

104TH CONGRESS
2D SESSION

H. R. 3167

To reform the Federal Home Loan Bank System, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 1996

Mr. BAKER of Louisiana (for himself, Mr. KANJORSKI, Mr. MCCOLLUM, Mr. BACHUS, Mr. KING, Mr. HAYWORTH, Mr. CHRYSLER, Mr. CREMEANS, Mr. FOX of Pennsylvania, Mr. METCALF, Mr. WELLER, Mr. LAFALCE, Mr. ORTON, and Mr. BENTSEN) introduced the following bill; which was referred to the Committee on Banking and Financial Services

A BILL

To reform the Federal Home Loan Bank System, and for other purposes.

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

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Enterprise Resource Bank Act of 1996”.

6 (b) TABLE OF CONTENTS.—The table of sections for
7 this Act is as follows:

- Sec. 1. Short title; table of contents; findings.
- Sec. 2. Redesignation of Federal home loan banks as enterprise resource banks.
- Sec. 3. Provisions relating to banks and bank membership.
- Sec. 4. Federal Housing Finance Board.
- Sec. 5. The Office of Finance.

- Sec. 6. Capital.
- Sec. 7. Prompt corrective action.
- Sec. 8. Management of banks.
- Sec. 9. Sustainable economic development program.
- Sec. 10. Enforcement authority to promote safety and soundness of enterprise resource banks.
- Sec. 11. Resolution Funding Corporation obligation.
- Sec. 12. Powers and duties of banks; technical and conforming amendments.
- Sec. 13. Incorporation of banks; corporate powers.
- Sec. 14. Succession of enterprise resource banks.
- Sec. 15. Definitions.

1 (c) FINDINGS.—The Congress finds the following:

2 (1) The Federal Home Loan Bank System was
3 established in 1932 primarily to provide a source of
4 intermediate- and long-term credit for State savings
5 institutions to finance long-term residential mort-
6 gages and to provide a source for liquidity loans for
7 such institutions, neither of which was readily avail-
8 able for such institutions at that time.

9 (2) Recently, the System's membership has
10 been expanded to include other depository institu-
11 tions that are significant housing lenders.

12 (3) That portion of all savings associations and
13 other depository institutions which are specialized
14 mortgage lending has decreased, both with respect to
15 the volume of loans and as a percentage of market
16 share and may continue to decrease.

17 (4) The establishment of the Federal National
18 Mortgage Association, the Federal Home Loan
19 Mortgage Corporation, and the Government Na-
20 tional Mortgage Association and the subsequent de-

1 velopment of an extensive private secondary market
2 for residential mortgages has challenged the Federal
3 Home Loan Bank System as a source of
4 intermediate- and long-term credit to support pri-
5 mary residential mortgage lenders.

6 (5) For most depository institutions, residential
7 mortgage lending has been incorporated into a prod-
8 uct mix of community banking that typically pro-
9 vides a range of mortgage, consumer, and commer-
10 cial loans in their communities.

11 (6) Community banks have a difficult time
12 accessing capital markets and adequately funding
13 intermediate- and long-term assets held by the bank
14 for investment purposes, particularly community
15 banks located in rural areas where nonfarm busi-
16 nesses tend to rely heavily on community banks as
17 their primary lender.

18 (7) Since community banks in rural areas, like
19 savings associations in the 1930s, tend to draw most
20 of their funds from local deposits, credit for borrow-
21 ers in rural areas may be difficult to obtain and the
22 economy of rural America could benefit from in-
23 creased competition if community banks in rural
24 areas were provided with enhanced access to capital
25 markets.

1 (8) Access to liquidity through Federal home
2 loan banks greatly benefits well-managed, ade-
3 quately-capitalized community banks because—

4 (A) term advances reduce interest rate
5 risk; and

6 (B) the ability of a community bank to ob-
7 tain advances to offset deposit decreases or to
8 temporarily fund portfolios during an increase
9 in loan demands reduces the bank’s overall cost
10 of operation and allows the community bank to
11 better serve its market and community.

12 (9) Used prudently, the Federal Home Loan
13 Bank System is an integral tool to assist properly-
14 regulated, well-capitalized community banks, espe-
15 cially community banks in rural areas and under-
16 served neighborhoods, to obtain a more stable fund-
17 ing source for intermediate- and long-term assets.

18 **SEC. 2. REDESIGNATION OF FEDERAL HOME LOAN BANKS**

19 **AS ENTERPRISE RESOURCE BANKS.**

20 (a) IN GENERAL.—Each Federal home loan bank is
21 hereby redesignated as an enterprise resource bank.

22 (b) UNIVERSAL CONFORMING AMENDMENTS.—

23 (1) FEDERAL HOME LOAN BANK.—The Federal
24 Home Loan Bank Act (12 U.S.C. 1421 et seq.) is
25 amended by striking “Federal Home Loan Bank”

1 and “Federal Home Loan Banks” each place such
2 terms appear in such Act (other than in connection
3 with a reference to the Federal Home Loan Bank
4 System) and inserting “enterprise resource bank”
5 and “enterprise resource banks”, respectively.

6 (2) FEDERAL HOME LOAN BANK SYSTEM.—The
7 Federal Home Loan Bank Act (12 U.S.C. 1421 et
8 seq.) is amended by striking “Federal Home Loan
9 Bank System” and inserting “enterprise resource
10 bank system”.

11 (c) REDESIGNATION OF ACT.—

12 (1) IN GENERAL.—The Federal Home Loan
13 Bank Act (12 U.S.C. 1421 et seq.) is amended by
14 striking the clause that appears after the enacting
15 clause and before section 2 and inserting the follow-
16 ing new section:

17 **“SECTION 1. SHORT TITLE.**

18 “This Act may be cited as the ‘Enterprise Resource
19 Bank System Act’.”.

20 (2) REFERENCES TO FEDERAL HOME LOAN
21 BANK ACT.—Any reference in this Act and any other
22 Federal law to the Federal Home Loan Bank Act
23 shall be deemed, as of the date of the enactment of
24 this Act, to be a reference to the Enterprise Re-
25 source Bank System Act.

1 (d) REFERENCES TO FEDERAL HOME LOAN
2 BANKS.—Any reference in a Federal law to any Federal
3 home loan bank shall be deemed, as of the date of the
4 enactment of this Act, to be a reference to an enterprise
5 resource bank.

6 **SEC. 3. PROVISIONS RELATING TO BANKS AND BANK MEM-**
7 **BERSHIP.**

8 The Federal Home Loan Bank Act (12 U.S.C. 1421)
9 is amended by inserting after section 4 the following new
10 section:

11 **“SEC. 5. MISSION STATEMENT; ENTERPRISE RESOURCE**
12 **BANKS.**

13 “(a) MISSION.—The enterprise resource banks are
14 established by the Congress as profitmaking financial in-
15 stitutions whose purposes are as follows:

16 “(1) To promote residential mortgage lending
17 (including mortgages on housing for low- and mod-
18 erate-income families).

19 “(2) To facilitate community and economic de-
20 velopment lending, including rural economic develop-
21 ment lending.

22 “(3) To assist such lending, safely and soundly,
23 through a program of collateralized advances and
24 other financial services that provide long-term fund-
25 ing, liquidity, operational, and interest rate risk

1 management to the bank's shareholders and certain
2 mortgagees who are not shareholders of the bank.

3 “(b) DISTRICTS.—

4 “(1) IN GENERAL.—Subject to subsection (c),
5 there are 12 districts which shall be known as enter-
6 prise resource bank districts.

7 “(2) NAME OF DISTRICT.—Each district shall
8 bear a name descriptive of the geographic location of
9 the district.

10 “(3) DISTRICTS DESIGNATED.—Subject to sub-
11 section (c), the 12 districts shall be comprised as fol-
12 lows:

13 “(A) District 1 shall be composed of the
14 States of Connecticut, Maine, Massachusetts,
15 New Hampshire, Rhode Island, and Vermont.

16 “(B) District 2 shall be composed of the
17 States of New Jersey and New York, the Com-
18 monwealth of Puerto Rico, and the territory of
19 the Virgin Islands.

20 “(C) District 3 shall be composed of the
21 States of Delaware, Pennsylvania, and West
22 Virginia.

23 “(D) District 4 shall be composed of the
24 States of Alabama, Florida, Georgia, Maryland,

1 North Carolina, South Carolina, and Virginia,
2 and the District of Columbia.

3 “(E) District 5 shall be composed of the
4 States of Kentucky, Ohio, and Tennessee.

5 “(F) District 6 shall be composed of the
6 States of Indiana and Michigan.

7 “(G) District 7 shall be composed of the
8 States of Illinois and Wisconsin.

9 “(H) District 8 shall be composed of the
10 States of Iowa, Minnesota, Missouri, North Da-
11 kota, and South Dakota.

12 “(I) District 9 shall be composed of the
13 States of Arkansas, Louisiana, Mississippi, New
14 Mexico, and Texas.

15 “(J) District 10 shall be composed of the
16 States of Colorado, Kansas, Nebraska, and
17 Oklahoma.

18 “(K) District 11 shall be composed of the
19 States of Arizona, California, and Nevada.

20 “(L) District 12 shall be composed of the
21 States of Alaska, Hawaii, Idaho, Montana, Or-
22 egon, Utah, Washington, and Wyoming, and
23 the territories of Guam and the Pacific Islands.

24 “(4) SINGLE BANK IN EACH DISTRICT.—There
25 shall be 1 enterprise resource bank in each district.

1 “(5) NO ADDITIONAL BANKS AUTHORIZED.—No
2 additional enterprise resource banks may be char-
3 tered by the Finance Board after the date of the en-
4 actment of the Enterprise Resource Bank Act of
5 1996, except in connection with a transaction under
6 subsection (c).

7 “(c) MERGERS, CONSOLIDATIONS AND COMBINA-
8 TIONS OF BANKS.—

9 “(1) MERGER, CONSOLIDATION, AND COMBINA-
10 TION AUTHORITY.—In addition to the authority of
11 the Finance Board under section 6A and notwith-
12 standing subsection (b), 2 or more enterprise re-
13 source banks may merge or otherwise combine or
14 consolidate.

15 “(2) PREREQUISITES FOR TRANSACTION.—A
16 merger, combination, or consolidation of enterprise
17 banks may be consummated under this subsection
18 only if the transaction is approved by—

19 “(A) a majority of the board of directors
20 of each bank participating in the transaction;
21 and

22 “(B) the holders of a majority of the vot-
23 ing shares of capital stock of each such bank.

24 “(3) EFFECTIVE DATE OF TRANSACTION.—If
25 the requirements of paragraph (2) have been met, a

1 merger, combination, or consolidation of enterprise
2 resource banks shall be effective as of the date the
3 following conditions are met:

4 “(A) A certificate of merger, combination,
5 or consolidation (in such form as the Finance
6 Board shall prescribe) is—

7 “(i) executed by the banks participat-
8 ing in such transaction; and

9 “(ii) filed with the Finance Board in
10 accordance with section 12(a)(3).

11 “(B) The Finance Board has—

12 “(i) approved the transaction in ac-
13 cordance with paragraph (12)(A); or

14 “(ii) not disapproved the transaction
15 in accordance with paragraph (12)(B) be-
16 fore the end of the 120-day period begin-
17 ning on the date of the filing described in
18 subparagraph (A)(ii).

19 “(4) MERGER AGREEMENT.—

20 “(A) IN GENERAL.—Any merger, combina-
21 tion, or consolidation of enterprise resource
22 banks under this subsection shall be carried out
23 pursuant to an agreement entered into by all
24 the enterprise resource banks participating in
25 the transaction.

1 “(B) CONTENTS OF AGREEMENT.—Any
2 agreement referred to in subparagraph (A)
3 shall specify—

4 “(i) the terms and conditions of the
5 merger, combination, or consolidation;

6 “(ii) the amendments to the charter
7 documents of the resulting bank to be af-
8 fected by the transaction, if any;

9 “(iii) the location of the principal of-
10 fice of the resulting bank;

11 “(iv) the manner of converting the
12 shares of each of the banks participating
13 in the transaction into shares of the result-
14 ing bank; and

15 “(v) such other details or provisions
16 as are appropriate.

17 “(5) SUCCESSION IN INTEREST.—Upon the ef-
18 fective date of any merger, combination, or consoli-
19 dation of enterprise resource banks under this sub-
20 section—

21 “(A) the separate existence of any bank
22 participating in the transaction other than the
23 resulting bank shall cease to exist;

24 “(B) the resulting bank shall—

1 “(i) succeed to all the rights and
2 properties of each of the banks described
3 in subparagraph (A) without other trans-
4 fer; and

5 “(ii) be subject to all the debts and li-
6 abilities of each such bank in the same
7 manner as if the resulting bank had in-
8 curred such debts and liabilities.

9 “(6) EXISTING RIGHTS NOT AFFECTED.—This
10 subsection shall not affect any right of any creditor
11 of any enterprise resource bank which is participat-
12 ing in any merger, combination, or consolidation
13 under this subsection.

14 “(7) PRESERVATION OF LIENS.—All liens upon
15 the property of any enterprise resource bank which
16 is participating in any merger, combination, or con-
17 solidation under this subsection shall continue to be
18 effective after the consummation of the transaction
19 except that any lien upon property of any bank other
20 than the resulting bank shall be effective only with
21 respect to the property which was subject to the lien
22 immediately before consummation of the transaction.

23 “(8) CONTINUATION OF SUITS.—

24 “(A) IN GENERAL.—No action or other
25 proceeding commenced by or against any enter-

1 prise resource bank which is participating in
2 any merger, combination, or consolidation
3 under this subsection shall abate by reason of
4 the consummation of such transaction.

5 “(B) SUBSTITUTION OF RESULTING
6 BANK.—In any action or proceeding described
7 in subparagraph (A), the enterprise resource
8 bank resulting from the transaction referred to
9 in such subparagraph shall be substituted for
10 the enterprise resource bank involved in such
11 action or proceeding before the consummation
12 of the transaction.

13 “(C) APPLICABILITY TO RESULTING
14 BANK.—Any final judgment or other determina-
15 tion which becomes final in any action or pro-
16 ceeding described in subparagraph (A) shall be
17 binding on the bank resulting from the trans-
18 action referred to in such subparagraph.

19 “(9) NUMBER OF ELECTED DIRECTORS OF RE-
20 SULTING BANK.—Subject to section 7(a), any Bank
21 resulting from a merger, combination, or consolida-
22 tion pursuant to this section may have a number of
23 elected directors equal to or less than the total num-
24 ber of elected directors of all the banks which par-

1 participated in such transaction (as determined imme-
2 diately before such transaction).

3 “(10) NUMBER OF APPOINTED DIRECTORS OF
4 RESULTING BANK.—The number of appointed direc-
5 tors of any enterprise resource bank resulting from
6 a merger, combination, or consolidation pursuant to
7 this section shall be not less than $\frac{1}{2}$ and not more
8 than $\frac{3}{4}$ of the number of elected directors.

9 “(11) ADJUSTMENT OF DISTRICT BOUND-
10 ARIES.—After a merger, combination, or consolida-
11 tion of 2 or more enterprise resource banks under
12 this subsection is consummated, the Finance Board
13 shall adjust the districts established pursuant to
14 subsection (b) to reflect such merger, combination,
15 or consolidation.

16 “(12) FINANCE BOARD AUTHORITY.—Upon re-
17 ceipt of a certificate of merger, combination, or con-
18 solidation filed with the Finance Board in accord-
19 ance with section 12(a)(3), the Finance Board
20 may—

21 “(A) approve the transaction on the basis
22 of a determination that the transaction provides
23 for a resulting enterprise resource bank which
24 is safe and sound; or

1 “(B) disapprove the transaction on the
2 basis of a determination that the transaction
3 does not provide for a resulting enterprise re-
4 source bank which is safe and sound.

5 “(d) PROHIBITION ON JOINT OFFICES.—Except with
6 regard to the office of finance or to the extent specifically
7 provided in this Act, there shall be no joint or collective
8 offices of the enterprise resource banks.”.

9 **SEC. 4. FEDERAL HOUSING FINANCE BOARD.**

10 (a) IN GENERAL.—Section 3 of the Federal Home
11 Loan Bank Act (12 U.S.C. 1423) is amended to read as
12 follows:

13 **“SEC. 3. FEDERAL HOUSING FINANCE BOARD.**

14 “(a) ESTABLISHMENT.—

15 “(1) IN GENERAL.—There shall be a Federal
16 Housing Finance Board in the executive branch
17 which shall be an independent agency to regulate the
18 safety and soundness of the enterprise resource
19 banks.

20 “(2) DUTIES.—The duties of the Finance
21 Board shall be the following:

22 “(A) To ensure that the enterprise re-
23 source banks—

24 “(i) operate in accordance with this
25 Act and in a safe and sound manner; and

1 “(ii) remain adequately capitalized.

2 “(B) To ensure that programs adminis-
3 tered by any enterprise resource bank are con-
4 sistent with, and contribute to the fulfillment
5 of, the mission of the bank.

6 “(C) To provide periodic reports to the
7 Congress regarding the safety and soundness
8 and the composition of the shareholders in the
9 enterprise resource banks and the extent to
10 which such banks are fulfilling their mission.

11 “(3) CLARIFICATION OF AUTHORITY OF FI-
12 NANCE BOARD.—The Finance Board shall have no
13 authority—

14 “(A) to manage the operations of any en-
15 terprise resource bank;

16 “(B) to manage the sustainable economic
17 development program of any enterprise resource
18 bank, including the community investment pro-
19 gram or the affordable housing program of any
20 such bank; or

21 “(C) to approve or disapprove funding by
22 any such bank for any program referred to in
23 subparagraph (B).

24 “(b) COMPOSITION OF FINANCE BOARD.—

1 “(1) IN GENERAL.—Subject to paragraph (9),
2 the Finance Board shall be composed of 5 directors
3 as follows:

4 “(A) The Secretary of the Department of
5 Housing and Urban Development, who shall
6 serve without additional compensation.

7 “(B) 3 directors appointed by the Presi-
8 dent, by and with the advice and consent of the
9 Senate, from among individuals who—

10 “(i) are citizens of the United States;

11 and

12 “(ii) have—

13 “(I) extensive experience or
14 training in housing finance, commu-
15 nity and economic development (in-
16 cluding rural economic development),
17 financial safety and soundness regula-
18 tion, or extensive experience with an
19 organization which represents
20 consumer or community interest in
21 banking services, credit needs, hous-
22 ing, financial consumer protection, or
23 small businesses; and

1 “(II) a commitment to provide
2 specialized housing, small business, or
3 rural credit.

4 “(C) 1 director appointed by the President,
5 by and with the advice and consent of the Sen-
6 ate, from among individuals who—

7 “(i) are citizens of the United States;

8 and

9 “(ii) have extensive experience or
10 training in financial safety and soundness
11 regulation.

12 “(2) TERMS.—

13 “(A) IN GENERAL.—Each director of the
14 Finance Board appointed under subparagraph
15 (B) or (C) of paragraph (1) shall be appointed
16 for a term of 7 years.

17 “(B) INTERIM APPOINTMENTS.—Any di-
18 rector appointed to fill a vacancy occurring be-
19 fore the expiration of the term for which such
20 director’s predecessor was appointed shall be
21 appointed only for the remainder of such term.

22 “(C) CONTINUATION OF SERVICE.—Each
23 director may continue to serve after the expira-
24 tion of the term to which such director was ap-

1 pointed until a successor has been appointed
2 and qualified.

3 “(3) CHAIRPERSON AND ACTING CHAIR-
4 PERSON.—

5 “(A) CHAIRPERSON.—The President shall
6 designate 1 of the directors appointed pursuant
7 to subparagraph (B) or (C) of paragraph (1) to
8 be the Chairperson of the Finance Board.

9 “(B) SERVICE AS CHIEF EXECUTIVE OFFI-
10 CER.—The Chairperson shall be the chief exec-
11 utive officer of the Finance Board.

12 “(C) ACTING CHAIRPERSON.—

13 “(i) IN GENERAL.—The Chairperson
14 shall designate another director to serve as
15 Acting Chairperson during the absence or
16 disability of the Chairperson.

17 “(ii) SELECTION BY DIRECTORS.—If a
18 designation by the Chairperson has not
19 been made pursuant to clause (i) and the
20 position of Chairperson becomes vacant,
21 the remaining directors shall elect a direc-
22 tor to serve as the Acting Chairperson
23 until a Chairperson has been appointed.

24 “(D) POWERS AND RESPONSIBILITY OF
25 CEO.—

1 “(i) IN GENERAL.—As the chief execu-
2 tive officer, the Chairperson shall be re-
3 sponsible for—

4 “(I) the overall management, or-
5 ganization, and functioning of the Fi-
6 nance Board in accordance with the
7 policies established and regulations
8 prescribed by the Finance Board;

9 “(II) directing the implementa-
10 tion of regulations prescribed and
11 policies established by the Finance
12 Board; and

13 “(III) appoint, remove, promote,
14 direct, and set rates of compensation
15 for employees, attorneys, and agents
16 of the Finance Board consistent with
17 the policies established by the Finance
18 Board pursuant to subsection (e)(1).

19 “(ii) MEETINGS.—The Chairperson
20 may call a meeting of the Finance Board.

21 “(iii) DELEGATION.—The Chairperson
22 may delegate any authority of the Chair-
23 person as the chief executive officer of the
24 Finance Board to any officer or employee

1 of the Finance Board, including another
2 director of the Finance Board.

3 “(iv) GOVERNING STANDARDS.—In
4 carrying out the duties of the chief execu-
5 tive officer, the Chairperson shall be sub-
6 ject to and governed by the policies adopt-
7 ed by the Finance Board and any regu-
8 latory decision, finding, or determination
9 made by the Finance Board.

10 “(4) REPRESENTATIONAL REQUIREMENTS.—

11 “(A) POLITICAL AFFILIATION.—Not more
12 than 2 directors may be members of the same
13 political party.

14 “(B) DISTRICT REPRESENTATION.—Not
15 more than 1 director may be appointed from
16 any single district of the enterprise resource
17 Bank System.

18 “(5) VACANCY.—Any vacancy on the Finance
19 Board shall be filled in the manner in which the
20 original appointment was made.

21 “(6) LIMITATIONS ON CONFLICTS OF INTER-
22 EST.—No director on the Finance Board may, while
23 serving as a director—

1 “(A) serve as a director, officer, employee,
2 counsel, or agent of any enterprise resource
3 bank; or

4 “(B) hold shares of, serve as a director, of-
5 ficer, employee, counsel, or agent of, or have
6 any other financial interest in any member of
7 any such bank.

8 “(7) FULL-TIME SERVICE.—No director other
9 than the Chairperson may serve on the Finance
10 Board on a full-time basis.

11 “(8) QUORUM.—3 directors shall constitute a
12 quorum.

13 “(9) DELEGATION BY SECRETARY.—The Sec-
14 retary of Housing and Urban Development may del-
15 egate such Secretary’s position on the Finance
16 Board to an officer of such Secretary’s agency who
17 has been appointed to such office by the President,
18 by and with the advice and consent of the Senate.

19 “(10) TRANSITIONAL PROVISION.—

20 “(A) CONTINUED SERVICE OF FEDERAL
21 HOUSING FINANCE BOARD DIRECTORS.—Any
22 director of the Federal Housing Finance Board
23 whose term has not expired before the date of
24 enactment of the Enterprise Resource Bank Act
25 of 1996 shall remain a director of the Finance

1 Board and shall be deemed to have been ap-
2 pointed under subparagraph (B) or (C) of para-
3 graph (1), as designated by the President.

4 “(B) TERMS OF APPOINTMENT.—Subject
5 to subparagraph (C), the President shall deter-
6 mine the length of the term of any director de-
7 scribed in subparagraph (A) and shall deter-
8 mine which director described in subparagraph
9 (A), if any, shall serve as the Chairperson of
10 the Finance Board.

11 “(C) STAGGERED TERMS.—In establishing
12 the terms of any director under subparagraph
13 (B), the President shall provide that 1 such di-
14 rector shall serve a 1-year term, 1 director shall
15 serve a 3-year term, and 1 director shall serve
16 a 5-year term.

17 “(c) GENERAL POWERS.—Subject to subsection
18 (a)(3), the Finance Board shall have the following powers:

19 “(1) To maintain such oversight of the enter-
20 prise resource banks and the office of finance as
21 may be necessary to ensure that such banks and the
22 office of finance operate in accordance with this Act
23 and in a financially safe and sound manner.

24 “(2) To prescribe or issue, and enforce, such
25 regulations and orders as the Finance Board deter-

1 mines to be necessary to carry out the provisions of
2 this Act.

3 “(3) To suspend or remove for cause a director,
4 officer, employee, or agent of any enterprise resource
5 bank or the office of finance.

6 “(4) To determine necessary expenditures of
7 the Finance Board under this Act and the manner
8 in which such expenditures shall be incurred, al-
9 lowed, and paid.

10 “(5) To use the United States mails in the
11 same manner and under the same conditions as a
12 department or agency of the United States.

13 “(6) To sue and be sued and to complain and
14 defend, by and through the Finance Board’s own at-
15 torneys, in any action brought by or against the Fi-
16 nance Board in any court of competent jurisdiction.

17 “(7) To make contracts.

18 “(8) To exercise incidental powers that are con-
19 sistent with this Act and are appropriate to carry
20 out the provisions of this Act.

21 “(d) RECEIPTS OF THE FINANCE BOARD.—

22 “(1) DEPOSIT IN TREASURY.—Receipts of the
23 Finance Board derived from assessments imposed on
24 the enterprise resource banks and from other

1 sources shall be deposited in an account of the Fi-
2 nance Board in the Treasury of the United States.

3 “(2) PAYMENT OF EXPENSES.—Salaries of the
4 directors and other employees of the Finance Board
5 and all other expenses of the Finance Board may be
6 paid from the receipts described in paragraph (1).

7 “(3) TREATMENT OF AMOUNTS RECEIVED.—
8 Notwithstanding any other provision of law—

9 “(A) no amount received by the Finance
10 Board pursuant to any assessment imposed on
11 any enterprise resource bank or any other in-
12 come of the Finance Board may be construed
13 to be Government funds or appropriated money;

14 “(B) no authority of the Finance Board to
15 spend or otherwise obligate any such amount
16 may be treated as budget authority, spending
17 authority, or credit authority or as authority to
18 obligate funds of the United States, notwith-
19 standing the fact that the receipts described in
20 paragraph (1) are deposited in the account of
21 the Finance Board in the Treasury; and

22 “(C) no such amount shall be subject to
23 apportionment for purposes of chapter 15 of
24 title 31, United States Code, or under any
25 other authority.

1 “(e) STAFF.—

2 “(1) IN GENERAL.—The Finance Board may
3 provide for the employment, direction, compensation,
4 and number of employees, attorneys, and agents of
5 the Finance Board.

6 “(2) PROHIBITION ON DELEGATION TO BANKS
7 OR THE OFFICE OF FINANCE.—The Finance Board
8 may not delegate, or provide for the delegation of,
9 any function of the Finance Board to any employee
10 or administrative unit of any bank or the office of
11 finance.

12 “(3) RESTATEMENT OF PRIOR LAW.—The com-
13 pensation of staff, attorneys, and agents shall be
14 paid without regard to the provisions of other laws
15 applicable to officers or employees of the United
16 States, except that the chairperson and the other ap-
17 pointed directors shall be compensated pursuant to
18 sections 5314 and 5315 of title 5, United States
19 Code, respectively.

20 “(f) ANNUAL REPORTS.—

21 “(1) BOARD REPORTS.—The Finance Board
22 shall make an annual report to the Congress regard-
23 ing—

1 “(A) the safety and soundness of the en-
2 terprise resource banks and the office of fi-
3 nance;

4 “(B) the fulfillment of the mission of the
5 banks under this Act; and

6 “(C) the composition of the shareholders in
7 the enterprise resource banks.

8 “(2) BANK REPORTS.—The enterprise resource
9 banks shall submit a collective annual report to the
10 Finance Board on the fulfillment of the mission of
11 the banks under this Act.

12 “(3) AFFORDABLE HOUSING ADVISORY COUN-
13 CILS.—The affordable housing advisory councils of
14 the enterprise resource banks shall each submit an
15 annual report to the Finance Board on the fulfill-
16 ment by such bank of its affordable housing mission
17 under section 10.

18 “(g) SUSPENSION OR REMOVAL OF BANK EMPLOY-
19 EES FOR CAUSE.—

20 “(1) WRITTEN NOTICE.—In exercising any au-
21 thority under subsection (c)(3) to suspend or remove
22 for cause a director, officer, employee, or agent of
23 any enterprise resource bank or the office of finance,
24 the Finance Board shall provide written notice of
25 such suspension or removal and the cause of the sus-

1 pension or removal to such director, officer, em-
2 ployee, or agent and to such bank or office.

3 “(2) HEARING.—The notice provided pursuant
4 to paragraph (1) shall establish the time and place
5 for a hearing on the suspension or removal in ac-
6 cordance with section 554 of title 5, United States
7 Code.”.

8 (b) INDEPENDENCE OF FINANCE BOARD.—Section
9 111 of Public Law 93–495 (12 U.S.C. 250) is amended
10 by striking “the Federal Home Loan Bank Board,” and
11 inserting “the Director of the Office of Thrift Supervision,
12 the Federal Housing Finance Board,”.

13 **SEC. 5. THE OFFICE OF FINANCE.**

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

16 **“SEC. 4. THE OFFICE OF FINANCE.**

17 “(a) OPERATION.—The enterprise resource banks
18 shall operate jointly an office of finance (hereafter in this
19 section referred to as the ‘office’) to issue the notes, bonds,
20 and debentures of the enterprise resource banks in accord-
21 ance with this Act.

22 “(b) POWERS.—Subject to the other provisions of
23 this Act and such safety and soundness regulations as the
24 Finance Board may prescribe, the office shall be author-
25 ized by the enterprise resource banks to act as the agent

1 of such banks to issue enterprise resource bank notes,
2 bonds and debentures pursuant to section 11 of this Act
3 on behalf of the banks.

4 “(c) CENTRAL BOARD OF DIRECTORS.—

5 “(1) ESTABLISHMENT.—The enterprise re-
6 source banks shall establish a central board of direc-
7 tors of the office of finance to administer the affairs
8 of the office in accordance with the provisions of this
9 Act.

10 “(2) COMPOSITION OF BOARD.—Each enter-
11 prise resource bank shall annually select 1 individual
12 who, as of the time of the election, is an officer or
13 director of such bank to serve as a member of the
14 policy review board.

15 “(d) STATUS.—Except to the extent expressly pro-
16 vided in this Act, the office shall be treated as an enter-
17 prise resource bank for purposes of any law.

18 “(e) MONITORING INVESTMENT EXPOSURE.—

19 “(1) DAILY POSITION REPORTING REQUIRED.—

20 “(A) IN GENERAL.—Beginning 30 days
21 after the date of the enactment of the Enter-
22 prise Resource Bank Act of 1996, each enter-
23 prise resource bank shall regularly report the
24 bank’s closing position on all of the bank’s in-
25 vestments and qualified financial contracts (as

1 defined in section 11(e)(8)(D) of the Federal
2 Deposit Insurance Act) to the Finance Board.

3 “(B) FINANCE BOARD REQUIREMENTS.—
4 The Finance Board may specify the contents of
5 the reports required under subparagraph (A).

6 “(2) SYSTEM PROCEDURES.—In addition to the
7 reports required under paragraph (1), the Finance
8 Board, the enterprise resource banks, and the office
9 shall jointly establish procedures for monitoring the
10 investment exposure, including credit and interest
11 rate risk, of the banks’ individual and combined in-
12 vestment portfolios.”.

13 **SEC. 6. CAPITAL.**

14 (a) IN GENERAL.—Section 6 of the Federal Home
15 Loan Bank Act (12 U.S.C. 1426) is amended by striking
16 all that precedes subsection (h) and inserting the follow-
17 ing:

18 **“SEC. 6. CAPITAL STRUCTURE OF ENTERPRISE RESOURCE**
19 **BANKS.**

20 “(a) CAPITAL STRUCTURE PLAN.—Before the end of
21 the 6-month period beginning on the date of the enact-
22 ment of the Enterprise Resource Bank Act of 1996, the
23 board of directors of each enterprise resource bank shall
24 complete a plan for establishing and implementing a cap-
25 ital structure for such bank which—

1 “(1) the board of directors determines is the
2 best suited for the condition and operation of the
3 bank and the interests of the stockholders of the
4 bank;

5 “(2) meets the requirements of subsection (b);
6 and

7 “(3) meets the minimum capital standards and
8 requirements established under subsection (c) and
9 any regulations prescribed by the Finance Board
10 pursuant to such subsection.

11 “(b) CONTENTS OF PLAN.—The capital structure of
12 each enterprise resource bank shall meet the following re-
13 quirements:

14 “(1) REDUCTION OF EQUITY INVESTMENTS.—
15 The plan shall include a timetable for reducing, by
16 such amount as the board of directors may deter-
17 mine to be appropriate, the amount of the equity in-
18 vestment of the shareholders of the bank as of the
19 date of the enactment of the Enterprise Resource
20 Bank Act of 1996.

21 “(2) UNIFORM STANDARDS FOR SHAREHOLD-
22 ERS.—The plan shall establish uniform standards,
23 criteria, and requirements for the issuance of shares
24 of any class of stock of the bank.

1 “(3) PROCEDURE FOR MEETING CORE CAPITAL
2 REQUIREMENT.—The plan shall establish the proc-
3 ess by which the bank may meet the core capital re-
4 quirement in subsection (c)(5) as soon as practicable
5 after the date of the enactment of the Enterprise
6 Resource Bank Act of 1996.

7 “(4) LIMITED TRANSFERABILITY OF STOCK.—
8 The plan shall provide that any equity securities is-
9 sued by the bank shall be available only to, held only
10 by, and tradable only among, shareholders of the
11 bank or institutions eligible to become stockholders
12 of the bank under subsection (d).

13 “(5) DESCRIPTION OF STOCK AND RIGHTS OF
14 STOCKHOLDERS.—The plan shall provide for and de-
15 scribe the terms, rights (voting, liquidation, and
16 other rights), and preferences (such as dividends) of
17 not more than 2 classes of stock and any class or
18 series of any other type of equity security issued or
19 to be issued by the bank.

20 “(6) ACQUISITION, TRANSFER, AND REDEMP-
21 TION OF STOCK.—The plan shall identify the man-
22 ner in which any equity securities to be issued by
23 the bank may be sold, transferred, or redeemed.

24 “(7) FINAL DISPOSITION OF OWNERSHIP IN-
25 TERESTS OF STOCKHOLDER.—The plan shall provide

1 for the manner of disposition of any outstanding eq-
2 uity securities held by, and the liquidation of any
3 claims of the bank against, a stockholder who pro-
4 vides notice of intention to dispose of all ownership
5 interest in the enterprise resource bank.

6 “(c) CAPITAL STANDARDS.—

7 “(1) IN GENERAL.—The Finance Board shall
8 prescribe, by regulation, uniform capital standards
9 applicable to each enterprise resource bank which
10 shall include—

11 “(A) a leverage limit;

12 “(B) a risk-based capital requirement; and

13 “(C) a core capital requirement.

14 “(2) RISK-BASED CAPITAL TEST.—The Finance
15 Board shall establish a risk-based capital test sub-
16 stantially similar to the risk-based capital test estab-
17 lished by the Director of the Office of Federal Hous-
18 ing Enterprise Oversight of the Department of
19 Housing and Urban Development pursuant to sec-
20 tion 1361 of the Federal Housing Enterprises Fi-
21 nancial Safety and Soundness Act of 1992, with
22 such modifications as the Finance Board determines
23 appropriate to reflect differences in operation be-
24 tween the enterprise resource bank system and the

1 enterprises (as defined in section 1303(6) of such
2 Act).

3 “(3) MINIMUM LEVERAGE LIMIT.—The leverage
4 limit established by the Finance Board shall require
5 each enterprise resource bank to maintain total cap-
6 ital in an amount not less than the applicable
7 amount in the following subparagraphs, as deter-
8 mined in accordance with generally accepted ac-
9 counting principles:

10 “(A) 5 percent of the total assets of the
11 bank, during any period in which—

12 “(i) the bank does not meet the re-
13 quirement of paragraph (5); and

14 “(ii) the amount of the capital of the
15 bank which is taken into account under
16 paragraph (5) is less than 0.5 percent of
17 such total assets.

18 “(B) 4.5 percent of the total assets of the
19 bank, during any period in which—

20 “(i) the bank does not meet the re-
21 quirement of paragraph (5); and

22 “(ii) the amount of the capital of the
23 bank which is taken into account under
24 paragraph (5) is 0.5 percent or more, and
25 less than 1 percent, of such total assets.

1 “(C) 4 percent of the bank’s total assets
2 during any period in which—

3 “(i) the amount of the capital of the
4 bank which is taken into account under
5 paragraph (5) is 1 percent or more of such
6 total assets; and

7 “(ii) the bank is obligated, under sec-
8 tion 21B(f)(2)(C), to provide funding to
9 cover interests payments on obligations is-
10 sued by the Resolution Funding Corpora-
11 tion.

12 “(D) 3 percent of the bank’s total assets
13 during any other period.

14 “(4) RISK-BASED CAPITAL STANDARD.—The
15 risk-based capital standard established by the Fi-
16 nance Board shall require each enterprise resource
17 bank to maintain total capital in an amount not less
18 than the greater of the following:

19 “(A) 10 percent of the risk-adjusted assets
20 of the bank, as determined using the risk
21 weighting established by the Bank for Inter-
22 national Settlements pursuant to the Basel Ac-
23 cord.

24 “(B) The amount which enables the bank
25 to maintain a positive equity account under the

1 application of the risk-based capital test estab-
2 lished by the Finance Board pursuant to para-
3 graph (2).

4 “(5) CORE UNREDEEMABLE CAPITAL REQUIRE-
5 MENT.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (B), the Finance Board shall require
8 each enterprise resource bank to maintain, as
9 soon as practicable after the date of the enact-
10 ment of the Enterprise Resource Bank Act of
11 1996, such amount of total capital as the Fi-
12 nance Board may prescribe in any of the follow-
13 ing forms or combination of forms:

14 “(i) Retained earnings.

15 “(ii) A risk-insurance pool.

16 “(iii) Nonredeemable stock of the
17 bank.

18 “(iv) Stock of the bank as to which
19 any right to redeem is explicitly suspended
20 during any period in which the bank is
21 undercapitalized.

22 “(B) MINIMUM AMOUNT.—The amount
23 prescribed by the Finance Board under sub-
24 paragraph (A) may not be less than 1 percent
25 of the total assets of the bank.

1 “(d) CRITERIA FOR ELIGIBILITY FOR OWNERSHIP
2 INTEREST IN A BANK.—

3 “(1) IN GENERAL.—Any insured depository in-
4 stitution and insured credit union, and, except as
5 provided in paragraph (5), only such institutions
6 and credit unions, may acquire and retain shares of
7 stock of an enterprise resource bank.

8 “(2) RULES AND REQUIREMENTS.—Subject to
9 the requirements of this section, the board of direc-
10 tors of each enterprise resource bank shall promptly
11 prescribe regulations, consistent with this Act, gov-
12 erning the capital stock of such bank and other pro-
13 visions of this section.

14 “(3) WHOLE MORTGAGE TEST FOR LARGE DE-
15 POSITORY INSTITUTIONS.—

16 “(A) IN GENERAL.—Notwithstanding para-
17 graph (1), an institution which has total assets
18 of \$500,000,000 or more at any time after
19 June 30, 1998, shall not be eligible to obtain
20 new long-term advances from an enterprise re-
21 source bank if the institution does not maintain
22 an investment in whole mortgage loans in ac-
23 cordance with the following table:

	Not less than the following per- cent of the total assets of the institution are invested in whole mortgage loans—
“Annually—	
During the 1-year period beginning on July 1, 1998	7%

Not less than the following percent of the total assets of the institution are invested in whole mortgage loans—

“Annually—

During the 1-year period beginning on July 1, 1999	8%
During the 1-year period beginning on July 1, 2000	9%
After June 30, 2001	10%

1 “(B) WHOLE MORTGAGE LOAN DE-
 2 FINED.—For purposes of this subsection, the
 3 term ‘whole mortgage loan’ does not include—

4 “(i) a partial interest in a residential
 5 mortgage on improved residential real
 6 property; or

7 “(ii) a security that represents an in-
 8 terest in a residential mortgage loan.

9 “(4) DESIGNATION OF BANK.—An institution
 10 which is eligible to acquire and retain shares of an
 11 enterprise resource bank under paragraph (1) may
 12 only acquire the shares of, or secure advances
 13 from—

14 “(A) the enterprise resource bank of the
 15 district in which is located the institution’s
 16 principal place of business; or

17 “(B) the bank of a district adjoining the
 18 district described in subparagraph (A) if—

19 “(i) demanded by convenience; and

20 “(ii) an application by such institution
 21 to the bank and the Finance Board for the
 22 acquisition of shares of such bank is—

1 “(I) approved by the bank; and

2 “(II) not disapproved by the Fi-
3 nance Board before the end of the 30-
4 day period beginning on the date the
5 Finance Board receives the applica-
6 tion from such institution.

7 “(5) EXCEPTION FOR CERTAIN
8 NONDEPOSITORY INSTITUTIONS.—Any company
9 which, as of the day before the date of the enact-
10 ment of the Enterprise Resource Bank Act of 1996,
11 was a member of a Federal home loan bank may
12 continue, subject to this Act, to be a voting share-
13 holder of the bank after such date with all rights
14 and privileges as a voting shareholder.

15 “(e) CAPITAL STOCK.—

16 “(1) CLASSES OF STOCK.—

17 “(A) VOTING CAPITAL STOCK.—No enter-
18 prise resource bank may issue more than 1
19 class of voting capital stock.

20 “(B) PREFERRED STOCK.—

21 “(i) IN GENERAL.—The board of di-
22 rectors of any enterprise resource bank
23 may authorize the bank to issue a floating
24 rate preferred stock with cumulative divi-
25 dend which may be transferred at any time

1 to another stockholder of the bank but
2 may not be redeemed for at least 2 years
3 after the date of issuance.

4 “(ii) ELIGIBILITY FOR CORE CAPITAL
5 POOL.—Preferred stock issued under this
6 subparagraph may be taken into account
7 for purposes of the core capital require-
8 ment in subsection (c)(5).

9 “(iii) ISSUANCE TO VOTING SHARE-
10 HOLDERS.—Only voting shareholders may
11 acquire and retain preferred stock issued
12 by an enterprise resource bank under this
13 subparagraph.

14 “(2) MINIMUM AND MAXIMUM INVESTMENT RE-
15 QUIREMENTS AUTHORIZED.—

16 “(A) IN GENERAL.—The board of directors
17 of each enterprise resource bank may establish
18 any minimum investment requirement and any
19 maximum amount limit on the total amount of
20 voting capital stock which may be held directly
21 or indirectly by any stockholder as the board of
22 directors determines to be appropriate and con-
23 sistence with the mission of the bank.

1 “(B) BASIS FOR REQUIREMENT.—A mini-
2 mum investment requirement or maximum in-
3 vestment limit may be based on—

4 “(i) a fixed dollar amount;

5 “(ii) a percentage of the total assets
6 of the shareholder;

7 “(iii) a percentage of the total amount
8 of voting shares of the bank which are con-
9 trolled by the shareholder; or

10 “(iv) such other criteria as the board
11 of directors may, in the discretion of the
12 board, determine to be reasonable.

13 “(C) ADVANCES-RELATED REQUIRE-
14 MENT.—The minimum investment of each
15 shareholder of an enterprise resource bank in
16 the voting stock of such bank, as determined on
17 the basis of the amount of outstanding ad-
18 vances from such bank to the member, shall be
19 an amount which is equal to not less than 3.0
20 percent of such advances and not more than 6.0
21 percent of such advances, as determined by the
22 board of directors of the bank from time to
23 time.

24 “(3) DIVESTITURE.—The board of directors of
25 any enterprise resource bank may order, after a

1 hearing, the divestiture by any stockholder of all
2 ownership interests of such stockholder in the bank,
3 if—

4 “(A) in the opinion of the board of direc-
5 tors, such stockholder has failed to comply with
6 a provision of this Act, any regulation pre-
7 scribed under this Act, or any other applicable
8 law; or

9 “(B) the stockholder has been determined
10 to be insolvent, or otherwise subject to the ap-
11 pointment of a conservator, receiver, or other
12 legal custodian, by a state or Federal authority
13 with regulatory and supervisory responsibility
14 for such member.

15 “(4) RETIREMENT OF STOCK DISTRICT-WIDE.—

16 “(A) IN GENERAL.—Upon a determination
17 of the board of directors of an enterprise re-
18 source bank, a bank may retire all, or any por-
19 tion, of the outstanding stock of the bank in ex-
20 cess of the total of any applicable minimum in-
21 vestment amounts of all stockholders of the
22 bank, if the board of directors determines that
23 the bank is adequately capitalized, and would
24 remain adequately capitalized if all of the fol-

1 lowing stocks were deducted from the bank's
2 capital:

3 “(i) Stock of the bank which the bank
4 proposes to retire under this subpara-
5 graph.

6 “(ii) Stock of the bank which is sub-
7 ject to pending applications for retirement,
8 and pending notices of intention to dispose
9 of all stock of the bank.

10 “(B) RETIREMENT REQUIRED TO BE MADE
11 ON A PRO RATA BASIS.—The determination of
12 the amount of shares held by each stockholder
13 of a bank which are subject to retirement pur-
14 suant to a determination by the board of direc-
15 tors of the bank in accordance with subpara-
16 graph (A) shall be made on a pro rata basis for
17 like stock.

18 “(C) RETIREMENT SUBJECT TO MINIMUM
19 INVESTMENT REQUIREMENTS.—No retirement
20 of shares held by a stockholder of a bank may
21 be made under this paragraph to the extent
22 such retirement of shares would cause the
23 amount of such stockholder's remaining invest-
24 ment in the capital stock of the bank after such

1 retirement to fall below any applicable mini-
2 mum investment amount.

3 “(5) IMPAIRMENT OF CAPITAL.—If the Finance
4 Board or the board of directors of an enterprise re-
5 source bank determines that the paid-in capital of
6 the bank is likely to be impaired as a result of losses
7 in or depreciation of the assets of the bank, the en-
8 terprise resource bank shall withhold that portion of
9 the amount due any stockholder with respect to any
10 redemption or retirement of stock which bears the
11 same ratio to the total of such amount as the
12 amount of the impaired capital bears to the total
13 amount of capital.

14 “(6) POLICIES.—Subject to the requirements of
15 this section, the board of directors of each enterprise
16 resource bank shall promptly establish policies, con-
17 sistent with this Act, governing the capital stock of
18 such bank and other provisions of this section.”.

19 (b) REDUCTION OF PERIOD REQUIRED BEFORE
20 FULLY DIVESTED STOCKHOLDER MAY REACQUIRE
21 SHARES OF A BANK.—Subsection (h) of section 6 of the
22 Federal Home Loan Bank Act (12 U.S.C. 1426) (as
23 amended by subsection (a)) is amended—

24 (1) by redesignating such subsection as sub-
25 section (f);

1 (2) by striking “10” and inserting “5”; and
2 (3) by inserting before the period at the end “,
3 except that any institution that withdrew from mem-
4 bership in any such bank before December 31, 1995,
5 may acquire an ownership interest in a enterprise
6 resource bank at any time after such date subject to
7 the requirements of this Act.”.

8 (c) ELIGIBILITY OF NON-QTL SAVINGS ASSOCIA-
9 TIONS TO OBTAIN NEW ADVANCES AND MAINTAIN AD-
10 VANCES.—Section 10(m)(3)(B) of the Home Owners’
11 Loan Act (12 U.S.C. 1467a(m)(3)(B)) is amended—

12 (1) in clause (i), by striking subclause (III) and
13 redesignating subclause (IV) as subclause (III); and

14 (2) in clause (ii), by striking subclause (II).

15 (d) VOLUNTARY MEMBERSHIP OF FEDERAL SAVINGS
16 ASSOCIATIONS.—Section 5(f) of the Home Owners’ Loan
17 Act (12 U.S.C. 1464(f)) is amended to read as follows:

18 “(f) VOLUNTARY MEMBERSHIP IN ENTERPRISE RE-
19 SOURCE BANK.—Each Federal savings association may be
20 eligible to acquire shares of stock in an enterprise resource
21 bank in the manner provided in the Enterprise Resource
22 Bank System Act.”.

1 **SEC. 7. PROMPT CORRECTIVE ACTION.**

2 The Federal Home Loan Bank Act (12 U.S.C. 1421
3 et seq.) is amended by inserting after section 6 the follow-
4 ing new section:

5 **“SEC. 6A. PROMPT CORRECTIVE ACTION.**

6 “(a) PURPOSES.—The purposes of this section are to
7 ensure that the enterprise resource banks remain—

8 “(1) adequately capitalized;

9 “(2) able to raise funds in the capital markets;

10 and

11 “(3) able meet the obligations of such banks
12 under this Act.

13 “(b) CAPITAL CLASSIFICATIONS.—The Finance
14 Board shall classify the capital adequacy of enterprise re-
15 source banks in accordance with the following capital cat-
16 egories:

17 “(1) ADEQUATELY CAPITALIZED.—An enter-
18 prise resource bank shall be classified as adequately
19 capitalized if such bank meets the required mini-
20 mum level for each relevant capital measure.

21 “(2) UNDERCAPITALIZED.—An enterprise re-
22 source bank shall be classified as undercapitalized if
23 such bank fails to meet the minimum level for any
24 capital measure required by this Act, or any addi-
25 tional capital requirement that may be established
26 for such bank by the Finance Board.

1 “(3) CRITICALLY UNDERCAPITALIZED.—An en-
2 terprise resource bank shall be classified as critically
3 undercapitalized if the capital of such bank fails to
4 meet any level specified under section 6(c)(1).

5 “(4) CAPITAL CATEGORIES.—The Finance
6 Board shall, by regulation, specify for each relevant
7 capital measure the levels at which an enterprise re-
8 source bank is adequately capitalized, undercapital-
9 ized, and critically undercapitalized.

10 “(5) QUARTERLY EVALUATION OF CAPITAL
11 ADEQUACY.—

12 “(A) IN GENERAL.—The Finance Board
13 shall—

14 “(i) evaluate the capital adequacy of
15 each enterprise resource bank at least once
16 in each calendar quarter, and

17 “(ii) classify the capital adequacy of
18 the bank in accordance with the categories
19 established pursuant to paragraph (1).

20 “(B) JUDICIAL REVIEW.—For the purpose
21 of obtaining judicial review of—

22 “(i) any classification of the capital
23 adequacy of an enterprise resource bank
24 under subparagraph (A); or

1 “(ii) any action taken by the Finance
2 Board pursuant to such classification,
3 the classification, or the action taken pursuant
4 to a classification, shall be treated as a final
5 order of the Finance Board.

6 “(c) PROVISION APPLICABLE TO ALL ENTERPRISE
7 RESOURCE BANKS.—

8 “(1) CAPITAL DISTRIBUTIONS RESTRICTED.—
9 An enterprise resource bank shall make no capital
10 distribution if, after making the distribution, the
11 bank would be undercapitalized.

12 “(2) EXCEPTIONS.—Notwithstanding para-
13 graph (1)—

14 “(A) an enterprise resource bank may re-
15 deem a voting shareholder’s stock in accordance
16 with section 6(e)(3); and

17 “(B) the Finance Board may permit an
18 enterprise resource bank to repurchase, redeem,
19 retire, or otherwise acquire the shares of the
20 bank if the repurchase, redemption, retirement,
21 or other acquisition—

22 “(i) is made in connection with the is-
23 suanance of additional shares of the bank in
24 at least an equivalent amount; and

1 “(ii) will reduce the bank’s financial
2 obligations or otherwise improve the bank’s
3 financial condition.

4 “(d) SUPERVISORY ACTIONS APPLICABLE TO
5 UNDERCAPITALIZED ENTERPRISE RESOURCE BANKS.—

6 “(1) MANDATORY ACTIONS.—

7 “(A) CAPITAL AND INCOME RESTORATION
8 PLANS.—Any undercapitalized enterprise re-
9 source bank shall file an acceptable capital and
10 income restoration plan with the Finance
11 Board, in accordance with subsection (f).

12 “(B) RECLASSIFICATION FROM UNDER-
13 CAPITALIZED TO CRITICALLY UNDERCAPI-
14 TALIZED.—The Finance Board shall reclassify
15 as critically undercapitalized any enterprise re-
16 source bank that is classified as under-
17 capitalized if—

18 “(i) the bank does not submit an ac-
19 ceptable capital and income restoration
20 plan within the time periods prescribed;

21 “(ii) if the Finance Board does not
22 approve the capital and income restoration
23 plan submitted; or

24 “(iii) the Finance Board determines
25 that the bank has failed to make, in good

1 faith, reasonable efforts to comply with an
2 accepted capital and income restoration
3 plan.

4 “(C) PRIOR APPROVAL FOR NEW ACTIVITIES.—The Finance Board shall require an
5 undercapitalized enterprise resource bank to ob-
6 tain prior approval from the Finance Board be-
7 fore engaging in any new activities.

9 “(2) DISCRETIONARY ACTIONS.—The Finance
10 Board may, with respect to an undercapitalized en-
11 terprise resource bank, take such other actions as
12 the Finance Board determines are necessary or ap-
13 propriate to carry out the purpose of this section in-
14 cluding—

15 “(A) imposition of restrictions on growth
16 in assets;

17 “(B) limitations on increases in bank obli-
18 gations;

19 “(C) imposition of restrictions on activities
20 that the Finance Board determines create ex-
21 cessive risk to the bank; and

22 “(D) requiring changes in or any restric-
23 tion on the board of directors or management
24 of the bank.

1 “(e) SUPERVISORY ACTIONS APPLICABLE TO CRITI-
2 CALLY UNDERCAPITALIZED ENTERPRISE RESOURCE
3 BANKS.—

4 “(1) MERGER, LIQUIDATION, REORGANIZATION,
5 OR OTHER ACTION REQUIRED.—The Finance Board
6 shall—

7 “(A) combine, by merger or otherwise, any
8 critically undercapitalized enterprise resource
9 bank with another enterprise resource bank;

10 “(B) liquidate or reorganize any such criti-
11 cally under capitalized bank; or

12 “(C) take such other action in connection
13 with such bank as the Finance Board deter-
14 mines would better achieve the purpose of this
15 section.

16 “(2) PERIODIC REDETERMINATION RE-
17 QUIRED.—Any determination by the Finance Board
18 under paragraph (1) to take any action with respect
19 to a critically undercapitalized enterprise resource
20 bank other than combining, reorganizing, or liq-
21 uidating the bank shall cease to be effective not later
22 than the end of the 90-day period after the deter-
23 mination was made and the bank shall be combined,
24 reorganized or liquidated unless the Finance Board
25 makes a new determination.

1 “(3) ACTIVITIES RESTRICTIONS.—The Finance
2 Board shall restrict and closely monitor the activities
3 of a critically undercapitalized enterprise resource
4 bank, including taking any of the discretionary ac-
5 tions applicable to an undercapitalized bank.

6 “(f) CAPITAL AND INCOME RESTORATION PLANS.—

7 “(1) IN GENERAL.—The Finance Board shall
8 prescribe regulations which require any under- cap-
9 italized enterprise resource bank to file within the
10 prescribed periods and implement an acceptable cap-
11 ital and income restoration plan with the Finance
12 Board.

13 “(2) REQUIREMENTS RELATING TO PLAN.—

14 “(A) CONTENTS OF PLAN.—A capital and
15 income restoration plan shall—

16 “(i) specify the steps that the bank
17 will take to become adequately capitalized
18 and to increase earnings;

19 “(ii) specify the levels of capital to be
20 attained during each year in which the
21 plan will be in effect;

22 “(iii) describe how the bank will com-
23 ply with the restrictions or requirements in
24 effect under this section; and

1 “(iv) specify the types and levels of
2 activities in which the bank will engage
3 during the term of the plan.

4 “(B) DEADLINES FOR SUBMISSION.—

5 “(i) INITIAL PERIOD.—The Finance
6 Board shall, by regulation, establish a
7 deadline for submission of a capital and in-
8 come restoration plan which may not be
9 more than 45 days after the bank is noti-
10 fied that a plan is required.

11 “(ii) EXTENSION OF DEADLINE.—The
12 regulations shall provide that the Finance
13 Board may extend, in writing, the deadline
14 to a date certain if the Finance Board de-
15 termines such extension is appropriate.

16 “(C) APPROVAL.—

17 “(i) REVIEW PERIOD.—The Finance
18 Board shall review each capital and income
19 restoration plan submitted under this sec-
20 tion and, not later than 30 days after sub-
21 mission of the plan, approve or disapprove
22 the plan.

23 “(ii) EXTENSION OF REVIEW PE-
24 RIOD.—The Finance Board may extend, in
25 writing, the period for approval or dis-

1 approval for any plan for a single addi-
2 tional 30-day period if the Finance Board
3 determines such extension is appropriate.

4 “(D) NOTICE OF BOARD ACTION.—The Fi-
5 nance Board shall provide written notice to any
6 bank which submits a plan under this sub-
7 section of the approval or disapproval of the
8 plan and shall include the reasons for any dis-
9 approval of the plan.

10 “(E) RESUBMISSION.—If the Finance
11 Board disapproves the initial capital and in-
12 come restoration plan submitted by the bank,
13 the bank shall submit an amended plan accept-
14 able to the Finance Board within 30 days or
15 such longer period that the Finance Board de-
16 termines is in the public interest.

17 “(g) APPOINTMENT OF CONSERVATOR FOR CRITI-
18 CALLY UNDERCAPITALIZED ENTERPRISE RESOURCE
19 BANK.—

20 “(1) GROUNDS.—The Finance Board may ap-
21 point a conservator for a critically undercapitalized
22 enterprise resource bank under subsection (e)(2)
23 upon a written determination that alternative rem-
24 edies available to the Finance Board are not satis-
25 factory and that—

1 “(A) the bank is not likely to pay obliga-
2 tions of the bank in the normal course of busi-
3 ness;

4 “(B) the bank has incurred or is reason-
5 ably likely to incur losses, or has pending appli-
6 cations for stock redemptions, that would de-
7 plete substantially all of the capital of the bank
8 and it is unlikely that the bank will replenish
9 such capital within a reasonable period;

10 “(C) the bank has concealed or is conceal-
11 ing books, papers, records, or assets of the
12 bank that are material to the discharge of the
13 Finance Board’s responsibilities under this sub-
14 title, or has refused or is refusing to submit
15 such books, papers, records, or information re-
16 garding the affairs of the bank for inspection to
17 the Finance Board upon the demand of the Fi-
18 nance Board;

19 “(D) the bank has willfully violated, or is
20 willfully violating, a final cease-and-desist order;
21 or

22 “(E) the bank, by an affirmative vote of a
23 majority of the bank’s board of directors or an
24 affirmative vote of the shareholders of the bank,
25 consents to such appointment.

1 “(2) QUALIFICATIONS.—The Finance Board
2 may appoint—

3 “(A) itself as the conservator for any en-
4 terprise resource bank;

5 “(B) as conservator for any such bank,
6 any other Federal agency or department or
7 other person that the Finance Board deter-
8 mines has—

9 “(i) no claim against, or financial in-
10 terest in, the bank;

11 “(ii) no other basis for a conflict of
12 interest with respect to the bank; and

13 “(iii) the financial and management
14 expertise necessary to direct the operations
15 and affairs of the bank.

16 “(3) APPOINTMENT EX PARTE AND WITHOUT
17 NOTICE.—If, in the opinion of the Finance Board, a
18 ground for the appointment of a conservator for an
19 enterprise resource bank exists, the Finance Board
20 may appoint a conservator for the bank ex parte and
21 without notice.

22 “(4) JUDICIAL REVIEW.—

23 “(A) JURISDICTION.—Except as provided
24 in subparagraph (D), a bank for which a con-
25 servator is appointed may bring an action dur-

1 ing the 30-day period beginning upon the ap-
2 pointment of the conservator in the United
3 States District Court for the District of Colum-
4 bia for an order requiring the Finance Board to
5 terminate the appointment of the conservator.

6 “(B) STANDARD OF REVIEW.—A decision
7 of the Finance Board to appoint a conservator
8 may be set aside only if the court finds that the
9 decision was arbitrary, capricious, an abuse of
10 discretion, or otherwise not in accordance with
11 applicable laws.

12 “(C) LIMITATION ON JURISDICTION.—Ex-
13 cept as otherwise provided in this subsection, no
14 court may take any action regarding the re-
15 moval of a conservator or otherwise restrain or
16 affect the exercise of powers or functions of a
17 conservator.

18 “(D) CONSENSUAL APPOINTMENTS.—Ap-
19 pointment of a conservator pursuant to consent
20 of the bank shall not be subject to judicial re-
21 view under this subsection.

22 “(5) REPLACEMENT.—

23 “(A) IN GENERAL.—The Finance Board
24 may, without notice or hearing, replace a con-

1 servator for an enterprise resource bank with
2 another conservator.

3 “(B) NO EFFECT ON JUDICIAL REVIEW.—

4 The replacement of a conservator for an enter-
5 prise resource bank shall not affect the right of
6 the bank to obtain judicial review under para-
7 graph (4) of the Finance Board’s decision to
8 make the initial appointment of a conservator.

9 “(6) EXAMINATIONS.—The Finance Board may
10 examine and supervise any enterprise resource bank
11 for which a conservator has been appointed during
12 the period in which the bank continues to operate as
13 a going concern.

14 “(7) TERMINATION.—

15 “(A) IN GENERAL.—If, at any time, the
16 Finance Board determines that termination of
17 a conservatorship for an enterprise resource
18 bank is in the public interest and may safely be
19 accomplished, the Finance Board may termi-
20 nate the conservatorship and permit the bank
21 to resume the transaction of the business of the
22 bank subject to such terms, conditions, and lim-
23 itations as the Finance Board may prescribe.

24 “(B) ENFORCEMENT OF TERMS, CONDI-
25 TIONS, AND LIMITATIONS.—Any terms, condi-

1 tions, and limitations imposed by the Finance
2 Board in accordance with subparagraph (A)
3 upon termination of a conservatorship for an
4 enterprise resource bank shall be enforceable
5 and renewable to the same extent as any cease-
6 and-desist order issued by the Finance Board.

7 “(h) POWERS OF CONSERVATOR.—A conservator ap-
8 pointed for an enterprise resource bank shall have all the
9 powers of the stockholders, the directors, and the officers
10 of the bank and may operate the bank in the bank’s own
11 name or conserve the assets of the bank in the manner
12 and to the extent authorized by the Finance Board.

13 “(i) EXCEPTION.—Notwithstanding any other provi-
14 sion of this section, the Finance Board may permit an en-
15 terprise resource bank to redeem the stock of a member
16 of such bank, repurchase, retire, or otherwise acquire
17 shares of the bank if the repurchase, redemption, retire-
18 ment, or other acquisition—

19 “(1) is made in connection with the issuance of
20 additional shares of the bank in at least an equiva-
21 lent amount; and

22 “(2) will reduce the bank’s financial obligations
23 or otherwise improve the bank’s financial condi-
24 tion.”.

1 **SEC. 8. MANAGEMENT OF BANKS.**

2 Section 7 of the Federal Home Loan Bank Act (12
3 U.S.C. 1427) is amended to read as follows:

4 **“SEC. 7. MANAGEMENT OF BANKS.**

5 “(a) BOARD OF DIRECTORS.—

6 “(1) COMPOSITION OF BOARD.—Except as oth-
7 erwise provided in this section, the management of
8 each enterprise resource bank shall be vested in a
9 board of directors consisting of 14 directors selected
10 as follows:

11 “(A) 8 shall be elected by the members of
12 the bank as provided in paragraph (6).

13 “(B) 6 shall be appointed by the Finance
14 Board.

15 “(2) QUALIFICATIONS.—

16 “(A) IN GENERAL.—Each director of an
17 enterprise resource bank shall be a citizen of
18 the United States and a bona fide resident of
19 the district in which such bank is located.

20 “(B) DISQUALIFICATION.—An individual
21 who is an officer or director of a depository in-
22 stitution that fails to meet any applicable cap-
23 ital requirement shall not be qualified to be a
24 director on the board of directors of an enter-
25 prise resource bank.

26 “(3) REPRESENTATIONAL CRITERIA.—

1 “(A) REPRESENTATION OF STATES.—Sub-
2 ject to subparagraph (B), the bylaws of each
3 enterprise resource bank shall provide for the
4 manner in which the representation of the
5 shareholders of the bank from the various
6 States within such bank’s district will be dis-
7 tributed among the positions of the elected di-
8 rectors of such bank.

9 “(B) TRANSITION PROVISION.—Notwith-
10 standing subparagraph (A), the composition of
11 the boards of directors of the 12 enterprise re-
12 source banks immediately after the effective
13 date of the Enterprise Resource Bank Act of
14 1996 shall be the same as the composition of
15 such boards of directors on January 1, 1996.

16 “(C) DISCRETIONARY INCREASE IN OVER-
17 ALL NUMBER OF DIRECTORS.—In order to en-
18 sure director representation on the board of di-
19 rectors of an enterprise resource bank consist-
20 ent with this paragraph, the board of directors
21 of the bank may—

22 “(i) increase the number of elected di-
23 rectors on the board of directors; and

1 “(ii) increase the number of appointed
2 directors to an amount not more than $\frac{3}{4}$
3 of the number of elected directors.

4 “(D) INCREASE TO ACHIEVE MINIMUM
5 STATE REPRESENTATION.—If, at any time, the
6 number of elected directors of an enterprise re-
7 source bank is less than the number of States
8 in the district of such bank, the board of direc-
9 tors of the bank may increase the number of
10 elected directors on such board of directors to
11 a number at least equal to the number of
12 States in such district.

13 “(E) REPRESENTATIONAL COMPOSITION
14 OF BOARD OF DIRECTORS.—In establishing by-
15 laws for the election of directors, and in ap-
16 pointing directors, to the board of directors of
17 an enterprise resource bank, the board of direc-
18 tors and the Finance Board shall establish such
19 procedures as may be appropriate to achieve a
20 board of directors which reflects the geographi-
21 cal diversity of the district, the representation
22 of both large and small institutional stock-
23 holder, and the representation of the public in-
24 terest.

25 “(4) CHAIRPERSON AND VICE CHAIRPERSON.—

1 “(A) IN GENERAL.—The board of directors
2 of each enterprise resource bank shall elect—

3 “(i) 1 of the directors of the bank to
4 be the chairperson of the board of direc-
5 tors; and

6 “(ii) 1 of the directors of the bank to
7 be vice chairperson of the board of direc-
8 tors.

9 “(B) LIMITATION.—The president of an
10 enterprise resource bank may not be designated
11 under subparagraph (A) as the chairperson or
12 vice chairperson of the bank.

13 “(C) PUBLIC INTEREST REPRESENTA-
14 TION.—At least 1 of the members of the board
15 of directors of an enterprise resource bank who
16 were appointed pursuant to paragraph (5)(A)
17 shall be elected to be the chairperson or the vice
18 chairperson of the board of directors.

19 “(5) PROVISIONS APPLICABLE TO APPOINTED
20 DIRECTORS.—

21 “(A) REPRESENTATIONAL REQUIRE-
22 MENT.—At least 2 of the directors of each en-
23 terprise resource bank who are appointed by the
24 Finance Board shall be appointed from among
25 representatives of organizations with more than

1 a 2-year history of representing consumer or
2 community interests on banking services, credit
3 needs, housing, or financial consumer protec-
4 tions.

5 “(B) CONFLICT OF INTEREST PROVI-
6 SION.—No director on the board of directors of
7 an enterprise resource bank who is appointed
8 pursuant to this subsection may, during such
9 director’s term of office, serve as an officer of
10 any enterprise resource bank or as a director or
11 officer of any member of a bank.

12 “(6) PROVISIONS APPLICABLE TO ELECTED DI-
13 RECTORS.—

14 “(A) DESIGNATION OF STATE TO BE REP-
15 RESENTED.—Each position of elected director
16 on the board of directors of any enterprise re-
17 source bank shall be designated by the board of
18 directors as a position to be filled by a director
19 representing the voting shareholders of the
20 bank whose principal places of business are lo-
21 cated in a particular State.

22 “(B) SHAREHOLDERS LOCATED IN U.S.
23 TERRITORIES.—In the case of any voting share-
24 holder (of an enterprise resource bank) whose
25 principal place of business is not located in any

1 State, the enterprise resource bank shall des-
2 ignate the State in such bank's district in which
3 such member shall be deemed to be located for
4 purposes of this subsection.

5 “(C) QUALIFICATION.—Only presidents,
6 chief executive officers, and other senior execu-
7 tive officers (as defined by the Finance Board)
8 of voting shareholders whose principal places of
9 business are located in a State shall be qualified
10 to serve as a director representing such State.

11 “(D) NOMINATION OF DIRECTORS.—All
12 voting shareholders (of an enterprise resource
13 bank) whose principal places of business are lo-
14 cated in any State may nominate any qualified
15 individual for election as a director representing
16 such State.

17 “(E) VOTING PROCEDURE.—In any elec-
18 tion of a director of an enterprise resource
19 bank, each voting shareholder of the bank
20 whose principal place of business is located in
21 the State which such director represents may
22 cast for such office a number of votes equal to
23 the lesser of—

24 “(i) the minimum number of voting
25 shares of the capital stock of such bank in

1 which such shareholder is required, under
2 section 6(b), to be invested as of the end
3 of the calendar year immediately preceding
4 the election, as determined by the board of
5 directors of the enterprise resource bank;
6 and

7 “(ii) the average of the minimum
8 number of voting shares of such stock in
9 which all voting shareholders whose prin-
10 cipal places of business are located in such
11 State are required, under section 6(b), to
12 be invested as of the end of the calendar
13 year immediately preceding the election, as
14 so determined.

15 “(F) PLURALITY DECISION.—Each posi-
16 tion of elected director of an enterprise resource
17 bank shall be filled by the nominee, for such po-
18 sition, who receives a larger number of the
19 votes cast in an election held for the purpose of
20 filling such position than any other nominee.

21 “(7) TERMS.—

22 “(A) IN GENERAL.—The term of each di-
23 rector who is elected or appointed to the board
24 of directors of an enterprise resource bank after

1 the date of the enactment of the Enterprise Re-
2 source Bank Act of 1996 shall be 4 years.

3 “(B) TERM LIMITS.—

4 “(i) APPOINTED DIRECTORS.—No in-
5 dividual may serve as an appointed direc-
6 tor on the board of directors of an enter-
7 prise resource bank for more than 2 full
8 consecutive 4-year terms.

9 “(ii) ELECTED DIRECTORS.—If, dur-
10 ing any 8-year period, the board of direc-
11 tors of any enterprise resource bank has
12 included, as an elected director, any officer
13 of a specific voting shareholder of the
14 bank, no officer of such shareholder shall
15 be eligible to serve as an elected member of
16 such board of directors during the subse-
17 quent 4-year period.

18 “(C) INTERIM APPOINTMENTS.—Any di-
19 rector appointed or elected to fill a vacancy oc-
20 ccurring before the expiration of the term for
21 which such director’s predecessor was appointed
22 or elected shall be appointed or elected only for
23 the remainder of such term.

24 “(D) CONTINUATION OF SERVICE.—Each
25 director of an enterprise resource bank may

1 continue to serve after the expiration of the
2 term to which such director was appointed or
3 elected until a successor has been qualified.

4 “(E) STAGGERED TERMS.—

5 “(i) IN GENERAL.—The bylaws of
6 each enterprise resource bank shall provide
7 for staggering the terms of the elected and
8 appointed directors so that the positions of
9 approximately $\frac{1}{4}$ of the appointed direc-
10 tors and approximately $\frac{1}{4}$ of the appointed
11 directors shall become vacant each year.

12 “(ii) DESIGNATION OF SHORTER
13 TERMS TO ACHIEVE STAGGERING.—When-
14 ever necessary to achieve staggered terms
15 for the directors of an enterprise resource
16 bank, the board of directors of such bank
17 may, by resolution (and in accordance with
18 the bylaws of the bank) and before the
19 election or appointment of a director, des-
20 ignate a shorter term for such position for
21 the next succeeding term.

22 “(8) VACANCIES.—

23 “(A) APPOINTED DIRECTOR.—Any vacancy
24 occurring in the position of appointed director
25 of an enterprise resource bank shall be filled in

1 the manner in which the original appointment
2 was made.

3 “(B) ELECTED DIRECTOR.—Any vacancy
4 occurring in the position of elected director of
5 an enterprise resource bank shall be filled by an
6 affirmative vote of a majority of the remaining
7 directors of such bank, without regard to
8 whether such remaining directors constitute a
9 quorum of the board of directors.

10 “(C) VACANCY AS A RESULT OF DISQUALI-
11 FICATION OF DIRECTOR.—

12 “(i) IN GENERAL.—If any director of
13 an enterprise resource bank ceases to meet
14 any qualification for such position—

15 “(I) the position shall imme-
16 diately become vacant by operation of
17 law; and

18 “(II) service by such director in
19 such position shall cease.

20 “(ii) CONTINUATION.—Notwithstand-
21 ing clause (i), an appointed director of an
22 enterprise resource bank whose position
23 became vacant pursuant to such clause
24 may continue to serve in such position
25 until a successor has been qualified.

1 “(9) INELIGIBILITY OF CERTAIN OFFICERS FOR
2 POSITION OF DIRECTOR.—No officer or employee of,
3 or any attorney or agent for, any enterprise resource
4 bank who receives compensation for such service,
5 other than the president of the bank, shall be eligible
6 to serve on the board of directors of such bank or
7 any other enterprise resource bank.

8 “(10) REGULATIONS GOVERNING NOMINATIONS
9 AND ELECTIONS.—The bylaws of each enterprise re-
10 source bank shall provide procedures for the nomina-
11 tion and election of directors on the board of direc-
12 tors of the bank.

13 “(11) DEFINITIONS.—For purposes of this sub-
14 section, the following definitions shall apply:

15 “(A) VOTING SHAREHOLDER.—The term
16 ‘voting shareholder’ means, with respect to any
17 year, any institution which holds voting shares
18 of an enterprise resource bank and held voting
19 shares of such bank at the end of the imme-
20 diately preceding calendar year.

21 “(B) STATE.—The term ‘State’ means any
22 State, the District of Columbia, and the Com-
23 monwealth of Puerto Rico.

24 “(12) APPLICABILITY.—This subsection shall
25 apply to elections and appointments of directors to

1 terms that begin after the date of enactment of the
2 Enterprise Resource Bank Act of 1996.

3 “(b) POWERS OF BOARDS OF DIRECTORS.—The
4 board of directors of each enterprise resource bank shall
5 have all power necessary to exercise the responsibility of
6 such board with respect to such bank, including the follow-
7 ing powers:

8 “(1) Establish financial and other performance
9 targets.

10 “(2) Conduct studies of trends of home or other
11 property values, methods of appraisals, state and
12 Federal laws, regulations, policies, and procedures
13 relevant to the operations of the bank and the mem-
14 bers of the bank, and such other subjects as the
15 board of directors may consider to be useful for the
16 general guidance of the policies and operations of
17 the bank and institutions authorized to secure ad-
18 vances from the bank.

19 “(3) Establish credit policy and policy for man-
20 agement of the bank’s investments.

21 “(4) Establish policy regarding the bank’s in-
22 terest rate risk.

23 “(5) Determine dividends.

24 “(6) Establish policy regarding the documenta-
25 tion required for advances.

1 “(7) Establish policy regarding item processing
2 pricing.

3 “(8) Establish policy regarding the sale and
4 purchase of, and participations in, advances.

5 “(9) Establish policy regarding lending to mem-
6 bers that are insolvent or not in compliance with ap-
7 plicable capital requirements.

8 “(10) Establish policy regarding—

9 “(A) lending to and borrowing from the
10 enterprise resource banks; and

11 “(B) making deposits in and accepting de-
12 posits from such banks.

13 “(11) Establish policy regarding the community
14 investment program and the affordable housing pro-
15 gram.

16 “(12) Establish policy regarding incentives for
17 community support by member institutions.

18 “(13) Establish policy regarding publication of
19 community support activities of member institutions.

20 “(14) Establish policy regarding the develop-
21 ment and implementation of the business plan of the
22 bank.

23 “(15) Approve the budget of the bank and
24 modifications to such budget.

1 “(16) Approve the bylaws of the bank and
2 modifications to such bylaws.

3 “(17) Establish the travel policy of the bank.

4 “(18) Determine the location of meetings of
5 boards of directors.

6 “(19) Determine the eligibility of individuals to
7 serve as directors and conduct elections of directors.

8 “(20) Establish policy regarding charitable do-
9 nations and membership in organizations.

10 “(21) Establish policy regarding mandatory re-
11 tirement of directors, officers and employees.

12 “(22) Establish policy regarding indemnifica-
13 tion of directors, officers, employees, and agents.

14 “(23) Establish policy regarding the disaster re-
15 covery plan of the bank.

16 “(24) Establish the records retention policy of
17 the bank.

18 “(25) Provide, in accordance with resolutions of
19 the board of directors and any regulations prescribed
20 by the Finance Board, for the payment of reason-
21 able rates of compensation to members of the board
22 of directors for such periods of time, including travel
23 time, during which the members are engaged in the
24 actual performance of duties vested in the board of

1 directors and travel expenses, including per diem in
2 lieu of subsistence.

3 “(26) Approve and disapprove membership ap-
4 plications.

5 “(27) Establish policies regarding the issuance
6 of letters of credit.

7 “(28) Establish policies regarding the safekeep-
8 ing of securities.

9 “(c) DUTIES OF BOARDS OF DIRECTORS.—The
10 board of directors of each enterprise resource bank shall—

11 “(1) administer the affairs of the bank fairly
12 and impartially and without discrimination in favor
13 of or against any voting shareholder or borrower;
14 and

15 “(2) subject to the provisions of this Act, ex-
16 tend to each institution authorized to secure ad-
17 vances such advances as may be made safely and
18 soundly with due regard for—

19 “(A) the claims and demands of other in-
20 stitutions; and

21 “(B) the maintenance of adequate credit
22 standing for the bank and the bank’s obliga-
23 tions.”.

1 **SEC. 9. SUSTAINABLE ECONOMIC DEVELOPMENT PRO-**
2 **GRAM.**

3 (a) FINDINGS AND PURPOSE.—

4 (1) FINDINGS.—The Congress finds as follows:

5 (A) In exchange for Federal deposit insur-
6 ance, the Federal Government has placed regu-
7 lations on financial institutions to ensure safety
8 and soundness and to promote lending to un-
9 derserved communities.

10 (B) These regulations place a significant
11 cost on financial institutions.

12 (C) While there is a compelling need for
13 solutions to the country's most difficult social
14 problems, including poverty and high unemploy-
15 ment, in economically distressed communities,
16 especially inner-cities and rural areas, the most
17 effective model for solutions to such problems is
18 through the development of a sustainable eco-
19 nomic base for these communities.

20 (D) To develop a sustainable economic
21 base the Government should encourage main-
22 stream private institutions to improve the envi-
23 ronment for growth and new business opportu-
24 nities in distressed neighborhoods by providing
25 incentives for such actions.

1 (E) The Congress recognizes the difficul-
2 ties facing community banks in attempting to
3 increase the availability of credit in economi-
4 cally distressed neighborhoods, including—

5 (i) the lack of a mutual understanding
6 between the lenders and the potential bor-
7 rowers;

8 (ii) the perception that loans to bor-
9 rowers in such neighborhoods are or would
10 be high-risk;

11 (iii) the frequent need for credit en-
12 hancement in connection with loans to bor-
13 rowers in such neighborhoods; and

14 (iv) the higher costs involved in lend-
15 ing in such neighborhoods due to the addi-
16 tional time and effort which is frequently
17 required in conducting adequate credit
18 analysis.

19 (F) Lending in economically distressed
20 neighborhoods is most effective if community
21 banks make rational credit decisions with re-
22 gard to—

23 (i) the profitability of lending in such
24 neighborhoods; and

1 (ii) the potential profits from the es-
2 tablishment of a market presence by com-
3 munity banks in such neighborhoods.

4 (G) While it may be desirable for the Gov-
5 ernment to encourage depository institutions to
6 provide banking services and extend credit in
7 economically distressed communities, such en-
8 couragement should come in the form of incen-
9 tives and not mandates.

10 (2) PURPOSE.—It is the purpose of this section
11 to enhance the efficiency of providing debt and eq-
12 uity capital and other financial services to under-
13 served communities by encouraging, and creating in-
14 centives for, communities to develop a sustainable
15 economic base in such communities.

16 (b) MISSION OF SUSTAINABLE ECONOMIC DEVELOP-
17 MENT.—The purpose of the community support require-
18 ments, the community investment program, and the af-
19 fordable housing program is to serve depository institu-
20 tions as an intermediary—

21 (1) to aid in the development of a sustainable
22 economic base in the banks' communities;

23 (2) to promote access to credit throughout the
24 Nation (including rural areas and underserved
25 neighborhoods by increasing the liquidity of eco-

1 nomic development financing and improving the dis-
2 tribution of investment capital available for economic
3 development financing; and

4 (3) to assist with technical expertise for compli-
5 ance with the Community Reinvestment Act of
6 1977.

7 (c) COMMUNITY SUPPORT REQUIREMENTS.—Sub-
8 section (g) of section 10 of the Federal Home Loan Bank
9 Act (12 U.S.C. 1430(g)) is amended by adding at the end
10 the following new paragraph:

11 “(3) SAFE HARBOR FOR MEMBERS RECEIVING
12 CRA RATINGS OF SATISFACTORY OR BETTER.—Not-
13 withstanding paragraphs (1) and (2), any depository
14 institution which is a shareholder in an enterprise
15 resource bank and receives a rating of satisfactory
16 or outstanding pursuant to section 807 of the Com-
17 munity Reinvestment Act of 1977 in such member’s
18 most recent examination, if any, shall be treated as
19 having satisfied the requirements of such para-
20 graphs.”.

21 (d) PROHIBITION ON DELEGATION OF CERTAIN
22 FUNDING DETERMINATIONS TO MANAGEMENT OF
23 BANK.—The board of directors of an enterprise resource
24 may not delegate, or provide for the delegation of, any
25 authority of the board of directors to approve or dis-

1 approve funding by such bank under the affordable hous-
2 ing program established pursuant to section 10(j) of the
3 Federal Home Loan Bank Act to any officer or employee
4 of the bank.

5 **SEC. 10. ENFORCEMENT AUTHORITY TO PROMOTE SAFETY**
6 **AND SOUNDNESS OF ENTERPRISE RESOURCE**
7 **BANKS.**

8 Section 3 of the Federal Home Loan Bank Act (as
9 amended by section 4 of this Act) is amended—

10 (1) by redesignating subsection (f) as sub-
11 section (g); and

12 (2) by inserting after subsection (e) the follow-
13 ing new subsection:

14 “(f) ENFORCEMENT POWERS.—The Finance Board
15 shall have the same powers, rights, and duties to enforce
16 this Act with regard to the enterprise resource banks as
17 the appropriate Federal banking agencies (as defined in
18 section 3(q) of the Federal Deposit Insurance Act) have
19 under section 8 of the Federal Deposit Insurance Act with
20 respect to insured depository institutions (as defined in
21 section 3(e) of such Act).”.

1 **SEC. 11. RESOLUTION FUNDING CORPORATION OBLIGA-**
2 **TION.**

3 Effective on January 1, 1998, section
4 21B(f)(2)(C)(ii) of the Federal Home Loan Bank Act (12
5 U.S.C. 1441b(f)(2)(C)(ii)) is amended to read as follows:

6 “(C) PAYMENTS BY ENTERPRISE RE-
7 SOURCE BANKS.—To the extent the
8 amounts available pursuant to subpara-
9 graphs (A) and (B) are insufficient to
10 cover the amount of interest payments,
11 each enterprise resource bank shall pay to
12 the Funding Corporation each calendar
13 year an amount equal to 23.7 percent of
14 the bank’s net earnings for the year for
15 which such amount is required to be
16 paid.”.

17 **SEC. 12. POWERS AND DUTIES OF BANKS; TECHNICAL AND**
18 **CONFORMING AMENDMENTS.**

19 (a) SECTION 9.—Section 9 of the Federal Home
20 Loan Bank Act (12 U.S.C. 1429) is amended—

21 (1) in the 2d sentence, by striking “with the
22 approval of the Board”; and

23 (2) in the 3d sentence, by striking “, subject to
24 the approval of the Board,”.

25 (b) SECTION 10.—

1 (1) Subsection (a) of section 10 of the Federal
2 Home Loan Bank Act (12 U.S.C. 1430(a)) is
3 amended—

4 (A) in that portion of the subsection which
5 precedes paragraph (1)—

6 (i) by inserting “and subject to regu-
7 lations prescribed by the Finance Board”
8 after “in the judgment of the Bank”; and

9 (ii) by striking the 2d sentence;

10 (B) in paragraph (1), by inserting “mort-
11 gages on improved residential property which
12 are insured or guaranteed by the United States
13 or any agency or department of the United
14 States,” after “90 days delinquent),”;

15 (C) in paragraph (3), by striking “Depos-
16 its” and inserting “Cash or deposits”;

17 (D) in paragraph (4)—

18 (i) by striking “Other real estate re-
19 lated collateral” and inserting “Other mis-
20 sion-related collateral (as defined by the
21 Finance Board”; and

22 (ii) by striking “30 percent” and in-
23 serting “50 percent”; and

24 (E) by striking paragraph (5) and insert-
25 ing the following new paragraphs:

1 “(5) Assets consisting of small business loans
2 the principal amounts of which are less than
3 \$250,000.

4 “(6) Assets consisting of loans to municipalities
5 and other units for general local government for
6 maintenance and improvement of the infrastructure
7 (as defined by the Finance Board) the principal
8 amounts of which are less than \$2,500,000.

9 “(7) Municipal securities rated by investment
10 grade by 1 or more nationwide statistical rating or-
11 ganizations.”.

12 (2) Section 10(b) of the Federal Home Loan
13 Bank Act (12 U.S.C. 1430(b)) is amended—

14 (A) by striking “(b) For the purposes of
15 this section” and inserting “(b) PROTECTION
16 OF INTEREST IN COLLATERAL.—

17 “(1) INVESTIGATIONS.— For the purposes of
18 this section”;

19 (B) by striking “Board” where such term
20 appears in the last sentence and inserting
21 “bank”; and

22 (C) by adding at the end the following new
23 paragraphs:

24 “(2) ADEQUACY OF CONTROLS.—In order to
25 minimize the various risks borne by an enterprise re-

1 source bank with regard to advances to stockholders,
2 each enterprise resource bank shall ensure that—

3 “(A) adequate controls exist to manage
4 risk, including a strict policy of
5 overcollateralization;

6 “(B) ensure that the collateral has a read-
7 ily ascertainable market value;

8 “(C) a security interest in such collateral
9 can be perfected; and

10 “(D) the security interest of the bank has
11 priority over any other claim against the collat-
12 eral.

13 “(3) OTHER PROTECTIVE MEASURES.—

14 “(A) ADDITIONAL COLLATERAL.—An en-
15 terprise resource bank may take such steps as
16 the bank determines to be necessary to protect
17 the security position of the bank with respect to
18 outstanding advances, including requiring the
19 deposit of additional collateral security whether
20 or not such collateral would be eligible under
21 subsection (a) to be eligible to be used as collat-
22 eral for an advance at the time of origination.

23 “(B) REDUCTION IN OUTSTANDING AD-
24 VANCE.—If a stockholder of an enterprise re-
25 source bank has insufficient eligible collateral to

1 support an outstanding advance to such stock-
2 holder, the stockholder shall promptly and pru-
3 dently reduce the level of outstanding advances
4 in accordance with a schedule determined by
5 such bank.”.

6 (3) Section 10(c) of the Federal Home Loan
7 Bank Act (12 U.S.C. 1430(c)) is amended—

8 (A) in the 1st sentence, by striking
9 “Board” and inserting “bank”; and

10 (B) by striking the 2d sentence.

11 (4) Section 10(d) of the Federal Home Loan
12 Bank Act (12 U.S.C. 1430(d)) is amended—

13 (A) in the first sentence, by striking “and
14 the approval of the Board”; and

15 (B) in the last sentence, by striking “Sub-
16 ject to the approval of the Board, any” and in-
17 serting “Any”.

18 (5) Section 10 of the Federal Home Loan Bank
19 Act (12 U.S.C. 1430) is amended by striking the
20 first of the 2 subsections designated as subsection
21 (e) (relating to qualified thrift lender status).

22 (6) Section 10(j)(1) of the Federal Home Loan
23 Bank Act (12 U.S.C. 1430(j)(1)) is amended—

24 (A) by striking “IN GENERAL.—Pursuant
25 to” and inserting “ESTABLISHMENT.—

1 “(A) IN GENERAL.—Pursuant to”; and

2 (B) by adding at the end the following new
3 subparagraph:

4 “(B) BANK APPROVAL AUTHORITY.—The
5 board of directors of each enterprise resource
6 bank may—

7 “(i) approve or disapprove a request
8 from a shareholder of the bank for a sub-
9 sidiy under the affordable housing program
10 of the bank; and

11 “(ii) delegate such approval or dis-
12 approval authority to the president or any
13 other senior executive officer of the bank.”.

14 (7) Section 10 of the Federal Home Loan Bank
15 Act (12 U.S.C. 1430) is amended by adding at the
16 end the following new subsection:

17 “(k) LIMITATIONS ON ADVANCES TO UNDERCAPI-
18 TALIZED INSTITUTIONS.—

19 “(1) LIMITATION ON EXTENDED PERIODS.—
20 Except as provided in paragraph (2), no new ad-
21 vances to any undercapitalized depository institution
22 by any enterprise resource bank under this section
23 may be outstanding for more than 60 days in any
24 120-day period.

25 “(2) VIABILITY EXCEPTION.—

1 “(A) IN GENERAL.—If the head of the ap-
2 propriate Federal banking agency certifies in
3 advance in writing to the enterprise resource
4 bank that any depository institution is viable,
5 the limitation contained in paragraph (1) shall
6 not apply during the 60-day period beginning
7 on the date such certification is received.

8 “(B) EXTENSIONS OF PERIOD.—The 60-
9 day period may be extended for additional 60-
10 day periods upon receipt by the enterprise re-
11 source bank of additional written certifications
12 under subparagraph (A) with respect to each
13 such additional period.

14 “(C) AUTHORITY TO ISSUE A CERTIFICATE
15 OF VIABILITY MAY NOT BE DELEGATED.—The
16 authority of the head of any agency to issue a
17 written certification of viability under this para-
18 graph may not be delegated to any other per-
19 son.

20 “(3) PROHIBITION ON ADVANCES TO CRITI-
21 CALLY UNDERCAPITALIZED DEPOSITORY INSTITU-
22 TIONS.—Notwithstanding any other provision of this
23 Act, no new advances may be made to a critically
24 undercapitalized depository institution.

1 “(4) NO OBLIGATION TO MAKE ADVANCES.—An
2 enterprise resource bank shall have no obligation to
3 make, increase, renew, or extend any advance or dis-
4 count under this Act to any member.

5 “(5) DEFINITIONS.—For purposes of this sub-
6 section, the following definitions shall apply:

7 “(A) APPROPRIATE FEDERAL BANKING
8 AGENCY.—The term ‘appropriate Federal bank-
9 ing agency’—

10 “(i) has the same meaning as in sec-
11 tion 3 of the Federal Deposit Insurance
12 Act; and

13 “(ii) includes the National Credit
14 Union Administration.

15 “(B) CRITICALLY UNDERCAPITALIZED.—
16 The term ‘critically undercapitalized’ has the
17 same meaning as in section 6A(b)(3).

18 “(C) NEW ADVANCE.—The term ‘new ad-
19 vance’ includes a renewal or extension of, or an
20 increase in, an outstanding advance.

21 “(D) UNDERCAPITALIZED DEPOSITORY IN-
22 STITUTION.—The term ‘undercapitalized depos-
23 itory institution’ means any depository institu-
24 tion which—

1 “(i) is undercapitalized, as defined in
2 section 38 of the Federal Deposit Insur-
3 ance Act (or as defined by the National
4 Credit Union Administration Board, in the
5 case of an insured credit union); or

6 “(ii) has a composite CAMEL rating
7 of 5 under the Uniform Financial Institu-
8 tions Rating System (or an equivalent rat-
9 ing by any such agency under a com-
10 parable rating system) as of the most re-
11 cent examination of such institution.

12 “(E) VIABLE.—The term ‘viable’ means,
13 with respect to a depository institution, a de-
14 pository institution which the appropriate Fed-
15 eral banking agency determines, giving due re-
16 gard to the economic conditions and cir-
17 cumstances in the market in which the institu-
18 tion operates—

19 “(i) is not critically undercapitalized;

20 “(ii) is not expected to become criti-
21 cally undercapitalized; and

22 “(iii) is not expected to be placed in
23 conservatorship or receivership.”.

24 (c) SECTION 10b.—

1 (1) Subsection (a) of section 10b of the Federal
2 Home Loan Bank Act (12 U.S.C. 1430b) is amend-
3 ed to read as follows:

4 “(a) IN GENERAL.—

5 “(1) AUTHORITY.—Each enterprise resource
6 bank may make advances to a permissible
7 nonmember mortgagee.

8 “(2) PERMISSIBLE NONMEMBER MORTGAGEE.—
9 For purposes of paragraph (1), the term ‘permissible
10 nonmember mortgagee’ means—

11 “(A) any State housing finance agency or
12 Indian housing authority (including any sub-
13 sidiary of such agency or authority) approved
14 under title II of the National Housing Act—

15 “(i) which is a chartered institution
16 having succession and subject to the in-
17 spection and supervision of a governmental
18 agency; and

19 “(ii) whose principal activity in the
20 mortgage field must consist of lending the
21 institution’s own funds; or

22 “(B) any community development financial
23 institution—

1 “(i) which is not an insured deposi-
2 tory institution or a subsidiary of an in-
3 sured depository institution;

4 “(ii) which, at the time the advance is
5 made, has been certified within the last
6 year as a community development financial
7 institution under the Community Develop-
8 ment Banking and Financial Institutions
9 Act of 1994;

10 “(iii) which is a chartered institution
11 having succession; and

12 “(iv) whose principal activity in the
13 mortgage field must consist of lending the
14 institution’s own funds.

15 “(3) SECURITY.—Advances under paragraph
16 (1) shall not be subject to the other provisions and
17 restrictions of this Act, but shall be made upon the
18 security of mortgages insured under title II of the
19 National Housing Act.

20 “(4) TERMS AND CONDITIONS.—Advances made
21 under the terms of this section shall be at such rates
22 of interest and upon such terms and conditions as
23 shall be determined by the enterprise resource bank,
24 but no advance may be for an amount in excess of

1 90 percent of the unpaid principal of the mortgage
2 loan given as security.

3 “(5) DEFINITIONS OF COMMUNITY DEVELOP-
4 MENT FINANCIAL INSTITUTION.—The term ‘commu-
5 nity development financial institution’ has the same
6 meaning as in section 103 of the Community Devel-
7 opment Banking and Financial Institutions Act of
8 1994.”.

9 (2) Subsection (b) of section 10b of the Federal
10 Home Loan Bank Act (12 U.S.C. 1430b(b)) is
11 amended by inserting “or Indian housing authority”
12 after “State housing finance agency”.

13 (d) SECTION 11.—

14 (1) Subsection (a) of section 11 of the Federal
15 Home Loan Bank Act (12 U.S.C. 1431(a)) is
16 amended—

17 (A) by striking “(a) Each Federal Home
18 Loan Bank” and inserting “(a) BORROWING
19 AUTHORITY.—

20 “(1) IN GENERAL.—Each enterprise resource
21 bank”;

22 (B) by striking “, subject to rules and reg-
23 ulations prescribed by the Board”;

24 (C) by striking “Board” and inserting
25 “board of directors of the bank”; and

1 (D) by adding at the end the following new
2 paragraph:

3 “(2) BORROWING THROUGH THE OFFICE OF FI-
4 NANCE ONLY.—Notwithstanding paragraph (1), all
5 notes, bonds, and debentures issued by any enter-
6 prise resource bank shall be issued through the of-
7 fice of finance as agent for the banks.”.

8 (2) Subsection (b) of section 11 of the Federal
9 Home Loan Bank Act (12 U.S.C. 1431(b)) is
10 amended to read as follows:

11 “(b) ISSUANCE OF ENTERPRISE RESOURCE BANK
12 BONDS.—

13 “(1) IN GENERAL.—The office of finance may
14 issue consolidated enterprise resource bank bonds
15 and other consolidated obligations on behalf of the
16 banks.

17 “(2) JOINT AND SEVERAL OBLIGATIONS.—Con-
18 solidated obligations issued by the office of finance
19 under paragraph (1) shall be the joint and several
20 obligations of all the enterprise resource banks.”.

21 (3) Section 11 of the Federal Home Loan Bank
22 Act (12 U.S.C. 1431) is amended by striking sub-
23 section (c).

1 (4) Section 11(d) of the Federal Home Loan
2 Bank Act (12 U.S.C. 1431(d)) is amended to read
3 as follows:

4 “(d) ADDITIONAL OR SUBSTITUTED COLLATERAL.—
5 The Finance Board, for safety and soundness reasons,
6 may require any enterprise resource bank to deposit addi-
7 tional collateral or to make substitutions of collateral.”.

8 (5) Section 11(e) of the Federal Home Loan
9 Bank Act (12 U.S.C. 1431(e)) is amended to read
10 as follows:

11 “(e) ACCEPTANCE OF DEPOSITS; REGULATIONS.—

12 “(1) ACCEPTANCE OF DEPOSITS.—Subject to
13 regulations prescribed by the Finance Board, each
14 enterprise resource bank may accept deposits made
15 by members of such bank or by any other enterprise
16 resource bank or other instrumentality of the United
17 States, upon such terms and conditions as the bank
18 may determine.

19 “(2) COLLECTION AND SETTLEMENT OF
20 CHECKS.—

21 “(A) IN GENERAL.—Subject to regulations
22 of the Finance Board, an enterprise resource
23 bank may be a drawee of, and engage in, or be
24 agents or intermediaries for, or otherwise par-
25 ticipate or assist in, the collection and settle-

1 ment of (including presentment, clearing, and
2 payment of, and remitting for), checks, drafts,
3 or any other negotiable or nonnegotiable items
4 or instruments of payment drawn on or issued
5 by members of any enterprise resource bank or
6 by institutions which are eligible to make appli-
7 cation to become members pursuant to section
8 4, and to have such incidental powers as the Fi-
9 nance Board shall find necessary for the exer-
10 cise of any such authorization.

11 “(B) CHARGES.—An enterprise resource
12 bank shall make charges, to be determined by
13 the bank consistent with the principles set forth
14 in section 11A(c) of the Federal Reserve Act, or
15 utilize the services of, or act as agent for, or be
16 a member of, a Federal reserve bank, clearing-
17 house, or any other public or private financial
18 institution or other agency, in the exercise of
19 any powers or functions pursuant to this para-
20 graph.

21 “(C) REGULATIONS.—

22 “(i) IN GENERAL.—The Finance
23 Board may, with respect to participation in
24 the collection and settlement of any items
25 by enterprise resource banks, and with re-

1 spect to the collection and settlement (in-
2 cluding payment by the payor institution)
3 of items payable by members, to prescribe
4 regulations regarding the rights, powers,
5 responsibilities, duties, and liabilities, in-
6 cluding standards relating to such rights,
7 powers, responsibilities, duties, and liabil-
8 ities, of such enterprise resource banks,
9 members, and other parties to any such
10 item or the collection and settlement of
11 any such item.

12 “(ii) APPLICATION OF BANKING
13 USAGE AND PRACTICE.—In prescribing
14 such regulations, the Finance Board may
15 adopt or apply, in whole or in part, general
16 banking usage and practices, and, in in-
17 stances or respects in which they would
18 otherwise not be applicable, regulations of
19 the Board of Governors of the Federal Re-
20 serve System and operating letters, the
21 Uniform Commercial Code, and clearing-
22 house rules.

23 “(3) PROHIBITION ON OTHER GENERAL BANK-
24 ING ACTIVITIES.—An enterprise resource bank may
25 not engage in any banking or other commercial ac-

1 activities other than the activities specifically author-
2 ized under this Act and activities incidental to such
3 authorized activities.”.

4 (6) Subsection (f) of section 11 of the Federal
5 Home Loan Bank Act is amended to read as follows:

6 “(f) REDISCOUNT OF NOTES HELD BY OTHER
7 BANKS; PURCHASE OF BONDS OF OTHER BANKS.—The
8 enterprise resource banks may—

9 “(1) rediscount the discounted notes of share-
10 holders of an enterprise resource bank which are
11 held by other enterprise resource banks;

12 “(2) make loans to, or make deposits with,
13 other enterprise resource banks; or

14 “(3) purchase any bonds or debentures issued
15 under this section.”.

16 (7) Subsection (h) of section 11 of the Federal
17 Home Loan Bank Act is amended by striking “sec-
18 tion 301(d) of the Small Business Investment Act of
19 1958” and inserting “title III of the Small Business
20 Investment Act of 1958”.

21 (8) Subsection (j) of section 11 of the Federal
22 Home Loan Bank Act is amended to read as follows:

23 “(j) AUDITS.—

24 “(1) AUDITS BY INSPECTOR GENERAL AND
25 GAO.—The financial transactions of each enterprise

1 resource bank and the office of finance shall be au-
2 dited in accordance with paragraph (1) of section
3 9105(a) of title 31, United States Code, and may be
4 audited in accordance with paragraph (4) of such
5 section.

6 “(2) EXCEPTION TO EXCLUSION FROM GOVERN-
7 MENT CORPORATION CONTROL ACT.—Section
8 9107(e)(2) of title 31, United States Code, shall not
9 apply to any enterprise resource bank or the office
10 of finance.

11 “(3) SELECTION OF EXTERNAL AUDITORS.—

12 “(A) IN GENERAL.—The enterprise re-
13 source banks and the office of finance shall con-
14 tract jointly for an annual external audit.

15 “(B) ROLE OF THE BOARD.—Notwith-
16 standing any other provision of law, the Fi-
17 nance Board shall not participate in the audit
18 contracting process under this paragraph except
19 that the Finance Board may establish require-
20 ments for external audit contracts and require-
21 ments to assure consistency in financial re-
22 port.”.

23 (e) SECTION 16.—

24 (1) Section 16(a) of the Federal Home Loan
25 Bank Act (12 U.S.C. 1436(a)) is amended—

1 (A) in the 3d sentence, by striking “and
2 then only with the approval of the Federal
3 Housing Finance Board” and inserting “subject
4 to such regulations as may be prescribed by the
5 Finance Board”; and

6 (B) by striking the 4th sentence and in-
7 serting the following new sentence: “No enter-
8 prise resource bank may make any dividend
9 payment pursuant to the preceding sentence
10 without the approval of the Finance Board un-
11 less the amount of retained earnings and re-
12 serves (other than loan loss reserves) of the
13 bank after the payment of such dividend would
14 equal or exceed the amount of capital required
15 in order for the bank to be treated as ade-
16 quately capitalized under all relevant capital
17 measures in effect pursuant to section 6A(c).”.

18 (2) Section 16 of the Federal Home Loan Bank
19 Act (12 U.S.C. 1436) is amended by adding at the
20 end the following new subsection:

21 “(d) OWNERSHIP INTEREST IN RETAINED EARNINGS
22 RECOGNIZED.—Subject to any other provision of this Act,
23 each enterprise resource bank and, indirectly, the voting
24 shareholders of each bank, shall have an ownership inter-

1 est in, and a property right in, the retained earnings of
2 the bank.”.

3 (f) REPEAL OF SECTIONS 2A, 2B, AND 24.—The
4 Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.)
5 is amended by striking sections 2A, 2B, and 24.

6 **SEC. 13. INCORPORATION OF BANKS; CORPORATE POWERS.**

7 Section 12 of the Federal Home Loan Bank Act is
8 amended to read as follows:

9 **“SEC. 12. INCORPORATION OF BANKS; CORPORATE POW-**
10 **ERS.**

11 “(a) ORGANIZATIONAL CERTIFICATES.—

12 “(1) CUSTODIANSHIP.—The Finance Board
13 shall be the custodian of the organizational certifi-
14 cates of the enterprise resource banks previously
15 filed with the Federal Home Loan Bank Board (as
16 in existence before the end of the 60-day period be-
17 ginning on the date of the enactment of the Finan-
18 cial Institutions Reform, Recovery, and Enforcement
19 Act of 1989) or the Finance Board.

20 “(2) REPLACEMENT OF LOST OR DESTROYED
21 CERTIFICATE.—If the organizational certificate of an
22 enterprise resource bank is lost or destroyed, the
23 board of directors of the bank shall provide the Fi-
24 nance Board with a substitute certificate containing
25 such information as the Finance Board may require.

1 “(3) AMENDMENT IN CASE OF MERGER, COM-
2 BINATION, OR CONSOLIDATION.—If 2 or more enter-
3 prise resource banks merge, combine, or otherwise
4 consolidate, the resulting bank shall provide the Fi-
5 nance Board with an amended organizational certifi-
6 cate containing such information as the Finance
7 Board may require.

8 “(b) CORPORATE STATUS.—Each enterprise resource
9 bank shall be a corporation.

10 “(c) POWERS.—Each enterprise resource bank shall
11 have the following powers:

12 “(1) To adopt, alter, and use a corporate seal.

13 “(2) To make contracts.

14 “(3) To purchase or lease and hold or dispose
15 of such real estate as may be necessary or conven-
16 ient for the transaction of the business of the bank.

17 “(4) To sue and be sued, to complain, and to
18 defend, in any court of competent jurisdiction.

19 “(5) To select, employ, and fix the compensa-
20 tion of such officers, employees, attorneys, and
21 agents as the board of directors determines to be
22 necessary for the transaction of the business of the
23 bank.

1 “(6) To define the duties of, and require bonds
2 of, officers, employees, attorneys, and agents of the
3 bank and fix the penalties of any such bonds.

4 “(7) To dismiss at pleasure officers, employees,
5 attorneys, and agents of the bank.

6 “(8) By the board of directors, to prescribe,
7 amend, and repeal bylaws and policies governing the
8 manner in which the affairs of the bank may be ad-
9 ministered.

10 “(9) Such incidental powers as are not incon-
11 sistent with the provisions of this Act and are cus-
12 tomary and usual in corporations generally.

13 “(d) PROHIBITION ON EXCESSIVE COMPENSATION.—

14 “(1) IN GENERAL.—The Finance Board shall
15 prohibit the enterprise resource banks from provid-
16 ing compensation to any employee of the bank that
17 is not reasonable and comparable with compensation
18 for employment in other similar businesses (includ-
19 ing other financial institutions or major financial
20 services companies) involving similar duties and re-
21 sponsibilities.

22 “(2) LIMITATION ON FINANCE BOARD’S AU-
23 THORITY TO SET COMPENSATION.—In carrying out
24 paragraph (1), the Financial Board may not pre-

1 scribe or set a specific level or range of compensa-
2 tion.

3 “(e) STATUS OF BANK EMPLOYEES.—Notwithstand-
4 ing any other provision of this Act, no officer, employee,
5 or agent of an enterprise resource bank or the office of
6 finance of such banks shall be considered to be an officer
7 or employee of the United States for purposes of title 5,
8 United States Code.

9 “(f) GUARANTEED HOUSING PROJECT LOANS.—
10 Subject to such regulations as may be prescribed by the
11 Finance Board, an enterprise resource bank may acquire,
12 hold, or dispose of, in whole or in part, or facilitate the
13 acquisition, holding, or disposition by members of such
14 bank of, any housing project loan which has the benefit
15 of any guaranty under section 221, 222, or 224 of the
16 Foreign Assistance Act of 1961, any interest in any such
17 loan, or any commitment or agreement with respect to any
18 such loan or interest.”.

19 **SEC. 14. SUCCESSION OF ENTERPRISE RESOURCE BANKS.**

20 Section 25 of the Federal Home Loan Bank Act (12
21 U.S.C. 1445) is amended by inserting “, operation of
22 law,” after “the Board under this Act”.

1 **SEC. 15. DEFINITIONS.**

2 (a) FINANCE BOARD DEFINED.—Paragraph (1) of
3 section 2 of the Federal Home Loan Bank Act (12 U.S.C.
4 1422(1)) is amended to read as follows:

5 “(1) FINANCE BOARD.—The term ‘Finance
6 Board’ means the Federal Housing Finance Board
7 established under section 3.”

8 (b) HOME MORTGAGE LOAN DEFINED.—Section 2 of
9 the Federal Home Loan Bank Act (12 U.S.C. 1422) is
10 amended by striking paragraphs (5) and (6) and inserting
11 the following new paragraph:

12 “(5) HOME MORTGAGE LOAN.—

13 “(A) IN GENERAL.—The term ‘home mort-
14 gage loan’ means a loan made by a voting
15 shareholder or nonshareholder borrower upon
16 the security of—

17 “(i) a mortgage, deed of trust, or
18 other security arrangement upon qualified
19 real estate, in fee simple; or

20 “(ii) on a qualified leasehold—

21 “(I) under a lease which has a
22 period to maturity of not less than 99
23 years and is renewable; or

24 “(II) under a lease having a pe-
25 riod of not less than 50 years to run
26 from the date the mortgage, deed of

1 trust, or other security arrangement
2 was executed.

3 “(B) CERTAIN LOANS INCLUDED.—The
4 term ‘home mortgage loan’ includes—

5 “(i) such classes of first liens as are
6 commonly given to secure advances on real
7 estate, under the laws of the State in
8 which the real estate is located, by institu-
9 tions authorized under this Act to become
10 members of an enterprise resource bank;
11 and

12 “(ii) the credit instruments, if any, se-
13 cured by such liens.

14 “(C) QUALIFIED REAL ESTATE; QUALIFIED
15 LEASEHOLD.—The term ‘qualified real estate’
16 and ‘qualified leasehold’ mean real estate upon
17 which is located, or which comprises or in-
18 cludes, 1 or more homes or other dwelling
19 units.

20 “(D) DEFINITION OF FURTHER TERMS.—
21 The Finance Board may define any term used
22 in this paragraph.”.

23 (e) RESIDENTIAL MORTGAGE ASSETS DEFINED.—
24 Section 2 of the Federal Home Loan Bank Act (12 U.S.C.
25 1422) is amended—

1 (1) by redesignating paragraphs (7), (8), (9),
2 (10), (11), and (12) as paragraphs (6), (7), (8), (9),
3 (10), and (11), respectively; and

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

6 “(12) RESIDENTIAL MORTGAGE ASSETS.—The
7 term ‘residential mortgage asset’—

8 “(A) means a home mortgage, deed of
9 trust, or other security arrangement upon real
10 estate that is solely residential; and

11 “(B) includes any mortgage pass-through
12 security or mortgage debt security representing
13 an interest in, or which is collateralized by,
14 home mortgage loans.”.

15 (d) REGULATED FINANCIAL INSTITUTION DE-
16 FINED.—Section 2 of the Federal Home Loan Bank Act
17 (12 U.S.C. 1422) is amended by adding after paragraph
18 (12) (as added by subsection (c) of this section) the follow-
19 ing new paragraph:

20 “(13) REGULATED FINANCIAL INSTITUTION.—

21 The term ‘regulated financial institution’ means—

22 “(A) any depository institution (as defined
23 in section 3(e) of the Federal Deposit Insurance
24 Act; and

1 “(B) any insured or noninsured credit
2 union (as such terms are defined in section
3 101(7) of the Federal Credit Union Act).”.

4 (e) CAPITAL DISTRIBUTION DEFINED.—Section 2 of
5 the Federal Home Loan Bank Act (12 U.S.C. 1422) is
6 amended by adding after paragraph (13) (as added by
7 subsection (d) of this section) the following new para-
8 graph:

9 “(14) CAPITAL DISTRIBUTION.—The term ‘cap-
10 ital distribution’ means—

11 “(A) any dividend or other distribution in
12 cash or other property made with respect to any
13 shares of, or other ownership interest in, an en-
14 terprise resource bank, other than a dividend
15 consisting only of shares of any such bank;

16 “(B) any payment in cash or other prop-
17 erty made by an enterprise resource bank to re-
18 purchase, redeem, retire, or otherwise acquire
19 any of the shares of the bank, including any ex-
20 tension of credit made to finance an acquisition
21 by a bank of such shares; and

22 “(C) any transaction that the Finance
23 Board determines by regulation to be, in sub-
24 stance, a distribution of capital of an enterprise
25 resource bank.”.

1 (f) BANK-AFFILIATED PARTY.—Section 2 of the
2 Federal Home Loan Bank Act (12 U.S.C. 1422) is
3 amended by adding after paragraph (14) (as added by
4 subsection (e) of this section) the following new para-
5 graph:

6 “(15) BANK-AFFILIATED PARTY.—The term
7 ‘bank-affiliated party’ means—

8 “(A) any director, officer, or employee of,
9 or agent for, an enterprise resource bank;

10 “(B) any voting shareholder, consultant,
11 joint venture partner, and any other person as
12 determined by the Finance Board who partici-
13 pates in the conduct of the affairs of an enter-
14 prise resource bank; and

15 “(C) any independent contractor (including
16 any attorney, appraiser, or accountant) who
17 knowingly or recklessly participates in—

18 “(i) any violation of any law or regu-
19 lation;

20 “(ii) any breach of fiduciary duty; or

21 “(iii) any unsafe or unsound practice,
22 which caused or is likely to cause more than a
23 minimal financial loss to, or a significant ad-
24 verse effect on, the enterprise resource bank.”.

1 (g) VOTING SHAREHOLDER.—Section 2 of the Fed-
2 eral Home Loan Bank Act (12 U.S.C. 1422) is amended
3 by adding after paragraph (15) (as added by subsection
4 (f) of this section) the following new paragraph:

5 “(16) VOTING SHAREHOLDER.—The term ‘vot-
6 ing shareholder’ means any regulated financial insti-
7 tution or insurance company which holds any voting
8 stock of an enterprise resource bank.”.

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