

Calendar No. 272

104TH CONGRESS
1ST Session

S. 650

[Report No. 104-185]

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.

DECEMBER 14, 1995

Reported with an amendment

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1ST SESSION**S. 650****[Report No. 104-185]**

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, Mr. DOLE, Mr. GRAMS, Mr. FRIST, Mr. HOLLINGS, Mr. KYL, Mr. BURNS, Mr. THOMAS, Mr. HELMS, Mr. PRESSLER, Mr. CRAIG, Mr. HEFLIN, Mr. GREGG, Mr. COATS, Mr. LOTT, Mr. COCHRAN, Mr. NICKLES, Mr. ASHCROFT, Mr. KEMPTHORNE, Mr. NUNN, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

DECEMBER 14, 1995

Reported by Mr. D'AMATO, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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”.

7 (b) **TABLE OF CONTENTS.**—The table of contents for
 8 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 H—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

1 (5) the term “insured credit union” has the
2 same meaning as in section 101 of the Federal
3 Credit Union Act.

4 **TITLE I—REDUCTIONS IN GOV-**
5 **ERNMENT OVERREGULATION**
6 **Subtitle A—The Home Mortgage**
7 **Process**

8 **PART I—REGULATORY SIMPLIFICATION AND**
9 **UNIFORMITY**

10 **SEC. 101. COORDINATION OF THE TRUTH IN LENDING ACT**
11 **AND THE REAL ESTATE SETTLEMENT PROCE-**
12 **DURES ACT.**

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

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

1 may be imposed under this subsection unless such require-
 2 ment would have the effect of eliminating, modifying, or
 3 simplifying any disclosure required under this title.”.

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

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

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

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

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

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

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

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

7 (b) CONFORMING AMENDMENTS.—The Real Estate
8 Settlement Procedures Act (12 U.S.C. 2601 et seq.) is
9 amended—

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

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

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

16 (4) in section 8—

17 (A) in subsection (e), by striking “the Sec-
18 retary,” and inserting “the Board,”; and

19 (B) in subsection (d), by striking “Sec-
20 retary” each place such term appears and in-
21 sserting “Board”;

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

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

1 (7) in section 15—

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

4 (B) by striking “the Secretary’s assess-
5 ment” and inserting “the assessment of the
6 Board”;

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

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

11 (e) REGULATIONS.—Section 19(a) of the Real Estate
12 Settlement Procedures Act (12 U.S.C. 2617) is amended
13 to read as follows:

14 “(a) REGULATIONS.—

15 “(1) IN GENERAL.—The Board shall prescribe
16 such regulations as may be necessary to carry out
17 this title.

18 “(2) SPECIFICATIONS.—The regulations pro-
19 mulgated under paragraph (1)—

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

1 “(i) effectuate the purposes of this
2 title;

3 “(ii) prevent circumvention or evasion
4 of this title; or

5 “(iii) facilitate compliance with this
6 title; and

7 “(B) shall minimize the burdens and cost
8 imposed upon creditors and shall ensure that
9 costs, burdens, and complexities to consumers
10 are reduced.”.

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

14 **“SEC. 20. ADMINISTRATIVE ENFORCEMENT.**

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

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

19 “(A) any national bank or any Federal
20 branch or Federal agency of a foreign bank, by
21 the Office of the Comptroller of the Currency;

22 “(B) any member bank of the Federal Re-
23 serve System (other than a national bank), any
24 branch or agency of a foreign bank (other than
25 a Federal branch or Federal agency, or insured

1 State branch of a foreign bank); any commer-
2 cial lending company owned or controlled by
3 one or more foreign banks, or any organization
4 operating under section 25 or 25A of the Fed-
5 eral Reserve Act, by the Board;

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

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

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

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

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

1 “(b) DEFINITIONS.—Each term in subsection (a)(1)
2 that is not defined in this title shall have the same mean-
3 ing as in section 1(b) of the International Banking Act
4 of 1978.

5 “(c) ADDITIONAL ENFORCEMENT POWERS.—

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

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

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

1 “(d) FTC ENFORCEMENT.—

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

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

15 “(3) FUNCTIONS AND POWERS.—All of the
16 functions and powers of the Federal Trade Commis-
17 sion under the Federal Trade Commission Act are
18 available to the Federal Trade Commission to en-
19 force compliance by any person with the require-
20 ments imposed under this title, regardless of wheth-
21 er or not the person is engaged in commerce or
22 meets any other jurisdictional tests in the Federal
23 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 secession, 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(e) of the Truth in Lending Act (15
 20 U.S.C. 1631(e)) 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 “(e) 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 ignated 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 (e) 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 rise 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 “(e) 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 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 (e)(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 involving only insured depository institutions
3 that are subsidiaries of the same depository institution
4 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 provisions
10 of section 44 as if the merger, consolidation,
11 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(e)(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 redesign-
10 nating 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 (e) 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 anee”; 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 (e), 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 (e).

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)”;

1 (H) 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(c)—~~

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 (H) 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 (H) 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 (H) 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~~(e); 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 redес-
25 ignated, 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 eluding 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 piate 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)”~~.

1 **Subtitle D—Regulatory** 2 **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 (e) TERMS.—Section 2(e)(1) of the Federal Deposit
5 Insurance Act (12 U.S.C. 1812(e)(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 (e)(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 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(e)(1) of the Home
 3 ~~Owners’ Loan Act (12 U.S.C. 1464(e)(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(e)(2)(A) of the Home Owners’ Loan Act (12 U.S.C.
 11 1464(e)(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(e)(3) of the Home Owners’
 20 Loan Act (12 U.S.C. 1464(e)(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 (e) 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(c)(3) of the Federal
10 Credit Union Act (12 U.S.C. 1786(c)(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”.

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

13 (a) *SHORT TITLE.*—*This Act may be cited as the*
14 *“Economic Growth and Regulatory Paperwork Reduction*
15 *Act of 1995”.*

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

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

**TITLE I—STREAMLINING THE HOME MORTGAGE LENDING
PROCESS**

Sec. 101. Coordination of the Truth in Lending Act and the Real Estate Settlement Procedures Act of 1974.

Sec. 102. Elimination of redundant regulators.

Sec. 103. General exemption authority for loans.

Sec. 104. Reductions in Real Estate Settlement Procedures Act of 1974 regulatory burdens.

Sec. 105. Co-branding and affinity group endorsements.

Sec. 106. Waiver for certain borrowers.

Sec. 107. Alternative disclosures for adjustable rate mortgages.

Sec. 108. Restitution for violations of the Truth in Lending Act.

TITLE II—STREAMLINING GOVERNMENT REGULATION

Subtitle A—Eliminating Unnecessary Regulatory Requirements and Procedures

- Sec. 201. Elimination of certain filing and approval requirements for certain insured depository institutions.*
- Sec. 202. Elimination of redundant approval requirement for Oakar transactions.*
- Sec. 203. Elimination of duplicative requirements imposed upon bank holding companies.*
- Sec. 204. Elimination of the per branch capital requirement for national banks and State member banks.*
- Sec. 205. Elimination of branch application requirements for automatic teller machines.*
- Sec. 206. Elimination of requirement for approval of investments in bank premises for well capitalized and well managed banks.*
- Sec. 207. Elimination of approval requirement for divestitures.*
- Sec. 208. Streamlined nonbanking acquisitions by well capitalized and well managed banking organizations.*
- Sec. 209. Elimination of unnecessary filing for officer and director appointments.*
- Sec. 210. Amendments to the Depository Institution Management Interlocks Act.*
- Sec. 211. Elimination of recordkeeping and reporting requirements for officers.*
- Sec. 212. Consolidation of appraisal subcommittee; transfer of functions.*
- Sec. 213. Branch closures.*
- Sec. 214. Foreign banks.*
- Sec. 215. Disposition of foreclosed assets.*

Subtitle B—Eliminating Unnecessary Regulatory Burdens

- Sec. 221. Small bank examination cycle.*
- Sec. 222. Required review of regulations.*
- Sec. 223. Repeal of identification of nonbank financial institution customers.*
- Sec. 224. Repeal of commercial loan reporting requirements.*
- Sec. 225. Increase in home mortgage disclosure exemption threshold.*
- Sec. 226. Elimination of stock loan reporting requirement.*
- Sec. 227. Credit availability assessment.*

Subtitle C—Regulatory Micromanagement

- Sec. 241. National bank directors.*
- Sec. 242. Paperwork reduction review.*
- Sec. 243. State bank representation on board of directors of the FDIC.*
- Sec. 244. Consultation among examiners.*

TITLE III—REGULATORY IMPACT ON COST OF CREDIT AND 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 banks.*
- Sec. 309. Collateralization of advances to members.*
- Sec. 310. Increasing limit on total advances by the FHLB system to non-QTL institutions.*

Sec. 311. Fair debt collection practices.

TITLE IV—FAIR CREDIT REPORTING

Sec. 401. Short title.

Sec. 402. Definitions.

Sec. 403. Furnishing consumer reports; use for employment purposes.

Sec. 404. Use of consumer reports for prescreening and direct marketing; prohibition on unauthorized or uncertified use of information.

Sec. 405. Consumer consent required to furnish consumer report containing medical information; furnishing consumer reports for commercial transactions.

Sec. 406. Obsolete information and information contained in consumer reports.

Sec. 407. Compliance procedures.

Sec. 408. Consumer disclosures.

Sec. 409. Procedures in case of the disputed accuracy of any information in a consumer's file.

Sec. 410. Charges for certain disclosures.

Sec. 411. Duties of users of consumer reports.

Sec. 412. Civil liability.

Sec. 413. Responsibilities of persons who furnish information to consumer reporting agencies.

Sec. 414. Investigative consumer reports.

Sec. 415. Increased criminal penalties for obtaining information under false pretenses.

Sec. 416. Administrative enforcement.

Sec. 417. State enforcement of Fair Credit Reporting Act.

Sec. 418. Federal Reserve Board authority.

Sec. 419. Preemption of State law.

Sec. 420. Action by FTC and Federal Reserve Board.

Sec. 421. Amendment to Fair Debt Collection Practices Act.

Sec. 422. Furnishing consumer reports for certain purposes relating to child support.

Sec. 423. Disclosure of information and consumer reports to FBI for counterintelligence purposes.

Sec. 424. Effective date.

Sec. 425. Relationship to other law.

TITLE V—ASSET CONSERVATION, LENDER LIABILITY, AND DEPOSIT INSURANCE PROTECTION

Sec. 501. Short title.

Sec. 502. Federal Deposit Insurance Act amendment.

Sec. 503. CERCLA amendments.

Sec. 504. Solid Waste Disposal Act amendments.

Sec. 505. Effective date.

TITLE VI—STUDIES AND REPORTS; MISCELLANEOUS

Sec. 601. Electronic Fund Transfer Act clarification.

Sec. 602. Treatment of claims arising from breach of post-appointment agreements.

Sec. 603. Fictitious financial instruments.

Sec. 604. Amendments to the Truth in Savings Act.

Sec. 605. Consumer Leasing Act amendments.

Sec. 606. Credit union study.

Sec. 607. Report on the reconciliation of differences between regulatory accounting principles and generally accepted accounting principles.

Sec. 608. State-by-state and metropolitan area-by-metropolitan area study of bank fees.

Sec. 609. Prospective application of gold clauses in contracts.

1 **SEC. 2. DEFINITIONS.**

2 *Unless otherwise specified in this Act, for purposes of*
3 *this Act—*

4 *(1) the term “Appraisal Subcommittee” means*
5 *the Appraisal Subcommittee established under section*
6 *1011 of the Federal Financial Institutions Examina-*
7 *tion Council Act of 1978 (as in existence on the day*
8 *before the date of enactment of this Act);*

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

12 *(3) the term “Board” means the Board of Gov-*
13 *ernors of the Federal Reserve System;*

14 *(4) the term “Corporation” means the Federal*
15 *Deposit Insurance Corporation;*

16 *(5) the term “Council” means the Federal Fi-*
17 *ancial Institutions Examination Council established*
18 *under section 1004 of the Federal Financial Institu-*
19 *tions Examination Council Act of 1978;*

20 *(6) the term “insured credit union” has the same*
21 *meaning as in section 101 of the Federal Credit*
22 *Union Act; and*

1 (7) the term “insured depository institution” has
 2 the same meaning as in section 3 of the Federal De-
 3 posit Insurance Act.

4 **TITLE I—STREAMLINING THE**
 5 **HOME MORTGAGE LENDING**
 6 **PROCESS**

7 **SEC. 101. COORDINATION OF THE TRUTH IN LENDING ACT**
 8 **AND THE REAL ESTATE SETTLEMENT PROCE-**
 9 **DURES ACT OF 1974.**

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

13 “(e) **AUTHORITY TO ELIMINATE, MODIFY, OR SIM-**
 14 **PLIFY AND IMPROVE DISCLOSURE REQUIREMENTS.**—

15 “(1) **IN GENERAL.**—The Board shall, by regula-
 16 tion, eliminate, modify or simplify, and improve any
 17 disclosure required by this title, including the content
 18 and timing of the disclosure, if such action would
 19 make disclosures and timing of disclosures required
 20 by this title uniform with other laws relating to the
 21 disclosure of information in connection with credit
 22 transactions, including the Real Estate Settlement
 23 Procedures Act of 1974, while furthering the purposes
 24 of this title.

1 “(2) *LIMITATION.*—No disclosure requirement
 2 may be imposed under this subsection unless such re-
 3 quirement would have the effect of eliminating, modi-
 4 fying or simplifying, and improving any disclosure
 5 required under this title.”.

6 (b) *AMENDMENTS TO REAL ESTATE SETTLEMENT*
 7 *PROCEDURES ACT OF 1974.*—Section 19 of the Real Estate
 8 Settlement Procedures Act of 1974 (12 U.S.C. 2617) is
 9 amended by adding at the end the following new subsection:

10 “(d) *AUTHORITY TO ELIMINATE, MODIFY, OR SIM-*
 11 *PLIFY AND IMPROVE DISCLOSURE REQUIREMENTS.*—

12 “(1) *IN GENERAL.*—The Board shall, by regula-
 13 tion, eliminate, modify or simplify, and improve any
 14 disclosure required by this Act, including the content
 15 and timing of the disclosure, if such action would—

16 “(A) make disclosures and timing of disclo-
 17 sures required by this title uniform with other
 18 laws relating to the disclosure of information in
 19 connection with credit transactions, including
 20 the Truth in Lending Act; or

21 “(B) further the purposes of this Act.

22 “(2) *LIMITATION.*—No disclosure requirement
 23 may be imposed under this subsection unless such re-
 24 quirement would have the effect of eliminating, modi-

1 *fying or simplifying, and improving any disclosure*
 2 *required under this Act.”.*

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

4 (a) *DEFINITION.*—*Section 3 of the Real Estate Settle-*
 5 *ment Procedures Act of 1974 (12 U.S.C. 2602) is amend-*
 6 *ed—*

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

9 (2) *in paragraph (8), by striking the period at*
 10 *the end and inserting a semicolon; and*

11 (3) *by adding at the end the following new para-*
 12 *graphs:*

13 *“(9) the term ‘Board’ means the Board of Gov-*
 14 *ernors of the Federal Reserve System; and*

15 *“(10) the term ‘appropriate Federal banking*
 16 *agency’ has the same meaning as in section 3 of the*
 17 *Federal Deposit Insurance Act.”.*

18 (b) *CONFORMING AMENDMENTS.*—*The Real Estate*
 19 *Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.)*
 20 *is amended—*

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

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

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

3 (4) *in section 8(d)(4), by striking “Secretary”*
 4 *and inserting “Secretary or the appropriate Federal*
 5 *banking agency, as provided in section 20,”;*

6 (5) *in section 10(c)(1)(C), by striking “Not*
 7 *later” and all that follows through “Act, the Sec-*
 8 *retary”, and inserting “The Board”;*

9 (6) *in section 16, by striking “the Secretary”*
 10 *and inserting “the Secretary or the appropriate Fed-*
 11 *eral banking agency”;*

12 (7) *in section 18—*

13 (A) *by striking “Secretary is authorized to”*
 14 *and inserting “Board or Secretary, as applica-*
 15 *ble, may”;* and

16 (B) *by striking “Secretary” each place such*
 17 *term appears and inserting “Secretary or the*
 18 *Board”;* and

19 (8) *in section 19, by amending the section head-*
 20 *ing to read as follows:*

21 **“SEC. 19. AUTHORITY OF THE SECRETARY AND THE**
 22 **BOARD.”.**

23 (c) *REGULATIONS.—*

1 (1) *IN GENERAL.*—Section 19(a) of the *Real Es-*
2 *tate Settlement Procedures Act of 1974 (12 U.S.C.*
3 *2617(a)) is amended to read as follows:*

4 “(a) *REGULATIONS.*—

5 “(1) *IN GENERAL.*—*The Board or the Secretary*
6 *shall prescribe such regulations as may be necessary*
7 *to carry out this title, as set forth in paragraph (3).*

8 “(2) *SPECIFICATIONS.*—*The regulations promul-*
9 *gated under paragraph (1)—*

10 “(A) *may contain such classifications, dif-*
11 *ferentiations, or other provisions, and may pro-*
12 *vide for such adjustments and exceptions for any*
13 *class of transactions, as the Board or the Sec-*
14 *retary, as appropriate, determines to be nec-*
15 *essary or proper to—*

16 “(i) *effectuate the purposes of this title;*

17 “(ii) *prevent circumvention or evasion*
18 *of this title; or*

19 “(iii) *facilitate compliance with this*
20 *title; and*

21 “(B) *shall minimize the burdens and cost*
22 *imposed upon creditors and shall ensure that*
23 *costs, burdens, and complexities to consumers are*
24 *reduced, while necessary information regarding*
25 *the cost of financing to consumers is provided.*

1 “(3) *APPLICATION.*—

2 “(A) *BOARD.*—*The authority of the Board*
3 *under paragraph (1) shall apply with respect*
4 *to—*

5 “(i) *sections 4, 5, 6, 10, and 12; and*

6 “(ii) *sections 3, 7, 17, 18, and 19, to*
7 *the extent that such sections are applicable*
8 *with respect to the sections described in*
9 *clause (i).*

10 “(B) *SECRETARY.*—*The authority of the*
11 *Secretary under paragraph (1) shall apply with*
12 *respect to—*

13 “(i) *sections 8 and 9; and*

14 “(ii) *sections 3, 7, 17, 18, and 19, to*
15 *the extent such sections are applicable with*
16 *respect to the sections described in clause*
17 *(i).”.*

18 “(2) *CONFORMING AMENDMENTS.*—*Section 19 of*
19 *the Real Estate Settlement Procedures Act of 1974 (12*
20 *U.S.C. 2617) is amended—*

21 (A) *in subsection (b), by inserting “, the*
22 *Board,” after “the Secretary”;*

23 (B) *in subsection (c)(1)—*

1 (i) by striking “Secretary may” and
2 inserting “Secretary and the appropriate
3 Federal banking agency may”;

4 (ii) by striking “Secretary is” and in-
5 serting “Secretary and the appropriate Fed-
6 eral banking agency are”; and

7 (iii) by striking “Secretary deems”
8 and inserting “Secretary or the appropriate
9 Federal banking agency deems”; and

10 (C) in subsection (c)(2), by striking “Sec-
11 retary” and inserting “Secretary or the appro-
12 priate Federal banking agency”.

13 (d) *ADMINISTRATIVE ENFORCEMENT.*—*The Real Es-*
14 *tate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et*
15 *seq.) is amended by adding at the end the following new*
16 *section:*

17 “**SEC. 20. ADMINISTRATIVE ENFORCEMENT.**

18 “(a) *IN GENERAL.*—*Compliance with the requirements*
19 *imposed under this title shall be enforced—*

20 “(1) *with respect to—*

21 “(A) *any national bank or any Federal*
22 *branch or Federal agency of a foreign bank, by*
23 *the Office of the Comptroller of the Currency;*

24 “(B) *any member bank of the Federal Re-*
25 *serve System (other than a national bank), any*

1 *branch or agency of a foreign bank (other than*
2 *a Federal branch or Federal agency, or insured*
3 *State branch of a foreign bank), any commercial*
4 *lending company owned or controlled by one or*
5 *more foreign banks, or any organization operat-*
6 *ing under section 25 or 25A of the Federal Re-*
7 *serve Act, by the Board;*

8 “(C) *any bank insured under the Federal*
9 *Deposit Insurance Act (other than a member of*
10 *the Federal Reserve System) or any insured*
11 *State branch of a foreign bank, by the Board of*
12 *Directors of the Federal Deposit Insurance Cor-*
13 *poration; and*

14 “(D) *any savings association the deposits of*
15 *which are insured under the Federal Deposit In-*
16 *surance Act, by the Director of the Office of*
17 *Thrift Supervision;*

18 “(2) *under the Federal Credit Union Act, by the*
19 *Administrator of the National Credit Union Adminis-*
20 *tration with respect to any Federal credit union;*

21 “(3) *under the Packers and Stockyards Act, 1921*
22 *(except as provided in section 406 of such Act), by the*
23 *Secretary of Agriculture with respect to any activities*
24 *subject to such Act; and*

1 “(4) under the Farm Credit Act of 1971, by the
2 Farm Credit Administration with respect to any in-
3 stitution referred to in section 1.2(a) of that Act.

4 “(b) LIMITATIONS.—In exercising their powers under
5 subsection (a), the appropriate Federal banking agencies
6 shall not impose any penalties that exceed those provided
7 for in this title.

8 “(c) HUD ENFORCEMENT.—Except to the extent that
9 the enforcement of the requirements imposed under this title
10 is specifically committed to another agency of the Federal
11 Government under subsection (a), the Secretary of Housing
12 and Urban Development shall enforce such requirements.”.

13 (e) TRANSFER OF AUTHORITY.—Authority to carry
14 out the Real Estate Settlement Procedures Act of 1974 shall
15 be transferred to the Board, as provided in the amendments
16 made by subsections (b) and (c) of this section, 180 days
17 after the enactment of this Act. Upon transfer of authority,
18 all existing regulations shall remain in effect until such
19 time as the Board modifies them. Not later than 180 days
20 after the date of transfer, the Board shall publish any pro-
21 posed changes to the regulations required by this Act. Dur-
22 ing the 180-day period beginning on the date of enactment
23 of this Act, the Secretary of the Treasury shall not modify,
24 repeal, or add any regulations that will be transferred to
25 the Board, as appropriate.

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—

4 (1) by redesignating paragraphs (5) and (6) as
5 paragraphs (6) and (7), respectively; and

6 (2) by inserting after paragraph (4) the follow-
7 ing new paragraph:

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

11 (b) *EXEMPTION AUTHORITY.*—Section 105 of the
12 *Truth in Lending Act (15 U.S.C. 1604)* is amended by add-
13 ing at the end the following new subsection:

14 “(f) *EXEMPTION AUTHORITY.*—

15 “(1) *IN GENERAL.*—The Board may exempt from
16 all or part of this title any class of transactions for
17 which, in the determination of the Board, coverage
18 under all or part of this title does not provide a
19 meaningful benefit to consumers in the form of useful
20 information or protection.

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

25 “(A) the amount of the loan or closing costs
26 and whether the disclosures, right of rescission,

1 *and other provisions are necessary, particularly*
2 *for small loans, as determined by the Board;*

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

6 “(C) *the status of the borrower, including—*

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

10 “(ii) *the financial sophistication of the*
11 *borrower relative to the type of transaction;*
12 *and*

13 “(iii) *the importance to the borrower of*
14 *the credit and related supporting property,*
15 *as determined by the Board;*

16 “(D) *whether the loan is secured by the*
17 *principal residence of the consumer; and*

18 “(E) *whether the goal of consumer protec-*
19 *tion would be undermined by such an exemp-*
20 *tion.”.*

1 **SEC. 104. REDUCTIONS IN REAL ESTATE SETTLEMENT PRO-**
 2 **CEDURES ACT OF 1974 REGULATORY BUR-**
 3 **DENS.**

4 (a) *UNNECESSARY DISCLOSURE.*—Section 6(a) of the
 5 *Real Estate Settlement Procedures Act of 1974 (12 U.S.C.*
 6 *2605(a)) is amended to read as follows:*

7 “(a) *DISCLOSURE TO APPLICANT RELATING TO AS-*
 8 *SIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.*—
 9 *Each person who makes a federally related mortgage loan*
 10 *shall disclose to each person who applies for the loan, at*
 11 *the time of application for the loan, whether the servicing*
 12 *of the loan may be assigned, sold, or transferred to any*
 13 *other person at any time while the loan is outstanding.”.*

14 (b) *SECOND MORTGAGES.*—Section 8 of the *Real Es-*
 15 *tate Settlement Procedures Act of 1974 (12 U.S.C. 2607)*
 16 *is amended by inserting “(other than a subordinate lien)”*
 17 *after “federally related mortgages” each place such term ap-*
 18 *pears.*

19 (c) *CONSISTENCY OF REAL ESTATE SETTLEMENT*
 20 *PROCEDURES ACT AND TRUTH IN LENDING ACT EXEMP-*
 21 *TION OF BUSINESS LOANS.*—Section 7 of the *Real Estate*
 22 *Settlement Procedures Act of 1974 (12 U.S.C. 2606) is*
 23 *amended—*

24 (1) *by striking “This Act” and inserting the fol-*
 25 *lowing:*

26 “(a) *IN GENERAL.*—*This Act*”; and

1 (2) *by adding at the end the following new sub-*
 2 *section:*

3 “(b) *INTERPRETATION.*—*In promulgating regulations*
 4 *under section 19(a), the Board shall ensure that, with re-*
 5 *spect to subsection (a) of this section, the exemption for*
 6 *credit transactions involving extensions of credit primarily*
 7 *for business, commercial, or agricultural purposes, as pro-*
 8 *vided in section 7(1) of the Real Estate Settlement Proce-*
 9 *dures Act of 1974 shall be the same as the exemption for*
 10 *such credit transactions under section 104(1) of the Truth*
 11 *in Lending Act.”.*

12 **SEC. 105. CO-BRANDING AND AFFINITY GROUP ENDORSE-**
 13 **MENTS.**

14 (a) *COMPLIANCE WITH OTHER REQUIREMENTS.*—*Sec-*
 15 *tion 3(3) of the Real Estate Settlement Procedures Act of*
 16 *1974 (12 U.S.C. 2602(3)) is amended by inserting before*
 17 *the semicolon “, but does not include an endorsement which*
 18 *does not violate the provisions of section 8(c)(4)”.*

19 (b) *PAYMENTS.*—*Section 8(c) of the Real Estate Settle-*
 20 *ment Procedures Act of 1974 (12 U.S.C. 2607(c)) is amend-*
 21 *ed—*

22 (1) *by striking “(4) controlled” and inserting*
 23 *“(5) controlled”;*

24 (2) *by striking “or (5)” and inserting “or (6)”;*
 25 *and*

1 (3) by inserting after paragraph (3), the follow-
 2 ing new paragraph: “(4) a payment to a person or
 3 affinity group for or in connection with an endorse-
 4 ment (written or oral), either through an advertise-
 5 ment or through a communication addressed to a per-
 6 son by name or mailing address, of the products or
 7 services of a settlement service provider, if the person
 8 or affinity group making the endorsement is not itself
 9 providing settlement services in connection with the
 10 real estate settlement involving the person to whom
 11 such endorsement was addressed;”.

12 **SEC. 106. WAIVER FOR CERTAIN BORROWERS.**

13 Section 105 of the Truth in Lending Act (15 U.S.C.
 14 1604) is amended by adding at the end the following new
 15 subsection:

16 “(g) **WAIVER FOR CERTAIN BORROWERS.**—

17 “(1) **IN GENERAL.**—The Board, by regulation,
 18 may exempt from the requirements of this title certain
 19 credit transactions if—

20 “(A) the transaction involves a consumer—

21 “(i) with an annual earned income of
 22 more than \$200,000; or

23 “(ii) having net assets in excess of
 24 \$1,000,000 at the time of the transaction;

25 and

1 “(B) a waiver that is handwritten, signed,
2 and dated by the consumer is first obtained from
3 the consumer.

4 “(2) *ADJUSTMENTS BY THE BOARD.*—The Board,
5 at its discretion, may adjust the annual earned in-
6 come and net asset requirements of paragraph (1) for
7 inflation.”.

8 **SEC. 107. ALTERNATIVE DISCLOSURES FOR ADJUSTABLE**
9 **RATE MORTGAGES.**

10 Section 128(a) of the Truth in Lending Act (15 U.S.C.
11 1638(a)) is amended by adding at the end the following
12 new paragraph:

13 “(14) In any variable interest rate residential
14 mortgage transaction, at the option of the creditor, a
15 statement that the periodic payments may increase or
16 decrease substantially, and the maximum interest rate
17 and payment for a \$10,000 loan originated at a re-
18 cent interest rate, as determined by the Board, assum-
19 ing the maximum periodic increases in rates and
20 payments under the program, or a historical example
21 illustrating the effects of interest rate changes imple-
22 mented according to the loan program.”.

1 **SEC. 108. RESTITUTION FOR VIOLATIONS OF THE TRUTH IN**
2 **LENDING ACT.**

3 *Section 108(e)(3) of the Truth in Lending Act (15*
4 *U.S.C. 2602(3)) is amended—*

5 *(1) by striking “ordered (A) if” and inserting*
6 *the following: “ordered—*

7 *“(A) if”;*

8 *(2) by striking “may require a partial” and in-*
9 *serting “may—*

10 *“(i) require a partial”;*

11 *(3) by striking “, except that with respect” and*
12 *all that follows through “Act, the agency shall re-*
13 *quire” and inserting “; or*

14 *“(i) require”;*

15 *(4) by striking “reasonable, (B) the” and insert-*
16 *ing the following: “reasonable, if (in the case of an*
17 *agency referred to in paragraph (1), (2), or (3) of*
18 *subsection (a)), the agency determines that a partial*
19 *adjustment or making partial payments over an ex-*
20 *tended period is necessary to avoid causing the credi-*
21 *tor to become undercapitalized pursuant to section 38*
22 *of the Federal Deposit Insurance Act;*

23 *“(B) the”;* and

24 *(5) by striking “(C) except” and inserting the*
25 *following:*

26 *“(C) except”.*

1 **TITLE II—STREAMLINING**
 2 **GOVERNMENT REGULATION**

3 **Subtitle A—Eliminating Unneces-**
 4 **sary Regulatory Requirements**
 5 **and Procedures**

6 **SEC. 201. ELIMINATION OF CERTAIN FILING AND APPROVAL**
 7 **REQUIREMENTS FOR CERTAIN INSURED DE-**
 8 **POSITORY INSTITUTIONS.**

9 *Section 18(c) of the Federal Deposit Insurance Act (12*
 10 *U.S.C. 1828(c)) is amended by adding at the end the follow-*
 11 *ing new paragraph:*

12 “(12) *EXCEPTIONS.—No prior approval is required*
 13 *under paragraph (2) for any merger, consolidation, acquisi-*
 14 *tion of assets, or assumption of liabilities involving only*
 15 *insured depository institutions that are subsidiaries of the*
 16 *same depository institution holding company, if—*

17 “(A) *the responsible agency would not be prohib-*
 18 *ited from approving the transaction under section 44;*

19 “(B) *the acquiring, assuming, or resulting insti-*
 20 *tution complies with all applicable provisions of sec-*
 21 *tion 44 as if the merger, consolidation, or acquisition*
 22 *were approved under this subsection;*

23 “(C) *the acquiring, assuming, or resulting insti-*
 24 *tution provides written notification of the transaction*
 25 *to the appropriate Federal banking agency for the in-*

1 stitution not later than 10 days prior to consumma-
2 tion of the transaction; and

3 “(D) during the 10-day period beginning on the
4 date on which the notification required by subpara-
5 graph (C) was received, the agency does not require
6 the institution to submit an application with respect
7 to such transaction.”.

8 **SEC. 202. ELIMINATION OF REDUNDANT APPROVAL RE-**
9 **QUIREMENT FOR OAKAR TRANSACTIONS.**

10 (a) *IN GENERAL.*—Section 5(d)(3) of the Federal De-
11 posit Insurance Act (12 U.S.C. 1815(d)(3)) is amended—

12 (1) in subparagraph (A), by striking “with the
13 prior written approval of” and inserting “if the
14 transaction is approved by”;

15 (2) in subparagraph (E)—

16 (A) by striking clauses (i) and (iv);

17 (B) by redesignating clauses (ii) and (iii)
18 as clauses (i) and (ii), respectively; and

19 (C) by adding at the end the following new
20 clause:

21 “(iii) *CAPITAL REQUIREMENTS.*—A
22 transaction described in this paragraph
23 shall not be approved under section 18(c)(2)
24 unless the acquiring, assuming, or resulting
25 depository institution will meet all applica-

1 *ble capital requirements upon consumma-*
 2 *tion of the transaction.”;*

3 *(3) by striking subparagraph (G); and*

4 *(4) by redesignating subparagraphs (H) through*
 5 *(J) as subparagraphs (G) through (I), respectively.*

6 *(b) CONFORMING AMENDMENTS.—*

7 *(1) REVISED STATUTES.—Section 5156A(b)(1) of*
 8 *the Revised Statutes (12 U.S.C. 215c(b)(1)) is amend-*
 9 *ed by striking “by section 5(d)(3) of the Federal De-*
 10 *posit Insurance Act or any other” and inserting*
 11 *“under any”.*

12 *(2) HOME OWNERS’ LOAN ACT.—Section*
 13 *10(s)(2)(A) of the Home Owners’ Loan Act (12 U.S.C.*
 14 *1467a(s)(2)(A)) is amended by striking “under sec-*
 15 *tion 5(d)(3) of the Federal Deposit Insurance Act or*
 16 *any other” and inserting “under any”.*

17 **SEC. 203. ELIMINATION OF DUPLICATIVE REQUIREMENTS**
 18 **IMPOSED UPON BANK HOLDING COMPANIES.**

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

23 *“(t) EXEMPTION FOR BANK HOLDING COMPANIES.—*
 24 *This section does not apply to a bank holding company that*

1 *is subject to the Bank Holding Company Act of 1956, or*
 2 *any company controlled by such bank holding company.”.*

3 (b) *DEFINITION.—Section 10(a)(1)(D) of the Home*
 4 *Owners’ Loan Act (12 U.S.C. 1467a(a)(1)(D)) is amended*
 5 *to read as follows:*

6 “(D) *SAVINGS AND LOAN HOLDING COM-*
 7 *PANY.—*

8 “(i) *IN GENERAL.—Except as provided*
 9 *in clause (ii), the term ‘savings and loan*
 10 *holding company’ means any company that*
 11 *directly or indirectly controls a savings as-*
 12 *sociation or that controls any other com-*
 13 *pany that is a savings and loan holding*
 14 *company.*

15 “(ii) *EXCLUSION.—The term ‘savings*
 16 *and loan holding company’ does not include*
 17 *a bank holding company that is registered*
 18 *under, and subject to, the Bank Holding*
 19 *Company Act of 1956, or to any company*
 20 *directly or indirectly controlled by such*
 21 *company (other than a savings associa-*
 22 *tion).”.*

23 (c) *ACQUISITIONS.—Section 10(e)(1) of the Home*
 24 *Owners’ Loan Act (12 U.S.C. 1467a(e)(1)) is amended—*

1 (1) *in subparagraph (A)(iii)(VII), by inserting*
 2 *“or” at the end;*

3 (2) *in subparagraph (A)(iv), by inserting “and”*
 4 *at the end; and*

5 (3) *in subparagraph (B)—*

6 (A) *by striking “or (ii)” and inserting*
 7 *“(ii)”; and*

8 (B) *by inserting before the first period “, or*
 9 *(iii) acquired by a bank holding company that*
 10 *is registered under, and subject to, the Bank*
 11 *Holding Company Act of 1956, or any company*
 12 *controlled by such bank holding company”.*

13 (d) *AMENDMENTS TO THE BANK HOLDING COMPANY*
 14 *ACT OF 1956.—Section 4(i) of the Bank Holding Company*
 15 *Act of 1956 (12 U.S.C. 1843(i)) is amended by adding at*
 16 *the end the following new paragraphs:*

17 “(4) *SOLICITATION OF VIEWS.—*

18 “(A) *NOTICE TO DIRECTOR.—Upon receiv-*
 19 *ing any application or notice by a bank holding*
 20 *company to acquire, directly or indirectly, a sav-*
 21 *ings association under subsection (c)(8), the*
 22 *Board shall solicit comments and recommenda-*
 23 *tions from the Director with respect to such ac-*
 24 *quisition.*

1 “(B) *COMMENT PERIOD.*—*The comments*
2 *and recommendations of the Director under sub-*
3 *paragraph (A) with respect to any acquisition*
4 *subject to such subparagraph shall be transmit-*
5 *ted to the Board not later than 30 days after the*
6 *receipt by the Director of the notice relating to*
7 *such acquisition (or such shorter period as the*
8 *Board may specify if the Board advises the Di-*
9 *rector that an emergency exists that requires ex-*
10 *peditious action).*

11 “(5) *EXAMINATION.*—

12 “(A) *SCOPE.*—*The Board shall consult with*
13 *the Director, as appropriate, in establishing the*
14 *scope of an examination by the Board of a bank*
15 *holding company that directly or indirectly con-*
16 *trols a savings association.*

17 “(B) *ACCESS TO INSPECTION REPORTS.*—
18 *Upon the request of the Director, the Board shall*
19 *furnish the Director with a copy of any inspec-*
20 *tion report, additional examination materials, or*
21 *supervisory information relating to any bank*
22 *holding company that directly or indirectly con-*
23 *trols a savings association.*

24 “(6) *COORDINATION OF ENFORCEMENT EF-*
25 *FORTS.*—*The Board and the Director shall cooperate*

1 *in any enforcement action against any bank holding*
 2 *company that controls a savings association, if the*
 3 *relevant conduct involves such association.*

4 “(7) *DIRECTOR DEFINED.*—*For purposes of this*
 5 *section, the term ‘Director’ means the Director of the*
 6 *Office of Thrift Supervision.”.*

7 ***SEC. 204. ELIMINATION OF THE PER BRANCH CAPITAL RE-***
 8 ***QUIREMENT FOR NATIONAL BANKS AND***
 9 ***STATE MEMBER BANKS.***

10 *Section 5155(h) of the Revised Statutes (12 U.S.C.*
 11 *36(h)) is amended to read as follows:*

12 “(h) [*Reserved.*]”.

13 ***SEC. 205. ELIMINATION OF BRANCH APPLICATION RE-***
 14 ***QUIREMENTS FOR AUTOMATIC TELLER MA-***
 15 ***CHINES.***

16 (a) *“BRANCH” UNDER NATIONAL BANK ACT.*—*Section*
 17 *5155(j) of the Revised Statutes (12 U.S.C. 36(j)) is amended*
 18 *by adding at the end the following: “The term ‘branch’, as*
 19 *used in this section, does not include an automated teller*
 20 *machine or a remote service unit.”.*

21 (b) *“DOMESTIC BRANCH” UNDER THE FEDERAL DE-*
 22 *POSIT INSURANCE ACT.*—*Section 3(o) of the Federal De-*
 23 *posit Insurance Act (12 U.S.C. 1813(o)) is amended by*
 24 *striking “lent; and the” and inserting “lent. The term ‘do-*

1 *mestic branch' does not include an automated teller ma-*
 2 *chine or a remote service unit. The”.*

3 **SEC. 206. ELIMINATION OF REQUIREMENT FOR APPROVAL**
 4 **OF INVESTMENTS IN BANK PREMISES FOR**
 5 **WELL CAPITALIZED AND WELL MANAGED**
 6 **BANKS.**

7 *Section 24A of the Federal Reserve Act (12 U.S.C.*
 8 *371d) is amended to read as follows:*

9 **“SEC. 24A. INVESTMENT IN BANK PREMISES OR STOCK OF**
 10 **CORPORATION HOLDING PREMISES.**

11 *“(a) CONDITIONS OF INVESTMENT.—No national bank*
 12 *or State member bank shall invest in bank premises, or in*
 13 *the stock, bonds, debentures, or other such obligations of any*
 14 *corporation holding the premises of such bank, or make*
 15 *loans to or upon the security of any such corporation—*

16 *“(1) unless the bank receives the prior approval*
 17 *of the Comptroller of the Currency (with respect to a*
 18 *national bank) or the Board (with respect to a State*
 19 *member bank);*

20 *“(2) unless the aggregate of all such investments*
 21 *and loans, together with the amount of any indebted-*
 22 *ness incurred by any such corporation that is an af-*
 23 *iliate of the bank, is less than or equal to the amount*
 24 *of the capital stock of such bank; or*

25 *“(3) unless—*

1 “(A) the aggregate of all such investments
2 and loans, together with the amount of any in-
3 debtedness incurred by any such corporation that
4 is an affiliate of the bank, is less than or equal
5 to 150 percent of the capital and surplus of the
6 bank; and

7 “(B) the bank—

8 “(i) has a CAMEL composite rating of
9 1 or 2 under the Uniform Financial Insti-
10 tutions Rating System (or an equivalent
11 rating under a comparable rating system)
12 as of the most recent examination of such
13 bank;

14 “(ii) is well capitalized and will con-
15 tinue to be well capitalized after the invest-
16 ment or loan; and

17 “(iii) provides notification to the
18 Comptroller of the Currency (with respect to
19 a national bank) or to the Board (with re-
20 spect to a State member bank) not later
21 than 30 days after making the investment
22 or loan.

23 “(b) DEFINITIONS.—For purposes of this section—

24 “(1) the term ‘affiliate’ has the same meaning as
25 in section 2 of the Banking Act of 1933; and

1 “(2) the term ‘well capitalized’ has the same
2 meaning as in section 38(b) of the Federal Deposit
3 Insurance Act.”.

4 **SEC. 207. ELIMINATION OF APPROVAL REQUIREMENT FOR**
5 **DIVESTITURES.**

6 Section 2(g) of the Bank Holding Company Act of
7 1956 (12 U.S.C. 1841(g)) is amended—

8 (1) in paragraph (1), by adding “and” at the
9 end;

10 (2) in paragraph (2), by striking “; and” and
11 inserting a period; and

12 (3) by striking paragraph (3).

13 **SEC. 208. STREAMLINED NONBANKING ACQUISITIONS BY**
14 **WELL CAPITALIZED AND WELL MANAGED**
15 **BANKING ORGANIZATIONS.**

16 (a) NOTICE REQUIREMENTS.—Section 4(j) of the Bank
17 Holding Company Act of 1956 (12 U.S.C. 1843(j)) is
18 amended—

19 (1) in paragraph (1)(A), by striking “No” and
20 inserting “Except as provided in paragraph (3), no”;
21 and

22 (2) by adding at the end the following new para-
23 graphs:

24 “(3) NO NOTICE REQUIRED FOR CERTAIN TRANS-
25 ACTIONS.—No notice under paragraph (1) of this sub-

1 *section or under subsection (c)(8) or (a)(2)(B) is re-*
2 *quired for a proposal by a bank holding company to*
3 *engage in any activity or acquire the shares or assets*
4 *of any company, other than an insured depository in-*
5 *stitution, if the proposal qualifies under paragraph*
6 *(4).*

7 *“(4) CRITERIA FOR STATUTORY APPROVAL.—A*
8 *proposal qualifies under this paragraph if all of the*
9 *following criteria are met:*

10 *“(A) FINANCIAL CRITERIA.—Both before*
11 *and immediately after the proposed trans-*
12 *action—*

13 *“(i) the acquiring bank holding com-*
14 *pany is well capitalized;*

15 *“(ii) the lead insured depository insti-*
16 *tution of such holding company is well cap-*
17 *italized;*

18 *“(iii) well capitalized insured deposi-*
19 *tory institutions control at least 80 percent*
20 *of the aggregate total risk-weighted assets of*
21 *insured depository institutions controlled by*
22 *such holding company; and*

23 *“(iv) no insured depository institution*
24 *controlled by such holding company is*
25 *undercapitalized.*

1 “(B) *MANAGERIAL CRITERIA.*—

2 “*(i) WELL MANAGED.*—*At the time of*
3 *the transaction, the acquiring bank holding*
4 *company, its lead insured depository insti-*
5 *tution, and insured depository institutions*
6 *that control at least 90 percent of the aggre-*
7 *gate total risk-weighted assets of insured de-*
8 *pository institutions controlled by such*
9 *holding company are well managed.*

10 “*(ii) LIMITATION ON POORLY MANAGED*
11 *INSTITUTIONS.*—*Except as provided in*
12 *paragraph (6), no insured depository insti-*
13 *tution controlled by the acquiring bank*
14 *holding company has received 1 of the 2*
15 *lowest composite ratings at the later of the*
16 *institution’s most recent examination or*
17 *subsequent review.*

18 “(C) *ACTIVITIES PERMISSIBLE.*—*Following*
19 *consummation of the proposal, the bank holding*
20 *company engages directly or through a subsidi-*
21 *ary solely in—*

22 “*(i) activities that are permissible*
23 *under subsection (c)(8), as determined by*
24 *the Board by regulation or order there-*
25 *under, subject to all of the restrictions,*

1 *terms, and conditions of such subsection*
2 *and such regulation or order; and*

3 “(ii) *such other activities as are other-*
4 *wise permissible under this section, subject*
5 *to the restrictions, terms and conditions, in-*
6 *cluding any prior notice or approval re-*
7 *quirements, provided in this section.*

8 “(D) *SIZE OF ACQUISITION.—*

9 “(i) *ASSET SIZE.—The book value of*
10 *the total assets to be acquired does not ex-*
11 *ceed 10 percent of the consolidated total*
12 *risk-weighted assets of the acquiring bank*
13 *holding company.*

14 “(ii) *CONSIDERATION.—The gross con-*
15 *sideration to be paid for the securities or*
16 *assets does not exceed 15 percent of the con-*
17 *solidated Tier 1 capital of the acquiring*
18 *bank holding company.*

19 “(E) *NOTICE NOT OTHERWISE WAR-*
20 *RANTED.—For proposals described in paragraph*
21 *(5)(B), the Board has not, before the conclusion*
22 *of the period provided in paragraph (5)(B), ad-*
23 *vised the bank holding company that a notice*
24 *under paragraph (1) is required.*

1 “(F) *COMPLIANCE CRITERION.*—During the
2 12-month period ending on the date on which the
3 bank holding company proposes to commence an
4 activity or acquisition, no administrative en-
5 forcement action has been commenced, and no
6 cease and desist order has been issued pursuant
7 to section 8 of the Federal Deposit Insurance
8 Act, against the bank holding company or any
9 depository institution subsidiary of the holding
10 company, and no such enforcement action, order,
11 or other administrative enforcement proceeding
12 is pending as of such date.

13 “(5) *NOTIFICATION.*—

14 “(A) *COMMENCEMENT OF ACTIVITIES AP-*
15 *PROVED BY RULE.*—A bank holding company
16 that qualifies under paragraph (4) and that pro-
17 poses to engage de novo, directly or through a
18 subsidiary, in any activity that is permissible
19 under subsection (c)(8), as determined by the
20 Board by regulation, may commence that activ-
21 ity without prior notice to the Board and must
22 provide written notification to the Board not
23 later than 10 business days after commencing the
24 activity.

1 “(B) *ACTIVITIES PERMITTED BY ORDER*
2 *AND ACQUISITIONS.*—

3 “(i) *IN GENERAL.*—*At least 12 business*
4 *days before commencing any activity pursu-*
5 *ant to paragraph (3) (other than an activ-*
6 *ity described in subparagraph (A) of this*
7 *paragraph) or acquiring shares or assets of*
8 *any company pursuant to paragraph (3),*
9 *the bank holding company shall provide*
10 *written notice of the proposal to the Board,*
11 *unless the Board determines that no notice*
12 *or a shorter notice period is appropriate.*

13 “(ii) *DESCRIPTION OF ACTIVITIES AND*
14 *TERMS.*—*A notification under this subpara-*
15 *graph shall include a description of the pro-*
16 *posed activities and the terms of any pro-*
17 *posed acquisition.*

18 “(6) *RECENTLY ACQUIRED INSTITUTIONS.*—*Any*
19 *insured depository institution which has been ac-*
20 *quired by a bank holding company during the 12-*
21 *month period preceding the date on which the com-*
22 *pany proposes to commence an activity or acquisition*
23 *pursuant to paragraph (3) may be excluded for pur-*
24 *poses of paragraph (4)(B)(i) if—*

1 “(A) the bank holding company has devel-
 2 oped a plan for the institution to restore the cap-
 3 ital and management of the institution which is
 4 acceptable to the appropriate Federal banking
 5 agency; and

6 “(B) all such insured depository institu-
 7 tions represent, in the aggregate, less than 10
 8 percent of the aggregate total risk-weighted assets
 9 of all insured depository institutions controlled
 10 by the bank holding company.

11 “(7) *ADJUSTMENT OF PERCENTAGES.*—The
 12 Board may, by regulation, adjust the percentages and
 13 the manner in which the percentages of insured depos-
 14 itory institutions are calculated under paragraph
 15 (4)(B)(i), (4)(D), or (6)(B) if the Board determines
 16 that any such adjustment is consistent with safety
 17 and soundness and the purposes of this Act.”.

18 (b) *DEFINITIONS.*—Section 2(o) of the Bank Holding
 19 Company Act of 1956 (12 U.S.C. 1841(o)) is amended—

20 (1) by striking paragraph (1) and inserting the
 21 following new paragraph:

22 “(1) *CAPITAL TERMS.*—

23 “(A) *INSURED DEPOSITORY INSTITU-*
 24 *TIONS.*—With respect to insured depository insti-
 25 tutions, the terms ‘well capitalized’, ‘adequately

1 *capitalized*, and *‘undercapitalized’* have the
 2 same meanings as in section 38(b) of the Federal
 3 *Deposit Insurance Act.*

4 “(B) *BANK HOLDING COMPANY.*—

5 “(i) *ADEQUATELY CAPITALIZED.*—With
 6 respect to a bank holding company, the
 7 term *‘adequately capitalized’* means a level
 8 of capitalization which meets or exceeds all
 9 applicable Federal regulatory capital stand-
 10 ards.

11 “(ii) *WELL CAPITALIZED.*—A bank
 12 holding company is *‘well capitalized’* if it
 13 meets the required capital levels for well
 14 capitalized bank holding companies estab-
 15 lished by the Board.

16 “(C) *OTHER CAPITAL TERMS.*—The terms
 17 *‘Tier 1’* and *‘risk-weighted assets’* have the mean-
 18 ings given those terms in the capital guidelines
 19 or regulations established by the Board for bank
 20 holding companies.”; and

21 (2) by adding at the end the following new para-
 22 graphs:

23 “(8) *LEAD INSURED DEPOSITORY INSTITU-*
 24 *TIONS.*—

1 “(A) *IN GENERAL.*—The term ‘lead insured
2 depository institution’ means the largest insured
3 depository institution controlled by the subject
4 bank holding company at any time, based on a
5 comparison of the average total risk-weighted as-
6 sets controlled by each insured depository insti-
7 tution during the previous 12-month period.

8 “(B) *BRANCH OR AGENCY.*—For purposes of
9 this paragraph and section 4(j)(4), the term ‘in-
10 sured depository institution’ includes any branch
11 or agency operated in the United States by a for-
12 eign bank.

13 “(9) *WELL MANAGED.*—The term ‘well managed’
14 means—

15 “(A) *in the case of any company or deposi-*
16 *tory institution which receives examinations, the*
17 *achievement of—*

18 “(i) *a CAMEL composite rating of 1*
19 *or 2 (or an equivalent rating under an*
20 *equivalent rating system) in connection*
21 *with the most recent examination or subse-*
22 *quent review of such company or institu-*
23 *tion; and*

24 “(ii) *at least a satisfactory rating for*
25 *management, if such rating is given; or*

1 “(B) in the case of a company or depository
 2 institution that has not received an examination
 3 rating, the existence and use of managerial re-
 4 sources which the Board determines are satisfac-
 5 tory.”.

6 **SEC. 209. ELIMINATION OF UNNECESSARY FILING FOR OF-**
 7 **FICER AND DIRECTOR APPOINTMENTS.**

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

10 (1) in subsection (a)—

11 (A) by inserting “(or such other period, as
 12 determined by the appropriate Federal banking
 13 agency)” after “30 days”;

14 (B) by striking “if the insured depository
 15 institution or depository institution holding
 16 company” and inserting “if”;

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

18 (D) by redesignating paragraph (3) as
 19 paragraph (1);

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

21 (i) by inserting “the insured depository
 22 institution or depository institution holding
 23 company” before “is not in compliance”;
 24 and

1 (ii) by striking the period at the end
2 and inserting “; or”; and

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

5 “(2) the agency determines, in connection with
6 the review by the agency of the plan required under
7 section 38 or otherwise, that such prior notice is ap-
8 propriate.”; and

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

12 **SEC. 210. AMENDMENTS TO THE DEPOSITORY INSTITUTION**

13 **MANAGEMENT INTERLOCKS ACT.**

14 (a) *DUAL SERVICE AMONG LARGER ORGANIZA-*
15 *TIONS.*—Section 204 of the *Depository Institution Manage-*
16 *ment Interlocks Act (12 U.S.C. 3203) is amended—*

17 (1) by striking “\$1,000,000,000” and inserting
18 “\$2,500,000,000”;

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

21 (3) by adding at the end the following: “In order
22 to allow for inflation or market changes, the appro-
23 priate Federal depository institutions regulatory
24 agencies may, by regulation, adjust, as necessary, the
25 amount of total assets required for depository institu-

1 *tions or depository holding companies under this sec-*
 2 *tion.”.*

3 (b) *EXTENSION OF GRANDFATHER EXEMPTION.*—*Sec-*
 4 *tion 206 of the Depository Institution Management Inter-*
 5 *locks Act (12 U.S.C. 3205) is amended—*

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

9 (2) *in subsection (b), by striking the second sen-*
 10 *tence; and*

11 (3) *by striking subsection (c).*

12 (c) *RULES OR REGULATIONS.*—*Section 209 of the De-*
 13 *pository Institution Management Interlocks Act (12 U.S.C.*
 14 *3207) is amended—*

15 (1) *in subsection (a)—*

16 (A) *by striking “(a) IN GENERAL.—Rules”*
 17 *and inserting “Rules”;*

18 (B) *by inserting “, including rules or regu-*
 19 *lations that permit service by a management of-*
 20 *ficial that would otherwise be prohibited by sec-*
 21 *tion 203 or section 204, if such service would not*
 22 *result in a monopoly or substantial lessening of*
 23 *competition,” after “title”;*

24 (C) *in paragraph (4)—*

1 (i) by striking “Federal Home Loan
2 Bank Board” and inserting “Director of the
3 Office of Thrift Supervision”; and

4 (ii) by striking “Savings and Loan”
5 and inserting “Deposit”; and

6 (2) by striking subsections (b) and (c).

7 **SEC. 211. ELIMINATION OF RECORDKEEPING AND REPORT-**
8 **ING REQUIREMENTS FOR OFFICERS.**

9 (a) *EMPLOYEE BENEFIT PLANS.*—Section 22(h)(2) of
10 *the Federal Reserve Act (12 U.S.C. 375b(2)) is amended—*

11 (1) by redesignating subparagraphs (A) through
12 (C) as clauses (i) through (iii), respectively, and in-
13 denting appropriately;

14 (2) by striking “(2) *PREFERENTIAL TERMS PRO-*
15 *HIBITED.*—” and inserting the following:

16 “(2) *PREFERENTIAL TERMS PROHIBITED.*—

17 “(A) *IN GENERAL.*—”; and

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

20 “(B) *EXCEPTION.*—Nothing in this para-
21 graph shall prohibit any extension of credit
22 made pursuant to a benefit or compensation pro-
23 gram—

24 “(i) that is widely available to employ-
25 ees of the member bank; and

1 “(i) that does not give preference to
2 any officer, director, or principal share-
3 holder of the member bank, or to any relat-
4 ed interest of such person, over other em-
5 ployees of the member bank.”.

6 (b) *EXCEPTION FOR EXTENSIONS OF CREDIT TO EX-*
7 *ECUTIVE OFFICERS AND DIRECTORS OF AFFILIATES.*—Sec-
8 tion 22(h)(8)(B) of the Federal Reserve Act (12 U.S.C.
9 375b(8)(B)) is amended to read as follows:

10 “(B) *EXCEPTION.*—The Board may, by reg-
11 ulation, make exceptions to subparagraph (A) for
12 any executive officer or director of a subsidiary
13 of a company that controls the member bank if—

14 “(i) the executive officer or director
15 does not have authority to participate, and
16 does not participate, in major policymaking
17 functions of the member bank; and

18 “(ii) the assets of such subsidiary do
19 not exceed 10 percent of the consolidated as-
20 sets of a company that controls the member
21 bank and such subsidiary (and is not con-
22 trolled by any other company).”.

1 **SEC. 212. CONSOLIDATION OF APPRAISAL SUBCOMMITTEE;**
2 **TRANSFER OF FUNCTIONS.**

3 (a) *PURPOSES.*—*Consistent with the original purposes*
4 *of title XI of the Financial Institutions Reform, Recovery,*
5 *and Enforcement Act of 1989, the purposes of this section*
6 *are—*

7 (1) *to clarify that Federal oversight of appraisal*
8 *practices and standards is the responsibility of the*
9 *Council; and*

10 (2) *to consolidate the functions of the Appraisal*
11 *Subcommittee into the Council in order to reduce the*
12 *costs incurred by maintaining a separate organiza-*
13 *tion to carry out that responsibility.*

14 (b) *CONSOLIDATION OF APPRAISAL SUBCOMMITTEE.*—

15 (1) *AMENDMENT TO FEDERAL FINANCIAL INSTI-*
16 *TUTIONS EXAMINATION COUNCIL ACT OF 1978.*—*Sec-*
17 *tion 1011 of the Federal Financial Institutions Ex-*
18 *amination Council Act of 1978 (12 U.S.C. 3310) is*
19 *repealed.*

20 (2) *AMENDMENTS TO THE FINANCIAL INSTITU-*
21 *TIONS REFORM, RECOVERY, AND ENFORCEMENT ACT*
22 *OF 1989.*—

23 (A) *REPEALS.*—*The following sections of the*
24 *Financial Institutions Reform, Recovery, and*
25 *Enforcement Act of 1989 (12 U.S.C. 1811 et seq.)*
26 *are repealed:*

1 (i) *Section 1102 (Public Law 101–73;*
2 *103 Stat. 511).*

3 (ii) *Section 1104 (12 U.S.C. 3333).*

4 (iii) *Section 1105 (12 U.S.C. 3334).*

5 (iv) *Section 1106 (12 U.S.C. 3335).*

6 (v) *Section 1108 (12 U.S.C. 3337).*

7 (B) *DEFINITIONS.—Section 1121 of the Fi-*
8 *nancial Institutions Reform, Recovery, and En-*
9 *forcement Act of 1989 (12 U.S.C. 3350) is*
10 *amended—*

11 (i) *by striking paragraphs (2) and (8);*

12 (ii) *by redesignating paragraphs (3)*
13 *through (7) as paragraphs (2) through (6),*
14 *respectively; and*

15 (iii) *by redesignating paragraphs (9)*
16 *and (10) as paragraphs (7) and (8), respec-*
17 *tively.*

18 (3) *CONFORMING AMENDMENT TO THE NATIONAL*
19 *HOUSING ACT.—Section 202(e) of the National Hous-*
20 *ing Act (12 U.S.C. 1708(e)) is amended—*

21 (A) *by striking paragraph (2); and*

22 (B) *by redesignating paragraphs (3) and*
23 *(4) and paragraphs (2) and (3), respectively.*

24 (c) *TRANSFER OF FUNCTIONS.—*

1 (1) *AMENDMENTS TO THE FINANCIAL INSTITU-*
2 *TIONS REFORM, RECOVERY, AND ENFORCEMENT ACT*
3 *OF 1989.*—

4 (A) *TRANSFER OF FUNCTIONS.*—*Section*
5 *1103 of the Financial Institutions Reform, Re-*
6 *covery, and Enforcement Act of 1989 (12 U.S.C.*
7 *3332) is amended—*

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

10 (ii) *by striking “Appraisal Sub-*
11 *committee” each place such term appears*
12 *and inserting “Federal Financial Institu-*
13 *tions Examination Council”;* *and*

14 (iii) *in subsection (a)—*

15 (I) *in paragraph (3), by inserting*
16 *before the semicolon the following: “, if*
17 *the Council determines that maintain-*
18 *ing a national registry under this*
19 *paragraph will further the purposes of*
20 *this title (as described in section*
21 *1101)”;* *and*

22 (II) *by striking paragraph (4)*
23 *and inserting the following:*

24 “(4) *include in its annual report to the Congress*
25 *a description of the manner in which the Council has*

1 performed the functions assigned to the Council under
2 this title.”.

3 (B) *ROSTER OF STATE CERTIFIED OR LI-*
4 *CENSED APPRAISERS.*—Section 1109 of the *Fi-*
5 *nancial Institutions Reform, Recovery, and En-*
6 *forcement Act of 1989 (12 U.S.C. 3338) is reded-*
7 *ignated and amended to read as follows:*

8 **“SEC. 1104. ROSTER OF STATE CERTIFIED OR LICENSED AP-**
9 **PRAISERS.**

10 “(a) *IN GENERAL.*—Each State that has an appraiser
11 certifying and licensing agency with a certification or li-
12 cense that meets the requirements of this title shall—

13 “(1) not less frequently than annually (unless a
14 less frequent interval is specified by the Council),
15 transmit to the Council a roster listing individuals
16 who have received a State certification or license in
17 accordance with this title;

18 “(2) collect from such individuals who perform
19 or seek to perform appraisals in federally related
20 transactions, an annual registry fee, in an amount
21 equal to \$25 (or a lesser amount determined by the
22 Council) to support the activities of the Council under
23 this title; and

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

1 “(b) *STATUS OF FEES.*—Any registry fees collected
 2 and transmitted to the Council under subsection (a), and
 3 any funds of the Appraisal Subcommittee transferred to the
 4 Council pursuant to section 213 of the Economic Growth
 5 and Regulatory Paperwork Reduction Act of 1995, shall not
 6 constitute appropriated funds.”.

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

11 (i) in section 1116(e)—

12 (I) by striking “Appraisal Sub-
 13 committee” and inserting “Federal Fi-
 14 nancial Institutions Examination
 15 Council”; and

16 (II) by striking “the Subcommit-
 17 tee” and inserting “the Federal Finan-
 18 cial Institutions Examination Coun-
 19 cil”;

20 (ii) in section 1118—

21 (I) in the subsection heading for
 22 subsection (b), by striking “BY AP-
 23 PRAISAL SUBCOMMITTEE”; and

24 (II) by striking “Appraisal Sub-
 25 committee” each place such term ap-

1 *pears and inserting “Federal Finan-*
2 *cial Institutions Examination Coun-*
3 *cil”;*

4 *(iii) in section 1119—*

5 *(I) by striking “Subject to the ap-*
6 *proval of the Council, the Appraisal*
7 *Subcommittee” each place such term*
8 *appears and inserting “The Council”;*
9 *and*

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

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

19 *(v) in section 1122—*

20 *(I) by striking “Appraisal Sub-*
21 *committee” each place such term ap-*
22 *pears and inserting “Council”; and*

23 *(II) by striking subsection (f); and*

24 *(vi) by redesignating—*

1 (I) section 1107 as section 1103;

2 and

3 (II) sections 1110 through 1123 as

4 sections 1105 through 1118, respec-

5 tively.

6 (2) ADMINISTRATIVE PROVISIONS.—

7 (A) TRANSFER OF FINANCIAL ASSETS AND
8 LIABILITIES.—All funds held by, the right to col-
9 lect all funds owed to, and all obligations of the
10 Appraisal Subcommittee on the effective date of
11 this section shall be transferred to the Council.

12 (B) APPRAISAL FOUNDATION GRANTS.—The
13 Council may make grants in such amounts as it
14 deems appropriate to the Appraisal Foundation
15 to help defray costs of the Foundation relating to
16 the activities of its Appraisal Standards and Ap-
17 praiser Qualification Boards, but shall dis-
18 continue such grants not later than December 31,
19 1998.

20 (C) REPAYMENT OF TREASURY LOAN.—Not
21 later than September 30, 1998, the Council shall
22 repay to the Secretary of the Treasury the funds
23 specified in section 1108 of the Financial Insti-
24 tutions Reform, Recovery, and Enforcement Act
25 of 1989 (as that section existed on the day before

1 the effective date of this section), and the Sec-
 2 retary shall deposit such funds into the General
 3 Fund of the Treasury of the United States.

4 (D) *PROPERTY TRANSFERRED.*—All prop-
 5 erty of the Appraisal Subcommittee shall be
 6 transferred to the Council.

7 (E) *TRANSFER OF EMPLOYEES.*—

8 (i) *IDENTIFYING EMPLOYEES FOR*
 9 *TRANSFER.*—Not later than 30 days after
 10 the date of enactment of this Act, the Coun-
 11 cil shall identify for transfer to the Council
 12 the employees of the Appraisal Subcommit-
 13 tee that the Council determines to be nec-
 14 essary to perform the functions transferred
 15 to the Council under this subsection.

16 (ii) *TRANSFER.*—Each employee iden-
 17 tified for transfer under clause (i) shall be
 18 transferred to the Council in accordance
 19 with this subparagraph.

20 (F) *RIGHTS OF TRANSFERRED EMPLOY-*
 21 *EES.*—

22 (i) *COMPARABLE POSITIONS.*—Each
 23 employee transferred to the Council under
 24 subparagraph (E) shall be appointed to a
 25 position under the compensation system and

1 *performance evaluation system of the Coun-*
2 *cil that is comparable in tenure and grade*
3 *to the position held by the employee on the*
4 *day before the date of such transfer.*

5 *(ii) PAY.—*

6 *(I) IN GENERAL.—Except as pro-*
7 *vided in subclause (II), each employee*
8 *transferred to the Council under sub-*
9 *paragraph (E) shall, during the 12-*
10 *month period beginning on the date of*
11 *such transfer, receive pay at a rate not*
12 *less than the basic rate of pay that the*
13 *employee received during the 12-month*
14 *period immediately preceding that*
15 *transfer date.*

16 *(II) EXCEPTIONS.—Subclause (I)*
17 *does not limit the right of the Council*
18 *to reduce a transferred rate of basic*
19 *pay of an employer for cause or unac-*
20 *ceptable performance, or with the con-*
21 *sent of the employee.*

22 *(III) PROTECTION ONLY WHILE*
23 *EMPLOYED.—Subclause (I) shall apply*
24 *to an employee only during the period*

1 that the employee is employed by the
2 Council.

3 (iii) *RETIREMENT BENEFITS.*—

4 (I) *CONTINUATION OF EXISTING*
5 *RETIREMENT PLAN.*—*Except as other-*
6 *wise permitted by law, each employee*
7 *transferred to the Council under sub-*
8 *paragraph (E) shall remain enrolled*
9 *in the retirement plan (and any asso-*
10 *ciated thrift savings plan) in which the*
11 *employee was enrolled on the day be-*
12 *fore the date of such transfer during*
13 *the period that the employee is em-*
14 *ployed by the Council.*

15 (II) *EMPLOYER CONTRIBUTION.*—

16 *The Council shall pay any employer*
17 *contributions to the retirement plan in*
18 *which each employee transferred to the*
19 *Council under subparagraph (E) is*
20 *subject during the period that the em-*
21 *ployee is employed by the Council, in*
22 *accordance with such retirement plan.*

23 (iv) *NO PRIVATE RIGHT OF ACTION.*—

24 *This subparagraph does not provide any*
25 *employee with any right of action to require*

1 *the Council or any officer, employee, agent,*
2 *or administrator of the Council to take any*
3 *action under this subparagraph.*

4 *(v) PRIORITY OF THIS SECTION.—If*
5 *any protection provided under this sub-*
6 *paragraph conflicts with any protection*
7 *provided to transferred employees under sec-*
8 *tion 3503 of title 5, United States Code, the*
9 *provisions of this subparagraph shall con-*
10 *trol.*

11 *(d) EFFECTIVE DATE.—Except as otherwise provided*
12 *in this section, this section and the amendments made by*
13 *this section shall become effective 90 days after the date of*
14 *enactment of this Act.*

15 *(e) STUDY OF OVERSIGHT FUNCTIONS.—*

16 *(1) STUDY.—The Council shall conduct a study*
17 *of the progress made in meeting the purposes of this*
18 *section and the continuing need for Federal oversight*
19 *of appraisal functions pursuant to title XI of the Fi-*
20 *nancial Institutions Reform, Recovery, and Enforce-*
21 *ment Act of 1989.*

22 *(2) REPORT.—Not later than 3 years after the*
23 *date of enactment of this Act, the Council shall report*
24 *to the appropriate committees of the Congress on the*
25 *results of the study conducted under paragraph (1),*

1 *along with any appropriate recommendations for leg-*
 2 *islation to enhance and encourage State or self-regu-*
 3 *lation of appraisal practices in lieu of Federal over-*
 4 *sight.*

5 **SEC. 213. BRANCH CLOSURES.**

6 *Section 42 of the Federal Deposit Insurance Act (12*
 7 *U.S.C. 1831r-1) is amended by adding at the end the fol-*
 8 *lowing new subsection:*

9 “(e) *SCOPE OF APPLICATION.*—*This section shall not*
 10 *apply with respect to—*

11 “(1) *an automated teller machine;*

12 “(2) *the relocation of a branch or consolidation*
 13 *of one or more branches into another branch, if the*
 14 *relocation or consolidation—*

15 “(A) *occurs within the immediate neighbor-*
 16 *hood; and*

17 “(B) *does not substantially affect the nature*
 18 *of the business or customers served; or*

19 “(3) *a branch that is closed in connection with—*

20 “(A) *an emergency acquisition under—*

21 “(i) *section 11(n); or*

22 “(ii) *subsection (f) or (k) of section 13;*

23 *or*

24 “(B) *any assistance provided by the Cor-*
 25 *poration under section 13(c).”.*

1 **SEC. 214. FOREIGN BANKS.**

2 (a) *EXAMINATION OF BRANCHES AND AGENCIES BY*
 3 *BOARD.*—Section 7(c) of the International Banking Act of
 4 1978 (12 U.S.C. 3105(c)) is amended—

5 (1) by striking “(c)” and inserting the following:

6 “(c) *FOREIGN BANK EXAMINATIONS AND REPORT-*
 7 *ING.*—”;

8 (2) in paragraph (1)(B), by adding at the end
 9 the following new clause:

10 “(iii) *AVOIDANCE OF DUPLICATION.*—

11 *In exercising its authority under this para-*
 12 *graph, the Board shall take all reasonable*
 13 *measures to reduce burden and avoid un-*
 14 *necessary duplication of examinations.”;*

15 (3) by striking subparagraph (C) of paragraph
 16 (1) and inserting the following:

17 “(C) *ON-SITE EXAMINATION.*—*Each Federal*
 18 *branch or agency, and each State branch or*
 19 *agency, of a foreign bank shall be subject to on-*
 20 *site examination by an appropriate Federal*
 21 *banking agency or State bank supervisor as fre-*
 22 *quently as would a national bank or a State*
 23 *bank, respectively, by the appropriate Federal*
 24 *banking agency.”; and*

25 (4) in paragraph (1)(D), by inserting before the
 26 period at the end the following: “, only to the same

1 *extent that fees are collected by the Board for exam-*
 2 *ination of any State member bank”.*

3 **(b) ESTABLISHMENT OF FOREIGN BANK OFFICES IN**
 4 **THE UNITED STATES.**—*Section 7(d) of the International*
 5 *Banking Act of 1978 (12 U.S.C. 3105(d)) is amended—*

6 *(1) in paragraph (2), by striking “The Board”*
 7 *and inserting “Except as provided in paragraph (6),*
 8 *the Board”;*

9 *(2) in paragraph (5), by striking “Consistent*
 10 *with the standards for approval in paragraph (2),*
 11 *the”;* and inserting “The”; and

12 *(3) by adding at the end the following new para-*
 13 *graphs:*

14 “(6) **EXCEPTION.**—

15 “(A) **IN GENERAL.**—*If the Board is unable*
 16 *to find, under paragraph (2), that a foreign*
 17 *bank is subject to comprehensive supervision or*
 18 *regulation on a consolidated basis by the appro-*
 19 *priate authorities in its home country, the Board*
 20 *may nevertheless approve an application by such*
 21 *foreign bank under paragraph (1) if—*

22 “(i) *the appropriate authorities in the*
 23 *home country of the foreign bank are ac-*
 24 *tively working to establish arrangements for*

1 *the consolidated supervision of such bank;*
2 *and*

3 “(ii) *all other factors are consistent*
4 *with approval.*

5 “(B) *OTHER CONSIDERATIONS.—In decid-*
6 *ing whether to use its discretion under subpara-*
7 *graph (A), the Board shall also consider whether*
8 *the foreign bank has adopted and implements*
9 *procedures to combat money laundering. The*
10 *Board may also take into account whether the*
11 *home country of the foreign bank is developing a*
12 *legal regime to address money laundering or is*
13 *participating in multilateral efforts to combat*
14 *money laundering.*

15 “(C) *ADDITIONAL CONDITIONS.—In approv-*
16 *ing an application under this paragraph, the*
17 *Board, after requesting and taking into consider-*
18 *ation the views of the appropriate State bank su-*
19 *ervisor or the Comptroller of the Currency, as*
20 *the case may be, may impose such conditions or*
21 *restrictions relating to the activities or business*
22 *operations of the proposed branch, agency, or*
23 *commercial lending company subsidiary, includ-*
24 *ing restrictions on sources of funding, as are*
25 *considered appropriate. The Board shall coordi-*

1 *nate with the appropriate State bank supervisor*
2 *or the Comptroller of the Currency, as appro-*
3 *priate, in the implementation of such conditions*
4 *or restrictions.*

5 *“(D) MODIFICATION OF CONDITIONS.—Any*
6 *condition or restriction imposed by the Board in*
7 *connection with the approval of an application*
8 *under authority of this paragraph may be modi-*
9 *fied or withdrawn.*

10 *“(7) TIME PERIOD FOR BOARD ACTION.—*

11 *“(A) FINAL ACTION.—The Board shall take*
12 *final action on any application under para-*
13 *graph (1) not later than 180 days after receipt*
14 *of the application, except that the Board may ex-*
15 *tend for an additional 180 days the period with-*
16 *in which to take final action on such application*
17 *after providing notice of, and the reasons for, the*
18 *extension to the applicant foreign bank and any*
19 *appropriate State bank supervisor or the Comp-*
20 *troller of the Currency, as appropriate.*

21 *“(B) FAILURE TO SUBMIT INFORMATION.—*
22 *The Board may deny any application if it does*
23 *not receive information requested from the appli-*
24 *cant foreign bank or appropriate authorities in*
25 *the home country of the foreign bank in suffi-*

1 cient time to permit the Board to evaluate such
 2 information adequately within the time periods
 3 for final action set forth in subparagraph (A).

4 “(C) WAIVER.—A foreign bank may waive
 5 the applicability of this paragraph with respect
 6 to any application under paragraph (1).”.

7 (c) **TERMINATION OF FOREIGN BANK OFFICES IN THE**
 8 **UNITED STATES.**—Section 7(e)(1)(A) of the International
 9 Banking Act of 1978 (12 U.S.C. 3105(e)(1)(A)) is amend-
 10 ed—

11 (1) by inserting “(i)” after “(A)”;

12 (2) by striking “or” at the end and inserting
 13 “and”; and

14 (3) by adding at the end the following new
 15 clause:

16 “(i) the appropriate authorities in the
 17 home country of the foreign bank are not making
 18 demonstrable progress in establishing arrange-
 19 ments for the comprehensive supervision or regu-
 20 lation of such foreign bank on a consolidated
 21 basis; or”.

22 **SEC. 215. DISPOSITION OF FORECLOSED ASSETS.**

23 Section 4(c)(2) of the Bank Holding Company Act of
 24 1956 (12 U.S.C. 1843(c)(2)) is amended—

1 (1) *by striking “for not more than one year at*
2 *a time”;* and

3 (2) *by striking “but no such extensions shall ex-*
4 *tend beyond a date five years” and inserting “and, in*
5 *the case of a bank holding company which has not*
6 *disposed of such shares within 5 years after the date*
7 *on which such shares were acquired, the Board may,*
8 *upon the application of such company, grant addi-*
9 *tional exemptions if, in the judgment of the Board,*
10 *such extension would not be detrimental to the public*
11 *interest and, either the bank holding company has*
12 *made a good faith attempt to dispose of such shares*
13 *during such 5-year period, or the disposal of such*
14 *shares during such 5-year period would have been det-*
15 *rimental to the company, except that the aggregate*
16 *duration of such extensions shall not extend beyond*
17 *10 years”.*

18 ***Subtitle B—Eliminating***
19 ***Unnecessary Regulatory Burdens***

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

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

23 (1) *by redesignating the second paragraph des-*
24 *ignated as paragraph (8) as paragraph (10), and by*

1 *inserting that paragraph, as redesignated, imme-*
2 *diately after paragraph (9); and*

3 *(2) in paragraph (10), as redesignated, by strik-*
4 *ing “\$175,000,000” and inserting “\$250,000,000”.*

5 **SEC. 222. REQUIRED REVIEW OF REGULATIONS.**

6 *(a) IN GENERAL.—Not less frequently than once every*
7 *10 years, the Council and each appropriate Federal bank-*
8 *ing agency represented on the Council shall conduct a re-*
9 *view of all regulations promulgated by the Council or by*
10 *any such appropriate Federal banking agency, respectively,*
11 *in order to identify outdated or otherwise unnecessary regu-*
12 *latory requirements imposed on insured depository institu-*
13 *tions.*

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

17 *(1) categorize the regulations described in sub-*
18 *section (a) by type (such as consumer regulations,*
19 *safety and soundness regulations, or such other des-*
20 *ignations as determined by the Council, or the appro-*
21 *priate Federal banking agency); and*

22 *(2) at regular intervals, provide notice and so-*
23 *licit public comment on a particular category or cat-*
24 *egories of regulations, requesting commentators to*

1 *identify areas of the regulations that are outdated,*
2 *unnecessary, or unduly burdensome.*

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

8 *(d) REGULATORY RESPONSE.—The Council or the ap-*
9 *propriate Federal banking agency shall—*

10 *(1) publish in the Federal Register a summary*
11 *of the comments received under this section, identify-*
12 *ing significant issues raised and providing comment*
13 *on such issues; and*

14 *(2) eliminate unnecessary regulations to the ex-*
15 *tent that such action is appropriate.*

16 *(e) REPORT TO CONGRESS.—Not later than 30 days*
17 *after carrying out subsection (d)(1), the Council shall sub-*
18 *mit to the Congress a report, which shall include—*

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

23 *(2) an analysis of whether the appropriate Fed-*
24 *eral banking agency involved is able to address the*
25 *regulatory burdens associated with such issues by reg-*

1 “(m) *OPPORTUNITY TO REDUCE COMPLIANCE BUR-*
2 *DEN.—*

3 “(1) *IN GENERAL.—*

4 “(A) *SATISFACTION OF PUBLIC AVAILABIL-*
5 *ITY REQUIREMENTS.—A depository institution*
6 *shall be deemed to have satisfied the public avail-*
7 *ability requirements of subsection (a) if the insti-*
8 *tution compiles the information required under*
9 *that subsection at the home office of the institu-*
10 *tion and provides notice at the branch locations*
11 *specified in subsection (a) that such information*
12 *is available from the home office of the institu-*
13 *tion upon written request.*

14 “(B) *PROVISION OF INFORMATION UPON RE-*
15 *QUEST.—Not later than 15 days after the receipt*
16 *of a written request for any information required*
17 *to be compiled under subsection (a), the home of-*
18 *fice of the depository institution receiving the re-*
19 *quest shall provide the information pertinent to*
20 *the location of the branch in question to the per-*
21 *son requesting the information.*

22 “(2) *FORM OF INFORMATION.—In complying*
23 *with paragraph (1), a depository institution shall, in*
24 *the sole discretion of the institution, provide the per-*
25 *son requesting the information with—*

1 “(A) a paper copy of the information re-
2 quested; or

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

6 **SEC. 226. ELIMINATION OF STOCK LOAN REPORTING RE-**
7 **QUIREMENT.**

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

10 (1) in paragraph (9)(A)—

11 (A) by striking “financial institution and
12 any affiliate of any financial institution” and
13 inserting “foreign bank, or any affiliate there-
14 of,”; and

15 (B) by striking “by the financial institution
16 and such institution’s affiliates” and inserting
17 “by the foreign bank or any affiliate thereof”;

18 (2) in paragraph (9)(B)—

19 (A) by striking “paragraph—” and insert-
20 ing “paragraph, the following definitions shall
21 apply:”;

22 (B) by striking clause (i) and inserting the
23 following:

24 “(i) FOREIGN BANK.—The terms ‘for-
25 eign bank’ and ‘affiliate’ have the same

1 *meanings as in section 1 of the Inter-*
2 *national Banking Act of 1978.”; and*

3 *(C) in clause (iii), by striking “financial*
4 *institution” and inserting “foreign bank or any*
5 *affiliate thereof”;*

6 *(3) in paragraph (9)(C)—*

7 *(A) by striking “financial institution or*
8 *any of its affiliates” and inserting “foreign bank*
9 *or any affiliate thereof”; and*

10 *(B) by striking “financial institution or its*
11 *affiliates” and inserting “foreign bank or any*
12 *affiliate thereof”;*

13 *(4) in paragraph (9)(D)—*

14 *(A) in clause (i)—*

15 *(i) by striking “the financial institu-*
16 *tion and all affiliates of the institution”*
17 *and inserting “the foreign bank and all af-*
18 *filiates thereof”; and*

19 *(ii) by striking “financial institution*
20 *or any such affiliate” and inserting “for-*
21 *foreign bank or affiliate thereof”;*

22 *(B) in clause (ii), by striking “financial in-*
23 *stitution and any affiliate of such institution”*
24 *and inserting “foreign bank and any affiliate*
25 *thereof”; and*

1 (C) in clause (iii), by striking “financial
2 institution” and inserting “foreign bank or any
3 affiliate thereof”; and

4 (5) in paragraph (9)(E)—

5 (A) in clause (i)—

6 (i) by striking “a financial institution
7 and the affiliates of such institution” and
8 inserting “a foreign bank or any affiliate
9 thereof”; and

10 (ii) by striking “institution or affili-
11 ate” each place such term appears and in-
12 serting “foreign bank or any affiliate there-
13 of”; and

14 (B) in clause (ii), by striking “financial in-
15 stitution and any affiliate of such institution”
16 and inserting “foreign bank and any affiliate
17 thereof”.

18 **SEC. 227. CREDIT AVAILABILITY ASSESSMENT.**

19 (a) *STUDY*.—

20 (1) *IN GENERAL*.—Not later than 12 months
21 after the date of enactment of this Act, and once every
22 60 months thereafter, the Board, in consultation with
23 the Director of the Office of Thrift Supervision, the
24 Comptroller of the Currency, the Board of Directors
25 of the Corporation, the Administrator of the National

1 *Credit Union Administration, the Administrator of*
2 *the Small Business Administration, and the Secretary*
3 *of Commerce, shall conduct a study and submit a re-*
4 *port to the Congress detailing the extent of small busi-*
5 *ness lending by all creditors.*

6 (2) *CONTENTS OF STUDY.—The study required*
7 *under paragraph (1) shall identify, to the extent*
8 *practicable, those factors which provide policymakers*
9 *with insights into the small business credit market,*
10 *including—*

11 (A) *the demand for small business credit,*
12 *including consideration of the impact of eco-*
13 *nomical cycles on the levels of such demand;*

14 (B) *the availability of credit to small busi-*
15 *nesses;*

16 (C) *the range of credit options available to*
17 *small businesses, such as those available from in-*
18 *sured depository institutions and other providers*
19 *of credit;*

20 (D) *the types of credit products used to fi-*
21 *nance small business operations, including the*
22 *use of traditional loans, leases, lines of credit,*
23 *home equity loans, credit cards, and other*
24 *sources of financing;*

1 (E) the credit needs of small businesses, in-
 2 cluding, if appropriate, the extent to which such
 3 needs differ, based upon product type, size of
 4 business, cash flow requirements, characteristics
 5 of ownership or investors, or other aspects of
 6 such business;

7 (F) the types of risks to creditors in provid-
 8 ing credit to small businesses; and

9 (G) such other factors as the Board deems
 10 appropriate.

11 (b) *USE OF EXISTING DATA.*—The studies required by
 12 this section shall not increase the regulatory or paperwork
 13 burden on regulated financial institutions, other sources of
 14 small business credit, or small businesses.

15 **Subtitle C—Regulatory**
 16 **Micromanagement**

17 **SEC. 241. NATIONAL BANK DIRECTORS.**

18 Section 5146 of the Revised Statutes (12 U.S.C. 72)
 19 is amended in the first sentence, by striking “except” and
 20 all that follows through the end of the sentence and inserting
 21 the following: “except that the Comptroller may, in the dis-
 22 cretion of the Comptroller, waive the requirement of resi-
 23 dency.”.

1 **SEC. 242. PAPERWORK REDUCTION REVIEW.**

2 *Section 303(a) of the Riegle Community Development*
 3 *and Regulatory Improvement Act of 1994 (12 U.S.C.*
 4 *4803(a)) is amended—*

5 *(1) by redesignating paragraphs (2) and (3) as*
 6 *paragraphs (3) and (4), respectively; and*

7 *(2) by inserting after paragraph (1) the follow-*
 8 *ing new paragraph:*

9 *“(2) review the extent to which existing regula-*
 10 *tions require insured depository institutions and in-*
 11 *sured credit unions to produce unnecessary internal*
 12 *written policies and eliminate such requirements,*
 13 *where appropriate;”.*

14 **SEC. 243. STATE BANK REPRESENTATION ON BOARD OF DI-**
 15 **RECTORS OF THE FDIC.**

16 *Section 2(a)(1)(C) of the Federal Deposit Insurance*
 17 *Act (12 U.S.C. 1812(a)(1)(C)) is amended by inserting be-*
 18 *fore the period “, 1 of whom shall have State bank super-*
 19 *visory experience”.*

20 **SEC. 244. CONSULTATION AMONG EXAMINERS.**

21 *Section 10 of the Federal Deposit Insurance Act (12*
 22 *U.S.C. 1820) is amended by adding at the end the following*
 23 *new subsection:*

24 *“(j) CONSULTATION AMONG EXAMINERS.—*

25 *“(1) IN GENERAL.—Each appropriate Federal*
 26 *banking agency shall take such action as may be nec-*

1 *essary to ensure that examiners employed by the*
 2 *agency—*

3 *“(A) consult on examination activities with*
 4 *respect to any depository institution; and*

5 *“(B) achieve an agreement and resolve any*
 6 *inconsistencies in the recommendations to be*
 7 *given to such institution as a consequence of any*
 8 *examinations.*

9 *“(2) EXAMINER-IN-CHARGE.—Each appropriate*
 10 *Federal banking agency shall consider appointing an*
 11 *examiner-in-charge with respect to a depository insti-*
 12 *tution to ensure consultation on examination activi-*
 13 *ties among all of the examiners of that agency in-*
 14 *volved in examinations of the institution.”.*

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

18 ***SEC. 301. AUDIT COSTS.***

19 *(a) AUDITOR ATTESTATIONS.—Section 36 of the Fed-*
 20 *eral Deposit Insurance Act (12 U.S.C. 1831m) is amended*
 21 *by striking subsection (e) and inserting the following:*

22 *“(e) [Reserved.]”.*

23 *(b) INDEPENDENT AUDIT COMMITTEES.—Section*
 24 *36(g)(1) of the Federal Deposit Insurance Act (12 U.S.C.*
 25 *1831m(g)(1)) is amended—*

1 (1) *in subparagraph (A), by inserting “, except*
2 *as provided in subparagraph (D)” after “manage-*
3 *ment of the institution”;* and

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

6 “(D) *EXEMPTION AUTHORITY.—*

7 “(i) *IN GENERAL.—An appropriate*
8 *Federal banking agency may, by order or*
9 *regulation, permit the independent audit*
10 *committee of an insured depository institu-*
11 *tion to be made up of less than all, but no*
12 *fewer than a majority of, outside directors,*
13 *if the agency determines that the institution*
14 *has encountered hardships in retaining and*
15 *recruiting a sufficient number of competent*
16 *outside directors to serve on the internal*
17 *audit committee of the institution.*

18 “(ii) *FACTORS TO BE CONSIDERED.—*

19 *In determining whether an insured deposi-*
20 *tory institution has encountered hardships*
21 *referred to in clause (i), the appropriate*
22 *Federal banking agency shall consider fac-*
23 *tors such as the size of the institution, and*
24 *whether the institution has made a good*
25 *faith effort to elect or name additional com-*

1 *petent outside directors to the board of di-*
 2 *rectors of the institution who may serve on*
 3 *the internal audit committee.”.*

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

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

12 *(a) EQUAL CREDIT OPPORTUNITY.—*

13 *(1) IN GENERAL.—The Equal Credit Oppor-*
 14 *tunity Act (15 U.S.C. 1691 et seq.) is amended by in-*
 15 *serting after section 704 the following new section:*

16 **“SEC. 704A. INCENTIVES FOR SELF-TESTING AND SELF-COR-**
 17 **RECTION.**

18 *“(a) PRIVILEGED INFORMATION.—*

19 *“(1) CONDITIONS FOR PRIVILEGE.—A report or*
 20 *result of a self-test (as that term is defined by regula-*
 21 *tions of the Board) shall be considered to be privileged*
 22 *under paragraph (2) if a creditor—*

23 *“(A) conducts, or authorizes an independent*
 24 *third party to conduct, a self-test of any aspect*
 25 *of a credit transaction by a creditor, in order to*

1 *determine the level or effectiveness of compliance*
2 *with this title by the creditor; and*

3 “(B) *has identified any possible violation of*
4 *this title by the creditor and has taken, or is tak-*
5 *ing, appropriate corrective action to address any*
6 *such possible violation.*

7 “(2) *PRIVILEGED SELF-TEST.—If a creditor*
8 *meets the conditions specified in subparagraphs (A)*
9 *and (B) of paragraph (1) with respect to a self-test*
10 *described in that paragraph, any report or results of*
11 *that self-test—*

12 “(A) *shall be privileged; and*

13 “(B) *may not be obtained or used by any*
14 *applicant, department, or agency in any—*

15 “(i) *proceeding or civil action in which*
16 *one or more violations of this title are al-*
17 *leged; or*

18 “(ii) *examination or investigation re-*
19 *lating to compliance with this title.*

20 “(b) *RESULTS OF SELF-TESTING.—*

21 “(1) *IN GENERAL.—No provision of this section*
22 *may be construed to prevent an applicant, depart-*
23 *ment, or agency from obtaining or using a report or*
24 *results of any self-test in any proceeding or civil ac-*
25 *tion in which a violation of this title is alleged, or*

1 *in any examination or investigation of compliance*
2 *with this title if—*

3 “(A) *the creditor or any person with lawful*
4 *access to the report or results—*

5 “(i) *voluntarily releases or discloses*
6 *all, or any part of, the report or results to*
7 *the applicant, department, or agency, or to*
8 *the general public; or*

9 “(ii) *refers to or describes the report or*
10 *results as a defense to charges of violations*
11 *of this title against the creditor to whom the*
12 *self-test relates; or*

13 “(B) *the report or results are sought in con-*
14 *junction with an adjudication or admission of a*
15 *violation of this title for the sole purpose of de-*
16 *termining an appropriate penalty or remedy.*

17 “(2) *DISCLOSURE FOR DETERMINATION OF PEN-*
18 *ALTY OR REMEDY.—Any report or results of a self-test*
19 *that are disclosed for the purpose specified in para-*
20 *graph (1)(B)—*

21 “(A) *shall be used only for the particular*
22 *proceeding in which the adjudication or admis-*
23 *sion referred to in paragraph (1)(B) is made;*
24 *and*

1 “(B) may not be used in any other action
2 or proceeding.

3 “(c) *ADJUDICATION.*—An applicant, department, or
4 agency that challenges a privilege asserted under this sec-
5 tion may seek a determination of the existence and applica-
6 tion of that privilege in—

7 “(1) a court of competent jurisdiction; or

8 “(2) an administrative law proceeding with ap-
9 propriate jurisdiction.”.

10 (2) *REGULATIONS.*—

11 (A) *IN GENERAL.*—Not later than 6 months
12 after the date of enactment of this Act, in con-
13 sultation with the Secretary of Housing and
14 Urban Development and the agencies referred to
15 in section 704 of the Equal Credit Opportunity
16 Act, and after providing notice and an oppor-
17 tunity for public comment, the Board shall pro-
18 mulgate final regulations to implement section
19 704A of the Equal Credit Opportunity Act, as
20 added by this section.

21 (B) *SELF-TEST.*—

22 (i) *DEFINITION.*—The regulations pro-
23 mulgated under subparagraph (A) shall in-
24 clude a definition of the term “self-test” for
25 purposes of section 704A of the Equal Cred-

1 *it Opportunity Act, as added by this sec-*
 2 *tion.*

3 (ii) *REQUIREMENT FOR SELF-TEST.—*

4 *The regulations promulgated under sub-*
 5 *paragraph (A) shall specify that a self-test*
 6 *shall be sufficiently extensive to constitute a*
 7 *determination of the level and effectiveness*
 8 *of compliance by a creditor with the Equal*
 9 *Credit Opportunity Act.*

10 (iii) *SUBSTANTIAL SIMILARITY TO CER-*

11 *TAIN FAIR HOUSING ACT REGULATIONS.—*

12 *The regulations promulgated under sub-*
 13 *paragraph (A) shall be substantially simi-*
 14 *lar to the regulations promulgated by the*
 15 *Secretary of Housing and Urban Develop-*
 16 *ment to carry out section 814A(d) of the*
 17 *Fair Housing Act, as added by this section.*

18 (3) *CLERICAL AMENDMENT.—The table of sec-*
 19 *tions for title VII of the Consumer Credit Protection*
 20 *Act is amended by inserting after the item relating to*
 21 *section 704 the following new item:*

“704A. Incentives for self-testing and self-correction.”.

22 (b) *FAIR HOUSING.—*

23 (1) *IN GENERAL.—The Fair Housing Act (42*
 24 *U.S.C. 3601 et seq.) is amended by inserting after sec-*
 25 *tion 814 the following new section:*

1 **“SEC. 814A. INCENTIVES FOR SELF-TESTING AND SELF-COR-**
2 **RECTION.**

3 “(a) *PRIVILEGED INFORMATION.*—

4 “(1) *CONDITIONS FOR PRIVILEGE.*—A report or
5 result of a self-test (as that term is defined by regula-
6 tion of the Secretary) shall be considered to be privi-
7 leged under paragraph (2) if any person—

8 “(A) conducts, or authorizes an independent
9 third party to conduct, a self-test of any aspect
10 of a residential real estate related lending trans-
11 action of that person, or any part of that trans-
12 action, in order to determine the level or effec-
13 tiveness of compliance with this title by that per-
14 son; and

15 “(B) has identified any possible violation of
16 this title by that person and has taken, or is tak-
17 ing, appropriate corrective action to address any
18 such possible violation.

19 “(2) *PRIVILEGED SELF-TEST.*—If a person meets
20 the conditions specified in subparagraphs (A) and (B)
21 of paragraph (1) with respect to a self-test described
22 in that paragraph, any report or results of that self-
23 test—

24 “(A) shall be privileged; and

25 “(B) may not be obtained or used by any
26 applicant, department, or agency in any—

1 “(i) proceeding or civil action in which
2 one or more violations of this title are al-
3 leged; or

4 “(ii) examination or investigation re-
5 lating to compliance with this title.

6 “(b) *RESULTS OF SELF-TESTING.*—

7 “(1) *IN GENERAL.*—No provision of this section
8 may be construed to prevent an aggrieved person,
9 complainant, department, or agency from obtaining
10 or using a report or results of any self-test in any
11 proceeding or civil action in which a violation of this
12 title is alleged, or in any examination or investiga-
13 tion of compliance with this title if—

14 “(A) the person to whom the self-test relates
15 or any person with lawful access to the report or
16 the results—

17 “(i) voluntarily releases or discloses
18 all, or any part of, the report or results to
19 the aggrieved person, complainant, depart-
20 ment, or agency, or to the general public; or

21 “(ii) refers to or describes the report or
22 results as a defense to charges of violations
23 of this title against the person to whom the
24 self-test relates; or

1 “(B) the report or results are sought in con-
 2 junction with an adjudication or admission of a
 3 violation of this title for the sole purpose of de-
 4 termining an appropriate penalty or remedy.

5 “(2) *DISCLOSURE FOR DETERMINATION OF PEN-*
 6 *ALTY OR REMEDY.*—Any report or results of a self-test
 7 that are disclosed for the purpose specified in para-
 8 graph (1)(B)—

9 “(A) shall be used only for the particular
 10 proceeding in which the adjudication or admis-
 11 sion referred to in paragraph (1)(B) is made;
 12 and

13 “(B) may not be used in any other action
 14 or proceeding.

15 “(c) *ADJUDICATION.*—An aggrieved person, complain-
 16 ant, department, or agency that challenges a privilege as-
 17 serted under this section may seek a determination of the
 18 existence and application of that privilege in—

19 “(1) a court of competent jurisdiction; or

20 “(2) an administrative law proceeding with ap-
 21 propriate jurisdiction.”.

22 (2) *REGULATIONS.*—

23 (A) *IN GENERAL.*—Not later than 6 months
 24 after the date of enactment of this Act, in con-
 25 sultation with the Board and after providing no-

1 *tice and an opportunity for public comment, the*
2 *Secretary of Housing and Urban Development*
3 *shall promulgate final regulations to implement*
4 *section 814A of the Fair Housing Act, as added*
5 *by this section.*

6 *(B) SELF-TEST.—*

7 *(i) DEFINITION.—The regulations pro-*
8 *mulgated by the Secretary under subpara-*
9 *graph (A) shall include a definition of the*
10 *term “self-test” for purposes of section 814A*
11 *of the Fair Housing Act, as added by this*
12 *section.*

13 *(ii) REQUIREMENT FOR SELF-TEST.—*

14 *The regulations promulgated by the Sec-*
15 *retary under subparagraph (A) shall specify*
16 *that a self-test shall be sufficiently extensive*
17 *to constitute a determination of the level*
18 *and effectiveness of the compliance by a per-*
19 *son engaged in residential real estate relat-*
20 *ed lending activities with the Fair Housing*
21 *Act.*

22 *(iii) SUBSTANTIAL SIMILARITY TO CER-*

23 *TAIN EQUAL CREDIT OPPORTUNITY ACT*
24 *REGULATIONS.—The regulations promul-*
25 *gated under subparagraph (A) shall be sub-*

1 *stantially similar to the regulations pro-*
2 *mulgated by the Board to carry out section*
3 *704A of the Equal Credit Opportunity Act,*
4 *as added by this section.*

5 (c) *APPLICABILITY.*—

6 (1) *IN GENERAL.*—*Except as provided in para-*
7 *graph (2), the privilege provided for in section 704A*
8 *of the Equal Credit Opportunity Act or section 814A*
9 *of the Fair Housing Act (as those sections are added*
10 *by this section) shall apply to a self-test (as that term*
11 *is defined pursuant to the regulations promulgated*
12 *under subsection (a)(2) or (b)(2) of this section, as*
13 *appropriate) conducted before, on, or after the effec-*
14 *tive date of the regulations promulgated under sub-*
15 *section (a)(2) or (b)(2), as appropriate.*

16 (2) *EXCEPTION.*—*The privilege referred to in*
17 *paragraph (1) does not apply to such a self-test con-*
18 *ducted prior to the effective date of the regulations*
19 *promulgated under subsection (a) or (b), as appro-*
20 *priate, if—*

21 (A) *before that effective date, a complaint*
22 *against the creditor or person engaged in resi-*
23 *dential real estate related lending activities (as*
24 *the case may be) was—*

1 (i) formally filed in any court of com-
2 petent jurisdiction; or

3 (ii) the subject of an ongoing adminis-
4 trative law proceeding;

5 (B) in the case of section 704A of the Equal
6 Credit Opportunity Act, the creditor has waived
7 the privilege pursuant to subsection (b)(1)(A)(i)
8 of that section; or

9 (C) in the case of section 814A of the Fair
10 Housing Act, the person engaged in residential
11 real estate related lending activities has waived
12 the privilege pursuant to subsection (b)(1)(A)(i)
13 of that section.

14 **SEC. 303. EXEMPTION FOR SAVINGS INSTITUTIONS SERV-**
15 **ING MILITARY PERSONNEL.**

16 Section 10(m)(3)(F) of the Home Owners' Loan Act
17 (12 U.S.C. 1467a(m)(3)(F)) is amended to read as follows:

18 “(F) EXEMPTION FOR SPECIALIZED SAV-
19 INGS ASSOCIATIONS SERVING CERTAIN MILITARY
20 PERSONNEL.—Subparagraph (A) does not apply
21 to a savings association subsidiary of a savings
22 and loan holding company if not less than 90
23 percent of the customers of the savings and loan
24 holding company and the subsidiaries and affili-
25 ates of such company are active or former offi-

1 *cers in the Armed Forces of the United States or*
 2 *the widows, widowers, divorced spouses, or cur-*
 3 *rent or former dependents of such officers.”.*

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

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

7 (1) *by striking paragraph (4); and*

8 (2) *by redesignating paragraph (5) as para-*
 9 *graph (4).*

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

14 “(T) *CREDIT CARD LOANS.*—*Loans made*
 15 *through credit cards or credit card accounts.*

16 “(U) *EDUCATIONAL LOANS.*—*Loans made*
 17 *for the payment of educational expenses.”.*

18 (c) *COMMERCIAL AND OTHER LOANS.*—Section
 19 *5(c)(2)(A) of the Home Owners’ Loan Act (12 U.S.C.*
 20 *1464(c)(2)(A)) is amended by adding at the end the follow-*
 21 *ing: “No loan may be made under this subparagraph in*
 22 *an amount that exceeds 20 percent of the total assets of the*
 23 *Federal savings association, and any loan amount in excess*
 24 *of 10 percent of the total assets of the Federal savings asso-*

1 *ciation may be invested only in small business loans, as*
 2 *such term is defined by the Director.”.*

3 *(d) LOANS OR INVESTMENTS LIMITED TO 5 PERCENT*
 4 *OF ASSETS.—Section 5(c)(3) of the Home Owners’ Loan*
 5 *Act (12 U.S.C. 1464(c)(3)) is amended—*

6 *(1) by striking subparagraph (A); and*
 7 *(2) by redesignating subparagraphs (B), (C),*
 8 *and (D) as subparagraphs (A), (B), and (C), respec-*
 9 *tively.*

10 *(e) QUALIFIED THRIFT LENDER TEST.—Section*
 11 *10(m)(1) of the Home Owners’ Loan Act (12 U.S.C.*
 12 *1467a(m)(1)) is amended—*

13 *(1) by redesignating subparagraph (B) as clause*
 14 *(ii);*

15 *(2) in subparagraph (A), by striking “(A) the*
 16 *savings” and inserting “(B)(i) the savings”; and*

17 *(3) by inserting after “if—” the following new*
 18 *subparagraph:*

19 *“(A) the savings association qualifies as a*
 20 *domestic building and loan association, as such*
 21 *term is defined in section 7701(a)(19) of the In-*
 22 *ternal Revenue Code of 1986; or”.*

23 *(f) DEFINITION.—Section 10(m)(4) of the Home Own-*
 24 *ers’ Loan Act (12 U.S.C. 1467a(m)(4)) is amended—*

1 (1) *by striking “subsection—” and inserting*
2 *“subsection, the following definitions shall apply:”;*

3 (2) *in subparagraph (C)—*

4 (A) *in clause (ii), by adding at the end the*
5 *following new subclause:*

6 *“(VII) Loans for educational pur-*
7 *poses, loans to small businesses, and*
8 *loans made through credit cards or*
9 *credit card accounts.”; and*

10 (B) *in clause (iii), by striking subclause*
11 *(VI) and inserting the following:*

12 *“(VI) Loans for personal, family,*
13 *or household purposes (other than loans*
14 *for personal, family, or household pur-*
15 *poses described in clause (ii)(VII)).”;*
16 *and*

17 (3) *by adding at the end the following new sub-*
18 *paragraphs:*

19 *“(D) CREDIT CARD.—The Director shall*
20 *issue such regulations as may be necessary to de-*
21 *fine the term ‘credit card’.*

22 *“(E) SMALL BUSINESS.—The Director shall*
23 *issue such regulations as may be necessary to de-*
24 *fine the term ‘small business’.”.*

1 **SEC. 305. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL**
 2 **HOME LOAN BANKS.**

3 *The Federal Reserve Act (12 U.S.C. 221 et seq.) is*
 4 *amended by inserting after section 11A the following new*
 5 *section:*

6 **“SEC. 11B. DAYLIGHT OVERDRAFTS INCURRED BY FEDERAL**
 7 **HOME LOAN BANKS.**

8 *“(a) IN GENERAL.—Any policy or regulation adopted*
 9 *by the Board governing payment system risk or intraday*
 10 *credit shall—*

11 *“(1) include—*

12 *“(A) the establishment of net debit caps ap-*
 13 *propriate to the credit quality of each Federal*
 14 *Home Loan Bank; and*

15 *“(B) the imposition of normal fees for day-*
 16 *light overdrafts, calculated in the same manner*
 17 *as fees for other users; or*

18 *“(2) exempt Federal Home Loan Banks from*
 19 *such policy or regulation.*

20 *“(b) DEFINITION.—For purposes of this section, the*
 21 *term ‘Federal Home Loan Bank’ has the same meaning as*
 22 *in section 2 of the Federal Home Loan Bank Act.”.*

23 **SEC. 306. APPLICATION FOR MEMBERSHIP IN THE FEDERAL**
 24 **HOME LOAN BANK SYSTEM.**

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

1 “(b) *MEMBERSHIP BASED ON CONVENIENCE.*—

2 “(1) *APPLICATION PROCESS.*—*An institution*
3 *that is eligible to become a member under this section*
4 *may become a member by submitting an application*
5 *for membership—*

6 “(A) *to the Bank in the district in which*
7 *the principal place of business of the institution*
8 *is located; or*

9 “(B) *if the Board determines that such ac-*
10 *tion is necessary for the convenience of the insti-*
11 *tution, to the Bank in any district that is adja-*
12 *cent to the district in which the principal place*
13 *of business of the institution is located.*

14 “(2) *APPROVAL OF APPLICATION.*—*An applica-*
15 *tion for membership submitted under this subsection*
16 *shall be approved by the Bank—*

17 “(A) *if—*

18 “(i) *in the judgment of the Bank, the*
19 *applicant meets the criteria for eligibility*
20 *contained in this section; and*

21 “(ii) *the applicant has a CAMEL com-*
22 *posite rating of 1 or 2 under the Uniform*
23 *Financial Institutions Rating System (or*
24 *an equivalent rating under a comparable*

1 rating system) as of the most recent rating
2 of that applicant; or

3 “(B) in the case of an applicant not de-
4 scribed in subparagraph (A), the bank provides
5 notice to the Board prior to the approval of the
6 application.”.

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

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

11 (1) by striking “(j) Notwithstanding” and insert-
12 ing the following:

13 “(j) AUDITS.—

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

15 (2) by adding at the end the following new para-
16 graph:

17 “(2) SELECTION OF EXTERNAL AUDITORS.—

18 “(A) IN GENERAL.—The Federal Home
19 Loan Banks shall, on an annual basis, contract
20 jointly for an annual independent audit.

21 “(B) ROLE OF THE BOARD.—Notwithstand-
22 ing any other provision of law, the Board shall
23 not participate in the independent audit con-
24 tracting process under this paragraph, except
25 that the Board may establish requirements for

1 *independent audit contracts and requirements to*
 2 *ensure consistency in financial reporting.”.*

3 **SEC. 308. LIMITED PURPOSE BANKS.**

4 *(a) GROWTH CAP RELIEF.—Section 4(f)(3)(B) of the*
 5 *Bank Holding Company Act of 1956 (12 U.S.C.*
 6 *1843(f)(3)(B)) is amended—*

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

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

10 *(3) by striking clause (iv).*

11 *(b) LIMITED PURPOSE BANK EXCEPTION.—Section*
 12 *2(c)(2)(F) of the Bank Holding Company Act of 1956 (12*
 13 *U.S.C. 1841(c)(2)(F)) is amended by inserting “, including*
 14 *an institution that accepts collateral for extensions of credit*
 15 *by holding deposits under \$100,000, and by other means”*
 16 *after “An institution”.*

17 **SEC. 309. COLLATERALIZATION OF ADVANCES TO MEM-**
 18 **BERS.**

19 *Section 10(a)(1) of the Federal Home Loan Bank Act*
 20 *(12 U.S.C. 1430(a)(1)) is amended to read as follows:*

21 *“(1) Fully disbursed, whole first mortgages on*
 22 *improved residential property that are not more than*
 23 *90 days delinquent, mortgages on improved residen-*
 24 *tial property insured or guaranteed by the United*

1 *States Government or any agency thereof, or securi-*
 2 *ties representing a whole interest in such mortgages.”.*

3 **SEC. 310. INCREASING LIMIT ON TOTAL ADVANCES BY THE**
 4 **FHLB SYSTEM TO NON-QTL INSTITUTIONS.**

5 *Section 10(e)(2) of the Federal Home Loan Bank Act*
 6 *(12 U.S.C. 1430(e)(2)) is amended by striking “30 percent”*
 7 *and inserting “40 percent”.*

8 **SEC. 311. FAIR DEBT COLLECTION PRACTICES.**

9 *(a) FALSE OR MISLEADING REPRESENTATIONS.—Sec-*
 10 *tion 807(11) of the Fair Debt Collection Practices Act (15*
 11 *U.S.C. 1692e(11)) is amended by striking “all communica-*
 12 *tions made to collect” and inserting “the initial written*
 13 *communication with the consumer in connection with the*
 14 *collection of”.*

15 *(b) COLLECTION ACTIVITY DURING VALIDATION PE-*
 16 *RIOD.—Section 809(a) of the Fair Debt Collection Practices*
 17 *Act (15 U.S.C. 1692g(a)) is amended—*

18 *(1) in paragraph (4), by striking “and” at the*
 19 *end;*

20 *(2) in paragraph (5), by striking the period at*
 21 *the end and inserting “; and”; and*

22 *(3) by adding at the end the following new para-*
 23 *graph:*

24 *“(6) a statement that, except as provided in sub-*
 25 *section (b), a debt collector may—*

1 “(A) demand that the debt be paid during
2 the 30-day period described in paragraph (3);
3 and

4 “(B) collect payment on the debt during
5 such period.”.

6 **TITLE IV—FAIR CREDIT**
7 **REPORTING**

8 **SEC. 401. SHORT TITLE.**

9 This title may be cited as the “Consumer Reporting
10 Reform Act of 1995”.

11 **SEC. 402. DEFINITIONS.**

12 (a) *ADVERSE ACTION*.—Section 603 of the Fair Credit
13 Reporting Act (15 U.S.C. 1681a) is amended by adding at
14 the end the following new subsection:

15 “(k) *ADVERSE ACTION*.—

16 “(1) *ACTIONS INCLUDED*.—The term ‘adverse ac-
17 tion’—

18 “(A) has the same meaning as in section
19 701(d)(6) of the Equal Credit Opportunity Act;
20 and

21 “(B) means—

22 “(i) a denial or cancellation of, an in-
23 crease in any charge for, or a reduction or
24 other adverse or unfavorable change in the
25 terms of coverage or amount of, any insur-

1 *ance, existing or applied for, in connection*
2 *with the underwriting of insurance;*

3 *“(ii) a denial of employment or any*
4 *other decision for employment purposes that*
5 *adversely affects any current or prospective*
6 *employee;*

7 *“(iii) a denial or cancellation of, an*
8 *increase in any charge for, or any other ad-*
9 *verse or unfavorable change in the terms of,*
10 *any license or benefit described in section*
11 *604(a)(3)(D); and*

12 *“(iv) an action taken or determination*
13 *that is—*

14 *“(I) made in connection with an*
15 *application that was made by, or a*
16 *transaction that was initiated by, any*
17 *consumer, or in connection with a re-*
18 *view of an account under section*
19 *604(a)(3)(E)(ii); and*

20 *“(II) adverse to the interests of the*
21 *consumer.*

22 *“(2) APPLICABLE FINDINGS, DECISIONS, COM-*
23 *MENTARY, AND ORDERS.—For purposes of any deter-*
24 *mination of whether an action is an adverse action*
25 *under paragraph (1)(A), all appropriate final find-*

1 *ings, decisions, commentary, and orders issued under*
2 *section 701(d)(6) of the Equal Credit Opportunity*
3 *Act by the Board of Governors of the Federal Reserve*
4 *System or any court shall apply.”.*

5 *(b) FIRM OFFER OF CREDIT OR INSURANCE.—Section*
6 *603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)*
7 *(as amended by subsection (a) of this section) is amended*
8 *by adding at the end the following new subsection:*

9 *“(l) FIRM OFFER OF CREDIT OR INSURANCE.—The*
10 *term ‘firm offer of credit or insurance’ means any offer of*
11 *credit or insurance to a consumer that will be honored if*
12 *the consumer is determined, based on information in a*
13 *consumer report on the consumer, to meet the specific cri-*
14 *teria used to select the consumer for the offer, except that*
15 *the offer may be further conditioned on one or more of the*
16 *following:*

17 *“(1) The consumer being determined, based on*
18 *information in the consumer’s application for the*
19 *credit or insurance, to meet specific criteria bearing*
20 *on creditworthiness or insurability, as applicable,*
21 *that are established—*

22 *“(A) before selection of the consumer for the*
23 *offer; and*

1 “(B) for the purpose of determining whether
2 to extend credit or insurance pursuant to the
3 offer.

4 “(2) Verification—

5 “(A) that the consumer continues to meet
6 the specific criteria used to select the consumer
7 for the offer, by using information in a consumer
8 report on the consumer, information in the con-
9 sumer’s application for the credit or insurance,
10 or other information bearing on the creditworthi-
11 ness or insurability of the consumer; or

12 “(B) of the information in the consumer’s
13 application for the credit or insurance, to deter-
14 mine that the consumer meets the specific cri-
15 teria bearing on creditworthiness or insurability.

16 “(3) The consumer furnishing any collateral that
17 is a requirement for the extension of the credit or in-
18 surance that was—

19 “(A) established before selection of the
20 consumer for the offer of credit or insurance; and

21 “(B) disclosed to the consumer in the offer
22 of credit or insurance.”.

23 (c) CREDIT OR INSURANCE TRANSACTION THAT IS
24 NOT INITIATED BY THE CONSUMER.—Section 603 of the
25 Fair Credit Reporting Act (15 U.S.C. 1681a) (as amended

1 *by subsection (b) of this section) is amended by adding at*
 2 *the end the following new subsection:*

3 “(m) *CREDIT OR INSURANCE TRANSACTION THAT IS*
 4 *NOT INITIATED BY THE CONSUMER.*—*The term ‘credit or*
 5 *insurance transaction that is not initiated by the consumer’*
 6 *does not include the use of a consumer report by a person*
 7 *with which the consumer has an account or insurance pol-*
 8 *icy, for purposes of—*

9 “(1) *reviewing the account or insurance policy;*

10 *or*

11 “(2) *collecting the account.*”.

12 (d) *STATE.*—*Section 603 of the Fair Credit Reporting*
 13 *Act (15 U.S.C. 1681a) (as amended by subsection (c) of this*
 14 *section) is amended by adding at the end the following new*
 15 *subsection:*

16 “(n) *STATE.*—*The term ‘State’ means any State, the*
 17 *Commonwealth of Puerto Rico, the District of Columbia,*
 18 *and any territory or possession of the United States.*”.

19 (e) *DEFINITION OF CONSUMER REPORT.*—*Section*
 20 *603(d) of the Fair Credit Reporting Act (15 U.S.C.*
 21 *1681a(d)) is amended—*

22 (1) *by striking “(d) The term” and inserting the*
 23 *following:*

24 “(d) *CONSUMER REPORT.*—

25 “(1) *IN GENERAL.*—*The term*”;

1 (2) by striking “for (1) credit” and inserting the
2 following: “for—

3 “(A) credit”;

4 (3) by striking “purposes, or (2)” and all that
5 follows through “section 604.” and inserting the fol-
6 lowing: “purposes;

7 “(B) employment purposes; or

8 “(C) any other purpose authorized under
9 section 604.”; and

10 (4) by striking the second sentence and inserting
11 the following:

12 “(2) *EXCLUSIONS.*—The term ‘consumer report’
13 does not include—

14 “(A) any—

15 “(i) report containing information
16 solely as to transactions or experiences be-
17 tween the consumer and the person making
18 the report;

19 “(ii) communication of that informa-
20 tion among persons related by common
21 ownership or affiliated by corporate control;
22 or

23 “(iii) any communication of other in-
24 formation among persons related by com-
25 mon ownership or affiliated by corporate

1 *control, if it is clearly and conspicuously*
2 *disclosed to the consumer that the informa-*
3 *tion may be communicated among such per-*
4 *sons and the consumer is given the oppor-*
5 *tunity, prior to the time that the informa-*
6 *tion is initially communicated, to direct*
7 *that such information not be communicated*
8 *among such persons;*

9 “(B) *any authorization or approval of a*
10 *specific extension of credit directly or indirectly*
11 *by the issuer of a credit card or similar device;*

12 “(C) *any report in which a person who has*
13 *been requested by a third party to make a spe-*
14 *cific extension of credit directly or indirectly to*
15 *a consumer conveys his or her decision with re-*
16 *spect to such request, if the third party advises*
17 *the consumer of the name and address of the per-*
18 *son to whom the request was made, and such*
19 *person makes the disclosures to the consumer re-*
20 *quired under section 615;*

21 “(D) *any report furnished for use in con-*
22 *nection with a transaction that is primarily for*
23 *a commercial purpose, regardless of the purpose*
24 *for which information in the report was origi-*
25 *nally collected or is otherwise used; or*

1 “(E) a communication described in sub-
2 section (o).”.

3 (f) *EXCLUSION OF CERTAIN COMMUNICATIONS BY EM-*
4 *PLOYMENT AGENCIES FROM DEFINITION OF CONSUMER*
5 *REPORT.*—Section 603 of the Fair Credit Reporting Act (15
6 U.S.C. 1681(a)) is amended by adding at the end the follow-
7 ing new subsection:

8 “(o) *EXCLUDED COMMUNICATIONS.*—A communica-
9 tion is described in this subsection if it is a communica-
10 tion—

11 “(1) that, but for subsection (d)(2)(E), would be
12 an investigative consumer report;

13 “(2) that is made to a prospective employer for
14 the purpose of—

15 “(A) procuring an employee for the em-
16 ployer; or

17 “(B) procuring an opportunity for a natu-
18 ral person to work for the employer;

19 “(3) that is made by a person who regularly per-
20 forms such procurement;

21 “(4) that is not used by any person for any pur-
22 pose other than a purpose described in subparagraph
23 (A) or (B) of paragraph (2); or

24 “(5) with respect to which—

1 “(A) *the consumer who is the subject of the*
2 *communication—*

3 “(i) *consents orally or in writing to*
4 *the nature and scope of the communication,*
5 *before the collection of any information for*
6 *the purpose of making the communication;*

7 “(ii) *consents orally or in writing to*
8 *the making of the communication to a pro-*
9 *spective employer, before the making of the*
10 *communication; and*

11 “(iii) *in the case of consent under*
12 *clause (i) or (ii) given orally, is provided*
13 *written confirmation of that consent by the*
14 *person making the communication, not*
15 *later than 3 business days after the receipt*
16 *of the consent by that person;*

17 “(B) *the person who makes the communica-*
18 *tion does not, for the purpose of making the com-*
19 *munication, make any inquiry that if made by*
20 *a prospective employer of the consumer who is*
21 *the subject of the communication would violate*
22 *any applicable Federal or State equal employ-*
23 *ment opportunity law or regulation; and*

24 “(C) *the person who makes the communica-*
25 *tion—*

1 “(i) discloses in writing to the
2 consumer who is the subject of the commu-
3 nication, not later than 5 business days
4 after receiving any request from the
5 consumer for such disclosure, the nature
6 and substance of all information in the con-
7 sumer’s file at the time of the request, except
8 that the sources of any information that is
9 acquired solely for use in making the com-
10 munication and is actually used for no
11 other purpose, need not be disclosed other
12 than under appropriate discovery proce-
13 dures in any court of competent jurisdiction
14 in which an action is brought; and

15 “(ii) notifies the consumer who is the
16 subject of the communication, in writing, of
17 the consumer’s right to request the informa-
18 tion described in clause (i).”.

19 (g) CONSUMER REPORTING AGENCY THAT COMPILES
20 AND MAINTAINS FILES ON A NATIONWIDE BASIS.—Section
21 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a)
22 (as amended by subsection (f) of this section) is amended
23 by adding at the end the following new subsection:

24 “(p) CONSUMER REPORTING AGENCY THAT COMPILES
25 AND MAINTAINS FILES ON CONSUMERS ON A NATIONWIDE

1 *BASIS.*—*The term ‘consumer reporting agency that com-*
 2 *plies and maintains files on consumers on a nationwide*
 3 *basis’ means a consumer reporting agency that regularly*
 4 *engages in the practice of assembling or evaluating, and*
 5 *maintaining, for the purpose of furnishing consumer re-*
 6 *ports to third parties bearing on a consumer’s creditworthi-*
 7 *ness, credit standing, or credit capacity, each of the follow-*
 8 *ing regarding consumers residing nationwide:*

9 “(1) *Public record information.*

10 “(2) *Credit account information from persons*
 11 *who furnish that information regularly and in the or-*
 12 *inary course of business.”.*

13 ***SEC. 403. FURNISHING CONSUMER REPORTS; USE FOR EM-***
 14 ***PLOYMENT PURPOSES.***

15 *(a) FURNISHING CONSUMER REPORTS FOR BUSINESS*
 16 *TRANSACTIONS.*—*Section 604 of the Fair Credit Reporting*
 17 *Act (15 U.S.C. 1681b) is amended—*

18 (1) *by inserting “(a) IN GENERAL.—” before “A*
 19 *consumer reporting agency”;* and

20 (2) *in subsection (a)(3) (as so designated by*
 21 *paragraph (1) of this subsection), by striking sub-*
 22 *paragraph (E) and inserting the following:*

23 “(E) *otherwise has a legitimate business need for*
 24 *the information—*

1 “(i) in connection with a business trans-
2 action that—

3 “(I) is initiated by the consumer; or

4 “(II) is a direct marketing transaction
5 for which the furnishing of information
6 from a consumer’s file by the agency is not
7 prohibited under subsection (d); or

8 “(ii) to review an account to determine
9 whether the consumer continues to meet the
10 terms of the account.”.

11 (b) *FURNISHING AND USING CONSUMER REPORTS FOR*
12 *EMPLOYMENT PURPOSES.*—Section 604 of the Fair Credit
13 *Reporting Act (15 U.S.C. 1681b) is amended by adding at*
14 *the end the following new subsection:*

15 “(b) *CONDITIONS FOR FURNISHING AND USING*
16 *CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.*—

17 “(1) *CERTIFICATION FROM USER.*—A consumer
18 reporting agency may furnish a consumer report for
19 employment purposes only if—

20 “(A) the person who obtains such report
21 from the agency certifies to the agency that—

22 “(i) the person has complied with
23 paragraph (2) with respect to the consumer
24 report, and the person will comply with
25 paragraph (3) with respect to the consumer

1 *report if paragraph (3) becomes applicable;*
2 *and*

3 “(ii) *information from the consumer*
4 *report will not be used in violation of any*
5 *applicable Federal or State equal employ-*
6 *ment opportunity law or regulation; and*

7 “(B) *the consumer reporting agency pro-*
8 *vides with the report a summary of the consum-*
9 *er’s rights under this title, as prescribed by the*
10 *Federal Trade Commission under section*
11 *609(c)(3).*

12 “(2) *DISCLOSURE TO CONSUMER.—A person*
13 *may not procure a consumer report, or cause a*
14 *consumer report to be procured, for employment pur-*
15 *poses with respect to any consumer, unless—*

16 “(A) *a clear and conspicuous disclosure has*
17 *been made in writing to the consumer at any*
18 *time before the report is procured or caused to be*
19 *procured, in a document that consists solely of*
20 *the disclosure, that a consumer report may be ob-*
21 *tained for employment purposes; and*

22 “(B) *the consumer has authorized in writ-*
23 *ing the procurement of the report by that person.*

24 “(3) *CONDITIONS ON USE FOR ADVERSE AC-*
25 *TIONS.—*

1 “(A) *IN GENERAL.*—*Except as provided in*
2 *subparagraph (B), in using a consumer report*
3 *for employment purposes, before taking any ad-*
4 *verse action based in whole or in part on the re-*
5 *port, the person intending to take such adverse*
6 *action shall provide to the consumer to whom the*
7 *report relates—*

8 “(i) *a copy of the report;*

9 “(ii) *a description in writing of the*
10 *rights of the consumer under this title, as*
11 *prescribed by the Federal Trade Commis-*
12 *sion under section 609(c)(3); and*

13 “(iii) *a period of not longer than 5*
14 *business days following receipt of the report*
15 *by the consumer under clause (i) to respond*
16 *to any information in the report that is dis-*
17 *puted by the consumer and notice in writ-*
18 *ing of the opportunity for the consumer to*
19 *respond during that period.*

20 “(B) *EXCEPTION.*—*The opportunity to re-*
21 *spond and notice described in subparagraph*
22 *(A)(iii) shall not be required with respect to any*
23 *person who takes an adverse action described in*
24 *subparagraph (A) based on a reasonable belief*
25 *that the consumer has engaged in fraudulent or*

1 *criminal activity that is related to, or that could*
 2 *affect, the consumer’s employment.”.*

3 **SEC. 404. USE OF CONSUMER REPORTS FOR**
 4 **PRESCREENING AND DIRECT MARKETING;**
 5 **PROHIBITION ON UNAUTHORIZED OR**
 6 **UNCERTIFIED USE OF INFORMATION.**

7 *(a) IN GENERAL.—Section 604 of the Fair Credit Re-*
 8 *porting Act (15 U.S.C. 1681b) (as amended by section 403*
 9 *of this Act) is amended—*

10 *(1) in subsection (a), by striking “A consumer*
 11 *reporting agency” and inserting “Subject to sub-*
 12 *sections (c) and (d), any consumer reporting agency”;*
 13 *and*

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

16 **“(c) FURNISHING REPORTS IN CONNECTION WITH**
 17 **CREDIT OR INSURANCE TRANSACTIONS THAT ARE NOT INI-**
 18 **TIATED BY THE CONSUMER.—**

19 **“(1) IN GENERAL.—A consumer reporting agen-**
 20 **cy may furnish a consumer report relating to any**
 21 **consumer pursuant to subsection (a)(3)(A) in connec-**
 22 **tion with any credit or insurance transaction that is**
 23 **not initiated by the consumer only if—**

24 **“(A) the consumer authorizes the agency to**
 25 **provide such report to such person; or**

1 “(B)(i) the transaction consists of a firm
2 offer of credit or insurance;

3 “(ii) the consumer reporting agency has
4 complied with subsection (e); and

5 “(iii) there is not in effect an election by the
6 consumer, made in accordance with subsection
7 (e), to have the consumer’s name and address ex-
8 cluded from lists of names provided by the agen-
9 cy pursuant to this paragraph.

10 “(2) *LIMITS ON INFORMATION RECEIVED UNDER*
11 *PARAGRAPH (1)(B).*—A person may receive pursuant
12 to paragraph (1)(B) only—

13 “(A) the name and address of a consumer;

14 “(B) an identifier that is not unique to the
15 consumer and that is used by the person solely
16 for the purpose of verifying the identity of the
17 consumer; and

18 “(C) other information pertaining to a
19 consumer that does not identify the relationship
20 or experience of the consumer with respect to a
21 particular creditor or other entity.

22 “(3) *INFORMATION REGARDING INQUIRIES.*—*Ex-*
23 *cept as provided in section 609(a)(5), a consumer re-*
24 *porting agency shall not furnish to any person a*
25 *record of inquiries in connection with a credit or in-*

1 *surance transaction that is not initiated by a*
 2 *consumer.*

3 “(d) *FURNISHING INFORMATION FROM CONSUMER*
 4 *FILES IN CONNECTION WITH DIRECT MARKETING TRANS-*
 5 *ACTIONS THAT ARE NOT INITIATED BY THE CONSUMER.—*

6 “(1) *IN GENERAL.—A consumer reporting agen-*
 7 *cy may furnish information from a file relating to a*
 8 *consumer pursuant to subsection (a)(3)(E) in connec-*
 9 *tion with a direct marketing transaction that is not*
 10 *initiated by the consumer only if—*

11 “(A) *the consumer authorizes the agency to*
 12 *provide such information to such person; or*

13 “(B)(i) *the consumer reporting agency has*
 14 *complied with subsection (e); and*

15 “(ii) *there is not in effect an election by the*
 16 *consumer, made in accordance with subsection*
 17 *(e), to have the name and address of the*
 18 *consumer excluded from lists of names provided*
 19 *by the agency pursuant to this paragraph.*

20 “(2) *LIMITS ON FURNISHING INFORMATION*
 21 *UNDER PARAGRAPH (1)(B).—A consumer reporting*
 22 *agency may furnish, pursuant to paragraph (1)(B),*
 23 *only the name and address of a consumer and other*
 24 *information that would not disclose the credit pay-*

1 *ment history, credit limit, credit balance, or any neg-*
2 *ative information pertaining to the consumer.*

3 “(3) *INFORMATION REGARDING INQUIRIES.—Ex-*
4 *cept as provided in section 609(a)(5), a consumer re-*
5 *porting agency shall not furnish to any person a*
6 *record of inquiries made in connection with a direct*
7 *marketing transaction that is not initiated by a*
8 *consumer.*

9 “(e) *ELECTION OF CONSUMER TO BE EXCLUDED*
10 *FROM LISTS.—*

11 “(1) *IN GENERAL.—A consumer may elect to*
12 *have the consumer’s name and address excluded from*
13 *any list provided by a consumer reporting agency*
14 *under subsection (c)(1)(B) in connection with a credit*
15 *or insurance transaction that is not initiated by the*
16 *consumer or under subsection (d)(1)(B) in connection*
17 *with a direct marketing transaction that is not initi-*
18 *ated by the consumer, by notifying the agency in ac-*
19 *cordance with paragraph (2) that the consumer does*
20 *not consent to any use of a consumer report relating*
21 *to the consumer in connection with any credit or in-*
22 *surance transaction that is not initiated by the*
23 *consumer or any direct marketing transaction that is*
24 *not initiated by the consumer.*

1 “(2) *MANNER OF NOTIFICATION.*—A consumer
2 shall notify a consumer reporting agency under para-
3 graph (1)—

4 “(A) through the notification system main-
5 tained by the agency under paragraph (5); or

6 “(B) by submitting to the agency a signed
7 notice of election form issued by the agency for
8 purposes of this subparagraph.

9 “(3) *RESPONSE OF AGENCY AFTER NOTIFICATION*
10 *THROUGH SYSTEM.*—Upon receipt of notification of
11 the election of a consumer under paragraph (1)
12 through the notification system maintained by the
13 agency under paragraph (5), a consumer reporting
14 agency shall—

15 “(A) inform the consumer that the election
16 is effective only for the 2-year period following
17 the election if the consumer does not submit to
18 the agency a signed notice of election form issued
19 by the agency for purposes of paragraph (2)(B);
20 and

21 “(B) provide to the consumer a notice of
22 election form, if requested by the consumer, not
23 later than 5 business days after receipt of the no-
24 tification of the election through the system es-
25 tablished under paragraph (5), in the case of a

1 *request made at the time the consumer provides*
2 *notification through the system.*

3 “(4) *EFFECTIVENESS OF ELECTION.—An election*
4 *of a consumer under paragraph (1)—*

5 “(A) *shall be effective with respect to a*
6 *consumer reporting agency beginning on the date*
7 *on which the consumer notifies the agency in ac-*
8 *cordance with paragraph (2);*

9 “(B) *shall be effective with respect to a*
10 *consumer reporting agency—*

11 “(i) *subject to subparagraph (C), dur-*
12 *ing the 2-year period beginning on the date*
13 *on which the consumer notifies the agency*
14 *of the election, in the case of an election for*
15 *which a consumer notifies the agency only*
16 *in accordance with paragraph (2)(A); or*

17 “(ii) *until the consumer notifies the*
18 *agency under subparagraph (C), in the case*
19 *of an election for which a consumer notifies*
20 *the agency in accordance with paragraph*
21 *(2)(B);*

22 “(C) *shall not be effective after the date on*
23 *which the consumer notifies the agency, through*
24 *the notification system established by the agency*

1 *under paragraph (5), that the election is no*
2 *longer effective; and*

3 *“(D) shall be effective with respect to each*
4 *affiliate of the agency.*

5 *“(5) NOTIFICATION SYSTEM.—*

6 *“(A) IN GENERAL.—Each consumer report-*
7 *ing agency that, under subsection (c)(1)(B), fur-*
8 *nishes a consumer report in connection with a*
9 *credit or insurance transaction that is not initi-*
10 *ated by a consumer or, under subsection*
11 *(d)(1)(B), furnishes a consumer report in con-*
12 *nection with a direct marketing transaction that*
13 *is not initiated by a consumer, shall—*

14 *“(i) establish and maintain a notifica-*
15 *tion system, including a toll-free telephone*
16 *number, which permits any consumer whose*
17 *consumer report is maintained by the agen-*
18 *cy to notify the agency, with appropriate*
19 *identification, of the consumer’s election to*
20 *have the consumer’s name and address ex-*
21 *cluded from any such list of names and ad-*
22 *dresses provided by the agency for such a*
23 *transaction; and*

24 *“(ii) publish by not later than 365*
25 *days after the date of enactment of the*

1 *Consumer Reporting Reform Act of 1995,*
2 *and not less than annually thereafter, in a*
3 *publication of general circulation in the*
4 *area served by the agency—*

5 “(I) *a notification that informa-*
6 *tion in consumer files maintained by*
7 *the agency may be used in connection*
8 *with such transactions; and*

9 “(II) *the address and toll-free tele-*
10 *phone number for consumers to use to*
11 *notify the agency of the consumer’s*
12 *election under clause (i).*

13 “(B) *ESTABLISHMENT AND MAINTENANCE*
14 *AS COMPLIANCE.—Establishment and mainte-*
15 *nance of a notification system (including a toll-*
16 *free telephone number) and publication by a*
17 *consumer reporting agency on the agency’s own*
18 *behalf and on behalf of any of its affiliates in ac-*
19 *cordance with this paragraph is deemed to be*
20 *compliance with this paragraph by each of those*
21 *affiliates.*

22 “(6) *NOTIFICATION SYSTEM BY AGENCIES THAT*
23 *OPERATE NATIONWIDE.—Each consumer reporting*
24 *agency that compiles and maintains files on consum-*
25 *ers on a nationwide basis shall establish and main-*

1 tain a notification system for purposes of paragraph
 2 (5) jointly with other such consumer reporting agen-
 3 cies.”.

4 (b) *USE OF INFORMATION OBTAINED FROM RE-*
 5 *PORTS.*—Section 604 of the Fair Credit Reporting Act (15
 6 U.S.C. 1681b) (as amended by subsection (a) of this section)
 7 is amended by adding at the end the following new sub-
 8 section:

9 “(f) *CERTAIN USE OR OBTAINING OF INFORMATION*
 10 *PROHIBITED.*—A person shall not use or obtain a consumer
 11 report for any purpose unless—

12 “(1) the consumer report is obtained for a pur-
 13 pose for which the consumer report is authorized to
 14 be furnished under this section; and

15 “(2) the purpose is certified in accordance with
 16 section 607 by a prospective user of the report through
 17 a general or specific certification.”.

18 **SEC. 405. CONSUMER CONSENT REQUIRED TO FURNISH**
 19 **CONSUMER REPORT CONTAINING MEDICAL**
 20 **INFORMATION; FURNISHING CONSUMER RE-**
 21 **PORTS FOR COMMERCIAL TRANSACTIONS.**

22 Section 604 of the Fair Credit Reporting Act (15
 23 U.S.C. 1681b) (as amended by this Act) is amended by add-
 24 ing at the end the following new subsection:

1 *begin, with respect to any delinquent account that is*
2 *placed for collection (internally or by referral to a*
3 *third party, whichever is earlier), charged to profit*
4 *and loss, or subjected to any similar action, upon the*
5 *expiration of the 180-day period beginning on the*
6 *date of the commencement of the delinquency which*
7 *immediately preceded the collection activity, charge to*
8 *profit and loss, or similar action.*

9 *“(2) EFFECTIVE DATE.—Paragraph (1) shall*
10 *apply only to items of information added to a*
11 *consumer report on or after the date that is 455 days*
12 *after the date of enactment of the Consumer Reporting*
13 *Reform Act of 1995.”*

14 *(c) ADDITIONAL INFORMATION ON BANKRUPTCY FIL-*
15 *INGS REQUIRED.—Section 605 of the Fair Credit Reporting*
16 *Act (15 U.S.C. 1681c) is amended by adding after sub-*
17 *section (b) (as added by subsection (b) of this section) the*
18 *following new subsection:*

19 *“(c) INFORMATION REQUIRED TO BE DISCLOSED.—*
20 *Any consumer reporting agency that furnishes a consumer*
21 *report that contains information regarding any case involv-*
22 *ing the consumer that arises under title 11, United States*
23 *Code, shall include in the report an identification of the*
24 *chapter of such title 11 under which such case arises if pro-*
25 *vided by the source of the information. If any case arising*

1 *or filed under title 11, United States Code, is withdrawn*
 2 *by the consumer prior to a final judgment, the consumer*
 3 *reporting agency shall include in the report that such case*
 4 *or filing was withdrawn upon receipt of documentation cer-*
 5 *tifying such withdrawal.”.*

6 *(d) INDICATION OF CLOSURE OF ACCOUNT; INDICA-*
 7 *TION OF DISPUTE BY CONSUMER.—Section 605 of the Fair*
 8 *Credit Reporting Act (15 U.S.C. 1681c) (as amended by*
 9 *subsection (c) of this section) is amended by adding at the*
 10 *end the following new subsections:*

11 *“(d) INDICATION OF CLOSURE OF ACCOUNT BY*
 12 *CONSUMER.—If a consumer reporting agency is notified*
 13 *pursuant to section 623(a)(4) that a credit account of a*
 14 *consumer was voluntarily closed by the consumer, the agen-*
 15 *cy shall indicate that fact in any consumer report that in-*
 16 *cludes information related to the account.*

17 *“(e) INDICATION OF DISPUTE BY CONSUMER.—If a*
 18 *consumer reporting agency is notified pursuant to section*
 19 *623(a)(3) that information regarding a consumer who was*
 20 *furnished to the agency is disputed by the consumer, the*
 21 *agency shall indicate that fact in each consumer report that*
 22 *includes the disputed information.”.*

23 *(e) CONFORMING AMENDMENTS.—*

24 *(1) Section 605 of the Fair Credit Reporting Act*
 25 *(15 U.S.C. 1681c) is amended in the section heading,*

1 by striking “**OBSOLETE INFORMATION**” and in-
 2 serting “**REQUIREMENTS RELATING TO INFOR-**
 3 **MATION CONTAINED IN CONSUMER REPORTS**”.

4 (2) *The table of sections for the Fair Credit Re-*
 5 *porting Act (15 U.S.C. 1681a et seq.) is amended by*
 6 *striking the item relating to section 605 and inserting*
 7 *the following:*

“605. *Requirements relating to information contained in consumer reports.*”.

8 **SEC. 407. COMPLIANCE PROCEDURES.**

9 (a) *DISCLOSURE OF CONSUMER REPORTS BY*
 10 *USERS.*—Section 607 of the Fair Credit Reporting Act (15
 11 U.S.C. 1681e) is amended by adding at the end the follow-
 12 ing new subsection:

13 “(c) *DISCLOSURE OF CONSUMER REPORTS BY USERS*
 14 *ALLOWED.*—A consumer reporting agency may not prohibit
 15 a user of a consumer report furnished by the agency on a
 16 consumer from disclosing the contents of the report to the
 17 consumer, if adverse action against the consumer has been
 18 taken by the user based in whole or in part on the report.”.

19 (b) *NOTICE TO USERS AND PROVIDERS OF INFORMA-*
 20 *TION TO ENSURE COMPLIANCE.*—Section 607 of the Fair
 21 Credit Reporting Act (15 U.S.C. 1681e) is amended by add-
 22 ing after subsection (c) (as added by subsection (a) of this
 23 section) the following new subsection:

24 “(d) *NOTICE TO USERS AND FURNISHERS OF INFOR-*
 25 *MATION.*—

1 “(1) *NOTICE REQUIREMENT.*—A consumer re-
2 *porting agency shall provide to any person—*

3 “(A) *who regularly and in the ordinary*
4 *course of business furnishes information to the*
5 *agency with respect to any consumer; or*

6 “(B) *to whom a consumer report is pro-*
7 *vided by the agency;*

8 *a notice of such person’s responsibilities under this*
9 *title.*

10 “(2) *CONTENT OF NOTICE.*—*The Federal Trade*
11 *Commission shall prescribe the content of notices*
12 *under paragraph (1).”.*

13 “(c) *RECORD OF IDENTITY OF USERS AND PURPOSES*
14 *CERTIFIED BY USERS OF REPORTS.*—*Section 607 of the*
15 *Fair Credit Reporting Act (15 U.S.C. 1681e) is amended*
16 *by adding after subsection (d) (as added by subsection (b)*
17 *of this section) the following new subsection:*

18 “(e) *PROCUREMENT OF CONSUMER REPORT FOR RE-*
19 *SALE.*—

20 “(1) *DISCLOSURE.*—*A person may not procure a*
21 *consumer report for purposes of reselling the report*
22 *(or any information in the report) unless the person*
23 *discloses to the consumer reporting agency that origi-*
24 *nally furnishes the report—*

1 “(A) the identity of the end-user of the re-
2 port (or information); and

3 “(B) each permissible purpose under section
4 604 for which the report is furnished to the end-
5 user of the report (or information).

6 “(2) *RESPONSIBILITIES OF PROCURERS FOR RE-*
7 *SALE.—A person who procures a consumer report for*
8 *purposes of reselling the report (or any information*
9 *in the report) shall—*

10 “(A) establish and comply with reasonable
11 procedures designed to ensure that the report (or
12 information) is resold by the person only for a
13 purpose for which the report may be furnished
14 under section 604, including by requiring that
15 each person to which the report (or information)
16 is resold and that resells or provides the report
17 (or information) to any other person—

18 “(i) identifies each end user of the re-
19 sold report (or information);

20 “(ii) certifies each purpose for which
21 the report (or information) will be used;
22 and

23 “(iii) certifies that the report (or infor-
24 mation) will be used for no other purpose;
25 and

1 “(B) before reselling the report, make rea-
 2 sonable efforts to verify the identifications and
 3 certifications made under subparagraph (A).”.

4 **SEC. 408. CONSUMER DISCLOSURES.**

5 (a) *ALL INFORMATION IN CONSUMER’S FILE RE-*
 6 *QUIRED TO BE DISCLOSED.*—Section 609(a)(1) of the *Fair*
 7 *Credit Reporting Act (15 U.S.C. 1681g(a)(1)) is amended*
 8 *to read as follows:*

9 “(1) All information in the consumer’s file at the
 10 time of the request, except that nothing in this para-
 11 graph shall be construed to require a consumer re-
 12 porting agency to disclose to a consumer any infor-
 13 mation concerning credit scores or any other risk
 14 scores or predictors relating to the consumer.”.

15 (b) *MORE INFORMATION CONCERNING RECIPIENTS OF*
 16 *REPORTS REQUIRED.*—Section 609(a)(3) of the *Fair Credit*
 17 *Reporting Act (15 U.S.C. 1681g(a)) is amended to read as*
 18 *follows:*

19 “(3)(A) Identification of each person (including
 20 each end-user identified under section 607(e)(1)) that
 21 procured a consumer report—

22 “(i) for employment purposes, during the 2-
 23 year period preceding the date on which the re-
 24 quest is made; or

1 “(i) for any other purpose, during the 1-
2 year period preceding the date on which the re-
3 quest is made.

4 “(B) An identification of a person under sub-
5 paragraph (A) shall include—

6 “(i) the name of the person or, if applicable,
7 the trade name (written in full) under which
8 such person conducts business; and

9 “(ii) upon request of the consumer, the ad-
10 dress and telephone number of the person.”.

11 (c) *INFORMATION REGARDING INQUIRIES.*—Section
12 609(a) of the Fair Credit Reporting Act (15 U.S.C.
13 1681g(a)) is amended by adding at the end the following
14 new paragraph:

15 “(5) A record of all inquiries received by the
16 agency during the 1-year period preceding the request
17 that identified the consumer in connection with a
18 credit or insurance transaction that was not initiated
19 by the consumer.”.

20 (d) *SUMMARY OF RIGHTS REQUIRED TO BE IN-*
21 *CLUDED WITH DISCLOSURE.*—

22 (1) *IN GENERAL.*—Section 609 of the Fair Credit
23 Reporting Act (15 U.S.C. 1681g) is amended by add-
24 ing at the end the following new subsection:

1 “(c) *SUMMARY OF RIGHTS REQUIRED TO BE IN-*
2 *CLUDED WITH DISCLOSURE.—*

3 “(1) *SUMMARY OF RIGHTS.—A consumer report-*
4 *ing agency shall provide to a consumer, with each*
5 *written disclosure by the agency to the consumer*
6 *under this section—*

7 “(A) *a written summary of all rights the*
8 *consumer has under this title; and*

9 “(B) *in the case of a consumer reporting*
10 *agency that compiles and maintains files on con-*
11 *sumers on a nationwide basis, a toll-free tele-*
12 *phone number established by the agency at which*
13 *personnel are accessible to consumers during nor-*
14 *mal business hours.*

15 “(2) *SPECIFIC ITEMS REQUIRED TO BE IN-*
16 *CLUDED.—The summary of rights required under*
17 *paragraph (1) shall include—*

18 “(A) *a brief description of this title and all*
19 *rights of consumers under this title;*

20 “(B) *an explanation of how the consumer*
21 *may exercise the rights of the consumer under*
22 *this title;*

23 “(C) *a list of all Federal agencies respon-*
24 *sible for enforcing any provision of this title and*
25 *the address and any appropriate phone number*

1 *of each such agency, in a form that will assist*
2 *the consumer in selecting the appropriate agen-*
3 *cy;*

4 “(D) *a statement that the consumer may*
5 *have additional rights under State law and that*
6 *the consumer may wish to contact a State or*
7 *local consumer protection agency or a State at-*
8 *torney general to learn of those rights; and*

9 “(E) *a statement that a consumer reporting*
10 *agency is not required to remove accurate derog-*
11 *atory information from a consumer’s file, unless*
12 *the information is outdated under section 605 or*
13 *cannot be verified.*

14 “(3) *FORM OF SUMMARY OF RIGHTS.—For pur-*
15 *poses of this subsection and any disclosure by a*
16 *consumer reporting agency required under this title*
17 *with respect to consumers’ rights, the Federal Trade*
18 *Commission (after consultation with each Federal*
19 *agency referred to in section 621(b)) shall prescribe*
20 *the form and content of any such disclosure of the*
21 *rights of consumers required under this title.”.*

22 “(2) *TECHNICAL AMENDMENT.—Section*
23 *606(a)(1)(B) of the Fair Credit Reporting Act (15*
24 *U.S.C. 1681d(a)(1)(B)) is amended by inserting “and*
25 *the written summary of the rights of the consumer*

1 *prepared pursuant to section 609(c)” before the semi-*
2 *colon.*

3 *(e) FORM OF DISCLOSURES.—*

4 *(1) IN GENERAL.—Subsections (a) and (b) of sec-*
5 *tion 610 of the Fair Credit Reporting Act (15 U.S.C.*
6 *1681h) are amended to read as follows:*

7 “*(a) IN GENERAL.—*

8 “*(1) PROPER IDENTIFICATION.—A consumer re-*
9 *porting agency shall require, as a condition of mak-*
10 *ing the disclosures required under section 609, that*
11 *the consumer furnish proper identification.*

12 “*(2) DISCLOSURE IN WRITING.—Except as pro-*
13 *vided in subsection (b), the disclosures required to be*
14 *made under section 609 shall be provided under that*
15 *section in writing.*

16 “*(b) OTHER FORMS OF DISCLOSURE.—*

17 “*(1) IN GENERAL.—If authorized by a consumer,*
18 *a consumer reporting agency may make the disclo-*
19 *tures required under 609—*

20 “*(A) other than in writing; and*

21 “*(B) in such form as may be—*

22 “*(i) specified by the consumer in ac-*
23 *cordance with paragraph (2); and*

24 “*(ii) available from the agency.*

1 “(2) *FORM.*—A consumer may specify pursuant
2 to paragraph (1) that disclosures under section 609
3 shall be made—

4 “(A) in person, upon the appearance of the
5 consumer at the place of business of the consumer
6 reporting agency where disclosures are regularly
7 provided, during normal business hours, and on
8 reasonable notice;

9 “(B) by telephone, if the consumer has made
10 a written request for disclosure by telephone;

11 “(C) by electronic means, if available from
12 the agency; or

13 “(D) by any other reasonable means that is
14 available from the agency.”.

15 (2) *SIMPLIFIED DISCLOSURE.*—Not later than 90
16 days after the date of enactment of this Act, each
17 consumer reporting agency shall develop a form on
18 which such consumer reporting agency shall make the
19 disclosures required under section 609(a) of the Fair
20 Credit Reporting Act, for the purpose of maximizing
21 the comprehensibility and standardization of such
22 disclosures.

23 (3) *GOALS.*—The Federal Trade Commission
24 shall take appropriate action to assure that the goals

1 *of comprehensibility and standardization are achieved*
 2 *in accordance with paragraph (2).*

3 (4) *CONFORMING AMENDMENTS.—*

4 (A) *Section 609(a) of the Fair Credit Re-*
 5 *porting Act (15 U.S.C. 1681h(a)) is amended in*
 6 *the matter preceding paragraph (1) by striking*
 7 *“and proper identification of any consumer”*
 8 *and inserting “and subject to section 610(a)(1)”.*

9 (B) *Section 610 of the Fair Credit Report-*
 10 *ing Act (15 U.S.C. 1681h) is amended in the sec-*
 11 *tion heading by inserting “**AND FORM**” after*
 12 *“**CONDITIONS**”.*

13 (C) *The table of sections at the beginning of*
 14 *the Fair Credit Reporting Act (15 U.S.C. 1681a*
 15 *et seq.) is amended in the item relating to sec-*
 16 *tion 610 by inserting “and form” after “Condi-*
 17 *tions”.*

18 **SEC. 409. PROCEDURES IN CASE OF THE DISPUTED ACCU-**
 19 **RACY OF ANY INFORMATION IN A CONSUM-**
 20 **ER’S FILE.**

21 (a) *IN GENERAL.—Section 611(a) of the Fair Credit*
 22 *Reporting Act (15 U.S.C. 1681i(a)) is amended to read as*
 23 *follows:*

24 “(a) *REINVESTIGATIONS OF DISPUTED INFORMA-*
 25 *TION.—*

1 “(1) *REINVESTIGATION REQUIRED.*—

2 “(A) *IN GENERAL.*—*If the completeness or*
3 *accuracy of any item of information contained*
4 *in a consumer’s file at a consumer reporting*
5 *agency is disputed by the consumer and the*
6 *consumer notifies the agency directly of such dis-*
7 *pute, the agency shall reinvestigate free of charge*
8 *and record the current status of the disputed in-*
9 *formation, or delete the item from the file in ac-*
10 *cordance with paragraph (5), before the end of*
11 *the 30-day period beginning on the date on*
12 *which the agency receives the notice of the dis-*
13 *pute from the consumer.*

14 “(B) *EXTENSION OF PERIOD TO*
15 *REINVESTIGATE.*—*Except as provided in sub-*
16 *paragraph (C), the 30-day period described in*
17 *subparagraph (A) may be extended for not more*
18 *than 15 additional days if the consumer report-*
19 *ing agency receives information from the*
20 *consumer during that 30-day period that is rel-*
21 *evant to the reinvestigation.*

22 “(C) *LIMITATIONS ON EXTENSION OF PE-*
23 *RIOD TO REINVESTIGATE.*—*Subparagraph (B)*
24 *shall not apply to any reinvestigation in which,*
25 *during the 30-day period described in subpara-*

1 *graph (A), the information that is the subject of*
2 *the reinvestigation is found to be inaccurate or*
3 *incomplete or the consumer reporting agency de-*
4 *termines that the information cannot be verified.*

5 “(2) *PROMPT NOTICE OF DISPUTE TO FUR-*
6 *NISHER OF INFORMATION.—*

7 “(A) *IN GENERAL.—Prior to the expiration*
8 *of the 5-business-day period beginning on the*
9 *date on which a consumer reporting agency re-*
10 *ceives notice of a dispute from any consumer in*
11 *accordance with paragraph (1), the agency shall*
12 *provide notification of the dispute to any person*
13 *who provided any item of information in dis-*
14 *pute, at the address and in the manner estab-*
15 *lished with the person. The notice shall include*
16 *all relevant information regarding the dispute*
17 *that the agency has received from the consumer.*

18 “(B) *PROVISION OF OTHER INFORMATION*
19 *FROM CONSUMER.—The consumer reporting*
20 *agency shall promptly provide to the person who*
21 *provided the information in dispute all relevant*
22 *information regarding the dispute that is re-*
23 *ceived by the agency from the consumer after the*
24 *period referred to in subparagraph (A) and be-*

1 *fore the end of the period referred to in para-*
2 *graph (1)(A).*

3 “(3) *DETERMINATION THAT DISPUTE IS FRIVO-*
4 *LOUS OR IRRELEVANT.—*

5 “(A) *IN GENERAL.—Notwithstanding para-*
6 *graph (1), a consumer reporting agency may ter-*
7 *minate a reinvestigation of information disputed*
8 *by a consumer under that paragraph if the agen-*
9 *cy reasonably determines that the dispute by the*
10 *consumer is frivolous or irrelevant, including by*
11 *reason of a failure by a consumer to provide suf-*
12 *ficient information to investigate the disputed*
13 *information.*

14 “(B) *NOTICE OF DETERMINATION.—Upon*
15 *making any determination in accordance with*
16 *subparagraph (A) that a dispute is frivolous or*
17 *irrelevant, a consumer reporting agency shall no-*
18 *tify the consumer of such determination not later*
19 *than 5 business days after making such deter-*
20 *mination, by mail or, if authorized by the*
21 *consumer for that purpose, by any other means*
22 *available to the agency.*

23 “(C) *CONTENTS OF NOTICE.—A notice*
24 *under subparagraph (B) shall include—*

1 “(i) the reasons for the determination
2 under subparagraph (A); and

3 “(ii) identification of any information
4 required to investigate the disputed infor-
5 mation, which may consist of a standard-
6 ized form describing the general nature of
7 such information.

8 “(4) CONSIDERATION OF CONSUMER INFORMA-
9 TION.—In conducting any reinvestigation under
10 paragraph (1) with respect to disputed information
11 in the file of any consumer, the consumer reporting
12 agency shall review and consider all relevant infor-
13 mation submitted by the consumer in the period de-
14 scribed in paragraph (1)(A) with respect to such dis-
15 puted information.

16 “(5) TREATMENT OF INACCURATE OR UNVERIFI-
17 ABLE INFORMATION.—

18 “(A) IN GENERAL.—If, after any
19 reinvestigation under paragraph (1) of any in-
20 formation disputed by a consumer, an item of
21 the information is found to be inaccurate or in-
22 complete or cannot be verified, the consumer re-
23 porting agency shall promptly delete that item of
24 information from the consumer’s file. The infor-
25 mation deleted shall consist solely of the informa-

1 *tion that was disputed by the consumer and*
2 *shall not include any portion of the same item*
3 *that was not disputed.*

4 “(B) *REQUIREMENTS RELATING TO*
5 *REINSERTION OF PREVIOUSLY DELETED MATE-*
6 *RIAL.—*

7 “(i) *CERTIFICATION OF ACCURACY OF*
8 *INFORMATION.—If any information is de-*
9 *leted from a consumer’s file pursuant to*
10 *subparagraph (A), the information may not*
11 *be reinserted in the file by the consumer re-*
12 *porting agency unless the person who fur-*
13 *nishes the information certifies that the in-*
14 *formation is complete and accurate.*

15 “(ii) *NOTICE TO CONSUMER.—If any*
16 *information that has been deleted from a*
17 *consumer’s file pursuant to subparagraph*
18 *(A) is reinserted in the file, the consumer*
19 *reporting agency shall notify the consumer*
20 *of the reinsertion in writing not later than*
21 *5 business days after the reinsertion or, if*
22 *authorized by the consumer for that pur-*
23 *pose, by any other means available to the*
24 *agency.*

1 “(iii) *ADDITIONAL INFORMATION.*—As
2 *part of, or in addition to, the notice under*
3 *clause (ii), a consumer reporting agency*
4 *shall provide to a consumer in writing not*
5 *later than 5 business days after the date of*
6 *the reinsertion—*

7 “(I) *a statement that the disputed*
8 *information has been reinserted;*

9 “(II) *the name, business address,*
10 *and telephone number of any furnisher*
11 *of information contacted, or of any*
12 *furnisher of information that contacted*
13 *the consumer reporting agency, in con-*
14 *nection with the reinsertion of such in-*
15 *formation; and*

16 “(III) *a notice that the consumer*
17 *has the right to add a statement to the*
18 *consumer’s file disputing the accuracy*
19 *or completeness of the disputed infor-*
20 *mation.*

21 “(C) *PROCEDURES TO PREVENT REAPPEAR-*
22 *ANCE.*—*A consumer reporting agency shall*
23 *maintain reasonable procedures designed to pre-*
24 *vent the reappearance in a consumer’s file, and*
25 *in consumer reports on the consumer, of infor-*

1 *mation that is deleted pursuant to this para-*
2 *graph (other than information that is reinserted*
3 *in accordance with subparagraph (B)(i)).*

4 *“(D) AUTOMATED REINVESTIGATION SYS-*
5 *TEM.—Any consumer reporting agency that com-*
6 *piles and maintains files on consumers on a na-*
7 *tionwide basis shall implement an automated*
8 *system through which furnishers of information*
9 *to that consumer reporting agency may report*
10 *the results of a reinvestigation that finds incom-*
11 *plete or inaccurate information in a consumer’s*
12 *file to other such consumer reporting agencies.*

13 *“(6) NOTICE OF RESULTS OF*
14 *REINVESTIGATION.—*

15 *“(A) IN GENERAL.—A consumer reporting*
16 *agency shall provide written notice to a*
17 *consumer of the results of a reinvestigation under*
18 *this subsection not later than 5 business days*
19 *after the completion of the reinvestigation, by*
20 *mail or, if authorized by the consumer for that*
21 *purpose, by other means available to the agency.*

22 *“(B) CONTENTS.—As part of, or in addi-*
23 *tion to, the notice under subparagraph (A), a*
24 *consumer reporting agency shall provide to a*
25 *consumer in writing prior to the expiration of*

1 *the 5-day period referred to in subparagraph*

2 *(A)—*

3 “(i) *a statement that the*
4 *reinvestigation is completed;*

5 “(ii) *a consumer report that is based*
6 *upon the consumer’s file as that file is re-*
7 *vised as a result of the reinvestigation;*

8 “(iii) *a description or indication of*
9 *any changes made in the consumer report*
10 *as a result of those revisions to the consum-*
11 *er’s file;*

12 “(iv) *a notice that, if requested by the*
13 *consumer, a description of the procedure*
14 *used to determine the accuracy and com-*
15 *pleteness of the information shall be pro-*
16 *vided to the consumer by the agency, in-*
17 *cluding the name, business address, and*
18 *telephone number of any furnisher of infor-*
19 *mation contacted in connection with such*
20 *information;*

21 “(v) *a notice that the consumer has the*
22 *right to add a statement to the consumer’s*
23 *file disputing the accuracy or completeness*
24 *of the information; and*

1 “(vi) a notice that the consumer has
2 the right to request under subsection (d)
3 that the consumer reporting agency furnish
4 notifications under that subsection.

5 “(7) *DESCRIPTION OF REINVESTIGATION PROCEDURE.*—A consumer reporting agency shall provide to
6 a consumer a description referred to in paragraph
7 (6)(B)(iv) by not later than 15 days after receiving
8 a request from the consumer for that description.
9

10 “(8) *EXPEDITED DISPUTE RESOLUTION.*—If a
11 dispute regarding an item of information in a con-
12 sumer’s file at a consumer reporting agency is re-
13 solved in accordance with paragraph (5)(A) by the
14 deletion of the disputed information by not later than
15 3 business days after the date on which the agency re-
16 ceives notice of the dispute from the consumer in ac-
17 cordance with paragraph (1)(A), then the agency
18 shall not be required to comply with paragraphs (2),
19 (6), and (7) with respect to that dispute if the agen-
20 cy—

21 “(A) provides prompt notice of the deletion
22 to the consumer by telephone;

23 “(B) includes in that notice, or in a written
24 notice that accompanies a confirmation and
25 consumer report provided in accordance with

1 subparagraph (C), a statement of the consumer’s
2 right to request under subsection (d) that the
3 agency furnish notifications under that sub-
4 section; and

5 “(C) provides written confirmation of the
6 deletion and a copy of a consumer report on the
7 consumer that is based on the consumer’s file
8 after the deletion, not later than 5 business days
9 after making the deletion.”.

10 (b) *CONFORMING AMENDMENT.*—Section 611(d) of the
11 *Fair Credit Reporting Act* (15 U.S.C. 1681i(d)) is amended
12 by striking “The consumer reporting agency shall clearly”
13 and all that follows through the end of the subsection.

14 ***SEC. 410. CHARGES FOR CERTAIN DISCLOSURES.***

15 Section 612 of the *Fair Credit Reporting Act* (15
16 U.S.C. 1681j) is amended to read as follows:

17 ***“SEC. 612. CHARGES FOR CERTAIN DISCLOSURES.***

18 “(a) *REASONABLE CHARGES ALLOWED FOR CERTAIN*
19 *DISCLOSURES.*—Except as provided in subsections (b), (c),
20 and (d), a consumer reporting agency may impose a rea-
21 sonable charge on a consumer—

22 “(1) for making a disclosure to the consumer
23 pursuant to section 609, which charge—

24 “(A) shall not exceed \$8; and

1 “(B) shall be indicated to the consumer
2 prior to making disclosure; and

3 “(2) for furnishing pursuant to section 611(d),
4 following a reinvestigation under section 611(a), a
5 statement, codification, or summary to a person des-
6 ignated by the consumer under that section after the
7 30-day period beginning on the date of notification of
8 the consumer under paragraph (6) or (8) of section
9 611(a) with respect to the reinvestigation, which
10 charge—

11 “(A) shall not exceed the charge that the
12 agency would impose on each designated recipi-
13 ent for a consumer report; and

14 “(B) shall be indicated to the consumer
15 prior to furnishing such information.

16 “(b) *FREE CONSUMER REPORT AFTER ADVERSE NO-*
17 *TICE TO CONSUMER.*—Each consumer reporting agency
18 that maintains a file on a consumer shall make all disclo-
19 sures pursuant to section 609 without charge to the
20 consumer if, not later than 60 days after receipt by such
21 consumer of a notification pursuant to section 615, or of
22 a notification from a debt collection agency affiliated with
23 that consumer reporting agency stating that the consumer’s
24 credit rating may be or has been adversely affected, the
25 consumer makes a request under section 609.

1 “(c) *FREE CONSUMER REPORT UNDER CERTAIN*
 2 *OTHER CIRCUMSTANCES.*—Upon the request of the
 3 consumer, a consumer reporting agency shall make all dis-
 4 closures pursuant to section 609 once during any 12-month
 5 period without charge to that consumer if the consumer cer-
 6 tifies in writing that the consumer—

7 “(1) is unemployed and intends to apply for em-
 8 ployment in the 60-day period beginning on the date
 9 on which the certification is made;

10 “(2) is a recipient of public welfare assistance;
 11 or

12 “(3) has reason to believe that the file on the
 13 consumer at the agency contains inaccurate informa-
 14 tion due to fraud.

15 “(d) *OTHER CHARGES PROHIBITED.*—A consumer re-
 16 porting agency shall not impose any charge on a consumer
 17 for providing any notification required by this Act or mak-
 18 ing any disclosure required by this Act, except as authorized
 19 by subsection (a).”.

20 **SEC. 411. DUTIES OF USERS OF CONSUMER REPORTS.**

21 (a) *DUTIES OF USERS TAKING ADVERSE ACTIONS.*—
 22 Section 615(a) of the Fair Credit Reporting Act (15 U.S.C.
 23 1681m(a)) is amended to read as follows:

24 “(a) *DUTIES OF USERS TAKING ADVERSE ACTIONS ON*
 25 *THE BASIS OF INFORMATION CONTAINED IN CONSUMER*

1 *REPORTS.*—*If any person takes any adverse action with re-*
2 *spect to any consumer that is based in whole or in part*
3 *on any information contained in a consumer report, the*
4 *person shall—*

5 “(1) *provide written or electronic notice of the*
6 *adverse action to the consumer;*

7 “(2) *provide to the consumer in writing or elec-*
8 *tronically—*

9 “(A) *the name, address, and telephone num-*
10 *ber of the consumer reporting agency (including*
11 *a toll-free telephone number established by the*
12 *agency if the agency compiles and maintains*
13 *files on consumers on a nationwide basis) that*
14 *furnished the report to the person; and*

15 “(B) *a statement that the consumer report-*
16 *ing agency did not make the decision to take the*
17 *adverse action and is unable to provide the*
18 *consumer the specific reasons why the adverse ac-*
19 *tion was taken; and*

20 “(3) *provide to the consumer a written or elec-*
21 *tronic notice of the consumer’s right—*

22 “(A) *to obtain, under section 612, a free*
23 *copy of a consumer report on the consumer from*
24 *the consumer reporting agency referred to in*
25 *paragraph (2), which notice shall include an in-*

1 *dication of the 60-day period under that section*
 2 *for obtaining such a copy; and*

3 *“(B) to dispute, under section 611, with a*
 4 *consumer reporting agency the accuracy or com-*
 5 *pleteness of any information in a consumer re-*
 6 *port furnished by the agency.”.*

7 ***(b) DUTIES OF USERS MAKING CERTAIN CREDIT SO-***
 8 ***LICITATIONS.—Section 615 of the Fair Credit Reporting***
 9 ***Act (15 U.S.C. 1681m) is amended by adding at the end***
 10 ***the following new subsection:***

11 ***“(d) DUTIES OF USERS MAKING WRITTEN CREDIT OR***
 12 ***INSURANCE SOLICITATIONS ON THE BASIS OF INFORMA-***
 13 ***TION CONTAINED IN CONSUMER FILES.—***

14 ***“(1) IN GENERAL.—Any person who uses a***
 15 ***consumer report on any consumer in connection with***
 16 ***any credit or insurance transaction that is not initi-***
 17 ***ated by the consumer, that is provided to that person***
 18 ***under section 604(c)(1)(B), shall provide with each***
 19 ***written solicitation made to the consumer regarding***
 20 ***the transaction a clear and conspicuous statement***
 21 ***that—***

22 ***“(A) information contained in the consum-***
 23 ***er’s consumer report was used in connection with***
 24 ***the transaction;***

1 “(B) the consumer received the offer of cred-
2 it or insurance because the consumer satisfied the
3 criteria for creditworthiness or insurability
4 under which the consumer was selected for the
5 offer;

6 “(C) if applicable, the credit or insurance
7 may not be extended if, after the consumer re-
8 sponds to the offer, the consumer does not meet
9 the criteria used to select the consumer for the
10 offer or any applicable criteria bearing on cred-
11 itworthiness or insurability or does not furnish
12 any required collateral;

13 “(D) the consumer has a right to prohibit
14 information contained in the consumer’s file
15 with any consumer reporting agency from being
16 used in connection with any credit or insurance
17 transaction that is not initiated by the
18 consumer; and

19 “(E) the consumer may exercise the right
20 referred to in subparagraph (D) by notifying a
21 notification system established under section
22 604(e).

23 “(2) *DISCLOSURE OF ADDRESS AND TELEPHONE*
24 *NUMBER.*—A statement under paragraph (1) shall in-
25 clude the address and toll-free telephone number of the

1 appropriate notification system established under sec-
2 tion 604(e).

3 “(3) *MAINTAINING CRITERIA ON FILE.*—A person
4 who makes an offer of credit or insurance to a
5 consumer under a credit or insurance transaction de-
6 scribed in paragraph (1) shall maintain on file the
7 criteria used to select the consumer to receive the offer,
8 all criteria bearing on creditworthiness or insurabil-
9 ity, as applicable, that are the basis for determining
10 whether or not to extend credit or insurance pursuant
11 to the offer, and any requirement for the furnishing
12 of collateral as a condition of the extension of credit
13 or insurance, until the expiration of the 3-year period
14 beginning on the date on which the offer is made to
15 the consumer.

16 “(4) *AUTHORITY OF FEDERAL AGENCIES RE-*
17 *GARDING UNFAIR OR DECEPTIVE ACTS OR PRACTICES*
18 *NOT AFFECTED.*—This section is not intended to affect
19 the authority of any Federal agency to enforce a pro-
20 hibition against unfair or deceptive acts or practices,
21 including the making of false or misleading state-
22 ments in connection with a credit or insurance trans-
23 action that is not initiated by the consumer.”.

24 (c) *DUTIES OF USERS MAKING OTHER SOLICITA-*
25 *TIONS.*—Section 615 of the Fair Credit Reporting Act (15

1 *U.S.C. 1681m) is amended by adding at the end the follow-*
2 *ing new subsection:*

3 “(e) *DUTIES OF USERS MAKING OTHER WRITTEN SO-*
4 *LICITATIONS ON THE BASIS OF INFORMATION CONTAINED*
5 *IN CONSUMER FILES.—*

6 “(1) *IN GENERAL.—A person who, in connection*
7 *with any direct marketing transaction that is not ini-*
8 *tiated by a consumer, uses a consumer report on that*
9 *consumer that is provided to that person under sec-*
10 *tion 604(a)(3)(E)(i)(II), shall provide with the initial*
11 *written solicitation made to the consumer regarding*
12 *the transaction a clear and conspicuous statement*
13 *that—*

14 “(A) *information contained in the consum-*
15 *er’s consumer report was used in connection with*
16 *the transaction;*

17 “(B) *the consumer has a right to prohibit*
18 *information contained in the consumer’s file*
19 *with any consumer reporting agency from being*
20 *used in connection with any direct marketing*
21 *transaction that is not initiated by the*
22 *consumer; and*

23 “(C) *the consumer may exercise the right re-*
24 *ferred to in subparagraph (B) by notifying a no-*

1 *tification system established under section*
2 *604(e).*

3 “(2) *DISCLOSURE OF ADDRESS AND TELEPHONE*
4 *NUMBER.—A statement under paragraph (1) shall in-*
5 *clude the address and toll-free telephone number of the*
6 *appropriate notification system established under sec-*
7 *tion 604(e).*

8 “(3) *AUTHORITY OF FEDERAL AGENCIES RE-*
9 *GARDING UNFAIR OR DECEPTIVE ACTS OR PRACTICES*
10 *NOT AFFECTED.—This section is not intended to affect*
11 *the authority of any Federal agency to enforce a pro-*
12 *hibition against unfair or deceptive acts or practices,*
13 *including the making of false or misleading state-*
14 *ments in connection with a direct marketing trans-*
15 *action that is not initiated by the consumer.”.*

16 “(d) *CONFORMING AMENDMENT.—Section 615(c) of the*
17 *Fair Credit Reporting Act (15 U.S.C. 1681m(c)) is amend-*
18 *ed by striking “subsections (a) and (b)” and inserting “this*
19 *section”.*

20 **SEC. 412. CIVIL LIABILITY.**

21 “(a) *CIVIL LIABILITY FOR WILLFUL NONCOMPLI-*
22 *ANCE.—Section 616 of the Fair Credit Reporting Act (15*
23 *U.S.C. 1681n) is amended by striking “Any consumer re-*
24 *porting agency or user of information which” and inserting*
25 *“(a) IN GENERAL.—Any person who”.*

1 (b) *MINIMUM CIVIL LIABILITY FOR WILLFUL NON-*
 2 *COMPLIANCE.*—Section 616(1) of the Fair Credit Reporting
 3 Act (15 U.S.C. 1681n(1)) is amended to read as follows:

4 “(1)(A) any actual damages sustained by the
 5 consumer as a result of the failure or damages of not
 6 less than \$100 and not more than \$1,000; or

7 “(B) in the case of liability of a natural person
 8 for obtaining a consumer report under false pretenses
 9 or knowingly without a permissible purpose, actual
 10 damages sustained by the consumer as a result of the
 11 failure or \$1,000, whichever is greater;”.

12 (c) *CIVIL LIABILITY FOR KNOWING NONCOMPLI-*
 13 *ANCE.*—Section 616 of the Fair Credit Reporting Act (15
 14 U.S.C. 1681n) is amended by adding at the end the follow-
 15 ing:

16 “(c) *CIVIL LIABILITY FOR KNOWING NONCOMPLI-*
 17 *ANCE.*—Any person who obtains a consumer report from
 18 a consumer reporting agency under false pretenses or know-
 19 ingly without a permissible purpose shall be liable to the
 20 consumer reporting agency for actual damages sustained by
 21 the consumer reporting agency or \$1,000, whichever is
 22 greater.”.

23 (d) *CIVIL LIABILITY FOR NEGLIGENT NONCOMPLI-*
 24 *ANCE.*—Section 617 of the Fair Credit Reporting Act (15
 25 U.S.C. 1681o) is amended by striking “Any consumer re-

1 *porting agency or user of information which” and inserting*
2 *“(a) IN GENERAL.—Any person who”.*

3 *(e) ATTORNEY’S FEES.—*

4 *(1) WILLFUL NONCOMPLIANCE.—Section 616 of*
5 *the Fair Credit Reporting Act (15 U.S.C. 1681n) is*
6 *amended by adding at the end the following new sub-*
7 *section:*

8 *“(b) ATTORNEY’S FEES.—On a finding by the court*
9 *that an unsuccessful pleading, motion, or other paper filed*
10 *in connection with an action under this section was filed*
11 *in bad faith or for purposes of harassment, the court shall*
12 *award to the prevailing party attorney’s fees reasonable in*
13 *relation to the work expended in responding to the pleading,*
14 *motion, or other paper.”.*

15 *(2) NEGLIGENT NONCOMPLIANCE.—Section 617*
16 *of the Fair Credit Reporting Act (15 U.S.C. 1681o)*
17 *is amended by adding at the end the following new*
18 *subsection:*

19 *“(b) ATTORNEY’S FEES.—On a finding by the court*
20 *that an unsuccessful pleading, motion, or other paper filed*
21 *in connection with an action under this section was filed*
22 *in bad faith or for purposes of harassment, the court shall*
23 *award to the prevailing party attorney’s fees reasonable in*
24 *relation to the work expended in responding to the pleading,*
25 *motion, or other paper.”.*

1 **SEC. 413. RESPONSIBILITIES OF PERSONS WHO FURNISH**
 2 **INFORMATION TO CONSUMER REPORTING**
 3 **AGENCIES.**

4 (a) *IN GENERAL.*—*The Fair Credit Reporting Act (15*
 5 *U.S.C. 1681 et seq.) is amended—*

6 (1) *by redesignating section 623 as section 624;*

7 *and*

8 (2) *by inserting after section 622 the following:*

9 **“SEC. 623. RESPONSIBILITIES OF FURNISHERS OF INFOR-**
 10 **MATION TO CONSUMER REPORTING AGEN-**
 11 **CIES.**

12 **“(a) DUTY OF FURNISHERS OF INFORMATION TO PRO-**
 13 **VIDE COMPLETE AND ACCURATE INFORMATION.—**

14 **“(1) PROHIBITIONS.**—*A person shall not furnish*
 15 *any information relating to a consumer to any*
 16 *consumer reporting agency if the person knows that*
 17 *the information is incomplete or inaccurate.*

18 **“(2) DUTY TO CORRECT AND UPDATE INFORMA-**
 19 **TION.**—*A person who—*

20 **“(A) regularly and in the ordinary course**
 21 *of business furnishes information to one or more*
 22 *consumer reporting agencies about the person’s*
 23 *transactions or experiences with any consumer;*
 24 *and*

1 “(B) has furnished to a consumer reporting
2 agency information that the person determines is
3 not complete or accurate;
4 shall promptly notify the consumer reporting agency
5 of that determination and provide to the agency any
6 corrections to that information, or any additional in-
7 formation, that is necessary to make the information
8 provided by the person to the agency complete and ac-
9 curate, and shall not thereafter furnish to the agency
10 any of the information that remains not complete or
11 accurate.

12 “(3) DUTY TO PROVIDE NOTICE OF DISPUTE.—
13 If the completeness or accuracy of any information
14 furnished by any person to any consumer reporting
15 agency is disputed to such person by a consumer, the
16 person may not furnish the information to any
17 consumer reporting agency without notice that such
18 information is disputed by the consumer.

19 “(4) DUTY TO PROVIDE NOTICE OF CLOSED AC-
20 COUNTS.—A person who regularly and in the ordi-
21 nary course of business furnishes information to a
22 consumer reporting agency regarding a consumer who
23 has a credit account with that person shall notify the
24 agency of the voluntary closure of the account by the

1 *consumer, in information regularly furnished for the*
2 *period in which the account is closed.*

3 *“(5) DUTY TO PROVIDE NOTICE OF DELINQUENCY*
4 *OF ACCOUNTS.—A person who furnishes information*
5 *to a consumer reporting agency regarding a delin-*
6 *quent account being placed for collection, charged to*
7 *profit or loss, or subjected to any similar action shall,*
8 *not later than 90 days after furnishing the informa-*
9 *tion, notify the agency of the month and year of the*
10 *commencement of the delinquency that immediately*
11 *preceded the action.*

12 *“(b) DUTIES OF FURNISHERS OF INFORMATION UPON*
13 *NOTICE OF DISPUTE.—*

14 *“(1) IN GENERAL.—After receiving notice pursu-*
15 *ant to section 611(a)(2) of a dispute with regard to*
16 *the completeness or accuracy of any information pro-*
17 *vided by a person to a consumer reporting agency, the*
18 *person shall—*

19 *“(A) conduct an investigation with respect*
20 *to the disputed information;*

21 *“(B) review all relevant information pro-*
22 *vided by the consumer reporting agency pursu-*
23 *ant to section 611(a)(2);*

24 *“(C) report the results of the investigation*
25 *to the consumer reporting agency; and*

1 “(D) if the investigation finds that the in-
2 formation is incomplete or inaccurate, report
3 those results to all other consumer reporting
4 agencies to which the person furnished the infor-
5 mation and that compile and maintain files on
6 consumers on a nationwide basis.

7 “(2) *DEADLINE*.—A person shall complete all in-
8 vestigations, reviews, and reports required under
9 paragraph (1) regarding information provided by the
10 person to a consumer reporting agency, prior to the
11 expiration of the period under section 611(a)(1) with-
12 in which the consumer reporting agency is required
13 to complete actions required by that section regarding
14 that information.

15 “(c) *LIMITATION ON LIABILITY*.—Sections 616 and
16 617 do not apply to any failure to comply with subsection
17 (a), except as provided in section 621(c)(1)(B).

18 “(d) *LIMITATION ON ENFORCEMENT*.—Subsection (a)
19 shall be enforced exclusively under section 621 by the Fed-
20 eral agencies and officials and the State officials identified
21 in that section.”.

22 “(b) *CONFORMING AMENDMENT*.—The table of sections
23 at the beginning of the Fair Credit Reporting Act (15
24 U.S.C. 1681a et seq.) is amended by striking the item relat-
25 ing to section 623 and inserting the following:

“623. Responsibilities of furnishers of information to consumer reporting agencies.
 “624. Relation to State laws.”.

1 **SEC. 414. INVESTIGATIVE CONSUMER REPORTS.**

2 *Section 606 of the Fair Credit Reporting Act (15*
 3 *U.S.C. 1681d) is amended—*

4 *(1) in subsection (a)(1), by striking “or” after*
 5 *the semicolon at the end and inserting “and”;*

6 *(2) by striking subsection (a)(2) and inserting*
 7 *the following:*

8 *“(2) the person certifies or has certified to the*
 9 *consumer reporting agency that—*

10 *“(A) the person has made the disclosures to*
 11 *the consumer required by paragraph (1); and*

12 *“(B) the person will comply with subsection*
 13 *(b).”;*

14 *(3) in subsection (b), by striking “shall” the sec-*
 15 *ond place such term appears; and*

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

18 *“(d) PROHIBITIONS.—*

19 *“(1) CERTIFICATION.—A consumer reporting*
 20 *agency shall not prepare or furnish an investigative*
 21 *consumer report unless the agency has received a cer-*
 22 *tification under subsection (a)(2) from the person who*
 23 *requested the report.*

1 “(2) *INQUIRIES.*—A consumer reporting agency
2 shall not make an inquiry for the purpose of prepar-
3 ing an investigative consumer report on a consumer
4 for employment purposes if the making of the inquiry
5 by an employer or prospective employer of the
6 consumer would violate any applicable Federal or
7 State equal employment opportunity law or regula-
8 tion.

9 “(3) *CERTAIN PUBLIC RECORD INFORMATION.*—
10 Except as otherwise provided in section 613, a
11 consumer reporting agency shall not furnish an inves-
12 tigative consumer report that includes information
13 that is a matter of public record and that relates to
14 an arrest, indictment, conviction, civil judicial ac-
15 tion, tax lien, or outstanding judgment, unless the
16 agency has verified the accuracy of the information
17 during the 30-day period ending on the date on which
18 the report is furnished.

19 “(4) *CERTAIN ADVERSE INFORMATION.*—A
20 consumer reporting agency shall not prepare or fur-
21 nish an investigative consumer report on a consumer
22 that contains information that is adverse to the inter-
23 est of the consumer and that is obtained through a
24 personal interview with a neighbor, friend, or associ-
25 ate of the consumer or with another person with

1 *whom the consumer is acquainted or who has knowl-*
 2 *edge of such item of information, unless—*

3 *“(A) the agency has followed reasonable pro-*
 4 *cedures to obtain confirmation of the informa-*
 5 *tion, from an additional source that has inde-*
 6 *pendent and direct knowledge of the information;*
 7 *or*

8 *“(B) the person interviewed is the best pos-*
 9 *sible source of the information.”.*

10 ***SEC. 415. INCREASED CRIMINAL PENALTIES FOR OBTAIN-***
 11 ***ING INFORMATION UNDER FALSE PRE-***
 12 ***TENSES.***

13 *(a) OBTAINING INFORMATION UNDER FALSE PRE-*
 14 *TENSES.—Section 619 of the Fair Credit Reporting Act (15*
 15 *U.S.C. 1681q) is amended by striking “fined not more than*
 16 *\$5,000 or imprisoned not more than one year, or both” and*
 17 *inserting “fined under title 18, United States Code, impris-*
 18 *oned for not more than 2 years, or both”.*

19 *(b) UNAUTHORIZED DISCLOSURES BY OFFICERS OR*
 20 *EMPLOYEES.—Section 620 of the Fair Credit Reporting Act*
 21 *(15 U.S.C. 1681r) is amended by striking “fined not more*
 22 *than \$5,000 or imprisoned not more than one year, or both”*
 23 *and inserting “fined under title 18, United States Code,*
 24 *imprisoned for not more than 2 years, or both”.*

1 **SEC. 416. ADMINISTRATIVE ENFORCEMENT.**

2 (a) *AVAILABLE ENFORCEMENT POWERS.*—Section
3 621(a) of the Fair Credit Reporting Act (15 U.S.C.
4 1681s(a))—

5 (1) *is amended in the second sentence, by strik-*
6 *ing “Act and shall be subject to enforcement by the*
7 *Federal Trade Commission under section 5(b) thereof*
8 *with respect to any consumer reporting agency or*
9 *person subject to enforcement by the Federal Trade*
10 *Commission pursuant to this subsection, irrespective”*
11 *and inserting “Act. All functions and powers of the*
12 *Federal Trade Commission under the Federal Trade*
13 *Commission Act shall be available to the Commission*
14 *to enforce compliance with this title by any person*
15 *subject to enforcement by the Federal Trade Commis-*
16 *sion pursuant to this subsection and not subject to en-*
17 *forcement pursuant to section 8 of the Federal Deposit*
18 *Insurance Act, irrespective”;*

19 (2) *as amended by paragraph (1) of this sub-*
20 *section, is amended by inserting before the third pe-*
21 *riod the following: “, including the power to enforce*
22 *the provisions of this title in the same manner as if*
23 *the violation had been a violation of any Federal*
24 *Trade Commission trade regulation rule”;* and

25 (3) *as amended by paragraph (1) of this sub-*
26 *section, is amended by adding after the third period*

1 *the following: “Notwithstanding the preceding sen-*
2 *tence, a court may not impose any civil penalty on*
3 *a person for a violation of section 623(a)(1) unless the*
4 *person has been enjoined from committing the viola-*
5 *tion, or ordered not to commit the violation, in an ac-*
6 *tion or proceeding brought by or on behalf of the Fed-*
7 *eral Trade Commission and has violated the injunc-*
8 *tion or order, and the court may not impose any civil*
9 *penalty for any violation occurring before the date of*
10 *the violation of the injunction or order.”.*

11 *(b) AGENCIES RESPONSIBLE FOR ENFORCEMENT.—*
12 *Section 621 of the Fair Credit Reporting Act (15 U.S.C.*
13 *1681s) is amended—*

14 *(1) in subsection (a), by inserting “ENFORCE-*
15 *MENT BY FEDERAL TRADE COMMISSION.—” before*
16 *“Compliance with the requirements”; and*

17 *(2) in subsection (b), by striking the matter pre-*
18 *ceding paragraph (1) and inserting the following:*

19 *“(b) ENFORCEMENT BY OTHER AGENCIES.—Compli-*
20 *ance with the requirements imposed under this title with*
21 *respect to consumer reporting agencies, persons who use*
22 *consumer reports from such agencies, persons who furnish*
23 *information to such agencies, and users of information that*
24 *are subject to subsection (d) or (e) of section 615 shall be*
25 *enforced under—”.*

1 **SEC. 417. STATE ENFORCEMENT OF FAIR CREDIT REPORT-**
2 **ING ACT.**

3 *Section 621 of the Fair Credit Reporting Act (15*
4 *U.S.C. 1681s) is amended—*

5 *(1) by redesignating subsection (c) as subsection*
6 *(d); and*

7 *(2) by inserting after subsection (b) the following*
8 *new subsection:*

9 *“(c) STATE ACTION FOR VIOLATIONS.—*

10 *“(1) AUTHORITY OF STATES.—In addition to*
11 *such other remedies as are provided under State law,*
12 *if the chief law enforcement officer of a State, or an*
13 *official or agency designated by a State, has reason*
14 *to believe that any person has violated or is violating*
15 *this title, the State—*

16 *“(A) may bring an action to enjoin such*
17 *violation in any appropriate United States dis-*
18 *trict court or in any other court of competent ju-*
19 *risdiction;*

20 *“(B) subject to paragraph (5), may bring*
21 *an action on behalf of the residents of the State*
22 *to recover—*

23 *“(i) damages for which the person is*
24 *liable to such residents under sections 616*
25 *and 617 as a result of the violation;*

1 “(ii) in the case of a violation of sec-
 2 tion 623(a), damages for which the person
 3 would, but for section 623(c), be liable to
 4 such residents as a result of the violation; or

5 “(iii) damages of not more than \$1,000
 6 for each willful or negligent violation; and

7 “(C) in the case of any successful action
 8 under subparagraph (A) or (B), shall be award-
 9 ed the costs of the action and reasonable attorney
 10 fees as determined by the court.

11 “(2) *RIGHTS OF FEDERAL REGULATORS.*—*The*
 12 *State shall serve prior written notice of any action*
 13 *under paragraph (1) upon the Federal Trade Com-*
 14 *mission or the appropriate Federal regulator deter-*
 15 *mined under subsection (b) and provide the Commis-*
 16 *sion or appropriate Federal regulator with a copy of*
 17 *its complaint, except in any case in which such prior*
 18 *notice is not feasible, in which case the State shall*
 19 *serve such notice immediately upon instituting such*
 20 *action. The Federal Trade Commission or appro-*
 21 *priate Federal regulator shall have the right—*

22 “(A) to intervene in the action;

23 “(B) upon so intervening, to be heard on all
 24 matters arising therein;

1 “(C) to remove the action to the appropriate
2 United States district court; and

3 “(D) to file petitions for appeal.

4 “(3) *INVESTIGATORY POWERS.*—For purposes of
5 bringing any action under this subsection, nothing in
6 this subsection shall prevent the chief law enforcement
7 officer, or an official or agency designated by a State,
8 from exercising the powers conferred on the chief law
9 enforcement officer or such official by the laws of such
10 State to conduct investigations or to administer oaths
11 or affirmations or to compel the attendance of wit-
12 nesses or the production of documentary and other
13 evidence.

14 “(4) *LIMITATION ON STATE ACTION WHILE FED-*
15 *ERAL ACTION PENDING.*—If the Federal Trade Com-
16 mission or the appropriate Federal regulator has in-
17 stituted a civil action or an administrative action
18 under section 8 of the Federal Deposit Insurance Act
19 for a violation of this title, no State may, during the
20 pendency of such action, bring an action under this
21 section against any defendant named in the com-
22 plaint of the Commission or the appropriate Federal
23 regulator for any violation of this title that is alleged
24 in that complaint.

1 “(5) *LIMITATIONS ON STATE ACTIONS FOR VIOLA-*
 2 *TION OF SECTION 623(a)(1).—*

3 “(A) *VIOLATION OF INJUNCTION RE-*
 4 *QUIRED.—A State may not bring an action*
 5 *against a person under paragraph (1)(B) for a*
 6 *violation of section 623(a)(1), unless—*

7 “(i) *the person has been enjoined from*
 8 *committing the violation, in an action*
 9 *brought by the State under paragraph*
 10 *(1)(A); and*

11 “(ii) *the person has violated the in-*
 12 *junction.*

13 “(B) *LIMITATION ON DAMAGES RECOVER-*
 14 *ABLE.—In an action against a person under*
 15 *paragraph (1)(B) for a violation of section*
 16 *623(a)(1), a State may not recover any damages*
 17 *incurred before the date of the violation of an in-*
 18 *junction on which the action is based.”.*

19 **SEC. 418. FEDERAL RESERVE BOARD AUTHORITY.**

20 *Section 621 of the Fair Credit Reporting Act (15*
 21 *U.S.C. 1681s) is amended by adding at the end the follow-*
 22 *ing new subsection:*

23 “(e) *INTERPRETIVE AUTHORITY.—The Board of Gov-*
 24 *ernors of the Federal Reserve System may issue interpreta-*
 25 *tions of any provision of this title as such provision may*

1 *apply to any persons identified under paragraph (1), (2),*
 2 *and (3) of subsection (b), or to the holding companies and*
 3 *affiliates of such persons, in consultation with Federal*
 4 *agencies identified in paragraphs (1), (2), and (3) of sub-*
 5 *section (b).”.*

6 **SEC. 419. PREEMPTION OF STATE LAW.**

7 *Section 624 of the Fair Credit Reporting Act (as redес-*
 8 *ignated by section 413(a) of this Act) is amended—*

9 *(1) by striking “This title” and inserting “(a) IN*
 10 *GENERAL.—Except as provided in subsections (b) and*
 11 *(c), this title”; and*

12 *(2) by adding at the end the following new sub-*
 13 *section:*

14 *“(b) GENERAL EXCEPTIONS.—No requirement or pro-*
 15 *hibition may be imposed under the laws of any State—*

16 *“(1) with respect to any subject matter regulated*
 17 *under—*

18 *“(A) subsection (c) or (e) of section 604, re-*
 19 *lating to the prescreening of consumer reports;*

20 *“(B) section 611, relating to the time by*
 21 *which a consumer reporting agency must take*
 22 *any action, including the provision of notifica-*
 23 *tion to a consumer or other person, in any pro-*
 24 *cedure related to the disputed accuracy of infor-*
 25 *mation in a consumer’s file, except that this sub-*

1 paragraph does not apply to any State law in
2 effect on the date of enactment of the Consumer
3 Reporting Reform Act of 1995;

4 “(C) subsections (a) and (b) of section 615,
5 relating to the duties of a person who takes any
6 adverse action with respect to a consumer;

7 “(D) section 615(d), relating to the duties of
8 persons who use a consumer report of a
9 consumer in connection with any credit or in-
10 surance transaction that is not initiated by the
11 consumer and that consists of a firm offer of
12 credit or insurance;

13 “(E) section 615(e), relating to the duties of
14 persons who use a consumer report of a
15 consumer in connection with any direct market-
16 ing transaction that is not initiated by the
17 consumer;

18 “(F) section 605, relating to information
19 contained in consumer reports, except that this
20 subparagraph does not apply to any State law
21 in effect on the date of enactment of the
22 Consumer Reporting Reform Act of 1995; or

23 “(G) section 623(b)(2), relating to the time
24 by which a person must take any action required
25 under section 623(b)(1) with respect to an inves-

1 *tigation of information furnished by the person*
2 *to a consumer reporting agency, except that this*
3 *subparagraph does not apply to any State law*
4 *in effect on the date of enactment of the*
5 *Consumer Reporting Reform Act of 1995;*

6 “(2) *with respect to the exchange of information*
7 *among persons affiliated by common ownership or*
8 *common corporate control; or*

9 “(3) *with respect to the form and content of any*
10 *disclosure required to be made under section 609(c).*

11 “(c) *DEFINITION OF FIRM OFFER OF CREDIT OR IN-*
12 *SURANCE.—Notwithstanding any definition of the term*
13 *‘firm offer of credit or insurance’ (or any equivalent term)*
14 *under the laws of any State, the definition of that term*
15 *contained in section 603(l) shall be construed to apply in*
16 *the enforcement and interpretation of the laws of any State*
17 *governing consumer reports.*

18 “(d) *LIMITATIONS.—Subsections (b) and (c)—*

19 “(1) *do not affect any settlement, agreement, or*
20 *consent judgment between any State Attorney General*
21 *and any consumer reporting agency in effect on the*
22 *date of enactment of the Consumer Reporting Reform*
23 *Act of 1995; and*

1 “(2) do not apply to any provision of State law
2 (including any provision of a State constitution)
3 that—

4 “(A) is enacted after January 1, 2004;

5 “(B) states explicitly that the provision is
6 intended to supplement this Act; and

7 “(C) gives greater protection to consumers
8 than is provided under this Act.”.

9 **SEC. 420. ACTION BY FTC AND FEDERAL RESERVE BOARD.**

10 (a) *MODIFICATION OF REQUIREMENTS BY FTC AND*
11 *FEDERAL RESERVE BOARD AUTHORIZED.—*

12 (1) *IN GENERAL.—*Section 621 of the Fair Credit
13 Reporting Act (15 U.S.C. 1681s) is amended by add-
14 ing at the end the following new subsection:

15 “(f) *MODIFICATION OF REQUIREMENTS BY FTC AU-*
16 *THORIZED.—*

17 “(1) *IN GENERAL.—*If the Federal Trade Com-
18 mission considers such action necessary for the protec-
19 tion of consumers, the Commission may, after con-
20 sultation with appropriate State regulatory and law
21 enforcement agencies, promulgate regulations in ac-
22 cordance with section 553 of title 5, United States
23 Code, to impose, with respect to consumer reporting
24 agencies and all other persons subject to this title

1 *other than any person described in paragraph (1),*
2 *(2), or (3) of subsection (b), requirements—*

3 *“(A) that are more stringent than those im-*
4 *posed under—*

5 *“(i) section 611, relating to the time by*
6 *which a consumer reporting agency must*
7 *take any action, including the provision of*
8 *notification to a consumer or other person,*
9 *in any procedure related to the disputed ac-*
10 *curacy of information in a consumer’s file;*

11 *“(ii) section 615(a), relating to the dis-*
12 *closure requirements applicable to a person*
13 *who takes any adverse action with respect*
14 *to a consumer on the basis of information*
15 *contained in a consumer report;*

16 *“(iii) section 615(d), relating to the*
17 *disclosure requirements applicable to per-*
18 *sons who use a consumer report on a*
19 *consumer in connection with any credit or*
20 *insurance transaction that is not initiated*
21 *by the consumer and that consists of a firm*
22 *offer of credit or insurance; or*

23 *“(iv) section 623(b)(2), relating to the*
24 *time by which a person must take any ac-*
25 *tion required under section 623(b)(1) with*

1 *respect to an investigation of information*
 2 *furnished by the person to a consumer re-*
 3 *porting agency; and*

4 “(B) *with respect to the form and content of*
 5 *any disclosure required to be made under section*
 6 *609(c).*”

7 “(2) *FEDERAL RESERVE BOARD AUTHORITY.—If*
 8 *the Board of Governors of the Federal Reserve System*
 9 *determines such action to be necessary for the protec-*
 10 *tion of consumers, the Board may prescribe regula-*
 11 *tions imposing on persons described in paragraph*
 12 *(1), (2), or (3) of subsection (b) or on the holding*
 13 *companies and affiliates of such persons, any require-*
 14 *ment described in paragraph (1) of this subsection.*”.

15 (2) *CONFORMING AMENDMENTS.—*

16 (A) *The section heading and section des-*
 17 *ignation for section 621 of the Fair Credit Re-*
 18 *porting Act (15 U.S.C. 1681s) are amended to*
 19 *read as follows:*

20 **“SEC. 621. ADMINISTRATIVE ENFORCEMENT AND AUTHORI-**
 21 **TIES; STATE ACTIONS.”.**

22 (B) *The table of sections at the beginning of*
 23 *the Fair Credit Reporting Act is amended by*
 24 *striking the item relating to section 621 and in-*
 25 *serting the following:*

“621. *Administrative enforcement and authorities; State actions.*”.

1 “(C) that consists solely of information re-
2 quested by the consumer or the consumer’s attor-
3 ney; or

4 “(D) that is a formal pleading made in
5 connection with a legal action.”.

6 (b) *EFFECTIVE DATE.*—The amendment made by sub-
7 section (a) shall become effective 90 days after the date of
8 enactment of this Act.

9 **SEC. 422. FURNISHING CONSUMER REPORTS FOR CERTAIN**
10 **PURPOSES RELATING TO CHILD SUPPORT.**

11 Section 604(a) of the Fair Credit Reporting Act (15
12 U.S.C. 1681b) (as so designated by section 403 of this Act)
13 is amended by adding at the end the following new para-
14 graph:

15 “(4) In response to a request by the head of a de-
16 partment, agency, or office of any State or any politi-
17 cal subdivision of any State that is responsible under
18 law for enforcing child support orders (or an official
19 authorized by the head of any such department, agen-
20 cy, or office), if the person making the request certifies
21 to the consumer reporting agency that—

22 “(A) the consumer report is needed to estab-
23 lish an individual’s capacity to make child sup-
24 port payments, or to determine the appropriate
25 level of such payments;

1 “(B) the person has provided not less than
2 10 days prior written notice to the consumer
3 whose report is requested, by certified or reg-
4 istered mail to the last known address of the
5 consumer, that the report will be requested; and

6 “(C) the consumer report obtained pursuant
7 to this paragraph will be kept confidential, will
8 be used solely for establishing child support pay-
9 ment obligations, and will not be used in connec-
10 tion with any other civil, administrative, or
11 criminal proceeding or for any other purpose.”.

12 **SEC. 423. DISCLOSURE OF INFORMATION AND CONSUMER**
13 **REPORTS TO FBI FOR COUNTERINTEL-**
14 **LIGENCE PURPOSES.**

15 (a) *IN GENERAL.*—The Fair Credit Reporting Act (15
16 U.S.C. 1681 et seq.) is amended by adding at the end the
17 following new section:

18 **“SEC. 625. DISCLOSURES TO FBI FOR COUNTERINTEL-**
19 **LIGENCE PURPOSES.**

20 “(a) *IDENTITY OF FINANCIAL INSTITUTIONS.*—Not-
21 withstanding section 604 or any other provision of this
22 title, a consumer reporting agency shall furnish to the Fed-
23 eral Bureau of Investigation the names and addresses of
24 all financial institutions (as that term is defined in section
25 1101 of the Right to Financial Privacy Act of 1978) at

1 *which a consumer maintains or has maintained an ac-*
2 *count, to the extent that information is in the files of the*
3 *agency, when presented with a written request for that in-*
4 *formation, signed by the Director of the Federal Bureau of*
5 *Investigation, or the Director's designee, that certifies com-*
6 *pliance with this section. The Director or the Director's des-*
7 *ignee may make such a certification only if the Director*
8 *or the Director's designee has determined in writing that—*

9 “(1) *such information is necessary for the con-*
10 *duct of an authorized foreign counterintelligence in-*
11 *vestigation; and*

12 “(2) *there are specific and articulable facts giv-*
13 *ing reason to believe that the consumer—*

14 “(A) *is a foreign power (as defined in sec-*
15 *tion 101 of the Foreign Intelligence Surveillance*
16 *Act of 1978) or a person who is not a United*
17 *States person (as defined in such section 101)*
18 *and is an official of a foreign power; or*

19 “(B) *is an agent of a foreign power and is*
20 *engaging or has engaged in international terror-*
21 *ism (as that term is defined in section 101(c) of*
22 *the Foreign Intelligence Surveillance Act of*
23 *1978) or clandestine intelligence activities that*
24 *involve or may involve a violation of criminal*
25 *statutes of the United States.*

1 “(b) *IDENTIFYING INFORMATION.*—Notwithstanding
2 *the provisions of section 604 or any other provision of this*
3 *title, a consumer reporting agency shall furnish identifying*
4 *information respecting a consumer, limited to name, ad-*
5 *dress, former addresses, places of employment, or former*
6 *places of employment, to the Federal Bureau of Investiga-*
7 *tion when presented with a written request, signed by the*
8 *Director or the Director’s designee, that certifies compliance*
9 *with this subsection. The Director or the Director’s designee*
10 *may make such a certification only if the Director or the*
11 *Director’s designee has determined in writing that—*

12 “(1) *such information is necessary to the conduct*
13 *of an authorized counterintelligence investigation;*
14 *and*

15 “(2) *there is information giving reason to believe*
16 *that the consumer has been, or is about to be, in con-*
17 *tact with a foreign power or an agent of a foreign*
18 *power (as defined in section 101 of the Foreign Intel-*
19 *ligence Surveillance Act of 1978).*

20 “(c) *COURT ORDER FOR DISCLOSURE OF CONSUMER*
21 *REPORTS.*—Notwithstanding section 604 or any other pro-
22 vision of this title, if requested in writing by the Director
23 of the Federal Bureau of Investigation, or a designee of the
24 Director, a court may issue an order *ex parte* directing a
25 consumer reporting agency to furnish a consumer report to

1 *the Federal Bureau of Investigation, upon a showing in*
2 *camera that—*

3 “(1) *the consumer report is necessary for the con-*
4 *duct of an authorized foreign counterintelligence in-*
5 *vestigation; and*

6 “(2) *there are specific and articulable facts giv-*
7 *ing reason to believe that the consumer whose*
8 *consumer report is sought—*

9 “(A) *is an agent of a foreign power; and*

10 “(B) *is engaging or has engaged in inter-*
11 *national terrorism (as that term is defined in*
12 *section 101(c) of the Foreign Intelligence Surveil-*
13 *lance Act of 1978) or clandestine intelligence ac-*
14 *tivities that involve or may involve a violation*
15 *of criminal statutes of the United States.*

16 *The terms of an order issued under this subsection shall*
17 *not disclose that the order is issued for purposes of a coun-*
18 *terintelligence investigation.*

19 “(d) *CONFIDENTIALITY.—No consumer reporting agen-*
20 *cy or officer, employee, or agent of a consumer reporting*
21 *agency shall disclose to any person, other than those officers,*
22 *employees, or agents of a consumer reporting agency nec-*
23 *essary to fulfill the requirement to disclose information to*
24 *the Federal Bureau of Investigation under this section, that*
25 *the Federal Bureau of Investigation has sought or obtained*

1 *the identity of financial institutions or a consumer report*
2 *respecting any consumer under subsection (a), (b), or (c)*
3 *and no consumer reporting agency or officer, employee, or*
4 *agent of a consumer reporting agency shall include in any*
5 *consumer report any information that would indicate that*
6 *the Federal Bureau of Investigation has sought or obtained*
7 *such information or a consumer report.*

8 “(e) *PAYMENT OF FEES.—The Federal Bureau of In-*
9 *vestigation shall, subject to the availability of appropri-*
10 *ations, pay to the consumer reporting agency assembling or*
11 *providing reports or information in accordance with proce-*
12 *dures established under this section, a fee for reimbursement*
13 *for such costs as are reasonably necessary and that have*
14 *been directly incurred in searching, reproducing, or trans-*
15 *porting books, papers, records, or other data required or re-*
16 *quested to be produced under this section.*

17 “(f) *LIMIT ON DISSEMINATION.—The Federal Bureau*
18 *of Investigation may not disseminate information obtained*
19 *pursuant to this section outside of the Federal Bureau of*
20 *Investigation, except to the Department of Justice as may*
21 *be necessary for the approval or conduct of a foreign coun-*
22 *terintelligence investigation, or, if the information concerns*
23 *a person subject to the Uniform Code of Military Justice,*
24 *to appropriate investigative authorities within the military*

1 *department concerned as may be necessary for the conduct*
2 *of a joint foreign counterintelligence investigation.*

3 “(g) *RULES OF CONSTRUCTION.*—*Nothing in this sec-*
4 *tion shall be construed to prohibit information from being*
5 *furnished by the Federal Bureau of Investigation pursuant*
6 *to a subpoena or court order, or in connection with a judi-*
7 *cial or administrative proceeding to enforce this Act. Noth-*
8 *ing in this section shall be construed to authorize or permit*
9 *the withholding of information from the Congress.*

10 “(h) *REPORTS TO CONGRESS.*—*On a semiannual*
11 *basis, the Attorney General of the United States shall fully*
12 *inform—*

13 “(1) *the Permanent Select Committee on Intel-*
14 *ligence and the Committee on Banking and Financial*
15 *Services of the House of Representatives; and*

16 “(2) *the Select Committee on Intelligence and the*
17 *Committee on Banking, Housing, and Urban Affairs*
18 *of the Senate;*

19 *concerning all requests made pursuant to subsections (a),*
20 *(b), and (c).*

21 “(i) *DAMAGES.*—*Any agency or department of the*
22 *United States obtaining or disclosing any consumer reports,*
23 *records, or information contained therein in violation of*
24 *this section is liable to the consumer to whom such consumer*

1 reports, records, or information relate in an amount equal
2 to the sum of—

3 “(1) \$100, without regard to the volume of
4 consumer reports, records, or information involved;

5 “(2) any actual damages sustained by the
6 consumer as a result of the disclosure;

7 “(3) if the violation is found to have been willful
8 or intentional, such punitive damages as a court may
9 allow; and

10 “(4) in the case of any successful action to en-
11 force liability under this subsection, the costs of the
12 action, together with reasonable attorney fees, as de-
13 termined by the court.

14 “(j) *DISCIPLINARY ACTIONS FOR VIOLATIONS.*—If a
15 court determines that any agency or department of the
16 United States has violated any provision of this section and
17 the court finds that the circumstances surrounding the vio-
18 lation raise questions of whether or not an officer or em-
19 ployee of the agency or department acted willfully or inten-
20 tionally with respect to the violation, the agency or depart-
21 ment shall promptly initiate a proceeding to determine
22 whether or not disciplinary action is warranted against the
23 officer or employee that was responsible for the violation.

24 “(k) *GOOD-FAITH EXCEPTION.*—Notwithstanding any
25 other provision of this title, any consumer reporting agency

1 *or agent or employee thereof making disclosure of consumer*
2 *reports or identifying information pursuant to this sub-*
3 *section in good-faith reliance upon a certification of the*
4 *Federal Bureau of Investigation pursuant to provisions of*
5 *this section shall not be liable to any person for such disclo-*
6 *sure under this title, the constitution of any State, or any*
7 *law or regulation of any State or any political subdivision*
8 *of any State.*

9 “(l) *LIMITATION OF REMEDIES.*—*Notwithstanding*
10 *any other provision of this title, the remedies and sanctions*
11 *set forth in this section shall be the only judicial remedies*
12 *and sanctions for violation of this section.*

13 “(m) *INJUNCTIVE RELIEF.*—*In addition to any other*
14 *remedy contained in this section, injunctive relief shall be*
15 *available to require compliance with the procedures of this*
16 *section. In the event of any successful action under this sub-*
17 *section, costs together with reasonable attorney fees, as de-*
18 *termined by the court, may be recovered.”.*

19 “(b) *CONFORMING AMENDMENT.*—*The table of sections*
20 *at the beginning of the Fair Credit Reporting Act (15*
21 *U.S.C. 1681a et seq.) is amended by adding after the item*
22 *relating to section 624 the following:*

“625. *Disclosures to FBI for counterintelligence purposes.*”.

23 “(c) *SUNSET.*—*The amendments made by this section*
24 *shall become effective on the date of enactment of this Act,*
25 *and shall remain in effect during the period beginning on*

1 *that date of enactment and ending 5 years after that date*
2 *of enactment.*

3 **SEC. 424. EFFECTIVE DATE.**

4 (a) *IN GENERAL.*—*Except as otherwise specifically*
5 *provided in this title, the amendments made by this title*
6 *shall become effective 365 days after the date of enactment*
7 *of this Act.*

8 (b) *EARLY COMPLIANCE.*—*Any person or other entity*
9 *that is subject to the requirements of this title may, at its*
10 *option, comply with any provision of this title prior to the*
11 *date on which that provision becomes effective under this*
12 *title, in which case, each of the corresponding provisions*
13 *of this title shall be fully applicable to such person or entity.*

14 **SEC. 425. RELATIONSHIP TO OTHER LAW.**

15 *Nothing in this title or the amendments made by this*
16 *title shall be considered to supersede or otherwise affect sec-*
17 *tion 2721 of title 18, United States Code, with respect to*
18 *motor vehicle records for surveys, marketing, or solicita-*
19 *tions.*

1 **TITLE V—ASSET CONSERVATION,**
 2 **LENDER LIABILITY, AND DE-**
 3 **POSIT INSURANCE PROTEC-**
 4 **TION**

5 **SEC. 501. SHORT TITLE.**

6 *This title may be cited as the “Asset Conservation,*
 7 *Lender Liability, and Deposit Insurance Protection Act of*
 8 *1995”.*

9 **SEC. 502. FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.**

10 *The Federal Deposit Insurance Act (12 U.S.C. 1811*
 11 *et seq.) is amended by adding at the end the following new*
 12 *section:*

13 **“SEC. 45. FEDERAL BANKING AND LENDING AGENCY LI-**
 14 **ABILITY.**

15 *“(a) GOVERNMENTAL ENTITIES.—*

16 *“(1) BANKING AND LENDING AGENCIES.—Except*
 17 *as provided in paragraph (3), a Federal banking or*
 18 *lending agency shall not be liable under any law im-*
 19 *posing strict liability for the release or threatened re-*
 20 *lease of a hazardous substance at or from property*
 21 *(including a right or interest in property) acquired—*

22 *“(A) in connection with the exercise of re-*
 23 *ceivership or conservatorship authority, or the*
 24 *liquidation or winding up of the affairs of an*

1 *insured depository institution, including a sub-*
2 *subsidiary of an insured depository institution;*

3 “(B) *in connection with the provision of a*
4 *loan, a discount, an advance, a guarantee, insur-*
5 *ance, or other financial assistance; or*

6 “(C) *in connection with property received*
7 *in a civil or criminal proceeding, or administra-*
8 *tive enforcement action, whether by settlement or*
9 *order.*

10 “(2) *APPLICATION OF STATE LAW.—Nothing in*
11 *this section shall be construed as preempting, affect-*
12 *ing, applying to, or modifying a State law, or a*
13 *right, action, cause of action, or obligation under*
14 *State law, except that the liability of a Federal bank-*
15 *ing or lending agency under a State law shall not ex-*
16 *ceed the value of the interest of the agency in the asset*
17 *giving rise to the liability. Nothing in this section*
18 *shall prevent a Federal banking or lending agency*
19 *from agreeing with a State to transfer property to the*
20 *State in lieu of any liability that might otherwise be*
21 *imposed under State law.*

22 “(3) *LIMITATION.—Notwithstanding paragraph*
23 *(1), and subject to section 107(d) of the Comprehen-*
24 *sive Environmental Response, Compensation, and Li-*
25 *ability Act of 1980 and section 9003 of the Solid*

1 *Waste Disposal Act, a Federal banking or lending*
2 *agency that caused or contributed to the release of a*
3 *hazardous substance may be liable for removal, reme-*
4 *dial, corrective, or other response action pertaining to*
5 *that release.*

6 “(4) *SUBSEQUENT PURCHASER.—The immunity*
7 *provided by paragraph (1) shall extend to the first*
8 *subsequent purchaser of the property from a Federal*
9 *banking or lending agency, unless the purchaser—*

10 “(A) *would otherwise be liable or poten-*
11 *tially liable for all or part of the costs of the re-*
12 *moval, remedial, corrective, or other response ac-*
13 *tion due to a prior relationship with the prop-*
14 *erty;*

15 “(B) *is or was affiliated with or related to*
16 *a party described in subparagraph (A);*

17 “(C) *fails to agree to take reasonable steps*
18 *necessary to remedy the release or threatened re-*
19 *lease or to protect public health and safety in a*
20 *manner consistent with the purposes of applica-*
21 *ble environmental laws; or*

22 “(D) *causes or contributes to any additional*
23 *release or threatened release on the property.*

24 “(5) *FEDERAL OR STATE ACTION.—If a Federal*
25 *agency or State environmental agency is required to*

1 *take remedial or corrective action due to the failure*
2 *of a subsequent purchaser to carry out, in good faith,*
3 *the agreement described in paragraph (4)(C), the sub-*
4 *sequent purchaser shall reimburse the Federal or*
5 *State environmental agency for the costs of the reme-*
6 *dial or corrective action. Any such reimbursement*
7 *shall not exceed the increase in the fair market value*
8 *of the property attributable to the remedial or correc-*
9 *tive action.*

10 *“(b) LIEN EXEMPTION.—Notwithstanding any other*
11 *provision of law, any property held by a subsequent pur-*
12 *chaser referred to in subsection (a)(4) or held by a Federal*
13 *banking or lending agency shall not be subject to a lien*
14 *for costs or damages associated with the release or threat-*
15 *ened release of a hazardous substance existing at the time*
16 *of the transfer.*

17 *“(c) EXEMPTION FROM COVENANTS TO REMEDIATE.—*
18 *A Federal banking or lending agency shall be exempt from*
19 *any law requiring the agency to grant a covenant warrant-*
20 *ing that a removal, remedial, corrective, or other response*
21 *action has been, or will in the future be, taken with respect*
22 *to property acquired in the manner referred to in subsection*
23 *(a)(1).*

24 *“(d) DEFINITIONS.—For purposes of this section, the*
25 *following definitions shall apply:*

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

17 “(2) *HAZARDOUS SUBSTANCE.*—*The term ‘haz-*
18 *ardous substance’ means—*

19 “(A) *any substance defined in section*
20 *101(14) of the Comprehensive Environmental*
21 *Response, Compensation, and Liability Act of*
22 *1980; and*

23 “(B) *petroleum.*

24 “(3) *RELEASE.*—*The term ‘release’ has the same*
25 *meaning as in—*

1 “(A) section 101(22) of the Comprehensive
2 *Environmental Response, Compensation, and Li-*
3 *ability Act of 1980, including the use, storage,*
4 *disposal, treatment, generation, or transpor-*
5 *tation of a hazardous substance; and*

6 “(B) section 9001(5) of the Solid Waste Dis-
7 *posal Act.*

8 “(e) SAVINGS CLAUSE.—*Nothing in this section*
9 *shall—*

10 “(1) *affect the rights or immunities or other de-*
11 *fenses that are available under this Act, the Com-*
12 *prehensive Environmental Response, Compensation,*
13 *and Liability Act of 1980, subtitle I of the Solid*
14 *Waste Disposal Act, or other applicable law to any*
15 *party;*

16 “(2) *create any liability for any party; or*

17 “(3) *create a private right of action against an*
18 *insured depository institution or lender, a Federal*
19 *banking or lending agency, or any other party.”.*

20 **SEC. 503. CERCLA AMENDMENTS.**

21 (a) *LENDER AND FIDUCIARY LIABILITY LIMITA-*
22 *TIONS.—Title I of the Comprehensive Environmental Re-*
23 *sponse, Compensation, and Liability Act of 1980 (42 U.S.C.*
24 *9601 et seq.) is amended by adding at the end the following*
25 *new section:*

1 **“SEC. 127. INSURED DEPOSITORY INSTITUTION AND OTHER**
2 **LENDER LIABILITY.**

3 “(a) *LIABILITY LIMITATIONS.*—*The liability of an in-*
4 *sured depository institution or other lender that is liable*
5 *under any other provision of this Act or subtitle I of the*
6 *Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) for the*
7 *release or threatened release of a hazardous substance at,*
8 *from, or in connection with property—*

9 “(1) *acquired through foreclosure;*

10 “(2) *subject to a security interest held by the in-*
11 *stitution or lender;*

12 “(3) *held by a lessor pursuant to the terms of an*
13 *extension of credit; or*

14 “(4) *subject to financial control or financial*
15 *oversight pursuant to the terms of an extension of*
16 *credit;*

17 *shall be limited to the actual benefit conferred on the insti-*
18 *tution or lender by a removal, remedial, corrective, or other*
19 *response action undertaken by another party.*

20 “(b) *ACTUAL BENEFIT.*—*For purposes of this section,*
21 *the actual benefit conferred on an institution or lender by*
22 *a removal, remedial, corrective, or other response action*
23 *shall be equal to the net gain, if any, realized by the institu-*
24 *tion or lender due to the action. For purposes of this sub-*
25 *section, the net gain shall not exceed the amount realized*

1 *by the institution or lender on the sale of property less ac-*
2 *quisition, holding, and disposition costs.*

3 “(c) *EXCLUSION.—Notwithstanding subsection (a), but*
4 *subject to section 107(d) and section 9003 of the Solid Waste*
5 *Disposal Act (42 U.S.C. 6991b), a depository institution*
6 *or lender that caused or contributed to the release of a haz-*
7 *ardous substance may be liable for removal, remedial, cor-*
8 *rective, or other response action pertaining to that release.*

9 “(d) *ENVIRONMENTAL ASSESSMENTS.—*

10 “(1) *DEPOSITORY INSTITUTIONS.—The Adminis-*
11 *trator, after consultation with the Federal Deposit In-*
12 *surance Corporation, shall issue and publish guide-*
13 *lines for insured depository institutions and other*
14 *lenders to develop and carry out adequate procedures*
15 *to evaluate actual and potential environmental risks*
16 *that may arise from or at property prior to making*
17 *an extension of credit secured by the property. The re-*
18 *quirements may provide for exclusions or different*
19 *types of environmental assessments as may be appro-*
20 *priate under the circumstances to account for the lev-*
21 *els of risk that may be posed by different classes of*
22 *collateral. Each Federal agency having the authority*
23 *under Federal law to make an examination of an in-*
24 *surated depository institution shall take compliance*

1 *with the guidelines into account in performing the ex-*
2 *aminations.*

3 “(2) *FINAL GUIDELINES.*—*Final guidelines re-*
4 *quired to be issued pursuant to paragraph (1) shall*
5 *be issued not later than 180 days after the date of en-*
6 *actment of this section.*

7 “(e) *DEFINITIONS.*—*For purposes of this section, the*
8 *following definitions shall apply:*

9 “(1) *APPROPRIATE FEDERAL BANKING AGEN-*
10 *CY.*—*The term ‘appropriate Federal banking*
11 *agency’—*

12 “(A) *has the same meaning as in section 3*
13 *of the Federal Deposit Insurance Act (12 U.S.C.*
14 *1813); and*

15 “(B) *includes the National Credit Union*
16 *Administration Board.*

17 “(2) *EXTENSION OF CREDIT.*—*The term ‘exten-*
18 *sion of credit’ includes a lease finance transaction—*

19 “(A) *in which the lessor does not initially*
20 *select the leased property and does not during the*
21 *lease term control the daily operations or main-*
22 *tenance of the property; or*

23 “(B) *that conforms with regulations issued*
24 *by the appropriate Federal banking agency or*

1 *the appropriate State banking regulatory agen-*
2 *cy.*

3 “(3) *HAZARDOUS SUBSTANCE.*—*The term ‘haz-*
4 *ardous substance’ has the same meaning as in section*
5 *45(d)(2) of the Federal Deposit Insurance Act.*

6 “(4) *INSURED DEPOSITORY INSTITUTION.*—*The*
7 *term ‘insured depository institution’ has the same*
8 *meaning as in section 3 of the Federal Deposit Insur-*
9 *ance Act (12 U.S.C. 1813), and shall also include—*

10 “(A) *an insured credit union, as defined in*
11 *section 101 of the Federal Credit Union Act (12*
12 *U.S.C. 1752);*

13 “(B) *a bank or association chartered under*
14 *the Farm Credit Act of 1971 (12 U.S.C. 2001 et*
15 *seq.); and*

16 “(C) *a leasing or trust company that is an*
17 *affiliate of an insured depository institution (as*
18 *the term is defined in this paragraph).*

19 “(5) *LENDER.*—*The term ‘lender’ means—*

20 “(A) *a person (other than an insured depos-*
21 *itory institution) that—*

22 “(i) *makes a bona fide extension of*
23 *credit to or takes a security interest from a*
24 *nonaffiliated party; and*

1 “(i) substantially and materially com-
2 plies with the environmental assessment re-
3 quirements imposed under subsection (d),
4 after final guidelines under the subsection
5 have been issued;

6 and includes a successor or assignee of any such
7 person;

8 “(B) the Federal National Mortgage Asso-
9 ciation, the Federal Home Loan Mortgage Cor-
10 poration, the Federal Agricultural Mortgage Cor-
11 poration, or other entity that in a bona fide
12 manner is engaged in the business of buying or
13 selling loans or interests in loans, if the Associa-
14 tion, Corporation, or entity requires institutions
15 from which it purchases loans (or other obliga-
16 tions) to comply substantially and materially
17 with the requirements of subsection (d), after
18 final guidelines under that subsection have been
19 issued;

20 “(C) a person engaged in the business of in-
21 suring or guaranteeing against a default in the
22 repayment of an extension of credit, or acting as
23 a surety with respect to an extension of credit,
24 to nonaffiliated parties; and

1 “(D) a person regularly engaged in the
2 business of providing title insurance who ac-
3 quires the property as a result of assignment or
4 conveyance in the course of underwriting claims
5 and claims settlement.

6 “(6) *PROPERTY ACQUIRED THROUGH FORE-*
7 *CLOSURE.—*

8 “(A) *IN GENERAL.—*The term ‘property ac-
9 quired through foreclosure’ means property ac-
10 quired, or the act of acquiring property, from a
11 nonaffiliated party by an insured depository in-
12 stitution or other lender—

13 “(i) through purchase at sales under
14 judgment or decree, power of sales,
15 nonjudicial foreclosure sales, or from a
16 trustee, deed in lieu of foreclosure, or simi-
17 lar conveyance, or through repossession, if
18 the property was security for an extension
19 of credit previously contracted;

20 “(ii) through conveyance pursuant to
21 an extension of credit previously contracted,
22 including the termination of a lease agree-
23 ment; or

24 “(iii) through any other formal or in-
25 formal manner by which the insured deposi-

1 *tory institution or other lender temporarily*
2 *acquires, for subsequent disposition, posses-*
3 *sion of collateral in order to protect the in-*
4 *terest of the institution or lender.*

5 *“(B) EXCLUSION.—Property is not acquired*
6 *through foreclosure if the insured depository in-*
7 *stitution or lender does not seek to sell or other-*
8 *wise divest the property at the earliest practical,*
9 *commercially reasonable time, on commercially*
10 *reasonable terms, taking into account market*
11 *conditions and legal and regulatory require-*
12 *ments.*

13 *“(7) RELEASE.—The term ‘release’ has the same*
14 *meaning as in section 45(d)(3) of the Federal Deposit*
15 *Insurance Act.*

16 *“(8) SECURITY INTEREST.—The term ‘security*
17 *interest’ includes rights under a mortgage, deed of*
18 *trust, assignment, judgment lien, pledge, security*
19 *agreement, factoring agreement, lease, or any other*
20 *right accruing to a person to secure the repayment of*
21 *money, the performance of a duty, or some other obli-*
22 *gation.*

23 *“(f) SAVINGS CLAUSE.—Nothing in this section*
24 *shall—*

1 “(1) *affect the rights or immunities or other de-*
2 *fenses that are available under this Act, subtitle I of*
3 *the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.),*
4 *or other applicable law to a party subject to this sec-*
5 *tion;*

6 “(2) *create any liability for a party; or*

7 “(3) *create a private right of action against an*
8 *insured depository institution or lender, a Federal*
9 *agency that regulates an insured depository institu-*
10 *tion or other lender, or any other party.*

11 **“SEC. 128. LIABILITY OF FIDUCIARIES.**

12 “(a) *IN GENERAL.—The liability of a fiduciary that*
13 *is liable under any other provision of this Act or subtitle*
14 *I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.)*
15 *for the release or threatened release of a hazardous substance*
16 *at, from, or in connection with property held in a fiduciary*
17 *capacity, may not exceed the assets held in the fiduciary*
18 *capacity that are available to indemnify the fiduciary.*

19 “(b) *EXCLUSION.—Subsection (a) does not apply to the*
20 *extent that a person is liable under this Act independently*
21 *of the person’s ownership or actions taken in a fiduciary*
22 *capacity.*

23 “(c) *LIMITATION.—Notwithstanding subsections (a)*
24 *and (d), a fiduciary whose failure to exercise due care*
25 *caused or contributed to the release of a hazardous substance*

1 *may have liability in its personal capacity for a response*
2 *or corrective action pertaining to the release.*

3 “(d) *SAFE HARBOR.—A fiduciary shall not be liable*
4 *in its personal capacity under this Act for—*

5 “(1) *undertaking or directing another person to*
6 *undertake a response action under section 107(d)(1)*
7 *or under the direction of an on-scene coordinator;*

8 “(2) *undertaking or directing another to under-*
9 *take a corrective action under section 9003(h) of the*
10 *Solid Waste Disposal Act (42 U.S.C. 6991b(h));*

11 “(3) *undertaking or directing another to under-*
12 *take any other lawful means of addressing hazardous*
13 *substances in connection with the property;*

14 “(4) *terminating the fiduciary relationship;*

15 “(5) *including in the terms of the fiduciary*
16 *agreement a covenant, warranty, or other term or*
17 *condition that relates to compliance with an environ-*
18 *mental law, or monitoring or enforcing the term;*

19 “(6) *monitoring or undertaking 1 or more in-*
20 *spections of the property;*

21 “(7) *providing financial or other advice or coun-*
22 *seling to other parties to the fiduciary relationship,*
23 *including the settler or beneficiary;*

1 “(8) restructuring, renegotiating, or otherwise al-
 2 tering the terms and conditions of the fiduciary rela-
 3 tionship; or

4 “(9) declining to take any of the actions referred
 5 to in paragraphs (3) through (8).

6 “(e) DEFINITIONS.—As used in this section:

7 “(1) FIDUCIARY.—The term ‘fiduciary’—

8 “(A) means a person acting for the benefit
 9 of another party as a bona fide—

10 “(i) trustee;

11 “(ii) executor;

12 “(iii) administrator;

13 “(iv) custodian;

14 “(v) guardian of estates or guardian
 15 ad litem;

16 “(vi) receiver;

17 “(vii) conservator;

18 “(viii) committee of estates of lunatics
 19 or other disabled persons;

20 “(ix) personal representative; or

21 “(x) representative in any other capac-
 22 ity that the Administrator, pursuant to
 23 public notice, determines to be similar to
 24 the persons listed in clauses (i) through (ix);
 25 and

1 “(B) does not include any person who is
2 acting as a fiduciary with respect to a trust or
3 other fiduciary estate that—

4 “(i) was not created as part of, or to
5 facilitate, 1 or more estate plans or pursu-
6 ant to the incapacity of a natural person;
7 and

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

11 “(2) *FIDUCIARY CAPACITY*.—The term ‘fiduciary
12 capacity’ means the capacity of a person in holding
13 title to the property, or otherwise having control of or
14 an interest in the property, pursuant to the exercise
15 of the responsibilities of the person as a fiduciary.

16 “(3) *FEDERAL BANKING OR LENDING AGENCY*.—
17 The term ‘Federal banking or lending agency’ has the
18 same meaning as in section 45(d)(1) of the Federal
19 Deposit Insurance Act.

20 “(4) *HAZARDOUS SUBSTANCE*.—The term ‘haz-
21 ardous substance’ has the same meaning as in section
22 45(d)(2) of the Federal Deposit Insurance Act.

23 “(5) *RELEASE*.—The term ‘release’ has the same
24 meaning as in section 45(d)(3) of the Federal Deposit
25 Insurance Act.

1 “(f) *SAVINGS CLAUSE.*—Nothing in this section shall
2 affect the rights or immunities or other defenses that are
3 available under this Act, subtitle I of the Solid Waste Dis-
4 posal Act (42 U.S.C. 6991 et seq.), or other law that is ap-
5 plicable to a person subject to this section. Nothing in this
6 section creates any liability for a party or a private right
7 of action against a fiduciary or any other party.

8 “(g) *INAPPLICABILITY TO FEDERAL BANKING AND*
9 *LENDING AGENCIES.*—Nothing in this section applies to a
10 Federal banking or lending agency.

11 “(h) *NO EFFECT ON CERTAIN PERSONS.*—Nothing in
12 this section affects the liability, if any, of a person who—

13 “(1)(A) acts in a capacity other than a fiduciary
14 capacity; and

15 “(B) directly or indirectly benefits from a trust
16 or fiduciary relationship; or

17 “(2) who—

18 “(A) is a beneficiary and a fiduciary with
19 respect to the same fiduciary estate; and

20 “(B) as a fiduciary, receives benefits that
21 exceed customary or reasonable compensation,
22 and incidental benefits, permitted under other
23 applicable law.

1 “(i) *REGULATIONS.*—*The Administrator, after con-*
 2 *sultation with the Federal Deposit Insurance Corporation,*
 3 *may promulgate regulations to carry out this section.*”.

4 (b) *DEFINITION OF OWNER OR OPERATOR.*—*Section*
 5 *101(20) of the Comprehensive Environmental Response,*
 6 *Compensation, and Liability Act of 1980 (42 U.S.C.*
 7 *9601(20)) is amended—*

8 (1) *in subparagraph (A)—*

9 (A) *in clause (iii) of the first sentence, by*
 10 *inserting “the United States or” after “abandon-*
 11 *ment, or similar means to”; and*

12 (B) *by striking the second sentence;*

13 (2) *in subparagraph (D)—*

14 (A) *in the first sentence, by inserting “the*
 15 *United States or” after “does not include”; and*

16 (B) *in the second sentence—*

17 (i) *by inserting “any department,*
 18 *agency, or instrumentality of the United*
 19 *States or” after “shall not apply to”; and*

20 (ii) *by striking “, and such a” and in-*
 21 *serting “, and the department, agency, or*
 22 *instrumentality of the United States or”;*
 23 *and*

24 (3) *by adding at the end the following:*

1 “(E) *EXCLUSION OF UNITED STATES, CON-*
2 *SERVATOR, OR RECEIVER.*—*The term ‘owner or*
3 *operator’ shall not include the United States or*
4 *any department, agency, or instrumentality of*
5 *the United States, or a conservator or receiver*
6 *appointed by a department, agency, or instru-*
7 *mentality of the United States, if the United*
8 *States or the conservator or receiver meets both*
9 *of the following conditions:*

10 “(i) *AUTHORITY.*—*The United States,*
11 *conservator, or receiver acquired ownership*
12 *or control of a vessel or facility (or any*
13 *right or interest in a vessel or facility)—*

14 “(I) *in connection with the exer-*
15 *cise of receivership or conservatorship*
16 *authority or the liquidation or wind-*
17 *ing up of the affairs of an entity sub-*
18 *ject to a receivership or*
19 *conservatorship, including a subsidiary*
20 *of the entity;*

21 “(II) *in connection with the exer-*
22 *cise of any seizure or forfeiture author-*
23 *ity; or*

24 “(III) *pursuant to a law specify-*
25 *ing the property to be acquired.*

1 “(ii) *NONPARTICIPATION IN MANAGE-*
2 *MENT.—The United States, conservator, or*
3 *receiver does not participate in the manage-*
4 *ment of the vessel or facility operations that*
5 *result in a release or threat of release of*
6 *hazardous substances and complies with*
7 *such other requirements as the Adminis-*
8 *trator, after consultation with the Federal*
9 *Deposit Insurance Corporation, may estab-*
10 *lish by regulation.*

11 “(F) *EXCLUSION OF PERSONS NOT PARTICI-*
12 *PANTS IN MANAGEMENT.—*

13 “(i) *INDICIA OF OWNERSHIP TO PRO-*
14 *TECT SECURITY INTEREST.—The term*
15 *‘owner or operator’ does not include a per-*
16 *son who, without participating in the man-*
17 *agement of a vessel or facility, holds indicia*
18 *of ownership primarily to protect the secu-*
19 *rity interest of the person in the vessel or*
20 *facility.*

21 “(ii) *NONPARTICIPATION IN MANAGE-*
22 *MENT PRIOR TO FORECLOSURE.—The term*
23 *‘owner or operator’ does not include a per-*
24 *son who did not participate in management*
25 *of a vessel or facility prior to foreclosure,*

1 *even if the person forecloses on the vessel or*
2 *facility, sells, re-leases (in the case of a lease*
3 *finance transaction), or liquidates the vessel*
4 *or facility, maintains business activities,*
5 *winds up operations, undertakes a response*
6 *action under section 107(d)(1) or under the*
7 *direction of an on-scene coordinator, or un-*
8 *dertakes a corrective action under section*
9 *9003 of the Solid Waste Disposal Act (42*
10 *U.S.C. 6991b), with respect to the vessel or*
11 *facility, or takes other measures to preserve,*
12 *protect, or prepare the vessel or facility*
13 *prior to sale or disposition, if the person*
14 *seeks to sell, re-lease (in the case of a lease*
15 *finance transaction), or otherwise divest the*
16 *vessel or facility at the earliest practical,*
17 *commercially reasonable time, on commer-*
18 *cially reasonable terms, taking into account*
19 *market conditions and legal and regulatory*
20 *requirements.*

21 “(G) *PARTICIPATION IN MANAGEMENT.*—

22 *For purposes of subparagraph (F)—*

23 “(i) *the term ‘participate in manage-*
24 *ment’ means actually participating in the*
25 *management or operational affairs of a ves-*

1 *sel or facility, and does not include merely*
2 *having the capacity to influence, or the*
3 *unexercised right to control, vessel or facil-*
4 *ity operations;*

5 *“(ii) a person shall be considered to*
6 *participate in management while the bor-*
7 *rower is still in possession of the vessel or*
8 *facility encumbered by the security interest*
9 *only if the person—*

10 *“(I) exercises decisionmaking con-*
11 *trol over the environmental compliance*
12 *of a borrower, such that the person has*
13 *undertaken responsibility for the haz-*
14 *ardous substance handling or disposal*
15 *practices of the borrower; or*

16 *“(II) exercises control at a level*
17 *comparable to that of a manager of the*
18 *enterprise of the borrower, such that*
19 *the person has assumed or manifested*
20 *responsibility for the overall manage-*
21 *ment of the enterprise encompassing*
22 *day-to-day decisionmaking with re-*
23 *spect to environmental compliance, or*
24 *with respect to substantially all of the*
25 *operational aspects (as distinguished*

1 *from financial or administrative as-*
2 *pects) of the enterprise, other than en-*
3 *vironmental compliance;*

4 “(iii) the term ‘participate in manage-

5 *ment’ does not include conducting an act or*
6 *failing to act prior to the time that a secu-*
7 *rity interest is created in a vessel or facil-*
8 *ity; and*

9 “(iv) the term ‘participate in manage-

10 *ment’ does not include—*

11 “(I) holding such a security inter-

12 *est or abandoning or releasing such a*
13 *security interest;*

14 “(II) including in the terms of an

15 *extension of credit, or in a contract or*
16 *security agreement relating to the ex-*
17 *tension, a covenant, warranty, or other*
18 *term or condition that relates to envi-*
19 *ronmental compliance;*

20 “(III) monitoring or enforcing the

21 *terms and conditions of the extension*
22 *of credit or security interest;*

23 “(IV) monitoring or undertaking

24 *1 or more inspections of the vessel or*
25 *facility;*

1 “(V) requiring or conducting re-
2 sponse action or other lawful means of
3 addressing the release or threatened re-
4 lease of a hazardous substance in con-
5 nection with the vessel or facility prior
6 to, during, or on the expiration of the
7 term of the extension of credit;

8 “(VI) providing financial or other
9 advice or counseling in an effort to
10 mitigate, prevent, or cure default or
11 diminution in the value of the vessel or
12 facility;

13 “(VII) restructuring, renegotiat-
14 ing, or otherwise agreeing to alter the
15 terms and conditions of the extension
16 of credit or security interest, exercising
17 forbearance; or

18 “(VIII) exercising other remedies
19 that may be available under applicable
20 law for the breach of a term or condi-
21 tion of the extension of credit or secu-
22 rity agreement;

23 if the actions do not rise to the level of par-
24 ticipating in management, as defined in
25 clauses (i) and (ii).

1 “(H) *OTHER TERMS.*—As used in subpara-
2 graphs (E) through (G), and this subparagraph:

3 “(i) *EXTENSION OF CREDIT.*—The term
4 ‘extension of credit’ includes a lease finance
5 transaction—

6 “(I) in which the lessor does not
7 initially select the leased vessel or facil-
8 ity and does not during the lease term
9 control the daily operations or mainte-
10 nance of the vessel or facility; or

11 “(II) that conforms with regula-
12 tions issued by the appropriate Federal
13 banking agency or the appropriate
14 State bank supervisor (as those terms
15 are defined in section 3 of the Federal
16 Deposit Insurance Act (12 U.S.C.
17 1813)) or with regulations issued by
18 the National Credit Union Adminis-
19 tration Board, as appropriate.

20 “(ii) *FINANCIAL OR ADMINISTRATIVE*
21 *ASPECT.*—The term ‘financial or adminis-
22 trative aspect’ includes a function such as a
23 function of a credit manager, accounts pay-
24 able officer, accounts receivable officer, per-

1 *sonnel manager, comptroller, or chief finan-*
2 *cial officer, or a similar function.*

3 “(iii) *FORECLOSURE; FORECLOSE.—*
4 *The terms ‘foreclosure’ and ‘foreclose’ mean,*
5 *respectively, acquiring, and to acquire, a*
6 *vessel or facility through—*

7 “(I) *purchase at sale under a*
8 *judgment or decree, a power of sale, a*
9 *nonjudicial foreclosure sale, or from a*
10 *trustee, deed in lieu of foreclosure, or*
11 *similar conveyance, or through repos-*
12 *session, if the vessel or facility was se-*
13 *curity for an extension of credit pre-*
14 *viously contracted;*

15 “(II) *conveyance pursuant to an*
16 *extension of credit previously con-*
17 *tracted, including the termination of a*
18 *lease agreement; or*

19 “(III) *any other formal or infor-*
20 *mal manner by which the person ac-*
21 *quires, for subsequent disposition, pos-*
22 *session of collateral in order to protect*
23 *the security interest of the person.*

24 “(iv) *HAZARDOUS SUBSTANCE.—The*
25 *term ‘hazardous substance’ has the same*

1 *meaning as in section 45(d)(2) of the Fed-*
2 *eral Deposit Insurance Act.*

3 “(v) *OPERATIONAL ASPECT.*—*The term*
4 *‘operational aspect’ includes a function such*
5 *as a function of a facility or plant man-*
6 *ager, operations manager, chief operating*
7 *officer, or chief executive officer.*

8 “(vi) *RELEASE.*—*The term ‘release’*
9 *has the same meaning as in section 45(d)(3)*
10 *of the Federal Deposit Insurance Act.*

11 “(vii) *SECURITY INTEREST.*—*The term*
12 *‘security interest’ includes a right under a*
13 *mortgage, deed of trust, assignment, judg-*
14 *ment lien, pledge, security agreement, fac-*
15 *toring agreement, or lease, or any other*
16 *right accruing to a person to secure the re-*
17 *payment of money, the performance of a*
18 *duty, or some other obligation.*

19 “(viii) *VESSEL OR FACILITY.*—*The*
20 *term ‘vessel or facility’ includes an under-*
21 *ground storage tank as defined in section*
22 *9001(1) of the Solid Waste Disposal Act (42*
23 *U.S.C. 6991(1)).”*

1 **SEC. 504. SOLID WASTE DISPOSAL ACT AMENDMENTS.**

2 (a) *DEFINITION OF OWNER AND OPERATOR.*—Section
3 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is
4 amended by adding at the end the following:

5 “(9) *OWNER AND OPERATOR.*—The terms ‘owner’
6 and ‘operator’ do not include any person excluded
7 from the definition of an ‘owner or operator’ under
8 subparagraphs (E) through (H) of section 101(20) of
9 the Comprehensive Environmental Response, Com-
10 pensation, and Liability Act of 1980 (42 U.S.C.
11 9601(20)).”.

12 (b) *LENDER AND FIDUCIARY LIABILITY.*—Subtitle I of
13 the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is
14 amended by adding at the end the following:

15 **“SEC. 9011. LENDER AND FIDUCIARY LIABILITY.**

16 “This subtitle shall be subject to the limitations on li-
17 ability in sections 127 and 128 of the Comprehensive Envi-
18 ronmental Response, Compensation, and Liability Act of
19 1980.”.

20 **SEC. 505. EFFECTIVE DATE.**

21 The amendments made by this title shall be applicable
22 with respect to any claim that has not been finally adju-
23 dicated as of the date of enactment of this Act.

**TITLE VI—STUDIES AND
REPORTS; MISCELLANEOUS**

SEC. 601. ELECTRONIC FUND TRANSFER ACT CLARIFICATION.

(a) *DEFINITION OF ACCEPTED CARD OR OTHER MEANS OF ACCESS.*—Section 903(1) of the *Electronic Fund Transfer Act* (15 U.S.C. 1693a(1)) is amended—

(1) by striking “access’ means a card” and inserting “access’—

“(A) means a card”;

(2) by adding “and” at the end; and

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

“(B) does not include a card or device that a person may use to pay for transactions through use of value stored on, or assigned to, the card or device itself, except for a transaction in which such card or device is actually used to access an account to effect such transaction;”.

(b) *DEFINITION OF ACCOUNT.*—Section 903(2) of the *Electronic Fund Transfer Act* (15 U.S.C. 1693a(2)) is amended—

(1) by striking “account’ means” and inserting “account’—

“(A) means”;

1 (2) by adding “and” at the end; and

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

4 “(B) does not include any value that is
5 stored on, or assigned to, a card or device that
6 enables a person to pay for transactions through
7 the use of that stored value;”.

8 **SEC. 602. TREATMENT OF CLAIMS ARISING FROM BREACH**
9 **OF POST-APPOINTMENT AGREEMENTS.**

10 Section 13(e) of the Federal Deposit Insurance Act (12
11 U.S.C. 1823(e)) is amended by adding at the end the follow-
12 ing new paragraph:

13 “(3) *TREATMENT OF CERTAIN CLAIMS AS ADMIN-*
14 *ISTRATIVE EXPENSES.—*

15 “(A) *IN GENERAL.—Notwithstanding any*
16 *other provision of this subsection or any other*
17 *provision of law, in an action against a Federal*
18 *banking agency arising from a claim that the*
19 *agency breached an agreement entered into after*
20 *the date of appointment of the agency as con-*
21 *servator or receiver of an insured depository in-*
22 *stitution, any final judgment for monetary dam-*
23 *ages entered against the agency shall be consid-*
24 *ered to be an administrative expense of the con-*
25 *servator or receiver.*

1 “(B) *APPLICATION.*—Subparagraph (A)
 2 shall apply whether or not the subject Federal
 3 banking agency considers the monetary judgment
 4 referred to in subparagraph (A) to be an obliga-
 5 tion that is necessary or appropriate to the
 6 smooth and orderly disposition of the assets of
 7 the insured depository institution under
 8 conservatorship or receivership.”.

9 **SEC. 603. FICTITIOUS FINANCIAL INSTRUMENTS.**

10 (a) *INCREASED PENALTIES FOR COUNTERFEITING*
 11 *VIOLATIONS.*—Sections 474 and 474A of title 18, United
 12 States Code, are each amended by striking “class C felony”
 13 each place that term appears, and inserting “class B fel-
 14 ony”.

15 (b) *CRIMINAL PENALTY FOR PRODUCTION, SALE,*
 16 *TRANSPORTATION, OR POSSESSION OF FICTITIOUS FINAN-*
 17 *CIAL INSTRUMENTS PURPORTING TO BE THOSE OF THE*
 18 *STATES, OF POLITICAL SUBDIVISIONS, AND OF PRIVATE*
 19 *ORGANIZATIONS.*—

20 (1) *IN GENERAL.*—Chapter 27 of title 18, United
 21 States Code, is amended by inserting after section 513
 22 the following new section:

23 **“§ 514. Fictitious obligations**

24 “(a) *IN GENERAL.*—Whoever, with the intent to de-
 25 fraud—

1 “(1) *draws, prints, processes, produces, publishes,*
2 *or otherwise makes, or attempts or causes the same,*
3 *within the United States;*

4 “(2) *passes, utters, presents, offers, brokers, is-*
5 *sues, sells, or attempts or causes the same, or with like*
6 *intent possesses, within the United States; or*

7 “(3) *utilizes interstate or foreign commerce, in-*
8 *cluding the use of the mails or wire, radio, or other*
9 *electronic communication, to transmit, transport,*
10 *ship, move, transfer, or attempts or causes the same,*
11 *to, from, or through the United States;*

12 *any false or fictitious instrument, document, or other item*
13 *appearing, representing, purporting, or contriving through*
14 *scheme or artifice, to be an actual security or other finan-*
15 *cial instrument issued under the authority of the United*
16 *States, a foreign government, a State or other political sub-*
17 *division of the United States, or an organization, shall be*
18 *guilty of a class B felony.*

19 “(b) *INCORPORATED DEFINITIONS.—For purposes of*
20 *this section, any term used in this section that is defined*
21 *in section 513(c) shall have the same meaning as in section*
22 *513(c).*

23 “(c) *INVESTIGATIVE AUTHORITY.—The United States*
24 *Secret Service, in addition to any other agency having such*

1 *authority, shall have authority to investigate offenses under*
 2 *this section.”.*

3 (2) *TECHNICAL AMENDMENT.—The analysis for*
 4 *chapter 27 of title 18, United States Code, is amended*
 5 *by inserting after the item relating to section 513 the*
 6 *following:*

“514. Fictitious obligations.”.

7 **SEC. 604. AMENDMENTS TO THE TRUTH IN SAVINGS ACT.**

8 (a) *REPEALS.—Sections 268 and 271 of the Truth in*
 9 *Savings Act (12 U.S.C. 4307, 4310) are repealed.*

10 (b) *ON-PREMISES DISPLAYS.—Section 263(c) of the*
 11 *Truth in Savings Act (12 U.S.C. 4302(c)) is amended—*

12 (1) *by striking paragraph (2);*

13 (2) *by striking “(1) IN GENERAL.—”; and*

14 (3) *by redesignating subparagraphs (A) and (B)*
 15 *as paragraphs (1) and (2), respectively, and indent-*
 16 *ing appropriately.*

17 (c) *DEPOSITORY INSTITUTION DEFINITION.—Section*
 18 *274(6) of the Truth in Savings Act (12 U.S.C. 4313(6))*
 19 *is amended by inserting before the period “, but does not*
 20 *include any nonautomated credit union that was not re-*
 21 *quired to comply with the requirements of this title as of*
 22 *the date of enactment of the Economic Growth and Regu-*
 23 *latory Paperwork Reduction Act of 1995, pursuant to the*
 24 *determination of the National Credit Union Administra-*
 25 *tion Board”.*

1 (d) *TIME DEPOSITS.*—Section 266(a)(3) of the Truth
2 *in Savings Act* (12 U.S.C. 4305(a)(3)) is amended by in-
3 *serting “has a maturity of more than 30 days” after “de-*
4 *posit which”.*

5 **SEC. 605. CONSUMER LEASING ACT AMENDMENTS.**

6 (a) *CONGRESSIONAL FINDINGS AND DECLARATION OF*
7 *PURPOSES.*—

8 (1) *FINDINGS.*—*The Congress finds that—*

9 (A) *competition among the various finan-*
10 *cial institutions and other firms engaged in the*
11 *business of consumer leasing is greatest when*
12 *there is informed use of leasing;*

13 (B) *the informed use of leasing results from*
14 *an awareness of the cost of leasing by consumers;*
15 *and*

16 (C) *there has been a continued trend toward*
17 *leasing automobiles and other durable goods for*
18 *consumer use as an alternative to installment*
19 *credit sales and that leasing product advances*
20 *have occurred such that lessors have been unable*
21 *to provide consistent industry-wide disclosures to*
22 *fully account for the competitive progress that*
23 *has occurred.*

24 (2) *PURPOSES.*—*The purposes of this section*
25 *are—*

1 (A) to assure a simple, meaningful disclo-
2 sure of leasing terms so that the consumer will
3 be able to compare more readily the various leas-
4 ing terms available to the consumer and avoid
5 the uninformed use of leasing, and to protect the
6 consumer against inaccurate and unfair leasing
7 practices;

8 (B) to provide for adequate cost disclosures
9 that reflect the marketplace without impairing
10 competition and the development of new leasing
11 products; and

12 (C) to provide the Board with the regu-
13 latory authority to assure a simplified, meaning-
14 ful definition and disclosure of the terms of cer-
15 tain leases of personal property for personal,
16 family, or household purposes so as to—

17 (i) enable the lessee to compare more
18 readily the various lease terms available to
19 the lessee;

20 (ii) enable comparison of lease terms
21 with credit terms, as appropriate; and

22 (iii) assure meaningful and accurate
23 disclosures of lease terms in advertisements.

24 (b) REGULATIONS.—

1 (1) *IN GENERAL.*—Chapter 5 of the Truth in
2 *Lending Act (15 U.S.C. 1667 et seq.)* is amended by
3 *adding at the end the following new section:*

4 ***“SEC. 187. REGULATIONS.***

5 ***“(a) REGULATIONS AUTHORIZED.—***

6 ***“(1) IN GENERAL.—****The Board shall promulgate*
7 *regulations to update and clarify the requirements*
8 *and definitions applicable to lease disclosures and*
9 *contracts, and any other issues specifically related to*
10 *consumer leasing, to the extent that the Board deter-*
11 *mines such action to be necessary—*

12 ***“(A) to carry out this chapter;***

13 ***“(B) to prevent any circumvention of this***
14 ***chapter; or***

15 ***“(C) to facilitate compliance with the re-***
16 ***quirements of the chapter.***

17 ***“(2) CLASSIFICATIONS, ADJUSTMENTS.—****Any*
18 *regulations promulgated under paragraph (1) may*
19 *contain classifications and differentiations, and may*
20 *provide for adjustments and exceptions for any class*
21 *of transactions, as the Board considers appropriate.*

22 ***“(b) MODEL DISCLOSURE.—***

23 ***“(1) PUBLICATION.—****The Board shall establish*
24 *and publish model disclosure forms to facilitate com-*
25 *pliance with the disclosure requirements of this chap-*

1 *ter and to aid the consumer in understanding the*
2 *transaction to which the subject disclosure form re-*
3 *lates.*

4 *“(2) USE OF AUTOMATED EQUIPMENT.—In es-*
5 *tablishing model forms under this subsection, the*
6 *Board shall consider the use by lessors of data proc-*
7 *essing or similar automated equipment.*

8 *“(3) USE OPTIONAL.—A lessor may utilize a*
9 *model disclosure form established by the Board under*
10 *this subsection for purposes of compliance with this*
11 *chapter, at the discretion of the lessor.*

12 *“(4) EFFECT OF USE.—Any lessor who uses the*
13 *material aspects of any model disclosure form estab-*
14 *lished by the Board under this subsection shall be*
15 *deemed to be in compliance with the disclosure re-*
16 *quirements to which the form relates.”.*

17 *(2) EFFECTIVE DATE.—*

18 *(A) IN GENERAL.—Any regulation of the*
19 *Board, or any amendment or interpretation of*
20 *any regulation of the Board issued pursuant to*
21 *section 187 of the Truth in Lending Act (as*
22 *added by paragraph (1) of this subsection), shall*
23 *become effective on the first October 1 that fol-*
24 *lows the date of promulgation of that regulation,*

1 amendment, or interpretation by not less than 6
2 months.

3 (B) *LONGER PERIOD.*—The Board may, at
4 the discretion of the Board, extend the time pe-
5 riod referred to in subparagraph (A) in accord-
6 ance with subparagraph (C), to permit lessors to
7 adjust their disclosure forms to accommodate the
8 requirements of section 127 of the Truth in
9 Lending Act (as added by paragraph (1) of this
10 subsection).

11 (C) *SHORTER PERIOD.*—The Board may
12 shorten the time period referred to in subpara-
13 graph (A), if the Board makes a specific finding
14 that such action is necessary to comply with the
15 findings of a court or to prevent an unfair or de-
16 ceptive practice.

17 (D) *COMPLIANCE BEFORE EFFECTIVE*
18 *DATE.*—Any lessor may comply with any means
19 of disclosure provided for in section 127 of the
20 Truth in Lending Act (as added by paragraph
21 (1) of this subsection) before the effective date of
22 such requirement.

23 (E) *DEFINITIONS.*—For purposes of this
24 subsection, the term “lessor” has the same mean-

1 *ing as in section 181 of the Truth in Lending*
 2 *Act.*

3 (3) *CLERICAL AMENDMENT.*—*The table of sec-*
 4 *tions for chapter 5 of title I of the Truth in Lending*
 5 *Act (15 U.S.C. 1601 et seq.) is amended by inserting*
 6 *after the item relating to section 186 the following*
 7 *new item:*

“187. Regulations.”.

8 (c) *CONSUMER LEASE ADVERTISING.*—*Section 184 of*
 9 *the Truth in Lending Act (15 U.S.C. 1667c) is amended*
 10 *to read as follows:*

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

12 “(a) *IN GENERAL.*—*If an advertisement for a*
 13 *consumer lease includes a statement of the amount of any*
 14 *payment or a statement that any or no initial payment*
 15 *is required, the advertisement shall clearly and conspicu-*
 16 *ously state, as applicable—*

17 “(1) *the transaction advertised is a lease;*

18 “(2) *the total amount of any initial payments*
 19 *required on or before consummation of the lease or de-*
 20 *livery of the property, whichever is later;*

21 “(3) *that a security deposit is required;*

22 “(4) *the number, amount, and timing of sched-*
 23 *uled payments; and*

24 “(5) *with respect to a lease in which the liability*
 25 *of the consumer at the end of the lease term is based*

1 on the anticipated residual value of the property, that
 2 an extra charge may be imposed at the end of the
 3 lease term.

4 “(b) *ADVERTISING MEDIUM NOT LIABLE.*—No owner
 5 or employee of any entity that serves as a medium in which
 6 an advertisement appears or through which an advertise-
 7 ment is disseminated, shall be liable under this section.”.

8 **SEC. 606. STUDY OF CORPORATE CREDIT UNIONS.**

9 (a) *DEFINITIONS.*—For purposes of this section, the
 10 following definitions shall apply:

11 (1) *ADMINISTRATION.*—The term “Administra-
 12 tion” means the National Credit Union Administra-
 13 tion.

14 (2) *BOARD.*—The term “Board” means the Na-
 15 tional Credit Union Administration Board.

16 (3) *CORPORATE CREDIT UNION.*—The term “cor-
 17 porate credit union” has the meaning given such term
 18 by rule or regulation of the Board.

19 (4) *FUND.*—The term “Fund” means the Na-
 20 tional Credit Union Share Insurance Fund estab-
 21 lished under section 203 of the Federal Credit Union
 22 Act.

23 (5) *SECRETARY.*—The term “Secretary” means
 24 the Secretary of the Treasury.

25 (b) *STUDY.*—

1 (1) *IN GENERAL.*—*The Secretary, in consultation*
2 *with the Board, the Corporation, the Comptroller of*
3 *the Currency, and the Administration, shall conduct*
4 *a study and evaluation of—*

5 (A) *the oversight and supervisory practices*
6 *of the Administration concerning the Fund, in-*
7 *cluding the treatment of amounts deposited in*
8 *the Fund pursuant to section 202(c) of the Fed-*
9 *eral Credit Union Act, including analysis of—*

10 (i) *whether those amounts should be—*

11 (I) *refundable; or*

12 (II) *treated as expenses; and*

13 (ii) *the use of those amounts in deter-*
14 *mining equity capital ratios;*

15 (B) *the potential for, and potential effects*
16 *of, administration of the Fund by an entity*
17 *other than the Administration;*

18 (C) *the 10 largest corporate credit unions in*
19 *the United States, conducted in cooperation with*
20 *appropriate employees of other Federal agencies*
21 *with expertise in the examination of federally in-*
22 *sured financial institutions, including—*

23 (i) *the investment practices of those*
24 *credit unions; and*

1 (ii) the financial stability, financial
2 operations, and financial controls of those
3 credit unions;

4 (D) the regulations of the Administration;
5 and

6 (E) the supervision of corporate credit
7 unions by the Administration.

8 (c) *REPORT*.—Not later than 12 months after the date
9 of enactment of this Act, the Secretary shall submit to the
10 appropriate committees of the Congress, a report that in-
11 cludes the results of the study and evaluation conducted
12 under subsection (b), together with any recommendations
13 that the Secretary considers to be appropriate.

14 **SEC. 607. REPORT ON THE RECONCILIATION OF DIF-**
15 **FERENCES BETWEEN REGULATORY AC-**
16 **COUNTING PRINCIPLES AND GENERALLY AC-**
17 **CEPTED ACCOUNTING PRINCIPLES.**

18 Not later than 180 days after the date of enactment
19 of this Act, each appropriate Federal banking agency shall
20 submit to the Committee on Banking and Financial Serv-
21 ices of the House of Representatives and the Committee on
22 Banking, Housing, and Urban Affairs of the Senate, a re-
23 port describing both the actions that have been taken by
24 the agency and the actions that will be taken by the agency
25 to eliminate or conform inconsistent or duplicative account-

1 *ing and reporting requirements applicable to reports or*
 2 *statements filed with any such agency by insured depository*
 3 *institutions, as required by section 121 of the Federal De-*
 4 *posit Insurance Corporation Improvement Act of 1991.*

5 **SEC. 608. STATE-BY-STATE AND METROPOLITAN AREA-BY-**
 6 **METROPOLITAN AREA STUDY OF BANK FEES.**

7 *Section 1002(b)(2)(A) of the Financial Institutions*
 8 *Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C.*
 9 *1811 note) is amended to read as follows:*

10 *“(A) a description of any discernible trend,*
 11 *in the Nation as a whole, in each of the 50*
 12 *States, and in each consolidated metropolitan*
 13 *statistical area or primary metropolitan statis-*
 14 *tical area (as defined by the Director of the Of-*
 15 *fice of Management and Budget), in the cost and*
 16 *availability of retail banking services (including*
 17 *fees imposed for providing such services), that*
 18 *delineates differences between insured depository*
 19 *institutions on the basis of both the size of the*
 20 *institution and any engagement of the institu-*
 21 *tion in multistate activity; and”.*

22 **SEC. 609. PROSPECTIVE APPLICATION OF GOLD CLAUSES**
 23 **IN CONTRACTS.**

24 *Section 5118(d)(2) of title 31, United States Code, is*
 25 *amended by adding at the end the following: “This para-*

1 *graph shall apply to any obligation issued on or before Oc-*
2 *tober 27, 1977, notwithstanding any assignment or nova-*
3 *tion of such obligation after October 27, 1977, unless all*
4 *parties to the assignment or novation specifically agree to*
5 *include a gold clause in the new agreement.”.*

S 650 RS—2

S 650 RS—3

S 650 RS—4

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S 650 RS—11

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S 650 RS—22