

**Calendar No. 259**

103D CONGRESS  
1ST SESSION

**S. 1275**

**[Report No. 103-169]**

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**A BILL**

To facilitate the establishment of community  
development financial institutions.

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OCTOBER 28 (legislative day; OCTOBER 13), 1993  
Reported with an amendment and an amendment to the  
title

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## IN THE SENATE OF THE UNITED STATES

JULY 21 (legislative day, JUNE 30), 1993

Mr. RIEGLE (for himself, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mrs. BOXER, Mr. CAMPBELL, Ms. MOSELEY-BRAUN, Mr. BRADLEY, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

OCTOBER 28 (legislative day, OCTOBER 13), 1993

Reported by Mr. RIEGLE, with an amendment and an amendment to the title  
[Strike out all after the enacting clause and insert the part printed in italic]

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## A BILL

To facilitate the establishment of community development financial institutions.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Develop-  
5 ment Banking and Financial Institutions Act of 1993”.

1 **SEC. 2. FINDINGS AND PURPOSE.**

2 (a) FINDINGS.—The Congress finds that—

3 (1) many of the Nation’s urban and rural com-  
4 munities and Indian reservations face critical social  
5 and economic problems arising in part from the lack  
6 of economic growth, people living in poverty, and the  
7 lack of employment and other opportunities;

8 (2) the restoration and maintenance of the  
9 economies of these communities will require coordi-  
10 nated development strategies, intensive supportive  
11 services, and increased access to capital and credit  
12 for development activities, including investment in  
13 businesses, housing, commercial real estate, human  
14 development, and other activities that promote the  
15 long-term economic and social viability of the com-  
16 munity;

17 (3) in many urban and rural communities, low-  
18 and moderate-income neighborhoods, and Indian res-  
19 ervations, there is a shortage of capital and credit  
20 for business and affordable housing;

21 (4) access to capital and credit is essential to  
22 unleash the untapped entrepreneurial energy of  
23 America’s poorest communities and to empower indi-  
24 viduals and communities to become self-sufficient;  
25 and

1           ~~(5) community development financial institu-~~  
2           ~~tions have proven their ability to identify and re-~~  
3           ~~spond to community needs for capital, credit, and~~  
4           ~~development services in the absence of, or as a com-~~  
5           ~~plement to, services provided by other lenders.~~

6           ~~(b) PURPOSE.—The purpose of this Act is to create~~  
7           ~~a Community Development Banking and Financial Insti-~~  
8           ~~tutions Fund that will support a program of investment~~  
9           ~~in and assistance to community development financial in-~~  
10           ~~stitutions. The Community Development Banking and Fi-~~  
11           ~~ancial Institutions Fund will provide financial and tech-~~  
12           ~~nical assistance, including training, to community develop-~~  
13           ~~ment financial institutions, serve as a national information~~  
14           ~~clearinghouse, and be an institutional voice for community~~  
15           ~~development. The community development financial insti-~~  
16           ~~tutions that the Community Development Banking and~~  
17           ~~Financial Institutions Fund supports will provide capital,~~  
18           ~~credit, and development services to targeted investment~~  
19           ~~areas or populations, and will promote economic revitaliza-~~  
20           ~~tion and community development.~~

21           ~~**SEC. 3. DEFINITIONS.**~~

22           ~~(a) APPROPRIATE FEDERAL BANKING AGENCY.—~~  
23           ~~The term “appropriate Federal banking agency” has the~~  
24           ~~same meaning given such term in section 3(q) of the Fed-~~  
25           ~~eral Deposit Insurance Act (12 U.S.C. 1813(q)).~~

1       (b) COMMUNITY DEVELOPMENT FINANCIAL INSTI-  
2 TUTION.—The term “community development financial in-  
3 stitution” means any bank, savings association, depository  
4 institution holding company, credit union, micro-enter-  
5 prise loan fund, community development corporation, com-  
6 munity development revolving loan fund, minority-owned  
7 or other insured depository institution, or non-depository  
8 organization that—

9           (1) has as its primary mission the promotion of  
10       community development through the provision of  
11       capital, credit, or development services in its invest-  
12       ment areas or to targeted populations; and

13           (2) encourages, through representation on its  
14       governing board or otherwise, the input of residents  
15       in the investment area or the targeted populations.

16 A depository institution holding company may qualify as  
17 a community development financial institution only if the  
18 holding company and its subsidiaries collectively satisfy  
19 the requirements of paragraphs (1) and (2). No subsidiary  
20 of a depository institution holding company may qualify  
21 as a community development financial institution if the  
22 holding company and its subsidiaries collectively do not  
23 meet the requirements of paragraphs (1) and (2). The  
24 term “community development financial institution” does  
25 not include an agency or instrumentality of the United

1 States or an agency or instrumentality of any State or  
2 political subdivision thereof.

3 ~~(c) DEPOSITORY INSTITUTION HOLDING COM-~~  
4 ~~PANY.—The term “depository institution holding com-~~  
5 ~~pany” has the same meaning given such term in section~~  
6 ~~3(w) of the Federal Deposit Insurance Act (12 U.S.C.~~  
7 ~~1813(w)).~~

8 ~~(d) DEVELOPMENT SERVICES.—The term “develop-~~  
9 ~~ment services” means activities conducted by a community~~  
10 ~~development financial institution that promote community~~  
11 ~~development by developing, supporting, and strengthening~~  
12 ~~the lending, investment, and capacity-building activities~~  
13 ~~undertaken by institutions, including, but not limited to—~~

14 ~~(1) business planning services;~~

15 ~~(2) financial and credit counseling services;~~

16 ~~(3) marketing and management assistance; and~~

17 ~~(4) administrative activities associated with~~  
18 ~~lending or investment.~~

19 ~~(e) INSURED COMMUNITY DEVELOPMENT FINANCIAL~~  
20 ~~INSTITUTION.—The term “insured community develop-~~  
21 ~~ment financial institution” means any community develop-~~  
22 ~~ment financial institution that is an insured depository in-~~  
23 ~~stitution. The term also includes an insured credit union~~  
24 ~~which has been designated as low-income by the National~~  
25 ~~Credit Union Administration.~~

1 (f) INSURED CREDIT UNION.—The term “insured  
2 credit union” has the same meaning given such term in  
3 section 101(7) of the Federal Credit Union Act (12 U.S.C.  
4 1752(7)).

5 (g) INSURED DEPOSITORY INSTITUTION.—The term  
6 “insured depository institution” has the same meaning  
7 given such term in section 3(c) of the Federal Deposit In-  
8 surance Act (12 U.S.C. 1813(c)).

9 (h) INVESTMENT AREA.—The term “investment  
10 area” means an identifiable community that—

11 (1) meets objective criteria of distress, including  
12 the number of low-income families, the extent of  
13 poverty, the extent of unemployment, the extent of  
14 unmet credit needs, the degree of availability of  
15 basic financial services, the degree of limited access  
16 to capital and credit provided by existing financial  
17 institutions, and other factors that the Fund deter-  
18 mines to be appropriate; or

19 (2) is located in an empowerment zone or enter-  
20 prise community designated under section 1391 of  
21 the Internal Revenue Code of 1986.

22 (i) QUALIFIED COMMUNITY DEVELOPMENT FINAN-  
23 CIAL INSTITUTION.—The term “qualified community de-  
24 velopment financial institution” means a community devel-

1 opment financial institution that meets the requirements  
2 of sections 5(b) (2) through (8) of this Act.

3 (j) TARGETED POPULATION.—The term “targeted  
4 population” means an identifiable group of low-income or  
5 disadvantaged persons that are underserved by existing fi-  
6 nancial institutions.

7 **SEC. 4. ESTABLISHMENT OF NATIONAL FUND FOR COMMU-**  
8 **UNITY DEVELOPMENT BANKING.**

9 (a) IN GENERAL.—There is created and chartered a  
10 body corporate to be known as the Community Develop-  
11 ment Banking and Financial Institutions Fund (referred  
12 to in this Act as the “Fund”) that shall have the powers  
13 and responsibilities specified by this Act. The Fund shall  
14 have succession until dissolved. The charter of the Fund  
15 may be revised, amended, or modified by Congress at any  
16 time. The offices of the Fund shall be in Washington, D.C.

17 (b) BOARD OF DIRECTORS.—

18 (1) IN GENERAL.—The powers and manage-  
19 ment of the Fund shall be vested in a Board of Di-  
20 rectors (referred to in this Act as the “Board”),  
21 which shall have nine members.

22 (2) MEMBERS.—The members of the Board  
23 shall consist of the following:

24 (A) The Secretary of Agriculture.

25 (B) The Secretary of Commerce.



1           (C) The Secretary of Housing and Urban  
2           Development.

3           (D) The Secretary of the Treasury.

4           (E) The Administrator of the Small Busi-  
5           ness Administration.

6           (F) Four private citizens, appointed by the  
7           President with the advice and consent of the  
8           Senate, that collectively—

9           (i) represent community groups whose  
10           constituencies include low-income persons  
11           or residents of investment areas;

12           (ii) have expertise in the operations  
13           and activities of insured depository institu-  
14           tions; and

15           (iii) have expertise in community de-  
16           velopment and lending;

17           provided that there should not be less than one  
18           member from each of the three categories de-  
19           scribed in clauses (i) through (iii) of this sub-  
20           paragraph.

21           (3) CHAIRPERSON.—The President shall ap-  
22           point from among the members of the Board speci-  
23           fied in paragraph (2)(F) a chairperson of the Board,  
24           who shall serve at the pleasure of the President for  
25           a term of two years.

1           (4) ~~VICE CHAIRPERSON.~~—The President shall  
2           appoint from among the members specified in para-  
3           graph ~~(2)~~ a vice-chairperson who will serve as chair-  
4           person in the absence, disability, or recusal of the  
5           chairperson. The vice-chairperson shall serve at the  
6           pleasure of the President for a term of two years.

7           (5) ~~TERMS OF APPOINTED MEMBERS.~~—

8           (A) ~~IN GENERAL.~~—Each member ap-  
9           pointed pursuant to paragraph ~~(2)(F)~~ shall  
10          serve at the pleasure of the President for a  
11          term of four years, except as provided in para-  
12          graph ~~(5)(C)~~.

13          (B) ~~VACANCIES.~~—Any member appointed  
14          to fill a vacancy occurring prior to the expira-  
15          tion of the term for which the previous member  
16          was appointed shall be appointed for the re-  
17          mainder of such term. Appointed members may  
18          continue to serve following the expiration of  
19          their terms until a successor is appointed and  
20          qualified.

21          (C) ~~TERMS.~~—The terms of the initial ap-  
22          pointed members shall be for four years and  
23          shall begin on the date each member is ap-  
24          pointed, except that two of the members ini-  
25          tially appointed pursuant to paragraph ~~(2)(F)~~

1           shall be designated to serve at the pleasure of  
2           the President for five years.

3           ~~(6) ACTING OFFICIALS.~~—In the event of a va-  
4           cancy or absence of the individual in any of the of-  
5           fices described in paragraphs ~~(2)~~ (A) through (E),  
6           the official acting in that office shall be a member  
7           of the Board.

8           ~~(7) AUTHORITY TO DELEGATE.~~—Each member  
9           of the Board specified in paragraphs ~~(2)~~ (A)  
10          through (E) may designate another official who has  
11          been appointed by the President with the advice and  
12          consent of the Senate within the same agency to  
13          serve as a member in his or her stead.

14          ~~(8) COMPENSATION.~~—Members of the Board  
15          who are otherwise officers or employees of the Unit-  
16          ed States shall serve without additional compensa-  
17          tion for their duties as members, but shall be reim-  
18          bursed by the Fund for travel, per diem, and other  
19          necessary expenses incurred in the performance of  
20          their duties, in accordance with sections 5702 and  
21          5703 of title 5, United States Code. The appointed  
22          members of the Board shall be entitled to receive  
23          compensation at the daily equivalent of the rate for  
24          a position under Level IV of the Executive Schedule  
25          under section 5315 of title 5, United States Code,

1 and shall be reimbursed by the Fund for travel, per  
2 diem, and other necessary expenses incurred in the  
3 performance of their duties, in accordance with sec-  
4 tions 5702 and 5703 of title 5, United States Code.

5 (9) MEETINGS.—The Board shall hold meetings  
6 at least quarterly. Special meetings of the Board  
7 may be called by the Chairperson or on the written  
8 request of three members of the Board. A majority  
9 of the members of the Board in office shall con-  
10 stitute a quorum.

11 (c) OFFICERS AND EMPLOYEES.—The Board shall  
12 appoint a Chief Executive Officer who will be responsible  
13 for the management of the Fund and such other duties  
14 deemed appropriate by the Board. The Board shall ap-  
15 point a Chief Financial Officer who shall oversee all of  
16 the financial management activities of the Fund. The  
17 Board shall also appoint an Inspector General. The Board  
18 may appoint such other officers and employees of the  
19 Fund as the Board determines to be necessary or appro-  
20 priate. The Chief Executive Officer, Chief Financial Offi-  
21 cer, and up to 3 other officers of the Fund may be ap-  
22 pointed without regard to the provisions of title 5 of the  
23 United States Code governing appointments in the Fed-  
24 eral service and compensated without regard to chapter  
25 51 and subchapter III of chapter 53 of title 5 of the Unit-

1 ed States Code, except that the rate of pay for the Chief  
2 Executive Officer shall not exceed the rate for a position  
3 under Level II of the Executive Schedule under section  
4 5313 of title 5 of the United States Code and the rate  
5 of pay for the remaining four officers shall not exceed the  
6 rate for a position under Level IV of the Executive Sched-  
7 ule under section 5315 of title 5 of the United States  
8 Code.

9 (d) GENERAL POWERS.—In carrying out its powers  
10 and duties, the Fund—

11 (1) shall have all necessary and proper powers  
12 to carry out its authority under this Act;

13 (2) may adopt, alter, and use a corporate seal,  
14 which shall be judicially noticed;

15 (3) may sue and be sued in its corporate name  
16 and complain and defend in any court of competent  
17 jurisdiction;

18 (4) may adopt, amend, and repeal bylaws, rules,  
19 and regulations governing the manner in which its  
20 business may be conducted and shall have power to  
21 make such rules and regulations as may be nec-  
22 essary or appropriate to implement the provisions of  
23 this Act;

24 (5) may enter into and perform such agree-  
25 ments, contracts, and transactions as may be

1 deemed necessary or appropriate to the conduct of  
2 activities authorized under this Act;

3 ~~(6)~~ may determine the character of and neces-  
4 sity for its expenditures and the manner in which  
5 they shall be incurred, allowed, and paid;

6 ~~(7)~~ may utilize or employ the services of person-  
7 nel of any agency or instrumentality of the United  
8 States with the consent of the agency or instrumen-  
9 tality concerned on a reimbursable or non reimburs-  
10 able basis; and

11 ~~(8)~~ may execute all instruments necessary or  
12 appropriate in the exercise of any of its functions  
13 under this Act and may delegate to members of the  
14 Board, the Chief Executive Officer, or the officers of  
15 the Fund such of its powers and responsibilities as  
16 it deems necessary or appropriate for the adminis-  
17 tration of the Fund.

18 ~~(e) WHOLLY OWNED GOVERNMENT CORPORA-~~  
19 ~~TION.—~~

20 ~~(1)~~ The Fund shall be a wholly-owned Govern-  
21 ment corporation in the Executive branch and shall  
22 be treated in all respects as an agency of the United  
23 States, except to the extent this Act provides other-  
24 wise.

1           (2) Section 9101(3) of title 31, United States  
2 Code (the Government Corporation Control Act), is  
3 amended—

4           (A) by redesignating paragraphs (B)  
5 through (M) as paragraphs (C) through (N),  
6 respectively; and

7           (B) by inserting after paragraph (A) the  
8 following:

9           “(B) the Community Development Banking and  
10 Financial Institutions Fund.”; and

11           (3) Section 9107(b) of title 31, United States  
12 Code (the Government Corporation Control Act),  
13 shall not apply to deposits of the Fund made pursu-  
14 ant to section 7 of this Act.

15           (f) LIMITATION OF FUND AND FEDERAL LIABIL-  
16 ITY.—The liability of the Fund and of the United States  
17 Government arising out of any investment in a community  
18 development financial institution in accordance with this  
19 Act shall be limited to the amount of the investment and  
20 the Fund shall be exempt from any assessments and other  
21 liabilities that may be imposed on controlling or principal  
22 shareholders by any Federal law or the law of any State,  
23 territory, or the District of Columbia. A community devel-  
24 opment financial institution that receives assistance pur-

1 suant to this Act shall not be deemed to be an agency,  
2 department, or instrumentality of the United States.

3 ~~(g) PROHIBITION ON ISSUANCE OF SECURITIES.—~~

4 The Fund may not issue stock, bonds, debentures, notes,  
5 or other securities.

6 **SEC. 5. APPLICATIONS FOR ASSISTANCE.**

7 ~~(a) FORM AND PROCEDURES.—~~An application for as-  
8 sistance under this Act shall be submitted by an applicant  
9 in such form and in accordance with such procedures as  
10 the Board shall establish. The Board shall publish regula-  
11 tions with respect to application requirements and proce-  
12 dures not later than 210 days after enactment of this Act.

13 ~~(b) MINIMUM REQUIREMENTS.—~~The Board shall re-  
14 quire that the application—

15 ~~(1) demonstrate to the satisfaction of the Board~~  
16 ~~that the applicant is, or upon the receipt of a char-~~  
17 ~~ter will be, a community development financial insti-~~  
18 ~~tution as defined in section 3(a) of this Act;~~

19 ~~(2) demonstrate that the applicant will serve—~~

20 ~~(A) a targeted population; or~~

21 ~~(B) an area which is an investment area;~~

22 ~~(3) in the case of an applicant that has pre-~~  
23 ~~viously received assistance under this Act, dem-~~  
24 ~~onstrate that the applicant—~~



1           (A) has successfully carried out its respon-  
2           sibilities under this Act;

3           (B) has become or is about to become an  
4           entity that will not be dependent upon assist-  
5           ance from the Fund for continued viability; and

6           (C) will expand its operations into a new  
7           investment area, offer new services, or will in-  
8           crease the volume of its current business;

9           (4) in the case of a community development fi-  
10          nancial institution with existing operations, dem-  
11          onstrate a record of success of serving investment  
12          areas or targeted populations;

13          (5) include a detailed and comprehensive strate-  
14          gic plan for the organization that contains—

15               (A) a business plan of at least five years  
16               that demonstrates the applicant is properly  
17               managed and has the capacity to form and op-  
18               erate a community development financial insti-  
19               tution that is, or will become, an entity that will  
20               not be dependent upon assistance from the  
21               Fund for continued viability;

22               (B) a statement that the applicant has, or  
23               will have, in its charter or other governing doc-  
24               uments a primary commitment to community  
25               development, or other evidence of a prior his-

1 tory and a continuing affirmation of a primary  
2 commitment of community development;

3 ~~(C)~~ an analysis of the needs of the invest-  
4 ment area or targeted populations and a strat-  
5 egy for how the applicant will attempt to meet  
6 those needs;

7 ~~(D)~~ a plan to coordinate use of assistance  
8 from the Fund with existing Federal, govern-  
9 ment-sponsored enterprise, and State and local  
10 assistance programs, and private sector finan-  
11 cial services;

12 ~~(E)~~ a statement that the proposed activi-  
13 ties of the applicant are consistent with existing  
14 economic, community and housing development  
15 plans adopted by or applicable to the invest-  
16 ment area;

17 ~~(F)~~ a description of how the applicant will  
18 affiliate, network, or otherwise coordinate with  
19 a full range of community organizations and fi-  
20 nancial institutions which provide, or will pro-  
21 vide, capital, credit, or secondary markets in  
22 order to assure that banking, economic develop-  
23 ment, investment, affordable housing, and other  
24 related services will be available within the in-  
25 vestment area or to targeted populations; and

1           (G) such other information as the Board  
2           deems appropriate for inclusion in the strategic  
3           plan;

4           (6) demonstrate that the applicant will carry on  
5           its activities consistent with the purposes of this Act  
6           within the investment area or with respect to a tar-  
7           geted population;

8           (7) include a detailed and specific statement of  
9           applicant's plans and likely sources of funds to  
10          match the amount of assistance from the Fund with  
11          funds from private sources in accordance with the  
12          requirements of section 7(d) of this Act; and

13          (8) include such other information as the Board  
14          may require.

15          (c) ~~PRE-APPLICATION OUTREACH PROGRAM.~~—The  
16          Fund shall provide for an outreach program to identify  
17          and provide information to potential applicants and to in-  
18          crease the capacity of potential applicants to meet the ap-  
19          plication and other requirements of this Act.

20          **SEC. 6. SELECTION OF INSTITUTIONS.**

21          (a) ~~SELECTION CRITERIA.~~—The Board shall, in its  
22          discretion, select applications that meet the requirements  
23          of section 5 of this Act and award assistance from the  
24          Fund in accordance with section 7 of this Act. In selecting

1 applications, the Board shall consider applications based  
2 on, but not limited to—

3           (1) the likelihood of success of the applicant in  
4           forming and operating a community development fi-  
5           nancial institution;

6           (2) the range and comprehensiveness of the  
7           capital, credit, and development services to be pro-  
8           vided by the applicant;

9           (3) the extent of the need, as measured by ob-  
10          jective criteria of distress, within the investment  
11          areas or targeted populations for the types of activi-  
12          ties proposed by the applicant;

13          (4) the likelihood that the proposed activities  
14          will benefit a significant portion of the investment  
15          areas or targeted populations or, in the case of a  
16          community development financial institution with ex-  
17          isting operations, evidence of a record of success in  
18          serving investment areas or targeted populations;

19          (5) the extent to which the applicant will con-  
20          centrate its activities on serving low and very low-  
21          income families;

22          (6) the evidence of the extent of a broad cross-  
23          section of support from the investment areas or tar-  
24          geted populations;

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

3           (8) the amount of legally enforceable commit-  
4           ments available at the time of application to meet or  
5           exceed the matching requirements under section 7(d)  
6           of this Act and the strength of the plan for raising  
7           the balance of the match;

8           (9) in the case of applicants that have pre-  
9           viously received assistance pursuant to this Act, the  
10          extent to which they have met or exceeded their per-  
11          formance goals;

12          (10) the extent to which the proposed activities  
13          will expand the employment base within the invest-  
14          ment areas or the targeted populations;

15          (11) the extent to which the applicant is, or will  
16          be, community-owned or community-governed;

17          (12) whether the applicant is, or will become,  
18          an insured community development financial institu-  
19          tion;

20          (13) whether the applicant is, or will be located,  
21          in an empowerment zone or enterprise community  
22          designated under section 1391 of the Internal Reve-  
23          nue Code of 1986;

24          (14) in the case of an institution that is not an  
25          insured community development financial institution,

1 the extent to which the institution has or will have  
2 the ability to increase its resources through affili-  
3 ation with a secondary market, insured depository  
4 institution, or other financial intermediary in order  
5 to multiply the amount of capital or credit available  
6 for community development;

7 (15) in the case of an insured depository insti-  
8 tution or insured credit union applicant, whether the  
9 institution—

10 (A) has or will have a substantial affili-  
11 ation with an entity or network of entities that  
12 are community development financial institu-  
13 tions; and

14 (B) has a comprehensive plan for providing  
15 meaningful financial assistance to such an en-  
16 tity or network of entities; and

17 (16) other factors deemed appropriate by the  
18 Board.

19 (b) GEOGRAPHIC DIVERSITY.—In addition to the  
20 above, in making its selections, the Board shall seek to  
21 fund a geographically diverse group of applicants, which  
22 shall include applicants from nonmetropolitan and rural  
23 areas.

24 (c) PUBLICATION REQUIREMENT.—The Board shall  
25 publish regulations with respect to its selection criteria not

1 later than 210 days after the date of enactment of this  
2 Act.

3 **SEC. 7. ASSISTANCE PROVIDED BY THE FUND.**

4 ~~(a) PURPOSE OF ASSISTANCE.—~~

5       (1) The Fund shall work to promote an envi-  
6 ronment hospitable to business formation, economic  
7 growth, community development, and affordable  
8 housing in distressed communities. The Fund shall  
9 coordinate its activities with existing Federal and  
10 other community and economic development pro-  
11 grams.

12       ~~(2) Assistance may be provided to an existing~~  
13 ~~qualified community development financial institu-~~  
14 ~~tion to expand its activities to serve investment~~  
15 ~~areas or targeted populations not currently served by~~  
16 ~~another qualified community development financial~~  
17 ~~institution receiving assistance under this section or~~  
18 ~~to expand the volume of its activities consistent with~~  
19 ~~the purposes of this Act, or to form a new entity to~~  
20 ~~undertake activities consistent with the purposes of~~  
21 ~~this Act, or to assist an existing entity to modify its~~  
22 ~~structure or activities in order to undertake activi-~~  
23 ~~ties consistent with the purposes of this Act.~~

24 ~~(b) TYPES OF ASSISTANCE.—~~

1           (1) IN GENERAL.—The Fund may provide fi-  
2           nancial assistance to qualified community develop-  
3           ment financial institutions through equity invest-  
4           ments, loans, deposits, membership shares, and  
5           grants. The Fund may also provide technical assist-  
6           ance, including training, and grants for technical as-  
7           sistance to qualified community development finan-  
8           cial institutions. The allocation of awards of assist-  
9           ance between insured and uninsured community de-  
10          velopment financial institutions shall be in the dis-  
11          cretion of the Board, provided that due consider-  
12          ation shall be given to the allocation of funds to in-  
13          sured community development financial institutions.

14          (2) FINANCIAL ASSISTANCE.—The fund shall  
15          structure financial assistance to a qualified commu-  
16          nity development financial institution in such a man-  
17          ner that it does not own more than 50 percent of  
18          the equity of such institution and does not control  
19          the operations of such institution. The Fund will not  
20          be deemed to control such institution for the pur-  
21          poses of applicable laws. With respect to equity in-  
22          vestments, the Fund shall hold only transferable,  
23          nonvoting investments. Such equity investments may  
24          provide for convertibility to voting stock upon trans-  
25          fer by the Fund.



1           (3) DEPOSITS.—Notwithstanding any other  
2           provision of law, deposits made pursuant to this sec-  
3           tion in qualified insured community development fi-  
4           nancial institutions shall not be subject to any re-  
5           quirement for collateral or security.

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

11          (c) PURPOSE OF FINANCIAL ASSISTANCE.—Financial  
12          assistance made available under this Act may be used by  
13          assisted institutions to develop or support—

14                (1) commercial facilities that enhance revitaliza-  
15                tion, community stability, or job creation and reten-  
16                tion efforts;

17                (2) business creation and expansion efforts  
18                that—

19                    (A) create or retain jobs for low-income  
20                    people;

21                    (B) enhance the availability of products  
22                    and services to low-income people; or

23                    (C) create or retain businesses owned by  
24                    low-income people or residents of a targeted  
25                    area;

1           (3) community facilities that provide benefits to  
2 low-income people or enhance community stability;

3           (4) the provision of basic financial services to  
4 low-income people or residents of a targeted area;

5           (5) the provision of development services;

6           (6) home ownership opportunities that are af-  
7 fordable to low-income households;

8           (7) rental housing that is principally affordable  
9 to low-income households; and

10          (8) other activities deemed appropriate by the  
11 Fund.

12          (d) AMOUNT OF ASSISTANCE.—The Fund may pro-  
13 vide up to \$5,000,000 of assistance per application to any  
14 one qualified insured community development financial in-  
15 stitution and up to \$2,000,000 per application to any  
16 other qualified community development financial institu-  
17 tion. The Fund shall have the authority to set minimum  
18 amounts of assistance per institution.

19          (e) MATCHING REQUIREMENTS.—

20           (1) Assistance provided to qualified insured  
21 community development financial institutions, other  
22 than deposits or membership shares of \$100,000 or  
23 less, technical assistance, or grants for technical as-  
24 sistance, shall be matched by no less than one dollar  
25 of equity, deposits or membership shares for each

1 dollar provided by the Fund. The Fund shall require  
2 a match for all other assistance, the amount and  
3 form of which shall be in the discretion of the Fund;  
4 provided that, the Fund shall in no event require as-  
5 sistance provided in the form of deposits or member-  
6 ship shares of \$100,000 or less, technical assistance,  
7 or grants for technical assistance to be matched.  
8 The Fund shall provide no assistance except tech-  
9 nical assistance or grants for technical assistance  
10 until a qualified community development financial  
11 institution has secured legally enforceable commit-  
12 ments for the entire match required. Assistance may  
13 be provided in one lump sum, or over a period of  
14 time, as determined by the Fund.

15 (2) Assistance shall be matched with funds  
16 from sources other than the Federal Government.

17 (f) TERMS AND CONDITIONS.—

18 (1) IN GENERAL.—The Fund shall provide as-  
19 sistance authorized under this Act in such form and  
20 subject to such restrictions as are necessary to en-  
21 sure that to the maximum extent practicable—

22 (A) all assistance granted is used by the  
23 qualified community development financial in-  
24 stitution in a manner consistent with the pur-  
25 poses of this Act;

1           (B) qualified community development fi-  
2 nancial institutions receiving assistance that are  
3 not otherwise regulated by the Federal govern-  
4 ment or by a State government are financially  
5 and managerially sound;

6           (C) assistance results in a net increase,  
7 both nationally and in the local communities in  
8 which assistance is provided, in capital, credit,  
9 and development services; and

10          (D) assistance is provided in a manner  
11 that encourages affiliations and partnerships  
12 between insured depository institutions, second-  
13 ary markets or other sources of credit or lever-  
14 age and local organizations dedicated to com-  
15 munity development.

16          (2) CONSULTATION WITH BANKING REGU-  
17 LATORS.—Prior to providing assistance to a quali-  
18 fied insured community development financial insti-  
19 tution, the Board should consult with the appro-  
20 priate Federal banking agency or, in the case of an  
21 insured credit union, the National Credit Union Ad-  
22 ministration.

23          (3) ASSISTANCE AGREEMENT.—

24           (A) The Board shall impose restrictions on  
25 the use of assistance through a stock purchase

1 agreement, share purchase agreement, or  
2 through a contract entered into in consideration  
3 for the provision of assistance.

4 (B) Such agreement or contract shall re-  
5 quire institutions assisted under this Act to  
6 comply with performance goals. The perform-  
7 ance goals shall be negotiated between the  
8 Board and each qualified community develop-  
9 ment financial institution receiving assistance  
10 based upon the strategic plan submitted pursu-  
11 ant to section 5(b)(5) of this Act. The perform-  
12 ance goals may be renegotiated jointly as nec-  
13 essary or appropriate, subject to subparagraph  
14 (C) of this section. Activity levels for insured  
15 community development financial institutions  
16 should be determined by the Board in consulta-  
17 tion with the appropriate Federal banking agen-  
18 cy or, in the case of an insured credit union,  
19 with the National Credit Union Administration.

20 (C) The agreement or contract shall speci-  
21 fy sanctions available to the Board, in its dis-  
22 cretion, in the event of noncompliance with the  
23 purposes of this Act or the terms of the agree-  
24 ment. The sanctions may include revocation of  
25 approval of the application, terminating or re-

1           ducing future assistance, requiring repayment  
2           of assistance, and requiring changes to the per-  
3           formance goals imposed pursuant to subpara-  
4           graph (B) or to the strategic plan submitted  
5           pursuant to section 5(b)(5) of this Act. In the  
6           case of an insured community development fi-  
7           nancial institution, the Board shall consult with  
8           the appropriate Federal banking agency or, in  
9           the case of an insured credit union, the Na-  
10          tional Credit Union Administration, before im-  
11          posing sanctions pursuant to this paragraph.

12          (4) REVIEW.—At least annually, the Board  
13          shall review the performance of each assisted quali-  
14          fied community development financial institution in  
15          carrying out its strategic plan and performance  
16          goals.

17          (5) REPORTING.—The Board shall require each  
18          qualified community development financial institu-  
19          tion receiving assistance to submit an annual report  
20          to the Fund on its activities, its financial condition,  
21          its success in meeting performance goals, and its  
22          compliance with other requirements of this Act.

23          (g) AUTHORITY TO SELL EQUITY INVESTMENT AND  
24          LOANS.—The Board shall have the authority at any time  
25          to sell its investments and loans and may, in its discretion,

1 retain the power to enforce limitations on assistance en-  
2 tered into in accordance with the requirements of this Act.

3 ~~(h) NO AUTHORITY TO LIMIT SUPERVISION AND~~  
4 ~~REGULATION.—Nothing in this Act shall affect any au-~~  
5 ~~thority of the appropriate Federal banking agency or, in~~  
6 ~~the case of an insured credit union, the National Credit~~  
7 ~~Union Administration, to supervise and regulate an in-~~  
8 ~~sured community development financial institution.~~

9 **SEC. 8. ENCOURAGEMENT OF PRIVATE ENTITIES.**

10 The Board may cause to be incorporated, or encour-  
11 age the incorporation of, private non-profit and for-profit  
12 entities that will complement the activities of the Fund  
13 in carrying out the purposes of this Act. The purposes  
14 of any such entities shall be limited to investing in and  
15 assisting community development financial institutions in  
16 a manner similar to the activities of the Fund under this  
17 Act. Any such entities shall be managed exclusively by pri-  
18 vate individuals who are selected in accordance with the  
19 laws of the jurisdiction of incorporation.

20 **SEC. 9. CLEARINGHOUSE FUNCTION.**

21 The Fund shall establish and maintain an informa-  
22 tion clearinghouse in coordination with the Departments  
23 of Agriculture, Commerce, and Housing and Urban Devel-  
24 opment, the Small Business Administration, other Federal

1 agencies, and community development financial institu-  
2 tions—

3           (1) to cause to be collected, compiled, and ana-  
4 lyzed information pertinent to community develop-  
5 ment financial institutions that will assist in creat-  
6 ing, developing, expanding, and preserving these in-  
7 stitutions; and

8           (2) to cause to be established a service center  
9 for comprehensive information on financial, tech-  
10 nical, and management assistance, case studies of  
11 the activities of community development financial in-  
12 stitutions, regulations, and other information that  
13 may promote the purposes of this Act.

14 **SEC. 10. RECORDKEEPING, REPORTS, AND AUDITS.**

15       (a) **RECORDKEEPING.**—

16           (1) A qualified community development finan-  
17 cial institution receiving assistance from the Fund  
18 shall keep such records as may be reasonably nec-  
19 essary to disclose the disposition of any assistance  
20 under this Act and to ensure compliance with the re-  
21 quirements of this Act.

22           (2) The Fund shall have access, for the purpose  
23 of determining compliance with this Act, to any  
24 books, documents, papers, and records of a qualified  
25 community development financial institution receiv-



1 ing assistance from the Fund that are pertinent to  
2 assistance received under this Act.

3 ~~(b) REPORTS.—~~

4 (1) ANNUAL REPORT.—The Fund shall conduct  
5 an annual evaluation of the activities carried out  
6 pursuant to this Act and shall submit a report of its  
7 findings to the President within 120 days of the end  
8 of each fiscal year of the Fund. The report shall in-  
9 clude financial statements audited in accordance  
10 with subsection (c).

11 ~~(2) INSTITUTIONAL VOICE FOR COMMUNITY DE-~~  
12 ~~VELOPMENT.—~~

13 ~~(A) ONGOING STUDY.—The Fund shall~~  
14 ~~conduct, or cause to be conducted, an ongoing~~  
15 ~~study to identify and evaluate the most effective~~  
16 ~~and financially sound policies and practices for~~  
17 ~~encouraging investment in distressed commu-~~  
18 ~~nities, including small business and commercial~~  
19 ~~lending, business formation and expansion,~~  
20 ~~community and economic development, commer-~~  
21 ~~cial real estate and multi-family housing, and~~  
22 ~~home mortgages. In addition, the Fund may~~  
23 ~~study, or cause to be studied, related matters,~~  
24 ~~such as identification of sources of and access~~  
25 ~~to capital and loans for community investment;~~

1 development of secondary markets for economic  
2 and community development, small business  
3 and commercial loans, and home mortgage  
4 loans and investments; and methods to involve  
5 all segments of the financial services industry in  
6 community development.

7 (B) CONSULTATION.—In the conduct of  
8 the study, the Fund shall consult, or cause con-  
9 sultation with, the Office of the Comptroller of  
10 the Currency, the Federal Deposit Insurance  
11 Corporation, the Board of Governors of the  
12 Federal Reserve System, the Federal Housing  
13 Finance Board, the Farm Credit Administra-  
14 tion, the Office of Thrift Supervision, the Na-  
15 tional Credit Union Administration, community  
16 reinvestment, civil rights, consumer and finan-  
17 cial organizations, and such representatives of  
18 agencies or other persons as the Fund may de-  
19 termine.

20 (C) REPORTS.—Within 270 days after the  
21 date of enactment of this Act, the Fund shall  
22 report to the President its initial findings and  
23 recommendations regarding the matters set  
24 forth in subparagraph (A). Thereafter, the  
25 Fund shall report its findings and recommenda-

1           tions to the President with the annual report  
2           required and recommendations to the President  
3           with the annual report required by paragraph  
4           (b)(1).

5           (3) INVESTMENT, GOVERNANCE, AND ROLE OF  
6           FUND.—Six years following the date of enactment of  
7           this Act, the Fund, in accordance with the proce-  
8           dures described in paragraphs (2)(A) and (B), shall  
9           conduct a study evaluating the structure, govern-  
10          ance, and performance of the Fund. The study shall  
11          be submitted to the President. Such study shall in-  
12          clude an evaluation of the overall performance of the  
13          Fund in meeting the purposes of this Act and any  
14          recommendations of the Fund for restructuring the  
15          Board, altering procedures under which the Fund is  
16          governed, the future role of the Fund in addressing  
17          community development, and the ability of the Fund  
18          to become a private, self-sustaining entity capable of  
19          fulfilling the purposes of this Act.

20          (c) EXAMINATION AND AUDIT.—The financial state-  
21          ments of the Fund shall be audited in accordance with  
22          section 9105 of title 31, United States Code, except that  
23          audits required by section 9105(a) of that title shall be  
24          performed annually.

1 **SEC. 11. INVESTMENT OF RECEIPTS AND PROCEEDS.**

2 Any dividends on equity investments and proceeds  
3 from the disposition of investments, deposits, or member-  
4 ship shares that are received by the Fund as a result of  
5 assistance provided pursuant to section 7 of this Act shall  
6 be deposited and accredited to an account of the Fund  
7 established to carry out the authorized purposes of this  
8 Act. Upon request of the Chief Executive Officer, the Sec-  
9 retary of the Treasury shall invest amounts deposited in  
10 such account in public debt securities with maturities suit-  
11 able to the needs of the Fund, as determined by the Chief  
12 Executive Officer, and bearing interest at rates deter-  
13 mined by the Secretary of the Treasury, taking into con-  
14 sideration current market yields on outstanding market-  
15 able obligations of the United States of comparable matu-  
16 rities. Amounts deposited into the account and interest  
17 earned on such amounts pursuant to this section shall be  
18 available to the Fund until expended.

19 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

20 (a) IN GENERAL.—There are authorized to be appro-  
21 priated to the Fund, to remain available until expended,  
22 \$60,000,000 for fiscal year 1994, \$104,000,000 for fiscal  
23 year 1995, \$107,000,000 for fiscal year 1996, and  
24 \$111,000,000 for fiscal year 1997, or such greater sums  
25 as may be appropriated, to carry out the purposes of the  
26 Act.

1       (b) ADMINISTRATIVE EXPENSES.—The Fund may  
 2 set aside up to \$10,000,000 each fiscal year to pay admin-  
 3 istrative costs and expenses.

4 **SEC. 13. CONFORMING AMENDMENT.**

5       Section 8E(a)(2) of the Inspector General Act of  
 6 1978 (5 U.S.C. app. 3, 8E(a)(2)) is amended by inserting  
 7 “the Community Development Banking and Financial In-  
 8 stitutions Fund,” immediately following “the Community  
 9 Futures Trading Commission,”.

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

11       (a) *SHORT TITLE.*—This Act may be cited as the  
 12 “Community Development, Credit Enhancement, and Reg-  
 13 ulatory Improvement Act of 1993”.

14       (b) *TABLE OF CONTENTS.*—The table of contents for  
 15 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. Study of community development credit unions.*

- Sec. 118. Regulations.*  
*Sec. 119. Authorization of appropriations.*

*Subtitle B—Home Ownership and Equity Protection*

- Sec. 151. Consumer protections for high cost mortgages.*  
*Sec. 152. Civil liability.*  
*Sec. 153. 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 loans.*  
*Sec. 209. Transactions in small business related securities by employee benefit plans.*  
*Sec. 210. 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.*

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 1993”.*

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*

1 *economic growth, people living in poverty, and the*  
2 *lack of employment and other opportunities;*

3 *(2) the restoration and maintenance of the econo-*  
4 *mies of these communities will require coordinated de-*  
5 *velopment strategies, intensive supportive services,*  
6 *and increased access to equity investments and loans*  
7 *for development activities, including investment in*  
8 *businesses, housing, commercial real estate, human*  
9 *development, and other activities that promote the*  
10 *long-term economic and social viability of the com-*  
11 *munity; and*

12 *(3) community development financial institu-*  
13 *tions have proven their ability to identify and re-*  
14 *spond to community needs for equity investments,*  
15 *loans, and development services.*

16 *(b) PURPOSE.—The purpose of this subtitle is to create*  
17 *a Community Development Financial Institutions Fund*  
18 *that will promote economic revitalization and community*  
19 *development through a program of investment in and as-*  
20 *sistance to community development financial institutions,*  
21 *including enhancing the liquidity of community develop-*  
22 *ment financial institutions.*

23 **SEC. 103. DEFINITIONS.**

24 *For purposes of this subtitle, the following definitions*  
25 *shall apply:*



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

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

10          (3) *COMMUNITY DEVELOPMENT FINANCIAL INSTI-  
11          TUTION.*—

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

15                       (i) has a primary mission of promot-  
16                       ing community development;

17                       (ii) serves an investment area or tar-  
18                       geted population;

19                       (iii) directly, through an affiliate, or  
20                       through a community partnership, provides  
21                       development services and equity investments  
22                       or loans;

23                       (iv) maintains, through representation  
24                       on its governing board or otherwise, ac-

1           *countability to residents of its investment*  
2           *area or targeted population; and*

3                   *(v) is not an agency or instrumentality*  
4           *of the United States, or of any State or po-*  
5           *litical subdivision of a State.*

6           *(B) QUALIFICATION OF AFFILIATES.—A*  
7           *subsidiary may only qualify as a community de-*  
8           *velopment financial institution if its parent*  
9           *company and the subsidiaries thereof (on a con-*  
10          *solidated basis) also qualify as community devel-*  
11          *opment financial institutions.*

12          *(4) COMMUNITY PARTNER.—The term “commu-*  
13          *nity partner” means a person (other than an individ-*  
14          *ual) that provides loans, equity investments, or devel-*  
15          *opment services, including a depository institution*  
16          *holding company, an insured depository institution,*  
17          *an insured credit union, a nonprofit organization, a*  
18          *State or local government agency, and an investment*  
19          *company authorized to operate pursuant to the Small*  
20          *Business Investment Act of 1958.*

21          *(5) COMMUNITY PARTNERSHIP.—The term “com-*  
22          *munity partnership” means an agreement between a*  
23          *community development financial institution and a*  
24          *community partner to provide development services*

1     *and loans or equity investments to an investment*  
2     *area or targeted population.*

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

7             (7) *DEVELOPMENT SERVICES.—The term “devel-*  
8     *opment services” means activities that promote com-*  
9     *munity development and are integral to lending or*  
10    *investment activities, including—*

11                 (A) *business planning;*

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

13                 (C) *marketing and management assistance.*

14             (8) *INSURED COMMUNITY DEVELOPMENT FINAN-*  
15    *CIAL INSTITUTION.—The term “insured community*  
16    *development financial institution” means any com-*  
17    *munity development financial institution that is an*  
18    *insured depository institution or an insured credit*  
19    *union.*

20             (9) *INSURED CREDIT UNION.—The term “insured*  
21    *credit union” has the same meaning as in section*  
22    *101(7) of the Federal Credit Union Act.*

23             (10) *INSURED DEPOSITORY INSTITUTION.—The*  
24    *term “insured depository institution” has the same*

1        *meaning as in section 3 of the Federal Deposit Insur-*  
2        *ance Act.*

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

5                    (A)(i) *meets objective criteria of economic*  
6        *distress developed by the Community Develop-*  
7        *ment Financial Institutions Fund, which may*  
8        *include the percentage of low-income families or*  
9        *the extent of poverty, the rate of unemployment*  
10       *or underemployment, lag in population growth,*  
11       *and extent of blight and disinvestment; and*

12                   (ii) *has significant unmet needs for loans or*  
13       *equity investments;*

14                   (B) *is located in an empowerment zone or*  
15       *enterprise community designated under section*  
16       *1391 of the Internal Revenue Code of 1986; or*

17                   (C) *is located on an Indian reservation, as*  
18       *defined in section 3(d) of the Indian Financing*  
19       *Act of 1974 or section 4(10) of the Indian Child*  
20       *Welfare Act of 1978.*

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

24                   (A) *for metropolitan areas, 80 percent of the*  
25       *area median income; and*

1           (B) for nonmetropolitan areas, the greater  
2           of—

3                   (i) 80 percent of the area median in-  
4                   come; and

5                   (ii) 80 percent of the statewide  
6                   nonmetropolitan area median income.

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

10           (14) *SUBSIDIARY.*—The term “subsidiary” has  
11           the same meaning as in section 3 of the Federal De-  
12           posit Insurance Act, except that a community devel-  
13           opment financial institution that is a corporation  
14           shall not be considered to be a subsidiary of any in-  
15           sured depository institution or depository institution  
16           holding company that controls less than 25 percent of  
17           the voting shares of the corporation.

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

22   **SEC. 104. ESTABLISHMENT OF NATIONAL FUND FOR COM-**  
23                                   **MUNITY DEVELOPMENT BANKING.**

24           (a) *ESTABLISHMENT.*—

1           (1) *IN GENERAL.*—*There is established a cor-*  
2 *poration to be known as the Community Development*  
3 *Financial Institutions Fund (hereafter in this subtitle*  
4 *referred to as the “Fund”)* that shall have the duties  
5 *and responsibilities specified by this subtitle. The*  
6 *Fund shall have succession until dissolved. The offices*  
7 *of the Fund shall be in Washington, D.C. The Fund*  
8 *shall not be affiliated with or be within any other*  
9 *agency or department of the Federal Government.*

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

15           (b) *MANAGEMENT OF FUND.*—

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

1       *during the absence or disability of the Administrator*  
2       *or in the event of a vacancy in the office of the Ad-*  
3       *ministrators.*

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

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

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

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

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

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

24                   (4) *may enter into, perform, and enforce such*  
25       *agreements, contracts, and transactions as may be*

1 *deemed necessary or appropriate to the conduct of ac-*  
2 *tivities authorized under this subtitle;*

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

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

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

18 *(d) ADVISORY BOARD.—*

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

25 *(2) MEMBERSHIP.—*



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

3                   (i) *represent community groups whose*  
4                   *constituencies include targeted populations*  
5                   *or residents of investment areas;*

6                   (ii) *represent local or regional govern-*  
7                   *ment interests;*

8                   (iii) *have expertise in the operations*  
9                   *and activities of insured depository institu-*  
10                   *tions; and*

11                   (iv) *have expertise in community de-*  
12                   *velopment and lending.*

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

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

22           (4) *TERMS OF MEMBERS.*—

23                   (A) *IN GENERAL.*—*Each member of the*  
24                   *Board shall serve for a term of 4 years.*

1           (B) *VACANCIES.*—Any member appointed to  
2           fill a vacancy occurring prior to the expiration  
3           of the term for which the previous member was  
4           appointed shall be appointed for the remainder  
5           of such term. Members may continue to serve fol-  
6           lowing the expiration of their terms until a suc-  
7           cessor is appointed and qualified.

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

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

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

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

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

1           (1) *by redesignating subparagraphs (B) through*  
2           *(M) as subparagraphs (C) through (N), respectively;*  
3           *and*

4           (2) *by inserting after subparagraph (A) the fol-*  
5           *lowing new subparagraph:*

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

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

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

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

24          (i) *COMPENSATION.—Title 5, United States Code, is*  
25          *amended—*

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

3           “Administrator of the Community Development  
4           Financial Institutions Fund.”; and

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

7           “Deputy Administrator of the Community Devel-  
8           opment Financial Institutions Fund.”.

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

14          **SEC. 105. APPLICATIONS FOR ASSISTANCE.**

15          (a) FORM AND PROCEDURES.—An application for as-  
16          sistance under this subtitle shall be submitted in such form  
17          and in accordance with such procedures as the Fund shall  
18          establish.

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

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

24                  (2) to include a comprehensive strategic plan for  
25                  the organization that contains—

1           (A) a business plan of not less than 5 years  
2           in duration that demonstrates that the applicant  
3           will be properly managed and will have the ca-  
4           pacity to operate a community development fi-  
5           nancial institution that will not be dependent  
6           upon assistance from the Fund for continued vi-  
7           ability;

8           (B) an analysis of the needs of the invest-  
9           ment area or targeted population and a strategy  
10          for how the applicant will attempt to meet those  
11          needs;

12          (C) a plan to coordinate use of assistance  
13          from the Fund with existing Federal, State, and  
14          local assistance programs, and private sector fi-  
15          nancial services;

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

21          (E) a description of how the applicant will  
22          coordinate with community organizations and  
23          financial institutions which will provide equity  
24          investments, loans, secondary markets, or other

1           *services to investment areas or targeted popu-*  
2           *lations;*

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

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

9                   *(A) has substantially met its performance*  
10            *goals and otherwise carried out its responsibil-*  
11            *ities under this subtitle and the assistance agree-*  
12            *ment; and*

13                   *(B) will expand its operations into a new*  
14            *investment area or to serve a new targeted popu-*  
15            *lation, offer more services, or increase the volume*  
16            *of its business;*

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

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

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

1           (6) to include such other information as the  
2           Fund deems appropriate.

3           (c) *PREAPPLICATION OUTREACH PROGRAM.*—The  
4           Fund may operate an outreach program to identify and  
5           provide information to potential applicants.

6           **SEC. 106. COMMUNITY PARTNERSHIPS.**

7           (a) *APPLICATION.*—An application for assistance may  
8           be filed jointly by a community development financial in-  
9           stitution and a community partner to carry out a commu-  
10          nity partnership.

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

13               (1) to meet the minimum requirements estab-  
14               lished for community development financial institu-  
15               tions under section 105(b), except that the criteria  
16               specified in paragraphs (1) and (2)(A) of section  
17               105(b) shall not apply to the community partner;

18               (2) to describe how each coapplicant will partici-  
19               pate in carrying out the community partnership and  
20               how the partnership will enhance activities serving  
21               the investment area or targeted population; and

22               (3) to demonstrate that the community partner-  
23               ship activities are consistent with the strategic plan  
24               submitted by the community development financial  
25               institution coapplicant.

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

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

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

18 **SEC. 107. SELECTION OF INSTITUTIONS.**

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

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

24               (2) *the experience and background of the pro-*  
25 *posed management team;*



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

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

8           (5) *the extent to which the applicant will con-*  
9           *centrate its activities on serving its investment areas*  
10          *or targeted populations;*

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

14          (7) *the extent to which the proposed activities*  
15          *will expand economic opportunities within the invest-*  
16          *ment areas or the targeted populations;*

17          (8) *whether the applicant is, or will become, an*  
18          *insured depository institution or an insured credit*  
19          *union;*

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

22                 (A) *in an empowerment zone or enterprise*  
23                 *community designated under section 1391 of the*  
24                 *Internal Revenue Code of 1986; or*

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

5           (10) the extent to which the applicant will in-  
6           crease its resources through coordination with other  
7           institutions or participation in a secondary market;

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

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

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

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

19          (a) *FORMS OF ASSISTANCE.*—

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

21                          (A) financial assistance through equity in-  
22                          vestments, deposits, credit union shares, loans,  
23                          and grants; and

24                          (B) technical assistance—

25                                  (i) directly;

1                   (ii) through grants; or

2                   (iii) by contracting with organizations  
3                   that possess expertise in community devel-  
4                   opment, without regard to whether the orga-  
5                   nizations receive or are eligible to receive  
6                   assistance under this subtitle.

7                   (2) *EQUITY INVESTMENTS.*—The Fund shall not  
8                   own more than 50 percent of the equity of a commu-  
9                   nity development financial institution and may not  
10                  control the operations of such institution. The Fund  
11                  may hold only transferable, nonvoting equity invest-  
12                  ments. Such equity investments may provide for con-  
13                  vertibility to voting stock upon transfer by the Fund.

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

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

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

24                  (1) *IN GENERAL.*—Financial assistance made  
25                  available under this subtitle may be used by assisted

1 *institutions to serve investment areas or targeted pop-*  
2 *ulations by developing or supporting—*

3 *(A) commercial facilities that promote revi-*  
4 *talization, community stability, or job creation*  
5 *or retention;*

6 *(B) businesses that—*

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

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

11 *(C) community facilities;*

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

13 *(E) housing that is principally affordable to*  
14 *low-income people, except that assistance used to*  
15 *facilitate homeownership opportunities shall only*  
16 *be used for activities and lending products that*  
17 *serve low-income people and are not offered by*  
18 *other lenders in the area; and*

19 *(F) other businesses and activities deemed*  
20 *appropriate by the Fund.*

21 *(2) LIMITATIONS.—No assistance made available*  
22 *under this subtitle may be expended by a community*  
23 *development financial institution (or an organization*  
24 *receiving assistance under section 115) to pay any*  
25 *person to influence or attempt to influence any agen-*

1        *cy, elected official, officer, or employee of a State or*  
2        *local government in connection with the making,*  
3        *award, extension, continuation, renewal, amendment,*  
4        *or modification of any State or local government con-*  
5        *tract, grant, loan, or cooperative agreement (as such*  
6        *terms are defined in section 1352 of title 31, United*  
7        *States Code).*

8        *(c) USES OF TECHNICAL ASSISTANCE.—Technical as-*  
9        *sistance may be used for activities that enhance the capac-*  
10       *ity of a community development financial institution, such*  
11       *as training of management and other personnel and devel-*  
12       *opment of programs and investment or loan products.*

13       *(d) AMOUNT OF ASSISTANCE.—*

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

18            *(2) EXCEPTION.—Notwithstanding the limita-*  
19        *tions in paragraph (1), in the case of an existing*  
20        *community development financial institution that*  
21        *proposes to serve an investment area or targeted pop-*  
22        *ulation outside of any State and outside of any met-*  
23        *ropolitan area presently served by the institution, the*  
24        *Fund may provide not more than \$7,500,000 of as-*  
25        *sistance to a community development financial insti-*

1        *tution, in the aggregate, during any 3-year period, of*  
2        *which not less than \$2,500,000 shall be used to estab-*  
3        *lish affiliates to serve the new investment area or tar-*  
4        *geted population.*

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

9            (e) *MATCHING REQUIREMENTS.*—*Assistance other*  
10       *than technical assistance shall be matched with funds from*  
11       *sources other than the Federal Government on the basis of*  
12       *not less than 1 dollar for each dollar provided by the Fund.*  
13       *Such matching funds shall be at least comparable in form*  
14       *and value to the assistance provided by the Fund. The Fund*  
15       *may reduce by up to 50 percent the matching requirements*  
16       *for applicants with severe constraints on available sources*  
17       *of matching funds, except that in any fiscal year, not more*  
18       *than 25 percent of funds disbursed by the Fund may have*  
19       *a reduced match. The Fund shall provide no assistance*  
20       *(other than technical assistance) until a community devel-*  
21       *opment financial institution has secured firm commitments*  
22       *for the matching funds required.*

23            (f) *TERMS AND CONDITIONS.*—

24            (1) *SOUNDNESS OF UNREGULATED INSTITU-*  
25        *TIONS.*—*The Fund shall—*

1           (A) ensure, to the maximum extent prac-  
2           ticable, that each community development finan-  
3           cial institution (other than an insured commu-  
4           nity development financial institution or deposi-  
5           tory institution holding company) assisted under  
6           this subtitle is financially and managerially  
7           sound and maintains appropriate internal con-  
8           trols; and

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

14          (2) CONSULTATION WITH THE APPROPRIATE  
15          BANKING REGULATOR.—Prior to providing assistance  
16          to an insured community development financial insti-  
17          tution, the Fund shall consult with the appropriate  
18          Federal banking agency.

19          (3) ASSISTANCE AGREEMENT.—

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

1            *tions pertinent to assistance received under this*  
2            *subtitle.*

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

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

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

20                    (ii) *terminate or reduce future assist-*  
21                    *ance;*

22                    (iii) *require repayment of assistance;*

23                    (iv) *require changes to the performance*  
24                    *goals imposed pursuant to subparagraph*  
25                    *(B);*



1                   (v) bar an applicant from reapplying  
2                   for assistance from the Fund;

3                   (vi) require changes to the strategic  
4                   plan submitted pursuant to section  
5                   105(b)(2); and

6                   (vii) take such other actions as the  
7                   Fund deems appropriate.

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

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

23                  (h) *NO AUTHORITY TO LIMIT SUPERVISION AND REG-*  
24                  *ULATION.*—Nothing in this subtitle shall affect any author-

1 *ity of the appropriate Federal banking agency to supervise*  
2 *and regulate any institution or company.*

3 **SEC. 109. COMMUNITY DEVELOPMENT TRAINING.**

4 *(a) IN GENERAL.—The Fund may operate a training*  
5 *program to increase the capacity and expertise of commu-*  
6 *nity development financial institutions and other members*  
7 *of the financial services industry to undertake community*  
8 *development activities (hereafter in this subtitle referred to*  
9 *as the “training program”).*

10 *(b) PROGRAM ACTIVITIES.—The training program*  
11 *shall provide educational programs to assist community de-*  
12 *velopment financial institutions and other members of the*  
13 *financial services industry in developing lending and in-*  
14 *vestment products, underwriting and servicing loans, man-*  
15 *aging equity investments, and implementing development*  
16 *services targeted to areas of economic distress, low-income*  
17 *persons, and persons who lack adequate access to loans and*  
18 *equity investments.*

19 *(c) PARTICIPATION.—The training program shall be*  
20 *made available to community development financial insti-*  
21 *tutions and other members of the financial services industry*  
22 *that serve or seek to serve areas of economic distress, low-*  
23 *income persons, and persons who lack adequate access to*  
24 *loans and equity investments.*

1           (d) *CONTRACTING.*—*The Fund may offer the training*  
2 *described in this section directly or through a contract with*  
3 *other organizations. The Fund may contract to provide the*  
4 *training with organizations that possess special expertise*  
5 *in community development, without regard to whether the*  
6 *organizations receive or are eligible to receive assistance*  
7 *under this subtitle.*

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

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

12           *The Fund may facilitate the organization of corpora-*  
13 *tions in which the Federal Government has no ownership*  
14 *interest that will complement the activities of the Fund in*  
15 *carrying out the purpose of this subtitle. The purpose of*  
16 *any such entity shall be to assist community development*  
17 *financial institutions in a manner that is complementary*  
18 *to the activities of the Fund under this subtitle. Any such*  
19 *entity shall be managed exclusively by persons not employed*  
20 *by the Federal Government or any agency or instrumental-*  
21 *ity thereof.*

22 ***SEC. 111. CLEARINGHOUSE FUNCTION.***

23           (a) *ESTABLISHMENT.*—*The Fund may establish and*  
24 *maintain an information clearinghouse in coordination*

1 *with other Federal departments or agencies and community*  
2 *development financial institutions to—*

3 *(1) collect, compile, and analyze information*  
4 *pertinent to community development financial insti-*  
5 *tutions that will assist in creating, developing, ex-*  
6 *anding, and preserving these institutions; and*

7 *(2) provide information on financial, technical,*  
8 *and management assistance, data on the activities of*  
9 *community development financial institutions, regu-*  
10 *lations, and other information that may promote the*  
11 *purposes of this subtitle.*

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

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

16 *(a) RECORDKEEPING.—*

17 *(1) IN GENERAL.—A community development fi-*  
18 *nancial institution receiving assistance from the*  
19 *Fund shall keep such records, for such periods as may*  
20 *be prescribed, as may be necessary to disclose the*  
21 *manner in which any assistance under this subtitle is*  
22 *used and to demonstrate compliance with the require-*  
23 *ments of this subtitle.*

24 *(2) ACCESS TO RECORDS.—The Fund shall have*  
25 *access on demand, for the purpose of determining*

1 *compliance with this subtitle, to any records of a*  
2 *community development financial institution that re-*  
3 *ceives assistance from the Fund.*

4 (3) *REVIEW.*—*Not less than annually, the Fund*  
5 *shall review the progress of each assisted community*  
6 *development financial institution in carrying out its*  
7 *strategic plan, meeting its performance goals, and*  
8 *satisfying the terms and conditions of its assistance*  
9 *agreement.*

10 (4) *REPORTING.*—

11 (A) *ANNUAL REPORTS.*—*The Fund shall re-*  
12 *quire each community development financial in-*  
13 *stitution receiving assistance under this subtitle*  
14 *to submit an annual report to the Fund on its*  
15 *activities, its financial condition, and its success*  
16 *in meeting performance goals, in satisfying the*  
17 *terms and conditions of its assistance agreement,*  
18 *and in complying with other requirements of this*  
19 *subtitle in such form and manner as the Fund*  
20 *shall specify.*

21 (B) *AVAILABILITY OF REPORTS.*—*The*  
22 *Fund, after deleting or redacting any material,*  
23 *as appropriate to protect privacy or proprietary*  
24 *interests, shall make such reports available for*  
25 *public inspection.*

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

9       **(c) STUDIES.**—

10           **(1) OPTIONAL STUDIES.**—*The Fund may con-*  
11 *duct such studies as the Fund determines necessary to*  
12 *further the purpose of this subtitle and to facilitate*  
13 *investment in distressed communities. The findings of*  
14 *any studies conducted pursuant to this paragraph*  
15 *shall be included in the report required by subsection*  
16 *(b).*

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

23       **(d) EXAMINATION AND AUDIT.**—*The financial state-*  
24 *ments of the Fund shall be audited in accordance with sec-*  
25 *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           sistance 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. STUDY OF COMMUNITY DEVELOPMENT CREDIT**  
24 **UNIONS.**

25 *(a) IN GENERAL.—The National Credit Union Admin-*  
26 *istration Board, in consultation with representatives of the*

1 *credit union industry, shall conduct a study of community*  
2 *development credit activities by credit unions. In conduct-*  
3 *ing the study, the Board shall consider—*

4           (1) *the role of such institutions in providing*  
5 *credit and related financial services to inner city and*  
6 *rural areas;*

7           (2) *the failure rate of such institutions in the*  
8 *past;*

9           (3) *the desirability of establishing a special ex-*  
10 *amination force for community development credit*  
11 *unions and mentor programs;*

12           (4) *the desirability of establishing a clearing-*  
13 *house for the recirculation of startup equipment and*  
14 *furniture for community development credit unions;*  
15 *and*

16           (5) *appropriate startup and permanent financ-*  
17 *ing programs for such credit unions.*

18           (b) *REPORT.—Not later than October 1, 1994, the Na-*  
19 *tional Credit Union Administration Board shall issue a re-*  
20 *port to the Committee on Banking, Housing, and Urban*  
21 *Affairs of the Senate and the Committee on Banking, Fi-*  
22 *nance and Urban Affairs of the House of Representatives*  
23 *on the study conducted under subsection (a) and the regu-*  
24 *latory and legislative changes that may be necessary to en-*

1 *sure that community development activity by credit unions*  
2 *becomes and remains viable and productive.*

3 **SEC. 118. REGULATIONS.**

4 *Not later than 180 days after the appointment and*  
5 *qualification of the Administrator, the Fund shall issue*  
6 *such regulations as may be necessary to carry out this sub-*  
7 *title.*

8 **SEC. 119. AUTHORIZATION OF APPROPRIATIONS.**

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

12 *(1) \$60,000,000 for fiscal year 1994;*

13 *(2) \$104,000,000 for fiscal year 1995;*

14 *(3) \$107,000,000 for fiscal year 1996; and*

15 *(4) \$111,000,000 for fiscal year 1997.*

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

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

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

24 *(c) COMMUNITY DEVELOPMENT CREDIT UNION RE-*  
25 *VOLVING LOAN FUND.—There are authorized to be appro-*

1 *priated for the purposes of the Community Development*  
 2 *Credit Union Revolving Loan Fund—*

3 *(1) \$2,000,000 for fiscal year 1994;*

4 *(2) \$1,000,000 for fiscal year 1995;*

5 *(3) \$1,000,000 for fiscal year 1996; and*

6 *(4) \$1,000,000 for fiscal year 1997.*

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

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

16 ***Subtitle B—Home Ownership and***  
 17 ***Equity Protection***

18 ***SEC. 151. CONSUMER PROTECTIONS FOR HIGH COST MORT-***  
 19 ***GAGES.***

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

23 *“(aa)(1) The term ‘high cost mortgage’ means a*  
 24 *consumer credit transaction, other than a residential mort-*  
 25 *gage transaction or a transaction under an open end credit*

1 *plan, that is secured by a consumer's principal dwelling,*  
2 *if—*

3           “(A) *the annual percentage rate at consumma-*  
4 *tion of the transaction will exceed by more than 10*  
5 *percentage points the rate of interest on Treasury se-*  
6 *curities having comparable periods of maturity on the*  
7 *fifteenth day of the month immediately preceding the*  
8 *month in which the loan is consummated; or*

9           “(B) *the total points and fees payable by the*  
10 *consumer at or before closing will exceed the greater*  
11 *of—*

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

13                   “(ii) *\$400.*

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

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

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

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

23                   “(C) *all direct and indirect compensation re-*  
24 *ceived by the creditor in connection with credit insur-*  
25 *ance; and*



1           “(D) each of the charges listed in section 106(e)  
2           (except an escrow for future payment of taxes), un-  
3           less—

4                   “(i) the charge is reasonable;

5                   “(ii) the creditor receives no direct or indi-  
6           rect compensation; and

7                   “(iii) the charge is paid to a third party  
8           unaffiliated with the creditor.”.

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

11                   (1) by striking “and the due dates” and insert-  
12           ing “; the due dates”; and

13                   (2) by inserting before the period “, and the dis-  
14           closures for high cost mortgages required by section  
15           129(a)”.

16           (c) *DEFINITION OF CREDITOR CLARIFIED.*—Section  
17 *103(f) of the Truth in Lending Act (15 U.S.C. 1602(f))* is  
18 amended by adding at the end the following: “Any person  
19 who originates 2 or more high cost mortgages in any 12-  
20 month period or any person who originates 1 or more high  
21 cost mortgages through a mortgage broker shall be consid-  
22 ered to be a creditor for purposes of this title.”.

23           (d) *DISCLOSURES REQUIRED AND CERTAIN TERMS*  
24 *PROHIBITED.*—The *Truth in Lending Act (15 U.S.C. 1601*

1 *et seq.) is amended by inserting after section 128 the follow-*  
2 *ing new section:*

3 ***“SEC. 129. REQUIREMENTS FOR HIGH COST MORTGAGES.***

4 *“(a) DISCLOSURES.—*

5 *“(1) SPECIFIC DISCLOSURES.—In addition to*  
6 *other disclosures required under this title, for each*  
7 *high cost mortgage, the creditor shall provide the fol-*  
8 *lowing disclosures in conspicuous type size:*

9 *“(A) ‘You are not required to complete this*  
10 *agreement merely because you have received these*  
11 *disclosures or have signed a loan application.’*

12 *“(B) ‘If you obtain this loan, the lender will*  
13 *have a mortgage on your home. You could lose*  
14 *your home, and any money you have put into it,*  
15 *if you do not meet your obligations under the*  
16 *loan.’*

17 *“(2) ANNUAL PERCENTAGE RATE.—In addition*  
18 *to the disclosures required under paragraph (1), the*  
19 *creditor shall disclose—*

20 *“(A) the annual percentage rate of the loan*  
21 *and the amount of the regular monthly payment;*  
22 *or*

23 *“(B) in the case of a variable rate loan, the*  
24 *annual percentage rate of the loan, a statement*  
25 *that the interest rate and monthly payment may*

1           *increase, and the amount of the maximum pos-*  
2           *sible monthly payment.*

3           “(b) *TIME OF DISCLOSURES.*—

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

7           “(2) *NEW DISCLOSURES REQUIRED.*—*After pro-*  
8           *viding the disclosures required by this section, a cred-*  
9           *itor may not change the terms of the loan if such*  
10          *changes make the disclosures inaccurate, unless new*  
11          *disclosures are provided that meet the requirements of*  
12          *this section.*

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

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

21          “(1) *IN GENERAL.*—*Except as provided in para-*  
22          *graph (4), a high cost mortgage may not contain*  
23          *terms under which a consumer must pay a prepay-*  
24          *ment penalty for paying all or part of the principal*  
25          *of the loan prior to the date on which such principal*

1     *is due. If the date of maturity of the high cost mort-*  
2     *gage is accelerated for any reason, and the consumer*  
3     *is entitled to a rebate of interest, computation of the*  
4     *rebate amount shall comply with paragraph (2). No*  
5     *high cost mortgage shall provide for a default interest*  
6     *rate that is higher than the interest rate provided by*  
7     *the note for the loan prior to default.*

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

14            “(3) *CERTAIN OTHER FEES PROHIBITED.*—*An*  
15    *agreement to refinance a high cost mortgage by the*  
16    *same creditor or an affiliate of the creditor may not*  
17    *require the consumer to pay points, discount fees, or*  
18    *prepaid finance charges on the portion of the loan re-*  
19    *financed.*

20            “(4) *EXCEPTION.*—*A high cost mortgage may in-*  
21    *clude terms under which a consumer is required to*  
22    *pay not more than 1 month’s interest as a penalty if*  
23    *the consumer prepays the principal of the loan within*  
24    *90 days of origination.*

1       “(d) *NO BALLOON PAYMENTS.*—A high cost mortgage  
2 may not include terms under which the aggregate amount  
3 of the regular periodic payments would not fully amortize  
4 the outstanding principal balance.

5       “(e) *NO NEGATIVE AMORTIZATION.*—A high cost mort-  
6 gage may not include terms under which the outstanding  
7 principal balance will increase at any time over the course  
8 of the loan because the regular periodic payments do not  
9 cover the full amount of interest due.

10       “(f) *NO PREPAID PAYMENTS.*—A high cost mortgage  
11 may not include terms under which more than 2 periodic  
12 payments required under the loan are consolidated and  
13 paid in advance from the loan proceeds provided to the  
14 consumer.

15       “(g) *CONSEQUENCE OF FAILURE TO COMPLY.*—Any  
16 high cost mortgage loan that contains a provision prohib-  
17 ited by this section shall be deemed a failure to deliver the  
18 material disclosures required under this title, for the pur-  
19 pose of section 125.

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

23       “(i) *DISCRETIONARY REGULATORY AUTHORITY OF*  
24 *BOARD.*—

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

6                   “(A) is in the interest of the borrowing pub-  
7                   lic; and

8                   “(B) will apply only to products that main-  
9                   tain and strengthen home ownership and equity  
10                  protection.

11           “(2) *PROHIBITIONS.*—The Board, by regulation  
12           or order, shall prohibit any specific acts or practices  
13           in connection with high cost mortgages that the Board  
14           finds to be unfair, deceptive, or designed to evade the  
15           provisions of this section.”.

16           (e) *CONFORMING AMENDMENTS.*—

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

          “129. Requirements for high cost mortgages.”.

21                   (2) *TRUTH IN LENDING ACT.*—Section 105(a) of  
22                   the Truth in Lending Act (15 U.S.C. 1604(a)) is  
23                   amended in the second sentence, by striking “These”  
24                   and inserting “Except in the case of a high cost mort-  
25                   gage, as defined in section 103(aa), these”.

1 **SEC. 152. CIVIL LIABILITY.**

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

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

5 (2)(B);

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

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

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

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

1 *general shall provide notice to such agency immediately*  
2 *upon instituting the action. The Federal agency may—*

3 *“(1) intervene in the action;*

4 *“(2) upon intervening—*

5 *“(A) remove the action to the appropriate*  
6 *United States district court, if it was not origi-*  
7 *nally brought there; and*

8 *“(B) be heard on all matters arising in the*  
9 *action; and*

10 *“(3) file a petition for appeal.”.*

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

14 *“(d) HIGH COST MORTGAGES.—*

15 *“(1) IN GENERAL.—In addition to any other li-*  
16 *ability imposed under this title, any person who pur-*  
17 *chases or is otherwise assigned a high cost mortgage*  
18 *shall be subject to all claims and defenses with respect*  
19 *to the mortgage that the consumer could assert*  
20 *against the creditor of the mortgage.*

21 *“(2) DAMAGES.—Relief provided as a result of*  
22 *liability imposed under paragraph (1) shall be lim-*  
23 *ited to the sum of—*

24 *“(A) the amount of all remaining indebted-*  
25 *ness; and*



1                   “(B) the total amount paid by the consumer  
2                   in connection with the transaction.

3                   “(3) NOTICE.—Any person who sells or otherwise  
4                   assigns a high cost mortgage shall include a promi-  
5                   nent notice of the potential liability under this sub-  
6                   section as determined by the Board.”.

7   **SEC. 153. REGULATIONS; EFFECTIVE DATE.**

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

12                  (b) EFFECTIVE DATE.—This subtitle, and the amend-  
13                  ments made by this subtitle, shall apply to every high cost  
14                  mortgage (as defined in section 103(aa) of the Truth in  
15                  Lending Act, as added by section 151(a) of this Act) con-  
16                  summated on or after the date which is 60 days after the  
17                  promulgation of final regulations under subsection (a).

18                  **TITLE II—SMALL BUSINESS**

19                  **CAPITAL FORMATION**

20                  **Subtitle A—Small Business Loan**

21                  **Securitization**

22   **SEC. 201. SHORT TITLE.**

23                  This subtitle may be cited as the “Small Business  
24                  Loan Securitization and Secondary Market Enhancement  
25                  Act of 1993”.

1 **SEC. 202. SMALL BUSINESS RELATED SECURITY.**

2 (a) *DEFINITION.*—Section 3(a) of the Securities Ex-  
3 change Act of 1934 (15 U.S.C. 78c(a)) is amended by add-  
4 ing at the end the following new paragraph:

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

9 “(i) represents an interest in 1 or more  
10 promissory notes evidencing the indebtedness of a  
11 small business concern and originated by an in-  
12 sured depository institution, insured credit  
13 union, insurance company, or similar institu-  
14 tion which is supervised and examined by a Fed-  
15 eral or State authority, or a finance company;  
16 or

17 “(ii) is secured by an interest in 1 or more  
18 promissory notes (with or without recourse to the  
19 issuer) and provides for payments of principal  
20 in relation to payments, or reasonable projec-  
21 tions of payments, on notes described in clause  
22 (i).

23 “(B) For purposes of this paragraph—

24 “(i) an ‘interest in a promissory note’ in-  
25 cludes ownership rights, certificates of interest or  
26 participation in such notes, and rights designed

1           to assure servicing of such notes, or the receipt  
2           or timely receipt of amounts payable under such  
3           notes;

4           “(ii) the term ‘small business concern’ has  
5           the same meaning as in section 3 of the Small  
6           Business Act;

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

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

13           (b) *TECHNICAL AMENDMENT.*—Section 3(a) of the Se-  
14           curities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amend-  
15           ed by redesignating paragraph (51) defining the term “for-  
16           eign financial regulatory authority” as paragraph (52) and  
17           inserting such paragraph after paragraph (51), defining the  
18           term “penny stocks”.

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

20           Section 7(g) of the Securities Exchange Act of 1934  
21           (15 U.S.C. 78g(g)) is amended by inserting “or a small  
22           business related security” after “mortgage related security”.

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

24           Section 8(a) of the Securities Exchange Act of 1934  
25           (15 U.S.C. 78h(a)) is amended in the last sentence by in-

1 *serting “or a small business related security” after “mort-*  
 2 *gage related security”.*

3 **SEC. 205. SMALL BUSINESS RELATED SECURITIES AS COL-**  
 4 **LATERAL.**

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

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

10 *(a) HOME OWNERS’ LOAN ACT AMENDMENT.—Section*  
 11 *5(c)(1) of the Home Owners’ Loan Act (12 U.S.C.*  
 12 *1464(c)(1)) is amended by adding at the end the following*  
 13 *new subparagraph:*

14 *“(S) SMALL BUSINESS RELATED SECURI-*  
 15 *TIES.—Investments in small business related se-*  
 16 *curities (as defined in section 3(a)(53) of the Se-*  
 17 *curities Exchange Act of 1934), subject to such*  
 18 *regulations as the Director may prescribe, in-*  
 19 *cluding regulations concerning the minimum*  
 20 *size of the issue (at the time of the initial dis-*  
 21 *tribution), the minimum aggregate sales price,*  
 22 *or both.”.*

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

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

3           (2) in subparagraph (B), by inserting “or” at  
4           the end; and

5           (3) by adding at the end the following new sub-  
6           paragraph:

7                   “(C) are small business related securities  
8                   (as defined in section 3(a)(53) of the Securities  
9                   Exchange Act of 1934), subject to such regula-  
10                  tions as the Board may prescribe, including reg-  
11                  ulations prescribing the minimum size of the  
12                  issue (at the time of the initial distribution), the  
13                  minimum aggregate sales price, or both;”.

14           (c) NATIONAL BANKING ASSOCIATIONS.—Section 5136  
15           of the Revised Statutes (12 U.S.C. 24) is amended in the  
16           last sentence in the first full paragraph of paragraph Sev-  
17           enth, by striking “or (B) are mortgage related securities”  
18           and inserting the following: “(B) are small business related  
19           securities (as defined in section 3(a)(53) of the Securities  
20           Exchange Act of 1934); or (C) are mortgage related securi-  
21           ties”.

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

23           (a) IN GENERAL.—Section 106(a)(1) of the Secondary  
24           Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-  
25           1(a)(1)) is amended—

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

3           (2) by redesignating subparagraph (C) as sub-  
4           paragraph (D); and

5           (3) by inserting after subparagraph (B) the fol-  
6           lowing new subparagraph:

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

10          (b) OBLIGATIONS OF THE UNITED STATES.—Section  
11          106(a)(2) of the Secondary Mortgage Market Enhancement  
12          Act of 1984 (15 U.S.C. 77r-1(a)(2)) is amended—

13               (1) by striking “or” at the end of subparagraph  
14               (B);

15               (2) by redesignating subparagraph (C) as sub-  
16               paragraph (D); and

17               (3) by inserting after subparagraph (B) the fol-  
18               lowing new subparagraph:

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

22          (c) PREEMPTION OF STATE LAWS.—Section 106(c) of  
23          the Secondary Mortgage Market Enhancement Act of 1984  
24          (15 U.S.C. 77r-1(c)) is amended—

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

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

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

11          “(d) *IMPLEMENTATION.—*

12               “(1) *LIMITATION.—The provisions of subsections*  
13               *(a) and (b) concerning small business related securi-*  
14               *ties shall not apply with respect to a particular*  
15               *person, trust, corporation, partnership, association,*  
16               *business trust, or business entity or class thereof in*  
17               *any State that, prior to the expiration of 7 years*  
18               *after the date of enactment of this subsection, enacts*  
19               *a statute that specifically refers to this section and ei-*  
20               *ther prohibits or provides for a more limited author-*  
21               *ity to purchase, hold, or invest in such small business*  
22               *related securities by any person, trust, corporation,*  
23               *partnership, association, business trust, or business*  
24               *entity or class thereof than is provided in this section.*

25               *The enactment by any State of any statute of the type*

1       *described in the preceding sentence shall not affect the*  
2       *validity of any contractual commitment to purchase,*  
3       *hold, or invest that was made prior to such enact-*  
4       *ment, and shall not require the sale or other disposi-*  
5       *tion of any small business related securities acquired*  
6       *prior to the date of such enactment.*

7               “(2) *STATE REGISTRATION OR QUALIFICATION*  
8       *REQUIREMENTS.—Any State may, not later than 7*  
9       *years after the date of enactment of this subsection,*  
10       *enact a statute that specifically refers to this section*  
11       *and requires registration or qualification of any*  
12       *small business related securities on terms that differ*  
13       *from those applicable to any obligation issued by the*  
14       *United States.”.*

15       **SEC. 208. INSURED DEPOSITORY INSTITUTION CAPITAL RE-**  
16                       **QUIREMENTS FOR TRANSFERS OF SMALL**  
17                       **BUSINESS LOANS.**

18       (a) *ACCOUNTING PRINCIPLES.—The accounting prin-*  
19       *ciples applicable to the transfer of a small business loan*  
20       *with recourse contained in reports or statements required*  
21       *to be filed with Federal banking agencies by a qualified in-*  
22       *sured depository institution shall be consistent with gen-*  
23       *erally accepted accounting principles.*

24       (b) *CAPITAL AND RESERVE REQUIREMENTS.—With*  
25       *respect to the transfer of a small business loan with recourse*



1 *that is a sale under generally accepted accounting prin-*  
2 *ciples, each qualified insured depository institution shall—*

3           (1) *establish and maintain a reserve equal to an*  
4 *amount sufficient to meet the reasonable estimated li-*  
5 *ability of the institution under the recourse arrange-*  
6 *ment; and*

7           (2) *include, for purposes of applicable capital*  
8 *standards and other capital measures, only the*  
9 *amount of the retained recourse in the risk-weighted*  
10 *assets of the institution.*

11       (c) *QUALIFIED INSTITUTIONS CRITERIA.*—*An insured*  
12 *depository institution is a qualified insured depository in-*  
13 *stitution for purposes of this section if, without regard to*  
14 *the accounting principles or capital requirements referred*  
15 *to in subsections (a) and (b), the institution is—*

16           (1) *well capitalized; or*

17           (2) *with the approval, by regulation or order, of*  
18 *the appropriate Federal banking agency, adequately*  
19 *capitalized.*

20       (d) *AGGREGATE AMOUNT OF RECOURSE.*—*The total*  
21 *outstanding amount of recourse retained by a qualified in-*  
22 *sured depository institution with respect to transfers of*  
23 *small business loans under subsections (a) and (b) shall not*  
24 *exceed—*

1           (1) 15 percent of the risk-based capital of the in-  
2           stitution; or

3           (2) such greater amount, as established by the  
4           appropriate Federal banking agency by regulation or  
5           order.

6           (e) *INSTITUTIONS THAT CEASE TO BE QUALIFIED OR*  
7           *EXCEED AGGREGATE LIMITS.*—If an insured depository in-  
8           stitution ceases to be a qualified insured depository institu-  
9           tion or exceeds the limits under subsection (d), this section  
10          shall remain applicable to any transfers of small business  
11          loans that occurred during the time that the institution was  
12          qualified and did not exceed such limit.

13          (f) *PROMPT CORRECTIVE ACTION NOT AFFECTED.*—  
14          The capital of an insured depository institution shall be  
15          computed without regard to this section in determining  
16          whether the institution is adequately capitalized,  
17          undercapitalized, significantly undercapitalized, or criti-  
18          cally undercapitalized under section 38 of the Federal De-  
19          posit Insurance Act.

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

24          (h) *ALTERNATIVE SYSTEM PERMITTED.*—

1           (1) *IN GENERAL.*—At the discretion of the appro-  
2           priate Federal banking agency, this section shall not  
3           apply if the regulations of the agency provide that the  
4           aggregate amount of capital and reserves required  
5           with respect to the transfer of small business loans  
6           with recourse does not exceed the aggregate amount of  
7           capital and reserves that would be required under  
8           subsection (b).

9           (2) *EXISTING TRANSACTIONS NOT AFFECTED.*—  
10          Notwithstanding paragraph (1), this section shall re-  
11          main in effect with respect to transfers of small  
12          business loans with recourse by qualified insured de-  
13          pository institutions occurring before the effective date  
14          of regulations referred to in paragraph (1).

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

16               (1) the term “adequately capitalized” has the  
17               same meaning as in section 38(b) of the Federal De-  
18               posit Insurance Act;

19               (2) the term “appropriate Federal banking agen-  
20               cy” has the same meaning as in section 3 of the Fed-  
21               eral Deposit Insurance Act;

22               (3) the term “capital standards” has the same  
23               meaning as in section 38(c) of the Federal Deposit  
24               Insurance Act;

1           (4) the term “Federal banking agencies” has the  
2 same meaning as in section 3 of the Federal Deposit  
3 Insurance Act;

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

7           (6) the term “other capital measures” has the  
8 meaning as in section 38(c) of the Federal Deposit  
9 Insurance Act;

10          (7) the term “recourse” has the meaning given to  
11 such term under generally accepted accounting prin-  
12 ciples;

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

17          (9) the term “well capitalized” has the same  
18 meaning as in section 38(b) of the Federal Deposit  
19 Insurance Act.

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

21 **SECURITIES BY EMPLOYEE BENEFIT PLANS.**

22          (a) *PROHIBITED TRANSACTION EXEMPTION.*—The  
23 Secretary of Labor, in consultation with the Secretary of  
24 the Treasury, shall exempt transactions involving small  
25 business related securities (as defined in section 3(a)(53)

1 *of the Securities Exchange Act of 1934 (as added by section*  
2 *202 of this Act)), either unconditionally or on stated terms*  
3 *and conditions, from the restrictions of sections 406 and*  
4 *407 of the Employee Retirement Income Security Act of*  
5 *1974 (29 U.S.C. 1106, 1107) and the taxes imposed under*  
6 *section 4975 of the Internal Revenue Code of 1986 (26*  
7 *U.S.C. 4975).*

8 (b) *CONDITIONS.—In providing for the exemption re-*  
9 *quired under subsection (a), the Secretary of Labor shall*  
10 *consider—*

11 (1) *the importance of facilitating transactions in*  
12 *small business related securities; and*

13 (2) *the necessity of imposing any term or condi-*  
14 *tion to protect the rights and interests of participants*  
15 *and beneficiaries of employee benefit plans affected by*  
16 *the exemption.*

17 (c) *REGULATIONS.—Not later than 180 days after the*  
18 *date of enactment of this Act, the Secretary of Labor shall*  
19 *promulgate final regulations to carry out subsection (a).*

20 **SEC. 210. TAXATION OF SMALL BUSINESS LOAN INVEST-**  
21 **MENT CONDUITS.**

22 (a) *TAXATION SIMILAR TO REMIC.—The Secretary of*  
23 *the Treasury shall promulgate regulations providing for the*  
24 *taxation of a small business loan investment conduit and*  
25 *the holder of an interest therein similar to the taxation of*

1 *a real estate mortgage investment conduit and the holder*  
2 *of interests therein under the Internal Revenue Code of*  
3 *1986.*

4 (b) *ADJUSTMENT TO REMIC PROVISIONS.*—*In pro-*  
5 *mulgating regulations under subsection (a), the Secretary*  
6 *of the Treasury shall make any necessary adjustments to*  
7 *the real estate mortgage investment conduit provisions to*  
8 *take into consideration—*

9 (1) *the purpose of facilitating the securitization*  
10 *of small business loans through the use of small busi-*  
11 *ness loan investment conduits and the development of*  
12 *a secondary market in small business loans;*

13 (2) *differences in the nature of qualifying mort-*  
14 *gages in a real estate mortgage investment conduit*  
15 *and small business loans and obligations; and*

16 (3) *differences in the practices of participants in*  
17 *the securitization of real estate mortgages in a real es-*  
18 *tate mortgage investment conduit and the*  
19 *securitization of other assets.*

20 (c) *SMALL BUSINESS LOAN INVESTMENT CONDUIT DE-*  
21 *FINED.*—*For purposes of this section, the term “small busi-*  
22 *ness loan investment conduit” means any entity substan-*  
23 *tially all of the assets of which consist of any obligation*  
24 *(including any participation or certificate of beneficial*  
25 *ownership therein)—*

1           (1) of a business that meets the criteria for a  
2           small business concern established under section 3(a)  
3           of the Small Business Act; and

4           (2) that was originated by an insured depository  
5           institution (as defined in section 3 of the Federal De-  
6           posit Insurance Act), credit union, insurance com-  
7           pany, or similar institution or a finance company  
8           which is supervised and examined by an appropriate  
9           Federal or State authority.

## 10   ***Subtitle B—Small Business Capital*** 11                                   ***Enhancement***

### 12   ***SEC. 251. FINDINGS AND PURPOSES.***

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

14           (1) *small business concerns are a vital part of*  
15           *the economy, accounting for the majority of new jobs,*  
16           *new products, and new services created in the United*  
17           *States;*

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

21           (3) *commercial banks are the most important*  
22           *suppliers of debt capital to small business concerns in*  
23           *the United States;*

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

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

8           (6) *the small business capital access programs*  
9           *implemented by certain States are a flexible and effi-*  
10          *cient tool to assist financial institutions in providing*  
11          *access to needed debt capital for many small business*  
12          *concerns in a manner consistent with safety and*  
13          *soundness regulations;*

14          (7) *a small business capital access program*  
15          *would complement other programs which assist small*  
16          *business concerns in obtaining access to capital; and*

17          (8) *Federal policy can stimulate and accelerate*  
18          *efforts by States to implement small business capital*  
19          *access programs by providing an incentive to States,*  
20          *while leaving the administration of such programs to*  
21          *each participating State.*

22          (b) *PURPOSES.—By encouraging States to implement*  
23          *administratively efficient capital access programs that en-*  
24          *courage commercial banks and other depository institutions*  
25          *to provide access to debt capital for a broad portfolio of*



1 *small business concerns, and thereby promote a more effi-*  
2 *cient and effective debt market, the purposes of this subtitle*  
3 *are—*

4           (1) *to promote economic opportunity and*  
5 *growth;*

6           (2) *to create jobs;*

7           (3) *to promote economic efficiency;*

8           (4) *to enhance productivity; and*

9           (5) *to spur innovation.*

10 **SEC. 252. DEFINITIONS.**

11 *For purposes of this subtitle—*

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

14           (2) *the term “appropriate Federal banking agen-*  
15 *cy”—*

16                   (A) *has the same meaning as in section 3*  
17 *of the Federal Deposit Insurance Act; and*

18                   (B) *includes the National Credit Union Ad-*  
19 *ministration Board in the case of any credit*  
20 *union the deposits of which are insured in ac-*  
21 *cordance with the Federal Credit Union Act;*

22           (3) *the term “early loan” means a loan enrolled*  
23 *at a time when the aggregate covered amount of loans*  
24 *previously enrolled under the Program by a particu-*

1     *lar participating financial institution is less than*  
2     *\$5,000,000;*

3             *(4) the term “enrolled loan” means a loan made*  
4     *by a participating financial institution that is en-*  
5     *rolled by a participating State in accordance with*  
6     *this subtitle;*

7             *(5) the term “financial institution” means any*  
8     *federally chartered or State-chartered commercial*  
9     *bank, savings association, savings bank, or credit*  
10    *union;*

11            *(6) the term “participating financial institu-*  
12    *tion” means any financial institution that has en-*  
13    *tered into a participation agreement with a partici-*  
14    *parting State in accordance with section 254;*

15            *(7) the term “participating State” means any*  
16    *State that has been approved for participation in the*  
17    *Program in accordance with section 253;*

18            *(8) the term “passive real estate ownership”*  
19    *means ownership of real estate for the purpose of de-*  
20    *riiving income from speculation, trade, or rental, ex-*  
21    *cept that such term shall not include—*

22                    *(A) the ownership of that portion of real es-*  
23                    *tate being used or intended to be used for the op-*  
24                    *eration of the business of the owner of the real*

1            *estate (other than the business of passive owner-*  
2            *ship of real estate); or*

3                    *(B) the ownership of real estate for the pur-*  
4                    *pose of construction or renovation, until the com-*  
5                    *pletion of the construction or renovation phase;*

6            *(9) the term “Program” means the Small Busi-*  
7            *ness Capital Enhancement Program established under*  
8            *this subtitle;*

9                    *(10) the term “reserve fund” means a fund, es-*  
10                  *tablished by a participating State, earmarked for a*  
11                  *particular participating financial institution, for the*  
12                  *purposes of—*

13                    *(A) depositing all required premium*  
14                    *charges paid by the participating financial in-*  
15                    *stitution and by each borrower receiving a loan*  
16                    *under the Program from a participating finan-*  
17                    *cial institution;*

18                    *(B) depositing contributions made by the*  
19                    *participating State; and*

20                    *(C) covering losses on enrolled loans by dis-*  
21                    *bursing accumulated funds; and*

22            *(11) the term “State” means the States of the*  
23            *United States and the District of Columbia.*

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

2 (a) *APPLICATION.*—Any State may apply to the Sec-  
3 retary for approval to be a participating State under the  
4 Program and to be eligible for reimbursement by the  
5 Secretary pursuant to section 257.

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

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

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

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

24 (4) the State has prescribed a form of participa-  
25 tion agreement to be entered into between it and each  
26 participating financial institution that is consistent

1     *with the requirements and purposes of this subtitle;*  
2     *and*

3             (5) *the State and the Secretary have executed a*  
4     *reimbursement agreement that conforms to the*  
5     *requirements of this subtitle.*

6     (c) *EXISTING STATE PROGRAMS.—*

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

16             (A) *satisfies the requirements of subsections*  
17             *(a) and (b); and*

18             (B) *certifies that each affected financial in-*  
19     *stitution has satisfied the requirements of section*  
20     *254.*

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

22             (A) *STATUS OF INSTITUTIONS.—If a State*  
23     *is approved for participation under paragraph*  
24     *(1), each financial institution with a participa-*  
25     *tion agreement in effect with the participating*

1           *State shall immediately be considered a partici-*  
2           *parting financial institution. Reimbursements*  
3           *may be made under section 237 in connection*  
4           *with all contributions made to the reserve fund*  
5           *by the State in connection with lending that oc-*  
6           *curs on or after the date on which the Secretary*  
7           *approves the State for participation.*

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

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

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

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

14 **SEC. 254. PARTICIPATION AGREEMENTS.**

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

23       (b) *PARTICIPATING FINANCIAL INSTITUTIONS.*—Upon  
24 entering into the participation agreement with the partici-  
25 pating State, the financial institution shall become a par-

1 *ticipating financial institution eligible to enroll loans*  
2 *under the Program.*

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

4 (a) *IN GENERAL.*—*The participation agreement to be*  
5 *entered into by a participating State and a participating*  
6 *financial institution shall include all provisions required*  
7 *by this section, and shall not include any provisions incon-*  
8 *sistent with the provisions of this section.*

9 (b) *ESTABLISHMENT OF SEPARATE RESERVE*  
10 *FUNDS.*—*A separate reserve fund shall be established by the*  
11 *participating State for each participating financial insti-*  
12 *tution. All funds credited to a reserve fund shall be subject*  
13 *to the control of the participating State. Notwithstanding*  
14 *the preceding sentence, the participating State may allow*  
15 *a participating financial institution to treat the premium*  
16 *charges paid by the institution and the borrower into the*  
17 *reserve fund, and interest earned thereon, as assets of the*  
18 *institution for accounting purposes. Each reserve fund shall*  
19 *be an administrative account for the purposes of—*

20 (1) *receiving all required premium charges to be*  
21 *paid by the borrower and participating financial in-*  
22 *stitution and contributions by the participating*  
23 *State; and*

24 (2) *disbursing funds, either to cover losses sus-*  
25 *tained by the participating financial institution in*



1        *connection with loans made under the Program, or as*  
2        *contemplated by subsections (d) and (r).*

3        *(c) INVESTMENT AUTHORITY.—Subject to applicable*  
4        *State law, the participating State may invest, or cause to*  
5        *be invested, funds held in a reserve fund by establishing*  
6        *a deposit account at the participating financial institution*  
7        *in the name of the participating State. In the event that*  
8        *funds in the reserve fund are not deposited in such an ac-*  
9        *count, such funds shall be invested in a form that the par-*  
10       *ticipating State determines is safe and liquid.*

11       *(d) EARNED INCOME AND INTEREST.—Interest or in-*  
12       *come earned on the funds credited to a reserve fund shall*  
13       *be deemed to be part of the reserve fund, except that a par-*  
14       *ticipating State may, as further specified in the participa-*  
15       *tion agreement—*

16             *(1) provide authority for the participating State*  
17             *to withdraw some or all of such interest or income*  
18             *earned; and*

19             *(2) allow the participating financial institution,*  
20             *upon its withdrawal from the Program, to withdraw*  
21             *interest or income earned that is deemed to be attrib-*  
22             *utable to the premium charges paid by the institution*  
23             *and the borrower and that remains in the reserve*  
24             *fund, if such withdrawal does not expose the partici-*

1     *pating State to any greater risk of loss than the risk*  
2     *of loss in the absence of such withdrawal.*

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

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

9         *(2) LINES OF CREDIT.—If a loan to be filed for*  
10     *enrollment is in the form of a line of credit, the*  
11     *amount of the loan shall be considered to be the maxi-*  
12     *imum amount that can be drawn by the borrower*  
13     *against the line of credit.*

14     *(f) ENROLLMENT PROCESS.—*

15         *(1) FILING.—*

16             *(A) IN GENERAL.—A participating finan-*  
17     *cial institution shall file each loan made under*  
18     *the Program for enrollment by completing and*  
19     *submitting to the participating State a form*  
20     *prescribed by the participating State.*

21             *(B) FORM.—The form referred to in sub-*  
22     *paragraph (A) shall include a representation by*  
23     *the participating financial institution that it*  
24     *has complied with the participation agreement*  
25     *in enrolling the loan with the State.*

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

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

14          (2) *ENROLLMENT BY STATE.*—Upon receipt by  
15          the participating State of the filing submitted in ac-  
16          cordance with paragraph (1), the participating State  
17          shall promptly enroll the loan and make a matching  
18          contribution to the reserve fund in accordance with  
19          subsection (j), unless the information submitted indi-  
20          cates that the participating financial institution has  
21          not complied with the participation agreement in en-  
22          rolling the loan.

23          (g) *COVERAGE AMOUNT.*—In filing a loan for enroll-  
24          ment under the Program, the participating financial insti-

1 *tution may specify an amount to be covered under the*  
2 *Program that is less than the full amount of the loan.*

3 *(h) PREMIUM CHARGES.—*

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

16 *(2) ALLOCATION OF PREMIUM CHARGES.—The*  
17 *participation agreement shall specify terms for allo-*  
18 *cating premium charges between the borrower and the*  
19 *participating financial institution. However, if the*  
20 *participating financial institution is required to pay*  
21 *any of the premium charges, the participation agree-*  
22 *ment shall authorize the participating financial insti-*  
23 *tution to recover from the borrower the cost of the*  
24 *payment of the participating financial institution, in*

1     *any manner on which the participating financial*  
2     *institution and the borrower agree.*

3     *(i) RESTRICTIONS.—*

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

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

11            *(B) condition enrollment of a loan in the*  
12            *Program on the review by the State of the risk*  
13            *or creditworthiness of a loan.*

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

18     *(j) STATE CONTRIBUTIONS.—In enrolling a loan*  
19     *under the Program, the participating State shall contribute*  
20     *to the reserve fund an amount, as provided for in the par-*  
21     *ticipation agreement, which shall not be less than the sum*  
22     *of the amount of premium charges paid by the borrower*  
23     *and the participating financial institution.*

24     *(k) ELEMENTS OF CLAIMS.—*

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

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

10                   (B) contains such other information as may  
11                   be required by the participating State.

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

21           (1) *ELEMENTS OF CLAIMS.*—A claim filed by a partici-  
22           pating financial institution may include the amount of  
23           principal charged off, not to exceed the covered amount of  
24           the loan. Such claim may also include accrued interest and

1 *out-of-pocket expenses, if and to the extent provided for*  
2 *under the participation agreement.*

3 *(m) PAYMENT OF CLAIMS.—*

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

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

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

24 *(B) is an early loan, such payment shall*  
25 *not be deemed fully to satisfy the claim of the*

1           *participating financial institution, and at such*  
2           *time as the remaining balance of the claim does*  
3           *not exceed 75 percent of the balance in the re-*  
4           *serve fund, the participating State shall, upon*  
5           *the request of the participating financial institu-*  
6           *tion, pay any remaining amount of the claim.*

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

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

21          *(p) PARTICIPATION AGREEMENT TERMS.—*

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



1           (A) shall require the participating financial  
2 institution to obtain an assurance from each bor-  
3 rower that—

4                   (i) the proceeds of the loan will be used  
5 for a business purpose;

6                   (ii) the loan will not be used to finance  
7 passive real estate ownership; and

8                   (iii) the borrower is not—

9                           (I) an executive officer, director,  
10 or principal shareholder of the partici-  
11 pating financial institution;

12                           (II) a member of the immediate  
13 family of an executive officer, director,  
14 or principal shareholder of the partici-  
15 pating financial institution; or

16                           (III) a related interest of any  
17 such executive officer, director, prin-  
18 cipal shareholder, or member of the im-  
19 mediate family;

20           (B) shall require the participating financial  
21 institution to provide assurances to the partici-  
22 pating State that the loan has not been made in  
23 order to place under the protection of the Pro-  
24 gram prior debt that is not covered under the  
25 Program and that is or was owed by the bor-

1           rower to the participating financial institution  
2           or to an affiliate of the participating financial  
3           institution;

4           (C) may provide that if—

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

11          (ii) such prior loan was not enrolled in  
12          the Program; and

13          (iii) additional or new financing is ex-  
14          tended by the participating financial insti-  
15          tution as part of the refinancing,

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

20          (D) may include additional restrictions on  
21          the eligibility of loans or borrowers that are not  
22          inconsistent with the provisions and purposes of  
23          this subtitle.

24          (2) DEFINITIONS.—For purposes of this sub-  
25          section, the terms “executive officer”, “director”,

1       *“principal shareholder”, “immediate family”, and*  
2       *“related interest” refer to the same relationship to a*  
3       *participating financial institution as the relationship*  
4       *described in part 215 of title 12 of the Code of Fed-*  
5       *eral Regulations, or any successor to such part.*

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

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

13               *(1) WITHDRAWALS BASED ON OUTSTANDING BAL-*  
14       *ANCE.—The participation agreement may provide*  
15       *that, if, for any consecutive period of not less than 24*  
16       *months, the aggregate outstanding balance of all en-*  
17       *rolled loans for a participating financial institution*  
18       *is continually less than the outstanding balance in*  
19       *the reserve fund for that participating financial insti-*  
20       *tution, the participating State, in its discretion, may*  
21       *withdraw an amount from the reserve fund to bring*  
22       *the balance in the reserve fund down to the outstand-*  
23       *ing balance of all such enrolled loans.*

24               *(2) WITHDRAWALS BASED ON PREMIUM*  
25       *CHARGES REMAINING IN FUND.—Upon its withdrawal*

1        *from the Program, a participating financial institu-*  
2        *tion may withdraw from the reserve fund an amount*  
3        *that is equivalent to the premium charges paid into*  
4        *the fund by the institution and the borrower that re-*  
5        *main in the reserve fund, if such withdrawal would*  
6        *not expose the participating State to a greater risk of*  
7        *loss than the risk of loss in the absence of such with-*  
8        *drawal.*

9        **SEC. 256. REPORTS.**

10        *(a) RESERVE FUNDS REPORT.—On or before the last*  
11        *day of each calendar quarter, a participating State shall*  
12        *submit to the Secretary a report of contributions to reserve*  
13        *funds made by the participating State during the previous*  
14        *calendar quarter. If the participating State has made con-*  
15        *tributions to one or more reserve funds during the previous*  
16        *quarter, the report shall—*

17                *(1) indicate the total amount of such contribu-*  
18                *tions;*

19                *(2) indicate the amount of contributions which is*  
20                *subject to reimbursement, which shall be equal to the*  
21                *total amount of contributions, unless one of the limi-*  
22                *tations contained in section 257 is applicable;*

23                *(3) if one of the limitations in section 257 is ap-*  
24                *plicable, provide documentation of the applicability of*

1 *such limitation for each loan for which the limitation*  
2 *applies; and*

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

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

7 *(B) funds in an amount meeting the mini-*  
8 *imum requirements of section 253(b)(3) continue*  
9 *to be available and legally committed to con-*  
10 *tributions by the State to reserve funds, less any*  
11 *amount that has been contributed by the State to*  
12 *reserve funds subsequent to the State being ap-*  
13 *proved for participation in the Program;*

14 *(C) there has been no unapproved amend-*  
15 *ment to any participation agreement or the form*  
16 *of participation agreements; and*

17 *(D) the participating State is otherwise im-*  
18 *plementing the Program in accordance with this*  
19 *subtitle and regulations issued pursuant to*  
20 *section 259.*

21 *(b) ANNUAL DATA.—Not later than March 31 of each*  
22 *year, each participating State shall submit to the Secretary*  
23 *annual data indicating the number of borrowers financed*  
24 *under the Program, the total amount of covered loans, and*

1 *breakdowns by industry type, loan size, annual sales, and*  
2 *number of employees of the borrowers financed.*

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

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

7 (a) *REIMBURSEMENTS.*—*Not later than 30 calendar*  
8 *days after receiving a report filed in compliance with sec-*  
9 *tion 256, the Secretary shall reimburse the participating*  
10 *State in an amount equal to 50 percent of the amount of*  
11 *contributions by the participating State to the reserve funds*  
12 *that are subject to reimbursement by the Secretary pursuant*  
13 *to section 256 and this section. The Secretary shall reim-*  
14 *burse participating States, as it receives reports pursuant*  
15 *to section 256(a), until available funds are expended.*

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

21 (c) *THREE-YEAR MAXIMUM.*—*The amount of reim-*  
22 *bursement to be provided by the Secretary to a participat-*  
23 *ing State over any 3-year period in connection with loans*  
24 *made to any single borrower or any group of borrowers*  
25 *among which a common enterprise exists shall not exceed*

1 \$75,000. For purposes of this subsection, “common enter-  
2 prise” shall have the same meaning as in part 32 of title  
3 12 of the Code of Federal Regulations, or any successor to  
4 that part.

5 (d) LOANS TOTALING LESS THAN \$2,000,000.—In  
6 connection with a loan in which the covered amount of the  
7 loan plus the covered amount of all previous loans enrolled  
8 by a participating financial institution does not exceed  
9 \$2,000,000, the amount of reimbursement by the Secretary  
10 to the participating State shall not exceed the lesser of—

11 (1) 75 percent of the sum of the premium charges  
12 paid to the reserve fund by the borrower and the par-  
13 ticipating financial institution; or

14 (2) 5.25 percent of the covered amount of the  
15 loan.

16 (e) LOANS TOTALING MORE THAN \$2,000,000.—In  
17 connection with a loan in which the sum of the covered  
18 amounts of all previous loans enrolled by the participating  
19 financial institution in the Program equals or exceeds  
20 \$2,000,000, the amount of reimbursement to be provided by  
21 the Secretary to the participating State shall not exceed the  
22 lesser of—

23 (1) 50 percent of the sum of the premium charges  
24 paid by the borrower and the participating financial  
25 institution; or

1           (2) 3.5 percent of the covered amount of the loan.

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

7           (1) by applying subsection (d) to the portion of  
8 the loan, which when added to the aggregate covered  
9 amount of all previously enrolled loans equals  
10 \$2,000,000; and

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

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

14           (a) *IN GENERAL.*—If a participating State withdraws  
15 funds from a reserve fund pursuant to terms of the partici-  
16 pation agreement permitted by subsection (d) or (r) of sec-  
17 tion 255, such participating State shall, not later than 15  
18 calendar days after such withdrawal, submit to the Sec-  
19 retary an amount computed by multiplying the amount  
20 withdrawn by the appropriate factor, as determined under  
21 subsection (b).

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



1           (1) by 2; and

2           (2) by the total amount of contributions made by  
3           the participating State to all reserve funds, including  
4           if applicable, contributions that have been made by  
5           the State prior to becoming a participating State if  
6           the State continued its own capital access program in  
7           accordance with section 253(b).

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

11       **SEC. 259. REGULATIONS.**

12          The Secretary shall promulgate appropriate regula-  
13          tions to implement this subtitle.

14       **SEC. 260. AUTHORIZATION OF APPROPRIATIONS.**

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

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

1 **TITLE III—PAPERWORK REDUC-**  
2 **TION AND REGULATORY IM-**  
3 **PROVEMENT**

4 **SEC. 301. INCORPORATED DEFINITIONS.**

5 *Unless otherwise specifically provided in this title, for*  
6 *purposes of this title—*

7 *(1) the terms “appropriate Federal banking*  
8 *agency”, “Federal banking agencies”, and “insured*  
9 *depository institution” have the same meanings as in*  
10 *section 3 of the Federal Deposit Insurance Act; and*

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

14 **SEC. 302. ADMINISTRATIVE CONSIDERATION OF BURDEN**  
15 **WITH NEW REGULATIONS.**

16 *In determining the effective date and administrative*  
17 *compliance requirements for new regulations that impose*  
18 *additional reporting, disclosure, or other requirements on*  
19 *insured depository institutions, each Federal banking agen-*  
20 *cy shall consider, consistent with the principles of safety*  
21 *and soundness and the public interest—*

22 *(1) any administrative burdens that such regula-*  
23 *tions would place on depository institutions, includ-*  
24 *ing small depository institutions, and customers of*  
25 *depository institutions; and*

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

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

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

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

10           (A) *to streamline those regulations and*  
11 *policies in order to improve efficiency, reduce*  
12 *unnecessary costs, and eliminate unwarranted*  
13 *constraints on credit availability; and*

14           (B) *to remove inconsistencies and outmoded*  
15 *and duplicative requirements; and*

16           (2) *work jointly with the other Federal banking*  
17 *agencies to make uniform all regulations and guide-*  
18 *lines implementing common statutory or supervisory*  
19 *policies.*

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

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

2 *The Federal banking agencies shall work jointly—*

3 *(1) to eliminate, to the extent practicable, dupli-*  
4 *cative or otherwise unnecessary requests for informa-*  
5 *tion in connection with applications or notices to the*  
6 *agencies; and*

7 *(2) to harmonize, to the extent practicable, any*  
8 *inconsistent publication and public notice require-*  
9 *ments.*

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

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

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

17 *“(A) each appropriate Federal banking*  
18 *agency shall, to the extent practicable and con-*  
19 *sistent with safety and soundness principles and*  
20 *the public interest—*

21 *“(i) coordinate examinations to be con-*  
22 *ducted by that agency at an insured deposi-*  
23 *tory institution and its affiliates;*

24 *“(ii) coordinate with the other appro-*  
25 *priate Federal banking agencies in the con-*  
26 *duct of such examinations; and*

1                   “(iii) work to coordinate the conduct of  
2                   all examinations made pursuant to this  
3                   subsection with the appropriate State bank  
4                   supervisor; and

5                   “(B) not later than 2 years after the date  
6                   of enactment of the Community Development,  
7                   Credit Enhancement, and Regulatory Improve-  
8                   ment Act of 1993, the Federal banking agencies  
9                   shall jointly establish and implement a system  
10                  for determining which one of the Federal bank-  
11                  ing agencies shall conduct a unified examination  
12                  of each insured depository institution and its af-  
13                  filiates, as required by this subsection, on behalf  
14                  of all Federal banking agencies.”.

15 **SEC. 306. EIGHTEEN-MONTH EXAMINATION RULE FOR CER-**  
16 **TAIN SMALL INSTITUTIONS.**

17                  Section 10(d)(4) of the Federal Deposit Insurance Act  
18                  (12 U.S.C. 1820(d)(4)) is amended—

19                  (1) in subparagraph (A), by striking  
20                  “\$100,000,000” and inserting “\$250,000,000”;

21                  (2) in subparagraph (C), by striking “and” at  
22                  the end;

23                  (3) by redesignating subparagraph (D) as sub-  
24                  paragraph (E); and

1           (4) by inserting after subparagraph (C) the fol-  
2           lowing new subparagraph:

3                   “(D) the insured institution is not currently  
4                   subject to a formal enforcement proceeding or  
5                   order by the Corporation or the appropriate Fed-  
6                   eral banking agency; and”.

7   **SEC. 307. CALL REPORT SIMPLIFICATION.**

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

15           (1) *work jointly to develop a system under*  
16           *which—*

17                   (A) *insured depository institutions and*  
18                   *their affiliates may file such reports and state-*  
19                   *ments electronically; and*

20                   (B) *the Federal banking agencies may make*  
21                   *such reports and statements available to the pub-*  
22                   *lic electronically; and*

23           (2) *not later than 1 year after the date of enact-*  
24           *ment of this Act, report to the Congress and make rec-*  
25           *ommendations for legislation that would enhance effi-*

1       *ciency for filers and users of such reports and state-*  
2       *ments.*

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

7               *(1) to adopt a single form for the filing of core*  
8       *information required to be submitted under Federal*  
9       *law to all such agencies in the reports and statements*  
10       *referred to in subsection (a); and*

11               *(2) to simplify instructions accompanying such*  
12       *reports and statements and to provide an index to the*  
13       *instructions that is adequate to meet the needs of both*  
14       *filers and users.*

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

17               *(1) review the information required by schedules*  
18       *supplementing the core information referred to in*  
19       *subsection (b); and*

20               *(2) eliminate requirements that are not war-*  
21       *ranted for reasons of safety and soundness or other*  
22       *public purposes.*

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

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

1           (1) *in the fifth sentence of subsection (a), by*  
2           *striking “; and the statement of resources” and all*  
3           *that follows through “as may be required by the*  
4           *Comptroller”; and*

5           (2) *in subsection (c), by striking the fourth sen-*  
6           *tence.*

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

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

15          **SEC. 309. REGULATORY APPEALS PROCESS.**

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



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

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

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

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

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

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

19               (A) examination ratings;

20               (B) the adequacy of loan loss reserve provi-  
21 sions; and

22               (C) loan classifications on loans that are  
23 significant to the institution; and

24           (2) the term “independent appellate process”  
25 means a review by an agency official who does not di-

1 *rectly or indirectly report to the agency official who*  
2 *made the material supervisory determination under*  
3 *review.*

4 *(e) EFFECT ON OTHER AUTHORITY.—Nothing in this*  
5 *section shall affect the authority of an appropriate Federal*  
6 *banking agency or the National Credit Union Association*  
7 *Board to take enforcement or supervisory action against an*  
8 *institution.*

9 **SEC. 310. ELECTRONIC FILING OF CURRENCY TRANS-**  
10 **ACTION REPORTS.**

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

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

19 **SEC. 311. BANK SECRECY ACT PUBLICATION REQUIRE-**  
20 **MENTS.**

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

23 **“SEC. 5329. STAFF COMMENTARIES.**

24 *“The Secretary shall—*

1           “(1) publish all written rulings interpreting this  
2 chapter; and

3           “(2) annually issue a staff commentary on the  
4 regulations issued under this chapter.”.

5 **SEC. 312. EXEMPTION OF BUSINESS LOANS FROM REAL ES-**  
6 **TATE SETTLEMENT PROCEDURES ACT RE-**  
7 **QUIREMENTS.**

8           *The Real Estate Settlement Procedures Act of 1974 (12*  
9 *U.S.C. 2601 et seq.) is amended by inserting after section*  
10 *6 the following new section:*

11 **“SEC. 7. EXEMPTED TRANSACTIONS.**

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

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

16           *“(2) to government or governmental agencies or*  
17 *instrumentalities.”.*

18 **SEC. 313. FLEXIBILITY IN CHOOSING BOARDS OF DIREC-**  
19 **TORS.**

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

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

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

5 *“(2) the institution—*

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

8 *“(B) has—*

9 *“(i) total assets, as of the beginning of*  
10 *such fiscal year, of more than*  
11 *\$5,000,000,000 and less than*  
12 *\$9,000,000,000; and*

13 *“(ii) a CAMEL composite rating of 1*  
14 *or 2 under the Uniform Financial Institu-*  
15 *tions Rating System (or an equivalent rat-*  
16 *ing by any such agency under a comparable*  
17 *rating system) as of the most recent exam-*  
18 *ination of such institution by the Corpora-*  
19 *tion or the appropriate Federal banking*  
20 *agency; or*

21 *“(C) has—*

22 *“(i) total assets, as of the beginning of*  
23 *such fiscal year, of more than*  
24 *\$9,000,000,000; and*

25 *“(ii) a CAMEL composite rating of 1*  
26 *under the Uniform Financial Institutions*

1                   *Rating System (or an equivalent rating by*  
 2                   *any such agency under a comparable rating*  
 3                   *system) as of the most recent examination of*  
 4                   *such institution by the Corporation or the*  
 5                   *appropriate Federal banking agency.*

6 *Notwithstanding paragraph (2)(C), in the case of an in-*  
 7 *sured depository institution that the Corporation deter-*  
 8 *mines to be a large institution, the audit committee of the*  
 9 *holding company of such an institution shall not include*  
 10 *any large customers of the institution.”.*

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

12                   **ALS.**

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

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

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

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

1           (3) *in subsection (a)—*

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

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

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

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

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

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

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

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

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

1           will in calculating core capital, shall be  
2           treated as a bank for purposes of section  
3           23A(d)(1) and section 23B of the Federal  
4           Reserve Act.

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

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

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

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

24                  (1) by redesignating paragraphs (1) through (4)  
25                  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 of changes in the collateral made in ac-  
12 cordance with such agreement.”.

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

14           (a) *IN GENERAL.*—Section 39(b)(1) of the Federal De-  
15 posit Insurance Act (12 U.S.C. 1831p-1(b)(1), as added by  
16 section 132(a) of the Federal Deposit Insurance Corpora-  
17 tion Improvements Act of 1991) is amended—

18           (1) in subparagraph (A), by adding “and” at the  
19 end; and

20           (2) by striking subparagraph (C).

21           (b) *EFFECTIVE DATE.*—The amendments made by sub-  
22 section (a) shall be construed to have the same effective date  
23 as section 39 of the Federal Deposit Insurance Act, as pro-  
24 vided in section 132(c) of the Federal Deposit Insurance  
25 Corporation Improvements Act of 1991.



1 **SEC. 319. EXPEDITED PROCEDURES FOR FORMING A BANK**  
2 **HOLDING COMPANY.**

3 *Section 3(a) of the Bank Holding Company Act of*  
4 *1956 (12 U.S.C. 1842(a)) is amended—*

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

7 *(2) in the second sentence, by inserting before the*  
8 *period the following: “; or (C) with 30 days prior no-*  
9 *tification to the Board, the acquisition by a company*  
10 *of control of a bank in a reorganization in which a*  
11 *person or group of persons exchanges its shares of the*  
12 *bank for shares of a newly formed bank holding com-*  
13 *pany and receives, after the reorganization, substan-*  
14 *tially the same proportional share interest in the*  
15 *holding company as it held in the bank (except for*  
16 *changes in shareholders’ interests resulting from the*  
17 *exercise of dissenting shareholders’ rights under State*  
18 *or Federal law) if, immediately following the acquisi-*  
19 *tion, (i) the bank holding company meets the capital*  
20 *and other financial standards prescribed by the*  
21 *Board by regulation for such a bank holding com-*  
22 *pany; (ii) the bank is adequately capitalized (as de-*  
23 *fin ed in section 38 of the Federal Deposit Insurance*  
24 *Act); and (iii) the holding company does not engage*  
25 *in any activities other than those of banking or man-*  
26 *aging and controlling banks”.*

1 **SEC. 320. EXEMPTION OF CERTAIN HOLDING COMPANY**  
2 **FORMATIONS FROM REGISTRATION UNDER**  
3 **THE SECURITIES ACT OF 1933.**

4 *Section 4 of the Securities Act of 1933 (15 U.S.C. 77d)*  
5 *is amended by adding at the end the following new para-*  
6 *graph:*

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

11 *“(A) the acquisition occurs solely as part of*  
12 *a reorganization in which a person or group of*  
13 *persons exchanges its shares of a bank for shares*  
14 *of a newly formed bank holding company with*  
15 *no significant assets other than securities of the*  
16 *bank and the existing subsidiaries of the bank;*

17 *“(B) the shareholders receive, after that re-*  
18 *organization, substantially the same propor-*  
19 *tional share interests in the bank holding com-*  
20 *pany as they held in the bank, except for changes*  
21 *in shareholders’ interests resulting from lawful*  
22 *elimination of fractional interests and the exer-*  
23 *cise of dissenting shareholders’ rights under State*  
24 *or Federal law;*

25 *“(C) the rights and interests of security*  
26 *holders in the bank holding company are sub-*

1           *stantially the same as those in the bank prior to*  
2           *the transaction, other than as may be required*  
3           *by law; and*

4                     *“(D) the bank holding company has sub-*  
5                     *stantially the same assets and liabilities as the*  
6                     *bank had prior to the transaction.”.*

7   **SEC. 321. REDUCTION OF POST-APPROVAL WAITING PERIOD**  
8                     **FOR BANK HOLDING COMPANY ACQUI-**  
9                     **TIONS.**

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

19   **SEC. 322. REDUCTION OF POST-APPROVAL WAITING PERIOD**  
20                     **FOR BANK MERGERS.**

21           *Section 18(c)(6) of the Federal Deposit Insurance Act*  
22           *(12 U.S.C. 1828(c)(6)) is amended by inserting before the*  
23           *period at the end of the last sentence the following: “or, if*  
24           *the agency has not received any adverse comment from the*  
25           *Attorney General of the United States relating to competi-*

1 *tive factors, such shorter period of time as may be pre-*  
2 *scribed by the agency with the concurrence of the Attorney*  
3 *General, but in no event less than 15 calendar days after*  
4 *the date of approval”.*

5 **SEC. 323. BANKERS’ BANKS.**

6 (a) *OWNERSHIP BY BANKERS’ BANKS.—*

7 (1) *Paragraph Seventh of section 5136 of the Re-*  
8 *vised Statutes (12 U.S.C. 24) is amended in the elev-*  
9 *enth sentence—*

10 (A) *by inserting “or depository institution*  
11 *holding companies (as defined in section 3 of the*  
12 *Federal Deposit Insurance Act)” after “(except to*  
13 *the extent directors’ qualifying shares are re-*  
14 *quired by law) by depository institutions”;* and

15 (B) *by striking “employees” and inserting*  
16 *“employees (also referred to as a ‘bankers’*  
17 *bank’)”.*

18 (2) *Section 5169(b)(1) of the Revised Statutes*  
19 *(12 U.S.C. 27(b)(1)) is amended—*

20 (A) *by inserting “or depository institution*  
21 *holding companies” after “(except to the extent*  
22 *directors’ qualifying shares are required by law)*  
23 *by other depository institutions”;* and

1           (B) by striking “employees” and inserting  
2           “employees (also referred to as a ‘bankers’  
3           bank)’”.

4           (b) OWNERSHIP BY SAVINGS ASSOCIATIONS.—Section  
5           5(c)(4) of the Home Owners’ Loan Act (12 U.S.C.  
6           1464(c)(4)) is amended by adding at the end the following  
7           new subparagraph:

8                   “(E) BANKERS’ BANKS.—A Federal savings  
9                   association may purchase for its own account  
10                  shares of stock of a bankers’ bank, described in  
11                  Paragraph Seventh of section 5136 of the Revised  
12                  Statutes or in section 5169(b) of the Revised  
13                  Statutes, on the same terms and conditions as a  
14                  national bank may purchase such shares.”.

15          (c) TECHNICAL AND CONFORMING AMENDMENTS.—

16                  (1) BANK HOLDING COMPANY ACT.—Section 3(e)  
17                  of the Bank Holding Company Act of 1956 (12  
18                  U.S.C. 1842(e)) is amended by striking the second  
19                  sentence.

20                  (2) MANAGEMENT INTERLOCKS ACT.—Section  
21                  202(3)(D) of the Depository Institution Management  
22                  Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by  
23                  striking “the voting securities” and all that follows  
24                  through the end of the subparagraph and inserting

1       *“and is a bankers’ bank, described in Paragraph Sev-*  
2       *enth of section 5136 of the Revised Statutes; or”.*

3       **SEC. 324. BANK SERVICE CORPORATION ACT AMENDMENT.**

4       *Section 5 of the Bank Service Corporation Act (12*  
5       *U.S.C. 1865) is amended—*

6               *(1) in subsection (a), by striking “the prior ap-*  
7               *proval of” and inserting “prior notice, as determined*  
8               *by”; and*

9               *(2) in subsection (c), by inserting “or whether to*  
10              *approve or disapprove any notice” after “approval”.*

11       **SEC. 325. MERGER TRANSACTION REPORTS.**

12       *Section 18(c) of the Federal Deposit Insurance Act (12*  
13       *U.S.C. 1828(c)) is amended—*

14              *(1) in paragraph (4)—*

15                      *(A) in the first sentence—*

16                              *(i) by striking “General and the other*  
17                              *two” and inserting “General, who shall*  
18                              *promptly notify the other”; and*

19                              *(ii) by inserting before the period “of*  
20                              *any such proposed transaction that raises a*  
21                              *significant competitiveness issue”; and*

22                      *(B) in the second sentence, by striking “and*  
23                      *the other two banking agencies”; and*

24              *(2) in paragraph (6), by striking “and the other*  
25              *two banking agencies”.*

1 **SEC. 326. CREDIT CARD ACCOUNTS RECEIVABLE SALES.**

2 *Section 11(e) of the Federal Deposit Insurance Act (12*  
3 *U.S.C. 1821(e)) is amended by adding at the end the follow-*  
4 *ing new paragraphs:*

5 *“(14) SELLING CREDIT CARD ACCOUNTS RECEIV-*  
6 *ABLE.—*

7 *“(A) NOTIFICATION REQUIRED.—An*  
8 *undercapitalized insured depository institution*  
9 *(as defined in section 38) shall notify the Cor-*  
10 *poration in writing before entering into an*  
11 *agreement to sell credit card accounts receivable.*

12 *“(B) WAIVER BY CORPORATION.—The Cor-*  
13 *poration may at any time, in its sole discretion*  
14 *and upon such terms as it may prescribe, waive*  
15 *its right to repudiate an agreement to sell credit*  
16 *card accounts receivable if the Corporation—*

17 *“(i) determines that the waiver is in*  
18 *the best interests of the deposit insurance*  
19 *fund; and*

20 *“(ii) provides a written waiver to the*  
21 *selling institution.*

22 *“(C) EFFECT OF WAIVER ON SUCCES-*  
23 *SORS.—*

24 *“(i) IN GENERAL.—If, under subpara-*  
25 *graph (B), the Corporation has waived its*

1                   *right to repudiate an agreement to sell cred-*  
2                   *it card accounts receivable—*

3                   “(I) any provision of the agree-  
4                   ment that restricts solicitation of a  
5                   credit card customer of the selling in-  
6                   stitution, or the use of a credit card  
7                   customer list of the institution, shall  
8                   bind any receiver or conservator of the  
9                   institution; and

10                  “(II) the Corporation shall re-  
11                  quire any acquirer of the selling insti-  
12                  tution, or of substantially all of the  
13                  selling institution’s assets or liabilities,  
14                  to agree to be bound by a provision de-  
15                  scribed in subclause (I) as if the  
16                  acquirer were the selling institution.

17                  “(ii) EXCEPTION.—Clause (i)(II) does  
18                  not—

19                  “(I) restrict the acquirer’s author-  
20                  ity to offer any product or service to  
21                  any person identified without using a  
22                  list of the selling institution’s cus-  
23                  tomers in violation of the agreement;



1                   “(II) require the acquirer to re-  
2                   strict any preexisting relationship be-  
3                   tween the acquirer and a customer; or

4                   “(III) apply to any transaction  
5                   in which the acquirer acquires only in-  
6                   sured deposits.

7                   “(D) *WAIVER NOT ACTIONABLE.*—The Cor-  
8                   poration shall not, in any capacity, be liable to  
9                   any person for damages resulting from the waiv-  
10                  er of or failure to waive the Corporation’s right  
11                  under this section to repudiate any contract or  
12                  lease, including an agreement to sell credit card  
13                  accounts receivable. No court shall issue any  
14                  order affecting any such waiver or failure to  
15                  waive.

16                  “(E) *OTHER AUTHORITY NOT AFFECTED.*—  
17                  This paragraph does not limit any other author-  
18                  ity of the Corporation to waive the Corporation’s  
19                  right to repudiate an agreement or lease under  
20                  this section.

21                  “(15) *CERTAIN CREDIT CARD CUSTOMER LISTS*  
22                  *PROTECTED.*—

23                  “(A) *IN GENERAL.*—If any insured deposi-  
24                  tory institution sells credit card accounts receiv-  
25                  able under an agreement negotiated at arm’s

1           *length that provides for the sale of the institu-*  
 2           *tion’s credit card customer list, the Corporation*  
 3           *shall prohibit any party to a transaction with*  
 4           *respect to the institution under this section or*  
 5           *section 13 from using the list except as permitted*  
 6           *under the agreement.*

7           “(B) *FRAUDULENT TRANSACTIONS EX-*  
 8           *CLUDED.—Subparagraph (A) does not limit the*  
 9           *Corporation’s authority to repudiate any agree-*  
 10          *ment entered into with the intent to hinder,*  
 11          *delay, or defraud the institution, the institution’s*  
 12          *creditors, or the Corporation.”.*

13   ***SEC. 327. LIMITING POTENTIAL LIABILITY ON FOREIGN AC-***  
 14                                   ***COUNTS.***

15          *(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—*  
 16          *The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended*  
 17          *by inserting after section 25B the following new section:*

18   ***“SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.***

19          *“A member bank shall not be required to repay any*  
 20          *deposit made at a foreign branch of the bank if the branch*  
 21          *cannot repay the deposit due to—*

22                   *“(1) an act of war, insurrection or civil strife;*  
 23                   *or*

1           “(2) an action by a foreign government or in-  
2           strumentality (whether de jure or de facto) in the  
3           country in which the branch is located,  
4 unless the member bank has expressly agreed in writing to  
5 repay the deposit under those circumstances. The Board  
6 may prescribe such regulations as it deems necessary to im-  
7 plement this section.”.

8           (b) CONFORMING AMENDMENTS TO THE FEDERAL DE-  
9 POSIT INSURANCE ACT.—

10           (1) IN GENERAL.—Section 18 of the Federal De-  
11 posit Insurance Act (12 U.S.C. 1828) is amended by  
12 adding at the end the following new subsection:

13           “(q) SOVEREIGN RISK.—Section 25C of the Federal  
14 Reserve Act shall apply to every nonmember insured bank  
15 in the same manner and to the same extent as if the  
16 nonmember insured bank were a member bank.”.

17           (2) CONFORMING AMENDMENT.—Subparagraph  
18 (A) of section 3(l)(5) of the Federal Deposit Insurance  
19 Act (12 U.S.C. 1813(l)(5)) is amended to read as fol-  
20 lows:

21           “(A) any obligation of a depository institu-  
22 tion which is carried on the books and records of  
23 an office of such bank or savings association lo-  
24 cated outside of any State, unless—



1       (b) *DECLARATION OF DIVIDENDS.*—Section 5199 of the  
2 *Revised Statutes (12 U.S.C. 60)* is amended—

3           (1) *in the first sentence, by striking “net profits*  
4 *of the association” and inserting “undivided profits*  
5 *of the association, subject to the limitations in sub-*  
6 *section (b),”;*

7           (2) *by striking “net profits” each subsequent*  
8 *place such term appears and inserting “net income”;*  
9 *and*

10          (3) *by striking subsection (c).*

11 ***SEC. 329. ELIMINATION OF DUPLICATIVE DISCLOSURES***  
12 ***FOR HOME EQUITY LOANS.***

13       Section 4(a) of the *Real Estate Settlement Procedures*  
14 *Act (12 U.S.C. 2603(a))* is amended by adding at the end  
15 *the following: “In the case of a federally related mortgage*  
16 *loan secured by a subordinate lien on residential property,*  
17 *disclosures made under section 127A(a) of the Truth in*  
18 *Lending Act may be used in lieu of the disclosures required*  
19 *under this section if—*

20           “(1) *the disclosures made pursuant to such sec-*  
21 *tion 127A(a) contain all of the information that is re-*  
22 *quired under this section; and*

23           “(2) *the information is disclosed in a manner*  
24 *that is no less conspicuous than is required under this*  
25 *section.”.*

1 **SEC. 330. REPORT ON CAPITAL STANDARDS AND THEIR IM-**  
2 **PACT ON THE ECONOMY.**

3 (a) *IN GENERAL.*—Not later than 1 year after the date  
4 of enactment of this Act, the Secretary of the Treasury, after  
5 consultation with the Federal banking agencies, shall report  
6 to the Committee on Banking, Housing, and Urban Affairs  
7 of the Senate and the Committee on Banking, Finance and  
8 Urban Affairs of the House of Representatives on the effect  
9 of the implementation of risk-based capital standards on—

10 (1) the safety and soundness of insured depository  
11 institutions; and

12 (2) the availability of credit, particularly to consumers  
13 and small business concerns.

14 (b) *RECOMMENDATIONS.*—The report required by subsection  
15 (a) shall contain any recommendations that the Secretary  
16 of the Treasury considers relevant.

17 **SEC. 331. STUDIES ON THE IMPACT OF THE PAYMENT OF IN-**  
18 **TEREST ON RESERVES.**

19 (a) *FEDERAL RESERVE STUDY.*—Not later than 180  
20 days after the date of enactment of this Act, the Board of  
21 Governors of the Federal Reserve System, in consultation  
22 with the Federal Deposit Insurance Corporation, shall conduct  
23 a study and report to Congress on—

24 (1) the necessity, for monetary policy purposes,  
25 of continuing to require insured depository institutions  
26 to maintain sterile reserves;

1           (2) *the appropriateness of paying a market rate*  
2 *of interest to insured depository institutions on sterile*  
3 *reserves or, in the alternative, providing for payment*  
4 *of such interest into the appropriate deposit insur-*  
5 *ance fund;*

6           (3) *the monetary impact that the failure to pay*  
7 *interest on sterile reserves has had on insured deposi-*  
8 *tory institutions, including an estimate of the total*  
9 *dollar amount of interest and the potential income*  
10 *lost by insured depository institutions; and*

11           (4) *the impact that the failure to pay interest on*  
12 *sterile reserves has had on the ability of the banking*  
13 *industry to compete with nonbanking providers of fi-*  
14 *nancial services and with foreign banks.*

15           (b) *BUDGETARY IMPACT STUDY.*—*Not later than 180*  
16 *days after the date of enactment of this Act, the Director*  
17 *of the Office of Management and Budget and the Director*  
18 *of the Congressional Budget Office, in consultation with the*  
19 *Committees on the Budget of the Senate and the House of*  
20 *Representatives, shall jointly conduct a study and report*  
21 *to the Congress on the budgetary impact of—*

22           (1) *paying a market rate of interest to insured*  
23 *depository institutions on sterile reserves; and*

24           (2) *paying such interest into the respective*  
25 *deposit insurance funds.*

1 **SEC. 332. STUDY AND REPORT ON STREAMLINED LENDING**  
2 **PROCESS FOR CONSUMER BENEFIT.**

3 (a) *STUDY.*—During the 12-month period beginning  
4 on the date of enactment of this Act, the Board of Governors  
5 of the Federal Reserve System, the Comptroller of the Cur-  
6 rency, and the Secretary of Housing and Urban Develop-  
7 ment shall conduct a study of ways to improve the home  
8 mortgage, small business, and consumer lending processes,  
9 consistent with the principles of safety and soundness, so  
10 as to—

11 (1) *reduce consumer burdens, inconvenience, cost,*  
12 *and delay; and*

13 (2) *minimize cost and burdens on insured*  
14 *depository institutions, credit unions, and other*  
15 *lenders.*

16 (b) *COMMENTS.*—In conducting the study under sub-  
17 section (a), comments shall be solicited from consumer  
18 groups, insured depository institutions, other lenders, and  
19 any other interested parties.

20 (c) *REPORT.*—Not later than 12 months after the date  
21 of enactment of this Act, the Board of Governors of the Fed-  
22 eral Reserve System, the Comptroller of the Currency, and  
23 the Secretary of Housing and Urban Development shall sub-  
24 mit a joint report to the Congress indicating any legislative  
25 changes necessary to improve the home mortgage, small



1 *business, and consumer lending processes and including a*  
2 *summary of comments received pursuant to subsection (b).*

3 **SEC. 333. REPEAL OF OUTDATED CHARTER REQUIREMENT**  
4 **FOR NATIONAL BANKS.**

5 *Section 5170 of the Revised Statutes (12 U.S.C. 28)*  
6 *is repealed.*

7 Amend the title so as read: “A bill to facilitate the  
8 establishment of community development financial institu-  
9 tions, to provide consumer protections for high cost mort-  
10 gages, to encourage investment in and lending to small  
11 businesses, to improve the regulation of depository institu-  
12 tions, and for other purposes.”.

S 1275 RS—2

S 1275 RS—3

S 1275 RS—4

S 1275 RS—5

S 1275 RS—6

S 1275 RS—7

S 1275 RS—8

S 1275 RS—9

S 1275 RS—10

S 1275 RS—11