

104TH CONGRESS
1ST SESSION

S. 650

To increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 30 (legislative day, MARCH 27), 1995

Mr. SHELBY (for himself, Mr. MACK, Mr. D'AMATO, Mr. BRYAN, Mr. BENNETT, Mr. FAIRCLOTH, Mr. BOND, Mr. GRAMM, and Mr. DOLE) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, 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.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Economic Growth and Regulatory Paperwork Reduction
6 Act of 1995”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Definitions.

TITLE I—REDUCTIONS IN GOVERNMENT OVERREGULATION

Subtitle A—The Home Mortgage Process

PART I—REGULATORY SIMPLIFICATION AND UNIFORMITY

- Sec. 101. Coordination of the Truth in Lending Act and the Real Estate Settlement Procedures Act.
 Sec. 102. Elimination of redundant regulators.
 Sec. 103. General exemption authority for loans.
 Sec. 104. Reductions in Real Estate Settlement Procedures Act regulatory burdens.

PART II—CLARIFICATIONS TO REDUCE COSTS AND REGULATORY BURDENS

- Sec. 111. Exemption for certain borrowers.
 Sec. 112. Alternative disclosures for adjustable rate mortgages.
 Sec. 113. Treatment of certain charges.
 Sec. 114. Exemptions from rescission.
 Sec. 115. Tolerances; basis of disclosures.
 Sec. 116. Limitation on liability.
 Sec. 117. Limitation on rescission period.
 Sec. 118. Assignee liability.
 Sec. 119. Modification of waiver of right of rescission.
 Sec. 120. Applicability.

Subtitle B—Amendments to the Community Reinvestment Act of 1977

- Sec. 131. Expression of congressional intention.
 Sec. 132. Small bank exemption.
 Sec. 133. Community input and conclusive rating.
 Sec. 134. Special purpose banks.
 Sec. 135. Increased incentives to lending to low- and moderate-income communities.

Subtitle C—Payment of Interest Act

- Sec. 141. Payment of Interest Act.

TITLE II—STREAMLINING GOVERNMENT REGULATION

Subtitle A—Eliminating Unnecessary Regulatory Requirements and Procedures

- Sec. 201. Streamlining of prior approval requirement for certain acquisitions.
 Sec. 202. Elimination of certain filing and approval requirements for certain insured depository institutions.
 Sec. 203. Elimination of redundant approval requirement for OAKAR transactions.
 Sec. 204. Elimination of unnecessary branch applications.

- Sec. 205. Elimination of duplicative requirements imposed upon bank holding companies under the Home Owners' Loan Act.
- Sec. 206. Elimination of the per branch capital requirement for national banks and State member banks.
- Sec. 207. Elimination of branch application requirements for automatic teller machines.
- Sec. 208. Elimination of requirement for approval of investments in bank premises for well capitalized and well managed banks.
- Sec. 209. Elimination of approval requirement for divestitures.
- Sec. 210. Elimination of unnecessary filing for officer and director appointments.
- Sec. 211. Amendments to the Depository Institutions Management Interlocks Act.
- Sec. 212. Elimination of recordkeeping and reporting requirements for officers.
- Sec. 213. Abolition of Appraisal Subcommittee; transfer of functions.
- Sec. 214. Branch closures.
- Sec. 215. Foreign banks.

Subtitle B—Eliminating Unnecessary Costs and Paperwork Burdens

- Sec. 221. Small bank examination cycle.
- Sec. 222. Reimbursement for corporate records.
- Sec. 223. Required regulatory review of regulations.

Subtitle C—Eliminating Unnecessary Reporting Requirements

- Sec. 231. Prohibition on additional reporting under Community Reinvestment Act of 1977.
- Sec. 232. Exemption from community support requirements of the Federal Home Loan Bank Act for institutions meeting certain criteria.
- Sec. 233. Recording requirements.
- Sec. 234. Identification of nonbank financial institution customers.
- Sec. 235. Repeal of commercial loan reporting requirements.
- Sec. 236. Increase in Home Mortgage Disclosure Act; disclosure exemption.
- Sec. 237. Elimination of stock loan reporting requirement.

Subtitle D—Regulatory Micromanagement

- Sec. 241. National bank directors.
- Sec. 242. Paperwork reduction review.
- Sec. 243. State bank representation on Board of Directors of the FDIC.

TITLE III—REGULATORY IMPACT ON COST OF CREDIT AND CREDIT AVAILABILITY

Subtitle A—Lowering Compliance Costs To Promote Credit Availability

- Sec. 301. Audit costs.
- Sec. 302. Incentives for self-testing.
- Sec. 303. Exemption for savings institutions serving military personnel.
- Sec. 304. Qualified thrift investment amendments.
- Sec. 305. Daylight overdrafts incurred by Federal home loan banks.
- Sec. 306. Application for membership in the Federal home loan bank system.
- Sec. 307. Authority for Federal home loan banks to select external auditors.
- Sec. 308. Limited purpose bank growth cap relief.

Subtitle B—Disincentives to Risk-Taking

Sec. 311. Due process protections.

Subtitle C—Miscellaneous Nonsupervisory Reforms

Sec. 321. Liability for unauthorized use of credit cards.

Sec. 322. Unauthorized electronic fund transfers.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act—

3 (1) the term “Appraisal Subcommittee” means
4 the Appraisal Subcommittee established under sec-
5 tion 1011 of the Federal Financial Institutions Ex-
6 amination Council Act of 1978 (as in existence prior
7 to the date of enactment of this Act);

8 (2) the term “appropriate Federal banking
9 agency” has the same meaning as in section 3 of the
10 Federal Deposit Insurance Act;

11 (3) the term “Council” means the Federal Fi-
12 nancial Institutions Examination Council established
13 under section 1004 of the Federal Financial Institu-
14 tions Examination Council Act of 1978;

15 (4) the term “insured depository institution”
16 has the same meaning as in section 3 of the Federal
17 Deposit Insurance Act; and

18 (5) the term “insured credit union” has the
19 same meaning as in section 101 of the Federal
20 Credit Union Act.

1 **TITLE I—REDUCTIONS IN GOV-**
2 **ERNMENT OVERREGULATION**
3 **Subtitle A—The Home Mortgage**
4 **Process**

5 **PART I—REGULATORY SIMPLIFICATION AND**
6 **UNIFORMITY**

7 **SEC. 101. COORDINATION OF THE TRUTH IN LENDING ACT**
8 **AND THE REAL ESTATE SETTLEMENT PROCE-**
9 **DURES ACT.**

10 (a) AMENDMENTS TO TRUTH IN LENDING ACT.—
11 Section 105 of the Truth in Lending Act (15 U.S.C. 1604)
12 is amended by adding at the end the following new sub-
13 section:

14 “(e) AUTHORITY TO ELIMINATE, MODIFY, OR SIM-
15 PLIFY DISCLOSURE REQUIREMENTS.—The Board shall,
16 by regulation, eliminate, modify, or simplify any disclosure
17 required by this title, including the content and timing of
18 the disclosure, if such action would make disclosures and
19 timing of disclosures required by this title uniform with
20 other laws relating to the disclosure of information in con-
21 nection with credit transactions, including the Real Estate
22 Settlement Procedures Act. No disclosure requirement
23 may be imposed under this subsection unless such require-
24 ment would have the effect of eliminating, modifying, or
25 simplifying any disclosure required under this title.”

1 (b) AMENDMENTS TO REAL ESTATE SETTLEMENT
 2 PROCEDURES ACT.—Section 19 of the Real Estate Settle-
 3 ment Procedures Act (12 U.S.C. 2617) is amended by
 4 adding at the end the following new subsection:

5 “(d) AUTHORITY TO ELIMINATE, MODIFY, OR SIM-
 6 PLIFY DISCLOSURE REQUIREMENTS.—The Board shall,
 7 by regulation, eliminate, modify, or simplify any disclosure
 8 required by this title, including the content and timing of
 9 the disclosure, if such action would make disclosures and
 10 timing of disclosures required by this title uniform with
 11 other laws relating to the disclosure of information in con-
 12 nection with credit transactions, including the Truth in
 13 Lending Act. No disclosure requirement may be imposed
 14 under this subsection unless such requirement would have
 15 the effect of eliminating, modifying, or simplifying any dis-
 16 closure required under this title.”.

17 **SEC. 102. ELIMINATION OF REDUNDANT REGULATORS.**

18 (a) DEFINITION.—Section 3 of the Real Estate Set-
 19 tlement Procedures Act (12 U.S.C. 2602) is amended—

20 (1) in paragraph (7), by striking “and” at the
 21 end;

22 (2) in paragraph (8), by striking the period at
 23 the end and inserting “; and”; and

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

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

3 (b) CONFORMING AMENDMENTS.—The Real Estate
4 Settlement Procedures Act (12 U.S.C. 2601 et seq.) is
5 amended—

6 (1) in section 4, by striking “Secretary” each
7 place such term appears and inserting “Board”;

8 (2) in section 5, by striking “Secretary” each
9 place such term appears and inserting “Board”;

10 (3) in section 6, by striking “Secretary” each
11 place such term appears and inserting “Board”;

12 (4) in section 8—

13 (A) in subsection (c), by striking “the Sec-
14 retary,” and inserting “the Board,”; and

15 (B) in subsection (d), by striking “Sec-
16 retary” each place such term appears and in-
17 serting “Board”;

18 (5) in section 10, by striking “Secretary” each
19 place such term appears and inserting “Board”;

20 (6) in section 13, by striking “Secretary” and
21 inserting “Board”;

22 (7) in section 15—

23 (A) by striking “Secretary” each place
24 such term appears and inserting “Board”; and

1 (B) by striking “the Secretary’s assess-
2 ment” and inserting “the assessment of the
3 Board”;

4 (8) in section 16, by striking “Secretary” each
5 place such term appears and inserting “Board”; and

6 (9) in section 18, by striking “Secretary” each
7 place such term appears and inserting “Board”.

8 (c) REGULATIONS.—Section 19(a) of the Real Estate
9 Settlement Procedures Act (12 U.S.C. 2617) is amended
10 to read as follows:

11 “(a) REGULATIONS.—

12 “(1) IN GENERAL.—The Board shall prescribe
13 such regulations as may be necessary to carry out
14 this title.

15 “(2) SPECIFICATIONS.—The regulations pro-
16 mulgated under paragraph (1)—

17 “(A) may contain such classifications, dif-
18 ferentiations, or other provisions, and may pro-
19 vide for such adjustments and exceptions for
20 any class of transactions, as the Board deter-
21 mines to be necessary or proper to—

22 “(i) effectuate the purposes of this
23 title;

24 “(ii) prevent circumvention or evasion
25 of this title; or

1 “(iii) facilitate compliance with this
2 title; and

3 “(B) shall minimize the burdens and cost
4 imposed upon creditors and shall ensure that
5 costs, burdens, and complexities to consumers
6 are reduced.”.

7 (d) ADMINISTRATIVE ENFORCEMENT.—The Real Es-
8 tate Settlement Procedures Act (12 U.S.C. 2601 et seq.)
9 is amended by adding at the end the following new section:

10 **“SEC. 20. ADMINISTRATIVE ENFORCEMENT.**

11 “(a) IN GENERAL.—Compliance with the require-
12 ments imposed under this title shall be enforced under—

13 “(1) section 8 of the Federal Deposit Insurance
14 Act, with respect to—

15 “(A) any national bank or any Federal
16 branch or Federal agency of a foreign bank, by
17 the Office of the Comptroller of the Currency;

18 “(B) any member bank of the Federal Re-
19 serve System (other than a national bank), any
20 branch or agency of a foreign bank (other than
21 a Federal branch or Federal agency, or insured
22 State branch of a foreign bank), any commer-
23 cial lending company owned or controlled by
24 one or more foreign banks, or any organization

1 operating under section 25 or 25A of the Fed-
2 eral Reserve Act, by the Board;

3 “(C) any bank insured under the Federal
4 Deposit Insurance Act (other than a member of
5 the Federal Reserve System) or any insured
6 State branch of a foreign bank, by the Board
7 of Directors of the Federal Deposit Insurance
8 Corporation; and

9 “(D) any savings association the deposits
10 of which are insured under the Federal Deposit
11 Insurance Act, by the Director of the Office of
12 Thrift Supervision;

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

16 “(3) the Packers and Stockyards Act, 1921 (ex-
17 cept as provided in section 406 of such Act), by the
18 Secretary of Agriculture with respect to any activi-
19 ties subject to such Act; and

20 “(4) the Farm Credit Act of 1971, by the Farm
21 Credit Administration with respect to any institution
22 referred to in section 1.2(a) of that Act.

23 “(b) DEFINITIONS.—Each term in subsection (a)(1)
24 that is not defined in this title shall have the same mean-

1 ing as in section 1(b) of the International Banking Act
2 of 1978.

3 “(c) ADDITIONAL ENFORCEMENT POWERS.—

4 “(1) VIOLATIONS.—For the purpose of the ex-
5 ercise by any agency referred to in subsection (a) of
6 the powers of the agency under any Act referred to
7 in that subsection, a violation of any requirement
8 imposed under this title shall be deemed to be a vio-
9 lation of a requirement imposed under that Act.

10 “(2) POWERS.—In addition to the powers of
11 the agency under any provision of law specifically re-
12 ferred to in subsection (a), each agency referred to
13 in that subsection may exercise, for the purpose of
14 enforcing compliance with any requirement imposed
15 under this title, any other authority conferred on the
16 agency by law.

17 “(3) REGULATIONS BY AGENCIES OTHER THAN
18 THE BOARD.—The authority of the Board to pro-
19 mulgate regulations under this title does not impair
20 the authority of any other agency referred to in sub-
21 section (a) to make rules regarding the procedures
22 of the Board in enforcing compliance with the re-
23 quirements imposed under this title.

24 “(d) FTC ENFORCEMENT.—

1 “(1) IN GENERAL.—Except to the extent that
2 the enforcement of the requirements imposed under
3 this title is specifically committed to another agency
4 of the Federal Government under subsection (a), the
5 Federal Trade Commission shall enforce such
6 requirements.

7 “(2) VIOLATIONS.—For the purpose of the ex-
8 ercise by the Federal Trade Commission of the func-
9 tions and powers of the Commission under the Fed-
10 eral Trade Commission Act, a violation of any re-
11 quirement imposed under this title shall be deemed
12 to be a violation of a requirement imposed under
13 that Act.

14 “(3) FUNCTIONS AND POWERS.—All of the
15 functions and powers of the Federal Trade Commis-
16 sion under the Federal Trade Commission Act are
17 available to the Federal Trade Commission to en-
18 force compliance by any person with the require-
19 ments imposed under this title, regardless of wheth-
20 er or not the person is engaged in commerce or
21 meets any other jurisdictional tests in the Federal
22 Trade Commission Act.”.

1 **SEC. 103. GENERAL EXEMPTION AUTHORITY FOR LOANS.**

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

5 “(7) Transactions for which the Board, by rule,
6 determines that coverage under this title is not nec-
7 essary to carry out the purposes of this title.”.

8 (b) EXEMPTION AUTHORITY.—Section 105 of the
9 Truth in Lending Act (15 U.S.C. 1604) is amended by
10 adding at the end the following new subsection:

11 “(f) EXEMPTION AUTHORITY.—

12 “(1) IN GENERAL.—The Board shall exempt
13 from all or part of this title any class of transactions
14 for which, in the determination of the Board, cov-
15 erage under all or part of this title does not provide
16 a measurable benefit to consumers in the form of
17 useful information or protection.

18 “(2) FACTORS FOR CONSIDERATION.—In deter-
19 mining which classes of transactions to exempt in
20 whole or in part under paragraph (1), the Board
21 shall consider, among other factors—

22 “(A) the amount of the loan or closing
23 costs and whether the disclosures, right of re-
24 scission, and other provisions are necessary,
25 particularly for small loans, as determined by
26 the Board;

1 “(B) whether the requirements of this title
2 complicate, hinder, or make more expensive the
3 credit process for the class of transactions; and

4 “(C) the status of the borrower, includ-
5 ing—

6 “(i) the related financial arrange-
7 ments of the borrower, as determined by
8 the Board;

9 “(ii) the financial sophistication of the
10 borrower relative to the type of trans-
11 action; and

12 “(iii) the importance to the borrower
13 of the credit and related supporting prop-
14 erty, as determined by the Board.”.

15 **SEC. 104. REDUCTIONS IN REAL ESTATE SETTLEMENT PRO-**
16 **CEDURES ACT REGULATORY BURDENS.**

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

20 “(a) DISCLOSURE TO APPLICANT RELATING TO AS-
21 SIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—
22 Each person who makes a federally related mortgage loan
23 shall disclose to each person who applies for the loan, at
24 the time of application for the loan, whether the servicing

1 of the loan may be assigned, sold, or transferred to any
2 other person at any time while the loan is outstanding.”.

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

6 (c) CONSISTENCY OF REAL ESTATE SETTLEMENT
7 PROCEDURES ACT AND TRUTH IN LENDING ACT EXEMP-
8 TION OF BUSINESS LOANS.—Section 7 of the Real Estate
9 Settlement Procedures Act (12 U.S.C. 2606) is amend-
10 ed—

11 (1) by striking “This Act” and inserting the
12 following:

13 “(a) IN GENERAL.—This Act”; and

14 (2) by adding at the end the following new sub-
15 section:

16 “(b) INTERPRETATION.—In promulgating regula-
17 tions under section 19(a), the Board shall ensure that,
18 with respect to subsection (a), the exemption for business
19 credit includes all ‘business credit’ exempted from the
20 Truth in Lending Act, as such term is interpreted by the
21 Board.”.

1 **PART II—CLARIFICATIONS TO REDUCE COSTS**
2 **AND REGULATORY BURDENS**

3 **SEC. 111. EXEMPTION FOR CERTAIN BORROWERS.**

4 Section 104 of the Truth in Lending Act (15 U.S.C.
5 1603) is amended by adding at the end the following new
6 paragraph:

7 “(8) Credit transactions involving consumers
8 with an annual earned income of more than
9 \$200,000 or having net assets in excess of
10 \$1,000,000 at the time of the transaction.”.

11 **SEC. 112. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE**
12 **RATE MORTGAGES.**

13 (a) OPEN END CONSUMER CREDIT PLANS.—Section
14 127A(a)(2)(G) of the Truth in Lending Act (15 U.S.C.
15 1637a(a)(2)(G)) is amended by inserting before the semi-
16 colon the following: “, or a statement that the monthly
17 payment may increase or decrease significantly due to in-
18 creases in the annual percentage rate”.

19 (b) TECHNICAL AMENDMENT.—Section 127A(b)(3)
20 of the Truth in Lending Act (15 U.S.C. 1637a(b)(3)) is
21 amended by striking “required under” and inserting “re-
22 ferred to in”.

23 (c) CONSUMER CREDIT NOT UNDER OPEN END
24 CREDIT PLAN.—Section 128(a) of the Truth in Lending
25 Act (15 U.S.C. 1638(a)) is amended by adding at the end
26 the following new paragraph:

1 “(14) In any variable interest rate residential
2 mortgage transaction, at the option of the creditors,
3 a statement that the monthly payment may increase
4 or decrease substantially, or an historical example il-
5 lustrating the effects of interest rate changes imple-
6 mented according to the loan program.”.

7 **SEC. 113. TREATMENT OF CERTAIN CHARGES.**

8 (a) **THIRD PARTY FEES.**—Section 106(a) of the
9 Truth in Lending Act (15 U.S.C. 1605(a)) is amended
10 by inserting after the second sentence the following new
11 sentence: “The finance charge shall not include fees and
12 amounts imposed by third party closing agents (including
13 settlement agents, attorneys, and escrow and title compa-
14 nies) if the creditor does not expressly require the imposi-
15 tion of the charges and does not retain the charges.”.

16 (b) **TAXES ON SECURITY INSTRUMENTS OR EVI-**
17 **DENCES OF INDEBTEDNESS.**—Section 106(d) of the
18 Truth in Lending Act (15 U.S.C. 1605(d)) is amended
19 by adding at the end the following new paragraph:

20 “(3) Any tax levied on security instruments or
21 on documents evidencing indebtedness, if the pay-
22 ment of such tax is a precondition for recording the
23 instrument securing the evidence of indebtedness.”.

1 (c) PREPARATION OF LOAN DOCUMENTS.—Section
2 106(e)(2) of the Truth in Lending Act (15 U.S.C.
3 1605(e)(2)) is amended to read as follows:

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

6 (d) APPLICABILITY.—The amendments made by sub-
7 sections (a) and (b) shall apply to all extensions of credit
8 with respect to which rescission rights have not been as-
9 serted as of January 4, 1995.

10 **SEC. 114. EXEMPTIONS FROM RESCISSION.**

11 (a) CERTAIN REFINANCINGS.—Section 125(e) of the
12 Truth in Lending Act (15 U.S.C. 1635(e)) is amended—

13 (1) in paragraph (3), by striking “or” at the
14 end;

15 (2) in paragraph (4), by striking the period at
16 the end and inserting “; or”; and

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

19 “(5) a consumer credit transaction, other than
20 a mortgage referred to in section 103(aa), that—

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

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

1 (b) TECHNICAL AND CONFORMING AMENDMENT.—
2 Section 125(e)(2) of the Truth in Lending Act (15 U.S.C.
3 1635(e)(2)) is amended by inserting “, other than a trans-
4 action described in subsection (e)(5),” after “a refinancing
5 or consolidation (with no new advances)”.

6 **SEC. 115. TOLERANCES; BASIS OF DISCLOSURES.**

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

10 “(f) TOLERANCE FOR ACCURACY.—In connection
11 with any consumer credit transaction not under an open
12 end credit plan that is secured by real property or a dwell-
13 ing, the disclosure of the finance charge and other disclo-
14 sures affected by any finance charge shall be treated as
15 being accurate for purposes of this title if the amount dis-
16 closed as the finance charge does not vary from the actual
17 finance charge by more than \$100.”.

18 (b) BASIS OF DISCLOSURE FOR PER DIEM INTER-
19 EST.—Section 121(c) of the Truth in Lending Act (15
20 U.S.C. 1631(c)) is amended by adding at the end the fol-
21 lowing new sentence: “In the case of any consumer credit
22 transaction, a portion of the interest on which is deter-
23 mined on a per diem basis and is to be collected upon
24 the consummation of such transaction, any disclosure with
25 respect to such portion of interest shall be deemed to be

1 accurate for purposes of this title if the disclosure is based
2 on reasonably available information known to such person
3 at the time that the disclosure documents are being pre-
4 pared for the consummation of the transaction.”.

5 **SEC. 116. LIMITATION ON LIABILITY.**

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

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

10 “(a) LIMITATIONS ON LIABILITY FOR DISCLOSURES
11 RELATING TO CERTAIN FEES AND CHARGES OTHER
12 THAN FINANCE CHARGES.—

13 “(1) IN GENERAL.—In the case of any
14 consumer credit transaction subject to this title con-
15 summated before the date of enactment of the Truth
16 in Lending Act Amendments of 1995, no creditor or
17 assignee with respect to such transaction shall have
18 any civil, administrative, or criminal liability under
19 this title for, and no consumer shall have any ex-
20 tended rescission rights under section 125(f) by rea-
21 son of, the treatment by the creditor, for disclosure
22 purposes, of any—

23 “(A) tax described in section 106(d)(3);

24 “(B) fees and amounts described in para-
25 graph (2) or (5) of section 106(e) and third

1 party fees and amounts described in section
2 106(a); and

3 “(C) delivery charge imposed by a creditor.

4 “(2) EXCEPTIONS.—Subsection (a) shall not
5 apply to—

6 “(A) any individual action or counterclaim
7 brought under this title—

8 “(i) that was filed before October 1,
9 1994; and

10 “(ii) the pleadings in which (as filed
11 before such date) allege improper disclo-
12 sure of charges described in subparagraph
13 (A), (B), or (C) of paragraph (1);

14 “(B) any class action brought under this
15 title—

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

18 “(ii) the pleadings in which (as filed
19 before such date) allege improper disclo-
20 sure of charges described in subparagraph
21 (A), (B), or (C) of paragraph (1);

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

24 “(i) that was filed before October 1,
25 1994; and

1 “(ii) the pleadings in which (as filed
2 before such date) allege improper disclo-
3 sure of charges described in subparagraph
4 (A), (B), or (C) of paragraph (1); or

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

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

10 “(1) IN GENERAL.—In the case of any
11 consumer credit transaction subject to this title, in-
12 cluding a transaction consummated before the date
13 of enactment of the Truth in Lending Act Amend-
14 ments of 1995, no creditor or assignee with respect
15 to such transaction shall have any civil, administra-
16 tive, or criminal liability under this title for, and no
17 consumer shall have any extended rescission rights
18 under section 125 by reason of, any disclosure relat-
19 ing to the finance charge imposed with respect to
20 such transaction, if the amount or percentage actu-
21 ally disclosed—

22 “(A) may be treated as accurate pursuant
23 to section 106(f); or

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

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

3 “(A) any individual action or counterclaim
4 brought under this title that was filed before
5 October 1, 1994;

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

9 “(C) the named individual plaintiffs in any
10 class action brought under this title that was
11 filed before October 1, 1994; or

12 “(D) any consumer credit transaction with
13 respect to which a timely notice of rescission
14 was sent to the creditor before October 1,
15 1994.”.

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

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

20 **SEC. 117. LIMITATION ON RESCISSION PERIOD.**

21 Section 125(f) of the Truth in Lending Act (15
22 U.S.C. 1635(f)) is amended—

23 (1) by striking “(f) An obligor’s right of rescis-
24 sion” and inserting the following:

25 “(f) LIMITATION ON RESCISSION PERIOD.—

1 “(1) IN GENERAL.—The right of rescission of
2 an obligor”;

3 (2) by striking “except that if (1) any agency”
4 and inserting the following: “except that if—

5 “(A) any agency”;

6 (3) by striking “transaction, (2) such agency”
7 and inserting the following: “transaction;

8 “(B) such agency”;

9 (4) by striking “section 125, and (3) the obli-
10 gor’s” and inserting the following: “this section; and

11 “(C) the obligor’s”; and

12 (5) by adding at the end the following new
13 paragraphs:

14 “(2) ACTIONS AFFECTED.—Except as otherwise
15 provided in paragraph (1), the expiration of the
16 right of rescission pursuant to this subsection shall
17 be absolute and no consumer may assert rescission,
18 affirmatively or as a defense, in any action brought
19 under this title in any State or Federal court after
20 the earlier of—

21 “(A) the expiration of the 3-year period be-
22 ginning on the date on which the transaction is
23 consummated; or

24 “(B) the date of the sale of the property
25 securing the loan or other extension of credit.

1 “(3) PREEMPTION OF STATE LAW.—This sub-
2 section shall supersede any State law that is incon-
3 sistent with any provision of this subsection.”.

4 **SEC. 118. ASSIGNEE LIABILITY.**

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

9 “(a) LIABILITY OF ASSIGNEE FOR APPARENT VIOLA-
10 TIONS.—

11 “(1) IN GENERAL.—Except as otherwise specifi-
12 cally provided in this title, any civil action against
13 a creditor for a violation of this title, and any pro-
14 ceeding under section 108 against a creditor, with
15 respect to a consumer credit transaction may be
16 maintained against any assignee of such creditor
17 only if—

18 “(A) the violation for which such action or
19 proceeding is brought is apparent on the face of
20 the disclosure statement provided in connection
21 with such transaction pursuant to this title; and

22 “(B) the assignment to the assignee was
23 voluntary.

24 “(2) VIOLATION APPARENT ON THE FACE OF
25 THE DISCLOSURE DESCRIBED.—For purposes of this

1 section, a violation is apparent on the face of the
2 disclosure statement if—

3 “(A) the disclosure can be determined to
4 be incomplete or inaccurate from the face of the
5 disclosure statement; or

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

8 (b) SERVICER NOT TREATED AS ASSIGNEE.—Section
9 131 of the Truth in Lending Act (15 U.S.C. 1641) is
10 amended by adding at the end the following new sub-
11 section:

12 “(d) TREATMENT OF SERVICER.—

13 “(1) IN GENERAL.—A servicer of a consumer
14 obligation arising from a consumer credit trans-
15 action shall not be treated as an assignee of such ob-
16 ligation for purposes of this section unless the
17 servicer is the owner of the obligation.

18 “(2) SERVICER NOT TREATED AS OWNER ON
19 BASIS OF ASSIGNMENT FOR ADMINISTRATIVE CON-
20 VENIENCE.—A servicer of a consumer obligation
21 arising from a consumer credit transaction shall not
22 be treated as the owner of the obligation for pur-
23 poses of this section on the basis of an assignment
24 of the obligation from the creditor or another as-
25 signee to the servicer solely for the administrative

1 convenience of the servicer in servicing the obliga-
2 tion.

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

7 **SEC. 119. MODIFICATION OF WAIVER OF RIGHT OF RESCIS-**
8 **SION.**

9 Section 125(d) of the Truth in Lending Act (15
10 U.S.C. 1635(d)) is amended by striking “, if it finds that
11 such action is necessary in order to permit homeowners
12 to meet bona fide personal financial emergencies,”.

13 **SEC. 120. APPLICABILITY.**

14 Except as provided in section 113(d), the amend-
15 ments made by this part shall apply to all consumer credit
16 transactions consummated on or after the date of enact-
17 ment of this Act.

18 **Subtitle B—Amendments to the**
19 **Community Reinvestment Act of**
20 **1977**

21 **SEC. 131. EXPRESSION OF CONGRESSIONAL INTENTION.**

22 Section 802(b) of the Community Reinvestment Act
23 of 1977 (12 U.S.C. 2901(b)) is amended to read as
24 follows:

1 “(b) It is the purpose of this title to require each ap-
2 propriate Federal financial supervisory agency to use the
3 authority of such agency, in examining financial institu-
4 tions, to encourage such institutions to help meet the cred-
5 it needs of the local communities in which they are char-
6 tered, consistent with the safe and sound operation of such
7 institutions. In examining financial institutions under this
8 title, a supervisory agency shall not impose any record-
9 keeping or reporting requirements that do not have the
10 effect of eliminating, streamlining, or reducing regulatory
11 burdens upon such institutions.”.

12 **SEC. 132. SMALL BANK EXEMPTION.**

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

16 **“SEC. 809. EXEMPT INSTITUTIONS.**

17 “‘This title does not apply to a regulated financial in-
18 stitution for a calendar year if, as of the close of the imme-
19 diately preceding calendar year, the total assets of the in-
20 stitution were not more than \$250,000,000.’”.

21 **SEC. 133. COMMUNITY INPUT AND CONCLUSIVE RATING.**

22 (a) COMMUNITY INPUT AND CONCLUSIVE RATING.—
23 The Community Reinvestment Act of 1977 (12 U.S.C.
24 2901 et seq.) is amended by inserting after section 806
25 the following new section:

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

2 “(a) PUBLICATION OF EXAMINATION SCHEDULE
3 AND OPPORTUNITY FOR COMMENT.—

4 “(1) PUBLICATION OF LIST; PUBLIC COM-
5 MENTS.—Thirty days prior to the beginning of each
6 calendar quarter, each appropriate Federal financial
7 supervisory agency shall—

8 “(A) publish in the Federal Register a list
9 of institutions scheduled for examination pursu-
10 ant to this title during that calendar quarter;
11 and

12 “(B) provide an opportunity for comments
13 from the community on the performance, under
14 this title, of each institution scheduled for ex-
15 amination.

16 “(2) RECEIPT OF COMMENTS.—Any comments
17 submitted under paragraph (1) shall be received by
18 the appropriate Federal financial supervisory agency
19 not later than 30 days after the commencement of
20 the relevant calendar quarter.

21 “(b) RECONSIDERATION OF RATING.—

22 “(1) IN GENERAL.—Upon the filing of a re-
23 quest in accordance with this subsection, the rating
24 of an institution made available to the public in ac-
25 cordance with section 807(b)(1)(C) may be reconsid-

1 ered by the appropriate Federal financial supervisory
2 agency.

3 “(2) SPECIFIC REQUIREMENTS.—Each request
4 under paragraph (1)—

5 “(A) shall be made in writing;

6 “(B) shall be filed with the appropriate
7 Federal financial supervisory agency not later
8 than 30 days after the date on which the rating
9 of the institution is made available to the public
10 in accordance with section 807(b)(1)(C);

11 “(C) may be filed by the institution or by
12 a member of the community; and

13 “(D) shall be based on significant issues of
14 a substantive nature that are relevant to the de-
15 lineated community of the institution and, in
16 the case of a request made by a member of the
17 community, shall be limited to issues previously
18 raised in comments submitted pursuant to sub-
19 section (a).

20 “(3) COMPLETION OF REQUESTED RECONSID-
21 ERATION.—Not later than 30 days after receiving a
22 request for reconsideration filed in accordance with
23 this subsection, the appropriate Federal financial su-
24 pervisory agency shall complete the requested recon-
25 sideration.

1 “(c) CONCLUSIVE RATING.—

2 “(1) IN GENERAL.—The rating of an institution
3 under section 807(b)(1)(C) shall become conclusive
4 on the later of—

5 “(A) 30 days after the date on which the
6 rating is made available to the public under
7 that section; or

8 “(B) the completion of any requested re-
9 consideration by the appropriate Federal finan-
10 cial supervisory agency in accordance with sub-
11 section (b).

12 “(2) EFFECT.—The rating of an institution
13 shall be the conclusive assessment of the record of
14 the institution in meeting the credit needs of the
15 community of the institution for purposes of section
16 804 until the next rating of the institution, devel-
17 oped pursuant to an examination, becomes conclu-
18 sive. Each institution that receives a ‘satisfactory’ or
19 ‘outstanding’ rating shall be deemed to have met the
20 purposes of section 804. Notwithstanding any other
21 provision of law, nothing in this subsection shall be
22 construed to grant a cause of action to any person.”.

23 (b) CONFORMING AMENDMENT.—Section 804(a) of
24 the Community Reinvestment Act of 1977 (12 U.S.C.

1 2903(a)) is amended by inserting “conducted in accord-
2 ance with section 806A,” after “financial institution,”.

3 **SEC. 134. SPECIAL PURPOSE BANKS.**

4 (a) DEFINITION.—Section 803 of the Community Re-
5 investment Act of 1977 (12 U.S.C. 2902) is amended—

6 (1) by redesignating the first paragraph des-
7 igned as paragraph (2) as subparagraph (D) and
8 indenting accordingly;

9 (2) in paragraph (2), by striking “and” at the
10 end;

11 (3) in paragraph (3), by striking the period at
12 the end and inserting a semicolon;

13 (4) in paragraph (4)—

14 (A) by striking “A financial” and inserting
15 “a financial”; and

16 (B) by striking the period at the end and
17 inserting “; and”; and

18 (5) by adding at the end the following new
19 paragraph:

20 “(5) the term ‘special purpose bank’ means a
21 bank that does not generally accept deposits from
22 the public in amounts that are less than \$100,000,
23 such as a credit card bank or a trust bank.”.

1 (b) ASSESSMENT OF RECORD OF MEETING COMMU-
2 NITY CREDIT NEEDS.—Section 804 of the Community
3 Reinvestment Act of 1977 (12 U.S.C. 2903) is amended—

4 (1) by striking the section designation and all
5 that follows through “In connection with” and in-
6 serting the following:

7 **“SEC. 804. ASSESSMENT OF RECORD OF MEETING COMMU-
8 NITY CREDIT NEEDS.**

9 “(a) IN GENERAL.—In connection with”; and

10 (2) by adding at the end the following new sub-
11 section:

12 “(c) SPECIAL PURPOSE BANKS.—In conducting as-
13 sessments under subsection (a) at special purpose banks,
14 each appropriate Federal financial supervisory agency
15 shall—

16 “(1) take into consideration the nature of the
17 businesses in which such banks are involved; and

18 “(2) develop standards under which such banks
19 may be deemed to have complied with the require-
20 ments of this title that are consistent with the spe-
21 cific nature of such businesses.”.

1 **SEC. 135. INCREASED INCENTIVES TO LENDING TO LOW-**
2 **AND MODERATE-INCOME COMMUNITIES.**

3 Section 804 of the Community Reinvestment Act of
4 1977 (12 U.S.C. 2903) is amended by adding at the end
5 the following new subsection:

6 “(d) LENDING TO LOW- AND MODERATE-INCOME
7 COMMUNITIES.—In assessing and taking into account the
8 record of a financial institution under subsection (a), the
9 appropriate Federal financial supervisory agency shall give
10 positive consideration to any investments in and loans to
11 joint ventures or entities or projects that provide benefits
12 to distressed communities (as such term is defined by the
13 appropriate Federal financial supervisory agency) made by
14 the institution, regardless of whether or not the commu-
15 nities are located within the service area of the financial
16 institution.”.

17 **Subtitle C—Payment of Interest**
18 **Act**

19 **SEC. 141. PAYMENT OF INTEREST ACT.**

20 Subtitle F of title II of the Federal Deposit Insurance
21 Corporation Improvement Act of 1991 (12 U.S.C. 4301
22 et seq.) is amended to read as follows:

1 **“Subtitle F—Payment of Interest**
2 **Act**

3 **“SEC. 261. SHORT TITLE.**

4 “‘This subtitle may be cited as the ‘Payment of Inter-
5 est Act’.

6 **“SEC. 262. FINDINGS AND PURPOSE.**

7 “(a) FINDINGS.—The Congress finds that the Truth
8 in Savings Act created unnecessary paperwork, adminis-
9 trative and compliance burdens, and liability for deposi-
10 tory institutions without enhancing the ability of consum-
11 ers to make informed decisions regarding deposit ac-
12 counts.

13 “(b) PURPOSE.—It is the purpose of this subtitle—

14 “(1) to repeal the unnecessary disclosure re-
15 quirements of the Truth in Savings Act; and

16 “(2) to retain the provisions of the Truth in
17 Savings Act that require that interest be paid on the
18 full amount of the principal in the account for each
19 day of the stated calculation period at the rate or
20 rates of interest disclosed.

21 **“SEC. 263. PAYMENT OF INTEREST.**

22 “(a) CALCULATED ON FULL AMOUNT OF PRIN-
23 CIPAL.—Interest on an interest-bearing account at any de-
24 pository institution shall be calculated by the institution
25 on the full amount of principal in the account for each

1 day of the stated calculation period at the rate or rates
2 of interest disclosed by the depository institution.

3 “(b) NO PARTICULAR METHOD OF COMPOUNDING
4 INTEREST REQUIRED.—Subsection (a) shall not be con-
5 strued to prohibit or require the use of any particular
6 method of compounding or crediting of interest.

7 “(c) DATE BY WHICH INTEREST SHALL ACCRUE.—
8 Interest on accounts that are subject to this subtitle shall
9 begin to accrue not later than the business day specified
10 for interest-bearing accounts in section 606 of the Expe-
11 dited Funds Availability Act, subject to subsections (b)
12 and (c) of that section.

13 **“SEC. 264. REGULATIONS.**

14 “(a) IN GENERAL.—

15 “(1) BY THE BOARD.—The Board, after con-
16 sultation with each agency referred to in section
17 265(a) and public notice and opportunity for com-
18 ment, shall promulgate regulations to carry out this
19 subtitle.

20 “(2) APPLICABILITY.—This subtitle does not
21 apply with respect to any depository institution be-
22 fore the effective date of regulations promulgated by
23 the Board under paragraph (1).

1 **“SEC. 265. ADMINISTRATIVE ENFORCEMENT.**

2 “(a) IN GENERAL.—Compliance with the require-
3 ments imposed under this subtitle shall be enforced
4 under—

5 “(1) section 8 of the Federal Deposit Insurance
6 Act—

7 “(A) by the appropriate Federal banking
8 agency with respect to any insured depository
9 institution;

10 “(B) by the Federal Deposit Insurance
11 Corporation with respect to any depository in-
12 stitution described in clause (i), (ii), or (iii) of
13 section 19(b)(1)(A) of the Federal Reserve Act
14 that is not an insured depository institution;
15 and

16 “(C) by the Director of the Office of Thrift
17 Supervision with respect to any depository insti-
18 tution described in clause (v) and or (vi) of sec-
19 tion 19(b)(1)(A) of the Federal Reserve Act
20 that is not an insured depository institution;
21 and

22 “(2) the Federal Credit Union Act, by the Na-
23 tional Credit Union Administration Board with re-
24 spect to any depository institution described in sec-
25 tion 19(b)(1)(A)(iv) of the Federal Reserve Act.

26 “(b) ADDITIONAL ENFORCEMENT POWERS.—

1 “(1) VIOLATIONS.—For purposes of the exer-
2 cise by any agency referred to in subsection (a) of
3 the powers of such agency under any Act referred to
4 in such subsection, a violation of a requirement im-
5 posed under this title shall be deemed to be a viola-
6 tion of a requirement imposed under that Act.

7 “(2) POWERS.—In addition to the powers of
8 any agency referred to in subsection (a) under any
9 provision of law specifically referred to in such sub-
10 section, each such agency may exercise, for purposes
11 of enforcing compliance with any requirement im-
12 posed under this subtitle, any other authority con-
13 ferred on such agency by law.

14 “(3) REGULATIONS BY AGENCIES OTHER THAN
15 THE BOARD.—The authority of the Board to pro-
16 mulgate regulations under this subtitle does not im-
17 pair the authority of any other agency referred to in
18 subsection (a) to make rules regarding the proce-
19 dures of the Board in enforcing compliance with the
20 requirements imposed under this subtitle.

21 **“SEC. 266. CIVIL LIABILITY.**

22 “(a) CIVIL LIABILITY.—Except as otherwise provided
23 in this section, any depository institution that fails to com-
24 ply with any requirement imposed under this subtitle or
25 any regulation promulgated under this subtitle with re-

1 spect to any person who is an account holder at that insti-
2 tution shall be liable to such person in an amount equal
3 to the sum of—

4 “(1) any actual damage sustained by such per-
5 son as a result of the failure;

6 “(2) such additional amount as the court may
7 allow, except that liability under this subparagraph
8 shall not be less than \$100 nor greater than \$1,000;
9 and

10 “(3) in the case of any successful action to en-
11 force any liability under paragraph (1), the costs of
12 the action, together with a reasonable attorney’s fee,
13 as determined by the court.

14 “(b) BONA FIDE ERRORS.—

15 “(1) IN GENERAL.—A depository institution
16 may not be held liable in any action brought under
17 this section for a violation of this subtitle if the de-
18 pository institution demonstrates by a preponder-
19 ance of the evidence that the violation was not inten-
20 tional and resulted from a bona fide error, notwith-
21 standing the maintenance of procedures reasonably
22 adopted to avoid any such error.

23 “(2) EXAMPLES.—For purposes of paragraph
24 (1), examples of a bona fide error include clerical,
25 calculation, computer malfunction and programming,

1 and printing errors, except that an error of legal
2 judgment with respect to an obligation of a deposi-
3 tory institution under this subtitle is not a bona fide
4 error.

5 “(c) JURISDICTION.—Any action under this section
6 may be brought in any United States district court, or
7 in any other court of competent jurisdiction, not later than
8 1 year after the date of the occurrence of the violation
9 involved.

10 “(d) RELIANCE ON BOARD RULINGS.—No provision
11 of this section imposing any liability shall apply to any
12 act done or omitted in good faith in conformity with any
13 regulation or order, or any interpretation of any regulation
14 or order, of the Board, or in conformity with any interpre-
15 tation or approval by an official or employee of the Board
16 duly authorized by the Board to issue such interpretation
17 or approval under procedures prescribed by the Board,
18 notwithstanding the fact that after such act or omission
19 has occurred, such regulation, order, interpretation, or ap-
20 proval is amended, rescinded, or determined by judicial or
21 other authority to be invalid for any reason.

22 “(e) NOTIFICATION OF AND ADJUSTMENT FOR ER-
23 RORS.—A depository institution shall not be liable under
24 this section or section 265 for any failure to comply with

1 any requirement imposed under this subtitle with respect
2 to any account if—

3 “(1) the depository institution notifies the af-
4 fected account holder of the failure of such institu-
5 tion to comply with such requirement before—

6 “(A) the expiration of the 60-day period
7 beginning on the date on which the depository
8 institution discovered the failure to comply;

9 “(B) any action is instituted against the
10 depository institution by the account holder
11 under this section with respect to such failure
12 to comply; and

13 “(C) any written notice of such failure to
14 comply is received by the depository institution
15 from the account holder; and

16 “(2) the depository institution makes such ad-
17 justments as may be necessary with respect to the
18 account to ensure that interest is paid on the full
19 amount of principal in the account for each day of
20 the stated calculation period at the rate or rates of
21 interest disclosed by the depository institution.

22 “(f) MULTIPLE INTEREST IN 1 ACCOUNT.—If more
23 than 1 person holds an interest in any account—

24 “(1) the minimum and maximum amounts of li-
25 ability under subsection (a)(2) for any failure to

1 comply with the requirements of this subtitle shall
2 apply with respect to such account; and

3 “(2) the court shall determine the manner in
4 which the amount shall be distributed among such
5 persons.

6 “(g) CONTINUING FAILURE TO COMPLY.—

7 “(1) SINGLE VIOLATION.—Except as provided
8 in paragraph (2), the continuing failure of any de-
9 pository institution to pay interest in accordance
10 with section 263 with respect to a particular account
11 shall be treated as a single violation for purposes of
12 determining the amount of any liability of such insti-
13 tution under subsection (a) for such failure to dis-
14 close.

15 “(2) SUBSEQUENT VIOLATION.—The continuing
16 failure of any depository institution to pay interest
17 in accordance with section 263 with respect to a par-
18 ticular account after judgment is rendered in favor
19 of the account holder in connection with a prior fail-
20 ure to pay interest in accordance with section 263
21 with respect to such account shall be treated as a
22 subsequent violation for purposes of determining li-
23 ability under subsection (a).

24 “(3) EFFECT ON ENFORCEMENT POWER.—This
25 subsection does not limit or otherwise affect the en-

1 enforcement power under section 265 of any agency re-
2 ferred to in section 265(a).

3 **“SEC. 267. DEFINITIONS.**

4 “For purposes of this subtitle, the following defini-
5 tions shall apply:

6 “(1) ACCOUNT.—The term ‘account’ means any
7 account intended for use by and generally used by
8 a consumer primarily for personal, family, or house-
9 hold purposes that is offered by a depository institu-
10 tion into which a customer deposits funds, including
11 demand accounts, time accounts, negotiable order of
12 withdrawal accounts, and share draft accounts.

13 “(2) APPROPRIATE FEDERAL BANKING AGEN-
14 CY.—The term ‘appropriate Federal banking agency’
15 has the same meaning as in section 3 of the Federal
16 Deposit Insurance Act.

17 “(3) DEPOSITORY INSTITUTION.—The term ‘de-
18 pository institution’ has the same meaning as in
19 clauses (i) through (vi) of section 19(b)(1)(A) of the
20 Federal Reserve Act.

21 “(4) INSURED DEPOSITORY INSTITUTION.—The
22 term ‘insured depository institution’ has the same
23 meaning as in section 3 of the Federal Deposit In-
24 surance Act.

1 “(5) INTEREST.—The term ‘interest’ includes
2 dividends paid with respect to share draft accounts
3 that are accounts within the meaning of paragraph
4 (1).”.

5 **TITLE II—STREAMLINING** 6 **GOVERNMENT REGULATION**

7 **Subtitle A—Eliminating Unneces-** 8 **sary Regulatory Requirements** 9 **and Procedures**

10 **SEC. 201. STREAMLINING OF PRIOR APPROVAL REQUIRE-** 11 **MENT FOR CERTAIN ACQUISITIONS.**

12 (a) BANK HOLDING COMPANY ACT OF 1956 AMEND-
13 MENTS.—Section 3 of the Bank Holding Company Act of
14 1956 (12 U.S.C. 1842) is amended by adding at the end
15 the following new subsections:

16 “(h) NO APPROVAL REQUIRED FOR CERTAIN TRANS-
17 ACTIONS.—Notwithstanding paragraph (3) or (5) of sub-
18 section (a), an acquisition of shares by a registered bank
19 holding company, or a merger or consolidation between
20 registered bank holding companies, shall be deemed to be
21 approved at the conclusion of the period specified in para-
22 graph (7) if each of the following criteria is met:

23 “(1) FINANCIAL AND MANAGERIAL CRITERIA.—
24 “(A) WELL CAPITALIZED BANK HOLDING
25 COMPANY.—Both at the time of and imme-

1 diately after the proposed transaction, the ac-
2 quiring bank holding company is well capital-
3 ized.

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

10 “(C) CAPITAL OF OTHER INSURED DEPOSI-
11 TORY INSTITUTIONS.—At the time of the trans-
12 action, well capitalized insured depository insti-
13 tutions control not less than 80 percent of the
14 aggregate total risk-weighted assets of all in-
15 sured depository institutions controlled by the
16 acquiring bank holding company.

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

22 “(E) WELL MANAGED.—

23 “(i) IN GENERAL.—At the time of the
24 transaction, the acquiring bank holding
25 company, the lead insured depository insti-

1 tution of that bank holding company, and
2 insured depository institutions that control
3 not less than 90 percent of the aggregate
4 total risk-weighted assets of all insured de-
5 pository institutions controlled by that
6 bank holding company are well managed.

7 “(ii) NO POORLY MANAGED INSTITU-
8 TIONS.—

9 “(I) IN GENERAL.—No insured
10 depository institution controlled by
11 the acquiring bank holding company
12 has 1 of the lowest 2 CAMEL com-
13 posite ratings under the Uniform Fi-
14 nancial Institutions Rating System (or
15 an equivalent rating under a com-
16 parable rating system) as of the most
17 recent examination or most recent re-
18 view of the institution by the appro-
19 priate Federal banking agency.

20 “(II) RECENTLY ACQUIRED IN-
21 STITUTIONS.—Subclause (I) does not
22 apply to an insured depository institu-
23 tion acquired by the acquiring bank
24 holding company during the 12-month

1 period preceding the date of the pro-
2 posed transaction, if—

3 “(aa) the bank holding com-
4 pany has developed a plan ac-
5 ceptable to the appropriate Fed-
6 eral banking agency for the insti-
7 tution to restore the capital and
8 management of the institution;
9 and

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

18 “(iii) ADJUSTMENT OF AMOUNTS.—
19 The Board may, by regulation, adjust the
20 amounts and the manner in which the per-
21 centage of insured depository institutions
22 is calculated under clauses (i) and
23 (ii)(II)(bb) if the Board determines that
24 such adjustment is consistent with the

1 principles of safety and soundness and the
2 purposes of this Act.

3 “(2) NO UNSATISFACTORY CRA RATINGS.—

4 “(A) IN GENERAL.—No insured depository
5 institution controlled by the acquiring bank
6 holding company has a ‘needs to improve’ or
7 ‘substantial noncompliance’ composite rating as
8 of the most recent examination of such institu-
9 tion under the Community Reinvestment Act of
10 1977.

11 “(B) RECENTLY ACQUIRED INSTITU-
12 TIONS.—An insured depository institution ac-
13 quired by the acquiring bank holding company
14 during the 12-month period preceding the pro-
15 posed transaction may be excluded for purposes
16 of subparagraph (A) if the bank holding com-
17 pany has developed a plan acceptable to the ap-
18 propriate Federal banking agency to restore the
19 performance of the institution to at least a ‘sat-
20 isfactory’ composite rating under the Commu-
21 nity Reinvestment Act of 1977.

22 “(3) COMPETITIVE CRITERIA.—The consumma-
23 tion of the proposal complies with guidelines estab-
24 lished by the Board, by regulation, after consultation
25 with the Attorney General of the United States, that

1 identify proposals that are not likely to have a sig-
2 nificantly adverse effect on competition in any rel-
3 evant financial services market.

4 “(4) SIZE OF ACQUISITION.—

5 “(A) LIMITATIONS.—

6 “(i) ASSET SIZE.—The book value of
7 the total assets acquired does not exceed
8 10 percent of the consolidated total risk-
9 weighted assets of the acquiring bank hold-
10 ing company.

11 “(ii) CONSIDERATION.—The gross
12 consideration to be paid for the securities
13 or assets does not exceed 15 percent of the
14 consolidated Tier 1 capital of the acquiring
15 bank holding company.

16 “(B) ADJUSTMENT TO LIMITATIONS.—The
17 Board may, by regulation, adjust the limita-
18 tions established in this paragraph in a manner
19 consistent with the principles of safety and
20 soundness and the purposes of this Act.

21 “(5) INTERSTATE ACQUISITIONS.—Approval by
22 the Board of the transaction is not prohibited under
23 subsection (d).

1 “(6) OTHER CONSIDERATIONS.—Approval by
2 the Board of the transaction is not prohibited under
3 subsection (c)(3).

4 “(7) NOTIFICATION.—The acquiring bank hold-
5 ing company provides written notice to the Board of
6 the transaction, including a description of the terms
7 of the transaction, not later than 15 business days
8 (or such shorter period as established by the Board)
9 prior to consummation of the transaction, and, prior
10 to the conclusion of that period, the Board has not
11 required an application under subsection (a).

12 “(i) DEFINITIONS.—For purposes of subsection (h),
13 the following definitions shall apply:

14 “(1) APPROPRIATE FEDERAL BANKING AGEN-
15 CY.—The term ‘appropriate Federal banking agency’
16 has the same meaning as in section 38(b) of the
17 Federal Deposit Insurance Act.

18 “(2) CAPITAL TERMS.—

19 “(A) INSURED DEPOSITORY INSTITU-
20 TION.—With respect to an insured depository
21 institution, the terms ‘well capitalized’, ‘ade-
22 quately capitalized’, and ‘undercapitalized’ have
23 the same meanings as in section 38(b) of the
24 Federal Deposit Insurance Act.

25 “(B) BANK HOLDING COMPANY.—

1 “(i) ADEQUATELY CAPITALIZED.—A
2 bank holding company is ‘adequately cap-
3 italized’ if the company meets the required
4 minimum level for each relevant capital
5 measure established by the Board for bank
6 holding companies.

7 “(ii) WELL CAPITALIZED.—A bank
8 holding company is ‘well capitalized’ if the
9 company meets the required capital levels
10 for well capitalized bank holding companies
11 established by the Board.

12 “(C) OTHER CAPITAL TERMS.—The terms
13 ‘Tier 1’ and ‘risk-weighted assets’ have the
14 same meanings as in the capital guidelines or
15 regulations established by the Board for bank
16 holding companies.

17 “(3) INSURED DEPOSITORY INSTITUTION.—The
18 term ‘insured depository institution’ includes any
19 branch or agency operated in the United States by
20 a foreign bank, as those terms are defined in section
21 1(b)(7) of the International Banking Act of 1978.

22 “(4) LEAD INSURED DEPOSITORY INSTITU-
23 TION.—The term ‘lead insured depository institu-
24 tion’ of a bank holding company means the largest
25 insured depository institution controlled by the bank

1 holding company, based on a comparison of the av-
2 erage total risk-weighted assets of each insured de-
3 pository institution controlled by that bank holding
4 company during the most recent fiscal year of that
5 bank holding company.

6 “(5) WELL MANAGED.—A bank holding com-
7 pany or depository institution is ‘well managed’ if,
8 as of the most recent examination or most recent re-
9 view of the company or institution by the appro-
10 priate Federal banking agency, the company or in-
11 stitution has—

12 “(A) a CAMEL composite rating of 1 or 2
13 under the Uniform Financial Institutions Rat-
14 ing System (or an equivalent rating under a
15 comparable rating system); and

16 “(B) at least a ‘satisfactory’ rating for
17 management.”.

18 **SEC. 202. ELIMINATION OF CERTAIN FILING AND AP-**
19 **PROVAL REQUIREMENTS FOR CERTAIN IN-**
20 **SURED DEPOSITORY INSTITUTIONS.**

21 Section 18(c) of the Federal Deposit Insurance Act
22 (12 U.S.C. 1828(c)) is amended by adding at the end the
23 following new paragraph:

24 “(12) EXCEPTIONS.—No prior approval is re-
25 quired under paragraph (2) for any merger, consoli-

1 dation, acquisition of assets, or assumption of liabilities
2 ities involving only insured depository institutions
3 that are subsidiaries of the same depository institu-
4 tion holding company if—

5 “(A) the responsible agency would not be
6 prohibited from approving the transaction
7 under section 44;

8 “(B) the acquiring, assuming, or resulting
9 institution complies with all applicable provi-
10 sions of section 44 as if the merger, consolida-
11 tion, or acquisition were approved under this
12 subsection; and

13 “(C) the acquiring, assuming, or resulting
14 institution provides written notification of the
15 transaction to the appropriate Federal banking
16 agency for the institution not later than 10
17 days prior to consummation of the trans-
18 action.”.

19 **SEC. 203. ELIMINATION OF REDUNDANT APPROVAL RE-**
20 **QUIREMENT FOR OAKAR TRANSACTIONS.**

21 Section 5(d)(3) of the Federal Deposit Insurance Act
22 (12 U.S.C. 1815(d)(3)) is amended—

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

1 (2) by striking subparagraph (E) and inserting
2 the following:

3 “(E) CONDITIONS FOR APPROVAL, GEN-
4 ERALLY.—A transaction is not authorized
5 under this paragraph unless the acquiring, as-
6 suming, or resulting depository institution will
7 meet all applicable capital requirements upon
8 consummation of the transaction.”; and

9 (3) by striking subparagraph (G) and redesi-
10 gnating subparagraphs (H) through (J) as subpara-
11 graphs (G) through (I), respectively.

12 **SEC. 204. ELIMINATION OF UNNECESSARY BRANCH APPLI-**
13 **CATIONS.**

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

17 (1) by striking “No branch” and inserting the
18 following:

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

21 (2) by adding at the end the following new
22 paragraphs:

23 “(2) NO APPROVAL REQUIRED FOR CERTAIN
24 BRANCHES.—Notwithstanding paragraph (1) of this
25 subsection, subsection (b), or subsection (c), the con-

1 sent and approval of the Comptroller of the Cur-
2 rency shall not be required for a national banking
3 association to establish and operate, or to retain and
4 operate, a branch or seasonal agency if—

5 “(A) the association is well capitalized, as
6 such term is defined in section 38(b) of the
7 Federal Deposit Insurance Act and rules adopt-
8 ed by the Comptroller of the Currency there-
9 under;

10 “(B) the association has a CAMEL com-
11 posite rating of 1 or 2 under the Uniform Fi-
12 nancial Institutions Rating System (or an
13 equivalent rating under a comparable rating
14 system) as of the most recent examination of
15 such association;

16 “(C) the association does not have a ‘needs
17 to improve’ or ‘substantial noncompliance’ com-
18 posite rating as of the most recent examination
19 of the association under the Community Rein-
20 vestment Act of 1977; and

21 “(D) the Comptroller of the Currency is
22 otherwise authorized to grant approval under
23 this section for such action at the proposed lo-
24 cation.

1 “(3) ESTABLISHMENT BY NATIONAL BANKING
2 ASSOCIATION.—A branch or seasonal agency estab-
3 lished by a national banking association under para-
4 graph (2) shall be deemed to have been established
5 and operated pursuant to an application approved
6 under this section.”.

7 (b) STATE MEMBER BANK BRANCH APPLICA-
8 TIONS.—The third undesignated paragraph of section 9
9 of the Federal Reserve Act (12 U.S.C. 321) is amended
10 by adding at the end the following: “Notwithstanding the
11 2 preceding sentences, the approval of the Board shall not
12 be required for a State member bank to establish and op-
13 erate a branch or seasonal agency if—

14 “(1) the State member bank is well capitalized,
15 as such term is defined in section 38(b) of the Fed-
16 eral Deposit Insurance Act and rules adopted by the
17 Board thereunder;

18 “(2) the State member bank has a CAMEL
19 composite rating of 1 or 2 under the Uniform Fi-
20 nancial Institutions Rating System (or an equivalent
21 rating under a comparable rating system) as of the
22 most recent examination of such State member
23 bank;

24 “(3) the State member bank does not have a
25 ‘needs to improve’ or ‘substantial noncompliance’

1 composite rating as of the most recent examination
2 of the member bank under the Community Reinvest-
3 ment Act of 1977; and

4 “(4) the Board is authorized to grant approval
5 under this section to such State member bank to es-
6 tablish and operate a branch or seasonal agency at
7 the proposed location.

8 A branch or seasonal agency established by a State mem-
9 ber bank under the preceding sentence shall be deemed
10 to have been established and operated pursuant to an ap-
11 plication approved under this section.”.

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

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

21 “(A) the bank is well capitalized, as such
22 term is defined in section 38(b) and rules
23 adopted by the Corporation thereunder;

24 “(B) the bank has a CAMEL composite
25 rating of 1 or 2 under the Uniform Financial

1 Institutions Rating System (or an equivalent
2 rating under a comparable rating system) as of
3 the most recent examination of such bank;

4 “(C) the bank does not have a ‘needs to
5 improve’ or ‘substantial noncompliance’ compos-
6 ite rating as of the most recent examination of
7 such bank under the Community Reinvestment
8 Act of 1977; and

9 “(D) the Corporation is authorized to give
10 consent under this section to such bank to es-
11 tablish and operate a domestic branch at the
12 proposed location.

13 “(6) APPROVAL GRANTED.—A branch estab-
14 lished by a State member bank under paragraph (5)
15 shall be deemed to have been established and oper-
16 ated pursuant to an application approved under this
17 section.”.

18 **SEC. 205. ELIMINATION OF DUPLICATIVE REQUIREMENTS**
19 **IMPOSED UPON BANK HOLDING COMPANIES**
20 **UNDER THE HOME OWNERS’ LOAN ACT.**

21 (a) EXEMPTION FOR BANK HOLDING COMPANIES.—
22 Section 10 of the Home Owners’ Loan Act (12 U.S.C.
23 1467a) is amended by adding at the end the following new
24 subsection:

1 “(t) EXEMPTION FOR BANK HOLDING COMPA-
2 NIES.—This section does not apply to a bank holding com-
3 pany that is subject to the Bank Holding Company Act
4 of 1956, or any company controlled by such bank holding
5 company.”.

6 (b) DEFINITION.—Section 10(a)(1)(D) of the Home
7 Owners’ Loan Act (12 U.S.C. 1467a(a)(1)(D)) is amend-
8 ed to read as follows:

9 “(D) SAVINGS AND LOAN HOLDING COM-
10 PANY.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (ii), the term ‘savings and
13 loan holding company’ means any company
14 that directly or indirectly controls a sav-
15 ings association or controls any other com-
16 pany that is a savings and loan holding
17 company.

18 “(ii) EXCLUSION.—The term ‘savings
19 and loan holding company’ does not in-
20 clude a bank holding company that is reg-
21 istered under, and subject to, the Bank
22 Holding Company Act of 1956, or to any
23 company directly or indirectly controlled by
24 such company (other than a savings asso-
25 ciation).”.

1 (c) ACQUISITIONS.—Section 10(e)(1)(B) of the Home
2 Owners’ Loan Act (12 U.S.C. 1467a(e)(1)(B)) is amended
3 in the first sentence—

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

6 (2) by inserting after “group of persons” the
7 following: “, or (iii) acquired by a bank holding com-
8 pany that is registered under, and subject to, the
9 Bank Holding Company Act of 1956, or any com-
10 pany controlled by such bank holding company”.

11 **SEC. 206. ELIMINATION OF THE PER BRANCH CAPITAL RE-**
12 **QUIREMENT FOR NATIONAL BANKS AND**
13 **STATE MEMBER BANKS.**

14 Section 5155(h) of the Revised Statutes (12 U.S.C.
15 36(h)) is amended to read as follows:

16 “(h) [Reserved.]”.

17 **SEC. 207. ELIMINATION OF BRANCH APPLICATION RE-**
18 **QUIREMENTS FOR AUTOMATIC TELLER MA-**
19 **CHINES.**

20 (a) “BRANCH” UNDER NATIONAL BANK ACT.—Sec-
21 tion 5155(j) of the Revised Statutes (12 U.S.C. 36(j)) is
22 amended by adding at the end the following: “The term
23 ‘branch’ does not include an automated teller machine or
24 a remote service unit.”.

1 (b) “BRANCH” UNDER FEDERAL DEPOSIT INSUR-
2 ANCE ACT.—Section 3(o) of the Federal Deposit Insur-
3 ance Act (12 U.S.C. 1813(o)) is amended by striking
4 “lent; and the” and inserting “lent. The term ‘domestic
5 branch’ does not include an automated teller machine or
6 a remote service unit. The”.

7 **SEC. 208. ELIMINATION OF REQUIREMENT FOR APPROVAL**
8 **OF INVESTMENTS IN BANK PREMISES FOR**
9 **WELL CAPITALIZED AND WELL MANAGED**
10 **BANKS.**

11 Section 24A of the Federal Reserve Act (12 U.S.C.
12 371d) is amended by inserting before the period at the
13 end the following: “, or if such bank has a CAMEL com-
14 posite rating of 1 or 2 under the Uniform Financial Insti-
15 tutions Rating System (or an equivalent rating under a
16 comparable rating system) as of the most recent examina-
17 tion of such bank and, both before and immediately follow-
18 ing the investment or loan, is well capitalized (as such
19 term is defined in section 38(b) of the Federal Deposit
20 Insurance Act) and the amount of such investment or loan
21 would be equal to or less than 150 percent of the capital
22 and surplus of such bank”.

1 **SEC. 209. ELIMINATION OF APPROVAL REQUIREMENT FOR**
2 **DIVESTITURES.**

3 Section 2(g) of the Bank Holding Company Act of
4 1956 (12 U.S.C. 1841(g)) is amended—

5 (1) in paragraph (1), by adding “and” at the
6 end;

7 (2) in paragraph (2), by striking “; and” and
8 inserting a period; and

9 (3) by striking paragraph (3).

10 **SEC. 210. ELIMINATION OF UNNECESSARY FILING FOR OF-**
11 **FICER AND DIRECTOR APPOINTMENTS.**

12 Section 32 of the Federal Deposit Insurance Act (12
13 U.S.C. 1831i) is amended—

14 (1) in subsection (a)—

15 (A) by inserting “(or such other period, as
16 determined by the appropriate Federal banking
17 agency)” after “30 days”;

18 (B) by striking “if the insured depository
19 institution or depository institution holding
20 company” and inserting “if”;

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

22 (D) by redesignating paragraph (3) as
23 paragraph (1);

24 (E) in paragraph (1), as redesignated—

25 (i) by inserting “the insured deposi-
26 tory institution or depository institution

1 holding company” before “is not in compli-
2 ance”; and

3 (ii) by striking the period at the end
4 and inserting “; and”; and

5 (F) by adding at the end the following new
6 paragraph:

7 “(G) the agency determines, in connection
8 with the review by the agency of the plan re-
9 quired under section 38 or otherwise, that such
10 prior notice is appropriate.”; and

11 (2) in subsection (b), by striking “30-day pe-
12 riod” and inserting “notice period, not to exceed 90
13 days.”.

14 **SEC. 211. AMENDMENTS TO THE DEPOSITORY INSTITU-**
15 **TIONS MANAGEMENT INTERLOCKS ACT.**

16 (a) DUAL SERVICE AMONG LARGER ORGANIZA-
17 TIONS.—Section 204 of the Depository Institution Man-
18 agement Interlocks Act (12 U.S.C. 3203) is amended—

19 (1) by striking “\$1,000,000,000” and inserting
20 “\$2,500,000,000”;

21 (2) by striking “\$500,000,000” and inserting
22 “\$1,500,000,000”; and

23 (3) by adding at the end the following: “In
24 order to allow for inflation or market changes, the
25 appropriate Federal depository institutions regu-

1 latory agencies may, by regulation, adjust, as nec-
2 essary, the amount of total assets required for de-
3 pository institutions or depository holding companies
4 under this section.”.

5 (b) EXTENSION OF GRANDFATHER EXEMPTION.—

6 Section 206 of the Depository Institution Management
7 Interlocks Act (12 U.S.C. 3205) is amended—

8 (1) in subsection (a), by striking “for a period
9 of, subject to the requirements of subsection (c), 20
10 years after the date of enactment of this title”;

11 (2) in subsection (b), by striking the second
12 sentence; and

13 (3) by striking subsection (c).

14 (c) RULES OR REGULATIONS.—Section 209 of the
15 Depository Institution Management Interlocks Act (12
16 U.S.C. 3207) is amended—

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

19 (2) by inserting “, including rules or regula-
20 tions that permit service by a management official
21 that would otherwise be prohibited by section 203 or
22 section 204,” after “title”; and

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

1 **SEC. 212. ELIMINATION OF RECORDKEEPING AND REPORT-**
2 **ING REQUIREMENTS FOR OFFICERS.**

3 (a) PERMISSIBILITY OF EMPLOYEE-WIDE BENEFIT
4 PLANS.—

5 (1) EMPLOYEE BENEFIT PLANS.—Section
6 22(h)(2) of the Federal Reserve Act (12 U.S.C.
7 375b(2)) is amended—

8 (A) by redesignating subparagraphs (A)
9 through (C) as clauses (i) through (iii), respec-
10 tively, and indenting accordingly;

11 (B) by striking “(2) PREFERENTIAL
12 TERMS PROHIBITED.—” and inserting the fol-
13 lowing:

14 “(2) PREFERENTIAL TERMS PROHIBITED.—

15 “(A) IN GENERAL.—”; and

16 (C) by adding at the end the following new
17 subparagraph:

18 “(B) EXCEPTION.—Nothing in this para-
19 graph shall prohibit extensions of credit made
20 pursuant to a benefit or compensation program
21 widely available to employees of the member
22 bank.”.

23 (2) EXCEPTION FOR EXTENSIONS OF CREDIT
24 TO EXECUTIVE OFFICERS AND DIRECTORS OF
25 NONBANK AFFILIATES.—Section 22(h)(8)(B) of the
26 Federal Reserve Act (12 U.S.C. 375b(8)(B)) is

1 amended by striking “, except as that subparagraph
2 makes applicable paragraph (2),”.

3 (b) RECORDKEEPING REQUIREMENTS.—Section
4 22(h)(10) of the Federal Reserve Act (12 U.S.C.
5 375b(10)) is amended—

6 (1) by striking “The Board” and inserting the
7 following:

8 “(A) IN GENERAL.—The Board”; and

9 (2) by adding at the end the following new
10 paragraph:

11 “(B) RECORDKEEPING REQUIREMENTS.—
12 The regulations prescribed by the Board under
13 subparagraph (A) shall—

14 “(i) specify the recordkeeping required
15 of member banks to ensure compliance
16 with this section; and

17 “(ii) provide that if a member bank is
18 determined to be in compliance with such
19 recordkeeping requirements, such member
20 bank shall also be determined to be in
21 compliance with the audit requirement of
22 section 36(e) of the Federal Deposit Insur-
23 ance Act.”.

24 (c) REPORTING REQUIREMENTS.—Section 22(g) of
25 the Federal Reserve Act (12 U.S.C. 375a) is amended by

1 striking paragraphs (6) and (9) and redesignating para-
2 graphs (7), (8), and (10) as paragraphs (6), (7), and (8),
3 respectively.

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

7 “(k) [Reserved.]”.

8 (e) REPORTS REGARDING LOANS FROM COR-
9 RESPONDENT BANKS.—Section 106(b)(2) of the Bank
10 Holding Company Act Amendments of 1970 (12 U.S.C.
11 1972(2)) is amended—

12 (1) by striking subparagraph (G); and

13 (2) by redesignating subparagraphs (H) and (I)
14 as subparagraphs (G) and (H), respectively.

15 **SEC. 213. ABOLITION OF APPRAISAL SUBCOMMITTEE;**

16 **TRANSFER OF FUNCTIONS.**

17 (a) ABOLITION OF APPRAISAL SUBCOMMITTEE.—

18 (1) AMENDMENT TO FEDERAL FINANCIAL IN-
19 STITUTIONS EXAMINATION COUNCIL ACT OF 1978.—
20 Section 1011 of the Federal Financial Institutions
21 Examination Council Act of 1978 (12 U.S.C. 3310)
22 is repealed.

23 (2) AMENDMENTS TO THE FINANCIAL INSTITU-
24 TIONS REFORM, RECOVERY, AND ENFORCEMENT ACT
25 OF 1989.—

1 (A) REPEALS.—The following sections of
2 the Financial Institutions Reform, Recovery,
3 and Enforcement Act of 1989 are repealed:

4 (i) Section 1102 (12 U.S.C. 3310).

5 (ii) Section 1104 (12 U.S.C. 3333).

6 (iii) Section 1105 (12 U.S.C. 3334).

7 (iv) Section 1106 (12 U.S.C. 3335).

8 (v) Section 1108 (12 U.S.C. 3337).

9 (B) DEFINITIONS.—Section 1121 of the
10 Financial Institutions Reform, Recovery, and
11 Enforcement Act of 1989 (12 U.S.C. 3350) is
12 amended—

13 (i) by striking paragraphs (2) and (8);

14 (ii) by redesignating paragraphs (3)
15 through (7) as paragraphs (2) through (6),
16 respectively; and

17 (iii) by redesignating paragraphs (9)
18 and (10) as paragraphs (7) and (8), re-
19 spectively.

20 (3) CONFORMING AMENDMENT TO THE NA-
21 TIONAL HOUSING ACT.—Section 202(e) of the Na-
22 tional Housing Act (12 U.S.C. 1708(e)) is amend-
23 ed—

24 (A) by striking paragraph (2); and

1 (B) by redesignating paragraphs (3) and
2 (4) and paragraphs (2) and (3), respectively.

3 (b) TRANSFER OF FUNCTIONS.—

4 (1) AMENDMENTS TO THE FINANCIAL INSTITU-
5 TIONS REFORM, RECOVERY, AND ENFORCEMENT ACT
6 OF 1989.—

7 (A) TRANSFER OF FUNCTIONS.—Section
8 1103 of the Financial Institutions Reform, Re-
9 covery, and Enforcement Act of 1989 (12
10 U.S.C. 3332) is amended—

11 (i) by striking “**SEC. 1103.**” and in-
12 serting “**SEC. 1102.**”;

13 (ii) by striking “Appraisal Sub-
14 committee” each place such term appears
15 and inserting “Federal Financial Institu-
16 tions Examination Council”; and

17 (iii) in subsection (a)—

18 (I) in paragraph (3), by inserting
19 before the semicolon the following:
20 “, if the Council determines that
21 maintaining a national registry under
22 this paragraph will further the pur-
23 poses of this title (as described in sec-
24 tion 1101)”; and

1 (II) by striking paragraph (4)
2 and inserting the following:

3 “(4) include in its annual report to the Con-
4 gress a description of the manner in which the
5 Council has performed the functions assigned to the
6 Council under this title.”.

7 (B) ROSTER OF STATE CERTIFIED OR LI-
8 CENSED APPRAISERS.—Section 1109 of the Fi-
9 nancial Institutions Reform, Recovery, and En-
10 forcement Act of 1989 (12 U.S.C. 3338) is
11 amended to read as follows:

12 **“SEC. 1104. ROSTER OF STATE CERTIFIED OR LICENSED AP-
13 PRAISERS.**

14 “(a) IN GENERAL.—Each State that has an ap-
15 praiser certifying and licensing agency with a certification
16 or license that meets the requirements of this title shall—

17 “(1) upon request of the Federal Financial In-
18 stitutions Examination Council, transmit to the
19 Council annually (or at a less frequent interval spec-
20 ified by the Council) a roster listing individuals who
21 have received a State certification or license in ac-
22 cordance with this title;

23 “(2) collect from such individuals who perform
24 or seek to perform appraisals in federally related
25 transactions, an annual registry fee, in an amount

1 determined by the Council, but not to exceed \$10
2 per year, to support the activities of the State under
3 this title; and

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

6 “(b) STATUS OF FEES.—Fees collected and transmit-
7 ted to the Council under subsection (a) shall not be consid-
8 ered to be appropriated funds.”.

9 (C) CONFORMING AMENDMENTS.—Title XI
10 of the Financial Institutions Reform, Recovery,
11 and Enforcement Act of 1989 (12 U.S.C. 3331
12 et seq.) is amended—

13 (i) in section 1116(e)—

14 (I) by striking “Appraisal Sub-
15 committee” and inserting “Federal
16 Financial Institutions Examination
17 Council”; and

18 (II) by striking “the Subcommit-
19 tee” and inserting “the Federal Fi-
20 nancial Institutions Examination
21 Council”;

22 (ii) in section 1118—

23 (I) in the subsection heading, by
24 striking “BY APPRAISAL SUBCOMMIT-
25 TEE”; and

1 (II) by striking “Appraisal Sub-
2 committee” each place such term ap-
3 pears and inserting “Federal Finan-
4 cial Institutions Examination Coun-
5 cil”;

6 (iii) in section 1119—

7 (I) by striking “Subject to the
8 approval of the Council, the Appraisal
9 Subcommittee” each place such term
10 appears and inserting “The Council”;
11 and

12 (II) by striking “Appraisal Sub-
13 committee” each place such term ap-
14 pears and inserting “Federal Finan-
15 cial Institutions Examination Coun-
16 cil”;

17 (iv) in section 1120, by striking “Ap-
18 praisal Subcommittee” and inserting “Fed-
19 eral Financial Institutions Examination
20 Council”;

21 (v) in section 1122, by striking sub-
22 section (f); and

23 (vi) by redesignating—

24 (I) section 1107 as section 1103;
25 and

1 (II) sections 1109 through 1121
2 as sections 1104 through 1116, re-
3 spectively.

4 (2) ADMINISTRATIVE PROVISIONS.—

5 (A) REMISSION OF FUNDS TO THE TREAS-
6 URY.—On the date that is 90 days after the
7 date of enactment of this Act, all funds held by,
8 and the right to collect all funds owed to, the
9 Appraisal Subcommittee on the date that is 90
10 days after the date of enactment of this Act
11 shall be transferred to the Treasury of the
12 United States.

13 (B) REPAYMENT OF PREPAID REGISTRY
14 FEES.—Not later than 90 days after the date
15 of enactment of this Act, the Appraisal Sub-
16 committee shall refund to the States any reg-
17 istry fees prepaid to the Appraisal Subcommit-
18 tee after the date of enactment of this Act.

19 (C) TRANSFER OF EMPLOYEES.—

20 (i) IDENTIFYING EMPLOYEES FOR
21 TRANSFER.—Not later than 30 days after
22 the date of enactment of this Act, the
23 Council shall identify for transfer to the
24 Council the employees of the Appraisal
25 Subcommittee that the Council determines

1 to be necessary to perform the functions
2 transferred to the Council under this sub-
3 section.

4 (ii) TRANSFER DATE.—On the date
5 that is 90 days after the date of enactment
6 of this Act, each employee identified for
7 transfer under clause (i) shall be trans-
8 ferred to the Council.

9 (D) RIGHTS OF TRANSFERRED EMPLOY-
10 EES.—

11 (i) COMPARABLE POSITIONS.—Each
12 employee transferred to the Council under
13 subparagraph (C) shall, on the transfer
14 date specified in subparagraph (C)(ii), be
15 appointed to a position under the com-
16 pensation system and performance evalua-
17 tion system of the Council that is com-
18 parable in tenure and grade to the position
19 held by the employee on the day before the
20 transfer date specified in subparagraph
21 (C)(ii).

22 (ii) PAY.—

23 (I) IN GENERAL.—Except as pro-
24 vided in subclause (II), each employee
25 transferred to the Council under sub-

1 paragraph (C) shall, during the 12-
2 month period beginning on the trans-
3 fer date specified in subparagraph
4 (C)(ii), receive pay at a rate not less
5 than the basic rate of pay that the
6 employee received during the 12-
7 month period immediately preceding
8 the transfer date specified in subpara-
9 graph (C)(ii).

10 (II) EXCEPTIONS.—Subclause (I)
11 does not limit the right of the Council
12 to reduce a transferred rate of basic
13 pay of an employer for cause or unac-
14 ceptable performance, or with the con-
15 sent of the employee.

16 (III) PROTECTION ONLY WHILE
17 EMPLOYED.—Subclause (I) shall
18 apply to an employee only during the
19 period that the employee is employed
20 by the Council.

21 (iii) RETIREMENT BENEFITS.—

22 (I) CONTINUATION OF EXISTING
23 RETIREMENT PLAN.—Except as other-
24 wise permitted by law, each employee
25 transferred to the Council under sub-

1 paragraph (C) shall remain enrolled in
2 the retirement plan (and any associ-
3 ated thrift savings plan) in which the
4 employee was enrolled on the day be-
5 fore the transfer date specified in sub-
6 paragraph (C)(ii) during the period
7 that the employee is employed by the
8 Council.

9 (II) EMPLOYER CONTRIBUTION.—The Council shall pay any em-
10 ployer contributions to the retirement
11 plan in which each employee trans-
12 ferred to the Council under subpara-
13 graph (C) is subject during the period
14 that the employee is employed by the
15 Council, in accordance with such re-
16 tirement plan.

17 (iv) NO PRIVATE RIGHT OF ACTION.—
18 This subparagraph does not provide any
19 employee with any right of action to re-
20 quire the Council or any officer, employee,
21 agent, or administrator of the Council to
22 take any action under this subparagraph.

23 (v) PRIORITY OF THIS ACT.—If any
24 protection provided under this subpara-
25

1 graph conflicts with any protection pro-
2 vided to transferred employees under sec-
3 tion 3503 of title 5, United States Code,
4 the provisions of this subparagraph shall
5 control.

6 **SEC. 214. BRANCH CLOSURES.**

7 (a) AMENDMENT TO THE FEDERAL DEPOSIT INSUR-
8 ANCE ACT.—Section 42 of the Federal Deposit Insurance
9 Act (12 U.S.C. 1831r-1) is amended by adding at the end
10 the following new subsection:

11 “(e) DEFINITIONS.—For purposes of this section, the
12 term ‘branch’ does not include—

13 “(1) an automated teller machine;

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

18 “(3) a branch that is closed and reopened in
19 another location within the same local market area
20 that would continue to provide banking services to
21 substantially all of the customers currently served by
22 the branch that is closed;

23 “(4) a branch that is closed in connection
24 with—

25 “(A) an emergency acquisition under—

1 “(i) section 11(n); or

2 “(ii) subsection (f) or (k) of section
3 13; or

4 “(B) any assistance provided by the Cor-
5 poration under section 13(c); or

6 “(5) any other branch closure the exemption of
7 which from the notice requirements of this section
8 would not produce a result inconsistent with the
9 purposes of this section, as determined, by regula-
10 tion, by the appropriate Federal banking agency.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall be construed to have become effective
13 on the date of enactment of the Federal Deposit Insurance
14 Corporation Improvement Act of 1991.

15 **SEC. 215. FOREIGN BANKS.**

16 (a) TERMINATION OF FOREIGN BRANCHES.—Section
17 7(e) of the International Banking Act of 1978 (12 U.S.C.
18 3105(e)) is amended—

19 (1) by striking the subsection designation and
20 the subsection heading;

21 (2) by striking paragraphs (1) through (6);

22 (3) by redesignating paragraph (7) as para-
23 graph (5); and

24 (4) by inserting before paragraph (5), as redesi-
25 gnated, the following:

1 “(e) TERMINATION OF FOREIGN BANK OFFICES IN
2 THE UNITED STATES.—

3 “(1) RECOMMENDATION FOR TERMINATION OF
4 FOREIGN BANK OFFICES IN THE UNITED STATES.—

5 The Board may transmit to the Comptroller of the
6 Currency or to any appropriate State bank super-
7 visor a recommendation that the license of any
8 branch, agency, or commercial bank lending com-
9 pany subsidiary of a foreign bank in the United
10 States be terminated if the Board finds that—

11 “(A) the foreign bank is not subject to
12 comprehensive supervision or regulation on a
13 consolidated basis by the appropriate authori-
14 ties in the home country of the foreign bank; or

15 “(B)(i) there is reasonable cause to believe
16 that such foreign bank, or any affiliate of such
17 foreign bank, has committed a violation of law
18 or engaged in an unsafe or unsound banking
19 practice in the United States; and

20 “(ii) as a result of such violation or prac-
21 tice, the continued operation of the branch,
22 agency, or commercial lending company subsidi-
23 ary of the foreign bank in the United States
24 would not be consistent with the public interest
25 or with the purposes of this Act, the Bank

1 Holding Company Act of 1956, or the Federal
2 Deposit Insurance Act.

3 “(2) NOTICE AND HEARING.—

4 “(A) IN GENERAL.—The Board shall pro-
5 vide notice and opportunity for a hearing to a
6 foreign bank before transmitting to the Comp-
7 troller of the Currency or to any appropriate
8 State bank supervisor a recommendation de-
9 scribed in paragraph (1).

10 “(B) DISCRETION TO DENY HEARING.—
11 The Board may transmit a recommendation
12 under subparagraph (A) without providing for
13 an opportunity for a hearing if the Board deter-
14 mines that expeditious action is necessary in
15 order to protect the public interest.

16 “(3) COMPLIANCE WITH STATE AND FEDERAL
17 LAW.—Any foreign bank that is required to termi-
18 nate activities conducted at offices of subsidiaries in
19 the United States as a result of a recommendation
20 made under this subsection shall comply with the re-
21 quirements of applicable Federal and State law with
22 respect to procedures for the closure or dissolution
23 of such offices or subsidiaries.

24 “(4) ENFORCEMENT OF ORDERS.—

1 “(A) IN GENERAL.—The Comptroller of
2 the Currency or the appropriate State bank su-
3 pervisor may invoke the aid of the district court
4 of the United States within the jurisdiction in
5 which the office or subsidiary is located in case
6 of contumacy of any office or subsidiary of the
7 foreign bank against which—

8 “(i) the Comptroller of the Currency
9 has issued an order under section 4(i); or

10 “(ii) any appropriate State bank su-
11 pervisor has issued—

12 “(I) an order in response to a
13 recommendation under paragraph (1);

14 or

15 “(II) a refusal by such office or
16 subsidiary to comply with such order.

17 “(B) COURT ORDER.—Any court referred
18 to in subparagraph (A) may issue an order re-
19 quiring compliance with an order issued under
20 paragraph (1).”.

21 (b) ELIMINATION OF DUPLICATE EXAMINATIONS OF
22 FOREIGN BANKS.—Section 7(c)(1) of the International
23 Banking Act of 1978 (12 U.S.C. 3105(c)(1)) is amended
24 by striking subparagraphs (B), (C), and (D) and inserting
25 the following:

1 “(B) RELIANCE ON PRIMARY SUPER-
2 VISOR.—In order to avoid unnecessary duplica-
3 tion and cost, the Board shall, to the maximum
4 extent practicable, rely upon the reports of ex-
5 aminations made by the Comptroller of the
6 Currency, the Federal Deposit Insurance Cor-
7 poration, or the appropriate State bank super-
8 visor in achieving the purposes of this sub-
9 section.

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

17 “(D) COST OF EXAMINATIONS.—The cost
18 of any examination undertaken under subpara-
19 graph (A) shall be assessed against and col-
20 lected from the foreign bank or the foreign
21 company that controls the foreign bank, as ap-
22 plicable, but only to the same extent that fees
23 are collected by the Board for examination of
24 any State member insured bank.”.

1 (c) STREAMLINING REVIEW OF FOREIGN BANK AP-
2 PPLICATIONS BY THE BOARD.—Section 7(d) of the Inter-
3 national Banking Act of 1978 (12 U.S.C. 3105(d)) is
4 amended—

5 (1) by striking paragraphs (1) and (2) and in-
6 serting the following:

7 “(1) PRIOR REVIEW REQUIRED.—

8 “(A) IN GENERAL.—Before any foreign
9 bank application to establish a branch or an
10 agency, or acquire ownership or control of a
11 commercial lending company may be approved
12 by any appropriate State bank supervisor or the
13 Comptroller of the Currency, the application
14 shall be submitted for review to the Board for
15 a period of not more than 60 days.

16 “(B) PURPOSE.—The purpose of the re-
17 view conducted under subparagraph (A) shall
18 be to determine whether approval of any appli-
19 cation would place at risk the safe and sound
20 operation of the United States banking system.

21 “(2) AUTHORITY OF THE BOARD.—Based on
22 the determination described in paragraph (1), the
23 Board may—

24 “(A) deny the application;

1 “(B) extend for 60 days the period for re-
2 view of any application, after providing notice
3 of and the reasons for the extension to the ap-
4 plicant and any appropriate State bank super-
5 visor or the Comptroller of the Currency; or

6 “(C) approve the application, either by af-
7 firmative action or by taking no action during
8 the 60-day period described in paragraph (1).”;
9 and

10 (2) in paragraph (3)—

11 (A) by redesignating subparagraphs (A)
12 through (D) as subparagraphs (C) through (F);
13 and

14 (B) by striking “In” and all that follows
15 through “account—” and inserting the follow-
16 ing: “In making any determination under para-
17 graph (1), the Board may consider—

18 “(A) whether the foreign bank engages di-
19 rectly in the business of banking outside of the
20 United States and is subject to comprehensive
21 supervision or regulation on a consolidated
22 basis by the appropriate authorities in the home
23 country of the foreign bank;

1 “(B) whether the foreign bank has fur-
2 nished to the Board the information it needs to
3 adequately assess the application;”.

4 **Subtitle B—Eliminating Unneces-**
5 **sary Costs and Paperwork Bur-**
6 **dens**

7 **SEC. 221. SMALL BANK EXAMINATION CYCLE.**

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

11 (1) in the section heading, by striking “**18-**
12 **MONTH RULE**” and inserting “**24-MONTH RULE**”;
13 and

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

16 (b) SMALL BANK SIZE DISCRETION.—Section 10(d)
17 of the Federal Deposit Insurance Act (12 U.S.C. 1820(d))
18 is amended—

19 (1) by redesignating the second paragraph des-
20 ignated as paragraph (8) as paragraph (9); and

21 (2) in paragraph (9), as redesignated, by strik-
22 ing “\$175,000,000” and inserting “\$250,000,000”.

23 **SEC. 222. REIMBURSEMENT FOR CORPORATE RECORDS.**

24 Section 1115(a) of the Right to Financial Privacy Act
25 of 1978 (12 U.S.C. 3415) is amended by inserting “(in-

1 cluding any corporate customer)” after “pertaining to a
2 customer”.

3 **SEC. 223. REQUIRED REGULATORY REVIEW OF REGULA-**
4 **TIONS.**

5 (a) IN GENERAL.—Not less frequently than once
6 every 10 years, the Council and each appropriate Federal
7 banking agency represented on the Council shall conduct
8 a review of all regulations promulgated by the Council or
9 by any such appropriate Federal banking agency, respec-
10 tively, in order to identify outdated or otherwise unneces-
11 sary regulatory requirements imposed upon insured depos-
12 itory institutions.

13 (b) PROCESS.—In conducting the review under sub-
14 section (a), the Council or the appropriate Federal bank-
15 ing agency shall—

16 (1) categorize the regulations by type (such as
17 consumer regulations, safety and soundness regula-
18 tions, or such other designations as determined by
19 the Council); and

20 (2) at regular intervals, provide notice and so-
21 licit public comment on a particular category or cat-
22 egories of regulations, requesting commentators to
23 identify areas of the regulations that are outdated,
24 unnecessary, or unduly burdensome.

1 (c) COMPLETE REVIEW.—The Council or the appro-
2 priate Federal banking agency shall ensure that the notice
3 and comment period described in subsection (b)(2) is con-
4 ducted with respect to all regulations described in sub-
5 section (a) not less frequently than once every 10 years.

6 (d) REGULATORY RESPONSE.—The Council or the
7 appropriate Federal banking agency shall—

8 (1) publish in the Federal Register a summary
9 of the comments received under this section, identi-
10 fying significant issues raised and providing com-
11 ment on such issues; and

12 (2) eliminate unnecessary regulations to the ex-
13 tent that such action is appropriate.

14 (e) REPORT TO CONGRESS.—Not later than 30 days
15 after carrying out subsection (d)(1), the Council shall pro-
16 vide to the Congress a report, which shall include—

17 (1) a summary of any significant issues raised
18 by public comments received by the Council and the
19 appropriate Federal banking agencies under this sec-
20 tion and the relative merits of such issues; and

21 (2) an analysis of whether the appropriate Fed-
22 eral banking agency involved is able to address the
23 regulatory burdens associated with such issues by
24 regulation, or whether such burdens must be ad-
25 dressed by legislative action.

1 **Subtitle C—Eliminating Unneces-**
2 **sary Reporting Requirements**

3 **SEC. 231. PROHIBITION ON ADDITIONAL REPORTING**
4 **UNDER COMMUNITY REINVESTMENT ACT OF**
5 **1977.**

6 Section 806 of the Community Reinvestment Act of
7 1977 (12 U.S.C. 2905) is amended to read as follows:

8 **“SEC. 806. REGULATIONS.**

9 “(a) **IN GENERAL.**—Each appropriate Federal finan-
10 cial supervisory agency shall promulgate such regulations
11 as may be necessary to carry out this title.

12 “(b) **NO ADDITIONAL RECORDKEEPING REQUIRE-**
13 **MENTS.**—The regulations promulgated under subsection
14 (a) and any accompanying policy statements, commentary,
15 examiner guidances, or other supervisory material shall
16 not impose any recordkeeping requirements on financial
17 institutions that do not have the effect of eliminating,
18 streamlining, or reducing regulatory burdens upon such
19 institutions.

20 “(c) **LOAN DATA.**—No loan data may be required to
21 be collected and reported by a financial institution and no
22 such data may be made public by any Federal financial
23 supervisory agency under this title.”.

1 **SEC. 232. EXEMPTION FROM COMMUNITY SUPPORT RE-**
2 **QUIREMENTS OF THE FEDERAL HOME LOAN**
3 **BANK ACT FOR INSTITUTIONS MEETING CER-**
4 **TAIN CRITERIA.**

5 Section 10(g) of the Federal Home Loan Bank Act
6 (12 U.S.C. 1430(g)) is amended by adding at the end the
7 following new paragraph:

8 “(3) MEMBERS EXCLUDED.—

9 “(A) IN GENERAL.—No rule or regulation
10 promulgated under this subsection that estab-
11 lishes community support requirements shall
12 apply to a member if such member—

13 “(i) is a regulated financial institution
14 (as such term is defined in section 803 of
15 the Community Reinvestment Act of
16 1977); and

17 “(ii) (I) has not received a composite
18 rating of ‘needs to improve’ or ‘substantial
19 noncompliance’ from the primary regulator
20 of the member as of the most recent exam-
21 ination of the member under the Commu-
22 nity Reinvestment Act of 1977; or

23 “(II) has been in operation for less
24 than 2 years and has not received a rating
25 from the primary regulator of the member

1 under the Community Reinvestment Act of
2 1977.

3 “(B) ADDITIONAL REQUIREMENTS.—If a
4 member does not qualify for an exemption
5 under subparagraph (A), the record of the
6 member of lending to first-time homebuyers
7 shall be taken into account in determining com-
8 pliance with the rules and regulations described
9 in subparagraph (A).”.

10 **SEC. 233. RECORDING REQUIREMENTS.**

11 Section 5325 of title 31, United States Code, is
12 amended—

13 (1) in subsection (a)—

14 (A) by striking “unless—” and all that fol-
15 lows through the end of paragraph (1) and in-
16 serting “unless the individual has a transaction
17 account with such financial institution and the
18 financial institution verifies that fact through a
19 signature card or other information maintained
20 by such institution in connection with the ac-
21 count of such individual.”; and

22 (B) by striking paragraph (2); and

23 (2) in subsection (b), by striking “paragraph
24 (1) or (2)”.

1 **SEC. 234. IDENTIFICATION OF NONBANK FINANCIAL INSTI-**
2 **TUTION CUSTOMERS.**

3 (a) IN GENERAL.—Section 5327 of title 31, United
4 States Code, is repealed.

5 (b) TECHNICAL AND CONFORMING AMENDMENT.—
6 Section 5321(a)(7) of title 31, United States Code, is re-
7 pealed.

8 **SEC. 235. REPEAL OF COMMERCIAL LOAN REPORTING RE-**
9 **QUIREMENTS.**

10 The following sections of the Federal Deposit Insur-
11 ance Corporation Improvement Act of 1991 are repealed:

12 (1) Section 122 (12 U.S.C. 1817 note).

13 (2) Section 477 (12 U.S.C. 251).

14 **SEC. 236. INCREASE IN HOME MORTGAGE DISCLOSURE**
15 **ACT; DISCLOSURE EXEMPTION.**

16 (a) IN GENERAL.—Section 309 of the Home Mort-
17 gage Disclosure Act of 1975 (12 U.S.C. 2808) is amend-
18 ed—

19 (1) in the second sentence, by striking
20 “\$10,000,000” and inserting “\$50,000,000”; and

21 (2) by adding at the end the following: “The
22 Board may also exempt from the provisions of this
23 title any institution described in section 303(2)(A)
24 that has total assets of not less than \$50,000,000 as
25 of the last complete fiscal year of the institution, if
26 the burden on the institution of complying with this

1 title outweighs the usefulness of the information re-
2 quired to be disclosed.”.

3 (b) OPPORTUNITY TO REDUCE COMPLIANCE BUR-
4 DEN.—Section 304 of the Home Mortgage Disclosure Act
5 of 1975 (12 U.S.C. 2803) is amended by adding at the
6 end the following new subsection:

7 “(m) OPPORTUNITY TO REDUCE COMPLIANCE BUR-
8 DEN.—

9 “(1) IN GENERAL.—

10 “(A) SATISFACTION OF PUBLIC AVAILABIL-
11 ITY REQUIREMENTS.—A depository institution
12 shall be deemed to have satisfied the public
13 availability requirements of subsection (a) if the
14 institution compiles the information required
15 under that subsection at the home office of the
16 institution and provides notice at the branch lo-
17 cations specified in subsection (a) that such in-
18 formation is available from the home office of
19 the institution upon written request.

20 “(B) PROVISION OF INFORMATION UPON
21 REQUEST.—Not later than 15 days after the re-
22 ceipt of the written request for any information
23 required to be compiled under subsection (a),
24 the home office of the depository institution re-
25 ceiving the request shall provide the information

1 pertinent to the location of the branch in ques-
2 tion to the person requesting the information.

3 “(2) FORM OF INFORMATION.—In complying
4 with paragraph (1), a depository institution shall, in
5 the sole discretion of the institution, provide the per-
6 son requesting such information with—

7 “(A) a paper copy of the information re-
8 quested; or

9 “(B) if acceptable to the person, the infor-
10 mation through a form of electronic medium,
11 such as a computer disk.”.

12 **SEC. 237. ELIMINATION OF STOCK LOAN REPORTING RE-**
13 **QUIREMENT.**

14 Section 7(j) of the Federal Deposit Insurance Act (12
15 U.S.C. 1817(j)) is amended—

16 (1) by striking paragraphs (9) and (10);

17 (2) by redesignating paragraphs (11) through
18 (18) as paragraphs (9) through (16), respectively;

19 and

20 (3) in paragraph (9), as redesignated, by strik-
21 ing “or (9)”.

Subtitle D—Regulatory Micromanagement

3 SEC. 241. NATIONAL BANK DIRECTORS.

4 Section 5146 of the Revised Statutes (12 U.S.C. 72)
5 is amended in the first sentence, by striking “except” and
6 all that follows through the end of the sentence and insert-
7 ing the following: “except that the Comptroller may, in
8 the discretion of the Comptroller, waive the requirement
9 of citizenship (in the case of not more than a minority
10 of the total number of directors) and the requirement of
11 residency.”.

12 SEC. 242. PAPERWORK REDUCTION REVIEW.

13 Not later than 180 days after the date of enactment
14 of this Act, each appropriate Federal banking agency and
15 the National Credit Union Administration Board, in con-
16 sultation with insured depository institutions, insured
17 credit unions, and other interested parties, shall—

18 (1) review the extent to which existing regula-
19 tions require insured depository institutions and in-
20 sured credit unions to produce unnecessary internal
21 written policies; and

22 (2) eliminate such requirements, where appro-
23 priate.

1 **SEC. 243. STATE BANK REPRESENTATION ON BOARD OF DI-**
2 **RECTORS OF THE FDIC.**

3 (a) IN GENERAL.—Section 2(a)(1) of the Federal
4 Deposit Insurance Act (12 U.S.C. 1812(a)(1)) is amend-
5 ed—

6 (1) by striking “5 members” and inserting “6
7 members”;

8 (2) in subparagraph (B), by striking “and” at
9 the end;

10 (3) in subparagraph (C), by striking the period
11 at the end and inserting “; and”; and

12 (4) by adding at the end the following new sub-
13 paragraph:

14 “(D) 1 of whom shall be appointed by the
15 President, by and with the advice and consent
16 of the Senate, from among individuals serving
17 as State bank commissioners or supervisors (or
18 the functional equivalent thereof) as of the date
19 on which the appointment is made.”.

20 (b) CHAIRPERSON AND VICE CHAIRPERSON.—Sec-
21 tion 2(b) of the Federal Deposit Insurance Act (12 U.S.C.
22 1812(b)) is amended—

23 (1) in paragraph (1), by striking “appointed
24 members” and inserting “members appointed pursu-
25 ant to subsection (a)(1)(C)”; and

1 (2) in paragraph (2), by striking “appointed
2 members” and inserting “members appointed pursu-
3 ant to subsection (a)(1)(C)”.

4 (c) TERMS.—Section 2(c)(1) of the Federal Deposit
5 Insurance Act (12 U.S.C. 1812(c)(1)) is amended—

6 (1) by striking “Each appointed member” and
7 inserting the following:

8 “(A) IN GENERAL.—Each member ap-
9 pointed pursuant to subsection (a)(1)(C)”; and
10 (2) by adding at the end the following:

11 “(B) STATE BANK REPRESENTATIVES.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), each member appointed
14 pursuant to subsection (a)(1)(D) shall be
15 appointed for a single term of 2 years.

16 “(ii) EXCEPTION.—If a member ap-
17 pointed pursuant to subsection (a)(1)(D)
18 ceases to be a State banking commissioner
19 or supervisor (or functional equivalent
20 thereof) on a date prior to the expiration
21 of the 2-year period described in clause (i),
22 such member’s membership on the Board
23 of Directors shall terminate on that date.”.

24 (d) VACANCIES.—Section 2(d)(1) of the Federal De-
25 posit Insurance Act (12 U.S.C. 1812(d)(1)) is amended—

1 (1) by striking “Any vacancy” and inserting the
2 following:

3 “(A) IN GENERAL.—Subject to the restric-
4 tions contained in subparagraph (B), any va-
5 cancy”; and

6 (2) by adding at the end the following new sub-
7 paragraph:

8 “(B) RESTRICTIONS.—

9 “(i) SAME INDIVIDUAL.—In filling a
10 vacancy on the Board of Directors pursu-
11 ant to subsection (a)(1)(D), the President
12 may not appoint an individual who has
13 previously served as a member of the
14 Board of Directors pursuant to subsection
15 (a)(1)(D).

16 “(ii) SAME STATE.—In filling a va-
17 cancy on the Board of Directors pursuant
18 to subsection (a)(1)(D) (other than a
19 vacancy occurring under subsection
20 (c)(1)(B)(ii)), the President may not ap-
21 point an individual who is serving as the
22 State bank commissioner or supervisor (or
23 functional equivalent thereof) of the same
24 State as the member most recently ap-
25 pointed pursuant to subsection (a)(1)(D).”.

1 (e) NONCOMPENSATION; TRAVEL EXPENSES.—Sec-
 2 tion 2 of the Federal Deposit Insurance Act (12 U.S.C.
 3 1812) is amended by adding at the end the following new
 4 subsection:

5 “(g) PERSONNEL MATTERS RELATING TO STATE
 6 BANK REPRESENTATIVES.—Members of the Board of Di-
 7 rectors appointed pursuant to subsection (a)(1)(D)—

8 “(1) shall serve without compensation; and

9 “(2) shall be allowed travel expenses, including
 10 per diem in lieu of subsistence, at rates authorized
 11 for employees of agencies under subchapter I of
 12 chapter 57 of title 5, United States Code, while
 13 away from their homes or regular places of business
 14 in the performance of services for the Board of Di-
 15 rectors.”.

16 **TITLE III—REGULATORY IMPACT**
 17 **ON COST OF CREDIT AND**
 18 **CREDIT AVAILABILITY**

19 **Subtitle A—Lowering Compliance**
 20 **Costs To Promote Credit Avail-**
 21 **ability**

22 **SEC. 301. AUDIT COSTS.**

23 (a) IN GENERAL.—

24 (1) AUDITOR ATTESTATIONS.—Section 36 of
 25 the Federal Deposit Insurance Act (12 U.S.C.

1 1831m) is amended by striking subsection (e) and
2 inserting the following:

3 “(e) [Reserved.]”.

4 (2) INDEPENDENT AUDIT COMMITTEES.—Sec-
5 tion 36(g)(1) of the Federal Deposit Insurance Act
6 (12 U.S.C. 1831m(g)(1)) is amended—

7 (A) in subparagraph (A), by striking “en-
8 tirely” and inserting “the majority of which is”;
9 and

10 (B) by adding at the end the following new
11 subparagraph:

12 “(D) EXEMPTION AUTHORITY.—

13 “(i) IN GENERAL.—Each appropriate
14 Federal banking agency shall, by regula-
15 tion, exempt from the requirements of this
16 subsection each insured depository institu-
17 tion that has, in the determination of the
18 agency, encountered hardships in retaining
19 competent directors on the internal audit
20 committee of the institution as a result of
21 this subsection.

22 “(ii) FACTORS CONSIDERED.—In de-
23 termining whether to exempt an insured
24 depository institution under clause (i),
25 each appropriate Federal banking agency

1 shall take into consideration such factors
2 as the size of the institution and the avail-
3 ability of competent outside directors from
4 the community of the institution.”.

5 (3) PUBLIC AVAILABILITY.—Section 36(a)(3) of
6 the Federal Deposit Insurance Act (12 U.S.C.
7 1831m(a)(3)) is amended by adding at the end the
8 following: “Notwithstanding the preceding sentence,
9 the Corporation and the appropriate Federal bank-
10 ing agencies may designate certain information as
11 privileged and confidential and not available to the
12 public.”.

13 **SEC. 302. INCENTIVES FOR SELF-TESTING.**

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

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

19 **“SEC. 704A. ENCOURAGEMENT OF CREDITORS TO SELF-**
20 **TEST FOR EQUAL CREDIT OPPORTUNITY ACT**
21 **COMPLIANCE.**

22 “If a creditor conducts, or authorizes an independent
23 third party to conduct, a test or review of the lending oper-
24 ations of the creditor or any part of the lending operations
25 of the creditor in order to determine the level or effective-

1 ness of compliance with this title by the creditor, any re-
2 port or results of such a test or review may not be re-
3 viewed, obtained, examined, or otherwise acquired or used
4 by any department or agency authorized to enforce this
5 title.”;

6 (2) in section 706(g), by adding at the end the
7 following: “An agency may refer a matter to the At-
8 torney General under this subsection if the creditor
9 has already identified the matter as a possible viola-
10 tion of this title as the result of internal review, self-
11 testing, compliance review, or other audit or review
12 procedure instituted by the creditor to determine
13 compliance with this title. Nothing in this subsection
14 shall limit the authority of the agency to enforce this
15 title under any other provision of law.”; and

16 (3) in section 706(k)—

17 (A) by redesignating subparagraphs (1)
18 through (3) as subparagraphs (A) through (C),
19 respectively, and indenting appropriately;

20 (B) by striking “Whenever” and inserting
21 the following:

22 “(1) IN GENERAL.—Whenever”; and

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

1 “(2) LIMITATION.—An agency referred to in
2 paragraph (1), (2), or (3) of section 704(a) may no-
3 tify the Secretary of Housing and Urban Develop-
4 ment or the applicant of a violation of this title or
5 of the Fair Housing Act if the creditor has already
6 identified the matter as a possible violation of either
7 this title or the Fair Housing Act as a result of in-
8 ternal review, self-testing, compliance review, or
9 other audit or review procedure instituted by the
10 creditor to determine compliance with this title.
11 Nothing in this subsection shall limit the authority
12 of the agency to enforce this title under any other
13 provision of law.”.

14 (b) FAIR HOUSING.—The Fair Housing Act (42
15 U.S.C. 3601 et seq.) is amended by inserting after section
16 814 the following new section:

17 **“SEC. 814A. ENCOURAGEMENT TO SELF-TEST FOR FAIR**
18 **HOUSING ACT COMPLIANCE.**

19 “‘If any person conducts, or authorizes an independ-
20 ent third party to conduct, a test or review of the residen-
21 tial real estate or real estate-related activities of the per-
22 son, or any part thereof, in order to determine the level
23 or effectiveness of compliance with this Act by that person,
24 any report or results of such a test or review may not
25 be reviewed, obtained, examined, or otherwise acquired or

1 used by any department or agency authorized to enforce
2 this Act.”.

3 **SEC. 303. EXEMPTION FOR SAVINGS INSTITUTIONS SERV-**
4 **ING MILITARY PERSONNEL.**

5 Section 10(m)(3)(F) of the Home Owners’ Loan
6 Act (12 U.S.C. 1467a(m)(3)(F)) is amended to read as
7 follows:

8 “(F) EXEMPTION FOR SPECIALIZED SAV-
9 INGS ASSOCIATIONS SERVING CERTAIN MILI-
10 TARY PERSONNEL.—Subparagraph (A) does not
11 apply to a savings association subsidiary of a
12 savings and loan holding company if not less
13 than 90 percent of the customers of the savings
14 and loan holding company and the subsidiaries
15 and affiliates of such company are active or
16 former officers in the United States military
17 services or the widows, widowers, divorced
18 spouses, or current or former dependents of
19 such officers.”.

20 **SEC. 304. QUALIFIED THRIFT INVESTMENT AMENDMENTS.**

21 (a) CREDIT CARDS.—Section 5(b) of the Home Own-
22 ers’ Loan Act (12 U.S.C. 1464(b)) is amended—

23 (1) by striking paragraph (4); and

24 (2) by redesignating paragraph (5) as para-
25 graph (4).

1 (b) LOANS OR INVESTMENTS WITHOUT PERCENTAGE
2 OF ASSETS LIMITATION.—Section 5(c)(1) of the Home
3 Owners’ Loan Act (12 U.S.C. 1464(c)(1)) is amended by
4 adding at the end the following new subparagraphs:

5 “(T) CREDIT CARD LOANS.—Loans made
6 through credit cards or credit card accounts.

7 “(U) EDUCATION LOANS.—Loans made
8 for the payment of educational expenses.”.

9 (c) COMMERCIAL AND OTHER LOANS.—Section
10 5(c)(2)(A) of the Home Owners’ Loan Act (12 U.S.C.
11 1464(c)(2)(A)) is amended by adding at the end the fol-
12 lowing: “No loan may be made under this subparagraph
13 in an amount that exceeds 20 percent of the total assets
14 of the Federal savings association, and any loan amount
15 in excess of 10 percent of the total assets of the Federal
16 savings association may be invested only in small business
17 loans, as such term is defined by the Director.”.

18 (d) LOANS OR INVESTMENTS LIMITED TO 5 PER-
19 CENT OF ASSETS.—Section 5(c)(3) of the Home Owners’
20 Loan Act (12 U.S.C. 1464(c)(3)) is amended—

21 (1) by striking subparagraph (A); and

22 (2) by redesignating subparagraphs (B), (C),
23 and (D) as subparagraphs (A), (B), and (C), respec-
24 tively.

1 (e) QUALIFIED THRIFT LENDER TEST.—Section
2 10(m)(1) of the Home Owners’ Loan Act (12 U.S.C.
3 1467a(m)(1)) is amended—

4 (1) by redesignating subparagraph (B) as
5 clause (ii);

6 (2) in subparagraph (A), by striking “(A) the
7 savings” and inserting “(B)(i) the savings”; and

8 (3) by inserting after “if—” the following new
9 subparagraph:

10 “(A) the savings association qualifies as a
11 domestic building and loan association, as such
12 term is defined in section 7701(a)(19) of the
13 Internal Revenue Code of 1986; or”.

14 (f) DEFINITION.—Section 10(m)(4) of the Home
15 Owners’ Loan Act (12 U.S.C. 1467a(m)(4)) is amended—

16 (1) in subparagraph (C)—

17 (A) in clause (ii), by adding at the end the
18 following new subclause:

19 “(VII) Loans for educational
20 purposes, loans to small businesses,
21 and loans made through credit cards
22 or credit card accounts.”;

23 (B) in clause (iii), by striking subclause
24 (VI) and inserting the following:

1 “(VI) Loans for personal, family,
 2 or household purposes (other than
 3 loans for personal, family, or house-
 4 hold purposes covered by clause
 5 (ii)(VII)).”; and

6 (2) by adding at the end the following new sub-
 7 paragraphs:

8 “(D) CREDIT CARD.—The Director shall
 9 issue such regulations as may be necessary to
 10 define the term ‘credit card’.

11 “(E) SMALL BUSINESS.—The Director
 12 shall issue such regulations a may be necessary
 13 to define the term ‘small business’.”.

14 **SEC. 305. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL**
 15 **HOME LOAN BANKS.**

16 The Federal Reserve Act (12 U.S.C. 221 et seq.) is
 17 amended by inserting after section 11A the following new
 18 section:

19 **SEC. 11B. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL**
 20 **HOME LOAN BANKS.**

21 “Any policy or regulation adopted by the Board of
 22 Governors of the Federal Reserve System governing pay-
 23 ment system risk or intraday credit shall—

24 “(1) include—

1 “(A) the establishment of net debit caps
2 appropriate to the credit quality of each Fed-
3 eral Home Loan Bank; and

4 “(B) the imposition of normal fees for day-
5 light overdrafts, calculated in the same manner
6 as fees for other users; or

7 “(2) exempt Federal Home Loan Banks from
8 such policy or regulation.”.

9 **SEC. 306. APPLICATION FOR MEMBERSHIP IN THE FED-**
10 **ERAL HOME LOAN BANK SYSTEM.**

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

13 “(b) MEMBERSHIP BASED ON CONVENIENCE.—

14 “(1) APPLICATION PROCESS.—An institution el-
15 igible to become a member under this section may
16 become a member by submitting an application for
17 membership—

18 “(A) to the Bank in the district in which
19 the principal place of business of the institution
20 is located; or

21 “(B) if the Board determines that such ac-
22 tion is necessary for the convenience of the in-
23 stitution, to the Bank in any district that is ad-
24 jacent to the district in which the principal
25 place of business of the institution is located.

1 “(2) APPROVAL OF APPLICATION.—An applica-
2 tion for membership submitted under this subsection
3 shall be approved by the Bank if, in the judgment
4 of the Bank, the applicant meets the criteria for eli-
5 gibility contained in this section.”.

6 **SEC. 307. AUTHORITY FOR FEDERAL HOME LOAN BANKS TO**
7 **SELECT EXTERNAL AUDITORS.**

8 Section 11(j) of the Federal Home Loan Bank Act
9 (12 U.S.C. 1431(j)) is amended—

10 (1) by striking “(j) Notwithstanding” and in-
11 serting the following:

12 “(j) AUDITS.—

13 “(1) IN GENERAL.—Notwithstanding”; and

14 (2) by adding at the end the following new
15 paragraph:

16 “(2) SELECTION OF EXTERNAL AUDITORS.—

17 “(A) IN GENERAL.—The Federal Home
18 Loan Banks shall, on an annual basis, contract
19 for an annual audit with a single auditor.

20 “(B) ROLE OF THE BOARD.—Notwith-
21 standing any other provision of law, the Board
22 shall not participate in any audit or audit con-
23 tracting process under this paragraph, except
24 that the Board may establish requirements for
25 audit contracts and accounting standards used

1 in connection with any audit under this para-
2 graph.”.

3 **SEC. 308. LIMITED PURPOSE BANK GROWTH CAP RELIEF.**

4 Section 4(f)(3)(B) of the Bank Holding Company Act
5 of 1956 (12 U.S.C. 1843(f)(3)(B)) is amended—

6 (1) in clause (ii), by adding “or” at the end;

7 (2) in clause (iii), by striking “; or” at the end
8 and inserting a period; and

9 (3) by striking clause (iv).

10 **Subtitle B—Disincentives to Risk-**
11 **Taking**

12 **SEC. 311. DUE PROCESS PROTECTIONS.**

13 (a) ATTACHMENT OF ASSETS.—Section 11(d)(19) of
14 the Federal Deposit Insurance Act (12 U.S.C.
15 1821(d)(19)) is amended—

16 (1) in subparagraph (A), by striking “without
17 regard” and all that follows through “immediate”;
18 and

19 (2) in subparagraph (B), by striking “(as modi-
20 fied with respect to such proceeding by subpara-
21 graph (A))”.

22 (b) CEASE-AND-DESIST PROCEEDINGS.—Section
23 8(b)(6) of the Federal Deposit Insurance Act (12 U.S.C.
24 1818(b)(6)) is amended—

1 (1) in subparagraph (D), by striking “and” at
2 the end;

3 (2) in subparagraph (E), by striking “and” at
4 the end;

5 (3) by redesignating subparagraph (F) as sub-
6 paragraph (G); and

7 (4) by inserting after subparagraph (E) the fol-
8 lowing new subparagraph:

9 “(F) prohibit such party from withdraw-
10 ing, transferring, removing, dissipating, or dis-
11 posing of any funds, assets, or other property
12 if injury, loss, or damage to such property is ir-
13 reparable and immediate; and”.

14 (c) PREJUDGMENT ATTACHMENT.—

15 (1) INSURED DEPOSITORY INSTITUTIONS.—Sec-
16 tion 8(i)(4)(B) of the Federal Deposit Insurance Act
17 (12 U.S.C. 1818(i)) is amended to read as follows:

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

21 (2) INSURED CREDIT UNIONS.—

22 (A) POWERS AND DUTIES OF BOARD AS
23 CONSERVATOR OR LIQUIDATING AGENT.—Sec-
24 tion 207(b)(2)(H) of the Federal Credit Union
25 Act (12 U.S.C. 1787(b)(2)(H)) is amended—

1 (i) in clause (i), by striking “without
2 regard” and all that follows through “im-
3 mediate”; and

4 (ii) in clause (ii), by striking “(as
5 modified with respect to such proceeding
6 by clause (i))”.

7 (B) AFFIRMATIVE ACTION TO CORRECT
8 CONDITIONS RESULTING FROM VIOLATIONS OR
9 PRACTICES.—Section 206(e)(3) of the Federal
10 Credit Union Act (12 U.S.C. 1786(e)(3)) is
11 amended—

12 (i) in subparagraph (D), by striking
13 “and” at the end;

14 (ii) in subparagraph (E), by striking
15 “and” at the end;

16 (iii) by redesignating subparagraph
17 (F) as subparagraph (G); and

18 (iv) by inserting after subparagraph
19 (E) the following new subparagraph:

20 “(F) refrain from withdrawing, transfer-
21 ring, removing, dissipating, or disposing of any
22 funds, assets, or other property if injury, loss,
23 or damage to such property is irreparable and
24 immediate; and”.

1 **Subtitle C—Miscellaneous**
2 **Nonsupervisory Reforms**

3 **SEC. 321. LIABILITY FOR UNAUTHORIZED USE OF CREDIT**

4 **CARDS.**

5 Section 133(a) of the Truth in Lending Act (15
6 U.S.C. 1643(a)) is amended by adding at the end the fol-
7 lowing new paragraph:

8 “(3)(A) Notwithstanding paragraph (1), a card-
9 holder shall be liable for the unauthorized use of a
10 credit card if—

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

12 “(ii) the cardholder fails to notify the card
13 issuer of any unauthorized transaction that ap-
14 pears on the statement of the account of the
15 cardholder in connection with an extension of
16 consumer credit prior to the expiration of the
17 60-day period beginning on the date on which
18 such statement is received by the cardholder.

19 “(B) The liability described in subparagraph
20 (A) does not apply if the cardholder demonstrates
21 that the failure to notify the card issuer in a timely
22 manner of the unauthorized use was due to extenu-
23 ating circumstances such as extended travel or hos-
24 pitalization, and notice was provided at the earliest
25 possible time thereafter.

1 “(C) The liability described in subparagraph
 2 (A) shall only apply if the card issuer has provided
 3 prior notice to the cardholder of such liability.”.

4 **SEC. 322. UNAUTHORIZED ELECTRONIC FUND TRANSFERS.**

5 Section 909(a)(1) of Electronic Fund Transfer Act
 6 (15 U.S.C. 1693g(a)(1)) is amended by inserting “(or in
 7 cases in which the cardholder has substantially contrib-
 8 uted to the unauthorized electronic fund transfer, includ-
 9 ing writing on or keeping with the card or other means
 10 of access a personal identification or other security code,
 11 \$500)” after “\$50”.



S 650 IS—2

S 650 IS—3

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