

Public Law 96-221
96th Congress

An Act

Mar. 31, 1980

[H.R. 4986]

To facilitate the implementation of monetary policy, to provide for the gradual elimination of all limitations on the rates of interest which are payable on deposits and accounts, and to authorize interest-bearing transaction accounts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Depository
Institutions
Deregulation
and Monetary
Control Act of
1980.
12 USC 226 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Depository Institutions Deregulation and Monetary Control Act of 1980".

Monetary
Control Act of
1980.

TITLE I—MONETARY CONTROL ACT OF 1980

SHORT TITLE

12 USC 226 note.

SEC. 101. This title may be cited as the "Monetary Control Act of 1980".

REPORTING REQUIREMENTS

SEC. 102. Section 11(a) of the Federal Reserve Act (12 U.S.C. 248(a)) is amended—

Reports of assets
and liabilities.

(1) by inserting "(1)" after "(a)"; and

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

"(2) To require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary and credit aggregates. Such reports shall be made (A) directly to the Board in the case of member banks and in the case of other depository institutions whose reserve requirements under section 19 of this Act exceed zero, and (B) for all other reports to the Board through the (i) Federal Deposit Insurance Corporation in the case of insured State nonmember banks, savings banks, and mutual savings banks, (ii) National Credit Union Administration Board in the case of insured credit unions, (iii) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation or which is a member as defined in section 2 of the Federal Home Loan Bank Act, and (iv) such State officer or agency as the Board may designate in the case of any other type of bank, savings and loan association, or credit union. The Board shall endeavor to avoid the imposition of unnecessary burdens on reporting institutions and the duplication of other reporting requirements. Except as otherwise required by law, any data provided to any department, agency, or instrumentality of the United States pursuant to other reporting requirements shall be made available to the Board. The Board may classify depository

12 USC 461.

12 USC 1422.

institutions for the purposes of this paragraph and may impose different requirements on each such class.”.

RESERVE REQUIREMENTS

SEC. 103. Section 19(b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended to read as follows:

“(b) RESERVE REQUIREMENTS.—

“(1) DEFINITIONS.—The following definitions and rules apply to this subsection, subsection (c), section 11A, the first paragraph of section 13, and the second, thirteenth, and fourteenth paragraphs of section 16:

Post, p. 140.

Post, p. 139.

Post, p. 140.

“(A) The term ‘depository institution’ means—

“(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

12 USC 1813.

12 USC 1815.

“(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

“(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act or any bank which is eligible to make application to become an insured bank under section 5 of such Act;

“(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act or any credit union which is eligible to make application to become an insured credit union pursuant to section 201 of such Act;

12 USC 1752.

12 USC 1781.

“(v) any member as defined in section 2 of the Federal Home Loan Bank Act;

12 USC 1422.

“(vi) any insured institution as defined in section 401 of the National Housing Act or any institution which is eligible to make application to become an insured institution under section 403 of such Act; and

12 USC 1724.

12 USC 1726.

“(vii) for the purpose of section 13 and the fourteenth paragraph of section 16, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (i) through (vi).

Post, p. 139.

Post, p. 140.

“(B) The term ‘bank’ means any insured or noninsured bank, as defined in section 3 of the Federal Deposit Insurance Act, other than a mutual savings bank or a savings bank as defined in such section.

12 USC 1813.

“(C) The term ‘transaction account’ means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

“(D) The term ‘nonpersonal time deposits’ means a transferable time deposit or account or a time deposit or account representing funds deposited to the credit of, or in which any beneficial interest is held by, a depositor who is not a natural person.

Transaction
account,
determination
by regulation.

“(E) In order to prevent evasions of the reserve requirements imposed by this subsection, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board, the Board of Governors of the Federal Reserve System is authorized to determine, by regulation or order, that an account or deposit is a transaction account if such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.

“(2) RESERVE REQUIREMENTS.—(A) Each depository institution shall maintain reserves against its transaction accounts as the Board may prescribe by regulation solely for the purpose of implementing monetary policy—

“(i) in the ratio of 3 per centum for that portion of its total transaction accounts of \$25,000,000 or less, subject to subparagraph (C); and

“(ii) in the ratio of 12 per centum, or in such other ratio as the Board may prescribe not greater than 14 per centum and not less than 8 per centum, for that portion of its total transaction accounts in excess of \$25,000,000, subject to subparagraph (C).

“(B) Each depository institution shall maintain reserves against its nonpersonal time deposits in the ratio of 3 per centum, or in such other ratio not greater than 9 per centum and not less than zero per centum as the Board may prescribe by regulation solely for the purpose of implementing monetary policy.

Regulation.

“(C) Beginning in 1981, not later than December 31 of each year the Board shall issue a regulation increasing for the next succeeding calendar year the dollar amount which is contained in subparagraph (A) or which was last determined pursuant to this subparagraph for the purpose of such subparagraph, by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage increase in the total transaction accounts of all depository institutions. The increase in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the preceding calendar year from the amount of such accounts on June 30 of the calendar year involved. In the case of any such 12-month period in which there has been a decrease in the total transaction accounts of all depository institutions, the Board shall issue such a regulation decreasing for the next succeeding calendar year such dollar amount by an amount obtained by multiplying such dollar amount by 80 per centum of the percentage decrease in the total transaction accounts of all depository institutions. The decrease in such transaction accounts shall be determined by subtracting the amount of such accounts on June 30 of the calendar year involved from the amount of such accounts on June 30 of the previous calendar year.

Uniform
application.

“(D) Any reserve requirement imposed under this subsection shall be uniformly applied to all transaction accounts at all depository institutions. Reserve requirements imposed under this subsection shall be uniformly applied to nonpersonal time deposits at all depository institutions, except that such requirements may vary by the maturity of such deposits.

Waiver.

“(3) WAIVER OF RATIO LIMITS IN EXTRAORDINARY CIRCUMSTANCES.—Upon a finding by at least 5 members of the Board

that extraordinary circumstances require such action, the Board, after consultation with the appropriate committees of the Congress, may impose, with respect to any liability of depository institutions, reserve requirements outside the limitations as to ratios and as to types of liabilities otherwise prescribed by paragraph (2) for a period not exceeding 180 days, and for further periods not exceeding 180 days each by affirmative action by at least 5 members of the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this paragraph and the reasons for such exercise of authority.

Report to
Congress.

"(4) SUPPLEMENTAL RESERVES.—(A) The Board may, upon the affirmative vote of not less than 5 members, impose a supplemental reserve requirement on every depository institution of not more than 4 per centum of its total transaction accounts. Such supplemental reserve requirement may be imposed only if—

"(i) the sole purpose of such requirement is to increase the amount of reserves maintained to a level essential for the conduct of monetary policy;

"(ii) such requirement is not imposed for the purpose of reducing the cost burdens resulting from the imposition of the reserve requirements pursuant to paragraph (2);

"(iii) such requirement is not imposed for the purpose of increasing the amount of balances needed for clearing purposes; and

"(iv) on the date on which the supplemental reserve requirement is imposed, the total amount of reserves required pursuant to paragraph (2) is not less than the amount of reserves that would be required if the initial ratios specified in paragraph (2) were in effect.

"(B) The Board may require the supplemental reserve authorized under subparagraph (A) only after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration Board. The Board shall promptly transmit to the Congress a report with respect to any exercise of its authority to require supplemental reserves under subparagraph (A) and such report shall state the basis for the determination to exercise such authority.

Report to
Congress.

"(C) The supplemental reserve authorized under subparagraph (A) shall be maintained by the Federal Reserve banks in an Earnings Participation Account. Except as provided in subsection (c)(1)(A)(ii), such Earnings Participation Account shall receive earnings to be paid by the Federal Reserve banks during each calendar quarter at a rate not more than the rate earned on the securities portfolio of the Federal Reserve System during the previous calendar quarter. The Board may prescribe rules and regulations concerning the payment of earnings on Earnings Participation Accounts by Federal Reserve banks under this paragraph.

Earnings
Participation
Account.

"(D) If a supplemental reserve under subparagraph (A) has been required of depository institutions for a period of one year or more, the Board shall review and determine the need for continued maintenance of supplemental reserves and shall transmit annual reports to the Congress regarding the need, if any, for continuing the supplemental reserve.

Reports to
Congress.

"(E) Any supplemental reserve imposed under subparagraph (A) shall terminate at the close of the first 90-day period after

Termination.

such requirement is imposed during which the average amount of reserves required under paragraph (2) are less than the amount of reserves which would be required during such period if the initial ratios specified in paragraph (2) were in effect.

"(5) RESERVES RELATED TO FOREIGN OBLIGATIONS OR ASSETS.—Foreign branches, subsidiaries, and international banking facilities of nonmember depository institutions shall maintain reserves to the same extent required by the Board of foreign branches, subsidiaries, and international banking facilities of member banks. In addition to any reserves otherwise required to be maintained pursuant to this subsection, any depository institution shall maintain reserves in such ratios as the Board may prescribe against—

"(A) net balances owed by domestic offices of such depository institution in the United States to its directly related foreign offices and to foreign offices of nonrelated depository institutions;

"(B) loans to United States residents made by overseas offices of such depository institution if such depository institution has one or more offices in the United States; and

"(C) assets (including participations) held by foreign offices of a depository institution in the United States which were acquired from its domestic offices.

"(6) EXEMPTION FOR CERTAIN DEPOSITS.—The requirements imposed under paragraph (2) shall not apply to deposits payable only outside the States of the United States and the District of Columbia, except that nothing in this subsection limits the authority of the Board to impose conditions and requirements on member banks under section 25 of this Act or the authority of the Board under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

"(7) DISCOUNT AND BORROWING.—Any depository institution in which transaction accounts or nonpersonal time deposits are held shall be entitled to the same discount and borrowing privileges as member banks. In the administration of discount and borrowing privileges, the Board and the Federal Reserve banks shall take into consideration the special needs of savings and other depository institutions for access to discount and borrowing facilities consistent with their long-term asset portfolios and the sensitivity of such institutions to trends in the national money markets.

"(8) TRANSITIONAL ADJUSTMENTS.—

"(A) Any depository institution required to maintain reserves under this subsection which was engaged in business on July 1, 1979, but was not a member of the Federal Reserve System on or after that date, shall maintain reserves against its deposits during the first twelve-month period following the effective date of this paragraph in amounts equal to one-eighth of those otherwise required by this subsection, during the second such twelve-month period in amounts equal to one-fourth of those otherwise required, during the third such twelve-month period in amounts equal to three-eighths of those otherwise required, during the fourth twelve-month period in amounts equal to one-half of those otherwise required, and during the fifth twelve-month period in amounts equal to five-eighths of those otherwise required, during the sixth twelve-month period in amounts equal to three-fourths of those otherwise required, and during the

12 USC
601-604a.

Reserves.

seventh twelve-month period in amounts equal to seven-eighths of those otherwise required. This subparagraph does not apply to any category of deposits or accounts which are first authorized pursuant to Federal law in any State after April 1, 1980.

“(B) With respect to any bank which was a member of the Federal Reserve System during the entire period beginning on July 1, 1979, and ending on the effective date of the Monetary Control Act of 1980, the amount of required reserves imposed pursuant to this subsection on and after the effective date of such Act that exceeds the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied may, at the discretion of the Board and in accordance with such rules and regulations as it may adopt, be reduced by 75 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 25 per centum during the third year.

Ante, p. 132.

“(C)(i) With respect to any bank which is a member of the Federal Reserve System on the effective date of the Monetary Control Act of 1980, the amount of reserves which would have been required of such bank if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied that exceeds the amount of required reserves imposed pursuant to this subsection shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

“(ii) If a bank becomes a member bank during the four-year period beginning on the effective date of the Monetary Control Act of 1980, and if the amount of reserves which would have been required of such bank, determined as if the reserve ratios in effect during the reserve computation period immediately preceding such effective date were applied, and as if such bank had been a member during such period, exceeds the amount of reserves required pursuant to this subsection, the amount of reserves required to be maintained by such bank beginning on the date on which such bank becomes a member of the Federal Reserve System shall be the amount of reserves which would have been required of such bank if it had been a member on the day before such effective date, except that the amount of such excess shall, in accordance with such rules and regulations as the Board may adopt, be reduced by 25 per centum during the first year which begins after such effective date, 50 per centum during the second year, and 75 per centum during the third year.

“(D)(i) Any bank which was a member bank on July 1, 1979, and which withdraws from membership in the Federal Reserve System during the period beginning on July 1, 1979, and ending on the day before the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980, shall maintain reserves beginning on such date of enactment in an amount equal to the amount of reserves it would have been required to maintain if it had been a member bank on such date of enactment. After such date of

Ante, p. 132.

Ante, p. 132.

enactment, any such bank shall maintain reserves in the same amounts as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

“(ii) Any bank which withdraws from membership in the Federal Reserve System on or after the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980 shall maintain reserves in the same amount as member banks are required to maintain under this subsection, pursuant to subparagraphs (B) and (C)(i).

“(E) This subparagraph applies to any depository institution which was engaged in business on August 1, 1978, as a depository institution organized under the laws of a State, which was not a member of the Federal Reserve System on that date, and the principal office of which was outside the continental limits of the United States on that date and has remained outside the continental limits of the United States ever since. Such a depository institution shall not be required to maintain reserves against its deposits pursuant to this subsection until the first day of the sixth calendar year which begins after the effective date of the Monetary Control Act of 1980. Such a depository institution shall maintain reserves against its deposits during the sixth calendar year which begins after such effective date in an amount equal to one-eighth of that otherwise required by paragraph (2), during the seventh such year in an amount equal to one-fourth of that otherwise required, during the eighth such year in an amount equal to three-eighths of that otherwise required, during the ninth such year in an amount equal to one-half of that otherwise required, during the tenth such year in an amount equal to five-eighths of that otherwise required, during the eleventh such year in an amount equal to three-fourths of that otherwise required, and during the twelfth such year in an amount equal to seven-eighths of that otherwise required.

“(9) EXEMPTION.—This subsection shall not apply with respect to any financial institution which—

“(A) is organized solely to do business with other financial institutions;

“(B) is owned primarily by the financial institutions with which it does business; and

“(C) does not do business with the general public.

“(10) WAIVERS.—In individual cases, where a Federal supervisory authority waives a liquidity requirement, or waives the penalty for failing to satisfy a liquidity requirement, the Board shall waive the reserve requirement, or waive the penalty for failing to satisfy a reserve requirement, imposed pursuant to this subsection for the depository institution involved when requested by the Federal supervisory authority involved.”.

FORM OF RESERVES

SEC. 104. (a) Section 19(c) of the Federal Reserve Act (12 U.S.C. 461) is amended to read as follows:

“(c)(1) Reserves held by a depository institution to meet the requirements imposed pursuant to subsection (b) shall, subject to such rules and regulations as the Board shall prescribe, be in the form of—

“(A) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account, except that (i) the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves in the form of vault cash, except that any portion so permitted shall be identical for all depository institutions, and (ii) vault cash may be used to satisfy any supplemental reserve requirement imposed pursuant to subsection (b)(4), except that all such vault cash shall be excluded from any computation of earnings pursuant to subsection (b)(4)(C); and

Vault cash.

“(B) balances maintained by a depository institution which is not a member bank in a depository institution which maintains required reserve balances at a Federal Reserve bank, in a Federal Home Loan Bank, or in the National Credit Union Administration Central Liquidity Facility, if such depository institution, Federal Home Loan Bank, or National Credit Union Administration Central Liquidity Facility maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a depository institution from a second depository institution and used to satisfy the reserve requirement imposed on such second depository institution by this section shall not be subject to the reserve requirements of this section imposed on such first depository institution, and shall not be subject to assessments or reserves imposed on such first depository institution pursuant to section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817), section 404 of the National Housing Act (12 U.S.C. 1727), or section 202 of the Federal Credit Union Act (12 U.S.C. 1782).

“(2) The balances maintained to meet the reserve requirements of subsection (b) by a depository institution in a Federal Reserve bank or passed through a Federal Home Loan Bank or the National Credit Union Administration Central Liquidity Facility or another depository institution to a Federal Reserve bank may be used to satisfy liquidity requirements which may be imposed under other provisions of Federal or State law.”

Liquidity requirements.

(b) The first sentence of section 5A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)) is amended—

(1) by striking out “and” before “(D)”; and

(2) by inserting before the period at the end thereof the following: “; and (E) balances maintained in a Federal Reserve bank or passed through a Federal Home Loan Bank or another depository institution to a Federal Reserve bank pursuant to the Federal Reserve Act”.

12 USC 226.

MISCELLANEOUS AMENDMENTS

SEC. 105. (a) The first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342) is amended—

(1) by inserting “or other depository institutions” after “member banks”;

(2) by inserting “or other items” after “payable upon presentation” the first and third place it appears therein;

(3) by inserting “or other items” after “payable upon presentation within its district”;

(4) by inserting “or other depository institution” after “non-member bank or trust company” each place it appears therein;

(5) by striking out "sufficient to offset the items in transit held for its account by the Federal reserve bank" and inserting in lieu thereof "in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate"; and

(6) by inserting "or other depository institution" after "prohibiting a member or nonmember bank".

(b)(1) The second paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended—

12 USC 353-359,
348a.

(A) by inserting before the period at the end of the third sentence the following: ", or assets that Federal Reserve banks may purchase or hold under section 14 of this Act"; and

(B) by adding at the end thereof the following: "Collateral shall not be required for Federal Reserve notes which are held in the vaults of Federal Reserve banks."

(2) Section 14(b)(1) of the Federal Reserve Act (12 U.S.C. 355), as such section is in effect on the effective date of this title and as it will be in effect on June 1, 1981, is amended by inserting after "reclamation districts," the following: "and obligations of, or fully guaranteed as to principal and interest by, a foreign government or agency thereof."

(c) The thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 360) is amended—

(1) by striking out "member banks" each place it appears therein and inserting in lieu thereof "depository institutions";

(2) by striking out "member bank" each place it appears therein and inserting in lieu thereof "depository institution"; and

(3) by inserting after "checks" each place it appears therein, the following: "and other items, including negotiable orders of withdrawal and share drafts".

(d) The fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 248(o)) is amended by striking out "its member banks" and inserting in lieu thereof "depository institutions".

12 USC 347b.

(e) The first sentence of section 19(e) of the Federal Reserve Act (12 U.S.C. 463) is amended to read as follows: "No member bank shall keep on deposit with any depository institution which is not authorized to have access to Federal Reserve advances under section 10(b) of this Act a sum in excess of 10 per centum of its own paid-up capital and surplus."

(f) The last subsection of section 19 of the Federal Reserve Act (12 U.S.C. 505) is amended by striking out "(j)(1)" and inserting in lieu thereof "(l)(1)".

ABOLITION OF PENALTY RATE

12 USC 347b.

SEC. 106. Section 10(b) of the Federal Reserve Act (12 U.S.C. 374b) is amended by striking out the second sentence of the first paragraph.

PRICING OF SERVICES

SEC. 107. The Federal Reserve Act is amended by inserting after section 11 the following new section:

"PRICING OF SERVICES

12 USC 248a.
Ante, p. 132.

"SEC. 11A. (a) Not later than the first day of the sixth month after the date of enactment of the Monetary Control Act of 1980, the Board shall publish for public comment a set of pricing principles in

accordance with this section and a proposed schedule of fees based upon those principles for Federal Reserve bank services to depository institutions, and not later than the first day of the eighteenth month after the date of enactment of the Monetary Control Act of 1980, the Board shall begin to put into effect a schedule of fees for such services which is based on those principles.

Ante, p. 132.

“(b) The services which shall be covered by the schedule of fees under subsection (a) are—

- “(1) currency and coin services;
- “(2) check clearing and collection services;
- “(3) wire transfer services;
- “(4) automated clearinghouse services;
- “(5) settlement services;
- “(6) securities safekeeping services;
- “(7) Federal Reserve float; and

“(8) any new services which the Federal Reserve System offers, including but not limited to payment services to effectuate the electronic transfer of funds.

“(c) The schedule of fees prescribed pursuant to this section shall be based on the following principles:

“(1) All Federal Reserve bank services covered by the fee schedule shall be priced explicitly.

“(2) All Federal Reserve bank services covered by the fee schedule shall be available to nonmember depository institutions and such services shall be priced at the same fee schedule applicable to member banks, except that nonmembers shall be subject to any other terms, including a requirement of balances sufficient for clearing purposes, that the Board may determine are applicable to member banks.

“(3) Over the long run, fees shall be established on the basis of all direct and indirect costs actually incurred in providing the Federal Reserve services priced, including interest on items credited prior to actual collection, overhead, and an allocation of imputed costs which takes into account the taxes that would have been paid and the return on capital that would have been provided had the services been furnished by a private business firm, except that the pricing principles shall give due regard to competitive factors and the provision of an adequate level of such services nationwide.

“(4) Interest on items credited prior to collection shall be charged at the current rate applicable in the market for Federal funds.

“(d) The Board shall require reductions in the operating budgets of the Federal Reserve banks commensurate with any actual or projected decline in the volume of services to be provided by such banks. The full amount of any savings so realized shall be paid into the United States Treasury.”.

EFFECTIVE DATES

SEC. 108. This title shall take effect on the first day of the sixth month which begins after the date of the enactment of this title, except that the amendments regarding sections 19(b)(7) and 19(b)(8)(D) of the Federal Reserve Act shall take effect on the date of enactment of this title.

12 USC 248 note.

Ante, p. 133.

Depository
Institutions
Deregulation
Act of 1980.

12 USC 3501
note.

TITLE II—DEPOSITORY INSTITUTIONS DEREGULATION

SHORT TITLE

SEC. 201. This title may be cited as the "Depository Institutions Deregulation Act of 1980".

FINDINGS AND PURPOSE

12 USC 3501.

SEC. 202. (a) The Congress hereby finds that—

(1) limitations on the interest rates which are payable on deposits and accounts discourage persons from saving money, create inequities for depositors, impede the ability of depository institutions to compete for funds, and have not achieved their purpose of providing an even flow of funds for home mortgage lending; and

(2) all depositors, and particularly those with modest savings, are entitled to receive a market rate of return on their savings as soon as it is economically feasible for depository institutions to pay such rate.

(b) It is the purpose of this title to provide for the orderly phase-out and the ultimate elimination of the limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts by depository institutions by extending the authority to impose such limitations for 6 years, subject to specific standards designed to ensure a phase-out of such limitations to market rates of interest.

ESTABLISHMENT AND AUTHORITY OF COMMITTEE

Depository
Institutions
Deregulation
Committee.
12 USC 3502.

SEC. 203. (a) The authorities conferred by section 19(j) of the Federal Reserve Act (12 U.S.C. 371b), section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)), and section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) or by any other provision of Federal law, other than section 117 of the Federal Credit Union Act (12 U.S.C. 1763), to prescribe rules governing the payment of interest and dividends and the establishment of classes of deposits or accounts, including limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts, and the authority conferred by the provisions of section 102 of Public Law 94-200 (12 U.S.C. 461 note) are hereby transferred to the Depository Institutions Deregulation Committee (hereinafter in this title referred to as the "Deregulation Committee").

Members.

(b) The Deregulation Committee shall consist of the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation, the Chairman of the Federal Home Loan Bank Board, and the Chairman of the National Credit Union Administration Board, who shall be voting members, and the Comptroller of the Currency who shall be a nonvoting member of the Deregulation Committee. The Deregulation Committee shall hold public meetings at least quarterly. All meetings of the Deregulation Committee shall be conducted in conformity with the provisions of section 552b of title 5, United States Code. The Deregulation Committee may not take any action unless such action is approved by a majority vote of the voting members of the Deregulation Committee.

(c) The authorities conferred by this title on the Deregulation Committee and its members may not be delegated.

Delegation of
authorities,
prohibition.

DIRECTIVE TO THE COMMITTEE

SEC. 204. (a) The Deregulation Committee shall, by regulation, exercise the authorities transferred by section 203 to provide for the orderly phase-out and the ultimate elimination of the limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts as rapidly as economic conditions warrant. The phase-out of such limitations may be achieved by the Deregulation Committee by the gradual increase in such limitations applicable to all existing categories of accounts, the complete elimination of the limitations applicable to particular categories of accounts, the creation of new categories of accounts not subject to limitations or with limitations set at current market rates, any combination of the above methods, or any other method.

Regulation.
12 USC 3503.

(b) The Deregulation Committee shall work toward providing all depositors with a market rate of return on their savings with due regard for the safety and soundness of depository institutions. Pursuant to the authority granted by this title, the Deregulation Committee shall increase all limitations on the maximum rates of interest and dividends which may be paid on deposits and accounts to market rates as soon as feasible, except that the Deregulation Committee shall not increase such limitations above market rates during the six-year period beginning on the date of enactment of this title.

TARGETS

SEC. 205. (a) In order to assist the Deregulation Committee in establishing the limitations on the maximum rates of interest and dividends which may be paid on all deposits and accounts at market rates as soon as feasible and in order to provide maximum assurance that interest rate controls will be phased-out during the 6-year period following the date of enactment of this title, the Deregulation Committee shall vote, not later than 18 months after such date of enactment, on whether to increase the limitations on the maximum rates applicable to passbook and similar savings accounts by at least one-fourth of one percentage point during such 18-month period, and shall vote, not later than the end of each of the third, fourth, fifth, and sixth years after such date of enactment, on whether to increase the limitations on the maximum rates applicable to all categories of deposits and accounts by at least one-half of one percentage point.

12 USC 3504.

(b) The Deregulation Committee may, consistent with the purposes of this title, adjust the limitations on the rates applicable to all categories of deposits and accounts to rates which are higher or lower than the targets set forth in this section.

REPORTS

SEC. 206. Each member of the Deregulation Committee shall separately report to the Congress annually after the date of enactment of this Act regarding the economic viability of depository institutions. Each such report shall contain—

12 USC 3505.

(1) an assessment of whether the removal of any differential between the rates payable on deposits and accounts by banks and those payable by thrift institutions will adversely affect the housing finance market or the viability of the thrift industry;

(2) recommendations for measures which would encourage savings, provide for the equitable treatment of small savers, and ensure a steady and adequate flow of funds to thrift institutions and the housing market;

(3) findings concerning disintermediation of savings deposits from insured banks and insured thrift institutions to uninsured money market innovators paying market rates to savers; and

(4) recommendations for such legislative and administrative actions as the member involved considers necessary to maintain the economic viability of depository institutions.

TERMINATIONS

Repeals.
12 USC 3506.

SEC. 207. (a) Section 7 of Public Law 89-597 (12 U.S.C. 461 note) is hereby repealed.

(b) Effective upon the expiration of 6 years after the date of enactment of this Act—

(1) section 102 of Public Law 94-200 (12 U.S.C. 461 note) is hereby repealed;

(2) the second sentence of section 18(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)(1)) is amended by striking out "payment and" and by striking out ", including limitations on the rates of interest and dividends that may be paid";

(3) the third, fifth, and eighth sentences of section 18(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)(1)) are hereby repealed;

(4) the first sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended by striking out "payment and" and by striking out ", including limitations on the rates of interest which may be paid";

(5) the second sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is hereby repealed;

(6) the third sentence of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) is amended by striking out "No member bank" and all that follows through "Provided, That, the" and inserting in lieu thereof "The";

(7) the first sentence of section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by striking out "payment and" and by striking out ", including limitations on the rates of interest or dividends on deposits, shares, or withdrawable accounts that may be paid";

(8) the second and fourth sentences of section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) are hereby repealed;

(9) the third sentence of section 5B(a) of the Federal Home Loan Bank Act (12 U.S.C. 1425b(a)) is amended by striking out ", including specifically the authority" and all that follows through "of that authority";

(10) section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended by striking out ", pursuant to such regulations as may be issued by the Board,";

(11) section 501(a)(2) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by striking out "(A)" and by striking out subparagraph (B);

(12) section 527 of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended by striking out ", except as provided in section 501(a)(2)(B)"; and

(13) Public Law 93-123 (12 U.S.C. 371b note) is hereby repealed.

ENFORCEMENT

Post, p. 161.

Post, p. 168.

12 USC 3507.

SEC. 208. (a) Compliance with the regulations issued by the Deregulation Committee under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board of Governors of the Federal Reserve System;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation; and

(2) section 5(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)), section 407 of the National Housing Act (12 U.S.C. 1730), and section 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions.

12 USC 1437.

(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any regulation prescribed under this title shall be deemed to be a violation of a regulation prescribed under the Act involved. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in such subsection may exercise, for the purpose of enforcing compliance with any regulation prescribed under this title, any other authority conferred on it by law.

TRANSITIONAL PROVISIONS

SEC. 209. All rules and regulations issued pursuant to any authority transferred by section 203 of this title shall remain in effect until repealed, amended, or superseded by a regulation of the Deregulation Committee.

12 USC 3508.

TERMINATION OF AUTHORITY

SEC. 210. Upon the expiration of six years after the date of the enactment of this Act, all authorities transferred to the Deregulation Committee by this title shall cease to be effective and the Deregulation Committee shall cease to exist.

12 USC 3509.

TITLE III—CONSUMER CHECKING ACCOUNT EQUITY ACT OF 1980

Consumer
Checking
Account Equity
Act of 1980.

SHORT TITLE

SEC. 301. This title may be cited as the "Consumer Checking Account Equity Act of 1980".

12 USC 226 note.

AUTOMATIC TRANSFER ACCOUNTS

SEC. 302. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts

drawn upon the bank, pursuant to terms and conditions prescribed by the Board.”.

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting “(1)” after “(g)” and by adding at the end thereof the following new paragraph:

“(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.”.

NOW ACCOUNTS

SEC. 303. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended to read as follows:

“(a)(1) Notwithstanding any other provision of law but subject to paragraph (2), a depository institution is authorized to permit the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

“(2) Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.”.

REMOTE SERVICE UNITS

SEC. 304. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)) is amended by adding at the end thereof the following new sentence: “This section does not prohibit the establishment of remote service units by associations for the purpose of crediting savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Board.”.

SHARE DRAFTS

SEC. 305. (a) Section 101(5) of the Federal Credit Union Act (12 U.S.C. 1752(5)) is amended—

(1) by striking out “or share certificate” each place it appears therein and inserting in lieu thereof “, share certificate, or share draft account”; and

(2) by striking out “or ‘share certificate’” and inserting in lieu thereof “, ‘share certificate’, or ‘share draft’”.

(b) Section 107(6) of the Federal Credit Union Act (12 U.S.C. 1757(6)) is amended by striking out “credit unions serving” and all that follows through the end thereof and inserting in lieu thereof “credit unions serving predominately low-income members (as defined by the Board) payments on—

“(A) shares which may be issued at varying dividend rates;

“(B) share certificates which may be issued at varying dividend rates and maturities; and

“(C) share draft accounts authorized under section 205(f);

subject to such terms, rates, and conditions as may be established by the board of directors, within limitations prescribed by the Board.”.

(c) Section 117 of the Federal Credit Union Act (12 U.S.C. 1763) is amended—

(1) in the first sentence—

(A) by striking out “and” the second place it appears therein and inserting in lieu thereof a comma; and

(B) by inserting “, and at different rates on different types of share draft accounts” before the period at the end thereof; and

(2) in the second sentence, by striking out “and share certificates” and inserting in lieu thereof “, share certificates, and share draft accounts”.

(d) Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

“(f)(1) Every insured credit union is authorized to maintain, and make loans with respect to, share draft accounts in accordance with rules and regulations prescribed by the Board. Except as provided in paragraph (2), an insured credit union may pay dividends on share draft accounts and may permit the owners of such share draft accounts to make withdrawals by negotiable or transferable instruments or other orders for the purpose of making transfers to third parties.

“(2) Paragraph (1) shall apply only with respect to share draft accounts in which the entire beneficial interest is held by one or more individuals or members or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.”.

EFFECTIVE DATES

SEC. 306. The amendments made by sections 302, 304, and 305 of this title shall take effect at the close of March 31, 1980, and the amendments made by section 303 of this title shall take effect on December 31, 1980.

12 USC 371a
note.

REPEAL OF EXISTING LAW

SEC. 307. At the close of March 31, 1980, the amendments made by sections 101 through 103 of Public Law 96-161 are hereby repealed.

12 USC 371a,
1464, 1752, 1757,
1828.

DEPOSIT INSURANCE

SEC. 308. (a)(1) The following provisions of the Federal Deposit Insurance Act are amended by striking out “\$40,000” each place it appears therein and inserting in lieu thereof “\$100,000”:

12 USC 1811
note.

(A) The first sentence of section 3(m) (12 U.S.C. 1813(m)).

(B) The first sentence of section 7(i) (12 U.S.C. 1817(i)).

(C) The last sentence of section 11(a)(1) (12 U.S.C. 1821(a)(1)).

(D) The fifth sentence of section 11(i) (12 U.S.C. 1821(i)).

(2) The amendments made by this subsection are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

Exemption.
12 USC 1813
note.

(b)(1) The following provisions of title IV of the National Housing Act are amended by striking out “\$40,000” each place it appears therein and inserting in lieu thereof “\$100,000”:

12 USC 1724.

(A) Section 401(b) (12 U.S.C. 1724(b)).

(B) Section 405(a) (12 U.S.C. 1728(a)).

(2) The amendments made by this subsection are not applicable to any claim arising out of a default, as defined in section 401(d) of the

Exemption.
12 USC 1724
note.

National Housing Act (12 U.S.C. 1724(d)), where the appointment of a conservator, receiver, or other legal custodian as set forth in that section became effective prior to the effective date of this section.

(c)(1) The second sentence of section 207(c) of the Federal Credit Union Act (12 U.S.C. 1787(c)) is amended by striking out "\$40,000" and inserting in lieu thereof "\$100,000".

Exemption.
12 USC 1787
note.

(2) The amendment made by this subsection is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

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

(1) in the first sentence—

(A) by inserting "(1)" after "(d)";

(B) by striking out "December 31, 1961" and inserting in lieu thereof "December 31, 1980"; and

(C) by striking out "33 1/2 per centum" and inserting in lieu thereof "40 per centum"; and

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

"(2) Notwithstanding any other provision of this subsection—

"(A) whenever the Board of Directors determines that the ratio of the Corporation's capital account to the estimated insured deposits is less than 1.10 per centum, the Board of Directors shall increase the per centum of net assessment income to be transferred to the Corporation's capital account by such an amount, but not to exceed 50 per centum, as it determines will result in maintaining that ratio at not less than 1.10 per centum;

"(B) whenever the Board of Directors determines that the ratio of the Corporation's capital account to the estimated insured deposits exceeds 1.25 per centum, the Board of Directors may reduce the per centum of net assessment income to be transferred to the Corporation's capital account by such an amount as it determines will result in maintaining such ratio at not less than 1.25 per centum; and

"(C) whenever the Board of Directors determines that the ratio of the Corporation's capital account to the estimated insured deposits exceeds 1.40 per centum, the Board of Directors shall reduce the per centum of net assessment income to be transferred to the Corporation's capital account by such an amount as it determines will result in maintaining that ratio at not more than 1.40 per centum."

Effective date.
12 USC 1817
note.

(e) The amendments made by this section shall take effect on the date of enactment of this Act.

CREDIT UNION AMENDMENTS

SEC. 309. (a) The Federal Credit Union Act is amended—

12 USC 1757.

(1) in section 107(5)(A)(i)—

(A) by inserting ", including an individual cooperative unit," immediately following "dwelling"; and

(B) by inserting "(except that a loan on an individual cooperative unit shall be adequately secured as defined by the Board)" after "thirty years";

12 USC 1795d.

(2) by striking out section 305(b)(3) and inserting in lieu thereof the following:

"(3) shall share in dividend distributions at rates determined by the Board. However, rates on the required capital stock shall be without preference; and";

(3) by striking out ", to the extent or in such amounts as are provided in advance in appropriation Acts" in section 307(15); and

12 USC 1795f.

(4) in title III, as so redesignated by subsection (b)(1), by striking out "Administrator" each place it appears and inserting in lieu thereof "Board".

12 USC
1795b-1795g.

(b) The Federal Credit Union Act is amended—

12 USC 1751.

(1) by striking out the heading of subchapter III of such Act and inserting in lieu thereof "TITLE III—CENTRAL LIQUIDITY FACILITY";

12 USC 1795.

(2) in title III, as so redesignated by paragraph (1), by striking out "subchapter" each place it appears therein and inserting in lieu thereof "title"; and

12 USC 1795a,
1795c, 1795f,
1795g.

(3) in section 307(3), by striking out "subchapters I and II of this chapter" and inserting in lieu thereof "titles I and II of this Act".

12 USC 1795f.

INTEREST RATES ON CREDIT UNION LOANS

SEC. 310. Section 107(5)(A)(vi) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(vi)) is amended to read as follows:

"(vi) the rate of interest may not exceed 15 per centum per annum on the unpaid balance inclusive of all finance charges, except that the Board may establish—

"(I) after consultation with the appropriate committees of the Congress, the Department of Treasury, and the Federal financial institution regulatory agencies, an interest rate ceiling exceeding such 15 per centum per annum rate, for periods not to exceed 18 months, if it determines that money market interest rates have risen over the preceding six-month period and that prevailing interest rate levels threaten the safety and soundness of individual credit unions as evidenced by adverse trends in liquidity, capital, earnings, and growth; and

"(II) a higher interest rate ceiling for Agent members of the Central Liquidity Facility in carrying out the provisions of title III for such periods as the Board may authorize;"

12 USC 1795.

FEDERAL HOME LOAN BANK SETTLEMENT AND PROCESSING OF DRAFTS

SEC. 311. Section 11(e) of the Federal Home Loan Bank Act (12 U.S.C. 1431(e)) is amended—

(1) by inserting "(1)" after "(e)"; and

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

"(2)(A) The Board may, subject to such rules and regulations, including definitions of terms used in this paragraph, as the Board shall from time to time prescribe, authorize Federal Home Loan Banks to be drawees of, and to engage in, or be agents or intermediaries for, or otherwise participate or assist in, the collection and settlement of (including presentment, clearing, and payment of, and remitting for), checks, drafts, or any other negotiable or nonnegotiable items or instruments of payment drawn on or issued by members of any Federal Home Loan Bank or by institutions which are eligible to make application to become members pursuant to section 4, and to

12 USC 1424.

have such incidental powers as the Board shall find necessary for the exercise of any such authorization.

Ante, p. 140.

"(B) A Federal Home Loan Bank shall make charges, to be determined and regulated by the Board consistent with the principles set forth in section 11A(c) of the Federal Reserve Act, or utilize the services of, or act as agent for, or be a member of, a Federal Reserve bank, clearinghouse, or any other public or private financial institution or other agency, in the exercise of any powers or functions pursuant to this paragraph.

Rules and regulations.

"(C) The Board is authorized, with respect to participation in the collection and settlement of any items by Federal Home Loan Banks, and with respect to the collection and settlement (including payment by the payor institution) of items payable by Federal savings and loan associations and Federal mutual savings banks, to prescribe rules and regulations regarding the rights, powers, responsibilities, duties, and liabilities, including standards relating thereto, of such Banks, associations, or banks and other parties to any such items or their collection and settlement. In prescribing such rules and regulations, the Board may adopt or apply, in whole or in part, general banking usage and practices, and, in instances or respects in which they would otherwise not be applicable, Federal Reserve regulations and operating letters, the Uniform Commercial Code, and clearinghouse rules."

CENTRAL LIQUIDITY FACILITY SETTLEMENT AND PROCESSING OF SHARE DRAFTS

SEC. 312. Section 307 of the Federal Credit Union Act (12 U.S.C. 1795f) is amended—

(1) by inserting "(a)" after "SEC. 307."; and

(2) by adding at the end thereof the following:

"(b)(1) The Board may authorize the Central Liquidity Facility or its Agent members, subject to such rules and regulations, including definitions of terms used in this subsection, as the Board shall from time to time prescribe, to be drawees of, and to engage in, or be agents or intermediaries for, or otherwise participate or assist in, the collection and settlement of (including presentment, clearing, and payment of, and remitting for), checks, share drafts, or any other negotiable or nonnegotiable items or instruments of payment drawn on or issued by members of the Central Liquidity Facility, any of its Agent members, or any other credit union eligible to become a member of the Central Liquidity Facility, and to have such incidental powers as the Board shall find necessary for the exercise of any such authorization.

Ante, p. 140.

"(2) The Central Liquidity Facility or its Agent members shall make charges, to be determined and regulated by the Board consistent with the principles set forth in section 11A(c) of the Federal Reserve Act, or utilize the services of, or act as agent for, or be a member of, a Federal Reserve bank, clearinghouse, or any other public or private financial institution or other agency, in the exercise of any powers or functions pursuant to this subsection.

Rules and regulations.

"(3) The Board is authorized, with respect to participation in the collection and settlement of any items by the Central Liquidity Facility or by its Agent members, and with respect to the collection and settlement (including payment by the payor institution) of items payable by members of the Central Liquidity Facility or of any of its Agent members, to prescribe rules and regulations regarding the rights, powers, responsibilities, duties, and liabilities, including standards relating thereto, of such entities and other parties to any

such items or their collection and settlement. In prescribing such rules and regulations, the Board may adopt or apply, in whole or in part, general banking usage and practices, and, in instances or respects in which they would otherwise not be applicable, Federal Reserve regulations and operating letters, the Uniform Commercial Code, and clearinghouse rules."

ALASKA USA FEDERAL CREDIT UNION

SEC. 313. Any person who is a member of the Alaska USA Federal Credit Union prior to any termination date which is contained in section 5 of the charter of such credit union and which would otherwise apply to such person may continue to be a member of such credit union on and after such date until the expiration of two years after the date of the enactment of this Act. For purposes of this section, the term "member of the Alaska USA Federal Credit Union" means any person who has an account at such credit union.

TITLE IV—POWERS OF THRIFT INSTITUTIONS AND MISCELLANEOUS PROVISIONS

FEDERAL SAVINGS AND LOAN INVESTMENT AUTHORITY

SEC. 401. Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended to read as follows:

"(c) An association may to such extent, and subject to such rules and regulations as the Board may prescribe from time to time, invest in, sell, or otherwise deal with the following loans, or other investments:

"(1) Loans or investments without percentage of assets limitation: Without limitation as a percentage of assets, the following are permitted:

"(A) ACCOUNT LOANS.—Loans on the security of its savings accounts and loans specifically related to negotiable order-of-withdrawal accounts.

"(B) SINGLE-FAMILY AND MULTI-FAMILY MORTGAGE LOANS.—Loans on the security of liens upon residential real property in an amount which, when added to the amount unpaid upon prior mortgages, liens or encumbrances, if any, upon such real estate does not exceed the appraised value thereof, except that the amount of any such loan hereafter made shall not exceed 66⅔ per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by offsite improvements such as street, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. Notwithstanding the above loan-to-value ratios, the Board may permit a loan-to-value ratio in excess of 90 per centum if such real estate is improved by a building or buildings and that portion of the unpaid balance of such loan which is in excess of an amount equal to 90 per centum of such value is guaranteed or insured by a public or private mortgage insurer or in the case of any loan for the purpose of providing housing for persons of low income, as described in regulations of the Board.

“(C) UNITED STATES GOVERNMENT SECURITIES.—Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

“(D) FEDERAL HOME LOAN BANK AND FEDERAL NATIONAL MORTGAGE ASSOCIATION SECURITIES.—Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

12 USC 1454,
1455.

“(E) FEDERAL HOME LOAN MORTGAGE CORPORATION INSTRUMENTS.—Investments in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

“(F) OTHER GOVERNMENT SECURITIES.—Investments in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association or the Government National Mortgage Association, or any other agency of the United States and an association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act.

12 USC 1721.

“(G) BANK DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

“(H) STATE SECURITIES.—Investments in general obligations of any State or any political subdivision thereof.

12 USC 1701.
38 USC 1801
note.
38 USC 1801 *et*
seq.

“(I) PURCHASE OF INSURED LOANS.—Purchase of loans secured by liens on improved real estate which are insured under provisions of the National Housing Act, or insured as provided in the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, United States Code.

“(J) HOME IMPROVEMENT AND MANUFACTURED HOME LOANS.—Loans made for the repair, equipping, alteration, or improvement of any residential real property, and loans made for the purpose of manufactured home financing.

12 USC 1715z-5.

“(K) INSURED LOANS TO FINANCE THE PURCHASE OF FEE SIMPLE.—Loans as to which the association has the benefit of insurance under section 240 of the National Housing Act, or of a commitment or agreement therefor.

“(L) LOANS TO FINANCIAL INSTITUTIONS, BROKERS, AND DEALERS.—Loans to financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which the association has the statutory authority to invest directly.

12 USC 1425a.

“(M) LIQUIDITY INVESTMENTS.—Investments which, at the time of making, are assets eligible for inclusion toward the satisfaction of any liquidity requirement imposed by the Board pursuant to section 5A of the Federal Home Loan Bank Act, but only to the extent that the investment is permitted to be so included under regulations of the Board or is otherwise authorized.

“(N) INVESTMENT IN THE NATIONAL HOUSING PARTNERSHIP CORPORATION, PARTNERSHIPS, AND JOINT VENTURES.—Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban

Development Act of 1968, and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such Act.

42 USC 3931.

42 USC 3937.

"(O) HOUSING AND URBAN DEVELOPMENT GUARANTEED INVESTMENTS.—Loans as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968, under part B of the Urban Growth and New Community Development Act of 1970, or under section 802 of the Housing and Community Development Act of 1974 as in effect on or after the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980, or of a commitment or agreement therefor.

42 USC 3901.

42 USC 4511.

42 USC 1440, 12

USC 371, 1464.

Ante, p. 132.

"(P) STATE HOUSING CORPORATION INVESTMENTS.—Investments in, commitments to invest in, loans to, or commitments to lend to any State housing corporation, provided that such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act and that in the event of default, the holder of such obligations or loans would have the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

12 USC 1701.

"(Q) INVESTMENT COMPANIES.—An association may invest in, redeem, or hold shares or certificates in any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such management company's investment policy, changeable only if authorized by shareholder vote, solely to any such investments as an association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal with. The Board shall prescribe rules and regulations to implement the provisions of this subparagraph.

15 USC 80a-51.

Rules and regulations.

"(2) LOANS OR INVESTMENTS LIMITED TO 20 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but authority conferred in the following subparagraphs is limited to not in excess of 20 per centum of the assets of the association for each subparagraph:

"(A) COMMERCIAL REAL ESTATE LOANS.—Loans on security of first liens upon other improved real estate.

"(B) CONSUMER LOANS AND CERTAIN SECURITIES.—An association may make secured or unsecured loans for personal, family, or household purposes, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the Board.

"(3) LOANS OR INVESTMENTS LIMITED TO 5 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but the authority conferred in the following subparagraphs is limited to not in excess of 5 per centum of assets of the association for each subparagraph:

"(A) EDUCATION LOANS.—Loans made for the payment of expenses of college, university, or vocational education.

"(B) COMMUNITY DEVELOPMENT INVESTMENTS.—Investments in real property and obligations secured by liens on

42 USC 5301.

real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974, except that no investment under this subparagraph in such real property may exceed an aggregate investment of 2 per centum of the assets of the association.

“(C) NONCONFORMING LOANS.—Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this subsection.

“(D) CONSTRUCTION LOANS WITHOUT SECURITY.—Investments not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (i) the association relies substantially for repayment on the borrower's general credit standing and forecast of income without other security, or (ii) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party. Investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection.

“(4) OTHER LOANS AND INVESTMENTS.—The following additional loans and other investments to the extent authorized below:

“(A) BUSINESS DEVELOPMENT CREDIT CORPORATIONS.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings and loan associations chartered by such State are authorized, but the aggregate amount of such investments, loans, and commitments of any such association shall not exceed one-half of 1 per centum of the total outstanding loans of the association or \$250,000, whichever is less.

“(B) SERVICE CORPORATIONS.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the home office of the association is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations of such State and by Federal associations having their home offices in such State, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 3 per centum of the assets of the association, except that not less than one-half of the investment permitted under this subparagraph which exceeds one per centum of assets shall be used primarily for community, inner-city, and community development purposes.

“(C) FOREIGN ASSISTANCE, CERTAIN GUARANTEED LOANS.—(i) Loans secured by mortgages as to which the association has the benefit of insurance under title X of the National

Housing Act or of a commitment or agreement for such insurance. 12 USC 1749aa.

“(ii) Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guaranty under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans having the benefit of any guaranty under section 221 or 222 of such Act, or of any commitment or agreement for any such guaranty. 22 USC 2181.
75 Stat. 432.

“(iii) Investments under clause (i) of this subparagraph shall not be included in any percentage of assets or other percentage referred to in this subsection. Investments under clause (ii) of this subparagraph shall not exceed, in the case of any association, 1 per centum of the assets of such association. 22 USC 2181,
2182.

“(D) STATE AND LOCAL GOVERNMENT OBLIGATIONS.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of that amount which is determined by the Board for the purpose of the third sentence of section 403(b) of the National Housing Act is authorized to invest in obligations which constitute prudent investments, as defined by the Board, of its home State and political subdivisions thereof (including any agency, corporation, or instrumentality) if (i) the proceeds of such obligations are to be used for rehabilitation, financing, or the construction of residential real estate, and (ii) the aggregate amount of all investments under this subparagraph shall not exceed the amount of the association's general reserves, surplus, and undivided profits. 12 USC 1726.

“(6) DEFINITIONS.—As used in this subsection—

“(A) the terms ‘residential real property’ or ‘residential real estate’ mean leaseholds, homes (including condominiums and cooperatives, except that in connection with loans on individual cooperative units, such loans shall be adequately secured as defined by the Board), combinations of homes and business property, other dwelling units, or combinations of dwelling units including homes and business property involving only minor or incidental business use, or property to be improved by construction of such structures;

“(B) the term ‘loans’ includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment; and

“(C) the term ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and any territory or possession of the United States.”

CREDIT CARDS

SEC. 402. Section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) is amended by adding at the end thereof the following new paragraph:

Post, p. 159.

“(4) An association is authorized, subject to such regulations as the Board may prescribe, to issue credit cards, extend credit in connec-

tion therewith, and otherwise engage in or participate in credit card operations.”.

TRUST POWERS

SEC. 403. Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

“(n)(1) The Board is authorized and empowered to grant by special permit to an association applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with associations are permitted to act under the laws of the State in which the association is located. Subject to the rules and regulations of the Board, service corporations may invest in State or federally-chartered corporations which are located in the State in which the home office of the association is located and which are engaged in trust activities.

“(2) Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with associations, the granting to and the exercise of such powers by associations shall not be deemed to be in contravention of State or local law within the meaning of this section.

“(3) Associations exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State banking authority involved may have access to reports of examination made by the Board insofar as such reports relate to the trust department of such association but nothing in this section shall be construed as authorizing such State banking authority to examine the books, records, and assets of such associations.

“(4) No association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Board.

“(5) In the event of the failure of such association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

“(6) Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, associations so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Associations shall have power to execute such bond when so required by the laws of the State involved.

"(7) In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

"(8) It shall be unlawful for any association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than \$5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court.

"(9) In passing upon applications for permission to exercise the powers enumerated in this section, the Board may take into consideration the amount of capital and surplus of the applying association, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the community to be served, and any other facts and circumstances that seem to it proper, and may grant or refuse the application accordingly, except that no permit shall be issued to any association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

"(10)(A) Any association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the Board a certified copy of a resolution of its board of directors signifying such desire.

"(B) Upon receipt of such resolution, the Board, after satisfying itself that such association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, under court, private or other appointments previously accepted under authority of this section, may in its discretion, issue to such association a certificate certifying that such association is no longer authorized to exercise the powers granted by this section.

"(C) Upon the issuance of such a certificate by the Board, such association (i) shall no longer be subject to the provisions of this section or the regulations of the Board made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section.

"(D) The Board is authorized and empowered to promulgate such regulations as it may deem necessary to enforce compliance with the provisions of this subsection and the proper exercise of the trust powers granted by this subsection.

Regulations.

"(11)(A) In addition to the authority conferred by other law, if, in the opinion of the Board, an association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this subsection, the Board may issue and serve upon

Revocation order.

the association a notice of intent to revoke the authority of the association to exercise the powers granted by this subsection. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

Hearing.

“(B) Such hearing shall be conducted in accordance with the provisions of subsection (d)(7), and subject to judicial review as therein provided, and shall be fixed for a date not earlier than thirty days and not later than sixty days after service of such notice unless an earlier or later date is set by the Board at the request of any association so served.

“(C) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any allegation specified in the notice of charges has been established, the Board may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this subsection, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

Effective date.

“(D) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.”.

CONVERSIONS

SEC. 404. The first sentence of section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended by inserting “, and any State stock savings and loan type institution may (if such institution existed in stock form for at least the 4 years preceding the date of enactment of the Depository Institutions Deregulation and Monetary Control Act of 1980) convert its charter to a Federal stock charter under this Act,” after “Federal savings and loan association under this Act”.

Ante, p. 132.

LIQUIDITY REQUIREMENTS

SEC. 405. Section 5A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1425a(b)) is amended to read as follows:

12 USC 1724.

“(b)(1) Any institution which is a member or which is an insured institution as defined in section 401(a) of the National Housing Act shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate:

“(A) cash;

“(B) to such extent as the Board may approve for the purposes of this section, time and savings deposits in Federal Home Loan Banks and commercial banks;

“(C) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a

political subdivision, agency or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve; and

"(D) to such extent as the Board may so approve, shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in subparagraphs (A) through (C).

15 USC 80a-51.

"(2) The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the 'liquidity requirement') may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less, or in the case of institutions which are insurance companies, such other base or bases as the Board may determine to be comparable. The Board shall prescribe rules and regulations to implement the provisions of this subsection."

Liquidity requirement.

Rules and regulations.

STUDY OF MORTGAGE PORTFOLIOS

SEC. 406. (a)(1) The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. The task force shall conduct a study and make recommendations regarding—

Interagency task force.
12 USC 1425a note.

(A) the options available to provide balance to the asset-liability management problems inherent in the thrift portfolio structure;

(B) the options available to increase the ability of thrift institutions to pay market rates of interest in period of rapid inflation and high interest rates; and

(C) the options available through the Federal Home Loan Bank system and other Federal agencies to assist thrifts in times of economic difficulties.

(2) In carrying out such study, the task force shall solicit the views of, and invite participation by, consumer and public interest groups, business, labor, and State regulators of depository institutions.

(b) Not later than three months after the date of enactment of this Act, the task force shall transmit to the President and the Congress its findings and recommendations for such action as it deems appropriate.

Report to President and Congress.

MUTUAL CAPITAL CERTIFICATES

SEC. 407. (a) Section 5(b) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)) is amended by adding at the end thereof the following:

"(5)(A) In accordance with rules and regulations issued by the Board, mutual capital certificates may be issued and sold directly to subscribers or through underwriters, and such certificates shall constitute part of the general reserve and net worth of the issuing association. The Board, in its rules and regulations relating to the issuance and sale of mutual capital certificates, shall provide that such certificates—

"(i) shall be subordinate to all savings accounts, savings certificates, and debt obligations;

"(ii) shall constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

"(iii) shall be entitled to the payment of dividends; and

"(iv) may have a fixed or variable dividend rate.

"(B) The Board shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts."

Rules and
regulations.

(b) Section 403(b) of the National Housing Act (12 U.S.C. 1726(b)), is amended by adding at the end thereof the following: "Mutual capital certificates, subordinate to the rights of holders of savings accounts, savings certificates, and the Corporation, shall be deemed to be reserves for the purposes of this subsection in accordance with rules and regulations prescribed by the Corporation. The Corporation shall provide in its rules and regulations for charging losses to the mutual capital certificate, reserves, and other net worth accounts. In the event an insured institution fails to maintain the reserves required by this title, no payment of dividends on such certificates shall be made except with the approval of the Corporation."

MUTUAL SAVINGS BANKS

SEC. 408. (a) Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) in the fourth and fifth sentences by striking out "(1)" and "(2)" each place they appear therein and inserting in lieu thereof "(A)" and "(B)", respectively; and

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

"(2) A Federal mutual savings bank may make commercial, corporate, and business loans except that—

"(A) not more than 5 per centum of the assets of such a bank may be so loaned; and

"(B) such loans may only be made within the State where the bank is located or within 75 miles of the bank's home office."

(b) Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended by adding at the end thereof the following new paragraph:

"(3) In addition to the authority conferred by paragraph (1), Federal mutual savings bank may accept demand deposits in connection with a commercial, corporate, or business loan relationship."

INSURANCE RESERVES

SEC. 409. The third sentence of section 403(b) of the National Housing Act (12 U.S.C. 1726(b)) is amended by striking out "5 per centum" and inserting in lieu thereof "an amount no greater than 6 per centum nor less than 3 per centum as determined by the Federal Home Loan Bank Board".

TITLE V—STATE USURY LAWS

PART A—MORTGAGE USURY LAWS

MORTGAGES

SEC. 501. (a)(1) The provisions of the constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, credit sale, or advance which is—

12 USC 1735f-7
note.

(A) secured by a first lien on residential real property, by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance is used to finance the acquisition of such stock, or by a first lien on a residential manufactured home;

(B) made after March 31, 1980; and

(C) described in section 527(b) of the National Housing Act (12 U.S.C. 1735f-5(b)), except that for the purpose of this section—

(i) the limitation described in section 527(b)(1) of such Act that the property must be designed principally for the occupancy of from one to four families shall not apply;

(ii) the requirement contained in section 527(b)(1) of such Act that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation or to a loan or credit sale secured by a first lien on a residential manufactured home;

(iii) the term “federally related mortgage loan” in section 527(b) of such Act shall include a credit sale which is secured by a first lien on a residential manufactured home and which otherwise meets the definitional requirements of section 527(b) of such Act, as those requirements are modified by this section;

“Federally
related mortgage
loan.”

(iv) the term “residential loans” in section 527(b)(2)(D) of such Act shall also include loans or credit sales secured by a first lien on a residential manufactured home;

“Residential
loans.”

(v) the requirement contained in section 527(b)(2)(D) of such Act that a creditor make or invest in loans aggregating more than \$1,000,000 per year shall not apply to a creditor selling residential manufactured homes financed by loans or credit sales secured by first liens on residential manufactured homes if the creditor has an arrangement to sell such loans or credit sales in whole or in part, or if such loans or credit sales are sold in whole or in part to a lender, institution, or creditor described in section 527(b) of such Act or in this section or a creditor, as defined in section 103(f) of the Truth in Lending Act, as such section was in effect on the day preceding the date of enactment of this title, if such creditor makes or invests in residential real estate loans or loans or credit sales secured by first liens on residential manufactured homes aggregating more than \$1,000,000 per year; and

15 USC 1602.

(vi) the term “lender” in section 527(b)(2)(A) of such Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act.

“Lender.”

"Depository
institution."

(2)(A) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. For purposes of this paragraph, the term "depository institution" means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(v) any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422); and

(vi) any insured institution as defined in section 408 of the National Housing Act (12 U.S.C. 1730a).

Exemption.

12 USC 1813.

Effective date.

Exemption,
State action.

(B) This paragraph shall not apply to any such deposit, account, or obligation which is payable only at an office of an insured bank, as defined in section 3 of the Federal Deposit Insurance Act, located in the Commonwealth of Puerto Rico.

(b)(1) Except as provided in paragraphs (2) and (3), the provisions of subsection (a)(1) shall apply to any loan, mortgage, credit sale, or advance made in any State on or after April 1, 1980.

(2) Except as provided in paragraph (3), the provisions of subsection (a)(1) shall not apply to any loan, mortgage, credit sale, or advance made in any State after the date (on or after April 1, 1980, and before April 1, 1983) on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of subsection (a)(1) to apply with respect to loans, mortgages, credit sales, and advances made in such State.

(3) In any case in which a State takes an action described in paragraph (2), the provisions of subsection (a)(1) shall continue to apply to—

(A) any loan, mortgage, credit sale, or advance which is made after the date such action was taken pursuant to a commitment therefor which was entered during the period beginning on April 1, 1980, and ending on the date on which such State takes such action; and

(B) any loan, mortgage, or advance which is a rollover of a loan, mortgage, or advance, as described in regulations of the Federal Home Loan Bank Board, which was made or committed to be made during the period beginning on April 1, 1980, and ending on the date on which such State takes any action described in paragraph (2).

Discount points,
limitation.

(4) At any time after the date of enactment of this Act, any State may adopt a provision of law placing limitations on discount points or such other charges on any loan, mortgage, credit sale, or advance described in subsection (a)(1).

(c) The provisions of subsection (a)(1) shall not apply to a loan, mortgage, credit sale, or advance which is secured by a first lien on a residential manufactured home unless the terms and conditions relating to such loan, mortgage, credit sale, or advance comply with consumer protection provisions specified in regulations prescribed by the Federal Home Loan Bank Board. Such regulations shall—

(1) include consumer protection provisions with respect to balloon payments, prepayment penalties, late charges, and deferral fees;

(2) require a 30-day notice prior to instituting any action leading to repossession or foreclosure (except in the case of abandonment or other extreme circumstances);

(3) require that upon prepayment in full, the debtor shall be entitled to a refund of the unearned portion of the precomputed finance charge in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than \$1; and

(4) include such other provisions as the Federal Home Loan Bank Board may prescribe after a finding that additional protections are required.

(d) The provisions of subsection (c) shall not apply to a loan, mortgage, credit sale, or advance secured by a first lien on a residential manufactured home until regulations required to be issued pursuant to paragraphs (1), (2), and (3) of subsection (c) take effect, except that the provisions of subsection (c) shall apply in the case of such a loan, mortgage, credit sale, or advance made prior to the date on which such regulations take effect if the loan, mortgage, credit sale, or advance includes a precomputed finance charge and does not provide that, upon prepayment in full, the refund of the unearned portion of the precomputed finance charge is in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than \$1. The Federal Home Loan Bank Board shall issue regulations pursuant to the provisions of paragraphs (1), (2), and (3) of subsection (c) that shall take effect prospectively not less than 30 days after publication in the Federal Register and not later than 120 days from the date of enactment of this Act.

Regulations.

(e) For the purpose of this section—

Definitions.

(1) a "prepayment" occurs upon—

(A) the refinancing or consolidation of the indebtedness;

(B) the actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of the payment obligation by the creditor; or

(C) the entry of a judgment for the indebtedness in favor of the creditor;

(2) the term "actuarial method" means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation;

(3) the term "precomputed finance charge" means interest or a time price differential within the meaning of sections 106(a) (1) and (2) of the Truth in Lending Act (15 U.S.C. 1605(a) (1) and (2)) as computed by an add-on or discount method; and

(4) the term "residential manufactured home" means a mobile home as defined in section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974 which is used as a residence.

42 USC 5402.

(f) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

Rules and regulations.

(g) This section takes effect on April 1, 1980.

Effective date.

PART B—BUSINESS AND AGRICULTURAL LOANS**BUSINESS AND AGRICULTURAL LOANS**

12 USC 86a.

SEC. 511. (a) If the applicable rate prescribed in this section exceeds the rate a person would be permitted to charge in the absence of this section, such person may in the case of a business or agricultural loan in the amount of \$25,000 or more, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the person is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such person would be permitted to charge in the absence of this section, and such State imposed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the person taking, receiving, reserving, or charging such interest.

EFFECTIVE DATE OF PART B

12 USC 86a note.

SEC. 512. The provisions of this part shall apply only with respect to business or agricultural loans in amounts of \$25,000 or more made in any State during the period beginning on April 1, 1980, and ending on the earlier of—

(1) April 1, 1983; or

(2) the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to loans made in such State,

except that such provisions shall apply to any loan made on or after such earlier date pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to such earlier date.

PART C—OTHER LOANS**INSURED BANKS**

12 USC 1831d.

SEC. 521. The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end thereof the following new section:

“**SEC. 27.** (a) In order to prevent discrimination against State-chartered insured banks, including insured savings banks and insured mutual savings banks, or insured branches of foreign banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank or insured branch of a foreign bank would be permitted to charge in the absence of this subsection, such State bank or such insured branch of a foreign bank may, notwithstanding any State constitution or statute which is

hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such State bank or such insured branch of a foreign bank is located or at the rate allowed by the laws of the State, territory, or district where the bank is located, whichever may be greater.

“(b) If the rate prescribed in subsection (a) exceeds the rate such State bank or such insured branch of a foreign bank would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from such State bank or such insured branch of a foreign bank taking, receiving, reserving, or charging such interest.”.

INSURED SAVINGS AND LOAN ASSOCIATIONS

SEC. 522. Title IV of the National Housing Act (12 U.S.C. 1724 et seq.) is amended by adding at the end thereof the following new section:

“SEC. 414. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such institution is located or at the rate allowed by the laws of the State, territory, or district where such institution is located, whichever may be greater. 12 USC 1730g.

“(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.”.

INSURED CREDIT UNIONS

Ante, p. 147.

SEC. 523. Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end thereof the following new subsection:

"(g)(1) If the applicable rate prescribed in this subsection exceeds the rate an insured credit union would be permitted to charge in the absence of this subsection, such credit union may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this subsection, take, receive, reserve, and charge on any loan, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where such insured credit union is located or at the rate allowed by the laws of the State, territory, or district where such credit union is located, whichever may be greater.

"(2) If the rate prescribed in paragraph (1) exceeds the rate such credit union would be permitted to charge in the absence of this subsection, and such State fixed rate is thereby preempted by the rate described in paragraph (1), the taking, receiving, reserving, or charging a greater rate than is allowed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the credit union taking or receiving such interest."

SMALL BUSINESS INVESTMENT COMPANIES

SEC. 524. Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end thereof the following new subsection:

"(i)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds from small business investment companies to small business concerns.

"(2) In the case of a business loan, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraphs (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law or constitutional provision which is not preempted for purposes of this subsection.

"(C)(i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law or constitutional provision (determined without regard to the preemption of such State law or constitutional provision).

"Federal Reserve rate."

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 1 percentage point plus the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which

the principal office of the small business investment company is located.

“(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law or constitutional provision for such loans or there is a maximum rate authorized by an applicable State law or constitutional provision which is not preempted for purposes of this subsection.

“(3) A State law or constitutional provision shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this subsection to apply with respect to loans made in such State, except that such State law or constitutional or other provision shall be preempted in the case of a loan made, on or after the date on which such law is adopted or such certification is made, pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to the date on which such law is adopted or such certification is made.

“(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

“(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than two years after the most recent payment of interest.”.

EFFECTIVE DATE

SEC. 525. The amendments made by sections 521 through 523 of this title shall apply only with respect to loans made in any State during the period beginning on April 1, 1980, and ending on the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the amendments made by such sections to apply with respect to loans made in such State, except that such amendments shall apply to a loan made on or after the date such law is adopted or such certification is made if such loan is made pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to the date on which such law is adopted or such certification is made.

12 USC 1730g
note.

SEVERABILITY

SEC. 526. If any provision of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act and the application of such provision to any

12 USC 1730g
note.

person or circumstance other than that as to which it is held invalid shall not be affected thereby.

DEFINITION

12 USC 1730g
note.

SEC. 527. For purposes of this title, the term "State" includes the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands, except as provided in section 501(a)(2)(B).

EFFECT ON OTHER LAW

12 USC 1735f-7
note.
93 Stat. 1114.

SEC. 528. In any case in which one or more provisions of, or amendments made by, this title, section 529 of the National Housing Act, or any other provision of law, including section 5197 of the Revised Statutes (12 U.S.C. 85), apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate.

REPEAL OF EXISTING LAW

93 Stat. 789.
12 USC 85 note.
93 Stat. 1234.
12 USC 85 and
note, 86a and
note, 371b-1
and note,
1425b, 1730e,
1735f-7 note,
1828, 1831a
and note; 15
USC 687.
Truth in
Lending
Simplification
and Reform Act.
15 USC 1601
note.

SEC. 529. Effective at the close of March 31, 1980, Public Law 96-104, section 105(a)(2) of Public Law 96-161, and the amendments made by and the provisions of title II of Public Law 96-161 are hereby repealed, except that the provisions of such Public Law, the provisions of such section, the amendments made by such title, and the provisions of such title shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when those provisions or amendments were in effect in such State.

TITLE VI—TRUTH IN LENDING SIMPLIFICATION

SHORT TITLE

SEC. 601. This title may be cited as the "Truth in Lending Simplification and Reform Act".

DEFINITIONS

"Creditor."

SEC. 602. (a) Section 103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The term 'creditor' refers only to a person who both (1) regularly extends, whether in connection with loans, sales of property or services, or otherwise, consumer credit which is payable by agreement in more than four installments or for which the payment of a finance charge is or may be required; and (2) is the person to whom the debt arising from the consumer credit transaction is initially payable on the face of the evidence of indebtedness or, if there is no such evidence of indebtedness, by agreement. Notwithstanding the previous sentence, a person who regularly arranges for the extension of consumer credit, which is payable in more than four installments or for which the payment of a finance charge is or may be required, from persons who are not creditors is a creditor, and in the case of an open end credit plan involving a credit card, the card issuer and any person who honors the credit card and offers a discount which is a finance charge are creditors."; and

(2) by redesignating the references to sections 127(a)(6), 127(a)(7), 127(a)(8), 127(b)(9), and 127(b)(11) in the next succeeding sentence as references to sections 127(a)(5), 127(a)(6), 127(a)(7), 127(b)(8), and 127(b)(10), respectively.

(b) The first sentence of section 103(g) of the Truth in Lending Act (15 U.S.C. 1602(g)) is amended to read as follows: "The term 'credit sale' refers to any sale in which the seller is a creditor."

EXEMPTED TRANSACTIONS

SEC. 603. (a) Section 103(h) of the Truth in Lending Act (15 U.S.C. 1602(h)) is amended by striking out "household, or agricultural" and inserting in lieu thereof "or household".

(b) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by redesignating subsections (s) and (t) as subsections (x) and (y), respectively, and by inserting after subsection (r) the following new subsections:

"(s) The term 'agricultural purposes' includes the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures those agricultural products, including but not limited to the acquisition of farmland, real property with a farm residence, and personal property and services used primarily in farming.

"Agricultural purposes."

"(t) The term 'agricultural products' includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof."

"Agricultural products."

(c) Section 104 of the Truth in Lending Act (15 U.S.C. 1603) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) Credit transactions involving extensions of credit primarily for business, commercial, or agricultural purposes, or to government or governmental agencies or instrumentalities, or to organizations;"

(2) by amending paragraph (3) to read as follows:

"(3) Credit transactions, other than those in which a security interest is or will be acquired in real property, or in personal property used or expected to be used as the principal dwelling of the consumer, in which the total amount financed exceeds \$25,000."; and

(3) by striking out paragraph (5).

OPEN END CREDIT PLAN

SEC. 604. Section 103(i) of the Truth in Lending Act (15 U.S.C. 1602(i)) is amended to read as follows:

"(i) The term 'open end credit plan' means a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge which may be computed from time to time on the outstanding unpaid balance. A credit plan which is an open end credit plan within the meaning of the preceding sentence is an open end credit plan even if credit information is verified from time to time."

MODEL FORMS

15 USC 1604.

SEC. 605. Section 105 of the Truth in Lending Act (15 U.S.C. 1605) is amended by inserting "(a)" before "The", and by adding at the end thereof the following:

Publication.

"(b) The Board shall publish model disclosure forms and clauses for common transactions to facilitate compliance with the disclosure requirements of this title and to aid the borrower or lessee in understanding the transaction by utilizing readily understandable language to simplify the technical nature of the disclosures. In devising such forms, the Board shall consider the use by creditors or lessors of data processing or similar automated equipment. Nothing in this title may be construed to require a creditor or lessor to use any such model form or clause prescribed by the Board under this section. A creditor or lessor shall be deemed to be in compliance with the disclosure provisions of this title with respect to other than numerical disclosures if the creditor or lessor (1) uses any appropriate model form or clause as published by the Board, or (2) uses any such model form or clause and changes it by (A) deleting any information which is not required by this title, or (B) rearranging the format, if in making such deletion or rearranging the format, the creditor or lessor does not affect the substance, clarity, or meaningful sequence of the disclosure.

Notice in
Federal
Register.

"(c) Model disclosure forms and clauses shall be adopted by the Board after notice duly given in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

Effective date.

"(d) Any regulation of the Board, or any amendment or interpretation thereof, requiring any disclosure which differs from the disclosures previously required by this chapter, chapter 4, or chapter 5, or by any regulation of the Board promulgated thereunder shall have an effective date of that October 1 which follows by at least six months the date of promulgation, except that the Board may at its discretion take interim action by regulation, amendment, or interpretation to lengthen the period of time permitted for creditors or lessors to adjust their forms to accommodate new requirements or shorten the length of time for creditors or lessors to make such adjustments when it makes a specific finding that such action is necessary to comply with the findings of a court or to prevent unfair or deceptive disclosure practices. Notwithstanding the previous sentence, any creditor or lessor may comply with any such newly promulgated disclosure requirements prior to the effective date of the requirements."

15 USC 1666 *et*
seq., 1667 *et seq.*

COMPONENTS OF FINANCE CHARGE

SEC. 606. (a) Section 106(a) of the Truth in Lending Act (15 U.S.C. 1605(a)) is amended by striking out ", including any of the following types of charges which are applicable" and inserting in lieu thereof the following: ". The finance charge does not include charges of a type payable in a comparable cash transaction. Examples of charges which are included in the finance charge include any of the following types of charges which are applicable".

(b) Section 106(d) of the Truth in Lending Act (15 U.S.C. 1605(d)) is amended by striking out paragraphs (3) and (4).

ACCURACY OF ANNUAL PERCENTAGE RATE

SEC. 607. (a) Section 107(c) of the Truth in Lending Act (15 U.S.C. 1606(c)) is amended to read as follows:

“(c) The disclosure of an annual percentage rate is accurate for the purpose of this title if the rate disclosed is within a tolerance not greater than one-eighth of 1 per centum more or less than the actual rate or rounded to the nearest one-fourth of 1 per centum. The Board may allow a greater tolerance to simplify compliance where irregular payments are involved.”.

(b) Section 107(e) of the Truth in Lending Act (15 U.S.C. 1606(e)) is amended by striking out “(c) or”.

(c) Section 107(f) of the Truth in Lending Act (15 U.S.C. 1606(f)) is hereby repealed. Repeal.

RESTITUTION

SEC. 608. (a) Section 108 of the Truth in Lending Act (15 U.S.C. 1607) is amended by adding at the end thereof the following:

“(e)(1) In carrying out its enforcement activities under this section, each agency referred to in subsection (a) or (c), in cases where an annual percentage rate or finance charge was inaccurately disclosed, shall notify the creditor of such disclosure error and is authorized in accordance with the provisions of this subsection to require the creditor to make an adjustment to the account of the person to whom credit was extended, to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower. For the purposes of this subsection, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in determining whether a disclosure error has occurred and in calculating any adjustment, (A) each agency shall apply (i) with respect to the annual percentage rate, a tolerance of one-quarter of 1 percent more or less than the actual rate, determined without regard to section 107(c) of this title, except in the case of an irregular mortgage lending transaction, and (ii) with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerance provided under this subsection for the annual percentage rate; except that (B) with respect to transactions consummated after two years following the effective date of section 608 of the Truth in Lending Simplification and Reform Act, each agency shall apply (i) for transactions that have a scheduled amortization of ten years or less, with respect to the annual percentage rate, a tolerance not to exceed one-quarter of 1 percent more or less than the actual rate, determined without regard to section 107(c) of this title, but in no event a tolerance of less than the tolerances allowed under section 107(c), (ii) for transactions that have a scheduled amortization of more than ten years, with respect to the annual percentage rate, only such tolerances as are allowed under section 107(c) of this title, and (iii) for all transactions, with respect to the finance charge, a corresponding numerical tolerance as generated by the tolerances provided under this subsection for the annual percentage rate.

Ante, p. 170.

Supra.

“(2) Each agency shall require such an adjustment when it determines that such disclosure error resulted from (A) a clear and consistent pattern or practice of violations, (B) gross negligence, or (C) a willful violation which was intended to mislead the person to whom the credit was extended. Notwithstanding the preceding sentence, except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, an agency need not require such an adjustment if it determines that such disclosure error—

Ante, p. 171.
15 USC 1605.

"(A) resulted from an error involving the disclosure of a fee or charge that would otherwise be excludable in computing the finance charge, including but not limited to violations involving the disclosures described in sections 106(b), (c) and (d) of this title, in which event the agency may require such remedial action as it determines to be equitable, except that for transactions consummated after two years after the effective date of section 608 of the Truth in Lending Simplification and Reform Act, such an adjustment shall be ordered for violations of section 106(b);

"(B) involved a disclosed amount which was 10 per centum or less of the amount that should have been disclosed and (i) in cases where the error involved a disclosed finance charge, the annual percentage rate was disclosed correctly, and (ii) in cases where the error involved a disclosed annual percentage rate, the finance charge was disclosed correctly; in which event the agency may require such adjustment as it determines to be equitable;

"(C) involved a total failure to disclose either the annual percentage rate or the finance charge, in which event the agency may require such adjustment as it determines to be equitable; or

"(D) resulted from any other unique circumstance involving clearly technical and nonsubstantive disclosure violations that do not adversely affect information provided to the consumer and that have not misled or otherwise deceived the consumer.

In the case of other such disclosure errors, each agency may require such an adjustment.

"(3) Notwithstanding paragraph (2), no adjustment shall be ordered (A) if it would have a significantly adverse impact upon the safety or soundness of the creditor, but in any such case, the agency may require a partial adjustment in an amount which does not have such an impact, except that with respect to any transaction consummated after the effective date of section 608 of the Truth in Lending Simplification and Reform Act, the agency shall require the full adjustment, but permit the creditor to make the required adjustment in partial payments over an extended period of time which the agency considers to be reasonable, (B) if the amount of the adjustment would be less than \$1, except that if more than one year has elapsed since the date of the violation, the agency may require that such amount be paid into the Treasury of the United States, or (C) except where such disclosure error resulted from a willful violation which was intended to mislead the person to whom credit was extended, in the case of an open-end credit plan, more than two years after the violation, or in the case of any other extension of credit, as follows:

"(i) with respect to creditors that are subject to examination by the agencies referred to in paragraphs (1) through (3) of section 108(a) of this title, except in connection with violations arising from practices identified in the current examination and only in connection with transactions that are consummated after the date of the immediately preceding examination, except that where practices giving rise to violations identified in earlier examinations have not been corrected, adjustments for those violations shall be required in connection with transactions consummated after the date of the examination in which such practices were first identified;

"(ii) with respect to creditors that are not subject to examination by such agencies, except in connection with transactions that are consummated after May 10, 1978; and

Ante, p. 171.

"(iii) in no event after the later of (I) the expiration of the life of the credit extension, or (II) two years after the agreement to extend credit was consummated.

"(4)(A) Notwithstanding any other provision of this section, an adjustment under this subsection may be required by an agency referred to in subsection (a) or (c) only by an order issued in accordance with cease and desist procedures provided by the provision of law referred to in such subsections.

"(B) In the case of an agency which is not authorized to conduct cease and desist proceedings, such an order may be issued after an agency hearing on the record conducted at least thirty but not more than sixty days after notice of the alleged violation is served on the creditor. Such a hearing shall be deemed to be a hearing which is subject to the provisions of section 8(h) of the Federal Deposit Insurance Act and shall be subject to judicial review as provided therein.

12 USC 1818.

"(5) Except as otherwise specifically provided in this subsection and notwithstanding any provision of law referred to in subsection (a) or (c), no agency referred to in subsection (a) or (c) may require a creditor to make dollar adjustments for errors in any requirements under this title, except with regard to the requirements of section 165.

Post, p. 184.

"(6) A creditor shall not be subject to an order to make an adjustment, if within sixty days after discovering a disclosure error, whether pursuant to a final written examination report or through the creditor's own procedures, the creditor notifies the person concerned of the error and adjusts the account so as to assure that such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

"(7) Notwithstanding the second sentence of subsection (e)(1), subsection (e)(3)(C)(i), and subsection (e)(3)(C)(ii), each agency referred to in subsection (a) or (c) shall require an adjustment for an annual percentage rate disclosure error that exceeds a tolerance of one quarter of one percent less than the actual rate, determined without regard to section 107(c) of this title, except in the case of an irregular mortgage lending transaction, with respect to any transaction consummated between January 1, 1977, and the effective date of section 608 of the Truth in Lending Simplification and Reform Act."

Ante, p. 170.

(b) This section shall take effect on the date of enactment of the Truth in Lending Simplification and Reform Act.

Ante, p. 171.

(c) Effective one year after the date of enactment of the Truth in Lending Simplification and Reform Act, section 108(e)(1)(A)(i) and section 108(e)(7) of the Truth in Lending Act are amended by striking out "except in the case of an irregular mortgage lending transaction".

Effective date.
15 USC 1607
note.

Ante, p. 168.

15 USC 1607.

Ante, p. 171.

EFFECT ON OTHER LAWS

SEC. 609. Section 111(a) of the Truth in Lending Act (15 U.S.C. 1610(a)) is amended to read as follows:

"(a)(1) Chapters 1, 2, and 3 do not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with credit transactions, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any such inconsistency exists. If the Board determines that a State-required disclosure is incon-

15 USC 1601 et
seq., 1631 et seq.,
1661 et seq.

sistent, creditors located in that State may not make disclosures using the inconsistent term or form, and shall incur no liability under the law of that State for failure to use such term or form, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

State-required
disclosure.

Post, p. 175.

"(2) Upon its own motion or upon the request of any creditor, State, or other interested party which is submitted in accordance with procedures prescribed in regulations of the Board, the Board shall determine whether any disclosure required under the law of any State is substantially the same in meaning as a disclosure required under this title. If the Board determines that a State-required disclosure is substantially the same in meaning as a disclosure required by this title, then creditors located in that State may make such disclosure in compliance with such State law in lieu of the disclosure required by this title, except that the annual percentage rate and finance charge shall be disclosed as required by section 122."

ANNUAL REPORTS

SEC. 610. (a) Section 114 of the Truth in Lending Act (15 U.S.C. 1613) is amended by striking out "Not later than January 3 of each year after 1969," and inserting in lieu thereof "Each year".

(b) Section 18(f)(6) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(6)) is amended by striking out "not later than March 15 of".

(c) Section 707 of the Equal Credit Opportunity Act (15 U.S.C. 1691f) is amended by striking out "Not later than February 1 of each year after 1976" and inserting in lieu thereof "Each year".

GENERAL DISCLOSURE REQUIREMENTS

SEC. 611. Sections 121 and 122 of the Truth in Lending Act (15 U.S.C. 1631 and 1632) are amended to read as follows:

"§ 121. General requirement of disclosure

15 USC 1635.

Ante, p. 168.
15 USC 1667.

"(a) Subject to subsection (b), a creditor or lessor shall disclose to the person who is obligated on a consumer lease or a consumer credit transaction the information required under this title. In a transaction involving more than one obligor, a creditor or lessor, except in a transaction under section 125, need not disclose to more than one of such obligors if the obligor given disclosure is a primary obligor.

"(b) If a transaction involves one creditor as defined in section 103(f), or one lessor as defined in section 181(3), such creditor or lessor shall make the disclosures. If a transaction involves more than one creditor or lessor, only one creditor or lessor shall be required to make the disclosures. The Board shall by regulation specify which creditor or lessor shall make the disclosures.

"(c) The Board may provide by regulation that any portion of the information required to be disclosed by this title may be given in the form of estimates where the provider of such information is not in a position to know exact information.

"(d) The Board shall determine whether tolerances for numerical disclosures other than the annual percentage rate are necessary to facilitate compliance with this title, and if it determines that such tolerances are necessary to facilitate compliance, it shall by regulation permit disclosures within such tolerances. The Board shall exercise its authority to permit tolerances for numerical disclosures other than the annual percentage rate so that such tolerances are

narrow enough to prevent such tolerances from resulting in misleading disclosures or disclosures that circumvent the purposes of this title.

“§ 122. Form of disclosure; additional information

“(a) Information required by this title shall be disclosed clearly and conspicuously, in accordance with regulations of the Board. The terms ‘annual percentage rate’ and ‘finance charge’ shall be disclosed more conspicuously than other terms, data, or information provided in connection with a transaction, except information relating to the identity of the creditor. Regulations of the Board need not require that disclosures pursuant to this title be made in the order set forth in this title and, except as otherwise provided, may permit the use of terminology different from that employed in this title if it conveys substantially the same meaning.

“Annual percentage rate” and “finance charge.”

“(b) Any creditor or lessor may supply additional information or explanation with any disclosures required under chapters 4 and 5 and, except as provided in section 128(b)(1), under this chapter.”.

15 USC 1666 *et seq.*, 1667 *et seq.*
Post, p. 179.

RESCISSION

SEC. 612. (a)(1) Section 125(a) of the Truth in Lending Act (15 U.S.C. 1635(a)) is amended to read as follows:

“(a) Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.”.

(2) Section 103 of the Truth in Lending Act (15 U.S.C. 1602), as amended by section 603(b), is amended by adding at the end thereof the following:

Ante, p. 169.

“(u) The term ‘material disclosures’ means the disclosure, as required by this title, of the annual percentage rate, the method of determining the finance charge and the balance upon which a finance charge will be imposed, the amount of the finance charge, the amount to be financed, the total of payments, the number and amount of payments, and the due dates or periods of payments scheduled to repay the indebtedness.”.

“Material disclosures.”

(3) Section 125(b) of the Truth in Lending Act (15 U.S.C. 1635(b)) is amended by striking out “ten days” each place it appears therein and inserting in lieu thereof “20 days”.

(4) Section 125(b) of the Truth in Lending Act (15 U.S.C. 1635(b)) is amended by adding at the end thereof the following new sentence: “The procedures prescribed by this subsection shall apply except when otherwise ordered by a court.”.

(5) Section 125(c) of the Truth in Lending Act (15 U.S.C. 1635(c)) is amended by inserting "information, forms, and" after "whom".

(6) Section 125 of the Truth in Lending Act (15 U.S.C. 1635) is amended by striking out subsections (e) and (f) and inserting in lieu thereof the following:

"(e)(1) This section does not apply to—

Infra.

"(A) a residential mortgage transaction as defined in section 103(w);

"(B) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property;

"(C) a transaction in which an agency of a State is the creditor; or

"(D) advances under a preexisting open end credit plan if a security interest has already been retained or acquired and such advances are in accordance with a previously established credit limit for such plan.

Ante, p. 168.

"(2) The provisions of paragraph (1)(D) shall cease to be effective 3 years after the effective date of the Truth in Lending Simplification and Reform Act.

15 USC 1635.

"(f) An obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the sale of the property, whichever occurs first, notwithstanding the fact that the information and forms required under this section or any other disclosures required under this chapter have not been delivered to the obligor, except that if (1) any agency empowered to enforce the provisions of this title institutes a proceeding to enforce the provisions of this section within three years after the date of consummation of the transaction, (2) such agency finds a violation of section 125, and (3) the obligor's right to rescind is based in whole or in part on any matter involved in such proceeding, then the obligor's right of rescission shall expire three years after the date of consummation of the transaction or upon the earlier sale of the property, or upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

15 USC 1640.

"(g) In any action in which it is determined that a creditor has violated this section, in addition to rescission the court may award relief under section 130 for violations of this title not relating to the right to rescind."

(b) Section 103 of the Truth in Lending Act (15 U.S.C. 1602) is amended by inserting after subsection (u) the following:

"Dwelling."

"(v) The term 'dwelling' means a residential structure or mobile home which contains one to four family housing units, or individual units of condominiums or cooperatives.

"Residential mortgage transaction."

"(w) The term 'residential mortgage transaction' means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against the consumer's dwelling to finance the acquisition or initial construction of such dwelling."

OPEN END DISCLOSURES

SEC. 613. (a) Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended—

(1) by adding at the end of paragraph (1) the following new sentence: "If no such time period is provided, the creditor shall disclose such fact.";

(2) by striking out paragraph (5) and redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively; and

(3) by amending paragraphs (5) and (6), as redesignated by paragraph (2), to read as follows:

"(5) Identification of other charges which may be imposed as part of the plan, and their method of computation, in accordance with regulations of the Board.

"(6) In cases where the credit is or will be secured, a statement that a security interest has been or will be taken in (A) the property purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type."

(b) Section 127(b)(2) of the Truth in Lending Act (15 U.S.C. 1637(b)(2)) is amended to read as follows:

"(2) The amount and date of each extension of credit during the period, and a brief identification, on or accompanying the statement of each extension of credit in a form prescribed by the Board sufficient to enable the obligor either to identify the transaction or to relate it to copies of sales vouchers or similar instruments previously furnished, except that a creditor's failure to disclose such information in accordance with this paragraph shall not be deemed a failure to comply with this chapter or this title if (A) the creditor maintains procedures reasonably adapted to procure and provide such information, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161. In lieu of complying with the requirements of the previous sentence, in the case of any transaction in which the creditor and seller are the same person, as defined by the Board, and such person's open end credit plan has fewer than 15,000 accounts, the creditor may elect to provide only the amount and date of each extension of credit during the period and the seller's name and location where the transaction took place if (A) a brief identification of the transaction has been previously furnished, and (B) the creditor responds to and treats any inquiry for clarification or documentation as a billing error and an erroneously billed amount under section 161."

15 USC 1666.

15 USC 1666.

(c) Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637) is amended by striking out paragraph (7) and by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (7), (8), (9), and (10), respectively.

(d) Section 127(a)(7) of the Truth in Lending Act (15 U.S.C. 1637(a)), as redesignated by subsection (a)(2), is amended by striking out "each of two billing cycles per year, at semiannual intervals" and inserting in lieu thereof "one billing cycle per calendar year, at intervals of not less than six months or more than eighteen months".

(e) Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is hereby repealed.

Repeal.

(f) Section 143 of the Truth in Lending Act (15 U.S.C. 1663) is amended by striking out "or the appropriate rate determined under section 127(a)(5)".

Post, p. 183.

Ante, p. 176.

(g) Section 161(a) of the Truth in Lending Act (15 U.S.C. 1666(a)) is amended by redesignating the references to sections 127(b)(11) and 127(a)(8) as references to sections 127(b)(10) and 127(a)(7), respectively.

OTHER THAN OPEN END DISCLOSURES

SEC. 614. (a) Section 128(a) of the Truth in Lending Act (15 U.S.C. 1638(a)) is amended to read as follows:

“(a) For each consumer credit transaction other than under an open end credit plan, the creditor shall disclose each of the following items, to the extent applicable:

“Amount
financed.”
Computation
method.

“(1) The identity of the creditor required to make disclosure.

“(2)(A) The ‘amount financed’, using that term, which shall be the amount of credit of which the consumer has actual use. This amount shall be computed as follows, but the computations need not be disclosed and shall not be disclosed with the disclosures conspicuously segregated in accordance with subsection (b)(1):

“(i) take the principal amount of the loan or the cash price less downpayment and trade-in;

“(ii) add any charges which are not part of the finance charge or of the principal amount of the loan and which are financed by the consumer, including the cost of any items excluded from the finance charge pursuant to section 106; and

“(iii) subtract any charges which are part of the finance charge but which will be paid by the consumer before or at the time of the consummation of the transaction, or have been withheld from the proceeds of the credit.

15 USC 1605.

“(B) In conjunction with the disclosure of the amount financed, a creditor shall provide a statement of the consumer’s right to obtain, upon a written request, a written itemization of the amount financed. The statement shall include spaces for a ‘yes’ and ‘no’ indication to be initialed by the consumer to indicate whether the consumer wants a written itemization of the amount financed. Upon receiving an affirmative indication, the creditor shall provide, at the time other disclosures are required to be furnished, a written itemization of the amount financed. For the purposes of this subparagraph, ‘itemization of the amount financed’ means a disclosure of the following items, to the extent applicable:

“Itemization of
the amount
financed.”

“(i) the amount that is or will be paid directly to the consumer;

“(ii) the amount that is or will be credited to the consumer’s account to discharge obligations owed to the creditor;

“(iii) each amount that is or will be paid to third persons by the creditor on the consumer’s behalf, together with an identification of or reference to the third person; and

“(iv) the total amount of any charges described in the preceding subparagraph (A)(iii).

“(3) The ‘finance charge’, not itemized, using that term.

“(4) The finance charge expressed as an ‘annual percentage rate’, using that term. This shall not be required if the amount financed does not exceed \$75 and the finance charge does not exceed \$5, or if the amount financed exceeds \$75 and the finance charge does not exceed \$7.50.

“(5) The sum of the amount financed and the finance charge, which shall be termed the ‘total of payments’.

“(6) The number, amount, and due dates or period of payments scheduled to repay the total of payments.

“(7) In a sale of property or services in which the seller is the creditor required to disclose pursuant to section 121(b), the ‘total sale price’, using that term, which shall be the total of the cash

price of the property or services, additional charges, and the finance charge.

"(8) Descriptive explanations of the terms 'amount financed', 'finance charge', 'annual percentage rate', 'total of payments', and 'total sale price' as specified by the Board. The descriptive explanation of 'total sale price' shall include reference to the amount of the downpayment.

"(9) Where the credit is secured, a statement that a security interest has been taken in (A) the property which is purchased as part of the credit transaction, or (B) property not purchased as part of the credit transaction identified by item or type.

Secured credit statement.

"(10) Any dollar charge or percentage amount which may be imposed by a creditor solely on account of a late payment, other than a deferral or extension charge.

"(11) A statement indicating whether or not the consumer is entitled to a rebate of any finance charge upon refinancing or prepayment in full pursuant to acceleration or otherwise, if the obligation involves a precomputed finance charge. A statement indicating whether or not a penalty will be imposed in those same circumstances if the obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance.

"(12) A statement that the consumer should refer to the appropriate contract document for any information such document provides about nonpayment, default, the right to accelerate the maturity of the debt, and prepayment rebates and penalties.

"(13) In any residential mortgage transaction, a statement indicating whether a subsequent purchaser or assignee of the consumer may assume the debt obligation on its original terms and conditions."

(b) Section 128(b) of the Truth in Lending Act (15 U.S.C. 1638(b)) is amended to read as follows:

"(b)(1) Except as otherwise provided in this chapter, the disclosures required under subsection (a) shall be made before the credit is extended. Except for the disclosures required by subsection (a)(1) of this section, all disclosures required under subsection (a) and any disclosure provided for in subsection (b), (c), or (d) of section 106 shall be conspicuously segregated from all other terms, data, or information provided in connection with a transaction, including any computations or itemization.

15 USC 1605.

"(2) In the case of a residential mortgage transaction, as defined in section 103(w), which is also subject to the Real Estate Settlement Procedures Act, good faith estimates of the disclosures required under subsection (a) shall be made in accordance with regulations of the Board under section 121(c) before the credit is extended, or shall be delivered or placed in the mail not later than three business days after the creditor receives the consumer's written application, whichever is earlier. If the disclosure statement furnished within three days of the written application contains an annual percentage rate which is subsequently rendered inaccurate within the meaning of section 107(c), the creditor shall furnish another statement at the time of settlement or consummation."

Ante, p. 176.

12 USC 2601 note.

Ante, p. 174.

Ante, p. 170.

(c) Section 128(c) of the Truth in Lending Act (15 U.S.C. 1638(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking out "deferred payment price" and inserting in lieu thereof "total sale price"; and

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

"(2) If a creditor receives a request for a loan by mail or telephone without personal solicitation and the terms of financing, including the annual percentage rate for representative amounts of credit, are set forth in the creditor's printed material distributed to the public, or in the contract of loan or other printed material delivered to the obligor, then the disclosures required under subsection (a) may be made at any time not later than the date the first payment is due."

Repeal.

(d)(1) Section 129 of the Truth in Lending Act (15 U.S.C. 1639) is hereby repealed.

(2) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 129 and inserting in lieu thereof the following:

"129. [Repealed]."

Repeal.

(e)(1) Section 126 of the Truth in Lending Act (15 U.S.C. 1636) is hereby repealed.

(2) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 126 and inserting in lieu thereof the following:

"126. [Repealed]."

(f)(1) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 128 and inserting in lieu thereof the following:

"128. Consumer credit not under open end credit plans."

(2) The section heading for section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended by striking out "SALES" and inserting in lieu thereof "CONSUMER CREDIT".

CIVIL LIABILITY

SEC. 615. (a) Section 130 of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) in subsection (a)(2)(B), by striking out "in such action" and inserting in lieu thereof "under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same creditor";

15 USC 1635.

(2) in subsection (a)(3), by inserting "or in any action in which a person is determined to have a right of rescission under section 125" after "liability";

(3) by amending subsections (b), (c), and (d) to read as follows:

15 USC 1607,
1611.
15 USC 1631 *et*
seq., 1667 *et seq.*
Ante, p. 171.

"(b) A creditor or assignee has no liability under this section or section 108 or section 112 for any failure to comply with any requirement imposed under this chapter or chapter 5, if within sixty days after discovering an error, whether pursuant to a final written examination report or notice issued under section 108(e)(1) or through the creditor's or assignee's own procedures, and prior to the institution of an action under this section or the receipt of written notice of the error from the obligor, the creditor or assignee notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

15 USC 1635.

"(c) A creditor or assignee may not be held liable in any action brought under this section or section 125 for a violation of this title if the creditor or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted

to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this title is not a bona fide error.

"(d) When there are multiple obligors in a consumer credit transaction or consumer lease, there shall be no more than one recovery of damages under subsection (a)(2) for a violation of this title.";

(4) in subsection (e), by adding at the end thereof the following new sentence: "This subsection does not bar a person from asserting a violation of this title in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by State law.";

(5) in subsection (f), by inserting ", section 108(b), section 108(c), section 108(e)," after "this section";

15 USC 1607.
Ante, p. 171.

(6) in subsection (g), by adding at the end thereof the following new sentence: "This subsection does not bar any remedy permitted by section 125."; and

15 USC 1635.

(7) by amending subsection (h) to read as follows:

"(h) A person may not take any action to offset any amount for which a creditor or assignee is potentially liable to such person under subsection (a)(2) against any amount owed by such person, unless the amount of the creditor's or assignee's liability under this title has been determined by judgment of a court of competent jurisdiction in an action of which such person was a party. This subsection does not bar a consumer then in default on the obligation from asserting a violation of this title as an original action, or as a defense or counterclaim to an action to collect amounts owed by the consumer brought by a person liable under this title.".

(b) Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended—

(1) by inserting ", including any requirement under section 125," immediately after "this chapter"; and

(2) by adding at the end thereof the following: "In connection with the disclosures referred to in section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, section 127(a), or of paragraph (4), (5), (6), (7), (8), (9), or (10) of section 127(b) or for failing to comply with disclosure requirements under State law for any term or item which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a) or any of those paragraphs of section 127(b). In connection with the disclosures referred to in section 128, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125 or of paragraph (2) (insofar as it requires a disclosure of the 'amount financed'), (3), (4), (5), (6), or (9) of section 128(a), or for failing to comply with disclosure requirements under State law for any term which the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms referred to in any of those paragraphs of section 128(a). With respect to any failure to make disclosures required under this chapter or chapter 4 or 5 of this title, liability shall be imposed only upon the creditor required to make disclosure, except as provided in section 131.".

15 USC 1637.

Ante, p. 176.

Ante, p. 177.

Ante, p. 173.

15 USC 1638.

Ante, p. 178.

15 USC 1631 *et seq.*, 1666 *et seq.*, 1667 *et seq.*
Post, p. 182.

LIABILITY OF ASSIGNEES

SEC. 616. (a) Section 131 of the Truth in Lending Act (15 U.S.C. 1641) is amended to read as follows:

"§ 131. Liability of assignees

15 USC 1607.

"(a) Except as otherwise specifically provided in this title, any civil action for a violation of this title or proceeding under section 108 which may be brought against a creditor may be maintained against any assignee of such creditor only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, except where the assignment was involuntary. For the purpose of this section, a violation apparent on the face of the disclosure statement includes, but is not limited to (1) a disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) a disclosure which does not use the terms required to be used by this title.

Ante, p. 176.

"(b) Except as provided in section 125(c), in any action or proceeding by or against any subsequent assignee of the original creditor without knowledge to the contrary by the assignee when he acquires the obligation, written acknowledgement of receipt by a person to whom a statement is required to be given pursuant to this title shall be conclusive proof of the delivery thereof and, except as provided in subsection (a), of compliance with this chapter. This section does not affect the rights of the obligor in any action against the original creditor.

15 USC 1635.

"(c) Any consumer who has the right to rescind a transaction under section 125 may rescind the transaction as against any assignee of the obligation."

Repeal.

(b) Section 115 of the Truth in Lending Act (15 U.S.C. 1614) is hereby repealed.

(c)(1) The table of sections at the beginning of chapter 1 of the Truth in Lending Act is amended by striking out the item relating to section 115 and inserting in lieu thereof the following:

"115. [Repealed]."

(2) The table of sections at the beginning of chapter 2 of the Truth in Lending Act is amended by striking out the item relating to section 131 and inserting in lieu thereof the following:

"131. Liability of assignees."

LIABILITY OF CREDIT CARDHOLDER

SEC. 617. Section 133(a) of the Truth in Lending Act (15 U.S.C. 1643(a)) is amended to read as follows:

"(a)(1) A cardholder shall be liable for the unauthorized use of a credit card only if—

"(A) the card is an accepted credit card;

"(B) the liability is not in excess of \$50;

"(C) the card issuer gives adequate notice to the cardholder of the potential liability;

"(D) the card issuer has provided the cardholder with a description of a means by which the card issuer may be notified of loss or theft of the card, which description may be provided on the face or reverse side of the statement required by section 127(b) or on a separate notice accompanying such statement;

"(E) the unauthorized use occurs before the card issuer has been notified that an unauthorized use of the credit card has

occurred or may occur as the result of loss, theft, or otherwise; and

“(F) the card issuer has provided a method whereby the user of such card can be identified as the person authorized to use it.

“(2) For purposes of this section, a card issuer has been notified when such steps as may be reasonably required in the ordinary course of business to provide the card issuer with the pertinent information have been taken, whether or not any particular officer, employee, or agent of the card issuer does in fact receive such information.”.

DISSEMINATION OF ANNUAL PERCENTAGE RATES

SEC. 618. (a) Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following new section:

“§ 136. Dissemination of annual percentage rates

15 USC 1646.

“(a) The Board shall collect, publish, and disseminate to the public, on a demonstration basis in a number of standard metropolitan statistical areas to be determined by the Board, the annual percentage rates charged for representative types of nonsale credit by creditors in such areas. For the purpose of this section, the Board is authorized to require creditors in such areas to furnish information necessary for the Board to collect, publish, and disseminate such information.

“(b) The Board is authorized to enter into contracts or other arrangements with appropriate persons, organizations, or State agencies to carry out its functions under subsection (a) and to furnish financial assistance in support thereof.”.

(b) The table of sections contained at the beginning of such chapter is amended by adding at the end thereof the following new item:

“136. Dissemination of annual percentage rates.”.

CREDIT ADVERTISING

SEC. 619. (a) Section 143 of the Truth in Lending Act (15 U.S.C. 1662) is amended to read as follows:

“§ 143. Advertising of open end credit plans

15 USC 1663.

“No advertisement to aid, promote, or assist directly or indirectly the extension of consumer credit under an open end credit plan may set forth any of the specific terms of that plan unless it also clearly and conspicuously sets forth all of the following items:

“(1) Any minimum or fixed amount which could be imposed.

“(2) In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as annual percentage rates.

“(3) Any other term that the Board may by regulation require to be disclosed.”.

(b) Section 144(d) of the Truth in Lending Act (15 U.S.C. 1664) is amended by striking out paragraphs (1) through (4) thereof, and inserting in lieu thereof the following:

“(1) The downpayment, if any.

“(2) The terms of repayment.

“(3) The rate of the finance charge expressed as an annual percentage rate.”.

CORRECTION OF BILLING ERRORS

SEC. 620. (a) Section 161(b) of the Truth in Lending Act (15 U.S.C. 1666(b)) is amended—

(1) by redesignating paragraph (6) as paragraph (7); and

(2) by inserting after paragraph (5) the following:

“(6) Failure to transmit the statement required under section 127(b) of this Act to the last address of the obligor which has been disclosed to the creditor, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.”.

(b) Section 161(c) of the Truth in Lending Act (15 U.S.C. 1666(c)) is amended by inserting “, which may include finance charges on amounts in dispute,” after “of statements of account”.

CREDIT BALANCES

SEC. 621. (a) Section 165 of the Truth in Lending Act (15 U.S.C. 1666d) is amended to read as follows:

“§ 165. Treatment of credit balances

“Whenever a credit balance in excess of \$1 is created in connection with a consumer credit transaction through (1) transmittal of funds to a creditor in excess of the total balance due on an account, (2) rebates of unearned finance charges or insurance premiums, or (3) amounts otherwise owed to or held for the benefit of an obligor, the creditor shall—

“(A) credit the amount of the credit balance to the consumer’s account;

“(B) refund any part of the amount of the remaining credit balance, upon request of the consumer; and

“(C) make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, except that no further action is required in any case in which the consumer’s current location is not known by the creditor and cannot be traced through the consumer’s last known address or telephone number.”.

(b) The table of sections at the beginning of chapter 4 of the Truth in Lending Act is amended by striking out the item relating to section 165 and inserting in lieu thereof the following:

“165. Treatment of credit balances.”.

GOVERNMENT EXEMPTION

SEC. 622. (a) Section 113 of the Truth in Lending Act (15 U.S.C. 1612) is amended to read as follows:

“§ 113. Effect on governmental agencies

“(a) Any department or agency of the United States which administers a credit program in which it extends, insures, or guarantees consumer credit and in which it provides instruments to a creditor which contain any disclosures required by this title shall, prior to the issuance or continued use of such instruments, consult with the Board to assure that such instruments comply with this title.

“(b) No civil or criminal penalty provided under this title for any violation thereof may be imposed upon the United States or any

department or agency thereof, or upon any State or political subdivision thereof, or any agency of any State or political subdivision.

“(c) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under this title in any case in which the violation results from the use of an instrument required by any such department or agency.

“(d) A creditor participating in a credit program administered, insured, or guaranteed by any department or agency of the United States shall not be held liable for a civil or criminal penalty under the laws of any State (other than laws determined under section 111 to be inconsistent with this title) for any technical or procedural failure, such as a failure to use a specific form, to make information available at a specific place on an instrument, or to use a specific typeface, as required by State law, which is caused by the use of an instrument required to be used by such department or agency.”.

15 USC 1610.

(b) The table of sections at the beginning of chapter 1 of the Truth in Lending Act is amended by striking out the item relating to section 113 and inserting in lieu thereof the following:

“113. Effect on governmental agencies.”.

ORAL DISCLOSURES

SEC. 623. (a) Section 146 of the Truth in Lending Act (15 U.S.C. 1665a) is amended to read as follows:

“§ 146. Use of annual percentage rate in oral disclosures

“In responding orally to any inquiry about the cost of credit, a creditor, regardless of the method used to compute finance charges, shall state rates only in terms of the annual percentage rate, except that in the case of an open end credit plan, the periodic rate also may be stated and, in the case of an other than open end credit plan where a major component of the finance charge consists of interest computed at a simple annual rate, the simple annual rate also may be stated. The Board may, by regulation, modify the requirements of this section or provide an exception from this section for a transaction or class of transactions for which the creditor cannot determine in advance the applicable annual percentage rate.”.

(b) The table of sections at the beginning of chapter 3 of the Truth in Lending Act is amended by striking out the item relating to section 146 and inserting in lieu thereof the following:

“146. Use of annual percentage rate in oral disclosures.”.

CONSUMER LEASING

SEC. 624. Section 185(b) of the Truth in Lending Act (15 U.S.C. 1667d(b)) is amended by striking out “sections 115, 130, and 131” and inserting in lieu thereof “sections 130 and 131”.

15 USC 1640;
Ante, p. 182.

EFFECTIVE DATE

SEC. 625. (a) Except as provided in section 608(b), the amendments made by this title shall take effect upon the expiration of two years after the date of enactment of this title.

(b) All regulations, forms, and clauses required to be prescribed under the amendments made by this title shall be promulgated at least one year prior to such effective date.

15 USC 1602
note.
Ante, p. 171.

(c) Notwithstanding subsections (a) and (b), any creditor may comply with the amendments made by this title, in accordance with the regulations, forms, and clauses prescribed by the Board, prior to such effective date.

TITLE VII—AMENDMENTS TO THE NATIONAL BANKING LAWS

PART A—NATIONAL BANKING LAWS

POWER TO HOLD REAL PROPERTY OR INTERESTS IN REAL PROPERTY

SEC. 701. (a) Section 5137 of the Revised Statutes (12 U.S.C. 29) is amended—

(1) by inserting before the period at the end of the last paragraph thereof the following: “except as otherwise provided in this section”; and

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

“For real estate in the possession of a national banking association upon application by the association, the Comptroller of the Currency may approve the possession of any such real estate by such association for a period longer than five years, but not to exceed an additional five years, if (1) the association has made a good faith attempt to dispose of the real estate within the five-year period, or (2) disposal within the five-year period would be detrimental to the association. Upon notification by the association to the Comptroller of the Currency that such conditions exist that require the expenditure of funds for the development and improvement of such real estate, and subject to such conditions and limitations as the Comptroller of the Currency shall prescribe, the association may expend such funds as are needed to enable such association to recover its total investment.”.

(b) Section 4(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(a)) is amended by adding at the end thereof the following: “Notwithstanding any other provision of this Act, the period ending December 31, 1980, referred to in paragraph (2) above, may be extended by the Board of Governors to December 31, 1982, but only for the divestiture by a bank holding company of real estate or interests in real estate lawfully acquired for investment or development. In making its decision whether to grant such extension, the Board shall consider whether the company has made a good faith effort to divest such interests and whether such extension is necessary to avert substantial loss to the company.”.

DIVIDENDS ON PREFERRED STOCK

SEC. 702. The first sentence of subsection (a) of section 302 of the Act entitled “An Act to provide relief in the existing national emergency in banking, and for other purposes”, approved March 9, 1933 (12 U.S.C. 51b), is amended by striking out “at a rate not exceeding 6 per centum per annum”.

CONSIDERATION OF PREFERRED STOCK IN DETERMINING IMPAIRMENT OF CAPITAL

SEC. 703. The third sentence of section 345 of the Banking Act of 1935 (12 U.S.C. 51b-1) is amended by striking out “at a rate not exceeding six per centum per annum”.

REVOCATION OF TRUST POWERS

SEC. 704. The first section of the Act of September 28, 1962 (76 Stat. 668; 12 U.S.C. 92a), is amended by adding at the end thereof the following new subsection:

“(k)(1) In addition to the authority conferred by other law, if, in the opinion of the Comptroller of the Currency, a national banking association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of five consecutive years to exercise, the powers granted by this section or otherwise fails or has failed to comply with the requirements of this section, the Comptroller may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this section. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

Notice of intent.

“(2) Such hearing shall be conducted in accordance with the provisions of subsection (h) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)), and subject to judicial review as provided in such section, and shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or later date is set by the Comptroller at the request of any association so served.

Hearing.

Judicial review.

“(3) Unless the association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Comptroller shall find that any allegation specified in the notice of charges has been established, the Comptroller may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this section, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

“(4) A revocation order shall become effective not earlier than the expiration of thirty days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court.”.

Revocation orders, effective date.

EMERGENCY LIMITATIONS AND RESTRICTIONS ON BUSINESS OF MEMBER BANKS

SEC. 705. Section 4 of the Act of March 9, 1933 (48 Stat. 2; 12 U.S.C. 95), is amended—

(1) by inserting “(a)” after “SEC. 4.”; and

(2) by adding at the end thereof the following:

“(b)(1) In the event of natural calamity, riot, insurrection, war, or other emergency conditions occurring in any State whether caused by acts of nature or of man, the Comptroller of the Currency may designate by proclamation any day a legal holiday for the national banking associations located in that State. In the event that the emergency conditions affect only part of a State, the Comptroller of

Legal holidays, designation.

the Currency may designate the part so affected and may proclaim a legal holiday for the national banking associations located in that affected part. In the event that a State or a State official authorized by law designates any day as a legal holiday for either emergency or ceremonial reasons for all banks chartered by that State to do business within that State, that same day shall be a legal holiday for all national banking associations chartered to do business within that State unless the Comptroller of the Currency shall by written order permit all national banking associations located in that State to remain open.

"State."

"(2) For the purpose of this subsection, the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States."

PROCEDURE FOR CONVERSION, MERGER, OR CONSOLIDATION

SEC. 706. The second sentence of subsection (b) of section 2 of the Act of August 17, 1950 (64 Stat. 456; 12 U.S.C. 214a(b)), is amended by striking out "unanimous" and inserting in lieu thereof "majority".

DELEGATION OF AUTHORITY

SEC. 707. (a) Chapter 9 of title VII of the Revised Statutes (12 U.S.C. 1 et seq.) is amended by inserting after section 327 the following new section:

12 USC 4a.

"SEC. 327A. The Comptroller of the Currency may delegate to any duly authorized employee, representative, or agent any power vested in the office by law."

(b) The table of contents contained at the beginning of chapter 9 of title VII of the Revised Statutes is amended by inserting after the item relating to section 327 the following new item:

"327A. Delegation of authority."

AUTHORITY TO PRESCRIBE REGULATIONS

SEC. 708. Chapter 4 of title LXII of the Revised Statutes (12 U.S.C. 21 et seq.) is amended by inserting immediately following section 5239 a new section 5239A to read as follows:

12 USC 93a.

"SEC. 5239A. Except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency, the Comptroller of the Currency is authorized to prescribe rules and regulations to carry out the responsibilities of the office, except that the authority conferred by this section does not apply to section 5155 of the Revised Statutes or to securities activities of National Banks under the Act commonly known as the 'Glass-Steagall Act'."

12 USC 36.

EXAMINATION OF NATIONAL BANKING ASSOCIATIONS

SEC. 709. (a) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by striking out the first two sentences and inserting in lieu thereof the following: "The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall appoint examiners who shall examine every national bank as often as the Comptroller of the Currency shall deem necessary."

Foreign
operations.

(b) Section 5240 of the Revised Statutes (12 U.S.C. 481) is amended by adding at the end thereof the following new sentence: "The

Comptroller of the Currency, upon the request of the Board of Governors of the Federal Reserve System, is authorized to assign examiners appointed under this section to examine foreign operations of State banks which are members of the Federal Reserve System."

OWNERSHIP INTEREST OF DIRECTORS OF NATIONAL BANKS

SEC. 710. The second sentence of section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the second sentence and inserting in lieu thereof the following: "Every director must own in his or her own right either shares of the capital stock of the association of which he or she is a director the aggregate par value of which is not less than \$1,000, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841). If the capital of the bank does not exceed \$25,000, every director must own in his or her own right either shares of such capital stock the aggregate par value of which is not less than \$500, or an equivalent interest, as determined by the Comptroller of the Currency, in any company which has control over such association within the meaning of section 2 of the Bank Holding Company Act of 1956 (12 U.S.C. 1841)."

PURCHASE OF STOCK IN BANKERS' BANKS

SEC. 711. The paragraph numbered "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24(7)) is amended by inserting before the period at the end thereof the following: "*Provided further*, That, notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock of a bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent State law requires directors qualifying shares) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees, but in no event shall the total amount of such stock held by the association exceed at any time 10 per centum of its capital stock and paid in and unimpaired surplus, and in no event shall the purchase of such stock result in the association's acquiring more than 5 per centum of any class of voting securities of such bank".

INTERSTATE TRUST OPERATIONS

SEC. 712. (a) Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by adding at the end thereof the following: "Notwithstanding the provisions of the preceding sentence, a national banking association the operations of which are limited as provided in the preceding sentence shall be deemed an additional bank within the contemplation of section 3 of the Bank Holding Company Act of 1956."

12 USC 1842.

(b) Section 3(d) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(d)) is amended by inserting "(1)" after "(d)" and by adding at the end thereof the following:

"(2)(A) Except as provided in subparagraph (B), the restrictions contained in paragraph (1) regarding the acquisition of shares or assets of, or interests in, an additional bank shall apply to the acquisition of shares or assets of, or interests in, a trust company.

"(B) Subparagraph (A) shall not apply with respect to the acquisition of shares or assets of, or interests in, a trust company if such acquisition was approved by the Board on or before March 5, 1980, and if such trust company opened for business and was operating on or before March 5, 1980.

"Trust
company."

"(C) For the purpose of this paragraph, the term 'trust company' means any company whose powers are limited to the powers specified in subsection (a) of the first section of the Act entitled 'An Act to place authority over the trust powers of national banks in the Comptroller of the Currency', approved September 28, 1962 (12 U.S.C. 92a), for a national bank located in the same State in which such trust company is located."

Termination
date.

(c) The amendments made by this section are hereby repealed on October 1, 1981.

LOANS FOR THE FORMATION OF A ONE-BANK HOLDING COMPANY

SEC. 713. Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, the Board shall not follow any practice or policy in the consideration of any application for the formation of a one-bank holding company if following such practice or policy would result in the rejection of such application solely because the transaction to form such one-bank holding company involves a bank stock loan which is for a period of not more than twenty-five years. The previous sentence shall not be construed to prohibit the Board from rejecting any application solely because the other financial arrangements are considered unsatisfactory. The Board shall consider transactions involving bank stock loans for the formation of a one-bank holding company having a maturity of twelve years or more on a case by case basis and no such transaction shall be approved if the Board believes the safety or soundness of the bank may be jeopardized."

PART B—TERMINATION OF NATIONAL BANK CLOSED RECEIVERSHIP FUND

PURPOSE

12 USC 191 note.

SEC. 721. The purpose of this part is to terminate the closed receivership fund by—

- (1) providing final notice of availability of liquidating dividends to creditors of national banks closed on or before January 22, 1934;
- (2) barring rights of creditors to collect liquidating dividends from the Comptroller of the Currency after a reasonable period of time following such final notice; and
- (3) refunding to the Comptroller the principal amount of such fund and any income earned thereon.

DEFINITIONS

12 USC 191 note.

SEC. 722. For purposes of this part—

- (1) the term "closed receivership fund" means the aggregation of undisbursed liquidating dividends from national banks closed on or before January 22, 1934, held by the Comptroller in his capacity as successor to receivers of those banks;

(2) the term "Comptroller" means the Comptroller of the Currency;

(3) the term "claimant" means a depositor or other creditor who asserts a claim against a closed national bank for a liquidating dividend; and

(4) the term "liquidating dividend" means an amount of money in the closed receivership fund determined by a receiver of a closed national bank or by the Comptroller to be owed by that bank to a depositor or other creditor.

TERMINATION OF CLOSED RECEIVERSHIP FUND

SEC. 723. (a) The Comptroller shall publish notice once a week for four weeks in the Federal Register that all rights of depositors and other creditors of closed national banks to collect liquidating dividends from the closed receivership fund shall be barred after twelve months following the last date of publication of such notice.

Notice,
publication in
Federal
Register.
12 USC 191 note.

(b) The Comptroller shall pay the principal amount of a liquidating dividend, exclusive of any income earned thereon, to a claimant presenting a valid claim, if the claimant applies to collect within twelve months following the last date notice is published.

(c) If a creditor shall fail to apply to collect a liquidating dividend within twelve months after the last date notice is published, all rights of the claimant against the closed receivership fund with respect to the liquidating dividend shall be barred.

(d) The principal amount of any liquidating dividends (1) for which claims have not been asserted within twelve months following the last date notice is published or (2) for which the Comptroller has determined a valid claim has not been submitted shall, together with any income earned on liquidating dividends and other moneys, if any, remaining in the closed receivership fund, be covered into the general funds of the Comptroller.

TITLE VIII—REGULATORY SIMPLIFICATION

SHORT TITLE

Financial
Regulation
Simplification
Act of 1980.

SEC. 801. This title may be cited as the "Financial Regulation Simplification Act of 1980".

12 USC 3501
note.

FINDINGS

SEC. 802. The Congress hereby finds that many regulations issued by the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, and the National Credit Union Administration Board (hereinafter in this title referred to as the "Federal financial regulatory agencies") often impose costly, duplicative, and unnecessary burdens on both financial institutions and consumers. Regulations should be simple and clearly written. Regulations should achieve legislative goals effectively and efficiently. Regulations should not impose unnecessary costs and paperwork burdens on the economy, on financial institutions, or on consumers.

12 USC 3521.

"Federal
financial
regulatory
agencies."

POLICY

SEC. 803. Any regulation issued by the Federal financial regulatory agencies shall, to the maximum extent practicable, insure that—

12 USC 3522.

(1) the need for and purpose of such regulation is established clearly;

(2) meaningful alternatives to the promulgation of such regulation are considered before such regulation is issued;

(3) compliance costs, paperwork, and other burdens on the financial institutions, consumers, and public are minimized;

(4) conflicts, duplication, and inconsistencies between the regulations issued by the Federal financial regulatory agencies are to be avoided to the extent possible taking into account differences in statutory responsibilities, the classes of financial institutions' regulation and methods of implementation of statutory or policy objectives;

(5) timely participation and comment by other Federal agencies, appropriate State and local agencies, financial institutions, and consumers are available; and

(6) any regulation issued shall be as simple and clearly written as possible and understandable by those who are subject to such regulation.

REVIEW OF EXISTING REGULATIONS

12 USC 3523.

SEC. 804. The Federal financial regulatory agencies shall establish a program which assures periodic review of existing regulations to determine whether those regulations achieve the policies stated in section 803. Those regulations which are not in keeping with such policies shall be revised accordingly.

REPORTING

Report to congressional committees.
12 USC 3524.

SEC. 805. Not later than six months after the date of enactment of this title and in subsequent annual reports, each Federal financial regulatory agency shall submit a report of its progress in implementing this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

TERMINATION DATE

12 USC 3521
note.

SEC. 806. This title is hereby repealed five years after the date of enactment of this title.

TITLE IX—FOREIGN CONTROL OF UNITED STATES FINANCIAL INSTITUTIONS

DEFINITIONS

12 USC 3101
note.

SEC. 901. For purposes of this title—

(1) the term "domestic financial institution" means any bank, mutual savings bank, or savings and loan association organized under the laws of any State or of the United States;

(2) the term "foreign person" means any foreign organization or any individual resident in a foreign country or any organization or individual owned or controlled by such an organization or individual; and

(3) the term "takeover" means any acquisition of the stock or assets of any domestic financial institution if, after such acquisition, the amount of stock or assets held is 5 per centum or more of the institution's stock or assets.

MORATORIUM

SEC. 902. The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board may not approve any application relating to the takeover of any domestic financial institution by a foreign person until July 1, 1980, unless—

12 USC 3101
note.

(1) such takeover is necessary to prevent the bankruptcy or insolvency of the domestic financial institution involved;

(2) the application was initially submitted for filing on or before March 5, 1980;

(3) the domestic financial institution has deposits of less than \$100,000,000;

(4) the application relates to a takeover of shares or assets pursuant to a foreign person's intrafirm reorganization of its interests in a domestic financial institution, including specifically any application to establish a bank holding company pursuant to such reorganization;

(5) the application relates to a takeover of the assets or shares of a domestic financial institution if such assets or shares are owned or controlled by a foreign person; or

(6) the application relates to the takeover of a domestic financial institution which is a subsidiary of a bank holding company under an order to divest by December 31, 1980.

Approved March 31, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-842 (Comm. of Conference).

SENATE REPORTS: No. 96-368 (Comm. on Banking, Housing, and Urban Affairs) and No. 96-640 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Sept. 10, 11, considered and passed House.

Oct. 23, 29, 31, Nov. 1, considered and passed Senate, amended.

Nov. 7, House concurred in Senate amendment with amendments.

Vol. 126 (1980): Mar. 27, House agreed to conference report.

Mar. 27, 28, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 14 (1980): Mar. 31, Presidential statement.