

104TH CONGRESS
1ST SESSION

H. R. 1362

To reduce paperwork and additional regulatory burdens for depository institutions.

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 1995

Mr. BEREUTER (for himself, Mr. LEACH, Mr. MCCOLLUM, Mrs. ROUKEMA, Mr. ROTH, Mr. BAKER of Louisiana, Mr. LAZIO of New York, Mr. BACHUS, Mr. ROYCE, Mr. WELLER, Mr. KING, Mr. BONO, Mr. EHRLICH, Mr. CHRYSLER, Mr. CREMEANS, Mr. WATTS of Oklahoma, Mrs. KELLY, Mr. BARRETT of Nebraska, Mr. ORTON, Mr. CASTLE, Mr. HEINEMAN, Mr. LATHAM, Mr. CHRISTENSEN, and Mr. FOX of Pennsylvania) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To reduce paperwork and additional regulatory burdens for depository 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Financial Institutions Regulatory Relief Act of 1995”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; Table of contents.

TITLE I—REDUCTIONS IN GOVERNMENT OVERREGULATION

Subtitle A—The Home Mortgage Process

- Sec. 101. Transfer of RESPA regulatory authority; elimination of redundant regulators.
- Sec. 102. Truth in Lending Act and RESPA comparability.
- Sec. 103. Increased regulatory flexibility under the Truth in Lending Act.
- Sec. 104. Reductions in RESPA regulatory burdens; clarifying amendments.
- Sec. 105. Alternative disclosures for adjustable rate mortgages.
- Sec. 106. Treatment of certain charges.
- Sec. 107. Exemption from rescission.
- Sec. 108. Tolerance; basis of disclosures.
- Sec. 109. Limitation on liability.
- Sec. 110. Applicability.
- Sec. 111. Limitation on rescission period.
- Sec. 112. Calculation of actual damages.
- Sec. 113. Assignee liability.
- Sec. 114. Recovery of fees.
- Sec. 115. Homeownership debt counseling notification.
- Sec. 116. Home Mortgage Disclosure Act.

Subtitle B—Community Reinvestment Act Amendments

- Sec. 121. Expression of congressional intent.
- Sec. 122. Community Reinvestment Act exemption.
- Sec. 123. Self-certification of CRA compliance.
- Sec. 124. Community input and conclusive rating.
- Sec. 125. Special purpose banks.
- Sec. 126. Increased incentives to lending to low- and moderate-income communities.
- Sec. 127. Prohibition on additional reporting under CRA.
- Sec. 128. Technical amendment.
- Sec. 129. Duplicative reporting.

Subtitle C—Consumer Banking Reforms

- Sec. 131. Truth in savings.
- Sec. 132. Unauthorized electronic fund transfers.
- Sec. 133. Liability for unauthorized use of credit cards.
- Sec. 134. Information sharing.
- Sec. 135. Electronic Funds Transfer Act clarification.

Subtitle D—Equal Credit Opportunity Act Amendments

- Sec. 141. Short title.
- Sec. 142. Findings and purpose.
- Sec. 143. Equal Credit Opportunity Act amendments.
- Sec. 144. Fair Credit Reporting Act amendments.
- Sec. 145. Incentives for self-testing.
- Sec. 146. Credit scoring systems.
- Sec. 147. Effective date.

Subtitle E—Consumer Leasing Act Amendments

- Sec. 151. Short title.
- Sec. 152. Congressional findings and declaration of purpose.
- Sec. 153. Regulations.
- Sec. 154. Segregated leasing disclosures.

Sec. 155. Consumer lease advertising.

Subtitle F—Federal Home Loan Bank Amendments

Sec. 161. Application for membership in the FHLB system.

Sec. 162. Federal Home Loan Bank external auditors.

TITLE II—STREAMLINING GOVERNMENT REGULATIONS

Subtitle A—Regulatory Approval Issues

Sec. 201. Streamlined nonbanking acquisitions by well capitalized and well managed banking organizations.

Sec. 202. Streamlined bank acquisitions by well capitalized and well managed banking organizations.

Sec. 203. Eliminate bank merger act filing and approval requirements for insured depository institutions already controlled by the same holding company.

Sec. 204. Eliminate redundant approval requirement for Oakar transactions.

Sec. 205. Eliminate duplicative requirements imposed on bank holding companies under the Home Owners' Loan Act.

Sec. 206. Eliminate requirement that approval be obtained for divestitures.

Sec. 207. Eliminate unnecessary branch applications.

Sec. 208. Eliminate branch applications/requirements for ATMs and similar facilities.

Sec. 209. Eliminate requirement for approval of investments in bank premises for well capitalized and well managed banks.

Sec. 210. Eliminate unnecessary filing for officer and director appointments.

Sec. 211. Streamlining process for determining new nonbanking activities.

Subtitle B—Streamlining of Government Regulations; Miscellaneous Provisions

Sec. 221. Eliminate the per-branch capital requirement for national banks and State member banks.

Sec. 222. Branch closures.

Sec. 223. Amendments to the Depository Institutions Management Interlocks Act.

Sec. 224. Consolidation of appraisal subcommittee.

Sec. 225. Eliminate unnecessary and duplicative recordkeeping and reporting requirements relating to loans to executive officers and permit participation in employee benefit plans.

Sec. 226. Expanded regulatory discretion for small bank examinations.

Sec. 227. Cost reimbursement.

Sec. 228. Identification of nonbank financial institution customers.

Sec. 229. Paperwork reduction review.

Sec. 230. Repeal of unnecessary reporting requirements.

Sec. 231. Daily confirmations for hold-in-custody repurchase transactions.

Sec. 232. Required regulatory review of regulations.

Sec. 233. Country risk requirements.

Sec. 234. Audit costs.

Sec. 235. Due process protections.

Sec. 236. Culpability standards for outside directors.

Sec. 237. Rules on deposit taking.

Sec. 238. Transition period for new regulations.

Sec. 239. Foreign bank applications.

Sec. 240. Duplicate examination of foreign banks.

Sec. 241. Second mortgages.

TITLE III—LENDER LIABILITY

Sec. 301. Lender Liability.

1 **TITLE I—REDUCTIONS IN GOVERNMENT**

2 **OVERREGULATION**

3 **Subtitle A—The Home Mortgage Process**

4 **SEC. 101. TRANSFER OF RESPA REGULATORY AUTHORITY;**

5 **ELIMINATION OF REDUNDANT REGULATORS.**

6 (a) TRANSFER OF AUTHORITY.—The Real Estate
7 Settlement Procedures Act (12 U.S.C. 2601 et seq) is
8 amended—

9 (1) by striking “Secretary” each time it ap-
10 pears and inserting “Board”, except in sections
11 3(1)(B)(ii), 3(6) and Section 14 (12 U.S.C.
12 2602(1)(B)(ii), 2602(6) and 2612, respectively); and

13 (2) in section 3 by adding at the end thereof a
14 new paragraph (9) as follows:

15 “(9) the term ‘Board’ means the Board of Gov-
16 ernors of the Federal Reserve System.”.

17 (b) ELIMINATION OF REDUNDANT REGULATORS.—
18 The Real Estate Settlement Procedures Act (12 U.S.C.
19 2601 et seq.) is amended—

20 (1) in section 19 by striking subsection (a) and
21 inserting in lieu thereof the following:

22 “(a) The Board shall prescribe regulations to carry
23 out the purpose of this title. These regulations may con-
24 tain such classifications, differentiations, or other provi-

1 sions, and may provide for such adjustments and excep-
2 tions for any class of transactions, as in the judgment of
3 the Board are necessary or proper to effectuate the pur-
4 poses of this title, to prevent circumvention or evasion
5 thereof, or to facilitate compliance therewith. Such regula-
6 tions shall minimize the burdens and cost imposed upon
7 creditors and shall ensure that costs, burdens, and com-
8 plexities to consumers are reduced.”; and

9 (2) by inserting after section 19 of the Real Es-
10 tate Settlement Procedures Act (12 U.S.C. 2617)
11 the following:

12 **“SEC. 20. ADMINISTRATIVE ENFORCEMENT.**

13 “(a) Compliance with the requirements imposed
14 under this subtitle shall be enforced under—

15 “(1) section 8 of the Federal Deposit Insurance
16 Act, in the case of—

17 “(A) national banks, and Federal branches
18 and Federal agencies of foreign banks, by the
19 Office of the Comptroller of the Currency;

20 “(B) member banks of the Federal Reserve
21 System (other than national banks), branches
22 and agencies of foreign banks (other than Fed-
23 eral branches, Federal agencies, and insured
24 State branches of foreign banks), commercial
25 lending companies owned or controlled by for-

1 eign banks, and organizations operating under
2 section 25 and 25A of the Federal Reserve Act,
3 by the Board; and

4 “(C) banks insured by the Federal Deposit
5 Insurance Corporation (other than members of
6 the Federal Reserve System) and insured State
7 branches of foreign banks, by the Board of Di-
8 rectors of the Federal Deposit Insurance Cor-
9 poration;

10 “(2) section 8 of the Federal Deposit Insurance
11 Act, by the Director of the Office of Thrift Super-
12 vision, in the case of a savings association the depos-
13 its of which are insured by the Federal Deposit In-
14 surance Corporation;

15 “(3) the Federal Credit Union Act, by the Ad-
16 ministrator of the National Credit Union Adminis-
17 tration with respect to any Federal credit union;

18 “(4) the Packers and Stockyards Act of 1921
19 (except as provided in section 406 of that Act), by
20 the Secretary of Agriculture with respect to any ac-
21 tivities subject to that Act; and

22 “(5) The Farm Credit Act of 1971, by the
23 Farm Credit Administration with respect to any
24 Federal land bank, Federal land bank association,

1 Federal intermediate credit bank, or production
2 credit association.

3 The terms used in paragraph (1) that are not defined in
4 this title or otherwise defined in section 3(s) of the Federal
5 Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the
6 meaning given to them in section 1(b) of the International
7 Banking Act of 1978 (12 U.S.C. 3101).

8 “(b) For the purpose of the exercise by any agency
9 referred to in subsection (a) of its powers under any Act
10 referred to in that subsection, a violation of any require-
11 ment imposed under this title shall be deemed to be a vio-
12 lation of a requirement imposed under that Act. In addi-
13 tion to its powers under any provision of law specifically
14 referred to in subsection (a), each of the agencies referred
15 to in that subsection may exercise, for the purpose of en-
16 forcing compliance with any requirement imposed under
17 this title, any other authority conferred on it by law.

18 “(c) Except to the extent that the enforcement of the
19 requirements imposed under this title is specifically com-
20 mitted to some other Government agency under subsection
21 (a), the Federal Trade Commission shall enforce such re-
22 quirements. For the purpose of the exercise by the Federal
23 Trade Commission of its functions and powers under the
24 Federal Trade Commission Act, a violation of any require-
25 ment imposed under this title shall be deemed a violation

1 of a requirement imposed under that Act. All of the func-
2 tions and powers of the Federal Trade Commission under
3 the Federal Trade Commission Act are available to the
4 Commission to enforce compliance by any person with the
5 requirements imposed under this title, irrespective of
6 whether that person is engaged in commerce or meets any
7 other jurisdictional tests in the Federal Trade Commission
8 Act.”.

9 **SEC. 102. TRUTH IN LENDING AND RESPA COMPARABILITY.**

10 (a) Section 102 of the Truth in Lending Act (15
11 U.S.C. 1601) is amended by adding a new subsection (c)
12 as follows:

13 “(c) The Congress also finds that the disclosure and
14 other requirements related to consumer credit have be-
15 come overly costly, burdensome, and complex to consum-
16 ers and to creditors. It is also the purpose of this title
17 to reduce the complexity of the disclosure requirements for
18 creditors and consumers by directing the Board to reduce
19 the complexity and difficulty of understanding, preparing
20 and providing disclosures for credit transactions. Improve-
21 ments in the disclosures and timing of disclosures should
22 serve the dual purpose of reducing compliance errors and
23 increasing the ability of consumers to understand and use
24 the information provided in the disclosures. Clarifications
25 should include the development of uniform terms to de-

1 scribe credit costs and uniform formats to arrange and
2 provide the information both under this Act and other
3 Acts affecting the consumer credit process.”.

4 (b) Section 105 of the Truth in Lending Act (15
5 U.S.C. 1604) is amended by inserting a new subsection
6 (e) as follows:

7 “(e) The Board shall by regulation eliminate, modify,
8 or simplify any disclosure required by this title, including
9 the content and timing of the disclosure, where such action
10 will make disclosures and timing of disclosures required
11 by this title uniform with other laws relating to the disclo-
12 sure of information in connection with credit transactions,
13 including the Real Estate Settlement Procedures Act. No
14 additional disclosure requirements may be added as a re-
15 sult of this subsection.”.

16 (c) Section 2 of the Real Estate Procedures Act (12
17 U.S.C. 2602) is amended by adding to the end of sub-
18 section (a) the following: “The Congress also finds that
19 the disclosure and other requirements related to consumer
20 credit, including mortgage transactions, have become over-
21 ly costly, burdensome, and complex to consumers and to
22 creditors and that changes to the required disclosures re-
23 lated to such credit must be streamlined and reduced in
24 order to eliminate unnecessary cost, burdens, and com-
25 plexity.”.

1 (d) Section 19 of the Real Estate Settlement Proce-
2 dures Act (12 U.S.C. 2617) (as amended by section 101
3 of this Act) is amended by inserting the following new sub-
4 section (b) and redesignating the remaining subsections
5 accordingly:

6 “(b) The Board shall be regulation eliminate, modify,
7 or simplify any disclosure required by this title, including
8 the content and timing of the disclosure, where such action
9 will make disclosures and timing of the disclosures re-
10 quired by this title uniform with other laws relating to
11 the disclosure of information in connection with credit
12 transactions, including the Truth in Lending Act. No ad-
13 ditional disclosure requirements may be added as a result
14 of this subsection.”.

15 **SEC. 103. INCREASED REGULATORY FLEXIBILITY UNDER**
16 **THE TRUTH IN LENDING ACT.**

17 (a) REGULATORY FLEXIBILITY.—Section 104 of the
18 Truth in Lending Act (15 U.S.C. 1603) is amended by
19 adding at the end the following new paragraph:

20 “(7) Transactions for which the Board, by reg-
21 ulation, determines that coverage under the Act is
22 not needed to carry out the purposes of the Act.”.

23 (b) EXEMPTIVE AUTHORITY.—Section 105 of the
24 Truth in Lending Act (15 U.S.C. 1604) is amended by

1 redesignating subsections (b) through (d) as (c) through
2 (e) and inserting a new subsection (b) as follows:

3 “(b) EXEMPTIVE AUTHORITY.—The Board shall ex-
4 empt from all or parts of this title any class of trans-
5 actions for which, in the Board’s judgment, coverage
6 under all or part of this title does not provide a measur-
7 able benefit to consumers in the form of useful informa-
8 tion or protection. In determining which classes of trans-
9 actions to exempt in whole or in part, the Board shall con-
10 sider, among other factors, the following:

11 “(1) The amount of the loan or closing costs
12 and whether the disclosures, right of rescission, and
13 other provisions are necessary, particularly for small
14 loans.

15 “(2) Whether the requirements of this title
16 complicate, hinder, or make more expensive the cred-
17 it process for the class of transactions.

18 “(3) The status of the borrower, including, the
19 borrowers’ related financial arrangements, the finan-
20 cial sophistication of the borrower relative to the
21 type of transaction, and the importance of the credit
22 and related supporting property to the borrower.”.

1 **SEC. 104. REDUCTIONS IN RESPA REGULATORY BURDENS;**
2 **CLARIFYING AMENDMENTS.**

3 (a) UNNECESSARY DISCLOSURE.—Section 6(a) of the
4 Real Estate Settlement Procedures Act (12 U.S.C. 2605),
5 is amended to read as follows:

6 “(a) DISCLOSURE TO APPLICANT RELATING TO AS-
7 SIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—

8 “(1) IN GENERAL.—Each person who makes a
9 federally related mortgage loan shall disclose to each
10 person who applies for any such loan, at the time of
11 application for the loan, whether the servicing of any
12 such loan may be assigned, sold, or transferred to
13 any other person at any time while such loan is out-
14 standing.

15 “(2) SIGNATURE OF APPLICANT.—Any disclo-
16 sure of the information required under paragraph
17 (1) shall not be effective for purposes of this section
18 unless the disclosure is accompanied by a written
19 statement, in such form as the Secretary shall de-
20 velop before the expiration of the one hundred and
21 eighty-day period beginning on the date of enact-
22 ment, that the applicant has read and understood
23 the disclosure and that is evidenced by the signature
24 of the applicant at the place where such statement
25 appears in the application.”.

1 (b) EFFECTIVE DATE.—This subsection shall become
2 effective one hundred and eighty days after the date of
3 enactment.

4 (c) SECOND MORTGAGES.—Section 3(1)(A) of the
5 Real Estate Settlement Procedures Act (12 U.S.C.
6 2602(1)(A)), is amended by striking “or subordinate”.

7 (d) CONSISTENCY OF RESPA AND TRUTH IN LEND-
8 ING ACT EXEMPTION OF BUSINESS LOANS.—Section 7 of
9 the Real Estate Settlement Procedures Act (12 U.S.C.
10 2606) is amended—

11 (1) by inserting “(a) IN GENERAL.—” before
12 “This Act”; and

13 (2) inserting a new subsection (b) as follows:

14 “(b) INTERPRETATION.—In issuing regulations pur-
15 suant to section 19(a) of this Act, the Board shall ensure
16 that with regard to subsection (a), the exemption for busi-
17 ness credit includes all “business credit” exempted from
18 the Truth in Lending Act (15 U.S.C. 1601) as that term
19 has been interpreted by the Board of Governors of the
20 Federal Reserve System in section 226.3(a) of regulation
21 Z (12 C.F.R. 226.3(a)) as in effect on the date of enact-
22 ment.”.

1 **SEC. 105. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE**
2 **RATE MORTGAGES.**

3 (a) Section 127A(a)(2)(G) of the Truth in Lending
4 Act (15 U.S.C. 1637a(a)(2)(G)) is amended by inserting
5 before the semicolon “, or a statement that the monthly
6 payment may increase or decrease significantly due to in-
7 creases in the annual percentage rate”.

8 (b) Section 128(a) of the Truth in Lending Act (15
9 U.S.C. 1638(a)) is amended by inserting at the end the
10 following new paragraph (14):

11 “(14) In any variable rate residential mortgage
12 transaction, at the creditors’ option, a statement
13 that the monthly payment may increase or decrease
14 substantially, or a historical example illustrating the
15 effects of interest rate changes implemented accord-
16 ing to the loan program.”.

17 **SEC. 106. CERTAIN CHARGES.**

18 (a) **THIRD PARTY FEES.**—Section 106(a) of the
19 Truth in Lending Act (15 U.S.C. 1605(a)) is amended
20 by adding after the second sentence the following new sen-
21 tence: “The finance charge shall not include fees and
22 amounts imposed by third parties not affiliated with the
23 creditor (including settlement agents, attorneys, and es-
24 crow and title companies) if the creditor does not expressly
25 require the imposition of the charges and does not retain
26 the charges.”.

1 (b) TAXES ON SECURITY INSTRUMENTS OR EVIDENCES OF INDEBTEDNESS.—Section 106(d) of the
2 Truth in Lending Act (15 U.S.C. 1605(d)) is amended
3 by adding at the end the following new paragraph:
4

5 “(3) Any tax levied on security instruments or
6 on documents evidencing indebtedness if the pay-
7 ment of such taxes is a precondition for recording
8 the instrument securing the evidence of indebted-
9 ness.”.

10 (c) PREPARATION OF LOAN DOCUMENTS.—Section
11 106(e)(2) of the Truth in Lending Act (15 U.S.C.
12 1605(e)(2)) is amended to read as follows:

13 “(2) Fees for preparation of loan-related docu-
14 ments and attending or conducting settlement.”.

15 (d) FEES RELATING TO PEST INFESTATIONS, IN-
16 SPECTIONS, AND HAZARDS.—Section 106(e)(5) of the
17 Truth in Lending Act (15 U.S.C. 1605(e)(5)) is amended
18 by inserting “, including fees related to pest infestations,
19 premises and structural inspections, and flood hazards”
20 before the period.

21 **SEC. 107. EXEMPTIONS FROM RESCISSION.**

22 (a) CERTAIN REFINANCING.—Section 125(e) of the
23 Truth in Lending Act (15 U.S.C. 1635(e)) is amended—

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

25 (3);

1 (2) by striking the period at the end of para-
2 graph (4) and inserting instead “; or”; and

3 (3) by adding at the end the following new
4 paragraph:

5 “(5) a transaction, other than a mortgage re-
6 ferred to in section 103(aa), which—

7 “(A) is secured by a first lien, in any
8 amount; and

9 “(B) constitutes a refinancing or consoli-
10 dation of an existing extension of credit.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
12 Section 125(e)(2) of the Truth in Lending Act (15 U.S.C.
13 1635(e)(2)) is amended by inserting “, other than a trans-
14 action described in subsection (e)(5),” after “a refinancing
15 or consolidation (with no new advances).”.

16 **SEC. 108. TOLERANCES; BASIS OF DISCLOSURES.**

17 (a) TOLERANCES FOR ACCURACY.—Section 106 of
18 the Truth in Lending Act (15 U.S.C. 1605) is amended
19 by adding at the end the following new subsection:

20 “(f) TOLERANCES FOR ACCURACY.—In connection
21 with credit transactions not under an open end credit plan
22 that are secured by real property or a dwelling, the disclo-
23 sure of the finance charge and other disclosures affected
24 by any finance charge shall be treated as being accurate
25 for purposes of this title if the amount disclosed as the

1 finance charge does not vary from the actual finance
2 charge by more than an amount equal to one-half of the
3 numerical tolerance corresponding to, and generated by,
4 the tolerance provided by section 107(c) with respect to
5 the annual percentage rate.”.

6 (b) BASIS OF DISCLOSURE FOR PER DIEM INTER-
7 EST.—Section 121(c) of the Truth in Lending Act (15
8 U.S.C. 1631(c)) is amended by adding at the end the fol-
9 lowing new sentence: “In the case of any consumer credit
10 transaction a portion of the interest on which is deter-
11 mined on a per diem basis and is to be collected upon
12 the consummation of such transaction, any disclosure with
13 respect to such portion of interest shall be deemed to be
14 accurate for purposes of this title if the disclosure is based
15 on information actually known to the creditor at the time
16 that the disclosure documents are being prepared for the
17 consummation of the transaction.”.

18 **SEC. 109. LIMITATION ON LIABILITY.**

19 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
20 ing Act (15 U.S.C. 1631 et seq.) is amended by adding
21 at the end the following new section:

22 **“SEC. 139. CERTAIN LIMITATIONS ON LIABILITY.**

23 “(a) LIMITATIONS ON LIABILITY FOR DISCLOSURES
24 RELATING TO CERTAIN FEES AND CHARGES OTHER
25 THAN FINANCE CHARGES.—

1 “(1) IN GENERAL.—For transactions con-
2 summed before the date of the enactment of the
3 Financial Institutions Regulatory Relief Act of
4 1995, a creditor or any assignee of a creditor shall
5 have no civil, administrative, or criminal liability
6 under this title for, and a consumer shall have no
7 extended rescission rights under section 125(f) with
8 respect to, the creditor’s treatment, for disclosure
9 purposes, of—

10 “(A) taxes described in section 106(d)(3);

11 “(B) fees and amounts described in section
12 106(e) (2) and (5) and third party fees and
13 amounts described in section 106(a); and

14 “(C) delivery charges imposed by a credi-
15 tor.

16 “(2) EXCEPTIONS.—Subsection (a) shall not
17 apply to—

18 “(A) any individual action or counterclaim
19 brought under this title—

20 “(i) which was filed before October 1,
21 1994; and

22 “(ii) the pleadings in which (as filed
23 before such date) allege improper disclo-
24 sure of charges described in paragraph (1),
25 (2), or (3) of subsection (a);

1 “(B) any class action brought under this
2 title—

3 “(i) for which a class was certified be-
4 fore October 1, 1994; and

5 “(ii) the pleadings in which (as filed
6 before such date) allege improper disclo-
7 sure of charges described in paragraph (1),
8 (2), or (3) of subsection (a);

9 “(C) the named individual plaintiffs in any
10 class action brought under this title—

11 “(i) which was filed before October 1,
12 1994; and

13 “(ii) the pleadings in which (as filed
14 before such date) allege improper disclo-
15 sure of charges described in paragraph (1),
16 (2), or (3) of subsection (a); or

17 “(D) any consumer credit transaction with
18 respect to which a timely notice of rescission
19 was sent to the creditor before October 1, 1994.

20 “(b) EXEMPTION FROM LIABILITY FOR FINANCE
21 CHARGE DISCLOSURES WITHIN TOLERANCE LIMITS.—

22 “(1) IN GENERAL.—In the case of any
23 consumer credit transaction subject to this title, in-
24 cluding a transaction consummated before the date
25 of the enactment of the Financial Institutions Regu-

1 latory Relief Act of 1995, no creditor or assignee
2 with respect to such transaction shall have any civil,
3 administrative, or criminal liability under this title
4 for, and no consumer shall have extended rescission
5 rights under section 125 by reason of, any disclosure
6 relating to the finance charge imposed with respect
7 to such transaction if the amount or percentage ac-
8 tually disclosed—

9 “(A) may be treated as accurate pursuant
10 to section 106(f), or

11 “(B) is greater than the amount or per-
12 centage required to be disclosed under this title.

13 “(2) EXCEPTIONS.—Paragraph (1) shall not
14 apply to—

15 “(A) any individual action or counterclaim
16 brought under this title which was filed before
17 October 1, 1994;

18 “(B) any class action brought under this
19 title for which a class was certified before Octo-
20 ber 1, 1994;

21 “(C) the named individual plaintiffs in any
22 class action brought under this title which was
23 filed before October 1, 1994; or

24 “(D) any consumer credit transaction with
25 respect to which a timely notice of rescission

1 was sent to the creditor before October 1,
2 1994.”.

3 (b) CLERICAL AMENDMENT.—The table of sections
4 for chapter 2 of the Truth in Lending Act is amended
5 by inserting after the item relating to section 138 the fol-
6 lowing new item:

“Sec. 139. Certain limitations on liability.”.

7 **SEC. 110. APPLICABILITY.**

8 Except as otherwise provided in section 109, the
9 amendments made by sections 106, 107, 108, 109, 110,
10 111, 112, and 113 shall apply to all consumer credit trans-
11 actions consummated on or after the date of enactment
12 of this Act, except that the amendments made by sub-
13 sections (a) and (b) of section 107 shall apply to all exten-
14 sions of credit with respect to which rescission rights have
15 not been asserted as of January 1, 1995.

16 **SEC. 111. LIMITATION ON RESCISSION PERIOD.**

17 Section 125(f) of the Truth in Lending Act (15
18 U.S.C. 1635(f)) is amended by adding at the end the fol-
19 lowing sentences: “The expiration of the right of rescission
20 pursuant to this subsection shall be absolute and no
21 consumer may assert rescission, affirmatively or as a de-
22 fense, in any action in any State or Federal court after
23 the earlier of the end of the three-year period beginning
24 on the date of the consummation of the transaction or the
25 sale of the property securing the loan or other extension

1 of credit, except as otherwise provided in the preceding
2 sentence. This subsection shall supersede any State law
3 which is inconsistent with any provision of this sub-
4 section.”.

5 **SEC. 112. CALCULATION OF ACTUAL DAMAGES.**

6 Paragraph (1) of section 130(a) of the Truth in
7 Lending Act (15 U.S.C. 1640(a)) is amended to read as
8 follows:

9 “(1) Any actual damages sustained by such
10 person as a result of the failure (to the extent the
11 person demonstrates reliance on the inaccurate dis-
12 closure which prevented the person from accepting
13 better credit terms actually available to the person
14 from another creditor) and the amount of such dam-
15 ages shall be the difference between the finance
16 charges actually paid and the finance charges that
17 would have been paid over the same period under
18 credit terms applicable with respect to credit actu-
19 ally available to the person from another creditor.”.

20 **SEC. 113. ASSIGNEE LIABILITY.**

21 (a) VIOLATIONS APPARENT ON THE FACE OF TRANS-
22 ACTION DOCUMENTS.—Section 131(a) of the Truth in
23 Lending Act (15 U.S.C. 1641(a)) is amended to read as
24 follows:

1 “(a) LIABILITY OF ASSIGNEE FOR APPARENT VIOLA-
2 TIONS.—

3 “(1) IN GENERAL.—Except as otherwise specifi-
4 cally provided in this title, any civil action against
5 a creditor for a violation of this title, and any pro-
6 ceeding under section 108 against a creditor, with
7 respect to a consumer credit transaction may be
8 maintained against any assignee of such creditor
9 only if—

10 “(A) the violation for which such action or
11 proceeding is brought is apparent on the face of
12 the disclosure statement provided in connection
13 with such transaction pursuant to this title; and

14 “(B) the assignment to the assignee was
15 voluntary.

16 “(2) VIOLATION APPARENT ON THE FACE OF
17 THE DISCLOSURE DESCRIBED.—For the purpose of
18 this section, a violation is apparent on the face of
19 the disclosure statement if—

20 “(A) the disclosure can be determined to
21 be incomplete or inaccurate from the face of the
22 disclosure statement; or

23 “(B) the disclosure does not use the terms
24 or format required to be used by this title.”.

1 (b) SERVICER NOT TREATED AS ASSIGNEE.—Section
2 131 of the Truth in Lending Act (15 U.S.C. 1641) is
3 amended by adding at the end the following new sub-
4 section:

5 “(d) TREATMENT OF SERVICER.—

6 “(1) IN GENERAL.—A servicer of a consumer
7 obligation arising from a consumer credit trans-
8 action shall not be treated as an assignee of such ob-
9 ligation for purposes of this section unless the
10 servicer is the owner of the obligation.

11 “(2) SERVICER NOT TREATED AS OWNER ON
12 BASIS OF ASSIGNMENT FOR ADMINISTRATIVE CON-
13 VENIENCE.—A servicer of a consumer obligation
14 arising from a consumer credit transaction shall not
15 be treated as the owner of the obligation for pur-
16 poses of this section on the basis of an assignment
17 of the obligation from the creditor or another as-
18 signee to the servicer solely for the administrative
19 convenience of the servicer in servicing the obliga-
20 tion.

21 “(3) SERVICER DEFINED.—For purposes of this
22 subsection, the term ‘servicer’ has the same meaning
23 as in section 6(i)(2) of the Real Estate Settlement
24 Procedures Act of 1974.”.

1 **SEC. 114. RECOVERY OF FEES.**

2 Section 125(b) of the Truth in Lending Act (15
3 U.S.C. 1635) is amended—

4 (1) in the first sentence, by inserting “, except
5 any charge for a appraisal report or credit report”
6 after “other charge”; and

7 (2) in the second sentence, by striking “other-
8 wise” and inserting “as otherwise required under
9 this subsection”.

10 **SEC. 115. HOMEOWNERSHIP DEBT COUNSELING NOTIFICA-**
11 **TION.**

12 Section 106(c)(5) of the Housing and Urban Devel-
13 opment Act of 1968 (12 U.S.C. 1701x(c)(5)) is repealed.

14 **SEC. 116. HOME MORTGAGE DISCLOSURE ACT.**

15 (a) Section 309 of the Home Mortgage Disclosure
16 Act of 1975 (12 U.S.C. 2808) is amended—

17 (1) in the second sentence, by striking
18 “\$10,000,000” and inserting “\$50,000,000”; and,

19 (2) by inserting at the end the following new
20 sentence: “The Board may also, by regulation, ex-
21 empt from the provisions of this Act institutions
22 specified in section 303(2)(A) which have total as-
23 sets as of their last full fiscal year of \$50,000,000
24 or greater where the burden of complying with this
25 Act on such institutions outweighs the usefulness of
26 the information required to be disclosed. The exemp-

1 tions provided under this section shall not be appli-
2 cable to an institution which the Board, by order,
3 has found a reasonable basis to believe is not fulfill-
4 ing its obligations to serve the housing needs of the
5 communities and neighborhoods in which it located.
6 An institution subject to such an order shall be re-
7 quired to comply with the requirements of this Act
8 for loans made after the time that the order is is-
9 sued at such time and for such period as the Board
10 deems appropriate. The dollar amount in this section
11 shall be adjusted annually after December 31, 1994,
12 by the annual percentage increase in the Consumer
13 Price Index for Urban Wage Earners and Clerical
14 Workers published by the Bureau of Labor Statis-
15 tics.”.

16 (b) Section 304 of the Home Mortgage Disclosure
17 Act of 1975 (12 U.S.C. 2803) is amended by adding the
18 following new subsection (m) at the end as follows:

19 “(m) OPPORTUNITY TO REDUCE COMPLIANCE BUR-
20 DEN.—

21 “(1) A depository institution will have satisfied
22 the public availability requirements of subsection (a)
23 if such institution keeps the information required
24 under that subsection at its home office and provides
25 notice at the branch locations specified in such sub-

1 section that such information is available upon re-
2 quest from the home office of the institution. A
3 home office of the depository institution receiving a
4 request for such information pursuant to this sub-
5 section shall provide the information pertinent to the
6 location of the branch in question within fifteen days
7 of the receipt of the written request.

8 “(2) In complying with paragraph (1), a depository
9 institution may provide the individual request-
10 ing such information, at the institution’s choice,
11 with—

12 “(A) a paper copy of the information re-
13 quested; or

14 “(B) if acceptable to the individual, the in-
15 formation via a form of electronic medium, such
16 as computer disc.”.

17 **Subtitle B—Community Reinvestment Act**
18 **Amendments**

19 **SEC. 121. EXPRESSION OF CONGRESSIONAL INTENT.**

20 Subsection (b) of section 802 of the Community Rein-
21 vestment Act of 1977 (12 U.S.C. 2901) is amended to
22 read as follows:

23 “(b) It is the purpose of this title to require each ap-
24 propriate Federal financial supervisory agency to use its
25 authority, when examining financial institutions, to en-

1 courage such institutions to help meet the credit needs of
2 the local communities in which they are chartered consist-
3 ent with the safe and sound operation of such institutions.
4 When examining financial institutions, a supervisory agen-
5 cy shall not impose additional burden, recordkeeping, or
6 reporting upon such institutions.”.

7 **SEC. 122. COMMUNITY REINVESTMENT ACT EXEMPTION.**

8 The Community Reinvestment Act of 1977 (12
9 U.S.C. 2901 et seq.) is amended by adding at the end
10 the following new section:

11 **“SEC. 808. EXAMINATION EXEMPTION.**

12 “A regulated financial institution shall not be subject
13 to the examination requirements of this title or any regula-
14 tions issued hereunder if—

15 “(1) the main office (and each branch of such
16 institution) is located in a town, political subdivision,
17 or other unit of general local government of a State
18 that has a population of not more than thirty thou-
19 sand persons and which is not part of a metropolitan
20 statistical area; and

21 “(2) the institution and its parent bank holding
22 company have aggregate assets of not more than
23 \$100,000,000.

24 The dollar amount in this section shall be adjusted annu-
25 ally after December 31, 1994, by the annual percentage

1 increase in the Consumer Price Index for Urban Wage
2 Earners and Clerical Workers published by the Bureau of
3 Labor Statistics.”.

4 **SEC. 123. SELF-CERTIFICATION OF CRA COMPLIANCE.**

5 Section 804 of the Community Reinvestment Act of
6 1977 (12 U.S.C. 2903) is amended by adding at the end
7 the following new subsection (c):

8 “(c) SELF-CERTIFICATION OF CRA COMPLIANCE.—

9 “(1) CERTIFICATION.—In lieu of being evalu-
10 ated under section 806A and receiving a written
11 evaluation under section 807, a qualifying financial
12 institution may choose to self-certify to the appro-
13 priate Federal financial supervisory agency that it is
14 in compliance with the goals of this Act.

15 “(2) QUALIFYING INSTITUTION.—A financial
16 institution shall be deemed a ‘qualifying institution’
17 for purposes of this Act if it has—

18 “(A) no more than \$250 million in assets;

19 “(B) not been found to have engaged in a
20 pattern or practice of illegal discrimination
21 under the Fair Housing Act or the Equal Cred-
22 it Opportunity Act for the preceding five-year
23 calendar period; and

24 “(C) a current CRA rating of ‘satisfactory’
25 or ‘outstanding’.

1 The dollar amount in this paragraph shall be ad-
2 justed annually after December 31, 1994, by the an-
3 nual percentage increase in the Consumer Price
4 Index for Urban Wage Earners and Clerical Work-
5 ers published by the Bureau of Labor Statistics.

6 “(3) PUBLIC NOTICE.—A qualifying institution
7 must maintain in every branch a public notice stat-
8 ing that the institution has self-certified that it is
9 satisfactorily helping to meet the credit needs of its
10 community, and that it maintains—

11 “(A) a public file at its main office which
12 contains a copy of its self-certification to its ap-
13 propriate regulator;

14 “(B) a map delineating its community;

15 “(C) a list of the types of credit and serv-
16 ices that it provides to its community;

17 “(D) such other information that the insti-
18 tution believes demonstrates its record of help-
19 ing to meet the credit needs of its community;
20 and

21 “(E) every public comment or letter to the
22 institution (and any response by the institution)
23 received within the previous two year-period
24 about its record of helping to meet the credit
25 needs of its community.

1 The institution shall maintain a public file at its
2 main office containing the contents described in this
3 paragraph.

4 “(4) RATING.—A qualifying institution shall be
5 deemed to have a rating of a ‘satisfactory record of
6 meeting community credit needs’ for the purposes of
7 this section and section 806A(c). Each Federal fi-
8 nancial supervisory agency shall publish in the Fed-
9 eral Register once each month a list of institutions
10 that have self-certified during the previous month.
11 Publication of the name of the institution in the
12 Federal Register as having self-certified shall con-
13 stitute disclosure of the rating of the institution to
14 the public under sections 806A and 807 of this Act.

15 “(5) REGULATORY REVIEW.—During each ex-
16 amination for safety and soundness, a qualifying in-
17 stitution’s supervisory agency shall, as part of its
18 loan review, assess whether the institution’s basis for
19 its self-certification is reasonable. If the agency de-
20 termines that the institution’s self-certification is
21 unreasonable, then the agency shall schedule an ex-
22 amination of the institution for the purpose of as-
23 ssuming the institution’s record of helping to meet
24 the credit needs of its community. If that assess-
25 ment results in a less than ‘satisfactory’ rating, then

1 the agency shall revoke the institution’s self-certifi-
2 cation and substitute a written evaluation as pro-
3 vided under section 807. An institution that has had
4 its self-certification revoked shall not be permitted to
5 self-certify pursuant to this subsection for five years
6 from the year of revocation. At any time thereafter,
7 if the institution meets the requirements for self-cer-
8 tification, it may again opt to self-certify.”

9 **SEC. 124. COMMUNITY INPUT AND CONCLUSIVE RATING.**

10 (a) CONFORMING AMENDMENT.—Section 804(a) of
11 the Community Reinvestment Act of 1977 (12 U.S.C.
12 2903) is amended by inserting “conducted in accordance
13 with Section 806A,” after “financial institution,”.

14 (b) COMMUNITY INPUT AND CONCLUSIVE RATING.—
15 The Community Reinvestment Act of 1977 (12 U.S.C.
16 2901 et seq.) is amended by inserting after Section 806
17 a new Section 806A as follows:

18 **“SEC. 806A. COMMUNITY INPUT AND CONCLUSIVE RATING.**

19 “(a) PUBLICATION OF EXAM SCHEDULE AND OPPOR-
20 TUNITY FOR COMMENT.—Each appropriate Federal finan-
21 cial supervisory agency shall publish in the Federal Reg-
22 ister, thirty days prior to the beginning of a calendar quar-
23 ter, a listing of institutions scheduled for examination pur-
24 suant to this Act during that calendar quarter, and pro-
25 vide opportunity for written comments from the commu-

1 nity on the performance, under this Act, of each institu-
2 tion scheduled for examination. Such comments shall be
3 received by the appropriate Federal financial supervisory
4 agency no later than thirty days after the commencement of
5 such calendar quarter. The agency shall provide a copy
6 of such comments to the institution.

7 “(b) EVALUATION.—The appropriate Federal finan-
8 cial supervisory agency shall evaluate the institution in ac-
9 cordance with the standards set forth in section 804 of
10 this Act, and shall prepare and publish a written evalua-
11 tion of the institution as required under section 807 of
12 this Act.

13 “(c) RECONSIDERATION OF RATING.—A reconsider-
14 ation of an institution’s rating, referred to in Section
15 807(b)(1)(C), may be requested within thirty days of the
16 rating’s disclosure to the public. Any such request must
17 be made in writing and filed with the appropriate Federal
18 financial supervisory agency, and may be filed by the insti-
19 tution or a member of the community. Any such request
20 shall be based on significant issues of a substantive nature
21 which are relevant to the delineated community of the in-
22 stitution, and in the case of a request by a member of
23 the community shall be limited to issues previously raised
24 in comments submitted pursuant to subsection (a). The
25 appropriate Federal financial supervisory agency shall

1 complete any requested reconsideration within thirty days
2 of the filing of the request.

3 “(d) CONCLUSIVE RATING.—An institution’s rating
4 becomes ‘conclusive’ on the later of—

5 “(1) thirty days after the rating is disclosed to
6 the public; or

7 “(2) the completion of any requested reconsid-
8 eration by the Federal financial supervisory agency.

9 An institution’s rating shall be the conclusive assessment
10 of its record of meeting the credit needs of its community
11 for purposes of section 804 of this Act until the institu-
12 tion’s next rating, developed pursuant to an examination,
13 becomes conclusive. Institutions which have received a
14 ‘satisfactory’ or ‘outstanding’ rating shall be deemed to
15 have satisfied section 804 of this Act. Notwithstanding
16 any other provision of law, nothing herein shall be con-
17 strued to grant a cause of action to any person.”.

18 **SEC. 125. SPECIAL PURPOSE BANKS.**

19 The Community Reinvestment Act of 1977 (12
20 U.S.C. 2901 et seq.) is amended—

21 (1) in section 803 (12 U.S.C. 2902), by insert-
22 ing at the end thereof the following new paragraph
23 (5):

1 “(5) the term ‘special purpose banks’ means a
2 bank that does not generally accept retail deposits,
3 such as credit card banks and trust banks.”; and

4 (2) in section 804 (12 U.S.C. 2903), by insert-
5 ing after subsection (c) (as added by section 122 of
6 this title):

7 “(d) In conducting assessments pursuant to this sec-
8 tion at special purpose banks, each appropriate Federal
9 financial supervisory agency shall take into consideration
10 the nature of business such banks are involved in and de-
11 velop standards under which such banks may be deemed
12 to have complied with the requirements of this Act which
13 are consistent with the specific nature of such busi-
14 nesses.”.

15 **SEC. 126. INCREASED INCENTIVES TO LENDING TO LOW-**
16 **AND MODERATE-INCOME COMMUNITIES.**

17 Section 804(a) of the Community Reinvestment Act
18 of 1977 (12 U.S.C. 2903(a)) is amended—

19 (1) in paragraph (1), by striking “; and” at the
20 end and inserting;

21 (2) in paragraph (2), by striking the period and
22 inserting “; and”; and

23 (3) by adding at the end the following new
24 paragraph:

1 “(3) provide the institution with credit, for pur-
2 poses of satisfying the requirements of this Act, for
3 investments in, and loans to—

4 “(A) minority depository institutions and
5 women’s depository institutions (as defined in
6 section 808(b)); and

7 “(B) joint ventures or other entities or
8 projects which provide benefits to distressed
9 communities, as such term is defined by the ap-
10 propriate Federal financial supervisory agency,
11 whether those minority or women’s depository insti-
12 tutions, or those communities, are located within or
13 outside of the service area of the regulated financial
14 institution.”.

15 **SEC. 127. PROHIBITION ON ADDITIONAL REPORTING**
16 **UNDER CRA.**

17 Section 806 of the Community Reinvestment Act of
18 1977 (12 U.S.C. 2905) is amended to read as follows:

19 **“SEC. 806. REGULATIONS.**

20 “Regulations to carry out the purposes of this title
21 shall be published by each appropriate Federal financial
22 supervisory agency. Such regulations and any policy state-
23 ments, commentary, examiner guidance, or other super-
24 visory material shall not impose any additional record-
25 keeping on a financial institution. No loan data may be

1 required to be collected and reported by a financial institu-
2 tion and no such data may be made public by any Federal
3 financial supervisory agency under this title.”.

4 **SEC. 128. TECHNICAL AMENDMENT.**

5 Section 807(b)(1)(B) of the Community Reinvest-
6 ment Act (12 U.S.C. 2906) is amended by striking “The
7 information” and inserting in its place “In the case of a
8 regulated financial institution that maintains domestic
9 branches in two or more States, the information”.

10 **SEC. 129. DUPLICATIVE REPORTING.**

11 Section 10(g) of the Federal Home Loan Bank Act
12 (12 U.S.C. 1430(g)) is amended by adding at the end
13 thereof the following new paragraph (3):

14 “(3) SPECIAL RULE.—This subsection shall not
15 apply to members receiving a grade of ‘outstanding’
16 or ‘satisfactory’ under section 807 of the Community
17 Reinvestment Act of 1977.”.

18 **Subtitle C—Consumer Banking Reforms**

19 **SEC. 131. TRUTH IN SAVINGS.**

20 (a) Section 262 of the Truth in Savings Act (12
21 U.S.C. 4301) is amended to read as follows:

22 **“SEC. 262. PURPOSE.**

23 “It is the purpose of this Act to ensure that consum-
24 ers can make a meaningful comparison between the com-
25 peting claims of depository institutions with regard to de-

1 posit accounts by requiring that institutions offering inter-
2 est-bearing accounts pay interest on the full amount of
3 principal each day in a consumer deposit account at the
4 rate agreed to be paid by the institution.”.

5 (b) Section 263 is amended to read as follows:

6 **“SEC. 263. PROHIBITION ON MISLEADING OR INACCURATE**
7 **ADVERTISEMENTS AND DISCLOSURES.**

8 “No depository institution or deposit broker shall
9 make any advertisement, announcement, solicitation or
10 disclosure relating to a deposit account that is inaccurate
11 or misleading or that misrepresents its deposit contracts.”.

12 (c) Sections 264, 265, and 266 of the Truth is Sav-
13 ings Act (12 U.S.C. 4302, 4303, 4304, and 4305, respect-
14 fully) are hereby repealed.

15 (d) Section 267 of the Truth in Savings Act (12
16 U.S.C. 4306) is redesignated as Sec. 263.

17 (e) Section 268 of the Truth in Savings Act (12
18 U.S.C. 4307) is hereby repealed.

19 (f) Section 269 of the Truth in Savings Act (12
20 U.S.C. 4308) is redesignated as Sec. 264 and is amended
21 to read as follows:

22 **“SEC. 264. REGULATIONS.**

23 “(a) IN GENERAL.—The Board, after consultation
24 with each agency referred to in section 265(a) and public

1 notice and opportunity for comment, shall prescribe regu-
2 lations to carry out the purpose and provisions of this title.

3 “(b) EFFECTIVE DATE OF REGULATIONS.—The pro-
4 visions of this subtitle shall not apply with respect to any
5 depository institution before the effective date of regula-
6 tions prescribed by the Board under this subsection.”.

7 (f) Section 270 of the Truth in Savings Act (12
8 U.S.C. 4309) is redesignated as Sec. 265.

9 (g) Sections 271 and 273 of the Truth in Savings
10 Act (12 U.S.C. 4310 and 4312) are hereby repealed.

11 (h) Section 272 of the Truth in Savings Act (12
12 U.S.C. 4311) is redesignated as Sec. 266.

13 (i) Section 274 of the Truth in Savings Act (12
14 U.S.C. 4313) is redesignated as Sec. 267 and is amended
15 to read as follows:

16 **“SEC. 267. DEFINITIONS.**

17 “For the purposes of this chapter—

18 “(1) ACCOUNTS.—The term ‘account’ means
19 any account intended for use by and generally used
20 by a consumer primarily for personal, family, or
21 household purposes that is offered by a depository
22 institution into which a customer deposits funds, in-
23 cluding demand deposits, time accounts, negotiable
24 order of withdrawal accounts, and share draft ac-
25 counts.

1 “(2) DEPOSITORY INSTITUTION.—The term ‘de-
2 pository institution’ has the meaning given such
3 term in clause (i) through (vi) of section 19(b)(1)(A)
4 of the Federal Reserve Act.

5 “(3) INTEREST.—The term ‘interest’ includes
6 dividends paid with respect to share draft accounts
7 which are accounts within the meaning of paragraph
8 (1).

9 “(4) BOARD.—The term ‘Board’ means the
10 Board of Governors of the Federal Reserve Sys-
11 tem.”.

12 **SEC. 132. UNAUTHORIZED ELECTRONIC FUND TRANSFERS.**

13 (a) Section 909(a)(1) of Electronic Fund Transfer
14 Act (15 U.S.C. 1693g(a)(1)) is amended by inserting “(or
15 in cases where the cardholder has substantially contrib-
16 uted to the unauthorized use, including writing on or keep-
17 ing with the card or other means of access a personal iden-
18 tification or other security code, \$500)” after “\$50”.

19 (b) Section 909 of the Electronic Fund Transfer Act
20 (15 U.S.C. 1693g) is amended by adding at the end the
21 following new subsections:

22 “(f) Notwithstanding any provision of subsection (a)
23 or subsection (b)—

24 “(1) a financial institution may request that a
25 consumer who alleges an unauthorized electronic

1 fund transfer involving the consumer's account pro-
2 vide reasonable cooperation in connection with the
3 financial institution's investigation of the alleged un-
4 authorized electronic fund transfer; and

5 “(2) the consumer shall remain liable for the
6 amount of the alleged unauthorized electronic fund
7 transfer if the consumer fails or refuses to provide
8 such cooperation, unless the financial institution oth-
9 erwise has information which confirms that the elec-
10 tronic fund transfer was unauthorized.

11 “(g) Notwithstanding any provision of subsection (a)
12 or subsection (b), a consumer who authorizes a person to
13 use the consumer's access device may be held liable by
14 the financial institution for all electronic fund transfers
15 made by such person using such access device prior to the
16 consumer revoking the authorization and notifying the fi-
17 nancial institution of the revocation in accordance with
18 procedures reasonably established by the financial institu-
19 tion for such a revocation of authority, as more specifically
20 provided by the Board in regulations prescribed under this
21 title.”.

22 **SEC. 133. LIABILITY FOR UNAUTHORIZED USE OF CREDIT**
23 **CARDS.**

24 Section 133(a) of the Truth in Lending Act (15
25 U.S.C. 1643(a)) is amended—

1 (1) by redesignating paragraph (2) as para-
2 graph (3);

3 (2) by inserting after paragraph (1) the
4 following:

5 “(2)(A) Notwithstanding paragraph (1), a card-
6 holder shall be liable for the unauthorized use of a
7 credit card if—

8 “(i) the liability is in excess of \$50; and

9 “(ii) the cardholder fails to notify the card
10 issuer of any unauthorized transaction which
11 appears on the statement of the cardholder’s
12 account in connection with an extension of
13 consumer credit within sixty days of the trans-
14 mission of such statement.

15 “(B) The liability described in subparagraph
16 (A) shall not apply if the cardholder demonstrates
17 that the failure to timely notify the card issuer of
18 the unauthorized use was due to extenuating cir-
19 cumstances such as extended travel or hospitaliza-
20 tion, and notice was provided at the earliest possible
21 time thereafter.

22 “(C) The liability described in subparagraph
23 (A) shall only apply where the card issuer has pro-
24 vided prior notice to the cardholder of such liabil-

1 ity.”; and inserting after paragraph (3) (as so re-
2 designated by paragraph (1) of this section).

3 “(4) Notwithstanding any other provision of
4 this subsection or subsection (b)—

5 “(A) a card issuer may request that a
6 cardholder who alleges unauthorized use of his
7 or her credit card provide reasonable coopera-
8 tion in connection with the card issuer’s inves-
9 tigation of the alleged unauthorized use; and

10 “(B) the cardholder shall remain liable for
11 the amount of the alleged unauthorized use if
12 the cardholder fails or refuses to provide such
13 cooperation, unless the card issuer otherwise
14 has information which clearly establishes the
15 unauthorized use.

16 “(5) Notwithstanding any other provision of
17 this subsection or subsection (b), a cardholder who
18 authorizes a person to use the cardholder’s credit
19 card may be held liable by the card issuer for all ex-
20 tensions of credit which are obtained by such person
21 using such credit card prior to the cardholder revok-
22 ing the authorization and notifying the card issuer
23 of the revocation in accordance with procedures rea-
24 sonably established by the card issuer for such a rev-
25 ocation of authority, as more specifically provided by

1 the Board in regulations prescribed under this
2 title.”.

3 **SEC. 134. INFORMATION SHARING.**

4 Section 18 of the Federal Deposit Insurance Act (12
5 U.S.C. 1828) is amended by adding at the end of the fol-
6 lowing new subsection:

7 “(s) CUSTOMER ACCESS TO PRODUCTS.—

8 “(1) IN GENERAL.—Notwithstanding any other
9 provision of law, any depository institution or any
10 affiliate or subsidiary thereof may share or exchange
11 information or otherwise transfer information be-
12 tween or among themselves without any restriction
13 or limitation if it is clearly and conspicuously dis-
14 closed that the information may be communicated
15 among such persons and the consumer is given the
16 opportunity, prior to the time that the information
17 is initially communicated, to direct that such infor-
18 mation not be communicated among such persons.

19 “(2) DEFINITION.—For purposes of this sub-
20 section, ‘information’ means any and all data,
21 records, or other information and material obtained
22 or maintained by any depository institution or any
23 affiliate or subsidiary thereof in the ordinary course
24 of its business that relates in any way to a person
25 (as that term is defined in 15 U.S.C. 1681a(b)) who

1 applies for, maintains or has maintained an account
2 or credit relationship with or applied for, purchased
3 or obtained other products or services from any de-
4 pository institution or any affiliate or subsidiary
5 thereof, regardless of the source of manner in which
6 the information is obtained or furnished.

7 “(3) RULE OF CONSTRUCTION.—Any depository
8 institution or any affiliate or subsidiary thereof rely-
9 ing on this subsection shall not be deemed to be a
10 consumer reporting agency, user or third party, and
11 the information itself shall not constitute a
12 consumer report, within the meaning of Fair Credit
13 Reporting Act or other similar law.”.

14 **SEC. 135. ELECTRONIC FUND TRANSFER ACT CLARIFICA-**
15 **TION.**

16 (a) Section 903(1) of the Electronic Fund Transfer
17 Act (15 U.S.C. 1693a(1)) is amended by inserting before
18 the semicolon the following: “, but such term does not in-
19 clude a card or device that a person may use to pay for
20 transactions through use of value stored on the card or
21 device itself, except for those transactions where such card
22 or device is actually used to access an account to effect
23 such transaction”.

24 (b) Section 903(2) of the Electronic Fund Transfer
25 Act (15 U.S.C. 1693a(2)) is amended by inserting before

1 the semicolon the following: “and does not include any
2 value which is stored on a card or device itself that enables
3 a person to pay for transactions through use of that stored
4 value”.

5 **Subtitle D—Equal Credit Opportunity Act**
6 **Amendments**

7 **SEC. 141. SHORT TITLE.**

8 This subtitle may be cited as the Equal Credit Oppor-
9 tunity Act Amendments of 1995.

10 **SEC. 142. FINDINGS AND PURPOSE.**

11 (a) The Congress finds that both the Equal Credit
12 Opportunity Act (15 U.S.C. 1691, et seq.) and the Fair
13 Credit Reporting Act (15 U.S.C. 1681, et seq.) contain
14 requirements that applicants for consumer credit be given
15 certain information in the event that adverse action is
16 taken on the application. These requirements differ in
17 both scope and content and for that reason are confusing
18 to both the consumer who receives the information and
19 the party required to furnish the information.

20 (b) It is the purpose of this act to combine and sim-
21 plify the adverse action notification requirements of the
22 Equal Credit Opportunity Act and the Fair Credit Report-
23 ing Act regarding applications for consumer credit and to
24 make the information that is required to be furnished
25 more understandable.

1 **SEC. 143. EQUAL CREDIT OPPORTUNITY ACT AMEND-**
2 **MENTS.**

3 (a) Section 701(d)(2)(B) of the Equal Credit Oppor-
4 tunity Act (15 U.S.C. 1691(d)(2)(B)) is amended to read
5 as follows:

6 “(B) giving written notification of adverse ac-
7 tion which discloses

8 “(i) the applicant’s right to a statement of
9 reasons within thirty days after receipt by the
10 creditor of a request made within sixty days
11 after such notification;

12 “(ii) if credit is denied or the charge for
13 such credit is increased either wholly or partly
14 because of information contained in a consumer
15 report from a consumer reporting agency, that
16 fact and the name and address of the consumer
17 reporting agency making the report;

18 “(iii) if credit is denied or the charge
19 therefor is increased either wholly or partly be-
20 cause of information obtained from a person
21 other than a consumer reporting agency bearing
22 upon the consumer’s credit worthiness, credit
23 standing, credit capacity, character, general
24 reputation, personal characteristics or mode of
25 living, that fact and the right to receive disclo-
26 sure of the nature of the information so re-

1 ceived upon receipt of the consumer’s written
2 request therefor within sixty days after learning
3 of such adverse action; and

4 “(iv) the identity of the person or office
5 from which such notification may be obtained.

6 Such statement of reasons may be given orally if the
7 written notification advises the applicant of his right
8 to have the statement of reasons confirmed in writ-
9 ing on written request.”.

10 (b) Paragraph 701(d)(3) of the Equal Credit
11 Opportunity Act (15 U.S.C. 1691(d)(3)) is amended
12 by striking the period at the end and adding the fol-
13 lowing: “and, to the extent applicable, the name and
14 address of the consumer reporting agency identified
15 in accordance with the requirements of subsection
16 (d)(3)(ii) and a statement of the right to obtain dis-
17 closure of the nature of the information upon which
18 adverse action was taken as required by subsection
19 (d)(3)(iii).”.

20 (c) Section 706 of the Equal Credit Opportunity Act
21 (15 U.S.C. 1691e) is amended by adding at the end the
22 following new subsection:

23 “(e) No person shall be held liable for any violation
24 of subsection 701(d) hereof if he shows by a preponder-
25 ance of the evidence that at the time of the alleged viola-

1 tion he maintained reasonable procedures to assure com-
2 pliance with the provisions of the subsection.”.

3 **SEC. 144. FAIR CREDIT REPORTING ACT AMENDMENTS.**

4 (a) Section 615(a) of the Fair Credit Reporting Act
5 (15 U.S.C. 1681m(a)) is amended by striking “credit or”
6 each time such term appears.

7 (b) Section 615 of the Fair Credit Reporting Act (15
8 U.S.C. 1681m) is amended by striking subsection (b) and
9 redesignating subsection (c) as subsection (b).

10 (c) Section 615(b) (as redesignated by this section)
11 of the Fair Credit Reporting Act (15 U.S.C. 1681m(b))
12 is amended by striking “subsections (a) and (b)” and in-
13 serting “subsection (a)”.

14 **SEC. 145. INCENTIVES FOR SELF-TESTING.**

15 (a) EQUAL CREDIT OPPORTUNITY.—The Equal
16 Credit Opportunity Act (15 U.S.C. 1691 et seq.) is
17 amended—

18 (1) by inserting after section 704 the following
19 new section:

20 **“SEC. 704A. SELF-TESTING ENHANCEMENT.**

21 “Whenever a creditor conducts, or authorizes an
22 independent third party to conduct, a test or review of
23 the creditor’s lending or any part of its lending operations
24 in order to determine the level or effectiveness of compli-
25 ance with this Act by the creditor, then any report or re-

1 sults of such a test or review may not be reviewed, ob-
2 tained, examined or otherwise acquired or used by any ap-
3 plicant in any proceeding or civil action brought under this
4 Act.”;

5 (2) in section 706(g), by inserting the following
6 new language after the second sentence: “No agency
7 shall refer a matter to the Attorney General if the
8 creditor has already identified the matter as a pos-
9 sible violation of the Equal Credit Opportunity Act
10 as the result of internal review, self-testing, compli-
11 ance review or other audit or review procedure insti-
12 tuted by the creditor to determine compliance with
13 the Act. No provision of this section shall be con-
14 strued as limiting the authority of the agency to en-
15 force the provisions of this Act under any other pro-
16 vision of law.”; and

17 (3) in section 706(k), by adding at the end the
18 following: “No agency referred to in paragraph (1),
19 (2) or (3) of section 704(a) shall notify the Sec-
20 retary of Housing and Urban Development or the
21 applicant of a violation of the Equal Credit Oppor-
22 tunity Act or of the Fair Housing Act if the creditor
23 has already identified the matter as a possible viola-
24 tion of either of those Acts as a result of internal
25 review, self-testing, compliance review or other audit

1 or review procedure instituted by the creditor to de-
2 termine compliance with the Act. No provisions of
3 this section shall be construed as limiting the au-
4 thority of the agency to enforce the provisions of this
5 Act under any other provision of law.”.

6 (b) FAIR HOUSING.—The Fair Housing Act (42
7 U.S.C. 3601 et seq.) is amended by adding the following:

8 **“SEC. 814A. SELF-TESTING ENHANCEMENT.**

9 “Whenever any person conducts, or authorizes an
10 independent third party to conduct, a test or review of
11 that person’s residential real estate or real estate-related
12 activities or any part thereof in order to determine the
13 level or effectiveness of compliance with this Act by the
14 person, then any report or results of such a test or review
15 may not be reviewed, obtained, examined or otherwise ac-
16 quired or used by the applicant, aggrieved party, or com-
17 plainant in any proceeding or civil action brought under
18 this Act.”.

19 **SEC. 146. CREDIT SCORING SYSTEMS.**

20 Section 701 of the Equal Credit Opportunity Act (15
21 U.S.C. 1691) is amended by adding at the end the follow-
22 ing new subsection:

23 “(f) A creditor shall be deemed to be in compliance
24 with subsection (a) with respect to any credit decision
25 made by the creditor which is based solely on the use of

1 an empirically derived, demonstrably and statistically
2 sound, credit scoring system, as defined by the Board in
3 regulations prescribed under this title, if such system does
4 not utilize any category protected under subsection (a) or
5 use as a factor in such system any criterion which is so
6 directly associated with such a category as to be the func-
7 tional equivalent of such a category. Nothing in this sub-
8 section shall preclude a creditor from using age as a factor
9 in such a system as otherwise permitted under this title.”.

10 **SEC. 147. EFFECTIVE DATE.**

11 This Act shall take effect two hundred seventy days
12 after enactment. The Board of Governors of the Federal
13 Reserve System shall promulgate regulations to implement
14 this Act at least ninety days before its effective date.

15 **Subtitle E—Consumer Leasing Act**
16 **Amendments**

17 **SEC. 151. SHORT TITLE.**

18 This subtitle may be cited as the “Consumer Leasing
19 Act Amendments of 1995”.

20 **SEC. 152. CONGRESSIONAL FINDINGS AND DECLARATION**
21 **OF PURPOSE.**

22 (a) The Congress finds that competition among the
23 various financial institutions and other firms engaged in
24 the business of consumer leasing is greatest when there
25 is informed use of leasing. The informed use of leasing

1 results from an awareness of the cost thereof by consum-
2 ers. It is the purpose of this subchapter to assure a simple,
3 meaningful disclosure of leasing terms so that the
4 consumer will be able to compare more readily the various
5 leasing terms available to him and avoid the uninformed
6 use of leasing, and to protect the consumer against inac-
7 curate and unfair leasing practices.

8 (b) The Congress also finds that there has been a
9 continued trend toward leasing automobiles and other du-
10 rable goods for consumer use as an alternative to install-
11 ment credit sales and that leasing product advances have
12 occurred such that lessors have been unable to provide
13 consistent industry-wide disclosures to fully account for
14 the competitive progress that has occurred. To provide for
15 adequate cost disclosures that reflect the marketplace
16 without impairing competition and the development of new
17 leasing products, it is the purpose of this subchapter to
18 provide the Board with the regulatory authority to assure
19 a simplified, meaningful definition and disclosure of the
20 terms of certain leases of personal property for personal,
21 family, or household purposes so as to enable the lessee
22 to compare more readily the various lease terms available
23 to the lessee, enable comparison of lease terms with credit
24 terms where appropriate and to assure meaningful and ac-
25 curate disclosures of lease terms in advertisements.

1 **SEC. 153. REGULATIONS.**

2 Chapter 5 of the Consumer Credit Protection Act is
3 amended by adding at the end the following new section:

4 **“SEC. 187. REGULATIONS.**

5 “(a) IN GENERAL.—The Board shall write regula-
6 tions or staff commentary, if appropriate, to update and
7 clarify the requirements and definitions for lease disclo-
8 sures, contracts, and any other specific issues related to
9 consumer leasing which would carry out the purposes of
10 the Consumer Leasing Act, to prevent its circumvention,
11 and to facilitate compliance with its requirements. The
12 regulations may contain classifications and differentia-
13 tions and may provide for adjustments and exceptions for
14 any class of transaction.

15 “(b) MODEL DISCLOSURES.—The Board shall pub-
16 lish model disclosure forms and clauses to facilitate com-
17 pliance with the disclosure requirements and to aid the
18 consumer in understanding the transaction. In designing
19 forms, the Board shall consider the use by lessors of data
20 processing or similar automated equipment. Use of the
21 models shall be optional. A lessor who properly uses the
22 material aspects of the models shall be deemed to be in
23 compliance with the disclosure requirements.

24 “(c) EFFECTIVE DATES.—Any regulation of the
25 Board, or any amendment or interpretation thereof, that
26 requires a disclosure different from the disclosures pre-

1 viously required shall have an effective date of October 1
2 that follows the date of promulgation by at least six
3 months. The Board may at its discretion lengthen that
4 period of time to permit lessors to adjust their forms to
5 accommodate new requirements. The Board may also
6 shorten that period of time if it makes a specific finding
7 that such action is necessary to comply with the findings
8 of a court or to prevent unfair or deceptive practices. In
9 any case, lessors may comply with any newly promulgated
10 disclosure requirement prior to its effective date.”.

11 **SEC. 154. SEGREGATED LEASING DISCLOSURES.**

12 Section 182 of the Consumer Credit Protection Act
13 (15 U.S.C. 1667(a)) is amended—

14 (1) by inserting “(a)” before “Each lessor” in
15 the first sentence; and,

16 (2) by adding at the end the following new sub-
17 section:

18 “(b) Prior to or at the time the consumer receives
19 the disclosures required under Section 182(a), the lessor
20 shall separately disclose, to the extent applicable, each of
21 the following items in a tabular format in a manner to
22 be prescribed by the Board:

23 “(1) Total amount of funds due at lease incep-
24 tion. This amount shall include any security deposit,
25 whether or not it is refundable and any other fees

1 required to be paid to the lessor at lease inception
2 by the consumer.

3 “(2) Total monthly payment due to the Lessor.
4 This amount does not include any taxes payable by
5 the lessee to any governmental entity.

6 “(3) Number of Payments.

7 “(4) Total of Monthly Payments.

8 “(5) Capitalized Cost.

9 “(6) Residual Value.

10 “(7) Whether or not the Lessee has the right
11 to purchase the Vehicle during or at the end of the
12 Lease.

13 “(8) Excess Mileage Charge: The amount that
14 the Lessee, at scheduled termination, must pay for
15 each mile in excess of a predetermined number of
16 miles.

17 “(9) Early Termination: In the event of early
18 termination of the lease by the lessee, the disclosure
19 of the payment allocation method by name alone
20 which would facilitate comparison shopping by con-
21 sumers.

22 In prescribing regulations to carry out this clause, the
23 Board shall define and name not more than the five early
24 termination liability calculation methods determined by
25 the Board to be the most commonly used methods.”.

1 **SEC. 155. CONSUMER LEASE ADVERTISING.**

2 Section 184 of the Consumer Credit Protection Act
3 (15 U.S.C. 1667(c)) is amended to read as follows:

4 **“SEC. 184. CONSUMER LEASE ADVERTISING.**

5 “(a) If an advertisement for a consumer lease states
6 the amount of any payment or states that any or no initial
7 payment is required, the advertisement must also clearly
8 and conspicuously state the following terms, as applicable:

9 “(1) That the transaction advertised is a lease.

10 “(2) The total of initial payments required at
11 or before consummation of the lease or delivery of
12 the property, whichever is later.

13 “(3) That a security deposit is required.

14 “(4) The number, amounts, and timing of
15 scheduled payments.

16 “(5) For a lease in which the consumer’s liabil-
17 ity at the end of the lease term is based on the an-
18 ticipated residual value of the property, that an
19 extra charge may be imposed at the end of the lease
20 term.

21 “(b) Any owner or personnel of any medium in which
22 an advertisement appears or through which it is dissemi-
23 nated shall not be liable under this section.”.

1 **Subtitle F—Federal Home Loan Bank**
2 **Amendments**

3 **SEC. 161. APPLICATION FOR MEMBERSHIP IN THE FHLB**
4 **SYSTEM.**

5 Section 4(b) of the Federal Home Loan Bank Act
6 (12 U.S.C. 1424) is amended to read as follows:

7 “(b) MEMBERSHIP BASED ON CONVENIENCY.—An
8 institution eligible to become a member under this section
9 may become a member by submitting its application for
10 membership to the Bank in the district where the appli-
11 cant’s principal place of business is located. An application
12 for membership shall be approved by the Bank if, in the
13 judgement of the Bank, the applicant meets the criteria
14 for eligibility contained in this section. An institution eligi-
15 ble to become a member under this section may apply for
16 membership in an adjoining district, if appropriate for the
17 convenience of the institution and then only with the ap-
18 proval of the Board.”.

19 **SEC. 162. FEDERAL HOME LOAN BANK EXTERNAL AUDI-**
20 **TORS.**

21 Section 11(j) of the Federal Home Loan Bank Act
22 (12 U.S.C. 1431(j)) is amended to read as follows:

23 “(j) AUDITS.—

24 “(1) Notwithstanding the provisions of section
25 9105(a)(1)(B) of title 31, United States Code, au-

1 dits by the General Accounting Office of the finan-
2 cial transactions of a Federal home loan bank shall
3 not be limited to periods during which Government
4 capital has been invested therein. The provisions of
5 section 9107(c)(2) and 9108(d)(1) of title 31, of
6 such Code, shall not apply to any Federal home loan
7 bank.

8 “(2) Notwithstanding any other provision of
9 law, the Board shall not participate in the hiring of
10 an external auditor by the banks; except, that the
11 Board may establish requirements for external audit
12 contracts and accounting standards and, that all
13 twelve banks shall contract for an annual audit with
14 a single provider.”.

15 **TITLE II—STREAMLINING GOVERNMENT**
16 **REGULATIONS**

17 **Subtitle A—Regulatory Approval Issues**

18 **SEC. 201. STREAMLINED NONBANKING ACQUISITIONS BY**
19 **WELL CAPITALIZED AND WELL MANAGED**
20 **BANKING ORGANIZATIONS.**

21 (a) NOTICE REQUIREMENTS.—Section 4(j) of the
22 Bank Holding Company Act of 1956 (12 U.S.C. 1843(j))
23 is amended as follows—

1 (1) in paragraph (1), strike “No” and insert in
2 its place “Except as provided in paragraph (3), no”;
3 and

4 (2) add at the end the following new para-
5 graphs:

6 “(3) NO NOTICE REQUIRED FOR CERTAIN
7 TRANSACTIONS.—No notice under paragraph (1) or
8 subsections (c)(8) or (a)(2)(B) is required for a pro-
9 posal by a bank holding company to engage in any
10 activity or acquire the shares or assets of any com-
11 pany if the proposal qualifies under paragraph (4).

12 “(4) CRITERIA FOR STATUTORY APPROVAL.—A
13 proposal qualifies under this paragraph if all of the
14 following criteria are met:

15 “(A) FINANCIAL CRITERIA.—Both before
16 and immediately after the proposed trans-
17 action—

18 “(i) the acquiring bank holding com-
19 pany is well capitalized;

20 “(ii) the lead insured depository insti-
21 tution of such holding company is well cap-
22 italized;

23 “(iii) well capitalized insured depository
24 institutions control at least 80 percent
25 of the aggregate total risk-weighted assets

1 of insured depository institutions controlled
2 by such holding company; and

3 “(iv) no insured depository institution
4 controlled by such holding company is
5 undercapitalized.

6 “(B) MANAGERIAL CRITERIA.—

7 “(i) WELL MANAGED.—At the time of
8 the transaction, the acquiring bank holding
9 company, its lead insured depository insti-
10 tution, and insured depository institutions
11 that control at least 90 per centum of the
12 aggregate total risk-weighted assets of in-
13 sured depository institutions controlled by
14 such holding company are well managed.

15 “(ii) LIMITATION ON POORLY MAN-
16 AGED INSTITUTIONS.—

17 “(I) IN GENERAL.—No insured
18 depository institution controlled by
19 the acquiring bank holding company
20 has received one of the lowest two
21 composite ratings at the later of the
22 institution’s most recent examination
23 or subsequent review.

24 “(II) RECENTLY ACQUIRED IN-
25 STITUTIONS.—Insured depository in-

1 stitutions acquired by the bank hold-
2 ing company within the previous
3 twelve months may be excluded for
4 purposes of subclause (I) if—

5 “(aa) the bank holding com-
6 pany has developed a plan ac-
7 ceptable to the appropriate Fed-
8 eral banking agency (as defined
9 in section 3 of the Federal De-
10 posit Insurance Act) for the insti-
11 tution to restore the capital and
12 management of the institution;
13 and

14 “(bb) all such insured depos-
15 itory institutions represent, in
16 the aggregate, less than 10 per
17 centum of the aggregate total
18 risk-weighted assets of all in-
19 sured depository institutions con-
20 trolled by the bank holding com-
21 pany.

22 “(C) ACTIVITIES PERMISSIBLE.—Following
23 consummation of the proposal, the bank holding
24 company engages directly or through a subsidi-
25 ary solely in:

1 “(i) activities that are permissible
2 under subsection (c)(8), as determined by
3 the Board by regulation or order there-
4 under, subject to all of the restrictions,
5 terms and conditions of such subsection
6 and such regulation or order; and

7 “(ii) such other activities as are other-
8 wise permissible under this section, subject
9 to the restrictions, terms and conditions,
10 including any prior notice or approval re-
11 quirements, provided in this section.

12 “(D) SIZE OF ACQUISITION.—

13 “(i) ASSET SIZE.—The book value of
14 the total assets acquired does not exceed
15 10 per centum of the consolidated total
16 risk-weighted assets of the acquiring bank
17 holding company; and

18 “(ii) CONSIDERATION.—The gross
19 consideration to be paid for the securities
20 or assets does not exceed 15 per centum of
21 the consolidated Tier 1 capital of the ac-
22 quiring bank holding company.

23 “(E) NOTICE NOT OTHERWISE WAR-
24 RANTED.—For proposals described in para-
25 graph (5)(B), the Board has not, prior to the

1 conclusion of the period provided in paragraph
2 (5)(B), advised the bank holding company that
3 a notice under paragraph (1) is required.

4 “(5) NOTIFICATION.—

5 “(A) COMMENCEMENT OF ACTIVITIES AP-
6 PROVED BY RULE.—A bank holding company
7 that qualifies under paragraph (4) and that
8 proposes to engage de novo, directly or through
9 a subsidiary, in any activity that is permissible
10 under subsection (c)(8), as determined by the
11 Board by regulation, may commence that activ-
12 ity without prior notice to the Board and must
13 provide written notification to the Board no
14 later than ten business days after commencing
15 the activity.

16 “(B) ACTIVITIES PERMITTED BY ORDER
17 AND ACQUISITIONS.—At least twelve business
18 days prior to commencing any activity pursuant
19 to paragraph (3) other than an activity de-
20 scribed in subparagraph (A) or acquiring shares
21 or assets of any company pursuant to para-
22 graph (3), the bank holding company must pro-
23 vide the Board written notification of the pro-
24 posal, unless the Board determines that no no-
25 tice or a shorter notice period is appropriate. A

1 notification under this subparagraph must in-
2 clude a description of the proposed activities
3 and the terms of any proposed acquisition.

4 “(6) ADJUSTMENT OF AMOUNTS.—The Board
5 may by regulation adjust the amounts and the man-
6 ner in which the percentage of insured depository in-
7 stitutions is calculated under paragraph (4)(B)(i),
8 paragraph (4)(B)(ii)(II)(bb), and paragraph (4)(D)
9 if the Board determines that any such adjustment is
10 consistent with safety and soundness and the pur-
11 poses of this Act.

12 (b) DEFINITIONS.—Section 2(o)(1) of the Bank
13 Holding Company Act (12 U.S.C. 1841) is amended by
14 adding at the end the following new paragraphs:

15 “(1) CAPITAL TERMS.—

16 “(A) INSURED DEPOSITORY INSTITU-
17 TIONS.—With respect to insured depository in-
18 stitutions, the terms ‘well-capitalized,’ ‘ade-
19 quately capitalized’ and ‘uncapitalized’ have the
20 meaning given those terms in section 38(b) of
21 the Federal Deposit Insurance Act.

22 “(B) BANK HOLDING COMPANY.—

23 “(i) ADEQUATELY CAPITALIZED.—
24 The term ‘adequately capitalized’ means a
25 level of capitalization which meets or ex-

1 ceeds all applicable Federal regulatory cap-
2 ital standards;

3 “(ii) WELL CAPITALIZED.—A bank
4 holding company is ‘well capitalized’ if it
5 meets the required capital levels for well
6 capitalized bank holding companies estab-
7 lished by the Board.

8 “(C) OTHER CAPITAL TERMS.—The terms
9 ‘Tier 1’ and ‘risk-weighted assets’ have the
10 meaning given those terms in the capital guide-
11 lines or regulations established by the Board for
12 bank holding companies.

13 “(p) LEAD INSURED DEPOSITORY INSTITUTIONS.—
14 The term ‘lead insured depository institution’ means the
15 largest insured depository institution controlled by the
16 bank holding company at any time, based on a companion
17 of the average total risk-weighted assets controlled by each
18 insured depository institution during the previous twelve
19 month period. For purposes of this subsection and section
20 4(j)(4), the term ‘insured depository institution’ shall also
21 include any branch or agency operated in the United
22 States by a foreign bank.

23 “(q) WELL MANAGED.—A company or depository in-
24 stitution is ‘well managed’ if, at its most recent examina-

1 tion or subsequent review, the company or institution re-
2 ceived—

3 “(1) one of the highest two composite ratings;

4 and

5 “(2) at least a satisfactory rating for manage-
6 ment, if such rating is given.”.

7 **SEC. 202. STREAMLINED BANK ACQUISITIONS BY WELL**
8 **CAPITALIZED AND WELL MANAGED BANKING**
9 **ORGANIZATIONS.**

10 (a) BANK HOLDING COMPANY ACT AMENDMENTS.—
11 Section 3 of the Bank Holding Company Act (12 U.S.C.
12 1842) is amended by adding at the end the following new
13 subsection:

14 “(h) NO APPROVAL REQUIRED FOR CERTAIN TRANS-
15 ACTIONS.—Notwithstanding subsections (a)(3) or (a)(5),
16 an acquisition of shares by a registered bank holding com-
17 pany, or a merger or consolidation between registered
18 bank holding companies, shall be deemed approved at the
19 conclusion of the period specified in paragraph (7) if:

20 “(1) FINANCIAL AND MANAGERIAL CRITERIA.—

21 “(A) WELL CAPITALIZED BANK HOLDING
22 COMPANY.—Both at the time of and imme-
23 diately after the proposed transaction, the ac-
24 quiring bank holding company is well capital-
25 ized.

1 “(B) WELL CAPITALIZED LEAD INSURED
2 DEPOSITORY INSTITUTION.—Both at the time
3 of and immediately after the proposed trans-
4 action, the lead insured depository institution of
5 the acquiring bank holding company is well cap-
6 italized.

7 “(C) CAPITAL OF OTHER INSURED DEPOSI-
8 TORY INSTITUTIONS.—At the time of the trans-
9 action, well capitalized insured depository insti-
10 tutions control at least 80 per centum of the
11 aggregate total risk-weighted assets of insured
12 depository institutions controlled by the acquir-
13 ing bank holding company.

14 “(D) NO UNDERCAPITALIZED INSURED
15 DEPOSITORY INSTITUTIONS.—At the time of the
16 transaction, no insured depository institution
17 controlled by the acquiring bank holding com-
18 pany is undercapitalized.

19 “(E) WELL MANAGED.—

20 “(i) IN GENERAL.—At the time of the
21 transaction, the acquiring bank holding
22 company, its lead insured depository insti-
23 tution, and insured depository institutions
24 that control at least 90 per centum of the
25 aggregate total risk-weighted assets of in-

1 sured depository institutions controlled by
2 such holding company are well managed.

3 “(ii) NO POORLY MANAGED INSTITU-
4 TIONS.—

5 “(I) IN GENERAL.—No insured
6 depository institution controlled by
7 the acquiring bank holding company
8 has received one of the lowest two
9 composite ratings at the later of the
10 institution’s most recent examination
11 or subsequent review.

12 “(II) RECENTLY ACQUIRED IN-
13 STITUTIONS.—Insured depository in-
14 stitutions acquired by the bank hold-
15 ing company within the previous
16 twelve months may be excluded for
17 purposes of subclause (I) if—

18 “(aa) the bank holding com-
19 pany has developed a plan ac-
20 ceptable to the appropriate Fed-
21 eral banking agency (as defined
22 in section 3 of the Federal De-
23 posit Insurance Act) for the insti-
24 tution to restore the capital and

1 management of the institution;
2 and

3 “(bb) all such insured depos-
4 itory institutions represent, in
5 the aggregate, less than 10 per
6 centum of the aggregate total
7 risk-weighted assets of all in-
8 sured depository institutions con-
9 trolled by the holding company.

10 “(iii) ADJUSTMENT OF AMOUNTS.—

11 The Board may by regulation adjust the
12 amounts and the manner in which the per-
13 centage of insured depository institutions
14 is calculated under clauses (i) and
15 (ii)(II)(bb) if the Board determines that
16 such adjustment is consistent with safety
17 and soundness and the purposes of this
18 Act.

19 “(2) NO UNSATISFACTORY CRA RATINGS.—

20 “(A) IN GENERAL.—No insured depository
21 institution controlled by the acquiring bank
22 holding company has received a ‘needs to im-
23 prove’ or ‘substantial noncompliance’ composite
24 rating at its most recent examination under the
25 Community Reinvestment Act.

1 “(B) RECENTLY ACQUIRED INSTITU-
2 TIONS.—Insured depository institutions ac-
3 quired by such bank holding company within
4 the previous twelve months may be excluded for
5 purposes of subparagraph (A) if the bank hold-
6 ing company has developed a plan acceptable to
7 the appropriate Federal banking agency (as de-
8 fined in section 3 of the Federal Deposit Insur-
9 ance Act) to restore the performance of the in-
10 stitution to at least a ‘satisfactory’ rating under
11 the Community Reinvestment Act.

12 “(3) COMPETITIVE CRITERIA.—Consummation
13 of the proposal complies with guidelines established
14 by the Board by regulation, after consultation with
15 the Attorney General, that identify proposals that
16 are not likely to have a significantly adverse effect
17 on competition in any relevant market.

18 “(4) SIZE OF ACQUISITION.—

19 “(A) LIMITATIONS.—

20 “(i) ASSET SIZE.—The book value of
21 the total assets acquired does not exceed
22 10 per centum of the consolidated total
23 risk weighted assets of the acquiring bank
24 holding company.

1 “(ii) CONSIDERATION.—The gross
2 consideration to be paid for the securities
3 or assets does not exceed 15 per centum of
4 the consolidated Tier 1 capital of the ac-
5 quiring bank holding company.

6 “(B) ADJUSTMENT TO LIMITATIONS.—The
7 Board may by regulation adjust the limitations
8 established in this paragraph in a manner con-
9 sistent with safety and soundness and the pur-
10 poses of this Act.

11 “(5) INTERSTATE ACQUISITIONS.—Board ap-
12 proval of the transaction is not prohibited under
13 subsection (d).

14 “(6) OTHER CONSIDERATIONS.—Board ap-
15 proval of the transaction is not prohibited under
16 subsection (c)(3); and

17 “(7) NOTIFICATION.—The acquiring bank hold-
18 ing company provides the Board with written notice
19 of the transaction, including a description of the
20 terms of the transaction, at least fifteen business
21 days (or such shorter period as permitted by the
22 Board) prior to consummation of the transaction,
23 and, prior to the conclusion of that period, the
24 Board has not required an application under sub-
25 section (a).”.

1 **SEC. 203. ELIMINATE BANK MERGER ACT FILING AND AP-**
2 **PROVAL REQUIREMENTS FOR INSURED DE-**
3 **POSITORY INSTITUTIONS ALREADY CON-**
4 **TROLLED BY THE SAME HOLDING COMPANY.**

5 Section 18(c) of the Federal Deposit Insurance Act
6 is amended by adding at the end the following new
7 paragraph:

8 “(12) The provisions of this subsection shall
9 not apply to any merger, consolidation, acquisition
10 of assets or assumption of liabilities involving only
11 insured depository institutions that are subsidiaries
12 of the same depository institution holding company
13 if—

14 “(A) the responsible agency would not be
15 prohibited from approving the transaction
16 under section 44;

17 “(B) the acquiring, assuming, or resulting
18 institution complies with all applicable provi-
19 sions of section 44 as if the merger, consolida-
20 tion or acquisition were approved under this
21 subsection; and

22 “(C) the acquiring, assuming, or resulting
23 institution provides written notification of the
24 transaction to the appropriate Federal banking
25 agency for the institution at least 10 days prior
26 to consummation of the transaction.”.

1 **SEC. 204. ELIMINATE REDUNDANT APPROVAL REQUIRE-**
2 **MENT FOR OAKAR TRANSACTIONS.**

3 Section 5(d)(3) of the Federal Deposit Insurance Act
4 (12 U.S.C. 1815(d)(3)) is amended—

5 (1) in subparagraph (A), by striking “with the
6 prior written approval of the responsible agency
7 under section 18(c)(2)”;

8 (2) in subparagraph (E)—

9 (A) by striking clause (iv) and inserting
10 the following new clause:

11 “(iv) A transaction shall not be au-
12 thorized under this paragraph unless the
13 acquiring, assuming, or resulting deposi-
14 tory institution will meet all applicable cap-
15 ital requirements upon consummation of
16 the transaction.”;

17 (B) by striking clauses (i) and (ii); and

18 (C) by redesignating clauses (iii) and (iv)
19 as clauses (i) and (ii), respectively;

20 (3) by striking subparagraph (G) and redesi-
21 gnating the subsequent subparagraphs accordingly.

1 **SEC. 205. ELIMINATE DUPLICATIVE REQUIREMENTS IM-**
2 **POSED ON BANK HOLDING COMPANIES**
3 **UNDER THE HOME OWNERS' LOAN ACT.**

4 (a) Section 10(a) of the Home Owners' Loan Act (12
5 U.S.C. 1467a(a)) is amended by adding at the end the
6 following new paragraph:

7 “(5) EXEMPTION FOR BANK HOLDING COMPA-
8 NIES.—The provisions of this section shall not apply
9 to any company that is a bank holding company reg-
10 istered under, and subject to, the provisions of the
11 Bank Holding Company Act, or to any company di-
12 rectly or indirectly controlled by such company
13 (other than a savings association).”.

14 (b) Section 10(a)(1)(D) of the Home Owners' Loan
15 Act (12 U.S.C. 1467a(a)(1)(D)) is amended to read as
16 follows:

17 “(i) SAVINGS AND LOAN HOLDING
18 COMPANY.—Except as provided in clause
19 (ii), the term ‘savings and loan holding
20 company’ means any company which di-
21 rectly or indirectly controls a savings asso-
22 ciation or controls any other company
23 which is a savings and loan holding com-
24 pany.

25 “(ii) EXCLUSION.—The term ‘savings
26 and loan holding company’ does not in-

1 clude a bank holding company that is reg-
2 istered under, and subject to, the provi-
3 sions of the Bank Holding Company Act,
4 or any company controlled by such bank
5 holding company.”.

6 (c) Section 10(e)(1)(B) of the Home Owners’ Loan
7 Act (12 U.S.C. 1467a(e)(1)(B)) is amended—

8 (1) by striking “or (ii)” and inserting “(ii)”;

9 (2) by inserting before the period at the end of
10 the first sentence the following: “, or (iii) acquired
11 by a bank holding company that is registered under,
12 and subject to, the provisions of the Bank Holding
13 Company Act, or any company controlled by such
14 bank holding company”.

15 **SEC. 206. ELIMINATE REQUIREMENT THAT APPROVAL BE**
16 **OBTAINED FOR DIVESTITURES.**

17 Section 2(g) of the Bank Holding Company Act (12
18 U.S.C. 1841(g)) is amended—

19 (1) by striking paragraph (3);

20 (2) by inserting “and” after paragraph (1); and

21 (3) by striking “; and” at the end of paragraph

22 (2) and inserting a period.

1 **SEC. 207. ELIMINATE UNNECESSARY BRANCH APPLICA-**
2 **TIONS.**

3 (a) NATIONAL BANK BRANCH APPLICATIONS.—Sec-
4 tion 5155(i) of the Revised Statutes (12 U.S.C. 36(i)) is
5 amended—

6 (1) by striking “No branch” and inserting the
7 following:

8 “(1) APPROVAL REQUIRED.—Except as pro-
9 vided in paragraph (2), no branch”; and

10 (2) by adding at the end the following new
11 paragraphs:

12 “(2) NO APPROVAL REQUIRED FOR CERTAIN
13 BRANCHES.—Notwithstanding this subsection, sub-
14 section (b) or subsection (c), the consent and ap-
15 proval of the Comptroller of the Currency shall not
16 be required for a national banking association to es-
17 tablish and operate, or to retain and operate, a
18 branch or seasonal agency if—

19 “(A) the association is well capitalized, as
20 that term is defined in section 38 of the Fed-
21 eral Deposit Insurance Act and regulations pre-
22 scribed by the Comptroller of the Currency
23 under such section;

24 “(B) the association received a composite
25 CAMEL rating of ‘1’ or ‘2’ under the Uniform
26 Financial Institutions Rating System (or an

1 equivalent rating under a comparable rating
2 system) as of its most recent examination;

3 “(C) the association did not receive a
4 ‘needs to improve’ or substantial noncompliance
5 composite rating at its most recent examination
6 under the Community Reinvestment Act; and

7 “(D) the Comptroller of the Currency is
8 authorized to grant approval under this section
9 to such association to establish and operate, or
10 to retain and operate, a branch or seasonal
11 agency at the proposed location.

12 “(3) A branch or seasonal agency established by
13 a national banking association under paragraph (2)
14 shall be deemed to have been established and oper-
15 ated pursuant to an application approved under this
16 section.”.

17 (b) STATE MEMBER BANK BRANCH APPLICA-
18 TIONS.—The third undesignated paragraph of section 9
19 of the Federal Reserve Act (12 U.S.C. 321) is amended
20 by adding at the end the following: “Notwithstanding the
21 previous two sentences, the approval of the Board shall
22 not be required for a State member bank to establish and
23 operate a branch or seasonal agency if—

24 “(A) the State member bank is well-cap-
25 italized, as that term is defined in section 38 of

1 the Federal Deposit Insurance Act and regula-
2 tions prescribed by the Board under such sec-
3 tion;

4 “(B) the State member bank received a
5 composite CAMEL rating of ‘1’ or ‘2’ under the
6 Uniform Financial Institutions Rating System
7 (or an equivalent rating under a comparable
8 rating system);

9 “(C) the State member bank did not re-
10 ceive a ‘needs to improve’ or substantial non-
11 compliance composite rating at its most recent
12 examination under the Community reinvestment
13 Act; and

14 “(D) the Board is authorized to grant ap-
15 proval under this section to such State member
16 bank to establish and operate a branch or sea-
17 sonal agency at the proposed location.

18 A branch or seasonal agency established by a State
19 member bank under the previous sentence shall be deemed
20 to have been established and operated pursuant to an ap-
21 plication approved under this section.”.

22 (c) STATE NONMEMBER BANK BRANCH APPLICA-
23 TIONS.—Section 18(d) of the Federal Deposit Insurance
24 Act (12 U.S.C. 1828(d)) is amended by adding at the end
25 the following new paragraphs:

1 “(5) APPLICATION EXEMPTION FOR CERTAIN
2 BANKS.—Notwithstanding paragraph (1), the con-
3 sent of the Corporation shall not be required for a
4 State nonmember insured bank to establish and op-
5 erate any domestic branch if—

6 “(A) the bank is well-capitalized, as that
7 term is defined in section 38 and regulations
8 prescribed by the Corporation under such sec-
9 tion;

10 “(B) the bank received a composite
11 CAMEL rating of ‘1’ or ‘2’ under the Uniform
12 Financial Institutions Rating System (or an
13 equivalent rating under a comparable rating
14 system) as of its most recent examination;

15 “(C) the bank did not receive a ‘needs to
16 improve’ or substantial noncompliance compos-
17 ite rating at its most recent examination under
18 the Community Reinvestment Act; and

19 “(D) the Corporation is authorized to give
20 consent under this section to such bank to es-
21 tablish and operate a domestic branch at the
22 proposed location.

23 “(6) APPROVAL GRANTED.—A branch estab-
24 lished by a State member bank under paragraph (5)
25 shall be deemed to have been established and oper-

1 ated pursuant to an application approved under this
2 section.”.

3 **SEC. 208. ELIMINATE BRANCH APPLICATIONS/REQUIRE-**
4 **MENTS FOR ATMs AND SIMILAR FACILITIES.**

5 (a) “BRANCH” UNDER NATIONAL BANK ACT.—Sec-
6 tion 5155(j) of the Revised Statutes (12 U.S.C. 36(j)) is
7 amended by adding at the end the following: “The term
8 ‘branch’ does not include automated teller machines or re-
9 mote service units.”.

10 (b) “BRANCH” UNDER FEDERAL DEPOSIT INSUR-
11 ANCE ACT.—Section 3(o) of the Federal Deposit Insur-
12 ance Act (12 U.S.C. 1813(o)) is amended by striking
13 “lent; and the” and inserting “lent. The term ‘domestic
14 branch’ does not include automated teller machines or re-
15 mote service units. The”.

16 **SEC. 209. ELIMINATE REQUIREMENT FOR APPROVAL OF IN-**
17 **VESTMENTS IN BANK PREMISES FOR WELL**
18 **CAPITALIZED AND WELL MANAGED BANKS.**

19 Section 24A of the Federal Reserve Act (12 U.S.C.
20 371d) is amended by inserting before the period in that
21 section the following: “unless such bank received a com-
22 posite CAMEL rating of ‘1’ or ‘2’ under the Uniform Fi-
23 nancial Institutions Rating System (or an equivalent rat-
24 ing under a comparable rating system) as of its most re-
25 cent examination and, both before and immediately follow-

1 ing the investment or loan, is well capitalized (as defined
2 under section 38 of the Federal Deposit Insurance Act)’’.

3 **SEC. 210. ELIMINATE UNNECESSARY FILING FOR OFFICER**
4 **AND DIRECTOR APPOINTMENTS.**

5 Section 32 of the Federal Deposit Insurance Act (12
6 U.S.C. 1831i) is amended as follows:

7 (1) in subsection (a),

8 (A) by inserting after “thirty days (or such
9 other period as determined by the agency)’’;

10 (B) by striking “if the insured depository
11 institution or depository institution holding
12 company” and inserting “if”;

13 (C) by striking paragraphs (1) and (2);

14 (D) in paragraph (3),

15 (i) by inserting “the insured depository
16 institution or depository institution
17 holding company” before “is not in compli-
18 ance”;

19 (ii) by striking the period and insert-
20 ing instead “; and”;

21 (E) by redesignating paragraph (3) as
22 paragraph (1); and

23 (F) by adding at the end the following new
24 paragraph:

1 “(2) the agency determines, in connection with
2 its review of the plan required under section 38 or
3 otherwise, that such prior notice is appropriate.”;
4 and

5 (2) in subsection (b), by striking “thirty-day”
6 and inserting in its place “notice”.

7 **SEC. 211. STREAMLINING PROCESS FOR DETERMINING**
8 **NEW NONBANKING ACTIVITIES.**

9 Section 4(c)(8) of the Bank Holding Company Act
10 of 1956 (12 U.S.C. 1843(c)(8)) is amended by striking
11 “and opportunity for hearing”.

12 **Subtitle B—Streamlining of Government**
13 **Regulations; Miscellaneous Provisions**

14 **SEC. 221. ELIMINATE THE PER-BRANCH CAPITAL REQUIRE-**
15 **MENT FOR NATIONAL BANKS AND STATE**
16 **MEMBER BANKS.**

17 Section 5155 of the Revised Statutes (12 U.S.C. 36)
18 is amended by striking subsection (h).

19 **SEC. 222. BRANCH CLOSURES.**

20 Section 39 of the Federal Deposit Insurance Act (12
21 U.S.C. 1831p) (as added by section 228 of the Federal
22 Deposit Insurance Corporation Improvement Act of 1991)
23 is amended by adding at the end the following new sub-
24 sections:

1 “(d) DEFINITIONS.—For purposes of this section, the
2 term ‘branch’ shall not include the following:

3 “(1) automated teller machines;

4 “(2) a branch acquired through merger, consoli-
5 dation, purchase, assumption or other method that
6 is located in a local market area currently served by
7 another branch of the acquiring institution;

8 “(3) a branch that is closed and reopened in
9 another location within the same local market area
10 which would continue to provide banking services to
11 substantially all of the customers currently served by
12 the branch that is closed;

13 “(4) a branch that is closed in connection
14 with—

15 “(A) an emergency acquisition under—

16 “(i) section 11(n); or

17 “(ii) subsections (f) or (k) of section
18 13; or

19 “(B) any assistance provided by the Cor-
20 poration under section 13(c); and

21 “(5) any other branch closure whose exemption
22 from the notice requirements of this section would
23 not produce a result inconsistent with the purposes
24 of this section. The appropriate Federal banking
25 agency shall, by regulation, determine the cir-

1 cumstances under which such exemptions will be
2 granted.

3 “(e) EFFECTIVE DATE.—The amendments made by
4 this section shall become effective on the date of enact-
5 ment of the Federal Deposit Insurance Corporation Im-
6 provement Act of 1991.”.

7 **SEC. 223. AMENDMENTS TO THE DEPOSITORY INSTITU-**
8 **TIONS MANAGEMENT INTERLOCKS ACT.**

9 (a) DUAL SERVICE IN SAME AREA, TOWN, OR VIL-
10 LAGE.—Section 203 of the Depository Institution Man-
11 agement Interlocks Act (12 U.S.C. 3202) is amended—

12 (1) by inserting “(a) PROHIBITIONS.—” before
13 “A management official”; and

14 (2) by adding after subsection (a) the following
15 new subsection:

16 “(b) SMALL MARKET SHARE EXEMPTION.—This sec-
17 tion shall not prohibit a management official of a deposi-
18 tory institution or depository holding company from serv-
19 ing as a management official of another depository institu-
20 tion or depository holding company not affiliated therewith
21 if the depository institutions or depository holding compa-
22 nies with which the management official serves hold, to-
23 gether with their affiliates, in the aggregate no more than
24 20 per centum of the deposits in each relevant geographic
25 banking market, as defined by the Board of Governors of

1 the Federal Reserve System, where offices of the deposi-
2 tory institutions or depository holding companies or their
3 affiliates are located.”.

4 (b) DUAL SERVICE AMONG LARGER ORGANIZA-
5 TIONS.—Section 204 of the Depository Institution Man-
6 agement Interlocks Act (12 U.S.C. 3203) is amended—

7 (1) by striking “\$1,000,000,000” and inserting
8 “\$2,000,000,000”; and

9 (2) by striking “\$500,000,000” and inserting
10 “\$1,000,000,000”; and,

11 (3) by adding at the end thereof the following:
12 “The dollar amount in this section shall be adjusted
13 annually after December 31, 1994, by the annual
14 percentage increase in the Consumer Price Index for
15 Urban Wage Earners and Clerical Workers pub-
16 lished by the Bureau of Labor Statistics.”.

17 (c) EXTENSION OF GRANDFATHER EXEMPTION.—
18 Section 206 of the Depository Institution Management
19 Interlocks Act (12 U.S.C. 3205) is amended—

20 (1) in subsection (a), by striking “for a period
21 of, subject to the requirements of subsection (c),
22 twenty years after the date of enactment of this
23 title”;

24 (2) by inserting a period after “position” the
25 second place such term appears;

1 (3) in subsection (b), by striking the second
2 sentence; and

3 (4) by striking subsection (c).

4 (d) RULES OR REGULATIONS.—Section 209 of the
5 Depository Institution Management Interlocks Act (12
6 U.S.C. 3207) is amended—

7 (1) by striking “(a) IN GENERAL.—Rules” and
8 inserting “Rules”;

9 (2) by inserting “, including rules or regula-
10 tions which permit service by a management official
11 which would otherwise be prohibited by section 203
12 or section 204,” after “chapter”; and

13 (3) by striking subsections (b) and (c).

14 **SEC. 224. CONSOLIDATION OF APPRAISAL SUBCOMMITTEE.**

15 (a) APPRAISAL SUBCOMMITTEE CONSOLIDATION.—
16 The Appraisal Subcommittee established under the Fed-
17 eral Financial Institutions Examination Council Act of
18 1978 is abolished and its functions shall be consolidated
19 into the Financial Institutions Examination Council.

20 (b) CONFORMING AMENDMENTS TO TITLE XI.—

21 (1) The Federal Financial Institutions Exam-
22 ination Council Act of 1978 is amended by striking
23 the following sections:

24 (A) Section 1102 (12 U.S.C. 3310).

25 (B) Section 1104 (12 U.S.C. 3333).

1 (C) Section 1105 (12 U.S.C. 3334).

2 (D) Section 1106 (12 U.S.C. 3335).

3 (E) Section 1108 (12 U.S.C. 3337).

4 (F) Section 1116(e) (12 U.S.C. 3345(e)).

5 (G) Section 1122(e) (12 U.S.C. 3351(e)).

6 (2) section 1121 of the FIECA of 1978 (12
7 U.S.C. 3350) is amended—

8 (A) by striking paragraphs (2) and (8);

9 (B) by redesignating paragraphs (3)
10 through (7) as paragraphs (2) through (6), re-
11 spectively; and

12 (C) by redesignating paragraphs (9)
13 through (10) as paragraphs (7) through (8), re-
14 spectively.

15 (c) CONFORMING AMENDMENT.—Section 202(e) of
16 the National Housing Act (12 U.S.C. 1078(e)) is amended
17 by striking paragraph (2) and redesignating paragraphs
18 (3) and (4) and paragraphs (2) through (3).

19 (d) CONSOLIDATION OF FUNCTIONS TO FFIEC; RE-
20 Duction OF ASSESSMENTS ON APPRAISERS.—

21 (1) Section 1103 of the Financial Institutions
22 Reform, Recovery and Enforcement Act of 1989 (12
23 U.S.C. 3332) is amended—

1 (A) by striking “Appraisal Subcommittee”
2 each place it appears and inserting instead “Fi-
3 nancial Institutions Examination Council”;

4 (B) in paragraph (a)(3), by inserting be-
5 fore “maintain” the words “if the Council de-
6 termines that doing so will further the purposes
7 of this chapter,”; and

8 (C) by amending paragraph (a)(4) to read
9 as follows:

10 “(4) include in its annual report to Congress a
11 description of how it has performed the functions as-
12 signed to it under this chapter.”.

13 (2) Section 1109 of the Financial Institutions
14 Reform, Recovery and Enforcement Act of 1989 (12
15 U.S.C. 3338) is amended to read as follows:

16 **“SEC. 1109. ROSTER OF STATE CERTIFIED OR LICENSED**
17 **APPRAISERS.**

18 “(a) ROSTER; COLLECTION OF FEES.—Each State
19 with an appraiser certifying and licensing agency whose
20 certifications and licenses comply with this chapter,
21 shall—

22 “(1) upon request of the Federal Financial In-
23 stitutions Examination Council, transmit to the
24 Council annually (or at any less frequent interval
25 specified by the Council) a roster listing individuals

1 who have received a State certification or license in
2 accordance with this chapter;

3 “(2) collect from such individuals who perform
4 or seek to perform appraisals in federally related
5 transactions, an annual registry fee, the amount of
6 which is to be determined by the Council but not to
7 exceed \$25 per year, to support its activities under
8 this chapter; and

9 “(3) transmit all registry fees to the Council on
10 an annual basis.

11 “(b) STATUS OF REGISTRY FEES.—Registry fees col-
12 lected and transmitted to the Council pursuant to this sec-
13 tion shall not constitute appropriated funds.”.

14 (3) Section 1116(e) of the Financial Institu-
15 tions Reform, Recovery and Enforcement Act of
16 1989 (12 U.S.C. 3345(e)) is amended by striking
17 “Appraisal Subcommittee” and “Subcommittee” and
18 inserting instead “Financial Institutions Examina-
19 tion Council”.

20 (4) Section 1118 of the Financial Institutions
21 Reform, Recovery and Enforcement Act of 1989 (12
22 U.S.C. 3347) is amended by striking “Appraisal
23 Subcommittee” each place it appears and inserting
24 instead “Financial Institutions Examination Coun-
25 cil”.

1 (5) Section 1119 of the Financial Institutions
2 Reform, Recovery and Enforcement Act of 1989 (12
3 U.S.C. 3348) is amended—

4 (A) by striking “Subject to the approval of
5 the Council, the Appraisal Subcommittee” and
6 inserting in its place “The Council”;

7 (B) by striking “Appraisal Subcommittee”
8 each place it appears and inserting instead “Fi-
9 nancial Institutions Examination Council”.

10 (6) Section 1120 of the Financial Institutions
11 Reform, Recovery and Enforcement Act of 1989 (12
12 U.S.C. 3349) is amended by striking “Appraisal
13 Subcommittee” and inserting instead “Financial In-
14 stitutions Examination Council”.

15 (e) REMISSION OF FUNDS TO THE TREASURY.—All
16 funds held by, and the right to collect all funds owed to,
17 the Appraisal Subcommittee on the effective date of this
18 section shall be transferred to the United States Treasury.

19 (f) REPAYMENT OF PREPAID REGISTRY FEES.—Be-
20 fore the effective date specified in subsection (g), the Ap-
21 praisal Subcommittee shall refund to the States any reg-
22 istry fees prepaid to the Subcommittee for the period after
23 December 31, 1995.

24 (g) EMPLOYEES TRANSFERRED.—

1 (1) IDENTIFYING EMPLOYEES FOR TRANS-
2 FER.—

3 (A) IN GENERAL.—The Financial Institu-
4 tions Examination Council shall identify those
5 employees of the Appraisal Subcommittee for
6 transfer to the Council needed to perform func-
7 tions transferred from the Subcommittee to the
8 Council, in a manner that the Council, in its
9 sole discretion, deems equitable.

10 (B) IDENTIFIED EMPLOYEES TRANS-
11 FERRED.—All employees of the Appraisal Sub-
12 committee identified for transfer to the Council
13 under subparagraph (A) shall be transferred to
14 the Council for employment on the date set
15 forth in subsection (h).

16 (2) PRIORITY OF THIS ACT.—If any protection
17 provided under this section conflicts with any protec-
18 tion provided to transferred employees under section
19 3503 of title 5, United States Code, the provisions
20 of this section shall control.

21 (3) RIGHTS OF TRANSFERRED EMPLOYEES.—

22 (A) COMPARABLE POSITIONS.—Each em-
23 ployee transferred to the Financial Institutions
24 Examination Council shall, on the date of
25 transfer, be appointed to a position under the

1 compensation system and performance evalua-
2 tion system of the Council that is comparable in
3 tenure and grade to that of the position the em-
4 ployee held on the enactment date of this Act.

5 (B) PAY.—

6 (i) IN GENERAL.—Except as provided
7 in clause (ii), each employee transferred to
8 the Financial Institutions Examination
9 Council under this section shall, during the
10 one-year period after the date of transfer,
11 receive pay at a rate not less than the
12 basic rate of pay that the employee re-
13 ceived at the Appraisal Subcommittee dur-
14 ing the one-year period immediately before
15 the enactment date of this Act.

16 (ii) EXCEPTIONS.—Clause (i) does not
17 limit the right of the Council to reduce a
18 transferred employee's rate of basic pay—

19 (I) for cause;

20 (II) for unacceptable perform-
21 ance; or

22 (III) with the employee's consent.

23 (iii) PROTECTION ONLY WHILE EM-
24 PLOYED.—Subparagraph (B) applies to a

1 transferred employee only while that em-
2 ployee remains employed by the Council.

3 (4) RETIREMENT BENEFITS.—

4 (A) CONTINUATION OF EXISTING RETIRE-
5 MENT PLAN.—Except as otherwise permitted by
6 law, each employee who transfers to the Finan-
7 cial Institutions Examination Council under
8 this section shall remain enrolled in the retire-
9 ment plan (and any associated thrift savings
10 plan) in which he or she was enrolled on the
11 day before the date of transfer while he or she
12 remains employed by the Council.

13 (B) EMPLOYER'S CONTRIBUTION.—The
14 Financial Institutions Examination Council
15 shall pay any employer contributions to the re-
16 tirement plan in which each transferred em-
17 ployee is subject during his or her period of
18 service at the Council, as required under that
19 plan.

20 (5) NO PRIVATE RIGHT OF ACTION.—The sec-
21 tion does not provide any employee transferred to
22 the Financial Institutions Examination Council
23 under this section with any right of action to require
24 the Council, or any officer, employee, agent, or ad-

1 administrator thereof, to take any action under this
2 section.

3 (h) EFFECTIVE DATE.—This section shall take effect
4 ninety days from enactment, except that, unless otherwise
5 provided, subsections (f) and (g) shall take effect imme-
6 diately.

7 **SEC. 225. ELIMINATE UNNECESSARY AND DUPLICATIVE**
8 **RECORDKEEPING AND REPORTING REQUIRE-**
9 **MENTS RELATING TO LOANS TO EXECUTIVE**
10 **OFFICERS AND PERMIT PARTICIPATION IN**
11 **EMPLOYEE BENEFIT PLANS.**

12 (a) AMENDMENTS TO SECTION 22(h) OF THE FED-
13 ERAL RESERVE ACT.—Section 22(h) of the Federal Re-
14 serve Act (12 U.S.C. 375b(2)) is amended—

15 (1) EMPLOYEE BENEFIT PLANS.—In paragraph

16 (2)—

17 (A) by renumbering subparagraphs (A)
18 and (C) as clauses (i) through (iii) respectively;

19 (B) by striking “(2) Preferential terms
20 prohibited” and inserting in its place:

21 “(2) PREFERENTIAL TERMS PROHIBITED.—

22 “(A) IN GENERAL.”; and

23 (C) by inserting at the end a new subpara-
24 graph (B) to read as follows:

1 “(B) EXCEPTION.—Nothing in this para-
2 graph shall prohibit extensions of credit made
3 pursuant to a benefit or compensation program
4 widely available to employees of the member
5 bank.”;

6 (2) EXCEPTION FOR EXTENSIONS OF CREDIT
7 TO EXECUTIVE OFFICERS AND DIRECTORS OF
8 NONBANK AFFILIATES.—In subsection (h)(8)(B) by
9 striking the phrase “, except as that subparagraph
10 makes applicable paragraph (2),”; and

11 (3) RECORDKEEPING REQUIREMENTS.—In
12 paragraph (10), by adding at the end the following:
13 “The Board shall specify by regulation the record-
14 keeping required of member banks to ensure compli-
15 ance with this section. Compliance with the record-
16 keeping requirements adopted pursuant to this para-
17 graph shall satisfy the audit requirement of section
18 36(e) of the Federal Deposit Insurance Act, to the
19 extent that its requirements are applicable to this
20 section.”.

21 (b) REPORTING REQUIREMENTS.—

22 (1) UNNECESSARY REPORTS.—Section 22(g) of
23 the Federal Reserve Act is amended by deleting
24 paragraphs (6) and (9) and in their entirety and re-

1 numbering paragraphs (7), (8), and (10) as para-
2 graphs (6), (7), and (8), respectively.

3 (2) UNNECESSARY REPORTS.—Section 7(k) of
4 the Federal Deposit Insurance Act (12 U.S.C. 1817)
5 is amended to read as follows:

6 “(k) RESERVED.”.

7 (3) UNNECESSARY REPORTS REGARDING LOANS
8 FROM CORRESPONDENT BANKS.—Section 106(b)(2)
9 of the Bank Holding Company Act Amendments of
10 1970 (12 U.S.C. 1972)) is amended—

11 (A) by deleting subparagraph (G) in its en-
12 tirety; and

13 (B) by redesignating subparagraphs (H)
14 and (I) as subparagraphs (G) and (H), respec-
15 tively.

16 **SEC. 226. EXPANDED REGULATORY DISCRETION FOR**
17 **SMALL BANK EXAMINATIONS.**

18 (a) TIME PERIOD DISCRETION.—Section 10(d)(4) of
19 the Federal Deposit Insurance Act (12 U.S.C. 1820(d)(4))
20 is amended—

21 (1) in the title, by striking “18-MONTH
22 RULE” and inserting “24-MONTH RULE”; and

23 (2) in the first sentence, by striking “18-
24 month” and inserting “24-month”.

1 (b) SMALL BANK SIZE DISCRETION.—Section
2 10(d)(8) of the Federal Deposit Insurance Act (12 U.S.C.
3 1820(d)(8)) is amended by striking “\$175,000,000” and
4 inserting “\$250,000,000”.

5 (c) INFLATION ADJUSTMENT.—Section
6 10(d) of the Federal Deposit Insurance Act (12
7 U.S.C. 1820(d)) is amended by adding at the
8 end thereof the following new paragraph:

9 “(9) The dollar amount in this section shall be
10 adjusted annually after December 31, 1994, by the
11 annual percentage increase in the Consumer Price
12 Index for Urban Wage Earners and Clerical Work-
13 ers published by the Bureau of Labor Statistics.”.

14 **SEC. 227. COST REIMBURSEMENT.**

15 Section 1115 of the Right to Financial Privacy Act
16 (12 U.S.C. 3415) is amended by inserting “(including cor-
17 porate customers)” after “pertaining to a customer”.

18 **SEC. 228. IDENTIFICATION OF NONBANK FINANCIAL INSTI-
19 TUTION CUSTOMERS.**

20 (a) IN GENERAL.—Subchapter 2 of chapter 53 of
21 title 31, United States Code, is amended by striking sec-
22 tion 5327.

23 (b) TECHNICAL AND CONFORMING AMENDMENT.—
24 Section 5321(a) of title 31, United States Code, is amend-
25 ed by striking paragraph (7).

1 (c) CLERICAL AMENDMENT.—The table of sections
2 for subchapter 2 of chapter 53 of title 31, United States
3 Code, is amended by striking the item relating to section
4 5327.

5 **SEC. 229. PAPERWORK REDUCTION REVIEW.**

6 Not later than one hundred eighty days after the date
7 of enactment of this Act, each appropriate Federal bank-
8 ing agency, in consultation with insured depository institu-
9 tions and other interested parties, shall—

10 (1) review the extent to which current regula-
11 tions require insured depository institutions to
12 produce unnecessary internal written policies; and

13 (2) eliminate such requirements, where appro-
14 priate.

15 For purposes of this section, the terms “insured deposi-
16 tory institution” and “appropriate Federal banking agen-
17 cy” have the same meanings as in section 3 of the Federal
18 Deposit Insurance Act.

19 **SEC. 230. REPEAL OF UNNECESSARY REPORTING REQUIRE-**
20 **MENTS.**

21 Sections 122 and 477 of the Federal Deposit Insur-
22 ance Corporation Improvement Act of 1991 (Public Law
23 102–242) are hereby repealed.

1 **SEC. 231. DAILY CONFIRMATIONS FOR HOLD-IN-CUSTODY**
2 **REPURCHASE TRANSACTIONS.**

3 Within one year after the date of enactment of this
4 section, the Secretary of the Treasury shall revise the reg-
5 ulation under section 15C of the Securities Exchange Act
6 of 1934 relating to the obligations of financial institutions
7 holding custody of securities subject to a repurchase
8 agreement to confirm, daily and in writing, the securities
9 that are subject to such repurchase agreement. Such revi-
10 sion shall permit the counterparty to such agreement to
11 waive in writing the right to obtain such daily written con-
12 firmation if the counterparty has received a disclosure, in
13 a form prescribed by the Secretary, that adequately in-
14 forms the counterparty of the benefits of receiving such
15 daily written confirmations.

16 **SEC. 232. REQUIRED REGULATORY REVIEW OF REGULA-**
17 **TIONS.**

18 (a) IN GENERAL.—The Financial Institutions Exam-
19 ination Council shall, within every ten-year period, conduct
20 a review of all of the regulations issued pursuant to its
21 or its representatives' authority to identify outdated or
22 otherwise unnecessary regulatory requirements imposed
23 upon insured depository institutions.

24 (b) PROCESS.—In conducting the review required
25 under subsection (a), the Council shall—

1 (1) categorize such regulations by type (such as
2 consumer regulations, safety and soundness regula-
3 tions, or such other designation as determined by
4 the Council); and

5 (2) at regular intervals, provide notice and so-
6 licit public comment on a particular category or cat-
7 egories of regulations, requesting commentators to
8 identify areas of such regulations considered out-
9 dated, unnecessary, or unduly burdensome.

10 The Council shall, over a ten-year period, ensure that all
11 categories of regulations have been set out for notice and
12 comment.

13 (c) REGULATORY RESPONSE.—The Council shall—

14 (1) publish in the Federal Register a summary
15 of the comments received pursuant to this section,
16 identifying significant issues raised and providing
17 comment on such issues; and

18 (2) eliminate unnecessary regulations wherever
19 appropriate.

20 (d) REPORT TO CONGRESS.—The Council shall, with-
21 in thirty days of publishing the summary required under
22 subsection (c)(1), provide a report to the Congress sum-
23 marizing any significant issues raised during such com-
24 ment period, the relative merits of such issues, and wheth-
25 er the appropriate Federal banking agency involved can

1 address the regulatory burdens associated with such issues
2 by regulation, or whether such concerns can only be ad-
3 dressed by legislation.

4 (e) DEFINITIONS.—For purposes of this section, the
5 terms “insured depository institution” and “appropriate
6 Federal banking agency” have the same meaning as in
7 section 3 of the Federal Deposit Insurance Act.

8 **SEC. 233. COUNTRY RISK REQUIREMENTS.**

9 (a) Section 905 of the International Lending Super-
10 vision Act (12 U.S.C. 3904) is amended—

11 (1) in subsection (a)(1), by striking “shall” and
12 inserting “may”; and

13 (2) in subsection (b), by striking “shall” and
14 inserting “may”.

15 (b) Section 905A of the International Lending Super-
16 vision Act (12 U.S.C. 3904a) is repealed.

17 **SEC. 234. AUDIT COSTS.**

18 (a) IN GENERAL.—Section 36 of the Federal Deposit
19 Insurance Act (12 U.S.C. 1831m) (as added by section 112
20 of the Federal Deposit Insurance Corporation Improve-
21 ment Act of 1991) is amended as follows:

22 (1) AUDITOR ATTESTATIONS.—

23 (A) In subsection (a)(2)(A)(ii), by striking
24 “subsections (c) and (d)” and inserting “sub-
25 section (c)”.

1 (B) By striking subsection (c).

2 (C) In subsection (d), by deleting “(d)”
3 and inserting “(c)”.

4 (D) By striking subsection (e).

5 (2) INDEPENDENT AUDIT COMMITTEES.—

6 (A) In subsection (g)(1)(A), by striking
7 “entirely” and inserting “the majority of which
8 is”.

9 (B) In subsection (g)(1), by inserting the
10 following new subparagraph:

11 “(D) EXEMPTIVE AUTHORITY.—Each ap-
12 propriate Federal banking agency shall, by reg-
13 ulation, exempt from the requirements of this
14 subsection all insured depository institutions
15 which face hardships in retaining competent di-
16 rector on their internal audit committees as a
17 result of this subsection. In determining what
18 types of institutions will be exempted, the agen-
19 cy shall consider such factors as the size of the
20 institution and the availability of competent
21 outside director in the community.”.

22 (3) PUBLIC AVAILABILITY.—In subsection
23 (a)(3), by inserting at the end the following new sen-
24 tence: “Notwithstanding the previous sentence, the
25 Corporation and the appropriate Federal banking

1 agencies may designate certain information as privi-
2 leged and confidential and not available to the
3 public.”.

4 **SEC. 235. DUE PROCESS PROTECTIONS.**

5 (a) ATTACHMENT OF ASSETS.—

6 (1) INSURED DEPOSITORY INSTITUTIONS.—

7 (A) Section 11(d)(19) of the Federal De-
8 posit Insurance Act (12 U.S.C. 1821(d)(19)) is
9 amended—

10 (i) in subparagraph (A), by striking
11 “without regard” and all that follows
12 through “immediate”; and

13 (ii) in subparagraph (B), by striking
14 “(as modified with respect to such proceed-
15 ing by subparagraph (A))”.

16 (B) Section 8(b) of the Federal Deposit
17 Insurance Act (12 U.S.C. 1818(b)) is amended
18 by redesignating subsection (b)(6)(F) as sub-
19 section (b)(6)(G), and inserting after subsection
20 (b)(6)(E) the following:

21 “(F) prohibit such person from withdraw-
22 ing, transferring, removing, dissipating, or dis-
23 posing of any funds, assets or other property
24 where injury, loss, or damage to such property
25 is irreparable and immediate; and”.

1 (C) Section 8(i) of the Federal Deposit In-
2 surance Act (12 U.S.C. 1818(i)) is amended by
3 striking paragraph (4)(B) and inserting the
4 following:

5 “(B) STANDARD.—Rule 65 of the Federal
6 Rules of Civil Procedure shall apply with re-
7 spect to any proceeding under this paragraph.”.

8 (2) CREDIT UNIONS.—

9 (A) Section 207(b)(2)(H) of the Federal
10 Credit Union Act (12 U.S.C. 1787(b)(2)(H)) is
11 amended—

12 (i) in clause (i), by striking “without
13 regard” and all that follows through “im-
14 mediate”; and

15 (ii) in clause (ii), by striking “(as
16 modified with respect to such proceeding
17 by clause (i))”.

18 (B) Section 206(e)(3) of the Federal Cred-
19 it Union Act (12 U.S.C. 1786(e)(3)) is amend-
20 ed by redesignating subsection (e)(3)(F) as sub-
21 section (e)(3)(G), and inserting after subsection
22 (e)(3)(E) the following:

23 “(F) prohibit such person from withdraw-
24 ing, transferring, removing, dissipating, or dis-
25 posing of any funds, assets or other property

1 where injury, loss, or damage to such property
2 is irreparable and immediate; and”.

3 **SEC. 236. CULPABILITY STANDARDS FOR OUTSIDE DIREC-**
4 **TORS.**

5 Section 3(u) of the Federal Deposit Insurance Act
6 (12 U.S.C. 1813(u)) is amended—

7 (1) in paragraph (1), by inserting “(other than
8 an outside director)” after “director”;

9 (2) in paragraph (3), by inserting “(other than
10 an outside director)” after “any other person”; and

11 (3) in paragraph (4), by inserting “or outside
12 director” after “or accountant”).

13 **SEC. 237. RULES ON DEPOSIT TAKING.**

14 Section 29(g)(3) of the Federal Deposit Insurance
15 Act (12 U.S.C. 1831f(g)(3)) is amended—

16 (1) by inserting “undercapitalized” after “in-
17 cludes any”;

18 (2) by inserting “undercapitalized” after “em-
19 ployee of any”; and

20 (3) by striking “that is not well capitalized”.

21 **SEC. 238. TRANSITION PERIOD FOR NEW REGULATIONS.**

22 Section 302(b) of the Riegle Community Develop-
23 ment and Regulatory Improvement Act of 1994 is amend-
24 ed by striking “a calendar quarter” and inserting “the
25 semiannual period”.

1 **SEC. 239. FOREIGN BANK APPLICATIONS.**

2 Section 7(d) of the International Banking Act of
3 1978 (12 U.S.C. 3105(d)) is amended as follows:

4 (1) By striking paragraphs (1) and (2) and in-
5 serting in lieu thereof the following:

6 “(1) PRIOR REVIEW REQUIRED.—Before any
7 foreign bank application to establish a branch or an
8 agency, or acquire ownership or control of a com-
9 mercial lending company may be approved by any
10 appropriate State bank supervisor or the Comptrol-
11 ler of the Currency, the application must first be
12 submitted for review to the Board for a period of
13 not more than one hundred eighty days. The pur-
14 pose of the review is to determine whether approval
15 of any application would place at risk the safe and
16 sound operation of the United States banking
17 system.

18 “(2) AUTHORITY OF THE BOARD.—Based on
19 the determination described in paragraph (1), the
20 Board is authorized to—

21 “(A) deny the application;

22 “(B) extend for one hundred eighty days
23 the period for review of any application, after
24 providing notice of, and the reasons for, the ex-
25 tension to the applicant and any appropriate

1 State bank supervisor or the Comptroller of the
2 Currency; or

3 “(C) approve the application, either by af-
4 firmative action or by taking no action during
5 the 180 day review period.”.

6 (2) In paragraph (3), by redesignating subpara-
7 graph (A) through (D) as subparagraphs (C)
8 through (F); by striking all from “In” through “ac-
9 count—”; and by inserting the following: “In mak-
10 ing any determination under paragraph (1), the
11 Board may consider—

12 “(A) whether the foreign bank engages di-
13 rectly in the business of banking outside the
14 United States and is subject to comprehensive
15 supervision or regulation on a consolidated
16 basis by the appropriate authorities in its home
17 country;

18 “(B) whether the foreign bank has fur-
19 nished to the Board the information it needs to
20 adequately assess the application;”.

21 **SEC. 240. DUPLICATE EXAMINATION OF FOREIGN BANKS.**

22 Section 7(c)(1) of the International Banking Act of
23 1978 (12 U.S.C. 3105(b)(1)) is amended by striking sub-
24 paragraphs (B), (C), and (D) and inserting in lieu thereof:

1 “(B) RELIANCE ON PRIMARY SUPER-
2 VISOR.—In order to avoid unnecessary duplica-
3 tion and cost, the Board shall, to the extent
4 practicable, rely upon the reports of examina-
5 tions made by the Comptroller, the Federal De-
6 posit Insurance Corporation, or the appropriate
7 State bank supervisor in achieving the purposes
8 of this subsection.”

9 “(C) ON-SITE EXAMINATION.—Each
10 branch or agency of a foreign bank shall be
11 subject to on-site examination on the same
12 schedule that a comparable national or State
13 nonmember bank would be examined by the
14 Comptroller of the Currency of the Federal De-
15 posit Insurance Corporation.

16 “(D) COST OF EXAMINATIONS.—The cost
17 of any examination undertaken pursuant to
18 subparagraph (A) shall be assessed against and
19 collected from the foreign bank or the foreign
20 company that controls the foreign bank, as the
21 case may be, but only to the same extent that
22 fees are collected by the Board for examination
23 of any State member insured bank.”

1 **SEC. 241. SECOND MORTGAGES.**

2 Section 103 of the Truth in Lending Act (15 U.S.C.
3 1602 is amended—

4 (1) in paragraph (aa)(1) by inserting “a subor-
5 dinate mortgage on” after “secured by”; and

6 (2) by deleting “a residential mortgage trans-
7 action”.

8 **TITLE III—LENDER LIABILITY**

9 **SEC. 301. LENDER LIABILITY.**

10 (a) IN GENERAL.—The Federal Deposit Insurance
11 Act (12 U.S.C. 1811 et seq.) is amended by adding after
12 section 44, the following new section:

13 **“SEC. 45. LENDER, FIDUCIARY AND GOVERNMENT AGENCY**
14 **ENVIRONMENTAL LIABILITIES.**

15 “(a) LENDER ENVIRONMENTAL LIABILITY.—

16 “(1) Notwithstanding any other provision or
17 rule of Federal law, no lender shall be liable pursu-
18 ant to a Federal environmental law, except as pro-
19 vided in this section.

20 “(2) A lender shall only be liable pursuant to
21 a Federal environmental law when the lender actu-
22 ally participates in management of another person’s
23 activities which create liability under the same Fed-
24 eral environmental law.

25 “(3) For purposes of this section—

1 “(A) the term ‘participate in management’
2 means actually participating in the management
3 or operational affairs of other persons’ activi-
4 ties, and does not include merely having the ca-
5 pacity to influence, or the unexercised right to
6 control such activities;

7 “(B) a person shall be considered to ‘par-
8 ticipate in management’ while a borrower is still
9 in possession of property, only if such person—

10 “(i) exercises decisionmaking control
11 over the environmental compliance of a
12 borrower, such that the person has under-
13 taken responsibility for the hazardous sub-
14 stance handling or disposal practices of the
15 borrower; or

16 “(ii) exercises control at a level com-
17 parable to that of a manager of the enter-
18 prise of the borrower, such that the person
19 has assumed or manifested responsibility
20 for the overall management of the enter-
21 prise encompassing day-to-day decision-
22 making with respect to environmental com-
23 pliance, or with respect to substantially all
24 of the operational aspects (as distinguished
25 from financial or administrative aspects) of

1 the enterprise, other than environmental
2 compliance;

3 “(C) the term ‘participate in management’
4 does not include engaging in an act or failing
5 to act prior to the time that an extension of
6 credit is made or a security interest is created
7 in property; and

8 “(D) the term ‘participate in management’
9 does not include—

10 “(i) holding an extension of credit or
11 a security interest or abandoning or releas-
12 ing an extension of credit or a security in-
13 terest;

14 “(ii) including in the terms of an ex-
15 tension of credit, or in a contract or secu-
16 rity agreement relating to such an exten-
17 sion, covenants, warranties, or other terms
18 and conditions that relate to environmental
19 compliance;

20 “(iii) monitoring or enforcing the
21 terms and conditions of an extension of
22 credit or security interest;

23 “(iv) monitoring or undertaking one
24 or more inspections of property;

1 “(v) requiring or conducting a re-
2 sponse action or other lawful means of ad-
3 dressing the release or threatened release
4 of a hazardous substance in connection
5 with property prior to, during, or upon the
6 expiration of the term of an extension of
7 credit;

8 “(vi) providing financial or other ad-
9 vice or counseling in an effort to mitigate,
10 prevent, or cure default or diminution in
11 the value of the property;

12 “(vii) restructuring, renegotiating, or
13 otherwise agreeing to alter the terms and
14 conditions of an extension of credit or se-
15 curity interest, or exercising forbearance;
16 or

17 “(viii) exercising other remedies that
18 may be available under applicable law for
19 the breach of any term or condition of the
20 extension of credit or security agreement;

21 if such actions do not rise to the level of partici-
22 pating in management, as defined in subpara-
23 graphs (A) and (B).

24 “(E) When a lender did not participate in
25 management of property prior to foreclosure,

1 then the lender shall not be liable even if such
2 person forecloses on property, sells, re-leases, or
3 liquidates property, maintains business activi-
4 ties, winds up operations, or undertakes any re-
5 sponse action with respect to property, or takes
6 other measures to preserve, protect, or prepare
7 property prior to sale or disposition, if such
8 person seeks to sell, release, or otherwise divest
9 the property at the earliest practical, commer-
10 cially reasonable time, on commercially reason-
11 able terms, taking into account market condi-
12 tions and legal and regulatory requirements.

13 “(4) The liability of any lender that is liable
14 under any federal environmental law shall be limited
15 to the unpaid balance of any outstanding extension
16 of credit related to the property or activities forming
17 the basis for the liability.

18 “(b) FIDUCIARY ENVIRONMENTAL LIABILITY.—

19 “(1) Notwithstanding any other provision or
20 rule of Federal law, no fiduciary shall be liable pur-
21 suant to any Federal environmental law, except as
22 provided in this section.

23 “(2)(A) Subject to subparagraphs (B) and (C),
24 a fiduciary holding title to property or otherwise af-
25 filiated with property solely in a fiduciary capacity

1 shall be personally subject to the obligations and li-
2 abilities of any person under any Federal environ-
3 mental law, to the same extent as if the property
4 were held by the fiduciary free of trust.

5 “(B) The personal obligations and liabilities of
6 a fiduciary referred to in subparagraph (A) shall be
7 limited to the extent to which the assets of the trust
8 or estate are sufficient to indemnify the fiduciary,
9 unless—

10 “(i) the obligations and liabilities would
11 have arisen even if the person had not served
12 as a fiduciary;

13 “(ii) the fiduciary’s own failure to exercise
14 due care with respect to property caused or
15 contributed to the release of hazardous sub-
16 stances following establishment of the trust, es-
17 tate, or fiduciary relationship;

18 “(iii) the fiduciary had a role in establish-
19 ing the trust, estate, or fiduciary relationship,
20 and such trust, estate, or fiduciary relationship
21 has no objectively reasonable or substantial pur-
22 pose apart from the avoidance or limitation of
23 liability under an environmental law.

1 “(C) a fiduciary shall not be personally liable
2 for undertaking or directing another to undertake a
3 response action.

4 “(3) Nothing in this section shall be construed
5 to affect the liability, if any, of a person who—

6 “(A)(i) acts in a capacity other than a fi-
7 duciary capacity; and

8 “(ii) directly or indirectly benefits from a
9 trust or fiduciary relationship; or

10 “(B)(i) is a beneficiary and a fiduciary
11 with respect to the same fiduciary estate; and

12 “(ii) as a fiduciary, receives benefits that
13 exceed customary or reasonable compensation,
14 and incidental benefits, permitted under other
15 applicable laws.

16 “(c) DEFINITIONS.—For purposes of subsections (a)
17 and (b):

18 “(1) The term ‘Federal environmental law’
19 means any Federal statute or rule of common law
20 with the purpose of protection of the environment
21 and any Federal regulation promulgated thereunder
22 and any State statute or regulation created as a fed-
23 erally approved or delegated program implementing
24 these laws, including but not limited to 7 U.S.C.
25 136–136y, 15 U.S.C. 2601–2692, 15 U.S.C. 2641–

1 2654, 33 U.S.C. 1251–1387, 33 U.S.C. 2701–2761,
2 42 U.S.C. 7401–7642, 42 U.S.C. 6901–6991i, 42
3 U.S.C. 9601–9675, and 42 U.S.C. 13101–13109.

4 “(2) The term ‘extension of credit’ means the
5 making or renewal of any loan, a granting of a line
6 of credit or extending credit in any manner, such as
7 an advance by means of an overdraft or the issuance
8 of a standby letter of credit, and a lease finance
9 transaction—

10 “(A) in which the lessor does not initially
11 select the leased property and does not, during
12 the lease term, control the daily operation or
13 maintenance of the property; or

14 “(B) that conforms with regulations issued
15 by the appropriate Federal banking agency or
16 the appropriate State bank supervisory (as
17 these terms are defined in section 3 of the Fed-
18 eral Deposit Insurance Act or with regulations
19 issued by the National Credit Union Adminis-
20 tration Board, as appropriate.

21 “(3) The term ‘fiduciary’ means a person who
22 acts for the exclusive benefit of another person as a
23 bona fide fiduciary within the meaning of section
24 3(31) of the Employee Retirement Income Security
25 Act of 1974, trustee, executor, administrator, custo-

1 dian, guardian, conservator, receiver, committee of
2 estates of lunatics or other disabled persons, or per-
3 sonal representative; except, that the term ‘fiduciary’
4 does not include any person—

5 “(A) who owns, or controls, is affiliated
6 with or takes any action with respect to prop-
7 erty on behalf of or for the benefit of a lender
8 or takes any action to protect a lender’s exten-
9 sion of credit or security interest (any such per-
10 son shall be treated as a lender under sub-
11 section (a) of this section); or

12 “(B) who is acting as a fiduciary with re-
13 spect to a trust or other fiduciary estate that—

14 “(i) was not created as part of, or to
15 facilitate, one or more estate plans or pur-
16 suant to the incapacity of a natural per-
17 son; and

18 “(ii) was organized for the primary
19 purpose of, or is engaged in, actively carry-
20 ing on a trade or business for profit.

21 “(4) The term ‘financial or administrative as-
22 pect’ means a function such as a credit manager, ac-
23 counts payable officer, accounts receivable officer,
24 personnel manager, comptroller, or chief financial of-
25 ficer, or any similar function.

1 “(5) The term ‘foreclosure’ and ‘foreclose’
2 means, respectively, acquiring, and to acquire, prop-
3 erty through—

4 “(A) purchase at sale under a judgment or
5 decree, a power of sale, a nonjudicial fore-
6 closure sale, or from a trustee, deed in lieu of
7 foreclosure, or similar conveyance, or through
8 repossession, if such property was security for
9 an extension of credit previously contracted;

10 “(B) conveyance pursuant to an extension
11 of credit previously contracted, including, but
12 not limited to, the termination of a lease agree-
13 ment; or

14 “(C) any other formal or informal manner
15 by which the person acquires, for subsequent
16 disposition, possession of collateral in order to
17 protect the security interest of the person.

18 “(6) The term ‘hazardous substance’ means any
19 chemical, biological, organic, inorganic, or radio-
20 active pollutants, contaminants, materials, waste or
21 other substances regulated under, defined, listed or
22 included in any Federal environmental law.

23 “(7) The term ‘lender’ means—

24 “(A) a person that makes a bona fide ex-
25 tension of credit to or takes a security interest

1 from another person and includes a successor
2 or assign of the person which makes the exten-
3 sion of credit or takes the security interest;

4 “(B) the Federal National Mortgage ASSO-
5 ciation, the Federal Home Loan Mortgage Cor-
6 poration, the Federal Agricultural Mortgage
7 Corporation, or other entity that in a bona fide
8 manner is engaged in the business of buying or
9 selling loans on interests therein;

10 “(C) any person engaged in the business of
11 insuring or guaranteeing against a default in
12 the repayment of an extension of credit, or act-
13 ing as a surety with respect to an extension of
14 credit, to other persons; or

15 “(D) any person regularly engaged in the
16 business of providing title insurance who ac-
17 quires property as a result of assignment or
18 conveyance in the course of underwriting claims
19 and claims settlement.

20 “(8) The term ‘operational aspect’ means a
21 function such as a facility or plant manager, oper-
22 ations manager, chief operating officer, or chief ex-
23 ecutive officer.

24 “(9) The term ‘person’ means an individual,
25 firm, corporation, association, partnership, consor-

1 tium, joint venture, commercial entity, United States
2 Government, State, municipality, commission, politi-
3 cal subdivision of a State, or any interstate body.

4 “(10) The term ‘property’ means real, personal
5 and mixed property.

6 “(11) The term ‘response action’ shall have the
7 same meaning as that term is defined in section 101
8 of the Comprehensive Environmental Response,
9 Compensation and Liability Act.

10 “(12) The term ‘security interest’ means a
11 right under a mortgage, deed of trust, assignment,
12 judgment lien, pledge, security agreement, factoring
13 agreement, or lease, or any other right accruing to
14 a person to secure the repayment of money, the per-
15 formance of a duty, or some other obligation.

16 “(d) SAVINGS CLAUSE.—Nothing in subsections (a)
17 (b), or (c), shall—

18 “(1) affect the rights or immunities or other de-
19 fenses that are already available to lenders or fidu-
20 ciaries under any Federal environmental law;

21 “(2) be construed to create any liability for any
22 lender or fiduciary; or

23 “(3) create a private right of action against any
24 lender or fiduciary.

1 “(e) FEDERAL BANKING AND LENDING AGENCY EN-
2 VIRONMENTAL LIABILITY.—

3 “(1) GOVERNMENTAL ENTITIES.—

4 “(A) BANKING AND LENDING AGENCIES.—

5 Except as provided in paragraph (C), a Federal
6 banking or lending agency shall not be liable
7 under any law imposing strict liability for the
8 release or threatened release of petroleum or a
9 hazardous substance at or from property (in-
10 cluding any right or interest therein) ac-
11 quired—

12 “(i) in connection with the exercise of
13 receivership or conservatorship authority,
14 or the liquidation or winding up of the af-
15 fairs of an insured depository institution,
16 including any of its subsidiaries, and
17 bridge bank;

18 “(ii) in connection with the provision
19 of loans, discounts, advances, guarantees,
20 insurance or other financial assistance; or

21 “(iii) in connection with property re-
22 ceived in any civil or criminal proceeding,
23 or administrative enforcement action,
24 whether by settlement or order.

1 “(B) APPLICATION OF STATE LAW.—Noth-
2 ing in paragraph (e) shall be construed as pre-
3 empting, affecting, applying to, or modifying
4 any State law, or any rights, actions, cause of
5 action, or obligations under State law, except
6 that liability under State law shall not exceed
7 the value of the agency’s interest in the asset
8 giving rise to such liability. Nothing in this sec-
9 tion shall be construed to prevent a Federal
10 banking or lending agency from agreeing with
11 a State to transfer property to such State in
12 lieu of any liability that might otherwise be im-
13 posed under State law.

14 “(C) LIMITATION.—Notwithstanding para-
15 graph (A), and subject to section 107(d) of the
16 Comprehensive Environmental Response, Com-
17 pensation, and Liability Act of 1980, a Federal
18 banking or lending agency that directly caused
19 or materially contributed to the release of pe-
20 troleum or a hazardous substance may be liable
21 for removal, remedial, or other response action
22 pertaining to that release.

23 “(D) SUBSEQUENT PURCHASER.—The im-
24 munity provided by paragraphs (A) and (B)
25 shall extend to the first subsequent purchaser

1 of property described in such paragraph from a
2 Federal banking or lending agency, unless such
3 purchaser—

4 “(i) would otherwise be liable or po-
5 tentially liable for all or part of the costs
6 of the removal, remedial, or other response
7 action due to a prior relationship with the
8 property;

9 “(ii) is or was affiliated with or related to
10 a party described in subparagraph (i);

11 “(iii) fails to agree to take reasonable
12 steps necessary to abate the release or
13 threatened release or to protect public
14 health and safety in a manner consistent
15 with the purposes of applicable Federal en-
16 vironmental laws; or

17 “(iv) directly causes or significantly
18 and materially contributes to any addi-
19 tional release or threatened release on the
20 property.

21 “(E) FEDERAL OR STATE ACTION.—Not-
22 withstanding subparagraph (D), if a Federal
23 agency or State environmental agency is re-
24 quired to take remedial action due to the failure
25 of a subsequent purchaser to carry out, in good

1 faith, the agreement described in subparagraph
2 (D)(iii), such subsequent purchaser shall reim-
3 burse the Federal or State environmental agen-
4 cy for the costs of such remedial action. Any
5 such reimbursement shall not exceed the in-
6 crease in the fair market value of the property
7 attributable to the remedial action.

8 “(2) LIEN EXEMPTION.—Notwithstanding any
9 other provision of law, any property held by a subse-
10 quent purchaser referred to in subsection (a)(4) or
11 held by a Federal banking or lending agency shall
12 not be subject to any lien for costs or damages asso-
13 ciated with the release or threatened release of pe-
14 troleum or a hazardous substance existing at the
15 time of the transfer.

16 “(3) EXEMPTION FROM COVENANTS TO REME-
17 DIATE.—A Federal banking or lending agency shall
18 be exempt from any law requiring such agency to
19 grant covenants warranting that a removal, reme-
20 dial, or other response action has been, or will in the
21 future be, taken with respect to property acquired in
22 the manner described in paragraph (e)(1)(A).

23 “(4) DEFINITIONS.—For purposes of subsection
24 (e), the following definitions shall apply:

1 “(A) The term ‘Federal banking or lending
2 agency’ means the Corporation, the Resolution
3 Trust Corporation, the Board of Governors of
4 the Federal Reserve System, the Comptroller of
5 the Currency, the Office of Thrift Supervision,
6 a Federal Reserve Bank, a Federal Home Loan
7 Bank, the Department of Housing and Urban
8 Development, the National Credit Union Ad-
9 ministration Board, the Farm Credit Adminis-
10 tration, the Farm Credit System Insurance
11 Corporation, the Farm Credit System Assist-
12 ance Board, the Farmers Home Administration,
13 the Rural Electrification Administration, the
14 Small Business Administration, and any other
15 Federal agency acting in a similar capacity, in
16 any of their capacities, and their agents or ap-
17 pointees.

18 “(B) The term ‘hazardous substance’ has
19 the same meaning as in section 101(14) of the
20 Comprehensive Environmental Response, Com-
21 pensation, and Liability Act of 1980.

22 “(C) The term ‘release’ has the same
23 meaning as in section 101(22) of the Com-
24 prehensive Environmental Response, Compensa-
25 tion, and Liability Act of 1980, and includes

1 the use, storage, disposal, treatment, genera-
 2 tion, or transportation of a hazardous sub-
 3 stance.

4 “(5) SAVINGS CLAUSE.—Nothing in subsection
 5 (e) shall—

6 “(A) affect the rights or immunities or
 7 other defenses that are available under this Act
 8 or other applicable law to any party, subject to
 9 the provisions of this section;

10 “(B) be construed to create any liability
 11 for any party; or

12 “(C) create a private right of action
 13 against an insured depository institution or
 14 lender or against a Federal banking or lending
 15 agency.”.

16 (b) EFFECTIVE DATE.—This section shall take effect
 17 upon the date of enactment and shall apply to any claim
 18 against any lender, fiduciary or government agency under
 19 any Federal environmental law that has not been finally
 20 resolved by adjudication or settlement prior to enactment.

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HR 1362 IH—2

HR 1362 IH—3

HR 1362 IH—4

HR 1362 IH—5

HR 1362 IH—6

HR 1362 IH—7

HR 1362 IH—8