*  
11           *ing, community development, or neighbor-*  
12           *hood revitalization goals.*

13                   “(B) *DISPLACEMENT PROTECTION.*—*The*  
14           *Secretary shall make available tenant-based rent-*  
15           *al assistance under section 8 of the United States*  
16           *Housing Act of 1937 to any tenant displaced as*  
17           *a result of actions taken by the Secretary pursu-*  
18           *ant to subparagraph (A), and the Secretary shall*  
19           *take such actions as the Secretary determines*  
20           *necessary to ensure the successful use of any ten-*  
21           *ant-based assistance.*

22                   “(g) *AUTHORIZATION OF USE OR RENT RESTRICTIONS*  
23           *IN UNSUBSIDIZED PROJECTS.*—*In carrying out the goals*  
24           *specified in subsection (a), the Secretary may require cer-*  
25           *tain units in unsubsidized projects to contain use or rent*

1 *restrictions providing that such units will be available to*  
2 *and affordable by very low-income persons for the remain-*  
3 *ing useful life of the property, as defined by the Secretary.*

4 *“(h) CONTRACT REQUIREMENTS.—*

5 *“(1) CONTRACT TERM.—*

6 *“(A) IN GENERAL.—Contracts for project-*  
7 *based rental assistance under section 8 of the*  
8 *United States Housing Act of 1937 provided*  
9 *pursuant to this section shall be for a term of not*  
10 *more than 15 years; and*

11 *“(B) CONTRACT TERM OF LESS THAN 15*  
12 *YEARS.—Notwithstanding subparagraph (A), to*  
13 *the extent that units receive project-based assist-*  
14 *ance for a contract term of less than 15 years,*  
15 *the Secretary shall require that rents charged to*  
16 *tenants for such units not exceed the amount*  
17 *payable for rent under section 3(a) of the United*  
18 *States Housing Act of 1937 for a period of at*  
19 *least 15 years.*

20 *“(2) CONTRACT RENT.—*

21 *“(A) IN GENERAL.—The Secretary shall set*  
22 *contract rents for section 8 project-based rental*  
23 *contracts issued under this section at levels that,*  
24 *in conjunction with other resources available to*  
25 *the purchaser, provide for the necessary costs of*

1           *rehabilitation of such project and do not exceed*  
2           *the percentage of the existing housing fair mar-*  
3           *ket rents for the area (as determined by the Sec-*  
4           *retary under section 8(c) of the United States*  
5           *Housing Act of 1937) as the Secretary may pre-*  
6           *scribe.*

7           “(B) *UP-FRONT GRANTS AND LOANS.—If*  
8           *such an approach is determined to be more cost-*  
9           *effective, the Secretary may utilize the budget*  
10           *authority provided for project-based section 8*  
11           *contracts issued under this section to—*

12                   “(i) *provide project-based section 8*  
13                   *rental assistance; and*

14                   “(ii)(I) *provide up-front grants for the*  
15                   *necessary cost of rehabilitation; or*

16                   “(II) *pay for any cost to the Govern-*  
17                   *ment, as defined in section 502 of the Con-*  
18                   *gressional Budget Act, for loans made pur-*  
19                   *suant to subsection (f)(1).*

20           “(i) *DISPOSITION PLAN.—*

21                   “(1) *IN GENERAL.—Prior to the sale of a multi-*  
22                   *family housing project that is owned by the Secretary,*  
23                   *the Secretary shall develop a disposition plan for the*  
24                   *project that specifies the minimum terms and condi-*  
25                   *tions of the Secretary for disposition of the project,*

1     *the initial sales price that is acceptable to the Sec-*  
2     *retary, and the assistance that the Secretary plans to*  
3     *make available to a prospective purchaser in accord-*  
4     *ance with this section. The initial sales price shall re-*  
5     *fect the intended use of the property after sale.*

6             “(2) *COMMUNITY AND TENANT INPUT INTO DIS-*  
7     *POSITION PLANS AND SALES.—*

8             “(A) *IN GENERAL.—In carrying out this*  
9     *section, the Secretary shall develop procedures to*  
10    *obtain appropriate and timely input into dis-*  
11    *position plans from officials of the unit of gen-*  
12    *eral local government affected, the community in*  
13    *which the project is situated, and the tenants of*  
14    *the project.*

15            “(B) *TENANT ORGANIZATIONS.—The Sec-*  
16    *retary shall develop procedures to facilitate,*  
17    *where feasible and appropriate, the sale of multi-*  
18    *family housing projects to existing tenant orga-*  
19    *nizations with demonstrated capacity or to pub-*  
20    *lic or nonprofit entities which represent or are*  
21    *affiliated with existing tenant organizations.*

22            “(C) *TECHNICAL ASSISTANCE.—*

23            “(i) *USE OF FUNDS.—To carry out the*  
24    *procedures developed under subparagraphs*  
25    *(A) and (B), the Secretary is authorized to*

1           *provide technical assistance, directly or in-*  
2           *directly, and to use amounts appropriated*  
3           *for technical assistance under the Emer-*  
4           *gency Low Income Housing Preservation*  
5           *Act of 1987, the Low-Income Housing Pres-*  
6           *ervation and Resident Homeownership Act*  
7           *of 1990, subtitle B of title IV of the Cran-*  
8           *ston-Gonzalez National Affordable Housing*  
9           *Act, or under this section for the provision*  
10          *of technical assistance under this section.*

11           “(i) *SOURCE OF FUNDS.—*Recipients  
12          *of technical assistance funding under the*  
13          *Emergency Low Income Housing Preserva-*  
14          *tion Act of 1987, the Low-Income Housing*  
15          *Preservation and Resident Homeownership*  
16          *Act of 1990, subtitle B of title IV of the*  
17          *Cranston-Gonzalez National Affordable*  
18          *Housing Act, or under this section shall be*  
19          *permitted to provide technical assistance to*  
20          *the extent of such funding under any of*  
21          *such programs or under this section, not-*  
22          *withstanding the source of funding.*

23          “(j) *RIGHT OF FIRST REFUSAL.—*

24               “(1) *PROCEDURE.—*

1           “(A) *NOTIFICATION BY SECRETARY OF THE*  
2           *ACQUISITION OF TITLE.*—Not later than 30 days  
3           after acquiring title to a project, the Secretary  
4           shall notify the unit of general local government  
5           and the State agency or agencies designated by  
6           the Governor of the acquisition of such title.

7           “(B) *EXPRESSION OF INTEREST.*—Not later  
8           than 45 days after receiving notification from  
9           the Secretary under subparagraph (A), the unit  
10          of general local government or designated State  
11          agency may submit to the Secretary a prelimi-  
12          nary expression of interest in the project. The  
13          Secretary may take such actions as may be nec-  
14          essary to require the unit of general local govern-  
15          ment or designated State agency to substantiate  
16          such interest.

17          “(C) *TIMELY EXPRESSION OF INTEREST.*—  
18          If the unit of general local government or des-  
19          ignated State agency has expressed interest in  
20          the project before the expiration of the 45-day pe-  
21          riod referred to in subparagraph (B), and has  
22          substantiated such interest if requested, the Sec-  
23          retary, upon approval of a disposition plan for  
24          a project, shall notify the unit of general local  
25          government and designated State agency of the

1           *terms and conditions of the disposition plan and*  
2           *give the unit of general local government or des-*  
3           *ignated State agency not more than 90 days*  
4           *after the date of such notification to make an*  
5           *offer to purchase the project.*

6           “(D) *NO TIMELY EXPRESSION OF INTER-*  
7           *EST.—If the unit of general local government or*  
8           *designated State agency does not express interest*  
9           *before the expiration of the 45-day period re-*  
10          *ferred to in subparagraph (B), or does not sub-*  
11          *stantiate an expressed interest if requested, the*  
12          *Secretary, upon approval of a disposition plan,*  
13          *may offer the project for sale to any interested*  
14          *person or entity.*

15          “(2) *ACCEPTANCE OF OFFERS.—Where the Sec-*  
16          *retary has given the unit of general local government*  
17          *or designated State agency 90 days to make an offer*  
18          *to purchase the project, the Secretary shall accept an*  
19          *offer that complies with the terms and conditions of*  
20          *the disposition plan. The Secretary may accept an*  
21          *offer that does not comply with the terms and condi-*  
22          *tions of the disposition plan if the Secretary deter-*  
23          *mines that the offer will further the goals specified in*  
24          *subsection (a) by actions that include extension of the*  
25          *duration of low-income affordability restrictions or*

1 *otherwise restructuring the transaction in a manner*  
2 *that enhances the long-term affordability for low-in-*  
3 *come persons. The Secretary shall, in particular, have*  
4 *discretion to reduce the initial sales price in exchange*  
5 *for the extension of low-income affordability restric-*  
6 *tions beyond the period of assistance contemplated by*  
7 *the attachment of assistance pursuant to subsection*  
8 *(e). If the Secretary and the unit of general local gov-*  
9 *ernment or designated State agency cannot reach*  
10 *agreement within 90 days, the Secretary may offer*  
11 *the project for sale to the general public.*

12 *“(3) PURCHASE BY UNIT OF GENERAL LOCAL*  
13 *GOVERNMENT OR DESIGNATED STATE AGENCY.—Not-*  
14 *withstanding any other provision of law, a unit of*  
15 *general local government (including a public housing*  
16 *agency) or designated State agency may purchase a*  
17 *subsidized or formerly subsidized project in accord-*  
18 *ance with this subsection.*

19 *“(4) APPLICABILITY.—This subsection shall*  
20 *apply to projects that are acquired on or after the ef-*  
21 *fective date of this subsection. With respect to projects*  
22 *acquired before such effective date, the Secretary may*  
23 *apply—*

24 *“(A) the requirements of paragraphs (2)*  
25 *and (3) of section 203(e) as such paragraphs ex-*



1            *isted immediately before the effective date of this*  
2            *subsection; or*

3            *“(B) the requirements of paragraphs (1)*  
4            *and (2) of this subsection, if the Secretary gives*  
5            *the unit of general local government or des-*  
6            *ignated State agency—*

7            *“(i) 45 days to express interest in the*  
8            *project; and*

9            *“(ii) if the unit of general local govern-*  
10           *ment or designated State agency expresses*  
11           *interest in the project before the expiration*  
12           *of the 45-day period, and substantiates such*  
13           *interest if requested, 90 days from the date*  
14           *of notification of the terms and conditions*  
15           *of the disposition plan to make an offer to*  
16           *purchase the project.*

17           *“(k) DISPLACEMENT OF TENANTS AND RELOCATION*  
18           *ASSISTANCE.—*

19           *“(1) IN GENERAL.—Whenever tenants will be*  
20           *displaced as a result of the disposition of, or repairs*  
21           *to, a multifamily housing project that is owned by the*  
22           *Secretary (or for which the Secretary is mortgagee in*  
23           *possession), the Secretary shall identify tenants who*  
24           *will be displaced, and shall notify all such tenants of*  
25           *their pending displacement and of any relocation as-*

1     *sistance which may be available. In the case of a mul-*  
2     *tifamily housing project that is not owned by the Sec-*  
3     *retary (and for which the Secretary is not mortgagee*  
4     *in possession), the Secretary shall require the owner*  
5     *of the project to carry out the requirements of this*  
6     *paragraph.*

7             “(2) *RIGHTS OF DISPLACED TENANTS.*—*The Sec-*  
8     *retary shall assure for any such tenant (who contin-*  
9     *ues to meet applicable qualification standards) the*  
10    *right—*

11                 “(A) *to return, whenever possible, to a re-*  
12                 *paired unit;*

13                 “(B) *to occupy a unit in another multifam-*  
14                 *ily housing project owned by the Secretary;*

15                 “(C) *to obtain housing assistance under the*  
16                 *United States Housing Act of 1937; or*

17                 “(D) *to receive any other available reloca-*  
18                 *tion assistance as the Secretary determines to be*  
19                 *appropriate.*

20             “(1) *MORTGAGE AND PROJECT SALES.*—

21                 “(1) *IN GENERAL.*—*The Secretary may not ap-*  
22                 *prove the sale of any loan or mortgage held by the*  
23                 *Secretary (including any loan or mortgage owned by*  
24                 *the Government National Mortgage Association) on*  
25                 *any subsidized project or formerly subsidized project,*

1       *unless such sale is made as part of a transaction that*  
2       *will ensure that such project will continue to operate*  
3       *at least until the maturity date of such loan or mort-*  
4       *gage, in a manner that will provide rental housing on*  
5       *terms at least as advantageous to existing and future*  
6       *tenants as the terms required by the program under*  
7       *which the loan or mortgage was made or insured*  
8       *prior to the assignment of the loan or mortgage on*  
9       *such project to the Secretary.*

10           “(2) *SALE OF CERTAIN PROJECTS.—The Sec-*  
11       *retary may not approve the sale of any subsidized*  
12       *project—*

13                   “(A) *that is subject to a mortgage held by*  
14       *the Secretary; or*

15                   “(B) *if the sale transaction involves the pro-*  
16       *vision of any additional subsidy funds by the*  
17       *Secretary or a recasting of the mortgage, unless*  
18       *such sale is made as part of a transaction that*  
19       *will ensure that such project will continue to op-*  
20       *erate at least until the maturity date of the loan*  
21       *or mortgage, in a manner that will provide rent-*  
22       *al housing on terms at least as advantageous to*  
23       *existing and future tenants as the terms required*  
24       *by the program under which the loan or mort-*

1            *gage was made or insured prior to the proposed*  
2            *sale of the project.*

3            *“(3) MORTGAGE SALES TO STATE AND LOCAL*  
4            *GOVERNMENTS.—Notwithstanding any provision of*  
5            *law that may require competitive sales or bidding, the*  
6            *Secretary may carry out negotiated sales of subsidized*  
7            *or formerly subsidized mortgages held by the Sec-*  
8            *retary, without the competitive selection of purchasers*  
9            *or intermediaries, to units of general local govern-*  
10           *ment or State agencies, or groups of investors that in-*  
11           *clude at least one such unit of general local govern-*  
12           *ment or State agency, if the negotiations are con-*  
13           *ducted with such agencies, except that—*

14                    *“(A) the terms of any such sale shall in-*  
15                    *clude the agreement of the purchasing agency or*  
16                    *unit of local government or State agency to act*  
17                    *as mortgagee or owner of a beneficial interest in*  
18                    *such mortgages, in a manner consistent with*  
19                    *maintaining the projects that are subject to such*  
20                    *mortgages for occupancy by the general tenant*  
21                    *group intended to be served by the applicable*  
22                    *mortgage insurance program, including, to the*  
23                    *extent the Secretary determines appropriate, au-*  
24                    *thorizing such unit of local government or State*  
25                    *agency to enforce the provisions of any regu-*

1            *latory agreement or other program requirements*  
2            *applicable to the related projects; and*

3            *“(B) the sales prices for such mortgages*  
4            *shall be, in the determination of the Secretary,*  
5            *the best prices that may be obtained for such*  
6            *mortgages from a unit of general local govern-*  
7            *ment or State agency, consistent with the expec-*  
8            *tation and intention that the projects financed*  
9            *will be retained for use under the applicable*  
10           *mortgage insurance program for the life of the*  
11           *initial mortgage insurance contract.*

12           *“(4) SALE OF MORTGAGES COVERING*  
13           *UNSUBSIDIZED PROJECTS.—Notwithstanding any*  
14           *other provision of law, the Secretary may sell mort-*  
15           *gages held on unsubsidized projects on such terms and*  
16           *conditions as the Secretary may prescribe.*

17           *“(m) REPORT TO CONGRESS.—Not later than June 1*  
18           *of each year, the Secretary shall submit to the Committee*  
19           *on Banking, Housing, and Urban Affairs of the Senate and*  
20           *the Committee on Banking, Finance and Urban Affairs of*  
21           *the House of Representatives, a report describing the status*  
22           *of multifamily housing projects owned by or subject to mort-*  
23           *gages held by the Secretary, which report shall include—*

24           *“(1) the name, address, and size of each project;*

25           *“(2) the nature and date of assignment;*

1           “(3) the status of the mortgage;

2           “(4) the physical condition of the project;

3           “(5) an occupancy profile of the project, includ-  
4           ing the income, family size, and race of current resi-  
5           dents as well as the rents paid by such residents;

6           “(6) the proportion of units in a project that are  
7           vacant;

8           “(7) the date on which the Secretary became  
9           mortgagee in possession;

10          “(8) the date and conditions of any foreclosure  
11          sale;

12          “(9) the date of acquisition by the Secretary;

13          “(10) the date and conditions of any property  
14          disposition sale;

15          “(11) a description of actions undertaken pursu-  
16          ant to this section, including—

17                 “(A) a comparison of results between ac-  
18                 tions taken after enactment of the Housing and  
19                 Community Development Act of 1993 and ac-  
20                 tions taken in years prior to such enactment;

21                 “(B) a description of any impediments to  
22                 the disposition or management of multifamily  
23                 housing projects, together with a recommenda-  
24                 tion of proposed legislative or regulatory changes  
25                 designed to ameliorate such impediments;

1           “(C) a description of actions taken to re-  
2           structure or commence foreclosure on delinquent  
3           multifamily mortgages held by the Department;  
4           and

5           “(D) a description of actions taken to mon-  
6           itor and prevent the default of multifamily hous-  
7           ing mortgages held by the Federal Housing Ad-  
8           ministration;

9           “(12) a description of any of the functions per-  
10          formed in connection with this section that are con-  
11          tracted out to public or private entities or to States,  
12          including—

13               “(A) the costs associated with such delega-  
14               tion;

15               “(B) the implications of contracting out or  
16               delegating such functions for current Department  
17               field or regional personnel, including anticipated  
18               personnel or work load reductions;

19               “(C) necessary oversight required by De-  
20               partment personnel, including anticipated per-  
21               sonnel hours devoted to such oversight;

22               “(D) a description of any authority granted  
23               to such public or private entities or States in  
24               conjunction with the functions that have been  
25               delegated or contracted out or that are not other-

1           *wise available for use by Department personnel;*  
2           *and*

3           *“(E) the extent to which such public or pri-*  
4           *vate entities or States include tenants of multi-*  
5           *family housing projects in the disposition plan-*  
6           *ning for such projects;*

7           *“(13) a description of the activities carried out*  
8           *under subsection (j) during the preceding year; and*

9           *“(14) a description and assessment of the rules,*  
10          *guidelines, and practices governing the Department’s*  
11          *management of multifamily housing projects that are*  
12          *owned by the Secretary (or for which the Secretary is*  
13          *mortgagee in possession) as well as the steps that the*  
14          *Secretary has taken or plans to take to improve the*  
15          *management performance of the Department.”.*

16          (3) *EFFECTIVE DATE.*—*The Secretary shall, by*  
17          *notice published in the Federal Register, which shall*  
18          *take effect upon publication, establish such require-*  
19          *ments as may be necessary to implement the amend-*  
20          *ments made by this subsection. The notice shall invite*  
21          *public comments, and the Secretary shall issue final*  
22          *regulations based on the initial notice, taking into ac-*  
23          *count any public comments received.*



1       (b) *REPEAL OF THE NATIONAL SMALL BUSINESS*  
2 *TREE PLANTING PROGRAM.*—Section 24 of the Small Busi-  
3 *ness Act (15 U.S.C. 651) is repealed.*

4       ***TITLE IV—MONEY LAUNDERING***

5       ***SEC. 401. SHORT TITLE.***

6       *This title may be cited as the “Money Laundering*  
7 *Suppression Act of 1994”.*

8       ***SEC. 402. REFORM OF CTR EXEMPTION REQUIREMENTS TO***  
9                   ***REDUCE NUMBER AND SIZE OF REPORTS***  
10                   ***CONSISTENT WITH EFFECTIVE LAW EN-***  
11                   ***FORCEMENT.***

12       (a) *IN GENERAL.*—Section 5313 of title 31, United  
13 *States Code, is amended by adding at the end the following*  
14 *new subsections:*

15       “(d) *MANDATORY EXEMPTIONS FROM REPORTING RE-*  
16 *QUIREMENTS.*—

17               “(1) *IN GENERAL.*—The Secretary of the Treas-  
18 *ury shall exempt, pursuant to section 5318(a)(5), a*  
19 *depository institution from the reporting require-*  
20 *ments of subsection (a) (and regulations prescribed*  
21 *under such subsection) with respect to transactions*  
22 *between the depository institution and the following*  
23 *categories of entities:*

24               “(A) *Another depository institution.*

1           “(B) A department or agency of the United  
2 States, any State, or any political subdivision of  
3 any State, including any entity established  
4 under the laws of the United States, any State,  
5 or any political subdivision of any State, or  
6 under an interstate compact between 2 or more  
7 States, which exercises governmental authority  
8 on behalf of the United States, the State, or the  
9 political subdivision.

10           “(C) Any business or category of business  
11 the reports on which have little or no value for  
12 law enforcement purposes.

13           “(2) NOTICE OF EXEMPTION.—The Secretary of  
14 the Treasury shall publish in the Federal Register at  
15 such times as the Secretary determines to be appro-  
16 priate (but not less frequently than once during each  
17 year) a list of all the entities whose transactions with  
18 a depository institution are exempt under this sub-  
19 section from the reporting requirements of subsection  
20 (a) (and regulations prescribed under such sub-  
21 section).

22           “(e) DISCRETIONARY EXEMPTIONS FROM REPORTING  
23 REQUIREMENTS.—

24           “(1) IN GENERAL.—The Secretary of the Treas-  
25 ury may exempt, pursuant to section 5318(a)(5), a

1 *depository institution from the reporting require-*  
2 *ments of subsection (a) (and regulations prescribed*  
3 *under such subsection) with respect to transactions*  
4 *between the depository institution and a qualified*  
5 *business customer of the institution on the basis of in-*  
6 *formation submitted to the Secretary by the institu-*  
7 *tion in accordance with procedures which the Sec-*  
8 *retary shall establish.*

9 “(2) *QUALIFIED BUSINESS CUSTOMER DE-*  
10 *FINED.—For purposes of this subsection, the term*  
11 *‘qualified business customer’ means a business*  
12 *which—*

13 “(A) *maintains a transaction account (as*  
14 *defined in section 19(b)(1)(C) of the Federal Re-*  
15 *serve Act) at the depository institution;*

16 “(B) *frequently engages in transactions*  
17 *with the depository institution which are subject*  
18 *to the reporting requirements of subsection (a)*  
19 *(and regulations prescribed under such sub-*  
20 *section); and*

21 “(C) *meets criteria which the Secretary de-*  
22 *termines are sufficient to ensure that the pur-*  
23 *poses of this subchapter are carried out without*  
24 *requiring a report with respect to such trans-*  
25 *actions.*

1           “(3) *CRITERIA FOR EXEMPTION.*—*The Secretary*  
2 *of the Treasury shall establish, by regulation, the cri-*  
3 *teria for granting and maintaining an exemption*  
4 *under paragraph (1).*

5           “(4) *GUIDELINES.*—

6           “(A) *IN GENERAL.*—*The Secretary of the*  
7 *Treasury shall establish guidelines for depository*  
8 *institutions to follow in selecting customers for*  
9 *an exemption under this subsection.*

10          “(B) *CONTENTS.*—*The guidelines may in-*  
11 *clude a description of the types of businesses or*  
12 *an itemization of specific businesses for which no*  
13 *exemption will be granted under this subsection*  
14 *to any depository institution.*

15          “(5) *ANNUAL REVIEW.*—*The Secretary of the*  
16 *Treasury shall prescribe regulations requiring each*  
17 *depository institution to—*

18           “(A) *review, at least once during each year,*  
19 *the qualified business customers of such institu-*  
20 *tion with respect to whom an exemption has been*  
21 *granted under this subsection; and*

22           “(B) *upon the completion of such review, re-*  
23 *submit information about such customers, with*  
24 *such modifications as the institution determines*

1           to be appropriate, to the Secretary for the Sec-  
2           retary's approval.

3           “(6) 2-YEAR PHASE-IN PROVISION.—During the  
4           2-year period beginning on the date of enactment of  
5           the Money Laundering Suppression Act of 1994, this  
6           subsection shall be applied by the Secretary on the  
7           basis of such criteria as the Secretary determines to  
8           be appropriate to achieve an orderly implementation  
9           of the requirements of this subsection.

10          “(f) PROVISIONS APPLICABLE TO MANDATORY AND  
11         DISCRETIONARY EXEMPTIONS.—

12                 “(1) LIMITATION ON LIABILITY OF DEPOSITORY  
13                 INSTITUTIONS.—No depository institution shall be  
14                 subject to any penalty which may be imposed under  
15                 this subchapter for the failure of the institution to file  
16                 a report with respect to a transaction with a cus-  
17                 tomer for whom an exemption has been granted under  
18                 subsection (d) or (e), unless the institution—

19                         “(A) knowingly files false or incomplete in-  
20                         formation to the Secretary with respect to the  
21                         transaction or the customer engaging in the  
22                         transaction; or

23                         “(B) has reason to believe at the time the  
24                         exemption is granted or the transaction is en-  
25                         tered into that the customer or the transaction

1           *does not meet the criteria established for grant-*  
2           *ing such exemption.*

3           “(2) *COORDINATION WITH OTHER PROVISIONS.—*  
4           *Any exemption granted by the Secretary of the Treas-*  
5           *ury under section 5318(a) in accordance with this*  
6           *section, and any transaction which is subject to such*  
7           *exemption, shall be subject to any other provision of*  
8           *law applicable to such exemption, including—*

9                     “(A) *the authority of the Secretary, under*  
10            *section 5318(a)(5), to revoke such exemption at*  
11            *any time; and*

12                    “(B) *any requirement to report, or any au-*  
13            *thority to require a report on, any possible viola-*  
14            *tion of any law or regulation or any suspected*  
15            *criminal activity.*

16           “(g) *DEPOSITORY INSTITUTION DEFINED.—For pur-*  
17            *poses of this section, the term ‘depository institution’ has*  
18            *the meaning given to such term in section 19(b)(1)(A) of*  
19            *the Federal Reserve Act.’”.*

20           (b) *REPORT REDUCTION GOAL; REPORTS.—*

21                    (1) *IN GENERAL.—In implementing the amend-*  
22            *ment made by subsection (a), the Secretary of the*  
23            *Treasury shall seek to reduce, within a reasonable pe-*  
24            *riod of time, the number of reports required to be filed*  
25            *in the aggregate by depository institutions pursuant*

1 *to section 5313(a) of title 31, United States Code, by*  
2 *not less than 30 percent of the number filed during*  
3 *the year preceding the date of enactment of this Act.*

4 (2) *INTERIM REPORT.*—*The Secretary of the*  
5 *Treasury shall submit a report to the Congress not*  
6 *later than the end of the 180-day period beginning on*  
7 *the date of enactment of this Act on the progress made*  
8 *by the Secretary in implementing the amendment*  
9 *made by subsection (a).*

10 (3) *ANNUAL REPORT.*—*The Secretary of the*  
11 *Treasury shall submit an annual report to the Con-*  
12 *gress after the end of each of the first 5 calendar years*  
13 *which begin after the date of enactment of this Act on*  
14 *the extent to which the Secretary has reduced the*  
15 *overall number of currency transaction reports re-*  
16 *quired to be filed with the Secretary pursuant to sec-*  
17 *tion 5313(a) of title 31, United States Code, consist-*  
18 *ently with the purposes of such section and effective*  
19 *law enforcement.*

20 (c) *STREAMLINED CURRENCY TRANSACTION RE-*  
21 *PORTS.*—*The Secretary of the Treasury shall take such ac-*  
22 *tion as may be appropriate to redesign the format of reports*  
23 *required to be filed by any financial institution (as defined*  
24 *in section 5312(a)(2) of title 31, United States Code) under*  
25 *section 5313(a) of title 31, United States Code, to eliminate*

1 *the need to report information which has little or no value*  
2 *for law enforcement purposes and reduce the time and effort*  
3 *required to prepare such report for filing by any such fi-*  
4 *ancial institution under such section.*

5 **SEC. 403. SINGLE DESIGNEE FOR REPORTING OF SUS-**  
6 **PICIOUS TRANSACTIONS.**

7 *(a) IN GENERAL.—Section 5318(g) of title 31, United*  
8 *States Code, is amended by adding at the end the following*  
9 *new paragraph:*

10 *“(4) SINGLE DESIGNEE FOR REPORTING SUS-*  
11 *PICIOUS TRANSACTIONS.—*

12 *“(A) IN GENERAL.—In requiring reports*  
13 *under paragraph (1) of suspicious transactions,*  
14 *the Secretary of the Treasury shall designate, to*  
15 *the extent practicable and appropriate, a single*  
16 *officer or agency of the United States to whom*  
17 *such reports shall be made.*

18 *“(B) DUTY OF DESIGNEE.—The officer or*  
19 *agency of the United States designated by the*  
20 *Secretary of the Treasury pursuant to subpara-*  
21 *graph (A) shall refer any report of a suspicious*  
22 *transaction to the appropriate law enforcement*  
23 *or supervisory agency.*

24 *“(C) COORDINATION WITH OTHER REPORT-*  
25 *ING REQUIREMENTS.—Subparagraph (A) shall*



1           *not be construed as precluding any supervisory*  
2           *agency for any financial institution from requir-*  
3           *ing the financial institution to submit any infor-*  
4           *mation or report to the agency or another agency*  
5           *pursuant to any provision of law other than this*  
6           *subsection.*

7           “(D) *REPORTS.*—

8                   “(i) *REPORTS REQUIRED.*—*The Sec-*  
9                   *retary of the Treasury shall submit an an-*  
10                   *nual report to the Congress at the times re-*  
11                   *quired under clause (ii) on the number of*  
12                   *suspicious transactions reported to the offi-*  
13                   *cer or agency designated under subpara-*  
14                   *graph (A) during the period covered by the*  
15                   *report and the disposition of such reports.*

16                   “(ii) *TIME FOR SUBMITTING RE-*  
17                   *PORTS.*—*The first report required under*  
18                   *clause (i) shall be filed before the end of the*  
19                   *1-year period beginning on the date of en-*  
20                   *actment of the Money Laundering Suppres-*  
21                   *sion Act of 1994, and each subsequent re-*  
22                   *port shall be filed, not later than 90 days*  
23                   *after the end of each of the 5 calendar years*  
24                   *which begin after such date of enactment.”.*

1           (b) *DESIGNATION REQUIRED TO BE MADE EXPEDI-*  
2 *TIOUSLY.*—*The initial designation of an officer or agency*  
3 *of the United States pursuant to the amendment made by*  
4 *subsection (a) shall be made before the end of the 180-day*  
5 *period beginning on the date of enactment of this Act.*

6 **SEC. 404. IMPROVEMENT OF IDENTIFICATION OF MONEY**  
7 **LAUNDERING SCHEMES.**

8           (a) *ENHANCED TRAINING, EXAMINATIONS, AND RE-*  
9 *FERRALS BY BANKING AGENCIES.*—*Before the end of the 6-*  
10 *month period beginning on the date of enactment of this*  
11 *Act, each appropriate Federal banking agency shall, in con-*  
12 *sultation with the Secretary of the Treasury and other ap-*  
13 *propriate law enforcement agencies—*

14                 (1) *review and enhance training and examina-*  
15 *tion procedures to improve the identification of*  
16 *money laundering schemes involving depository insti-*  
17 *tutions; and*

18                 (2) *review and enhance procedures for referring*  
19 *cases to any other appropriate law enforcement agen-*  
20 *cy.*

21           (b) *IMPROVED REPORTING OF CRIMINAL SCHEMES BY*  
22 *LAW ENFORCEMENT AGENCIES.*—*The Secretary of the*  
23 *Treasury and each appropriate law enforcement agency*  
24 *shall, on a regular basis, provide information regarding*  
25 *money laundering schemes and activities involving deposi-*

1 tory institutions to each appropriate Federal banking agen-  
2 cy to enhance the agency's ability to examine for and iden-  
3 tify money laundering.

4 (c) *REPORT TO CONGRESS.*—Not later than 1 year  
5 after the date of enactment of this Act, the Federal banking  
6 agencies shall jointly submit a report to the Congress on  
7 the progress made in carrying out subsection (a) and the  
8 usefulness of information received pursuant to subsection  
9 (b).

10 (d) *DEFINITIONS.*—The terms “appropriate Federal  
11 banking agency” and “Federal banking agencies” have the  
12 same meanings as in section 3 of the Federal Deposit Insur-  
13 ance Act.

14 **SEC. 405. NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN**  
15 **BANKS SUBJECT TO RECORDKEEPING AND**  
16 **REPORTING REQUIREMENTS.**

17 Section 5312(a)(3) of title 31, United States Code, is  
18 amended—

19 (1) by striking “and” at the end of subpara-  
20 graph (A);

21 (2) by striking the period at the end of subpara-  
22 graph (B) and inserting “; and”; and

23 (3) by adding at the end the following new sub-  
24 paragraph:

1           “(C) as the Secretary of the Treasury shall  
2           provide by regulation for purposes of section  
3           5316, checks, drafts, notes, money orders, and  
4           other similar instruments which are drawn on or  
5           by a foreign financial institution and are not in  
6           bearer form.”.

7   **SEC. 406. IMPOSITION OF CIVIL MONEY PENALTIES BY AP-**  
8                           **PROPRIATE FEDERAL BANKING AGENCIES.**

9           Section 5321 of title 31, United States Code, is amend-  
10 ed by adding at the end the following new subsection:

11           “(e) *DELEGATION OF ASSESSMENT AUTHORITY TO*  
12 *BANKING AGENCIES.*—

13           “(1) *IN GENERAL.*—The Secretary of the Treas-  
14 ury shall delegate, in accordance with section  
15 5318(a)(1), and subject to such terms and conditions  
16 as the Secretary may impose in accordance with  
17 paragraph (3), any authority of the Secretary to as-  
18 sess a civil money penalty under this section on de-  
19 pository institutions to the appropriate Federal bank-  
20 ing agencies.

21           “(2) *AUTHORITY OF AGENCIES.*—Subject to any  
22 term or condition imposed by the Secretary of the  
23 Treasury under paragraph (3), the provisions of this  
24 section shall apply to an appropriate Federal banking  
25 agency to which is delegated any authority of the Sec-

1        *retary under this section in the same manner such*  
2        *provisions apply to the Secretary.*

3            “(3) *TERMS AND CONDITIONS.*—

4            “(A) *IN GENERAL.*—*The Secretary of the*  
5        *Treasury shall prescribe by regulation the terms*  
6        *and conditions which shall apply to any delega-*  
7        *tion under paragraph (1).*

8            “(B) *MAXIMUM DOLLAR AMOUNT.*—*The*  
9        *terms and conditions authorized under subpara-*  
10       *graph (A) may include, in the Secretary’s sole*  
11       *discretion, a limitation on the amount of any*  
12       *civil penalty which may be assessed by an ap-*  
13       *propriate Federal banking agency pursuant to a*  
14       *delegation under paragraph (1).*

15           “(4) *DEFINITIONS.*—*For purposes of this sub-*  
16       *section, the terms ‘depository institution’ and ‘Federal*  
17       *banking agencies’ have the same meanings as in sec-*  
18       *tion 3 of the Federal Deposit Insurance Act.’.*

19        ***SEC. 407. UNIFORM STATE LICENSING AND REGULATION OF***  
20                                ***CHECK CASHING, CURRENCY EXCHANGE, AND***  
21                                ***MONEY TRANSMITTING BUSINESSES.***

22           (a) *UNIFORM LAWS AND ENFORCEMENT.*—*For pur-*  
23       *poses of preventing money laundering and protecting the*  
24       *payment system from fraud and abuse, it is the sense of*  
25       *the Congress that the several States should—*

1           (1) *establish uniform laws for licensing and reg-*  
2 *ulating businesses which—*

3                 (A) *provide check cashing, currency ex-*  
4 *change, or money transmitting or remittance*  
5 *services, or issue or redeem money orders, travel-*  
6 *ers' checks, and other similar instruments; and*

7                 (B) *are not depository institutions (as de-*  
8 *efined in section 19(b)(1)(A) of the Federal Re-*  
9 *serve Act); and*

10           (2) *provide sufficient resources to the appro-*  
11 *priate State agency to enforce such laws and regula-*  
12 *tions prescribed pursuant to such laws.*

13           (b) *MODEL STATUTE.—It is the sense of the Congress*  
14 *that the several States should develop, through the auspices*  
15 *of the National Conference of Commissioners on Uniform*  
16 *State Laws, the American Law Institute, or such other*  
17 *forum as the States may determine to be appropriate, a*  
18 *model statute to carry out the goals described in subsection*  
19 *(a) which would include the following:*

20                 (1) *LICENSING REQUIREMENTS.—A requirement*  
21 *that any business described in subsection (a)(1) be li-*  
22 *censed and regulated by an appropriate State agency*  
23 *in order to engage in any such activity within the*  
24 *State.*

1           (2) *LICENSING STANDARDS.*—A requirement  
2     that—

3           (A) in order for any business described in  
4     subsection (a)(1) to be licensed in the State, the  
5     appropriate State agency shall review and ap-  
6     prove—

7           (i) the business record and the capital  
8     adequacy of the business seeking the license;  
9     and

10          (ii) the competence, experience, integ-  
11     rity, and financial ability of any individ-  
12     ual who—

13           (I) is a director, officer, or super-  
14     visory employee of such business; or

15           (II) owns or controls such busi-  
16     ness; and

17          (B) any record, on the part of any business  
18     seeking the license or any person referred to in  
19     subparagraph (A)(ii), of—

20           (i) any criminal activity;

21           (ii) any fraud or other act of personal  
22     dishonesty;

23           (iii) any act, omission, or practice  
24     which constitutes a breach of a fiduciary  
25     duty; or

1                   (iv) any suspension or removal, by any  
2                   agency or department of the United States  
3                   or any State, from participation in the con-  
4                   duct of any federally or State licensed or  
5                   regulated business;

6                   may be grounds for the denial of any such li-  
7                   cense by the appropriate State agency.

8                   (3) PROCEDURES TO ENSURE COMPLIANCE WITH  
9                   FEDERAL CASH TRANSACTION REPORTING REQUIRE-  
10                  MENTS.—A civil or criminal penalty for operating  
11                  any business referred to in paragraph (1) without es-  
12                  tablishing and complying with appropriate proce-  
13                  dures to ensure compliance with subchapter II of  
14                  chapter 53 of title 31, United States Code (relating to  
15                  records and reports on monetary instruments trans-  
16                  actions).

17                  (4) CRIMINAL PENALTIES FOR OPERATION OF  
18                  BUSINESS WITHOUT A LICENSE.—A criminal penalty  
19                  for operating any business referred to in paragraph  
20                  (1) without a license within the State after the end  
21                  of an appropriate transition period beginning on the  
22                  date of enactment of such model statute by the State.

23                  (c) STUDY REQUIRED.—The Secretary of the Treasury  
24                  shall conduct a study of—



1           (1) *the progress made by the several States in de-*  
2 *veloping and enacting a model statute which—*

3                   (A) *meets the requirements of subsection (b);*

4           *and*

5                   (B) *furtheres the goals of—*

6                           (i) *preventing money laundering by*  
7 *businesses which are required to be licensed*  
8 *under any such model statute; and*

9                           (ii) *protecting the payment system, in-*  
10 *cluding the receipt, payment, collection, and*  
11 *clearing of checks, from fraud and abuse by*  
12 *such businesses; and*

13           (2) *the adequacy of—*

14                   (A) *the activity of the several States in en-*  
15 *forcing the requirements of such statute; and*

16                   (B) *the resources made available to the ap-*  
17 *propriate State agencies for such enforcement ac-*  
18 *tivity.*

19           (d) *REPORT REQUIRED.—Before the end of the 3-year*  
20 *period beginning on the date of enactment of this Act and*  
21 *by the end of each of the first two 1-year periods beginning*  
22 *after the end of such 3-year period, the Secretary of the*  
23 *Treasury shall submit a report to the Congress containing*  
24 *the findings and recommendations of the Secretary in con-*  
25 *nection with the study under subsection (c), together with*

1 *such recommendations for legislative and administrative*  
2 *action as the Secretary may determine to be appropriate.*

3 *(e) RECOMMENDATIONS IN CASES OF INADEQUATE*  
4 *REGULATION AND ENFORCEMENT BY STATES.—If the Sec-*  
5 *retary of the Treasury determines that any State has been*  
6 *unable—*

7 *(1) to enact a statute which meets the require-*  
8 *ments described in subsection (b);*

9 *(2) to undertake adequate activity to enforce*  
10 *such statute; or*

11 *(3) to make adequate resources available to the*  
12 *appropriate State agency for such enforcement activ-*  
13 *ity;*

14 *the report submitted pursuant to subsection (d) shall con-*  
15 *tain recommendations designed to facilitate enactment and*  
16 *enforcement of such a statute.*

17 *(f) FEDERAL FUNDING STUDY.—*

18 *(1) STUDY REQUIRED.—The Secretary of the*  
19 *Treasury shall conduct a study to identify possible*  
20 *available sources of Federal funding to cover costs to*  
21 *the States to implement this section.*

22 *(2) REPORT.—The Secretary of the Treasury*  
23 *shall submit a report to the Congress on the study*  
24 *conducted pursuant to paragraph (1) before the end*

1       of the 18-month period beginning on the date of en-  
2       actment of this Act.

3       **SEC. 408. REGISTRATION OF MONEY TRANSMITTING BUSI-**  
4                    **NESSES TO PROMOTE EFFECTIVE LAW EN-**  
5                    **FORCEMENT.**

6       (a) *FINDINGS AND PURPOSES.*—

7           (1) *FINDINGS.*—The Congress finds the following:

8                   (A) Money transmitting businesses are sub-  
9                   ject to the recordkeeping and reporting require-  
10                   ments of subchapter II of chapter 53 of title 31,  
11                   United States Code.

12                   (B) Money transmitting businesses are  
13                   largely unregulated businesses and are frequently  
14                   used in sophisticated schemes to—

15                           (i) transfer large amounts of money  
16                           which are the proceeds of unlawful enter-  
17                           prises; and

18                           (ii) evade the requirements of sub-  
19                           chapter II of chapter 53 of title 31, United  
20                           States Code, the Internal Revenue Code of  
21                           1986, and other laws of the United States.

22                   (C) Information on the identity of money  
23                   transmitting businesses and the names of the  
24                   persons who own or control, or are officers or  
25                   employees of, a money transmitting business

1           *would have a high degree of usefulness in crimi-*  
2           *nal, tax, or regulatory investigations and pro-*  
3           *ceedings.*

4           (2) *PURPOSE.*—*It is the purpose of this section*  
5           *to establish a registration requirement for businesses*  
6           *engaged in providing check cashing, currency ex-*  
7           *change, or money transmitting or remittance services,*  
8           *or issuing or redeeming money orders, travelers’*  
9           *checks, and other similar instruments to assist the*  
10          *Secretary of the Treasury, the Attorney General, and*  
11          *other supervisory and law enforcement agencies to ef-*  
12          *fectively enforce the criminal, tax, and regulatory*  
13          *laws and prevent such money transmitting businesses*  
14          *from engaging in illegal activities.*

15          (b) *IN GENERAL.*—*Subchapter II of chapter 53 of title*  
16          *31, United States Code, is amended by adding at the end*  
17          *the following new section:*

18          **“§ 5329. Registration of money transmitting businesses**

19                 “(a) *REGISTRATION WITH SECRETARY OF THE TREAS-*  
20                 *URY REQUIRED.*—

21                         “(1) *IN GENERAL.*—*Any person who owns or*  
22                         *controls a money transmitting business which is not*  
23                         *a depository institution (as defined in section*  
24                         *19(b)(1)(A) of the Federal Reserve Act) shall register*  
25                         *the business (whether or not the business is licensed*

1 *as a money transmitting business in any State) with*  
2 *the Secretary of the Treasury before the end of the*  
3 *180-day period beginning on the later of—*

4 *“(A) the date of enactment of this section;*

5 *or*

6 *“(B) the date the business is established.*

7 *“(2) FORM AND MANNER OF REGISTRATION.—*

8 *Subject to the requirements of subsection (b), the Sec-*  
9 *retary of the Treasury shall prescribe, in regulations,*  
10 *the form and manner for registering a money trans-*  
11 *mitting business pursuant to paragraph (1).*

12 *“(3) BUSINESSES REMAIN SUBJECT TO STATE*

13 *LAW.—This section shall not be construed as supersed-*  
14 *ing any requirement of State law relating to money*  
15 *transmitting businesses operating in such State.*

16 *“(4) FALSE AND INCOMPLETE INFORMATION.—*

17 *The filing of false or materially incomplete informa-*  
18 *tion in connection with the registration of a money*  
19 *transmitting business shall be considered as a failure*  
20 *to comply with the requirements of this subsection.*

21 *“(b) CONTENTS OF REGISTRATION.—The registration*  
22 *of a money transmitting business under subsection (a) shall*  
23 *include the following information:*

24 *“(1) The name and location of the business.*

1           “(2) *The name and address of each person*  
2 *who—*

3                   “(A) *owns or controls the business;*

4                   “(B) *is a director or officer of the business;*

5                   *or*

6                   “(C) *otherwise participates in the conduct*  
7 *of the affairs of the business.*

8           “(3) *The name and address of any depository in-*  
9 *stitution at which the business maintains a trans-*  
10 *action account (as defined in section 19(b)(1)(C) of*  
11 *the Federal Reserve Act).*

12           “(4) *An estimate of the volume of business to be*  
13 *reported annually.*

14           “(5) *Such other information as the Secretary of*  
15 *the Treasury may require.*

16           “(c) *AGENTS OF MONEY TRANSMITTING BUSI-*  
17 *NESSES.—*

18                   “(1) *MAINTENANCE OF LISTS OF AGENTS OF*  
19 *MONEY TRANSMITTING BUSINESSES.—Pursuant to*  
20 *regulations which the Secretary of the Treasury shall*  
21 *prescribe, each money transmitting business shall—*

22                           “(A) *maintain a list containing the names*  
23 *and addresses of all persons authorized to act as*  
24 *an agent for such business in connection with ac-*  
25 *tivities described in subsection (d)(1)(A) and*

1           *such other information about such agents as the*  
2           *Secretary may require; and*

3           *“(B) make the list and other information*  
4           *available on request to any appropriate law en-*  
5           *forcement agency.*

6           *“(2) TREATMENT OF AGENT AS MONEY TRANS-*  
7           *MITTING BUSINESS.—The Secretary of the Treasury*  
8           *shall prescribe regulations establishing, on the basis of*  
9           *such criteria as the Secretary determines to be appro-*  
10          *priate, a threshold point for treating an agent of a*  
11          *money transmitting business as a money transmit-*  
12          *ting business for purposes of this section.*

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

14          *“(1) MONEY TRANSMITTING BUSINESS.—The*  
15          *term ‘money transmitting business’ means any busi-*  
16          *ness other than the United States Postal Service*  
17          *which—*

18                  *“(A) provides check cashing, currency ex-*  
19                  *change, or money transmitting or remittance*  
20                  *services, or issues or redeems money orders, trav-*  
21                  *elers’ checks, and other similar instruments;*

22                  *“(B) is required to file reports under section*  
23                  *5313; and*

1           “(C) is not a depository institution (as de-  
2           fined in section 19(b)(1)(A) of the Federal Re-  
3           serve Act).

4           “(2) *MONEY TRANSMITTING SERVICE.*—The term  
5           ‘money transmitting service’ includes accepting cur-  
6           rency or funds denominated in the currency of any  
7           country and transmitting the currency or funds, or  
8           the value of the currency or funds, by any means  
9           through a financial agency or institution, a Federal  
10          reserve bank or other facility of the Board of Gov-  
11          ernors of the Federal Reserve System, or an electronic  
12          funds transfer network.

13          “(e) *CIVIL PENALTY FOR FAILURE TO COMPLY WITH*  
14          *REGISTRATION REQUIREMENTS.*—

15                 “(1) *IN GENERAL.*—Any person who fails to  
16                 comply with the money transmitting business reg-  
17                 istration requirements under subsection (a) or regula-  
18                 tions prescribed under such subsection shall be liable  
19                 to the United States for a civil penalty of \$5,000 for  
20                 each such violation.

21                 “(2) *CONTINUING VIOLATION.*—Each day a vio-  
22                 lation described in paragraph (1) continues shall con-  
23                 stitute a separate violation for purposes of such para-  
24                 graph.



1           “(3) *ASSESSMENTS.*—Any penalty imposed  
2           under this subsection shall be assessed and collected by  
3           the Secretary of the Treasury in the manner provided  
4           in section 5321 and any such assessment shall be sub-  
5           ject to the provisions of such section.”

6           (c) *CRIMINAL PENALTY FOR FAILURE TO COMPLY*  
7           *WITH REGISTRATION REQUIREMENTS.*—Section 1960(b)(1)  
8           of title 18, United States Code, is amended to read as fol-  
9           lows:

10           “(1) the term ‘illegal money transmitting busi-  
11           ness’ means a money transmitting business which af-  
12           fects interstate or foreign commerce in any manner or  
13           degree and—

14           “(A) is intentionally operated without an  
15           appropriate money transmitting license in a  
16           State where such operation is punishable as a  
17           misdemeanor or a felony under State law; or

18           “(B) fails to comply with the money trans-  
19           mitting business registration requirements under  
20           section 5329 of title 31, United States Code, or  
21           regulations prescribed under such section;”

22           (d) *CIVIL FORFEITURE.*—Section 981(a)(1)(A) of title  
23           18, United States Code, is amended by striking “or of sec-  
24           tion 1956 or 1957 of this title,” and inserting “, of section  
25           1956, 1957, or 1960 of this title,”

1       (e) *CLERICAL AMENDMENT.*—The table of sections for  
2 chapter 53 of title 31, United States Code, is amended by  
3 inserting after the item relating to section 5328 the follow-  
4 ing new item:

“5329. Registration of money transmitting businesses.”.

5       **SEC. 409. CRIMINAL AND CIVIL PENALTY FOR STRUCTUR-**  
6                                   **ING DOMESTIC AND INTERNATIONAL TRANS-**  
7                                   **ACTIONS.**

8       (a) *CRIMINAL PENALTY.*—Section 5324 of title 31,  
9 United States Code, is amended by adding at the end the  
10 following new subsection:

11       “(c) *CRIMINAL PENALTY.*—

12               “(1) *IN GENERAL.*—Whoever violates this section  
13 shall be fined in accordance with title 18, United  
14 States Code, imprisoned for not more than 5 years,  
15 or both.

16               “(2) *ENHANCED PENALTY FOR AGGRAVATED*  
17 *CASES.*—Whoever violates this section while violating  
18 another law of the United States or as part of a pat-  
19 tern of any illegal activity involving more than  
20 \$100,000 in a 12-month period shall be fined twice  
21 the amount provided in subsection (b)(3) or (c)(3) (as  
22 the case may be) of section 3571 of title 18, United  
23 States Code, imprisoned for not more than 10 years,  
24 or both.”.

1       (b) *AMENDMENT RELATING TO CIVIL PENALTY.*—Sec-  
2       tion 5321(a)(4)(A) of title 31, United States Code, is  
3       amended by striking “willfully”.

4       (c) *TECHNICAL AND CONFORMING AMENDMENT.*—Sub-  
5       sections (a) and (b) of section 5322 of title 31, United States  
6       Code, are amended by inserting “or 5324” after “section  
7       5315” each place such term appears.

8       **SEC. 410. GAO STUDY OF CASHIERS’ CHECKS.**

9       (a) *STUDY REQUIRED.*—The Comptroller General of  
10       the United States shall conduct a study to determine—

11               (1) *the extent to which the practice of issuing of*  
12               *cashiers’ checks by financial institutions is vulnerable*  
13               *to money laundering schemes;*

14               (2) *the extent to which additional recordkeeping*  
15               *requirements should be imposed on financial institu-*  
16               *tions which issue cashiers’ checks; and*

17               (3) *such other factors relating to the use and reg-*  
18               *ulation of cashiers’ checks as the Comptroller General*  
19               *determines to be appropriate.*

20       (b) *REPORT REQUIRED.*—Before the end of the 180-  
21       day period beginning on the date of enactment of this Act,  
22       the Comptroller General shall submit a report to the Con-  
23       gress containing—

1           (1) *the findings and conclusions in connection*  
2           *with the study conducted pursuant to subsection (a);*  
3           *and*

4           (2) *such recommendations for legislative and ad-*  
5           *ministrative action as the Comptroller General may*  
6           *determine to be appropriate.*

7           ***TITLE V—FAIR TRADE IN***  
8           ***FINANCIAL SERVICES***

9           ***SEC. 501. SHORT TITLE.***

10          *This title may be cited as the “Fair Trade in Finan-*  
11          *cial Services Act of 1994”.*

12          ***SEC. 502. EFFECTUATING THE PRINCIPLE OF NATIONAL***  
13          ***TREATMENT FOR BANKING ORGANIZATIONS.***

14          *The International Banking Act of 1978 (12 U.S.C.*  
15          *3101 et seq.) is amended by adding at the end the following*  
16          *new section:*

17          ***“SEC. 18. NATIONAL TREATMENT.***

18          ***“(a) PURPOSE.—****The purpose of this section is to en-*  
19          *courage foreign countries to accord national treatment to*  
20          *United States banking organizations that operate or seek*  
21          *to operate in those countries.*

22          ***“(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL***  
23          ***TREATMENT TO UNITED STATES BANKS OR BANK HOLD-***  
24          ***ING COMPANIES.—****The Secretary shall identify the extent*

1 *to which foreign countries deny national treatment to Unit-*  
2 *ed States banking organizations—*

3           “(1) *according to the most recent report under*  
4 *section 3602 of the Omnibus Trade and Competitive-*  
5 *ness Act of 1988 (or update thereof); or*

6           “(2) *based on more recent information that the*  
7 *Secretary deems appropriate.*

8           “(c) *DETERMINING WHETHER DENIAL OF NATIONAL*  
9 *TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—*

10           “(1) *IN GENERAL.—The Secretary shall deter-*  
11 *mine whether the denial of national treatment to*  
12 *United States banking organizations by a foreign*  
13 *country identified under subsection (b) has a signifi-*  
14 *cant adverse effect on such organizations.*

15           “(2) *FACTORS TO BE CONSIDERED.—In deter-*  
16 *mining whether and to what extent a foreign country*  
17 *denies national treatment to United States banking*  
18 *organizations, and in determining the effect of any*  
19 *such denial on such banking organizations, the Sec-*  
20 *retary shall consider appropriate factors, including—*

21           “(A) *the size of the foreign country’s mar-*  
22 *kets for the financial services involved, and the*  
23 *extent to which United States banking organiza-*  
24 *tions operate or seek to operate in those markets;*

1           “(B) the extent to which United States  
2 banking organizations may participate in devel-  
3 oping regulations, guidelines, or other policies  
4 regarding new products, services, and markets in  
5 the foreign country;

6           “(C) the extent to which the foreign country  
7 issues written regulations, guidelines, or other  
8 policies applicable to United States banking or-  
9 ganizations operating or seeking to operate in  
10 the foreign country that are—

11                   “(i) prescribed after adequate notice  
12 and opportunity for comment;

13                   “(ii) readily available to the public;  
14 and

15                   “(iii) prescribed in accordance with  
16 objective standards that effectively prevent  
17 arbitrary and capricious determinations;

18           “(D) the extent to which United States  
19 banking organizations may offer foreign ex-  
20 change services in the foreign country; and

21           “(E) the effects of the regulatory policies of  
22 the foreign country on—

23                   “(i) the lending policies of the central  
24 bank of that country;

1                   “(ii) capital requirements applicable  
2                   in that country;

3                   “(iii) the regulation of deposit interest  
4                   rates by that country;

5                   “(iv) restrictions on the operation and  
6                   establishment of branches in that country;  
7                   and

8                   “(v) restrictions on access to automated  
9                   teller machine networks in that country.

10                  “(d) PUBLICATION OF DETERMINATION.—

11                   “(1) IN GENERAL.—If the Secretary determines  
12                   under subsection (c) that the denial of national treat-  
13                   ment to United States banking organizations by a  
14                   foreign country has a significant adverse effect on  
15                   such organizations, the Secretary—

16                   “(A) may, after initiating negotiations in  
17                   accordance with subsection (g), and after con-  
18                   sultation in accordance with subsection (i), pub-  
19                   lish that determination in the Federal Register;

20                   “(B) shall, not less frequently than annu-  
21                   ally, in consultation with any department or  
22                   agency that the Secretary deems appropriate, re-  
23                   view each such determination to determine  
24                   whether it should be rescinded; and

1           “(C) shall inform State bank supervisors of  
2           the publication of that determination.

3           “(2) EXCEPTION FOR COUNTRIES THAT ARE PAR-  
4           TIES TO CERTAIN AGREEMENTS GOVERNING FINAN-  
5           CIAL SERVICES.—Paragraph (1) shall not apply to a  
6           foreign country to the extent that any authority  
7           under that paragraph would permit action to be  
8           taken that would be inconsistent with a bilateral or  
9           multilateral agreement (including any dispute resolu-  
10          tion procedures contained in such agreement) that  
11          governs financial services that—

12                 (A) the President entered into with that  
13                 country; and

14                 (B) the Senate and House of Representa-  
15                 tives approved;

16          before the date of enactment of this section.

17          “(e) SANCTIONS.—

18                 “(1) ACTION BY SECRETARY OF TREASURY.—

19                         “(A) IN GENERAL.—The Secretary may,  
20                         after consultation in accordance with subsection  
21                         (i), recommend to the appropriate Federal bank-  
22                         ing agency that such agency deny or suspend  
23                         consideration of a request for authorization filed  
24                         after the date of publication of a determination  
25                         under subsection (d)(1) by a person of a foreign



1 country listed in such publication if the Sec-  
2 retary determines that—

3 “(i) such action would assist the Unit-  
4 ed States in negotiations to eliminate dis-  
5 crimination against United States banking  
6 organizations;

7 “(ii) negotiations undertaken pursuant  
8 to subsection (g) are not likely to result in  
9 an agreement that eliminates the denial of  
10 national treatment; or

11 “(iii) the country has not adequately  
12 adhered to an agreement reached as a result  
13 of negotiations undertaken pursuant to sub-  
14 section (g).

15 “(B) EXERCISE OF AUTHORITY.—The au-  
16 thority of subparagraph (A) shall be exercised  
17 according to the specific direction (if any) of the  
18 President.

19 “(C) COMPLIANCE EXCEPTIONS.—The ap-  
20 propriate Federal banking agency shall comply  
21 with the recommendation of the Secretary made  
22 under subparagraph (A), unless the agency deter-  
23 mines, in writing, and transmits such deter-  
24 mination to the Secretary and to the Congress,  
25 that such recommendation—

1           “(i) would likely result in a serious  
2           impairment to the safe and sound operation  
3           of the United States banking system; or

4           “(ii) would compromise the ability of a  
5           Federal banking agency to resolve a failing  
6           or failed financial institution because a for-  
7           eign banking institution otherwise barred  
8           by an action under subparagraph (A) rep-  
9           resents the only bona fide reasonable offer  
10          available to the Federal banking agency.

11          “(2) NO AFFECT ON CERTAIN AGREEMENTS.—

12          *The exercise of authority under this subsection does*  
13          *not affect any obligation of the United States to pur-*  
14          *sue dispute resolution procedures pursuant to any*  
15          *international agreement governing financial services,*  
16          *approved by the House of Representatives and the*  
17          *Senate, with respect to a dispute arising out of any*  
18          *obligation under that agreement.*

19          “(f) EXEMPTIONS FROM SANCTIONS.—

20          “(1) IN GENERAL.—Subsection (e) does not  
21          apply to the subsidiaries in the United States of a  
22          person of a foreign country if the Secretary deter-  
23          mines that the banking laws and regulations of the  
24          foreign country, as actually applied, meet or exceed—

1           “(A) *the standards for treatment of subsidi-*  
2           *aries of United States banking organizations*  
3           *contained in the Second Banking Directive, and*  
4           *in any amendment to the Second Banking Direc-*  
5           *tive, if the Secretary determines that such*  
6           *amendment—*

7                     “(i) *does not restrict any operation,*  
8                     *activity, or authority to expand any oper-*  
9                     *ation or activity, permitted under those*  
10                    *standards, of any subsidiary in the foreign*  
11                    *country of any such bank or bank holding*  
12                    *company; or*

13                   “(ii) *is in accordance with national*  
14                    *treatment of subsidiaries of such banking*  
15                    *organizations; or*

16           “(B) *any set of standards that, taken as a*  
17            *whole, is no less favorable to United States bank-*  
18            *ing organizations than the standards referred to*  
19            *in subparagraph (A).*

20           “(2) *STANDARDS FOR EXERCISE OF DISCRE-*  
21            *TION.—In exercising any discretion under this sub-*  
22            *section, the Secretary shall consider, with respect to*  
23            *a bank, foreign bank, branch, agency, commercial*  
24            *lending company, or other affiliated entity that is a*

1 *person of a foreign country and that is operating in*  
2 *the United States—*

3 *“(A) the extent to which the foreign country*  
4 *is progressing toward according national treat-*  
5 *ment to United States banking organizations;*  
6 *and*

7 *“(B) whether the foreign country permits*  
8 *United States banking organizations to expand*  
9 *their activities in that country, even if that*  
10 *country determined that the United States did*  
11 *not accord national treatment to the banking or-*  
12 *ganizations of that country.*

13 *“(g) NEGOTIATIONS.—*

14 *“(1) IN GENERAL.—The Secretary—*

15 *“(A) shall initiate negotiations with any*  
16 *foreign country with respect to which a deter-*  
17 *mination made under subsection (c)(1) is in*  
18 *effect; and*

19 *“(B) may initiate negotiations with any*  
20 *foreign country which denies national treatment*  
21 *to United States banking organizations to ensure*  
22 *that the foreign country accords national treat-*  
23 *ment to such organizations.*

1           “(2) *EXCEPTIONS.*—Paragraph (1) does not re-  
2           quire the Secretary to initiate negotiations with a for-  
3           eign country if the Secretary—

4                   “(A) determines that the negotiations—

5                           “(i) would be so unlikely to result in  
6                           progress toward according national treat-  
7                           ment to United States banking organiza-  
8                           tions as to be a waste of effort; or

9                           “(ii) would impair the economic inter-  
10                          ests of the United States; and

11                   “(B) gives written notice of that determina-  
12                   tion to the chairperson and the ranking minority  
13                   member of the Committee on Banking, Housing,  
14                   and Urban Affairs of the Senate and of the Com-  
15                   mittee on Banking, Finance and Urban Affairs  
16                   of the House of Representatives.

17           “(h) *REPORT.*—

18                   “(1) *CONTENTS OF REPORT.*—Not later than De-  
19                   cember 1, 1994, and biennially thereafter, the Sec-  
20                   retary shall submit to the Congress a report that—

21                           “(A) specifies the foreign countries identi-  
22                           fied under subsection (b);

23                           “(B) if a determination is published under  
24                           subsection (d)(1) with respect to the foreign  
25                           country, provides the reasons therefor;

1           “(C) if the Secretary has not made or has  
2           rescinded such a determination with respect to  
3           the foreign country, provides the reasons therefor;

4           “(D) describes the results of any negotia-  
5           tions conducted under subsection (g)(1) with the  
6           foreign country; and

7           “(E) discusses the effectiveness of this sec-  
8           tion in achieving the purpose of this section.

9           “(2) SUBMISSION OF REPORT.—The report re-  
10          quired by paragraph (1) may be submitted as part of  
11          a report or update submitted under section 3602 of  
12          the Omnibus Trade and Competitiveness Act of 1988.

13          “(i) CONSULTATION.—Consultation in accordance  
14          with this subsection means consultation with the Secretary  
15          of State, the Secretary of Commerce, the United States  
16          Trade Representative, and the appropriate Federal banking  
17          agency.

18          “(j) DEFINITIONS.—For purposes of this section, the  
19          following definitions shall apply:

20                  “(1) APPROPRIATE FEDERAL BANKING AGEN-  
21                  CY.—The term ‘appropriate Federal banking agen-  
22                  cy’—

23                          “(A) in the case of a noninsured State bank  
24                          or branch and a representative office of a foreign

1           *bank, means the Board of Governors of the Fed-*  
2           *eral Reserve System; and*

3           *“(B) in any other case, has the same mean-*  
4           *ing as in section 3 of the Federal Deposit Insur-*  
5           *ance Act.*

6           *“(2) BANKING ORGANIZATION.—The term ‘bank-*  
7           *ing organization’ means—*

8           *“(A) a depository institution, as defined in*  
9           *section 3 of the Federal Deposit Insurance Act,*  
10          *including a branch or subsidiary thereof;*

11          *“(B) a bank holding company, as defined in*  
12          *section 2 of the Bank Holding Company Act of*  
13          *1956;*

14          *“(C) any company required to file informa-*  
15          *tion pursuant to section 4(f)(6) of the Bank*  
16          *Holding Company Act of 1956;*

17          *“(D) a savings and loan holding company,*  
18          *as defined in section 10(a)(1)(D) of the Home*  
19          *Owners’ Loan Act; and*

20          *“(E) any nonbank financial entity, the pri-*  
21          *mary purpose of which is to provide credit or fi-*  
22          *nancing, regardless of whether such entity ac-*  
23          *cepts deposits.*

24          *“(3) NATIONAL TREATMENT.—A foreign country*  
25          *accords ‘national treatment’ to United States banking*

1        *organizations if it offers them the same competitive*  
2        *opportunities (including effective market access) as*  
3        *are available to its domestic banking organizations in*  
4        *like circumstances.*

5            “(4) *PERSON OF A FOREIGN COUNTRY.*—The  
6        *term ‘person of a foreign country’ means—*

7            “(A) *a person organized under the laws of*  
8        *the foreign country;*

9            “(B) *a person that has its principal place*  
10       *of business in the foreign country;*

11          “(C) *an individual who is—*

12            “(i) *a citizen of the foreign country, or*

13            “(ii) *domiciled in the foreign country;*

14          *and*

15          “(D) *a person that is directly or indirectly*  
16       *controlled by a person or persons described in*  
17       *subparagraph (A) or (B), or by an individual or*  
18       *individuals described in subparagraph (C).*

19          “(5) *REQUEST FOR AUTHORIZATION.*—The term  
20       *‘request for authorization’—*

21          “(A) *means an application, registration,*  
22       *notice, or other request to commence a financial*  
23       *service or establish a financial services office that*  
24       *is required under title LXII of the Revised Stat-*  
25       *utes, the International Banking Act of 1978, the*



1           *Federal Reserve Act, the Home Owners' Loan*  
2           *Act, or the Bank Holding Company Act of 1956;*  
3           *and*

4           “(B) does not include any such request by  
5           a company described in section 2(h)(2) of the  
6           *Bank Holding Company Act of 1956.*

7           “(6) *SECOND BANKING DIRECTIVE.*—The term  
8           ‘*Second Banking Directive*’ means the *Second Council*  
9           *Directive of December 15, 1989, on the Coordination*  
10           *of Laws, Regulations, and Administrative Provisions*  
11           *Relating to the Taking Up and Pursuit of the Busi-*  
12           *ness of Credit Institutions and Amending Directive*  
13           *77/780/EEC (89/646/EEC).*

14           “(7) *SECRETARY.*—The term ‘*Secretary*’ means  
15           *the Secretary of the Treasury.*”

16   ***SEC. 503. EFFECTUATING THE PRINCIPLE OF NATIONAL***  
17                           ***TREATMENT FOR SECURITIES ORGANIZA-***  
18                           ***TIONS.***

19           (a) *PURPOSE.*—The purpose of this section is to en-  
20           courage foreign countries to accord national treatment to  
21           United States securities organizations that operate or seek  
22           to operate in those countries.

23           (b) *IDENTIFYING COUNTRIES THAT DENY NATIONAL*  
24           *TREATMENT TO UNITED STATES SECURITIES ORGANIZA-*  
25           *TIONS.*—The Secretary shall identify whether and to what

1 *extent foreign countries deny national treatment to United*  
2 *States securities organizations—*

3 *(1) according to the most recent report under sec-*  
4 *tion 3602 of the Omnibus Trade and Competitiveness*  
5 *Act of 1988 (or update thereof); or*

6 *(2) based upon more recent information that the*  
7 *Secretary deems appropriate.*

8 *(c) DETERMINING WHETHER DENIAL OF NATIONAL*  
9 *TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—The*  
10 *Secretary shall determine whether the denial of national*  
11 *treatment to United States securities organizations by a*  
12 *foreign country identified under subsection (b) has a sig-*  
13 *nificant adverse effect on such organizations.*

14 *(d) PUBLICATION OF DETERMINATION.—*

15 *(1) IN GENERAL.—If the Secretary determines*  
16 *under subsection (c) that the denial of national treat-*  
17 *ment to United States securities organizations by a*  
18 *foreign country has a significant adverse effect on*  
19 *such organizations, the Secretary—*

20 *(A) may, after initiating negotiations in*  
21 *accordance with subsection (f), and after con-*  
22 *sultation in accordance with subsection (h), pub-*  
23 *lish that determination in the Federal Register;*  
24 *and*

1           (B) shall, not less frequently than annually,  
2           in consultation with any department or agency  
3           that the Secretary deems appropriate, review  
4           each such determination to determine whether it  
5           should be rescinded.

6           (2) *EXCEPTION FOR COUNTRIES THAT ARE PAR-*  
7           *TIES TO CERTAIN AGREEMENTS GOVERNING FINAN-*  
8           *CIAL SERVICES.*—Paragraph (1) shall not apply to a  
9           foreign country to the extent that any authority  
10          under that paragraph would permit action to be  
11          taken that would be inconsistent with a bilateral or  
12          multilateral agreement (including any dispute resolu-  
13          tion procedures contained in such agreement) that  
14          governs financial services that—

15               (A) the President entered into with that country;

16           and

17               (B) the Senate and House of Representatives ap-  
18          proved;

19          before the date of enactment of this section.

20          (e) *SANCTIONS.*—

21               (1) *ACTION BY SECRETARY OF TREASURY.*—

22                       (A) *IN GENERAL.*—The Secretary may, after  
23                       consultation in accordance with subsection (h),  
24                       recommend to the Commission that the Commis-  
25                       sion deny or suspend consideration of a request

1           for authorization filed after the date of publica-  
2           tion of a determination under subsection (d)(1)  
3           by a person of a foreign country listed in such  
4           publication if the Secretary determines that—

5                   (i) such action would assist the United  
6                   States in negotiations to eliminate dis-  
7                   crimination against United States securi-  
8                   ties organizations;

9                   (ii) negotiations undertaken pursuant  
10                  to subsection (f) are not likely to result in  
11                  an agreement that eliminates the denial of  
12                  national treatment; or

13                  (iii) the country has not adequately  
14                  adhered to an agreement reached as a result  
15                  of negotiations undertaken pursuant to sub-  
16                  section (f).

17           (B) *EXERCISE OF AUTHORITY.*—The au-  
18           thority of subparagraph (A) shall be exercised  
19           according to the specific direction (if any) of the  
20           President.

21           (C) *COMMISSION ACTION.*—The Commission  
22           shall deny or suspend consideration of a request  
23           for authorization in accordance with the rec-  
24           ommendation of the Secretary made under sub-  
25           paragraph (A), unless such recommendation

1           *would likely result in a serious adverse impact*  
2           *on—*

3                     *(i) the maintenance of fair and orderly*  
4                     *securities markets; or*

5                     *(ii) the protection of investors.*

6                     *(D) AUTHORITY UPON DENIAL OF AUTHOR-*  
7                     *IZATION.—*

8                     *(i) IN GENERAL.—In connection with*  
9                     *the denial of a request for authorization*  
10                    *under subparagraph (A), the Commission*  
11                    *may order—*

12                             *(I) disposition of any controlling*  
13                             *interest referred to in subsection*  
14                             *(i)(9)(B)(i);*

15                             *(II) closure of any office referred*  
16                             *to in subsection (i)(9)(B)(ii); or*

17                             *(III) termination of any advisory*  
18                             *relationship referred to in subpara-*  
19                             *graphs (C) and (D) of subsection*  
20                             *(i)(9).*

21                             *(ii) PENALTY FOR NONCOMPLIANCE.—*

22                    *The Commission may revoke the underlying*  
23                    *registration under Federal securities laws of*  
24                    *any person who fails to comply with an*  
25                    *order issued under clause (i).*

1           (2) *NOTICE REQUIRED TO FILE REQUESTS FOR*  
2 *AUTHORIZATION.*—

3           (A) *IN GENERAL.*—*If a determination is*  
4 *published under subsection (d)(1) with respect to*  
5 *a foreign country, no person of that foreign*  
6 *country may file a request for authorization un-*  
7 *less such person files notice of such request si-*  
8 *multaneously with the Commission and the Sec-*  
9 *retary, not less than 90 days in advance of the*  
10 *action that is the subject of the request, in such*  
11 *form and containing such information as the*  
12 *Commission may prescribe by rule.*

13           (B) *NOTIFYING SECRETARY.*—*The Commis-*  
14 *sion shall promptly notify the Secretary of any*  
15 *notice received under subparagraph (A).*

16           (C) *EXTENDING 90-DAY PERIOD.*—*The Com-*  
17 *mission may, by order, extend for an additional*  
18 *180 days the period during which the Commis-*  
19 *sion may consider a notice received under sub-*  
20 *paragraph (A).*

21           (3) *STANDARDS FOR EXERCISE OF DISCRE-*  
22 *TION.*—*In exercising any discretion under this sub-*  
23 *section, the Secretary shall consider, with respect to*  
24 *a securities organization that is controlled, directly or*  
25 *indirectly, by a person of a foreign country—*

1           (A) *the extent to which the foreign country*  
2 *is progressing toward according national treat-*  
3 *ment to United States securities organizations;*  
4 *and*

5           (B) *whether the foreign country permits*  
6 *United States securities organizations to expand*  
7 *their activities in that country, even if that*  
8 *country determined that the United States did*  
9 *not accord national treatment to securities orga-*  
10 *nizations of that country.*

11 (f) *NEGOTIATIONS.—*

12           (1) *IN GENERAL.—The Secretary—*

13           (A) *shall initiate negotiations with any for-*  
14 *foreign country with respect to which a determina-*  
15 *tion under subsection (c)(1) is in effect; and*

16           (B) *may initiate negotiations with any for-*  
17 *foreign country which denies national treatment to*  
18 *United States securities organizations to ensure*  
19 *that the foreign country accords national treat-*  
20 *ment to such organizations.*

21           (2) *EXCEPTIONS.—Paragraph (1) does not re-*  
22 *quire the Secretary to initiate negotiations with a for-*  
23 *foreign country if the Secretary—*

24           (A) *determines that the negotiations—*

1           (i) would be so unlikely to result in  
2           progress toward according national treat-  
3           ment to United States securities organiza-  
4           tions as to be a waste of effort; or

5           (ii) would impair the economic inter-  
6           ests of the United States; and

7           (B) gives written notice of that determina-  
8           tion to the chairperson and the ranking minority  
9           member of the Committee on Banking, Housing,  
10          and Urban Affairs of the Senate and of the Com-  
11          mittee of Energy and Commerce of the House of  
12          Representatives.

13       (g) REPORT.—

14           (1) CONTENTS OF REPORT.—Not later than De-  
15          cember 1, 1994, and biennially thereafter, the Sec-  
16          retary shall submit to the Congress a report that—

17           (A) specifies the foreign countries identified  
18          under subsection (b);

19           (B) if a determination is published under  
20          subsection (d)(1) with respect to the foreign  
21          country, provides the reasons therefor;

22           (C) if the Secretary has not made, or has  
23          rescinded, a determination under subsection  
24          (d)(1) with respect to the foreign country, pro-  
25          vides the reasons therefor;



1           (D) describes the results of any negotiations  
2           conducted under subsection (f)(1) with the for-  
3           eign country; and

4           (E) discusses the effectiveness of this section  
5           in achieving the purpose of this section.

6           (2) *SUBMISSION OF REPORT.*—The report re-  
7           quired by paragraph (1) may be submitted as part of  
8           a report or update submitted under section 3602 of  
9           the Omnibus Trade and Competitiveness Act of 1988.

10          (h) *CONSULTATION.*—Consultation in accordance with  
11          this subsection means consultation with the Secretary of  
12          State, the Secretary of Commerce, the United States Trade  
13          Representative, and the Commission.

14          (i) *DEFINITIONS.*—For purposes of this section, the fol-  
15          lowing definitions shall apply:

16               (1) *BROKER.*—The term “broker” has the same  
17               meaning as in section 3(a)(4) of the Securities Ex-  
18               change Act of 1934.

19               (2) *COMMISSION.*—The term “Commission”  
20               means the Securities and Exchange Commission.

21               (3) *CONTROL.*—The terms “directly or indirectly  
22               controlled by” and “controlled, directly or indirectly”  
23               shall have the meanings given to such terms in rules  
24               or regulations issued by the Secretary of the Treasury,

1 *not later than 6 months after the date of enactment*  
2 *of this Act, after consultation with the Commission.*

3 (4) *DEALER.*—*The term “dealer” has the same*  
4 *meaning as in section 3(a)(5) of the Securities Ex-*  
5 *change Act of 1934.*

6 (5) *INVESTMENT ADVISER.*—*The term “invest-*  
7 *ment adviser” has the same meaning as in section*  
8 *202(a)(11) of the Investment Advisers Act of 1940.*

9 (6) *INVESTMENT COMPANY.*—*The term “invest-*  
10 *ment company” has the same meaning as in section*  
11 *3 of the Investment Company Act of 1940.*

12 (7) *NATIONAL TREATMENT.*—*A foreign country*  
13 *accords “national treatment” to United States securi-*  
14 *ties organizations if it offers them the same competi-*  
15 *tive opportunities (including effective market access)*  
16 *as are available to its domestic securities organiza-*  
17 *tions in like circumstances.*

18 (8) *PERSON OF A FOREIGN COUNTRY.*—*The term*  
19 *“person of a foreign country” means—*

20 (A) *a person organized under the laws of*  
21 *the foreign country;*

22 (B) *a person that has its principal place of*  
23 *business in the foreign country;*

24 (C) *an individual who is—*

25 (i) *a citizen of the foreign country; or*

1                   (ii) domiciled in the foreign country;

2                   (D) a person that is directly or indirectly  
3 controlled by one or more persons described in  
4 subparagraph (A), (B), or (C); and

5                   (E) an investment company, an investment  
6 adviser of which is a person described in any of  
7 subparagraphs (A) through (D).

8                   (9) *REQUEST FOR AUTHORIZATION*.—The term  
9 “request for authorization” means—

10                   (A) an application to register under section  
11 15(b), 15B, or 15C of the Securities Exchange  
12 Act of 1934, or section 203(c) of the Investment  
13 Advisers Act of 1940, including an application  
14 to succeed to the business of a registered entity;

15                   (B) an amendment to a registration state-  
16 ment referred to in subparagraph (A) that re-  
17 flects—

18                   (i) the acquisition of control of the reg-  
19 istered entity; or

20                   (ii) the addition of a United States of-  
21 fice by the registered entity;

22                   (C) a registration statement filed by an in-  
23 vestment company under section 8(b) of the In-  
24 vestment Company Act of 1940, if a person of a

1           *foreign country will serve as an investment ad-*  
2           *viser to the investment company; and*

3           *(D) an amendment to an investment com-*  
4           *pany registration statement filed under section*  
5           *8(b) of the Investment Company Act of 1940 that*  
6           *reflects the retention of a person of a foreign*  
7           *country as an investment adviser.*

8           *(10) SECRETARY.—The term “Secretary” means*  
9           *the Secretary of the Treasury.*

10           *(11) SECURITIES ORGANIZATION.—The term “se-*  
11           *curities organization” means a broker, a dealer, an*  
12           *investment company, or an investment adviser.*

13   **SEC. 504. EFFECTUATING THE PRINCIPLE OF NATIONAL**  
14                   **TREATMENT FOR INSURERS AND REINSUR-**  
15                   **ERS.**

16           *(a) PURPOSE.—The purpose of this section is to en-*  
17           *courage foreign countries to accord national treatment to*  
18           *United States insurers and reinsurers that operate or seek*  
19           *to operate in those countries.*

20           *(b) IDENTIFYING COUNTRIES THAT DENY NATIONAL*  
21           *TREATMENT TO UNITED STATES INSURERS OR REINSUR-*  
22           *ERS.—The President or the President’s designee shall iden-*  
23           *tify whether and to what extent foreign countries deny na-*  
24           *tional treatment to United States insurers or reinsurers—*

1           (1) *according to the most recent report under sec-*  
2           *tion 3602 of the Omnibus Trade and Competitiveness*  
3           *Act of 1988 (or update thereof); or*

4           (2) *based on more recent information that the*  
5           *President deems appropriate.*

6           (c) *DETERMINING WHETHER DENIAL OF NATIONAL*  
7           *TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—*

8           (1) *IN GENERAL.—The President shall determine*  
9           *whether the denial of national treatment to United*  
10          *States insurers or reinsurers by a foreign country*  
11          *identified under subsection (b) has a significant ad-*  
12          *verse effect on such organizations.*

13          (2) *FACTORS TO BE CONSIDERED.—In deter-*  
14          *mining whether and to what extent a foreign country*  
15          *denies national treatment to United States insurers*  
16          *or reinsurers, and in determining the effect of any*  
17          *such denial on such insurers or reinsurers, the Presi-*  
18          *dent shall consider appropriate factors, including—*

19                 (A) *the size of the foreign country's markets*  
20                 *for the financial services involved, and the extent*  
21                 *to which United States insurers or reinsurers op-*  
22                 *erate or seek to operate in those markets;*

23                 (B) *the extent to which United States insur-*  
24                 *ers or reinsurers may participate in developing*  
25                 *regulations, guidelines, or other policies regard-*

1            *ing new products, services, and markets in the*  
2            *foreign country;*

3            *(C) the extent to which the foreign country*  
4            *issues written regulations, guidelines, or other*  
5            *policies applicable to United States insurers or*  
6            *reinsurers operating or seeking to operate in the*  
7            *foreign country that are—*

8                    *(i) prescribed after adequate notice and*  
9                    *opportunity for comment;*

10                   *(ii) readily available to the public; and*

11                   *(iii) prescribed in accordance with ob-*  
12                   *jective standards that effectively prevent ar-*  
13                   *bitrary and capricious determinations;*

14            *(D) the effects of the regulatory policies of*  
15            *the foreign country on—*

16                   *(i) the licensing policies of the insur-*  
17                   *ance regulator of that country;*

18                   *(ii) capital requirements applicable in*  
19                   *that country;*

20                   *(iii) restrictions on acquisitions or*  
21                   *joint ventures and operations thereof by in-*  
22                   *surers or reinsurers in that country; and*

23                   *(iv) restrictions on the operation and*  
24                   *establishment of branches in that country.*

25            *(d) PUBLICATION OF DETERMINATION.—*

1           (1) *IN GENERAL.*—If the President determines  
2           under subsection (c) that the denial of national treat-  
3           ment to United States insurers or reinsurers by a for-  
4           eign country has a significant adverse effect on such  
5           organizations, the President—

6                   (A) may, after initiating negotiations in  
7                   accordance with subsection (f) publish that deter-  
8                   mination in the Federal Register;

9                   (B) shall, not less frequently than annually,  
10                  in consultation with any department or agency  
11                  that the President deems appropriate, review  
12                  each such determination to determine whether it  
13                  should be rescinded; and

14                  (C) shall inform State insurance commis-  
15                  sioners of the publication of that determination.

16           (2) *EXCEPTION FOR COUNTRIES THAT ARE PAR-*  
17           *TIES TO CERTAIN AGREEMENTS GOVERNING FINAN-*  
18           *CIAL SERVICES.*—Paragraph (1) shall not apply to a  
19           foreign country to the extent that any authority  
20           under that paragraph would permit action to be  
21           taken that would be inconsistent with a bilateral or  
22           multilateral agreement including any dispute resolu-  
23           tion procedures contained in such agreement that gov-  
24           erns financial services, including insurance, that—

1           (A) *the President entered into with that*  
2           *country; and*

3           (B) *the Senate and the House of Represent-*  
4           *atives approved;*  
5           *before the date of enactment of this section.*

6           (e) *SANCTIONS.—*

7           (1) *ACTIONS BY THE PRESIDENT.—*

8           (A) *IN GENERAL.—The President may rec-*  
9           *ommend to the State insurance commissioners*  
10           *that they deny a foreign insurer's or reinsurer's*  
11           *request for authorization which is filed after the*  
12           *date of publication of a determination under*  
13           *subsection (d)(1) by a person of a foreign coun-*  
14           *try listed in such publication if the President de-*  
15           *termines that—*

16                   (i) *such action would assist the United*  
17                   *States in negotiations to eliminate dis-*  
18                   *crimination against United States insurers*  
19                   *or reinsurers;*

20                   (ii) *negotiations undertaken pursuant*  
21                   *to subsection (f) are not likely to result in*  
22                   *an agreement that eliminates the denial of*  
23                   *national treatment; or*

24                   (iii) *the country has not adequately*  
25                   *adhered to an agreement reached as a result*



1           *of negotiations undertaken pursuant to sub-*  
2           *section (f).*

3           (B) *EXERCISE OF AUTHORITY.*—*If the*  
4           *President delegates his authority under section*  
5           *504(b), the designee’s authority under subpara-*  
6           *graph (A) shall be exercised according to the spe-*  
7           *specific direction (if any) of the President.*

8           (C) *COMPLIANCE EXCEPTIONS.*—*If the*  
9           *State insurance commissioners do not act within*  
10          *90 days on the President’s recommendations in*  
11          *subsection (A), or if the President determines*  
12          *that the procedure outlined in subsection (A) is*  
13          *either inappropriate or impractical to achieve*  
14          *the purpose of this section, the President may*  
15          *take such action as he or she considers necessary*  
16          *and appropriate to encourage foreign countries*  
17          *to accord national treatment to United States*  
18          *insurers and reinsurers that operate or seek to*  
19          *operate in those countries.*

20          (2) *STANDARDS FOR EXERCISE OF DISCRE-*  
21          *TION.*—*In exercising any discretion under subsection*  
22          *(e), the President shall consider, with respect to an*  
23          *insurer or reinsurer, branch, or other affiliated entity*  
24          *that is a person of a foreign country and is operating*  
25          *in the United States—*

1           (A) *the extent to which the foreign country*  
2 *is progressing toward according national treat-*  
3 *ment to United States insurers or reinsurers;*  
4 *and*

5           (B) *whether the foreign country permits*  
6 *United States insurers or reinsurers to expand*  
7 *their activities in that country, even if that*  
8 *country determined that the United States did*  
9 *not accord national treatment to the insurers or*  
10 *reinsurers of that country.*

11 (f) *NEGOTIATIONS.—*

12           (1) *IN GENERAL.—The President—*

13           (A) *shall initiate negotiations with any for-*  
14 *foreign country with respect to which a determina-*  
15 *tion made under subsection (c)(1) is in effect;*  
16 *and*

17           (B) *may initiate negotiations with any for-*  
18 *foreign country which denies national treatment to*  
19 *United States insurers or reinsurers to ensure*  
20 *that the foreign country accords national treat-*  
21 *ment to such insurers or reinsurers.*

22           (2) *EXCEPTIONS.—Paragraph (1) does not re-*  
23 *quire the President to initiate negotiations with a for-*  
24 *foreign country if the President—*

25           (A) *determines that the negotiations—*

1           (i) would be so unlikely to result in  
2           progress toward according national treat-  
3           ment to United States insurers or reinsurers  
4           as to be a waste of effort; or

5           (ii) would impair the economic inter-  
6           ests of the United States; and

7           (B) gives written notice of that determina-  
8           tion to the chairperson and the ranking minority  
9           member of the appropriate Senate and House  
10          committees.

11       (g) REPORT.—

12           (1) CONTENTS OF REPORT.—Not later than De-  
13          cember 1, 1994, and biennially thereafter, the Presi-  
14          dent shall submit to the Congress a report that—

15           (A) specifies the foreign countries identified  
16           under subsection (b);

17           (B) if a determination is published under  
18           subsection (d)(1) with respect to the foreign  
19           country, provides the reasons therefor;

20           (C) if the President has not made or has re-  
21           scinded such a determination with respect to the  
22           foreign country, provides the reasons therefor;

23           (D) describes the results of any negotiations  
24           conducted under subsection (g)(1) with the for-  
25           eign country; and

1           (E) discusses the effectiveness of this section  
2           in achieving the purpose of this section.

3           (2) *SUBMISSION OF REPORT.*—The report re-  
4           quired by paragraph (1) may be submitted as part of  
5           a report or update submitted under section 3602 of  
6           the Omnibus Trade and Competitiveness Act of 1988.

7           (h) *DEFINITIONS.*—For purposes of this section, the  
8           following definitions shall apply:

9           (1) *INSURER.*—The term “insurer” means a  
10          party to a contract of insurance who assumes the risk  
11          and undertakes to indemnify the insured, or pay a  
12          certain sum on the happening of a specified contin-  
13          gency.

14          (2) *NATIONAL TREATMENT.*—A foreign country  
15          accords “national treatment” to United States insur-  
16          ers and reinsurers if it offers them the same competi-  
17          tive opportunities (including effective market access)  
18          as are available to its domestic insurers or reinsurers.

19          (3) *PERSON OF A FOREIGN COUNTRY.*—The term  
20          “person of a foreign country” means—

21                 (A) a person organized under the laws of  
22                 the foreign country;

23                 (B) a person that has its principal place of  
24                 business in the foreign country;

25                 (C) an individual who is—

1                   (i) a citizen of the foreign country, or

2                   (ii) domiciled in the foreign country;

3                   and

4                   (D) a person that is directly or indirectly

5                   controlled by a person or persons described in

6                   subparagraph (A) or (B), or by an individual or

7                   individuals described in subparagraph (C).

8                   (4) *PRESIDENT*.—The term “President” means  
9                   the President of the United States or the President’s  
10                  designee.

11                  (5) *REINSURER*.—The term “reinsurer” means  
12                  an insurer which contracts to indemnify a ceding in-  
13                  surer for all or part of a risk originally undertaken  
14                  by the ceding insurer.

15                  (6) *REQUEST FOR AUTHORIZATION*.—The term  
16                  “request for authorization” means—

17                         (A) an application, registration, notice, or  
18                         other request to commence engaging in the busi-  
19                         ness of insurance in a State; or

20                         (B) an application, registration, notice, or  
21                         other request for renewal of authorization to en-  
22                         gage in the business of insurance in a State.

1 **SEC. 505. FINANCIAL INTERDEPENDENCE STUDY.**

2 *Subtitle G of title III of the Omnibus Trade and Com-*  
3 *petitiveness Act of 1988 (22 U.S.C. 5351 et seq.) is amended*  
4 *by adding at the end the following new section:*

5 **“SEC. 3605. FINANCIAL INTERDEPENDENCE STUDY.**

6 *“(a) INVESTIGATION REQUIRED.—The Secretary, in*  
7 *consultation and coordination with the Securities and Ex-*  
8 *change Commission, the Federal banking agencies, and any*  
9 *other appropriate Federal department or agency designated*  
10 *by the Secretary, shall conduct an investigation to deter-*  
11 *mine—*

12 *“(1) the extent of the interdependence of the fi-*  
13 *ancial services sectors of the United States and for-*  
14 *oreign countries—*

15 *“(A) whose financial services institutions*  
16 *provide financial services in the United States;*  
17 *or*

18 *“(B) whose persons have substantial owner-*  
19 *ship interests in United States financial services*  
20 *institutions; and*

21 *“(2) the economic, strategic, and other con-*  
22 *sequences of that interdependence for the United*  
23 *States.*

24 *“(b) REPORT.—*

25 *“(1) REPORT REQUIRED.—Not later than 3*  
26 *years after the date of enactment of this section, the*

1     *Secretary shall submit a report on the results of the*  
2     *investigation under subsection (a) to the President,*  
3     *the Congress, the Securities and Exchange Commis-*  
4     *sion, the Federal banking agencies, and any other ap-*  
5     *propriate Federal agency or department, as des-*  
6     *ignated by the Secretary.*

7             “(2) *CONTENTS OF REPORT.*—*The report re-*  
8     *quired under paragraph (1) shall—*

9             “(A) *describe the activities and estimate the*  
10     *scope of financial services activities conducted by*  
11     *United States financial services institutions in*  
12     *foreign markets (differentiated according to*  
13     *major foreign markets);*

14             “(B) *describe the activities and estimate the*  
15     *scope of financial services activities conducted by*  
16     *foreign financial services institutions in the*  
17     *United States (differentiated according to the*  
18     *most significant home countries or groups of*  
19     *home countries);*

20             “(C) *estimate the number of jobs created in*  
21     *the United States by financial services activities*  
22     *conducted by foreign financial services institu-*  
23     *tions and the number of jobs created in foreign*  
24     *countries by financial service activities con-*

1           *ducted by United States financial services insti-*  
2           *tutions;*

3           “(D) estimate the additional jobs and reve-

4            *nues (both foreign and domestic) that would be*

5            *created by the activities of United States finan-*

6            *cial services institutions in foreign countries if*

7            *those countries offered such institutions the same*

8            *competitive opportunities (including effective*

9            *market access) as are available to the domestic*

10           *financial services institutions of those countries;*

11          “(E) describe the extent to which foreign fi-

12           *nancial services institutions discriminate*

13           *against United States persons in procurement,*

14           *employment, the provision of credit or other fi-*

15           *nancial services, or otherwise;*

16          “(F) describe the extent to which foreign fi-

17           *nancial services institutions and other persons*

18           *from foreign countries purchase or otherwise fa-*

19           *cilitate the marketing from the United States of*

20           *government and private debt instruments and*

21           *private equity instruments;*

22          “(G) describe how the interdependence of the

23           *financial services sectors of the United States*

24           *and foreign countries affects the autonomy and*

25           *effectiveness of United States monetary policy;*



1           “(H) describe the extent to which United  
2 States companies rely on financing by or  
3 through foreign financial services institutions  
4 and the consequences of such reliance (including  
5 disclosure of proprietary information) for the in-  
6 dustrial competitiveness and national security of  
7 the United States;

8           “(I) describe the extent to which foreign fi-  
9 nancial services institutions, in purchasing high  
10 technology products such as computers and tele-  
11 communications equipment, favor manufacturers  
12 from their home countries over United States  
13 manufacturers; and

14           “(J) contain other appropriate information  
15 relating to the results of the investigation re-  
16 quired by subsection (a).

17           “(c) DEFINITIONS.—For purposes of this section the  
18 following definitions shall apply:

19           “(1) DEPOSITORY INSTITUTION AND DEPOSITORY  
20 INSTITUTION HOLDING COMPANY.—The terms ‘deposi-  
21 tory institution’ and ‘depository institution holding  
22 company’ have the same meanings as in section 3 of  
23 the Federal Deposit Insurance Act.

1           “(2) *FEDERAL BANKING AGENCIES*.—The term  
2           ‘Federal banking agencies’ has the same meaning as  
3           in section 3 of the Federal Deposit Insurance Act.

4           “(3) *FINANCIAL SERVICES INSTITUTION*.—The  
5           term ‘financial services institution’ means—

6                   “(A) a broker, dealer, underwriter, clearing  
7                   agency, transfer agent, or information processor  
8                   with respect to securities, including government  
9                   and municipal securities;

10                   “(B) an investment company, investment  
11                   manager, investment adviser, indenture trustee,  
12                   or any depository institution, insurance com-  
13                   pany, or other organization operating as a fidu-  
14                   ciary, trustee, underwriter, or other financial  
15                   services provider;

16                   “(C) any depository institution or depository  
17                   institution holding company; and

18                   “(D) any other entity providing financial  
19                   services.

20           “(4) *SECRETARY*.—The term ‘Secretary’ means  
21           the Secretary of the Treasury.”

1 **SEC. 506. FEDERAL RESERVE REPORT ON THE FOREIGN**  
2 **BANK SUPERVISION ENHANCEMENT ACT OF**  
3 **1991.**

4 *The Federal Reserve shall submit to the House and*  
5 *Senate Banking Committees within 60 days of enactment*  
6 *of this legislation a report on the Foreign Bank Supervision*  
7 *Enhancement Act of 1991 including:*

8 *(a) the number of applicants received and from*  
9 *what countries;*

10 *(b) the number of applications approved and*  
11 *from what countries;*

12 *(c) the amount of time taken on each application*  
13 *between receipt and approval or rejection of the ap-*  
14 *plication;*

15 *(d) other agencies involved in the approval proc-*  
16 *ess, how much time is taken by those agencies, and*  
17 *any problems encountered with these agencies;*

18 *(e) coordination of processing applications and*  
19 *length of time for processing between the regional*  
20 *bank's and the Federal Reserve Board's staffs;*

21 *(f) efforts to define consolidated home country su-*  
22 *per vision on an international basis, and*

23 *(g) suggestions for streamlining the process.*

24 **SEC. 507. CONFORMING AMENDMENTS.**

25 *(a) REPORTS ON FOREIGN TREATMENT OF UNITED*  
26 *STATES FINANCIAL INSTITUTIONS.—Section 3602 of the*

1 *Omnibus Trade and Competitiveness Act of 1988 (22*  
2 *U.S.C. 5352) is amended—*

3           (1) *in the first sentence, by inserting “with up-*  
4 *dates on significant developments every 2 years fol-*  
5 *lowing submission of the 1994 report,” before “the*  
6 *Secretary of the Treasury”; and*

7           (2) *by adding at the end the following: “For pur-*  
8 *poses of this section, a foreign country denies national*  
9 *treatment to United States entities unless the foreign*  
10 *country offers such entities the same competitive op-*  
11 *portunities (including effective market access) as are*  
12 *available to the domestic entities of the foreign coun-*  
13 *try.”.*

14           (b) *NEGOTIATIONS TO PROMOTE FAIR TRADE IN FI-*  
15 *NANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus*  
16 *Trade and Competitiveness Act of 1988 (22 U.S.C.*  
17 *5353(a)(1)) is amended by inserting “effective” before “ac-*  
18 *cess”.*

19           (c) *PRIMARY DEALERS IN GOVERNMENT DEBT IN-*  
20 *STRUMENTS.—Section 3502(b)(1) of the Omnibus Trade*  
21 *and Competitiveness Act of 1988 (22 U.S.C. 5342(b)(1)) is*  
22 *amended—*

23           (1) *by striking “does not accord to” and insert-*  
24 *ing “does not offer”; and*

1           (2) by striking “as such country accords to” and  
2           inserting “(including effective market access) as are  
3           available to”.

4           (d) *CONFORMING AMENDMENTS TO THE SECURITIES*  
5           *EXCHANGE ACT OF 1934.*—

6           (1) *SECTION 15.*—Section 15(b)(1) of the *Securi-*  
7           *ties Exchange Act of 1934 (15 U.S.C. 78o(b)(1))* is  
8           amended by adding at the end the following: “The  
9           Commission may suspend consideration, deny reg-  
10          istration, issue an order, or revoke registration, as  
11          provided in section 403(e)(1) of the *Fair Trade in Fi-*  
12          *nanacial Services Act of 1994.*”.

13          (2) *SECTION 15B.*—Section 15B(a)(2) of the *Se-*  
14          *curities Exchange Act of 1934 (15 U.S.C. 78o-*  
15          *4(a)(2))* is amended by adding at the end the follow-  
16          ing: “The Commission may suspend consideration,  
17          deny registration, issue an order, or revoke registra-  
18          tion, as provided in section 403(e)(1) of the *Fair*  
19          *Trade in Financial Services Act of 1994.*”.

20          (3) *SECTION 15C.*—Section 15C(a)(2) of the *Se-*  
21          *curities Exchange Act of 1934 (15 U.S.C. 78o-*  
22          *5(a)(2))* is amended by adding at the end the follow-  
23          ing: “The Commission may suspend consideration,  
24          deny registration, issue an order, or revoke registra-

1        *tion, as provided in section 403(e)(1) of the Fair*  
2        *Trade in Financial Services Act of 1994.”.*

3        *(e) CONFORMING AMENDMENT TO THE INVESTMENT*  
4        *COMPANY ACT OF 1940.—Section 8 of the Investment Com-*  
5        *pany Act of 1940 (15 U.S.C. 80a–8) is amended by adding*  
6        *at the end the following new subsection:*

7            *“(g) The Commission may suspend consideration,*  
8        *deny registration, issue an order, or revoke registration, as*  
9        *provided in section 403(e)(1) of the Fair Trade in Finan-*  
10       *cial Services Act of 1994.”.*

11       *(f) CONFORMING AMENDMENT TO THE INVESTMENT*  
12       *ADVISERS ACT OF 1940.—Section 203(c)(2) of the Invest-*  
13       *ment Advisers Act of 1940 (15 U.S.C. (c)(2)) is amended*  
14       *by adding at the end the following: “The Commission may*  
15       *suspend consideration, deny registration, issue an order, or*  
16       *revoke registration, as provided in section 403(e)(1) of the*  
17       *Fair Trade in Financial Services Act of 1994.”.*

## 18        **TITLE VI—NATIONAL FLOOD**

### 19            **INSURANCE REFORM**

#### 20        **SEC. 601. SHORT TITLE.**

21            *This title may be cited as the “National Flood Insur-*  
22        *ance Reform Act of 1994”.*

#### 23        **SEC. 602. CONGRESSIONAL FINDINGS.**

24            *The Congress finds that—*

1           (1) the 4 principal objectives of the National  
2 Flood Insurance Program are to limit increasing  
3 flood control and disaster relief expenditures, to pro-  
4 vide a prefunded mechanism to more fully indemnify  
5 victims of flood-related disasters, to limit unwise de-  
6 velopment in floodplains, and to provide affordable  
7 Federal flood insurance for structures located in areas  
8 of special flood hazards;

9           (2) since 1968, the National Flood Insurance  
10 Program has reduced the need for taxpayer funded  
11 disaster assistance and has been a factor in motivat-  
12 ing local government mitigation efforts.

13           (3) repetitively damaged properties represent a  
14 substantial problem for the National Flood Insurance  
15 Program, with over 40 percent of all flood insurance  
16 claims made on properties that have been damaged  
17 more than once;

18           (4) the problem of erosion warrants greater anal-  
19 ysis;

20           (5) reforms in the National Flood Insurance Pro-  
21 gram are essential to increase participation in the  
22 Program, make the Program more actuarially sound,  
23 decrease the risk of losses to the United States Treas-  
24 ury, and address the problem of properties repet-  
25 itively damaged by floods;

1           (6) a Federal flood insurance program that com-  
2           bines predisaster mitigation efforts together with an  
3           insurance and compliance program will reduce the  
4           physical and economic effects of flood-related damage  
5           on the Federal Government, State and local govern-  
6           ments, and individuals;

7           (7) requiring regulated lending institutions, gov-  
8           ernment agencies, and government-sponsored enter-  
9           prises to make sure that flood insurance coverage is  
10          purchased on all properties in areas of special flood  
11          hazards in participating communities will increase  
12          compliance with the program, and increase the pool  
13          of funds, thereby decreasing the impact on the Na-  
14          tional Flood Insurance Fund of individual flood  
15          events;

16          (8) incentives in the form of reduced premium  
17          rates for flood insurance under the National Flood In-  
18          surance Program should be provided in communities  
19          that have adopted and enforced exemplary or particu-  
20          larly effective measures for comprehensive floodplain  
21          management; and

22          (9) these community-based, individual mitiga-  
23          tion, and loss prevention methods and incentives  
24          should be incorporated into the National Flood Insur-  
25          ance Program.



1 **SEC. 603. DEFINITION.**

2 *As used in this title, the term “Director” means the*  
3 *Director of the Federal Emergency Management Agency.*

4 ***Subtitle A—Definitions***

5 **SEC. 611. FLOOD DISASTER PROTECTION ACT OF 1973.**

6 *(a) IN GENERAL.—Section 3(a) of the Flood Disaster*  
7 *Protection Act of 1973 (42 U.S.C. 4003(a)) is amended—*

8 *(1) by striking paragraph (5) and inserting the*  
9 *following new paragraph:*

10 *“(5) ‘Federal entity for lending regulation’*  
11 *means the Board of Governors of the Federal Reserve*  
12 *System, the Federal Deposit Insurance Corporation,*  
13 *the Comptroller of the Currency, the Office of Thrift*  
14 *Supervision, the National Credit Union Administra-*  
15 *tion Board, and the Farm Credit Administration,*  
16 *and with respect to a particular regulated lending in-*  
17 *stitution means the entity primarily responsible for*  
18 *the supervision of the institution;”;*

19 *(2) in paragraph (6), by striking the period at*  
20 *the end and inserting a semicolon; and*

21 *(3) by inserting after paragraph (6) the follow-*  
22 *ing new paragraphs:*

23 *“(7) ‘regulated lending institution’ means a*  
24 *bank, savings association, credit union, farm credit*  
25 *bank, Federal land bank association, production cred-*

1 *it association, or similar institution subject to the su-*  
2 *per vision of a Federal entity for lending regulation;*

3 *“(8) ‘Federal agency lender’ means the Federal*  
4 *Housing Administration, the Farmers Home Admin-*  
5 *istration, the Small Business Administration, and the*  
6 *Veterans’ Administration, when such agency makes*  
7 *loans secured by improved real estate or a manufac-*  
8 *tured home; and*

9 *“(9) ‘servicer’ means a person who receives any*  
10 *scheduled periodic payments from a borrower pursu-*  
11 *ant to the terms of any loan secured by a lien on real*  
12 *property, and who makes the payments of principal*  
13 *and interest and such other payments with respect to*  
14 *the amounts received from the borrower as may be re-*  
15 *quired.”.*

16 *(b) CONFORMING AMENDMENTS.—*

17 *(1) REQUIREMENTS TO PURCHASE FLOOD INSUR-*  
18 *ANCE.—Section 102(b) of the Flood Disaster Protec-*  
19 *tion Act of 1973 (42 U.S.C. 4012a(b)) is amended by*  
20 *striking “(b) Each Federal instrumentality respon-*  
21 *sible for the supervision, approval, regulation, or in-*  
22 *suring of banks, savings and loan associations, or*  
23 *similar institutions shall by regulation direct such in-*  
24 *stitutions” and inserting the following:*

1       “(b) *FLOOD INSURANCE PURCHASE REQUIRE-*  
2 *MENTS.—Each Federal entity for lending regulation shall*  
3 *by regulation direct regulated lending institutions”.*

4               (2) *EFFECT OF NONPARTICIPATION IN FLOOD IN-*  
5 *SURANCE PROGRAM.—Section 202(b) of the Flood*  
6 *Disaster Protection Act of 1973 (42 U.S.C. 4106(b))*  
7 *is amended by striking “Federal instrumentality de-*  
8 *scribed in such section shall by regulation require the*  
9 *institutions” and inserting “Federal entity for lend-*  
10 *ing regulation (with respect to regulated lending in-*  
11 *stitutions)”.*

12 **SEC. 612. NATIONAL FLOOD INSURANCE ACT OF 1968.**

13       (a) *IN GENERAL.—Section 1370(a) of the National*  
14 *Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amend-*  
15 *ed—*

16               (1) *in paragraph (5), by striking “and” at the*  
17 *end;*

18               (2) *in paragraph (6), by striking the period at*  
19 *the end and inserting a semicolon; and*

20               (3) *by adding at the end the following new para-*  
21 *graphs:*

22               “(7) *the term ‘Federal entity for lending regula-*  
23 *tion’ means the Board of Governors of the Federal Re-*  
24 *serve System, the Federal Deposit Insurance Corpora-*  
25 *tion, the Comptroller of the Currency, the Office of*

1     *Thrift Supervision, and the National Credit Union*  
2     *Administration Board, and with respect to a particu-*  
3     *lar regulated lending institution, means the entity*  
4     *primarily responsible for the supervision of the insti-*  
5     *tution;*

6             “(8) the term ‘regulated lending institution’  
7     *means a bank, savings association, credit union, farm*  
8     *credit bank, Federal land bank association, produc-*  
9     *tion credit association, or similar institution subject*  
10    *to the supervision of a Federal entity for lending reg-*  
11    *ulation;*

12            “(9) the term ‘Federal agency lender’ means the  
13    *Federal Housing Administration, the Farmers Home*  
14    *Administration, the Small Business Administration,*  
15    *and the Veterans’ Administration, when such agency*  
16    *makes loans secured by improved real estate or a*  
17    *manufactured home;*

18            “(10) the term ‘natural and beneficial floodplain  
19    *functions’ means—*

20                    “(A) the functions associated with the natu-  
21                    *ral or relatively undisturbed floodplain that*  
22                    *moderate flooding, retain flood waters, reduce*  
23                    *erosion and sedimentation, mitigate the effects of*  
24                    *waves and storm surge from storms; and*

1           “(B) ancillary beneficial functions, includ-  
2           ing maintenance of water quality, and recharge  
3           of ground water

4           that reduce flood related damage;

5           “(11) the term ‘erosion control measures’ means  
6           a community’s efforts to control erosion through non-  
7           structural and structural projects;

8           “(12) the term ‘repetitive loss structure’ means  
9           an insured property that has incurred flood-related  
10          damage on 2 occasions during a 10-year period end-  
11          ing on the date of the event for which a second claim  
12          is made, in which the cost of repair, on the average,  
13          equaled or exceeded 25 percent of the value of the  
14          structure at the time of each flood event;

15          “(13) the term ‘cost of compliance with land use  
16          and control measures’ means—

17                 “(A) the cost of elevating or floodproofing a  
18                 structure so that the structure is in compliance  
19                 with the minimum performance standards  
20                 adopted by the State or community pursuant to  
21                 section 1315 of the National Flood Insurance Act  
22                 of 1968, or

23                 “(B) the cost of relocation or demolition of  
24                 the structure if the Director demonstrates that  
25                 the structure will collapse or subside as a result

1           *of erosion within 30 years based on State erosion*  
2           *data;*

3           “(14) the term ‘servicer’ means any person who  
4           receives any scheduled periodic payments from a bor-  
5           rower pursuant to the terms of any loan secured by  
6           a lien on real property, and who makes the payments  
7           of principal and interest and such other payments  
8           with respect to the amounts received from the bor-  
9           rower as may be required.”.

10          (b) *CONFORMING AMENDMENT.*—Section 1322(d) of  
11          the National Flood Insurance Act of 1968 (42 U.S.C.  
12          4029(d)) is amended by striking “federally supervised, ap-  
13          proved, regulated or insured financial institution” and in-  
14          serting “regulated lending institution”.

15                           **Subtitle B—Compliance and**  
16                           **Increased Participation**

17          **SEC. 621. EXPANDED FLOOD INSURANCE PURCHASE RE-**  
18                           **QUIREMENTS.**

19          (a) *IN GENERAL.*—Section 102(b) of the Flood Disas-  
20          ter Protection Act of 1973 (42 U.S.C. 4012a(b)), as amend-  
21          ed by section 611(b)(1), is amended—

22                           (1) by striking “Each Federal entity” and in-  
23                           serting the following:

24                           “(1) *IN GENERAL.*—Each Federal entity”;

1           (2) by inserting before “shall by regulation” the  
2 following: “(after consultation and coordination with  
3 the Federal Financial Institutions Examination  
4 Council established under the Federal Financial In-  
5 stitutions Examination Council Act of 1974)”; and

6           (3) by adding at the end the following new para-  
7 graphs:

8           “(2) PROCEDURES IMPLEMENTED BY FNMA,  
9 FHLMC, AND FAMC.—The Federal National Mortgage  
10 Association, the Federal Home Loan Mortgage Cor-  
11 poration, and the Federal Agricultural Mortgage Cor-  
12 poration shall implement procedures reasonably de-  
13 signed to assure that each loan that is—

14           “(A) secured by improved real estate or a  
15 manufactured home located in an area that has  
16 been identified at the time of the origination of  
17 the loan by the Director as an area of special  
18 flood hazards and in which flood insurance is  
19 available under the National Flood Insurance  
20 Act of 1968; and

21           “(B) purchased by any such entity;  
22 is covered for the term of the loan by flood insurance  
23 in the amount provided in paragraph (1).

24           “(3) PROCEDURES IMPLEMENTED BY FEDERAL  
25 AGENCY LENDERS.—Each Federal agency lender shall

1 *implement procedures reasonably designed to assure*  
2 *that all property—*

3 *“(A) that secures loans that the Federal*  
4 *agency lender makes, increases, extends, or re-*  
5 *news; and*

6 *“(B) that is improved by real estate or a*  
7 *manufactured home located in an area that has*  
8 *been identified at the time of the origination of*  
9 *the loan by the Director as an area of special*  
10 *flood hazards and in which flood insurance is*  
11 *available under the National Flood Insurance*  
12 *Act of 1968;*

13 *is covered for the term of the loan by flood insurance*  
14 *in the amount provided in paragraph (1).*

15 *“(4) DEFINITION.—For purposes of this section*  
16 *property improved by real estate means insurable im-*  
17 *provements on that property.”.*

18 *(b) EFFECTIVE DATE.—The provisions of this section*  
19 *shall apply to all transactions occurring after the expira-*  
20 *tion of the 1-year period beginning on the date of enactment*  
21 *of this title.*

22 **SEC. 622. ESCROW OF FLOOD INSURANCE PAYMENTS.**

23 *(a) IN GENERAL.—Section 102 of the Flood Disaster*  
24 *Protection Act of 1973 (42 U.S.C. 4012a) is amended by*  
25 *adding at the end the following new subsection:*



1       “(d) *ESCROW OF FLOOD INSURANCE PAYMENTS.*—

2               “(1) *BY REGULATED LENDING INSTITUTIONS.*—

3       *Each Federal entity for lending regulation, after con-*  
4       *sultation and coordination with the Federal Finan-*  
5       *cial Institutions Examination Council, shall by regu-*  
6       *lation require that, if a regulated lending institution*  
7       *requires the escrowing of taxes, insurance premiums,*  
8       *fees, or any other charges for a loan secured by resi-*  
9       *dential real estate or manufactured homes, all charges*  
10       *for flood insurance under this title for the property*  
11       *shall be paid by the borrower to the institution for the*  
12       *duration of the period during which the regulated*  
13       *lending institution maintains an escrow account.*  
14       *Upon receipt of a notice from the Director or the pro-*  
15       *vider of the insurance that insurance premiums, fees,*  
16       *or other charges are due, the institution shall pay*  
17       *from the escrow account to the provider of the insur-*  
18       *ance the amount of insurance premiums, fees, or other*  
19       *charges owed.*

20               “(2) *BY FEDERAL AGENCY LENDERS.*—*If a Fed-*  
21       *eral agency lender requires the escrowing of taxes, in-*  
22       *surance premiums, fees, or any other charges, then*  
23       *any charges for flood insurance under this title for the*  
24       *residential real estate or the manufactured home shall*  
25       *be paid by the borrower to the Federal agency lender*

1       for the duration of the period during which the Fed-  
2       eral agency lender maintains an escrow account.  
3       Upon receipt of a notice from the Director or the pro-  
4       vider of the insurance that insurance premiums, fees,  
5       or other charges are due, the Federal agency lender  
6       shall pay from the escrow account to the provider of  
7       the insurance the amount of insurance premiums, fees  
8       or other charges owed.

9               “(3) *APPLICABILITY OF REAL ESTATE SETTLE-*  
10       *MENT PROCEDURES ACT.*—Escrow accounts used to  
11       collect flood insurance premiums, fees, or other  
12       charges under this subsection shall be subject to the  
13       provisions of section 10 of the Real Estate Settlement  
14       Procedures Act of 1974.”.

15       (b) *APPLICABILITY.*—Section 102(d) of the Flood Dis-  
16       aster Protection Act of 1973, as added by subsection (a),  
17       shall apply with respect to any loan made, increased, ex-  
18       tended, or renewed after the expiration of the 1-year period  
19       beginning on the date of enactment of this title.

20       **SEC. 623. NOTICE REQUIREMENTS.**

21       Section 1364 of the National Flood Insurance Act of  
22       1968 (42 U.S.C. 4104a) is amended to read as follows:

23       **“SEC. 1364. NOTICE REQUIREMENTS.**

24       “(a) *LENDING INSTITUTIONS.*—Each Federal entity  
25       for lending regulation, after consultation and coordination

1 *with the Federal Financial Institutions Examination*  
2 *Council, shall by regulation require that before a regulated*  
3 *lending institution makes, increases, extends, or renews a*  
4 *loan secured by improved real estate or a manufactured*  
5 *home located in an area that has been identified by the Di-*  
6 *rector as an area of special flood hazards, the institution*  
7 *shall notify the borrower of the special flood hazards and*  
8 *of the need to purchase and maintain flood insurance.*

9       “(b) *FEDERAL AGENCY LENDERS.*—*Before a Federal*  
10 *agency lender makes, increases, extends, or renews a loan*  
11 *secured by improved real estate or a manufactured home*  
12 *located in an area that has been identified by the Director*  
13 *as an area of special flood hazards, the Federal agency lend-*  
14 *er shall notify the borrower of the special flood hazards and*  
15 *of the need to purchase and maintain flood insurance.*

16       “(c) *PARTICIPATING COMMUNITIES.*—*The Director*  
17 *shall by regulation require each participating community,*  
18 *upon receiving the semiannual list prepared by the Director*  
19 *of all revisions to and updates of flood insurance rate maps*  
20 *made during the preceding 6 months, to determine whether*  
21 *any properties in their community have been affected, and*  
22 *to provide annual notice by mail, notice by publication,*  
23 *notice on tax assessments, or notice by other reasonable*  
24 *method, to regulated lending institutions that are known*  
25 *to lend in the community, and to the owners of all prop-*

1 *erties newly determined to be, or no longer to be, in an*  
2 *area of special flood hazards, of the flood insurance pur-*  
3 *chase requirements under section 102(b).*

4       “(d) *CONTENTS OF NOTICE.*—Notification required by  
5 *this section shall include a warning, in a form to be estab-*  
6 *lished by the Director, stating that the real estate or manu-*  
7 *factured home securing the loan is located in an area of*  
8 *special flood hazards, a description of the flood insurance*  
9 *purchase requirements under section 102(b), a statement*  
10 *that flood insurance coverage may be purchased under the*  
11 *National Flood Insurance Program and may also be avail-*  
12 *able from private insurers, and any other information that*  
13 *the Director considers necessary to carry out the purposes*  
14 *of the National Flood Insurance Program.”.*

15 **SEC. 624. PLACEMENT OF FLOOD INSURANCE BY REGU-**  
16 **LATED LENDING INSTITUTION, FEDERAL**  
17 **AGENCY LENDER, OR SERVICER.**

18       (a) *REQUIRED ACTIONS BY LENDER.*—Section 102 of  
19 *the Flood Disaster Protection Act of 1973 (42 U.S.C.*  
20 *4012a), as amended by section 622(a), is amended by add-*  
21 *ing at the end the following new subsection:*

22       “(e) *REQUIRED ACTIONS BY LENDER.*—

23               “(1) *NOTIFICATION TO BORROWER OF LACK OF*  
24 *COVERAGE.*—If, at the time of origination or at any  
25 *other time during the term of a loan secured by im-*

1     *proved real estate or by a manufactured home located*  
2     *in an area that has been identified by the Director*  
3     *as an area of special flood hazards and in which flood*  
4     *insurance is available under this title, a regulated*  
5     *lending institution, Federal agency lender, or servicer*  
6     *determines that the building or manufactured home*  
7     *and any personal property securing the loan held or*  
8     *serviced by the regulated lending institution, Federal*  
9     *agency lender, or servicer is not covered by flood in-*  
10    *surance, in an amount not less than the amount re-*  
11    *quired by subsection (b)(1), the regulated lending in-*  
12    *stitution, Federal agency lender, or servicer shall no-*  
13    *tify the borrower, in a form to be established by the*  
14    *Director, that the borrower should obtain, at the bor-*  
15    *rower's expense, an amount of flood insurance that is*  
16    *not less than the amount required by subsection*  
17    *(b)(1), for the term of the loan. If, not later than 45*  
18    *days after receiving such notification, the borrower*  
19    *fails to purchase such flood insurance, the regulated*  
20    *lending institution, Federal agency lender, or servicer*  
21    *shall purchase the insurance on behalf of the borrower*  
22    *and may charge the borrower for the cost of premiums*  
23    *and fees incurred by the regulated lending institution,*  
24    *Federal agency lender, or servicer in purchasing the*  
25    *insurance.*

1           “(2) *REVIEW.*—

2                   “(A) *BY THE DIRECTOR.*—A borrower may  
3           request, based upon the submission of supporting  
4           technical data, that the Director review a deter-  
5           mination that the improved real estate or manu-  
6           factured home securing the loan is located in an  
7           area of special flood hazards. Not later than 45  
8           days after the Director receives the request, the  
9           Director shall review the determination and pro-  
10          vide the borrower with a letter stating whether or  
11          not the property is in an area of special flood  
12          hazards. The determination of the Director shall  
13          be final. If the Director fails to respond to a re-  
14          quest within 45 days, the property shall be  
15          deemed not to be located in an area having spe-  
16          cial flood hazards.

17                   “(B) *INSURANCE NOT REQUIRED.*—If a per-  
18          son is provided by the borrower with a letter is-  
19          sued by the Director pursuant to subparagraph  
20          (A) during the preceding 1-year period, stating  
21          that the property is not in an area of special  
22          flood hazards, such person shall have no obliga-  
23          tion under this title to require the purchase of  
24          flood insurance on the property.”.

25          (b) *APPLICABILITY.*—



1 *located in an area of special flood hazards and in which*  
2 *flood insurance is available under this title. The determina-*  
3 *tion form may be maintained in a printed, computerized,*  
4 *or electronic manner.*

5       “(b) *DESIGN AND CONTENTS.*—*The determination*  
6 *form shall state whether the property is in an area of spe-*  
7 *cial flood hazards, the risk premium rate classification es-*  
8 *tablished for the special flood hazard area in which the*  
9 *property is located, the complete map and panel numbers*  
10 *for the property, and the date of the map used for the deter-*  
11 *mination. If the complete map and panel numbers for the*  
12 *property are not available because the property is not lo-*  
13 *cated in a community that is participating in the National*  
14 *Flood Insurance Program or because no map exists for the*  
15 *relevant area, the determination form shall so state.*

16       “(c) *REQUIRED USE.*—*Each Federal entity for lending*  
17 *regulation shall by regulation require the use of the deter-*  
18 *mination form by regulated lending institutions. Each Fed-*  
19 *eral agency lender shall by regulation provide for the use*  
20 *of the determination form. The Federal National Mortgage*  
21 *Association, the Federal Home Loan Mortgage Corporation,*  
22 *and the Federal Agricultural Mortgage Corporation shall*  
23 *require use of the determination form by any person from*  
24 *whom they purchase loans.*



1           “(d) *GUARANTEES REGARDING INFORMATION.*—In re-  
2     *ording information on a determination form, a person*  
3     *may rely on information provided by a third party to the*  
4     *extent that the third party guarantees the accuracy of the*  
5     *information.*

6           “(e) *RELIANCE ON PREVIOUS DETERMINATION.*—A  
7     *person or institution increasing, extending, renewing, or*  
8     *purchasing a loan may rely on a previous determination*  
9     *as to whether property is in a special flood hazard area,*  
10    *if the previous determination was made not more than 5*  
11    *years before the date of the transaction, and the basis for*  
12    *the previous determination has been set forth on a deter-*  
13    *mination form.”.*

14          (b) *APPLICABILITY.*—Section 1365 of the National  
15    *Flood Insurance Act of 1968, as added by subsection (a),*  
16    *shall apply to all loans originated on or after the expiration*  
17    *of the 6-month period beginning on the date the standard*  
18    *flood hazard determination form is finalized by the Direc-*  
19    *tor.*

20    **SEC. 626. EXAMINATIONS REGARDING COMPLIANCE BY**  
21                                    **REGULATED LENDING INSTITUTIONS.**

22          (a) *AMENDMENT TO FEDERAL DEPOSIT INSURANCE*  
23    *ACT.*—Section 10 of the Federal Deposit Insurance Act (12  
24    *U.S.C. 1820) is amended by adding at the end the following*  
25    *new subsection:*

1       “(h) *FLOOD HAZARD INSURANCE COMPLIANCE BY IN-*  
2 *SURED DEPOSITORY INSTITUTIONS REQUIRED.*—

3               “(1) *EXAMINATIONS.*—*The appropriate Federal*  
4 *banking agency shall, during each scheduled on-site*  
5 *examination required by this section, determine*  
6 *whether the insured depository institution is comply-*  
7 *ing with the requirements of the National Flood In-*  
8 *surance Program.*

9               “(2) *REPORT.*—*Not later than 1 year after the*  
10 *date of enactment of the National Flood Insurance*  
11 *Reform Act of 1994, and biannually thereafter for the*  
12 *next 4 years, each appropriate Federal banking agen-*  
13 *cy shall submit a report to Congress on compliance*  
14 *by insured depository institutions with the require-*  
15 *ments of the National Flood Insurance Program. The*  
16 *report shall include a description of the methods used*  
17 *to determine compliance, the number of institutions*  
18 *examined during the reporting year, a listing and*  
19 *total number of institutions found to be in non-*  
20 *compliance, actions taken to correct incidents of non-*  
21 *compliance, and an analysis of compliance, including*  
22 *a discussion of any trends, patterns, and problems,*  
23 *and recommendations regarding reasonable actions to*  
24 *improve the efficiency of the examinations processes.”.*

1       (b) *AMENDMENT TO THE FEDERAL CREDIT UNION*  
2 *ACT.—Section 204 of the Federal Credit Union Act (12*  
3 *U.S.C. 1784) is amended by adding at the end the following*  
4 *new subsection:*

5       “(e) *FLOOD HAZARD INSURANCE COMPLIANCE BY IN-*  
6 *SURED CREDIT UNIONS REQUIRED.—*

7           “(1) *EXAMINATION.—The Board shall, during*  
8 *each examination conducted under this section, deter-*  
9 *mine whether the insured credit union is complying*  
10 *with the requirements of the National Flood Insur-*  
11 *ance Program.*

12           “(2) *REPORT.—Not later than 1 year after the*  
13 *date of enactment of the National Flood Insurance*  
14 *Reform Act of 1994, and biannually thereafter for the*  
15 *next 4 years, the Board shall submit a report to Con-*  
16 *gress on compliance by insured credit unions with the*  
17 *requirements of the National Flood Insurance Pro-*  
18 *gram. The report shall include a description of the*  
19 *methods used to determine compliance, the number of*  
20 *insured credit unions examined during the reporting*  
21 *year, a listing and total number of insured credit*  
22 *unions found to be in noncompliance, actions taken*  
23 *to correct incidents of noncompliance, and an analy-*  
24 *sis of compliance, including a discussion of any*  
25 *trends, patterns, and problems, and recommendations*

1       *regarding reasonable actions to improve the efficiency*  
2       *of the examinations processes.”.*

3       **SEC. 627. PENALTIES AND CORRECTIVE ACTIONS FOR FAIL-**  
4                       **URE TO REQUIRE FLOOD INSURANCE, ES-**  
5                       **CROW, OR NOTIFY.**

6       *Section 102 of the Flood Disaster Protection Act of*  
7       *1973 (42 U.S.C. 4012a), as amended by sections 622 and*  
8       *624, is amended by adding at the end the following new*  
9       *subsections:*

10       “(f) *CIVIL PENALTIES.*—

11               “(1) *IN GENERAL.*—A regulated lending institu-  
12               *tion that is found to have a pattern or practice of vio-*  
13               *lating this section may be assessed a civil penalty by*  
14               *the appropriate Federal entity for lending regulation*  
15               *of not more than \$350 for each such violation. A pen-*  
16               *alty under this subsection may be issued only after*  
17               *notice and an opportunity for a hearing on the*  
18               *record.*

19               “(2) *TOTAL AMOUNT.*—The total amount of pen-  
20               *alties assessed under this subsection against a single*  
21               *regulated lending institution for any calendar year*  
22               *may not exceed \$100,000.*

23               “(3) *SALES OR TRANSFERS.*—The subsequent  
24               *sale or other transfer of a loan by a regulated lending*  
25               *institution that has committed a violation of this sec-*

1        *tion shall not affect the liability of the transferring*  
2        *institution with respect to any penalty under this*  
3        *subsection. An institution shall not be liable for a vio-*  
4        *lation relating to a loan committed by another insti-*  
5        *tution that previously held the loan.*

6                *“(4) 3-YEAR LIMIT.—No penalty may be imposed*  
7        *under this subsection after the expiration of the 3-*  
8        *year period beginning on the date of the occurrence*  
9        *of the violation.*

10              *“(g) ADDITIONAL ACTIONS.—If a Federal entity for*  
11        *lending regulation determines—*

12              *“(1) that a regulated lending institution has*  
13        *demonstrated a pattern and practice of noncompli-*  
14        *ance in violation of the regulations issued pursuant*  
15        *to subsection (b) or subsection (d) or the notice re-*  
16        *quirements under section 1364 of the National Flood*  
17        *Insurance Act of 1968; and*

18              *“(2) that the regulated lending institution has*  
19        *not demonstrated measurable improvement in compli-*  
20        *ance despite the issuance of penalties under subsection*  
21        *(f);*

22        *the agency may require the regulated lending institution*  
23        *to take such remedial actions as are necessary to ensure*  
24        *that the regulated lending institution is in satisfactory com-*

1 *pliance with the requirements of the National Flood Insur-*  
2 *ance Program.”.*

3 **SEC. 628. FINANCIAL INSTITUTIONS EXAMINATION COUN-**  
4 **CIL.**

5 *Section 1006 of the Federal Financial Institutions Ex-*  
6 *amination Council Act of 1978 (12 U.S.C. 3305) is amend-*  
7 *ed by adding at the end the following new subsection:*

8 *“(g) FLOOD INSURANCE.—The Council shall consult*  
9 *with and assist the Federal entities for lending regulation,*  
10 *as such term is defined in section 1370(a)(7) of the National*  
11 *Flood Insurance Act of 1968, in developing and coordinat-*  
12 *ing uniform standards and requirements for use by regu-*  
13 *lated lending institutions under the National Flood Insur-*  
14 *ance Program.”.*

15 **SEC. 629. CONFORMING AMENDMENT.**

16 *The section heading for section 102 of the Flood Disas-*  
17 *ter Protection Act of 1973 (42 U.S.C. 4012a) is amended*  
18 *to read as follows:*

1       “FLOOD INSURANCE PURCHASE AND COMPLIANCE  
2               REQUIREMENTS AND ESCROW ACCOUNTS”.

3       ***Subtitle C—Ratings and Incentives***  
4       ***for Community Floodplain Man-***  
5       ***agement Programs***

6       ***SEC. 631. COMMUNITY RATING SYSTEM AND INCENTIVES***  
7               ***FOR COMMUNITY FLOODPLAIN MANAGE-***  
8               ***MENT.***

9               (a) *REQUIREMENT FOR PARTICIPATION IN FLOOD IN-*  
10       *SURANCE PROGRAM.—Section 1315 of the National Flood*  
11       *Insurance Act of 1968 (42 U.S.C. 4022) is amended—*

12               (1) *by striking the section heading and inserting*  
13       *the following:*

14       ***“SEC. 1315. STATE AND LOCAL LAND USE CONTROLS.”;***

15               (2) *by striking “After December” and inserting*  
16       *the following:*

17               ***“(a) REQUIREMENT FOR PARTICIPATION IN FLOOD IN-***  
18       ***SURANCE PROGRAM.—After December”;*** and

19               (3) *by adding at the end the following new sub-*  
20       *section:*

21               ***“(b) COMMUNITY RATING SYSTEM AND INCENTIVES***  
22       ***FOR COMMUNITY FLOODPLAIN MANAGEMENT.—***

23               ***“(1) AUTHORITY AND GOALS.—The Director***  
24       ***shall carry out a community rating system program***  
25       ***to evaluate the measures adopted by communities vol-***

1     *untarily participating in the community rating sys-*  
2     *tem, to provide incentives for measures to reduce the*  
3     *risk of flood or erosion damage that exceed the criteria*  
4     *set forth in section 1361, to encourage adoption of*  
5     *more effective measures to protect natural and bene-*  
6     *ficial floodplain functions, floodplain and erosion*  
7     *management, and to promote the reduction of Federal*  
8     *flood insurance losses.*

9             “(2) *INCENTIVES.*—*The program shall provide*  
10     *incentives in the form of credits on premium rates for*  
11     *flood insurance coverage in communities that the Di-*  
12     *rector determines have adopted and enforced measures*  
13     *to reduce the risk of flood and erosion damage that*  
14     *exceed the criteria set forth in section 1361. In pro-*  
15     *viding incentives under this paragraph, the Director*  
16     *may provide for credits to flood insurance premium*  
17     *rates in communities that the Director determines*  
18     *have—*

19             “(A) *implemented measures to protect natu-*  
20     *ral and beneficial floodplain functions; and*

21             “(B) *adopted erosion control measures.*

22             “(3) *CREDITS.*—*The credits on premium rates*  
23     *for flood insurance coverage shall be based on the esti-*  
24     *mated reduction in flood and erosion damage risks re-*  
25     *sulting from the measures adopted by the community*



1        *under this program. If a community has received*  
2        *mitigation assistance under section 1366, the credits*  
3        *shall be phased-in as determined by the Director.”.*

4        *(b) REPORTS.—Two years after the date of enactment*  
5        *of this title and biannually thereafter, the Director shall*  
6        *submit a report to the Congress regarding the program*  
7        *under section 1315(a) of the National Flood Insurance Act*  
8        *of 1968. Each report shall include an analysis of the cost-*  
9        *effectiveness and other accomplishments and shortcomings*  
10       *of the program and any recommendations of the Director*  
11       *for legislation regarding the program.*

12       **SEC. 632. FUNDING.**

13       *Section 1310(a) of the National Flood Insurance Act*  
14       *of 1968 (42 U.S.C. 4017(a)) is amended—*

15                *(1) in paragraph (4), by striking “and” at the*  
16                *end;*

17                *(2) in paragraph (5), by striking the period at*  
18                *the end and inserting a semicolon; and*

19                *(3) by adding after paragraph (5) the following*  
20                *new paragraph:*

21                        *“(6) for carrying out the program under section*  
22                        *1315(b);”.*

23        **SEC. 633. REASONABLE FEES.**

24        *A lender may charge a borrower a reasonable fee for*  
25        *making a flood insurance determination.*

1 **Subtitle D—Mitigation of Flood and**  
2 **Erosion Risks**

3 **SEC. 641. MITIGATION ASSISTANCE IN FEDERAL INSUR-**  
4 **ANCE ADMINISTRATION.**

5 *Section 1105(a) of the Housing and Urban Develop-*  
6 *ment Act of 1968 (42 U.S.C. 4129) is amended—*

7 *(1) by striking “(a) There is hereby” and insert-*  
8 *ing the following:*

9 *“(a) ESTABLISHMENT.—There is hereby”; and*

10 *(2) by striking subsection (b) and inserting the*  
11 *following:*

12 *“(b) COORDINATION OF MITIGATION ACTIVITIES.—The*  
13 *Director shall coordinate all mitigation activities, includ-*  
14 *ing the administration of the program for mitigation assist-*  
15 *ance under section 1367. These activities shall include the*  
16 *development and implementation of various mitigation ac-*  
17 *tivities and techniques, the provision of advice and assist-*  
18 *ance regarding mitigation to States, communities, and in-*  
19 *dividuals, including planning assistance under section*  
20 *1367(d), coordination with other Federal flood and erosion*  
21 *mitigation efforts, and coordination with State and local*  
22 *governments and public and private agencies and organiza-*  
23 *tions for collection and dissemination of information re-*  
24 *garding erosion.”.*

1 **SEC. 642. AUTHORIZATION OF NATIONAL FLOOD AND ERO-**  
2 **SION MITIGATION FUNDS UNDER SECTION**  
3 **1362.**

4 *Chapter III of the National Flood Insurance Act of*  
5 *1968 (42 U.S.C. 4101 et seq.), as amended by section 625,*  
6 *is amended by adding at the end the following new section:*

7 **“SEC. 1366. NATIONAL FLOOD AND EROSION MITIGATION**  
8 **PROGRAM.**

9 *“(a) EXPENDITURES.—For flood and erosion mitiga-*  
10 *tion activities authorized under section 1367, the Director*  
11 *may expend from the National Flood Insurance Fund—*

12 *“(1) up to \$10,000,000 in the fiscal year ending*  
13 *September 30, 1994;*

14 *“(2) up to \$15,000,000 in the fiscal year ending*  
15 *September 30, 1995;*

16 *“(3) up to \$20,000,000 in the fiscal year ending*  
17 *September 30, 1996;*

18 *“(4) up to \$20,000,000 in each fiscal year there-*  
19 *after; and*

20 *“(5) any amounts recaptured under section*  
21 *1367(i).*

22 *“(b) REPORT.—Not later than 1 year after the date*  
23 *of enactment of the National Flood Insurance Reform Act*  
24 *of 1994 and biannually thereafter, the Director shall submit*  
25 *a report to the Congress describing the status of flood and*

1 *erosion mitigation activities carried out with funds author-*  
2 *ized under this section.”.*

3 **SEC. 643. STATE AND COMMUNITY MITIGATION ASSISTANCE**  
4 **PROGRAM.**

5 (a) *IN GENERAL.*—Chapter III of the National Flood  
6 Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended  
7 by sections 625 and 642, is amended by adding at the end  
8 the following new section:

9 **“SEC. 1367. STATE AND COMMUNITY MITIGATION ASSIST-**  
10 **ANCE.**

11 “(a) *AUTHORITY.*—The Director shall develop and im-  
12 plement a financial assistance program with amounts made  
13 available under section 1366 to States and communities for  
14 planning and activities designed to reduce the risk of flood  
15 and erosion damage to insured structures and to protect  
16 natural and beneficial floodplain functions.

17 “(b) *MITIGATION PLAN REQUIREMENT.*—To be eligible  
18 to receive financial mitigation assistance, a State or com-  
19 munity shall develop, and have approved by the Director,  
20 a flood and erosion risk mitigation plan (hereafter in this  
21 section referred to as a ‘mitigation plan’), that is consistent  
22 with the criteria established by the Director under section  
23 1361. The mitigation plan shall include a comprehensive  
24 strategy for mitigation activities adopted by the State or  
25 community following a public hearing.

1       “(c) *NOTIFICATION OF APPROVAL.*—Not later than 120  
2 days after the submission of a mitigation plan, the Director  
3 shall notify the State or community submitting the plan  
4 of the Director’s approval or disapproval of the plan. If the  
5 Director does not approve a plan, the Director shall notify  
6 the State or community in writing of the reasons for such  
7 disapproval.

8       “(d) *PLANNING ASSISTANCE.*—

9           “(1) *IN GENERAL.*—The Director shall make  
10 planning assistance available to States and commu-  
11 nities for developing mitigation plans.

12           “(2) *FUNDING.*—From any amounts made avail-  
13 able for use under section 1366 of the National Flood  
14 Insurance Act of 1968 in any fiscal year, the Director  
15 may use not more than \$1,500,000 to provide plan-  
16 ning assistance grants to States or communities to de-  
17 velop mitigation plans under this subsection.

18           “(3) *LIMITATIONS.*—

19           “(A) *TIMING.*—A grant for planning assist-  
20 ance may be awarded to a State or community  
21 once every 5 years and each grant may cover a  
22 period of 1 to 3 years.

23           “(B) *AMOUNT.*—A grant for planning as-  
24 sistance may not exceed—

25                   “(i) \$150,000, to any State; or

1                   “(ii) \$50,000, to any community.

2                   “(C) GEOGRAPHIC.—Not more than  
3                   \$300,000 may be awarded to any 1 State and all  
4                   communities located in that State for planning  
5                   assistance in each fiscal year.

6                   “(e) ELIGIBLE MITIGATION ACTIVITIES.—The Director  
7                   shall determine eligibility for assistance under this section  
8                   for mitigation activities that shall be technically feasible  
9                   and cost-effective. These activities may include—

10                   “(1) elevation, relocation, demolition, or  
11                   floodproofing of structures;

12                   “(2) the construction, repair, or restoration of  
13                   levees, seawalls, and other structures that reduce the  
14                   risk of flood damage;

15                   “(3) erosion control measures including beach  
16                   nourishment;

17                   “(4) acquisition by States and communities of  
18                   property substantially damaged by flood for public  
19                   use as the Director determines is consistent with  
20                   sound land management and use in such area; and

21                   “(5) the provision of technical assistance by  
22                   States to communities and individuals to conduct eli-  
23                   gible mitigation activities.

24                   “(f) LIMITATIONS ON MITIGATION ASSISTANCE.—

1           “(1) *AMOUNT.*—The amount of mitigation assist-  
2           *ance provided under subsection (e) may not exceed in*  
3           *any 5-year period—*

4                     “(A) *\$10,000,000, to any State; or*

5                     “(B) *\$3,300,000, to any community.*

6           “(2) *GEOGRAPHIC.*—Not more than \$20,000,000  
7           *may be awarded to any 1 State and all communities*  
8           *located in that State for mitigation assistance in any*  
9           *5-year period.*

10          “(g) *MATCHING REQUIREMENT.*—The Director may  
11          *provide mitigation assistance to a State or community in*  
12          *an amount not to exceed 3 times the amount that the State*  
13          *or community certifies, as the Director shall require, that*  
14          *the State or community will contribute from other funds*  
15          *to carry out mitigation planning under subsection (d) and*  
16          *eligible activities under subsection (e).*

17          “(h) *OVERSIGHT OF MITIGATION PLANS.*—The Direc-  
18          *tor shall conduct oversight of recipients of mitigation assist-*  
19          *ance to ensure that the mitigation assistance is used in com-*  
20          *pliance with approved plans.*

21          “(i) *RECAPTURE.*—If the Director determines that a  
22          *State or community that has received mitigation assistance*  
23          *has not carried out the mitigation activities as set forth*  
24          *in the mitigation plan, the Director shall recapture any un-*  
25          *expended amounts and deposit the amounts in the Fund.*

1       “(j) *DEFINITION OF COMMUNITY.*—For purposes of  
2 this section, the term ‘community’ means a political sub-  
3 division that has zoning and building code jurisdiction over  
4 a particular area of special flood hazards, and that is par-  
5 ticipating in the National Flood Insurance Program.

6       “(k) *PREFERENCES FOR MITIGATION GRANTS TO COM-*  
7 *MUNITIES.*—

8               “(1) *COST-BENEFICIAL PLANS.*—In providing  
9 mitigation grants to communities under this section,  
10 the Director shall give preference to communities with  
11 mitigation plans that are the most cost-beneficial to  
12 the Flood Insurance Fund.

13              “(2) *ADDITIONAL CRITERIA.*—Subject to para-  
14 graph (1), the Director will also give preference to  
15 communities that—

16                   “(A) have the highest rates of participation  
17 by property owners in the Federal flood insur-  
18 ance program;

19                   “(B) have qualified for credits on premium  
20 rates under section 1315(b); and

21                   “(C) have experienced repetitive losses that  
22 have been most costly to the Fund.”.

23       “(b) *REGULATIONS.*—Not later than 6 months after date  
24 of enactment of this title, the Director shall issue regulations



1 *implementing section 1367 of the National Flood Insurance*  
2 *Act of 1968, as added by subsection (a).*

3 **SEC. 644. REPEAL OF PROGRAM FOR PURCHASE OF CER-**  
4 **TAIN INSURED PROPERTIES.**

5 (a) *REPEAL.*—*Section 1362 of the National Flood In-*  
6 *surance Act of 1968 (42 U.S.C. 4103) is repealed.*

7 (b) *TRANSITION.*—*Notwithstanding the repeal under*  
8 *subsection (a), the Director may continue to purchase prop-*  
9 *erty under subsections (a) and (b) of section 1362 of the*  
10 *National Flood Insurance Act of 1968, as such section ex-*  
11 *isted immediately before the date of enactment of this title,*  
12 *for a period of 1 year beginning on the date of enactment*  
13 *of this title.*

14 **SEC. 645. TERMINATION OF EROSION THREATENED STRUC-**  
15 **TURES PROGRAM.**

16 (a) *IN GENERAL.*—*Section 1306 of the National Flood*  
17 *Insurance Act of 1968 (42 U.S.C. 4013) is amended by*  
18 *striking subsection (c).*

19 (b) *TRANSITION.*—*The Director may pay amounts*  
20 *under flood insurance contracts for demolition or relocation*  
21 *of structures as provided in section 1306(c) of the National*  
22 *Flood Insurance Act of 1968 (as in effect immediately before*  
23 *the date of enactment of this title) only during the 1-year*  
24 *period beginning on the date of enactment of this title.*

1 **SEC. 646. CONGRESSIONAL FINDINGS AND DECLARATION**  
2 **OF PURPOSE UNDER THE NATIONAL FLOOD**  
3 **INSURANCE ACT OF 1968.**

4 *Section 1302 of the National Flood Insurance Act of*  
5 *1968 (42 U.S.C. 4001) is amended by striking subsection*  
6 *(g).*

7 **Subtitle E—Flood Insurance Task**  
8 **Force**

9 **SEC. 651. FLOOD INSURANCE INTERAGENCY TASK FORCE.**

10 *(a) ESTABLISHMENT.—There is established an inter-*  
11 *agency task force to be known as the Flood Insurance Task*  
12 *Force (hereafter in this title referred to as the “Task*  
13 *Force”).*

14 *(b) MEMBERSHIP.—*

15 *(1) IN GENERAL.—The Task Force shall consist*  
16 *of 13 members, who shall be the designees of—*

17 *(A) the Director;*

18 *(B) the Federal Housing Commissioner;*

19 *(C) the Secretary of Veterans Affairs;*

20 *(D) the Administrator of the Farmers Home*  
21 *Administration;*

22 *(E) the Administrator of the Small Busi-*  
23 *ness Administration;*

24 *(F) each member of the Federal Financial*  
25 *Institutions Examination Council;*

1           (G) the chairman of the Board of Directors  
2 of the Federal Home Loan Mortgage Corpora-  
3 tion;

4           (H) the chairman of the Board of Directors  
5 of the Federal National Mortgage Association;  
6 and

7           (I) the chairman of the Federal Agricultural  
8 Mortgage Corporation.

9           (2) *QUALIFICATIONS.*—Members of the Task  
10 Force shall be designated for membership on the Task  
11 Force by reason of demonstrated knowledge and com-  
12 petence regarding the National Flood Insurance Pro-  
13 gram.

14          (c) *DUTIES.*—The Task Force shall—

15           (1) make recommendations to the head of each  
16 Federal agency and corporation referred to under sub-  
17 section (b)(1) regarding the establishment or adoption  
18 of standardized enforcement procedures among such  
19 agencies and corporations responsible for enforcing  
20 compliance with the requirements under the National  
21 Flood Insurance Program to ensure the fullest possible  
22 compliance with such requirements;

23           (2) study the extent to which Federal agencies  
24 and the secondary mortgage market can provide as-

1 *sistance in ensuring compliance with the require-*  
2 *ments under the National Flood Insurance Program;*

3 *(3) study the extent to which existing programs*  
4 *of Federal agencies and corporations for compliance*  
5 *with the requirements under the National Flood In-*  
6 *surance Program can serve as a model for other Fed-*  
7 *eral agencies responsible for enforcing compliance,*  
8 *and submit to the Congress a report describing the*  
9 *study and any conclusions;*

10 *(4) study—*

11 *(A) the extent to which the flood insurance*  
12 *premium rate structure could be revised to—*

13 *(i) minimize existing premium rate*  
14 *subsidies;*

15 *(ii) reduce or eliminate disaster assist-*  
16 *ance payments in high-risk erosion areas;*

17 *(iii) incorporate premium rate adjust-*  
18 *ments for erosion hazards; and*

19 *(iv) account for catastrophic loss*  
20 *events; and*

21 *(B) how changes in the premium rate struc-*  
22 *ture could potentially impact other Federal dis-*  
23 *aster assistance programs;*

24 *(5) propose strategies to establish an actuarial-*  
25 *based premium structure to account for all insurable*

1        *risks identified under the National Flood Insurance*  
2        *Act of 1968, as amended by this title; and*

3            *(6) develop guidelines regarding enforcement and*  
4        *compliance procedures, based on the studies and find-*  
5        *ings of the Task Force and publishing the guidelines*  
6        *in a usable format.*

7        *(d) REPORTS.—Not later than 2 years after the date*  
8        *of enactment of this title, the Task Force shall transmit to*  
9        *the Congress a report describing its studies and any conclu-*  
10       *sions.*

11       *(e) COMPENSATION.—Members of the Task Force shall*  
12       *receive no additional compensation by reason of their serv-*  
13       *ice on the Task Force.*

14       *(f) CHAIRPERSON.—The Director shall select 1 member*  
15       *to serve as the chairperson of the Task Force (hereafter in*  
16       *this section referred to as the “Chairperson”).*

17       *(g) MEETINGS AND ACTION.—The Task Force shall*  
18       *meet at the call of the Chairperson or a majority of the*  
19       *members of the Task Force and may take action by a vote*  
20       *of the majority of the members. The Federal Insurance Ad-*  
21       *ministrator shall coordinate and call the initial meeting of*  
22       *the Task Force.*

23       *(h) OFFICERS.—The Chairperson may appoint officers*  
24       *to carry out the duties of the Task Force under subsection*  
25       *(c).*

1       (i) *STAFF OF FEDERAL AGENCIES.*—Upon the request  
2 of the Chairperson, the head of any of the Federal agencies  
3 and corporations referred to in subsection (b)(1) may detail,  
4 on a nonreimbursable basis, any of the personnel of the  
5 agency to the Task Force to assist the Task Force in carry-  
6 ing out its duties under this title.

7       (j) *POWERS.*—In carrying out this section, the Task  
8 Force may hold hearings, sit and act at times and places,  
9 take testimony, receive evidence and assistance, provide in-  
10 formation, and conduct research as the Task Force considers  
11 appropriate.

12       (k) *TERMINATION.*—The Task Force shall terminate 2  
13 years after the date on which all members of the Task Force  
14 have been designated under subsection (b)(1).

15                   ***Subtitle F—Miscellaneous***  
16                   ***Provisions***

17 ***SEC. 661. MAXIMUM FLOOD INSURANCE COVERAGE***  
18                   ***AMOUNTS.***

19       (a) *IN GENERAL.*—Section 1306(b) of the National  
20 Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amend-  
21 ed—

22                   (1) in paragraph (1)(A)—

23                               (A) by inserting “and” at the end of clause  
24                   (i); and

25                               (B) by striking clause (iii);

1           (2) by striking subparagraph (B) of paragraph  
2           (1) and inserting the following new subparagraph:

3                   “(B) in the case of any nonresidential prop-  
4                   erty, including churches—

5                           “(i) \$100,000 aggregate liability for  
6                           each structure; and

7                           “(ii) \$100,000 aggregate liability for  
8                           any contents related to each structure;”;

9           (3) by striking subparagraph (C) of paragraph  
10           (1);

11           (4) in paragraph (2), by striking “so as to en-  
12           able” and all that follows through the end of the para-  
13           graph and inserting “up to an amount, including the  
14           limits specified in clause (i) of paragraph (1)(A), of  
15           \$250,000 multiplied by the number of dwelling units  
16           in the building;”;

17           (5) in paragraph (3), by striking “so as to en-  
18           able” and all that follows through the end of the para-  
19           graph and inserting “up to an amount of \$90,000 for  
20           any single-family dwelling and \$240,000 for any resi-  
21           dential structure containing more than one dwelling  
22           unit;”;

23           (6) by striking paragraph (4) and inserting the  
24           following new paragraph:

1           “(4) in the case of any nonresidential property,  
2 including churches, additional flood insurance in ex-  
3 cess of the limits specified in clauses (i) and (ii) of  
4 paragraph (1)(B) shall be made available to every in-  
5 sured upon renewal and every applicant for insur-  
6 ance up to an amount of \$2,400,000 for each struc-  
7 ture and \$2,400,000 for any contents related to each  
8 structure; and”.

9           (b) ACTUARIAL RISK PREMIUMS ON REPETITIVE LOSS  
10 STRUCTURES.—Section 1306(b) of the National Flood In-  
11 surance Act of 1968 (42 U.S.C. 4013(b)) is amended—

12           (1) in paragraph (5), by striking “and” at the  
13 end; and

14           (2) by striking paragraph (6) and inserting the  
15 following new paragraph:

16           “(6) upon determining that a property is a re-  
17 petitive loss structure, and after making a payment  
18 to the insured under section 1304(e), the Director  
19 shall charge the applicable risk premium rate for  
20 flood insurance based on consideration of the risk in-  
21 volved and accepted actuarial principles under sec-  
22 tion 1307(a)(1), except that the Director may not in-  
23 crease the premium rate above the level authorized in  
24 paragraph (7); and”.



1           (c) *ANNUAL 10-PERCENT PREMIUM RATE INCREASE*  
2 *CAP.*—Section 1306(b) of the National Flood Insurance Act  
3 of 1968 (42 U.S.C. 4013(b)) is amended by adding at the  
4 end the following:

5           “(7) the Director may not increase the premium  
6 rate applied to a structure in any 12-month period  
7 by more than 10 percent over the rate previously ap-  
8 plied to that structure during the preceding 12-month  
9 period.”.

10          (d) *CONFORMING AMENDMENTS.*—Section 1306(b)(5)  
11 of the National Flood Insurance Act of 1968 (42 U.S.C.  
12 4013(b)(5)) is amended—

13           (1) by striking “(A), (B), or (C)” and inserting

14           “(A) or (B)”; and

15           (2) by striking “(1)(C).”.

16 **SEC. 662. ADDITIONAL COVERAGE FOR COMPLIANCE WITH**  
17 **LAND USE AND CONTROL MEASURES.—**

18          (a) *IN GENERAL.*—Section 1304 of the National Flood  
19 Insurance Act of 1968 (42 U.S.C. 4011) is amended—

20           (1) by redesignating subsection (b) as subsection  
21           (c); and

22           (2) by inserting after subsection (a) the following  
23           new subsection:

24           “(b) The national flood insurance program established  
25 pursuant to subsection (a) shall enable the purchase of in-

1 *urance to cover the cost of compliance with land use and*  
2 *control measures for—*

3 *“(1) properties that are repetitive loss structures;*

4 *“(2) properties that have flood damage in which*  
5 *the cost of repairs equals or exceeds 50 percent of the*  
6 *value of the structure at the time of the flood event;*  
7 *and*

8 *“(3) properties that have sustained flood damage*  
9 *on multiple occasions, if the Director determines that*  
10 *it is cost-effective and in the best interests of the Na-*  
11 *tional Flood Insurance Fund to require compliance*  
12 *with the land use and control measures.*

13 *The Director shall impose a surcharge on each insured of*  
14 *not more than \$50 per policy to provide cost of compliance*  
15 *coverage in accordance with the provisions of this sub-*  
16 *section.”.*

17 *(b) APPLICABILITY.—The provisions of subsection (a)*  
18 *shall apply only to structures that sustain flood-related*  
19 *damage after the date of enactment of this title.*

20 **SEC. 663. FLOOD INSURANCE PROGRAM ARRANGEMENTS**  
21 **WITH PRIVATE INSURANCE ENTITIES.**

22 *Section 1345(b) of the National Flood Insurance Act*  
23 *of 1968 (42 U.S.C. 4081(b)) is amended by striking the pe-*  
24 *riod at the end and inserting the following: “and without*

1 regard to the provisions of the Federal Advisory Committee  
2 Act.”.

3 **SEC. 664. UPDATING OF FLOOD INSURANCE RATE MAPS.**

4 Section 1360 of the National Flood Insurance Act of  
5 1968 (42 U.S.C. 4101) is amended by adding at the end  
6 the following new subsections:

7 “(e) ASSESSMENT OF NEED TO UPDATE AREAS.—

8 “(1) PERIODIC ASSESSMENTS.—Not less than  
9 once during each 5-year period (the first such period  
10 beginning on the date of enactment of the National  
11 Flood Insurance Reform Act of 1994), or more often  
12 as the Director determines necessary, the Director  
13 shall assess the need to revise and update each flood  
14 insurance rate map, based on an analysis of all natu-  
15 ral hazards affecting flood risks.

16 “(2) UPON REQUEST.—Upon the request of a  
17 State or community stating that a flood insurance  
18 rate map needs revision or updating, the Director  
19 shall review and update the flood insurance rate map  
20 for the State or community. The Director may require  
21 the State or community to pay a portion of the cost  
22 of updating the map.

23 “(f) AVAILABILITY.—To promote compliance with the  
24 requirements of this title, the Director shall make flood in-  
25 surance rate maps and related information available free

1 *of charge to Federal agencies and to State agencies directly*  
2 *responsible for coordinating the National Flood Insurance*  
3 *Program and to appropriate representatives of communities*  
4 *participating in the National Flood Insurance Program,*  
5 *and at a reasonable cost to all other persons pursuant to*  
6 *section 1310.*

7       “(g) NOTIFICATION.—The Director shall publish in the  
8 *Federal Register or by other comparable method, notice of*  
9 *each revision to or update of a flood insurance rate map,*  
10 *issued in the form of a Letter of Map Amendment or Letter*  
11 *of Map Revision. Each map revision or update shall become*  
12 *effective upon publication. Such comparable methods shall*  
13 *include all pertinent information, provide for regular and*  
14 *frequent distribution, and be at least as accessible to map*  
15 *users as the Federal Register. Notices published in the Fed-*  
16 *eral Register, or otherwise, shall also include information*  
17 *on how to obtain copies of the revisions or updates.*

18       “(h) AVAILABILITY.—On March 1 and October 1 of  
19 *each year, the Director shall publish separately and make*  
20 *available in their entirety within a compendium, all revi-*  
21 *sions to and updates of flood insurance rate maps and all*  
22 *Letters of Map Amendment and Letters of Map Revision*  
23 *that were published in the Federal Register or distributed*  
24 *through other comparable methods during the preceding 6*  
25 *months, free of charge, to Federal agencies, States, and com-*

1 munities participating in the National Flood Insurance  
2 Program pursuant to section 1310 and at cost to all other  
3 persons.”.

4 **SEC. 665. EVALUATION OF EROSION HAZARDS.**

5 (a) *IN GENERAL.*—As soon as practicable and not  
6 later than 2 years after the date of enactment of this Act,  
7 the Director shall submit to Congress a report—

8 (1) listing all communities that are likely to be  
9 identified as having an erosion hazard areas;

10 (2) estimating the amount of flood insurance  
11 claims attributable to erosion;

12 (3) assessing the full economic impact of erosion  
13 on the National Flood Insurance Fund;

14 (4) measuring the costs and benefits of expendi-  
15 tures necessary from the National Flood Insurance  
16 Fund to complete mapping of erosion hazard areas.

17 (b) *AUTHORIZATION TO MAP EROSION HAZARD*  
18 *AREAS.*—In developing an estimate of the amount of flood  
19 insurance claims attributable to erosion pursuant to sub-  
20 section (a), the Director is authorized to map a statistically  
21 valid and representative number of communities with ero-  
22 sion hazard areas throughout the United States, including  
23 coastal, Great Lakes and riverine areas.

24 (c) *ECONOMIC IMPACT STUDY.*—The report required  
25 under subsection (a)—

1           (1) *shall assess the economic impact of—*

2                   (A) *erosion on communities likely to be*  
3 *identified as having erosion hazard areas; and*

4                   (B) *the denial of flood insurance and the es-*  
5 *tablishment of actuarial rates in communities*  
6 *likely to be identified as having erosion hazard*  
7 *areas;*

8           (2) *shall be prepared by an independent private*  
9 *sector firm;*

10           (3) *provide for consultation with a statistically*  
11 *valid and representative number of communities like-*  
12 *ly to be identified as having erosion hazard areas;*  
13 *and*

14           (4) *address all significant economic factors, in-*  
15 *cluding the impact on—*

16                   (A) *the value of residential and commercial*  
17 *properties in communities with erosion hazards;*

18                   (B) *community tax revenues due to poten-*  
19 *tial changes in property values or commercial*  
20 *activity;*

21                   (C) *employment, including the potential*  
22 *loss or gain of existing and new jobs in the com-*  
23 *munity;*

24                   (D) *existing businesses and future economic*  
25 *development; and*

1                   (E) the estimated cost of Federal and State  
2                   disaster assistance to flood victims.

3           (d) *COST AND BENEFITS OF MAPPING.*—The report re-  
4           quired under subsection (a), shall—

5                   (1) measure the costs and benefits of mapping  
6                   erosion hazard areas based upon the Director's esti-  
7                   mate of the actual and prospective amount of flood  
8                   insurance claims attributable to erosion. If the Direc-  
9                   tor determines that the savings to the National Flood  
10                  Insurance Fund will exceed the cost of mapping ero-  
11                  sion hazard areas, the Director shall assess whether  
12                  the expenditures to map erosion hazard areas is the  
13                  most cost-beneficial use of flood insurance premiums  
14                  in light of alternative uses of those funds, including—

15                           (A) funding the mitigation assistance pro-  
16                           gram under section 1367 of the National Flood  
17                           Insurance Act of 1968 (as added by section 643  
18                           of this Act);

19                           (B) funding additional coverage for compli-  
20                           ance with land use and control measures under  
21                           section 1304(b) of the National Flood Insurance  
22                           Act of 1968 (as added by section 662 of this Act);  
23                           and

24                           (C) revising and updating flood insurance  
25                           rate maps under section 1360(e) of the National

1           *Flood Insurance Act of 1968 (as added by section*  
2           *664 of this Act).*

3           *(2) measure the costs and benefits of mapping*  
4           *erosion, other than those directly related to the finan-*  
5           *cial condition of the National Flood Insurance Pro-*  
6           *gram, and the cost of not mapping erosion.*

7           *(e) DEFINITION.—For purposes of this section the term*  
8           *“erosion hazard area” means, based on erosion rate infor-*  
9           *mation and other historical data available, an area where*  
10           *erosion or avulsion is likely to result in damage to or loss*  
11           *of buildings and infrasturcture within a 60-year period.*

12           *(f) AUTHORIZATION OF APPROPRIATION.—There are*  
13           *authorized to be appropriated to the Director \$5,000,000*  
14           *to carry out this section.*

15    **SEC. 666. COORDINATION OF FLOOD INSURANCE RATE MAP**  
16                            **REVISIONS AND UPDATES WITH COASTAL**  
17                            **ZONE MANAGEMENT PROGRAMS.**

18           *IN GENERAL.—In the implementation of revisions to*  
19           *and updates of flood insurance rate maps, the Director shall*  
20           *consult and share information with the Under Secretary of*  
21           *Commerce for Oceans and Atmosphere and representatives*  
22           *from State coastal zone management programs.*



1 **SEC. 667. TECHNICAL MAPPING ADVISORY COUNCIL.**

2 (a) *ESTABLISHMENT.*—*There is established a council*  
3 *to be known as the Technical Mapping Advisory Council*  
4 *(hereafter in this section referred to as the “Council”).*

5 (b) *MEMBERSHIP.*—

6 (1) *IN GENERAL.*—*The Council shall consist of*  
7 *the Director, or the Director’s designee, and 12 addi-*  
8 *tional members to be appointed by the Director or his*  
9 *designee, and shall include—*

10 (A) *the Under Secretary of Commerce for*  
11 *Oceans and Atmosphere (or his or her designee);*

12 (B) *a member of recognized surveying and*  
13 *mapping professional associations and organiza-*  
14 *tions;*

15 (C) *a member of recognized professional en-*  
16 *gineering associations and organizations;*

17 (D) *a member of recognized professional as-*  
18 *sociations or organizations representing flood*  
19 *hazard determination firms;*

20 (E) *a representative of the United States*  
21 *Geologic Survey;*

22 (F) *a representative of State geologic survey*  
23 *programs;*

24 (G) *a representative of State national flood*  
25 *insurance coordination offices;*

1           (H) a representative of the Federal National  
2           Mortgage Association and the Federal Home  
3           Loan Mortgage Corporation; and

4           (I) a representative of a regulated lending  
5           institution.

6           (2) *QUALIFICATIONS.*—Members of the Council  
7           shall be appointed based on their demonstrated knowl-  
8           edge and competence regarding surveying, cartog-  
9           raphy, remote sensing, geographic information sys-  
10          tems, or the technical aspects of preparing and using  
11          flood insurance rate maps.

12          (c) *DUTIES.*—The Council shall—

13           (1) make recommendations to the Director on  
14           how to improve in a cost-effective manner the accu-  
15           racy, general quality, ease of use, and distribution  
16           and dissemination of flood insurance rate maps;

17           (2) recommend to the Director mapping stand-  
18           ards and guidelines for flood insurance rate maps;  
19           and

20           (3) transmit an annual report to the Director  
21           describing—

22                   (A) the activities of the Council;

23                   (B) an evaluation of the status and per-  
24                   formance of flood insurance rate maps and map-  
25                   ping activities to revise and update flood insur-

1            *ance rate maps, as established by the amend-*  
2            *ments made under section 664; and*

3            *(C) a summary of recommendations made*  
4            *by the Council to the Director.*

5            *(d) CHAIRPERSON.—The members of the Council shall*  
6            *elect 1 member to serve as the chairperson of the Council*  
7            *(hereafter in this section referred to as the “Chairperson”).*

8            *(e) COORDINATION.—To ensure that the Council’s rec-*  
9            *ommendations are consistent to the maximum extent prac-*  
10           *ticable with national digital spatial data collection and*  
11           *management standards, the Chairperson shall consult with*  
12           *the Chairperson of the Federal Geographic Data Committee*  
13           *(established pursuant to OMB Circular A–16).*

14           *(f) COMPENSATION.—Members of the Council shall re-*  
15           *ceive no additional compensation by reason of their service*  
16           *on the Council.*

17           *(g) MEETINGS AND ACTIONS.—*

18           *(1) IN GENERAL.—The Council shall meet not*  
19           *less than twice each year at the request of the Chair-*  
20           *person or a majority of its members and may take ac-*  
21           *tion by a vote of the majority of the members.*

22           *(2) INITIAL MEETING.—The Director, or a person*  
23           *designated by the Director, shall request and coordi-*  
24           *nate the initial meeting of the Council.*

1       (h) *OFFICERS.*—*The Chairperson may appoint officers*  
2 *to assist in carrying out the duties of the Council under*  
3 *subsection (c).*

4       (i) *STAFF OF THE FEDERAL EMERGENCY MANAGE-*  
5 *MENT AGENCY.*—*Upon the request of the Chairperson, the*  
6 *Director may detail, on a nonreimbursable basis, personnel*  
7 *of the Federal Emergency Management Agency to assist the*  
8 *Council in carrying out its duties.*

9       (j) *POWERS.*—*In carrying out this section, the Council*  
10 *may hold hearings, receive evidence and assistance, provide*  
11 *information, and conduct research as it considers appro-*  
12 *priate.*

13       (k) *TERMINATION.*—*The Council shall terminate 5*  
14 *years after the date on which all members of the Council*  
15 *have been appointed under subsection (b)(1).*

16 **SEC. 668. FUNDING FOR INCREASED ADMINISTRATIVE AND**  
17 **OPERATIONAL RESPONSIBILITIES.**

18       (a) *AVAILABILITY OF FUND.*—*Section 1310(a) of the*  
19 *National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)),*  
20 *as amended by section 632, is amended in the matter pre-*  
21 *ceding paragraph (1), by inserting “(except as otherwise*  
22 *provided)” after “without fiscal year limitation”.*

23       (b) *CREDITS OF FUND.*—*Section 1310(b) of the Na-*  
24 *tional Flood Insurance Act of 1968 (42 U.S.C. 4017(b)) is*  
25 *amended—*

1           (1) in paragraph (5), by striking “and” at the  
2           end;

3           (2) by redesignating paragraph (6) as para-  
4           graph (7); and

5           (3) by inserting after paragraph (5) the follow-  
6           ing new paragraph:

7           “(6) any penalties collected under section 102(f)  
8           of the Flood Disaster Protection Act of 1973; and”.

9   **SEC. 669. SEPARATE ACCOUNT FOR NATIONAL FLOOD IN-**  
10                                   **SURANCE FUND.**

11           Section 1310(a) of the National Flood Insurance Act  
12           (42 U.S.C. 4017(a)) is amended by inserting before “which  
13           shall be available” the following: “which shall be main-  
14           tained in the Treasury as an account separate from any  
15           other funds available to the Director, and”.

16   **SEC. 670. NONWAIVER OF FLOOD PURCHASE REQUIREMENT**  
17                                   **FOR RECIPIENTS OF FEDERAL DISASTER AS-**  
18                                   **SISTANCE.**

19           Section 311(b) of the Robert T. Stafford Disaster Relief  
20           and Emergency Assistance Act (42 U.S.C. 5154(b)) is  
21           amended by adding at the end the following: “The require-  
22           ments of this subsection may not be waived under section  
23           301.”.

1 **SEC. 671. INSURANCE WAITING PERIOD.**

2 *Section 1308 of the National Flood Insurance Act of*  
3 *1968 (42 U.S.C. 4014) is amended by adding at the end*  
4 *the following new subsection:*

5 *“(e)(1) The Director shall establish a waiting period*  
6 *of not less than 10 days from the presentment of payment*  
7 *of a premium for the initial purchase of flood insurance*  
8 *under this title. Flood insurance coverage shall not be avail-*  
9 *able with respect to any claim for damage incurred during*  
10 *such waiting period.*

11 *“(2) This subsection shall not apply to the initial pur-*  
12 *chase of flood insurance under this title when the purchase*  
13 *of insurance is in connection with the making, increasing,*  
14 *extension, or renewal of a loan.”.*

15 **SEC. 672. AGRICULTURAL STRUCTURES.**

16 *Section 1361 of the National Flood Insurance Act of*  
17 *1968 (42 U.S.C. 4102) is amended by adding at the end*  
18 *the following new subsection:*

19 *“(d) AGRICULTURAL STRUCTURES.—*

20 *“(1) EXEMPTION FROM FLOODWAY ACTIVITY RE-*  
21 *STRICTIONS.—Notwithstanding any other provision of*  
22 *law, the adequate land use and control measures*  
23 *adopted in an area (or subdivision thereof) pursuant*  
24 *to section 1315(a) may provide, at the discretion of*  
25 *the appropriate State or local authority, for the re-*

1 *pair and restoration to pre-damaged conditions of an*  
2 *agricultural structure that—*

3 *“(A) is a repetitive loss structure; or*

4 *“(B) has incurred flood-related damage to*  
5 *the extent that the cost of restoring the structure*  
6 *to its pre-damaged condition would equal or ex-*  
7 *ceed 50 percent of the market value of the struc-*  
8 *ture before the damage occurred.*

9 *“(2) DEFINITIONS.—For purposes of this sub-*  
10 *section—*

11 *“(A) the term ‘agricultural structure’ means*  
12 *any structure used exclusively in connection with*  
13 *the production, harvesting, storage, raising, or*  
14 *drying of agricultural commodities; and*

15 *“(B) the term ‘agricultural commodities’*  
16 *means agricultural commodities and livestock.”.*

17 **SEC. 673. IMPLEMENTATION REVIEW BY THE DIRECTOR.**

18 *Section 1320 of the National Flood Insurance Act of*  
19 *1968 (42 U.S.C. 4027) is amended—*

20 *(1) by striking “The Director” and inserting*

21 *“(a) IN GENERAL.—The Director”;* and

22 *(2) by adding at the end the following new sub-*  
23 *section:*

24 *“(b) EFFECTS OF FLOOD INSURANCE PROGRAM.—The*  
25 *Director shall include, as part of the biennial report sub-*

1 *mitted under subsection (a), a chapter reporting on the ef-*  
2 *fects on the flood insurance program observed through im-*  
3 *plementation of requirements under the National Flood In-*  
4 *surance Reform Act of 1994.”.*

5 **SEC. 674. REGULATIONS.**

6 *The Director and the head of any appropriate Federal*  
7 *agency may each issue any regulations necessary to carry*  
8 *out the applicable provisions of this title and the applicable*  
9 *amendments made by this title.*

10 **SEC. 675. PROHIBITED FLOOD DISASTER ASSISTANCE.**

11 *(a) GENERAL PROHIBITION.—Notwithstanding any*  
12 *other provision of law, no Federal disaster relief assistance*  
13 *made available in a flood disaster area may be used to make*  
14 *a payment (including any loan assistance payment) to a*  
15 *person for repair, replacement, or restoration for damage*  
16 *to any personal, residential, or commercial property if that*  
17 *person at any time has received flood disaster assistance*  
18 *that was conditional on the person first having obtained*  
19 *flood insurance under applicable Federal law and subse-*  
20 *quently having failed to obtain and maintain flood insur-*  
21 *ance as required under applicable Federal law on such*  
22 *property.*

23 *(b) AMENDMENT TO THE FLOOD DISASTER PROTEC-*  
24 *TION ACT OF 1973.—Section 102(a) of the Flood Disaster*  
25 *Protection Act of 1973 (42 U.S.C. 4012a(a)) is amended—*



1           (1) by striking “, during the anticipated eco-  
2           nomic or useful life of the project,”; and

3           (2) by adding at the end the following: “The re-  
4           quirement of maintaining flood insurance shall apply  
5           during the life of the property, regardless of transfer  
6           of ownership of such property.”.

7           (c) *DEFINITION.*—For purposes of this section, the  
8           term “flood disaster area” means an area with respect to  
9           which—

10           (1) the Secretary of Agriculture finds, or has  
11           found, to have been substantially affected by a natu-  
12           ral disaster in the United States pursuant to section  
13           321(a) of the Consolidated Farm and Rural Develop-  
14           ment Act (7 U.S.C. 1961(a)); or

15           (2) the President declares, or has declared, the  
16           existence of a major disaster or emergency pursuant  
17           to the Robert T. Stafford Disaster Relief and Emer-  
18           gency Assistance Act (42 U.S.C. 5121 et seq.), as a  
19           result of flood conditions existing in or affecting that  
20           area.

21           (d) *EFFECTIVE DATE.*—The amendments made by this  
22           section shall apply to disasters declared after the date of  
23           enactment of the National Flood Insurance Reform Act of  
24           1994.

1                   **TITLE VII—GENERAL**  
2                   **PROVISIONS**

3   **SEC. 701. STUDY OF EFFECT OF THE NORTHERN SPOTTED**  
4                   **OWL ON SMALL BUSINESS CONCERNS.**

5           (a) *DEFINITIONS.*—For purposes of this section—

6               (1) the term “Administrator” means the Admin-  
7           istrator of the Small Business Administration; and

8               (2) the term “small business concerns” has the  
9           same meaning as in section 3 of the Small Business  
10          Act.

11          (b) *BUSINESS STUDY.*—The Administrator in con-  
12          sultation with the Secretary of the Interior shall conduct  
13          a study that analyzes—

14               (1) the nature and extent of economic losses to  
15          small business concerns in the forest products indus-  
16          try that have occurred as a result of the designation  
17          of the Northern spotted owl as a threatened species  
18          pursuant to section 4 of the Endangered Species Act  
19          of 1973, or that are reasonably likely to occur in the  
20          future;

21               (2) the ability of small business concerns to re-  
22          coup the fair market value of equipment and other  
23          property employed in the harvest and processing of  
24          timber prior to the listing of the Northern spotted owl  
25          as a threatened species; and

1           (3) *the ability of small business concerns in the*  
2 *affected area to offer alternative products or services*  
3 *for which there is a ready or likely suitable market.*

4           (c) *REPORT.—*

5           (1) *IN GENERAL.—Not later than 6 months after*  
6 *the date of enactment of this section, the Adminis-*  
7 *trator and the Secretary of the Interior shall submit*  
8 *a report of the results of the study conducted under*  
9 *subsection (c) to the President and to the relevant*  
10 *committees of the Senate and the House of Represent-*  
11 *atives.*

12           (2) *OPTIONS.—The report shall include options*  
13 *for Congress and the President for compensating*  
14 *small business concerns for economic losses and for*  
15 *promoting business transition and diversification.*

16           (3) *CONSULTATION.—In preparing the report,*  
17 *the Administrator and the Secretary of the Interior*  
18 *shall consult with small business concerns in the for-*  
19 *est products industry, and shall solicit comments*  
20 *from the public.*

21 **SEC. 702. NEGATIVE INFORMATION ABOUT CONSUMER.**

22           *Section 609(a) of the Fair Credit Reporting Act (15*  
23 *U.S.C. 1681g(a)) is amended by adding after paragraph*  
24 *(3) the following:*

1           “(4) *The dates, original payees, and amounts of*  
2           *any checks upon which is based any negative infor-*  
3           *mation about the consumer included in the file at the*  
4           *time of the disclosure.”*

5   **SEC. 703. UNITED NATIONS RESOLUTIONS CONCERNING**  
6                           **JERUSALEM.**

7           (a) *FINDINGS.—The Congress finds that—*

8                       (1) *for three thousand years Jerusalem has been*  
9                       *the focal point of Jewish religious devotion;*

10                      (2) *Jerusalem is also considered a holy city by*  
11                      *the members of other religious faiths;*

12                      (3) *the once thriving Jewish community of the*  
13                      *historic Old City of Jerusalem was driven out by*  
14                      *force during the 1948 Arab-Israeli War;*

15                      (4) *from 1948 to 1967, Jerusalem was a divided*  
16                      *city and Israeli citizens of all faiths as well as Jewish*  
17                      *citizens of all states were denied access to holy sites*  
18                      *in the area controlled by Jordan;*

19                      (5) *in 1967, Jerusalem was reunited during the*  
20                      *conflict known as the Six Day War;*

21                      (6) *since 1967, Jerusalem has been a united city*  
22                      *administered by Israel and persons of all religious*  
23                      *faiths have been guaranteed full access to holy sites*  
24                      *within the city;*

1           (7) in 1990, the United States Senate and House  
2 of Representatives overwhelmingly adopted Senate  
3 Concurrent Resolution 106 and House Concurrent  
4 Resolution 290 declaring that Jerusalem, the capital  
5 of Israel, “must remain an undivided city”;

6           (8) the Vice President has stated the Administra-  
7 tion’s intention not to “forget the meaning of Jerusa-  
8 lem”;

9           (9) the Secretary of State recently reiterated  
10 United States opposition to attempts in the United  
11 Nations to refer to Jerusalem as “occupied territory”;

12           (10) it is reported that the United Nations Secu-  
13 rity Council may consider a resolution condemning  
14 the Hebron massacre but which also refers to Jerusa-  
15 lem as “occupied” territory.

16       (b) *SENSE OF CONGRESS.*—Therefore, it is the sense  
17 of the Congress that—

18           (1) the Administration should be commended for  
19 its efforts not to “forget the meaning of Jerusalem”  
20 and to oppose attempts in the United Nations to refer  
21 to Jerusalem as “occupied” territory;

22           (2) sacrificing core principles for short term ob-  
23 jectives will ultimately retard, not advance, the peace  
24 process;

1           (3) *the United States should exercise its veto in*  
2           *the United Nations Security Council on any Security*  
3           *Council resolution that states or implies that Jerusa-*  
4           *lem is “occupied” territory.*

5   **SEC. 704. AMENDMENT TO THE FEDERAL RESERVE ACT.**

6           *SECTION 11.—Section 11 of the Federal Reserve Act*  
7           *(12 U.S.C. 248) is amended by inserting at the end thereof*  
8           *the following new subsection:*

9           “(p) *AUTHORITY.—The Board of Governors of the Fed-*  
10          *eral Reserve System and the Federal Open Market Commit-*  
11          *tee may each act in the Board’s or the Committee’s own*  
12          *name and through the Board’s or the Committee’s own at-*  
13          *torneys in enforcing any provision of this title, regulations*  
14          *thereunder, or any other law or regulation, or in any ac-*  
15          *tion, suit, or proceeding to which the Board of Governors*  
16          *of the Federal Reserve System or the Federal Open Market*  
17          *Committee is a party.”.*

18   **SEC. 705. OVERSIGHT HEARINGS.**

19          *It is the sense of the Senate that—*

20                 (i) *Congress has a constitutional obligation to*  
21                 *conduct oversight of matters relating to the operations*  
22                 *of the Government, including matters related to any*  
23                 *governmental investigations which may, from time to*  
24                 *time, be undertaken.*

1           (b) *the Majority Leader and the Republican*  
2 *Leader should meet and determine the appropriate*  
3 *timetable, procedures, and forum for appropriate*  
4 *Congressional oversight, including hearings on all*  
5 *matters related to “Madison Guaranty Savings and*  
6 *Loan Association (‘MGS&L’), Whitewater Develop-*  
7 *ment Corporation and Capital Management Services*  
8 *Inc. (‘CMS’).”.*

9           (c) *no witness called to testify at these hearings*  
10 *shall be granted immunity under sections 6002 and*  
11 *6005 of title 18, United States Code, over the objec-*  
12 *tion of Special Counsel Robert B. Fiske, Jr.*

13           (d) *the hearings should be structured and*  
14 *sequenced in such a manner that in the judgment of*  
15 *the Leaders they would not interfere with the ongoing*  
16 *investigation of Special Counsel Robert B. Fiske, Jr.*

17 **SEC. 706. INSURANCE TRANSFER AGREEMENT.**

18           (a) *SENSE OF SENATE.—It is the sense of the Senate*  
19 *that no insurer shall enter into a transfer agreement or*  
20 *transfer a contract of insurance pursuant to a transfer*  
21 *agreement unless the transferring insurer has first provided*  
22 *or caused to be provided to each policyholder of the insurer*  
23 *affected by the agreement a notice of the intent of the in-*  
24 *surer to transfer the contract of insurance held by such pol-*  
25 *icyholder.*

1       (b) *FORM OF NOTICE.*—The notice shall be sent by  
2 first-class mail, addressed to the last known address of the  
3 policyholder or to the address to which premium notices or  
4 other policy documents are sent or, with respect to home  
5 service business, by personal delivery with acknowledged re-  
6 ceipt. A notice of intent to transfer shall also be sent to  
7 the transferring insurer’s agent or broker of record on the  
8 affected policy.

9       (c) *CONTENT OF NOTICE.*—The notice required by sub-  
10 section (a) shall state or provide—

11           (1) the date the intended transfer and novation  
12 of the contract of insurance of the policyholder is pro-  
13 posed to take place and become effective;

14           (2) the name, address, and telephone number of  
15 the transferring insurer and the assuming insurer  
16 under the proposed transfer agreement;

17           (3) that the transfer and novation of the insur-  
18 ance contract of the policyholder cannot take effect  
19 without the written consent of the policyholder, except  
20 as provided in section 5 of this Act;

21           (4) the procedures and any time limitation for  
22 consenting to the transfer and novation;

23           (5) a summary informing the policyholder re-  
24 garding any adverse effect that the policyholder might



1 *experience as a result of consenting to the transfer*  
2 *and novation;*

3 *(6) a statement that, without the written consent*  
4 *of the policyholder, the transferring insurer will re-*  
5 *main as the insurance company of the policyholder or*  
6 *beneficiary, except as provided in section 5 of this*  
7 *Act;*

8 *(7) a statement that the assuming insurer is li-*  
9 *icensed to write the type of business being transferred*  
10 *in the State where the policyholder resides, or is oth-*  
11 *erwise authorized, under applicable law, to assume*  
12 *such business;*

13 *(8) the name, address, and telephone number of*  
14 *the person designated by the transferring insurer as*  
15 *the person for receiving the written consent of the pol-*  
16 *icyholder affected by the proposed transfer and nova-*  
17 *tion;*

18 *(9) the address and telephone number of the chief*  
19 *insurance regulatory official of the State in which the*  
20 *policyholder resides;*

21 *(10) financial data for the transferring insurer*  
22 *and the assuming insurer involved in the proposed*  
23 *transfer agreement, including—*

24 *(A)(i) the ratings, together with enough in-*  
25 *formation to understand where the ratings fall*

1           *within the range of rating categories of each rat-*  
2           *ing agency, for the last 5 years, if available, or*  
3           *if not available for 5 years, for such lesser period*  
4           *as is available, from each nationally recognized*  
5           *insurance company rating organization that has*  
6           *rated the insurer, including an explanation of*  
7           *the meaning of each rating category of each rat-*  
8           *ing organization;*

9           *(ii) if ratings are unavailable for any year*  
10          *of the 5-year period, a disclosure of this fact; and*

11          *(iii) a statement that any or all of the*  
12          *above insurance company rating organization*  
13          *reports may be obtained at no cost by writing or*  
14          *calling an address or phone number listed in the*  
15          *statement;*

16          *(B) a balance sheet as of December 31 for*  
17          *each of the 3 years immediately preceding the*  
18          *notice, if available, or for such lesser period as*  
19          *is available, and as of the date of the most recent*  
20          *quarterly statement;*

21          *(C) a copy of the Management's Discussion*  
22          *and Analysis that was filed as a supplement to*  
23          *the annual statement of the preceding year; and*

24          *(D) an explanation of the reason for the*  
25          *proposed transfer signed by the highest executive*

1           *official of the transferring insurer and the as-*  
2           *suming insurer;*

3           *(11) a statement setting forth the financial con-*  
4           *dition of the transferring insurer and of the assuming*  
5           *insurer under the proposed transfer agreement, and*  
6           *the effect the transaction will have on the financial*  
7           *condition of each such insurer;*

8           *(12) an opinion by a disinterested third-party*  
9           *expert, such as an actuary, finding that the transfer*  
10          *is fair and in the best interests of the policyholders*  
11          *affected by the transfer, and a statement that the re-*  
12          *port on which the opinion is based is available at no*  
13          *cost by writing or calling an address and phone num-*  
14          *ber listed in the statement.*

Attest:

*Secretary.*

HR 3474 EAS—2  
HR 3474 EAS—3  
HR 3474 EAS—4  
HR 3474 EAS—5  
HR 3474 EAS—6  
HR 3474 EAS—7  
HR 3474 EAS—8  
HR 3474 EAS—9  
HR 3474 EAS—10  
HR 3474 EAS—11  
HR 3474 EAS—12  
HR 3474 EAS—13  
HR 3474 EAS—14  
HR 3474 EAS—15  
HR 3474 EAS—16  
HR 3474 EAS—17  
HR 3474 EAS—18  
HR 3474 EAS—19  
HR 3474 EAS—20  
HR 3474 EAS—21  
HR 3474 EAS—22  
HR 3474 EAS—23  
HR 3474 EAS—24  
HR 3474 EAS—25  
HR 3474 EAS—26

HR 3474 EAS—27

HR 3474 EAS—28

HR 3474 EAS—29

HR 3474 EAS—30